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6
7 IN THE UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA

9 SERGIO IVAN GARCIA PRIETO,

10 Petitioner,

11 v.

12 WARDEN, MESA VERDE DETENTION
13 FACILITY ET AL.,

14 Respondents.

CASE NO. 1:26-CV-05183-KES-EPG
MOTION TO MODIFY JUDGMENT

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17 Respondents move to modify or dissolve the order barring transfer or removal. Dkt.
18 No. 6. Federal Rule of Civil Procedure 60(b)(5) permits modification when prospective
19 application is no longer equitable. *California v. EPA*, 978 F.3d 708, 713 (9th Cir. 2020).
20 That inquiry turns on whether a significant change in facts or law makes continued
21 enforcement detrimental to the public interest. *Horne v. Flores*, 557 U.S. 433, 447 (2009).

22 Here, the Court entered the non-transfer/non-removal order before learning
23 Petitioner is subject to a final order of removal. Dkt. No. 6; Dkt. No. 11-1. With the order
24 now final, continued enforcement is inequitable and contrary to the public interest in
25 prompt execution of removal orders. *See Nken v. Holder*, 556 U.S. 418, 436 (2009).

26 No other impediment to removal appears. And Petitioner cannot show irreparable
27 injury from removal because a removed noncitizen may continue to pursue judicial review.
28 *See Nken*, 556 U.S. at 435.

MOTION TO MODIFY JUDGMENT

1 Because the factual posture materially changed and the public interest favors
2 execution of a final order, the Court should modify or dissolve its order to allow
3 Respondents to remove Petitioner.

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6 Dated: August 16, 2026

Eric Grant
United States Attorney

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8 By: /s/ JONATHAN WILLIAMS
JONATHAN WILLIAMS
9 Assistant United States Attorney
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PROOF OF SERVICE

I certify that I am an employee in the Office of the United States Attorney for the Eastern District of California and a person of such age and discretion to be competent to serve papers; that on August 16, 2026, I prepared these documents for mailing and sent them to a member of the U.S. Attorney support staff to place in the United States Mail at Sacramento, California, to deliver to the addressee, at the place and address stated below, which is the last known address.

Addressee:

Sergio Ivan Garcia Prieto

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/s/ Jonathan Williams

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