BEFORE THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
IN SEATTLE

Gia Huy Nguyen,

Petitioner,

v.

Field Office Director, et al.,

Respondents.

No. 2:26-cv-01402-DGE

Petitioner's Reply in Support of Motion for Temporary Restraining Order

Respondents' opposition confirms why emergency relief is necessary. This Court previously ordered Petitioner released and further ordered that he not be re-detained without notice and an opportunity to be heard unless Respondents had evidence that detention was authorized under 8 C.F.R. § 241.13(i)(1)-(2). Opp. at 5; Carnevale Decl. ¶ 17. Respondents now ask the Court to accept, without the operative record, that ICE complied with that judgment and with the regulation. But they have not filed the alleged Palau acceptance, any diplomatic assurances, any third-country removal notice, any written revocation notice, any proof of service, any custody-review record, or any record of the informal interview required by 8 C.F.R. § 241.13(i)(3).

Most importantly, Respondents concede that they are "unable to confirm whether Petitioner received an informal interview pursuant to 8 C.F.R. § 241.13(i)(3)." Opp. at 12. That



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concession is fatal to their position at this stage. The regulation does not allow ICE to skip the required notice, informal interview, and review of contested facts whenever ICE believes the result is obvious. It requires those procedures upon revocation. 8 C.F.R. § 241.13(i)(3). And this Court's prior judgment independently required notice and an opportunity to be heard before re-detention unless the regulatory conditions were satisfied. Opp. at 5; Carnevale Decl. ¶ 17.

Respondents lead with a jurisdictional argument based on Petitioner's current detention in Georgia. But Petitioner does not ask this Court to adjudicate an ordinary first-instance habeas challenge untethered from this District. He asks this Court to preserve and enforce its own judgment, entered in this case after Respondents litigated the same detention issue here. The government cannot defeat this Court's authority to enforce its judgment by re-detaining Petitioner elsewhere, withholding the documents that supposedly justify re-detention, and then arguing that only another court may review what it has done. *See Ex parte Endo*, 323 U.S. 283, 304-07 (1944).

At minimum, the Court should preserve the status quo, prohibit removal pending further order, and require Respondents to file the complete administrative and diplomatic record on which they relied to re-detain Petitioner and pursue removal to Palau. If Respondents truly complied with this Court's judgment and § 241.13(i), they can prove it on the record. They have not done so in their opposition.

## I. ARGUMENT

### A. This Court has authority to preserve and enforce its own judgment.

Respondents characterize this filing as a new habeas case that can proceed only in Georgia. Opp. at 7-10. That framing omits the reason this case exists: Petitioner sought emergency enforcement of this Court's February 26, 2026 judgment after ICE re-detained him



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and began pursuing removal to Palau. This Court then construed the filing as a new petition and expressly prohibited removal from the United States or from this jurisdiction during the pendency of these proceedings. Dkt. 8 at 1-2.

Respondents rely on the immediate-custodian rule, but that rule does not eliminate this Court's power to protect its own jurisdiction and judgment. *Padilla* confirms the ordinary rule for a core habeas petition challenging present physical custody, but it does not hold that a district court becomes powerless to enforce its prior judgment whenever the government moves the petitioner elsewhere. *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). And *Endo* squarely confirms that transfer after jurisdiction attaches does not necessarily defeat a habeas court's authority where an appropriate respondent remains within the district and can effectuate relief. 323 U.S. at 304-07.

The Ninth Circuit's decision in *Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024), does not require a different result. *Doe* involved a petitioner who sought typical habeas relief from present confinement and failed to name the facility administrator as respondent. *Id.* at 1198-1200. Petitioner's motion here is different: he seeks emergency relief to prevent frustration of this Court's judgment directing release and to require Respondents to produce the record they claim authorized re-detention under the very regulation incorporated into that judgment. The issue is not whether the Stewart Detention Center administrator is a proper respondent in the Georgia habeas case. Petitioner has already filed in Georgia, and that court has entered a TRO barring removal from Stewart Detention Center. Opp. at 8. The issue here is whether Respondents may avoid this Court's judgment by re-detaining Petitioner and refusing to provide any documents establishing compliance.



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They may not. Courts possess inherent authority to enforce their own judgments. *Peacock v. Thomas*, 516 U.S. 349, 356 (1996). They also may issue orders necessary or appropriate in aid of their jurisdiction. 28 U.S.C. § 1651(a). Respondents' position would allow the government to litigate a habeas case to judgment, re-detain the petitioner under the very regulatory exception the judgment addressed, move him to another district, and then insist that the issuing court can do nothing to determine whether its judgment was obeyed. Neither *Padilla* nor *Doe* compels that result.

Nor does the Georgia case eliminate the need for relief here. The Georgia court's TRO preserves its jurisdiction by preventing removal from Stewart Detention Center. Opp. at 8. This Court can likewise preserve its own judgment and require the record Respondents have refused to produce. These orders are complementary, not conflicting.

B. Respondents have not shown compliance with this Court's judgment or 8 C.F.R. § 241.13(i).

Respondents assert that ICE re-detained Petitioner only after obtaining diplomatic assurances and Palau's acceptance. Opp. at 2, 11-12; Carnevale Decl. ¶ 20. But the only evidence submitted is a four-page declaration stating, in conclusory terms, that Petitioner was taken into custody "to effectuate removal to Palau pursuant to the Third Country Removal agreement and Palau's acceptance of Petitioner for removal." Carnevale Decl. ¶ 20. Respondents did not attach the agreement, the alleged acceptance, any diplomatic assurances, any travel document, any notice, any proof of service, or any custody-review record. That omission matters because Petitioner's motion specifically requested those documents and challenged whether any meaningful notice or opportunity to be heard occurred. Dkt. 1 at 2-3, 7-8.



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Section 241.13(i)(2) allows revocation for removal only "if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). Section 241.13(i)(3) then prescribes the required revocation procedures. "Upon revocation," the person "will be notified of the reasons for revocation," and ICE "will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." Id. § 241.13(i)(3). The person may submit "any evidence or information" showing no significant likelihood of removal in the reasonably foreseeable future, and the revocation custody review must evaluate contested facts and determine whether the facts warrant revocation and further denial of release. *Id.*

Respondents do not establish that any of that occurred. Instead, they concede that they are unable to confirm whether Petitioner received the informal interview. Opp. at 12. They then ask the Court to deem the interview unnecessary because, in their view, Palau has already accepted Petitioner. *Id.* That argument conflicts with the text of the regulation. The regulation does not say ICE may dispense with notice and an interview when it believes it has enough evidence. It says ICE "will" provide notice and "will" conduct the interview. 8 C.F.R. § 241.13(i)(3). The interview is not a meaningless formality. It allows the noncitizen to contest the asserted basis for revocation, submit evidence, and challenge whether the facts "as determined" warrant continued detention. *Id.*

Respondents' reliance on *Ahmad v. Whitaker*, No. 18-cv-287-JLR-BAT, 2018 WL 6928540 (W.D. Wash. Dec. 4, 2018), adopted, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019), does not carry their burden. *Ahmad* was decided on its own record and does not authorize ICE to bypass § 241.13(i)(3) in every case involving alleged travel documents. Here, unlike in *Ahmad*,



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the issue arises against the backdrop of this Court's prior judgment specifically requiring notice and an opportunity to be heard unless Respondents had evidence satisfying § 241.13(i)(1)-(2). Opp. at 5; Carnevale Decl. ¶ 17. Respondents have not produced that evidence, and they admit they cannot confirm the required interview occurred. Opp. at 12.

C. The government's asserted Palau acceptance does not cure the absence of process or eliminate the need for judicial review.

Respondents argue that because Palau allegedly accepted Petitioner, it is "unclear" what he could have submitted in an informal interview. Opp. at 12. That is not a valid reason to deny process. Petitioner could challenge whether the alleged acceptance exists, whether it applies to him, whether the alleged diplomatic assurances are reliable, final, and legally sufficient, whether he was properly notified of Palau as the intended destination; whether he has protection-based objections to removal to Palau; whether onward removal is contemplated; whether the alleged changed circumstances actually make removal significantly likely in the reasonably foreseeable future; and whether ICE complied with this Court's judgment.

The Ninth Circuit has recognized that third-country removal raises distinct due process concerns when ICE makes a post-hearing country-of-removal decision. *Ibarra-Perez v. United States*, 154 F.4th 989 (9th Cir. 2025), held that § 1252(g) did not bar claims challenging ICE's separate post-hearing decision about where to send a noncitizen, including a claim that the plaintiff had a right to meaningful notice and an opportunity to present a fear-based claim before third-country removal. Id. at 1002-08. *Ibarra-Perez* is especially relevant here because Petitioner is not asking this Court to review the IJ's removal order. He is challenging ICE's later decision to re-detain him and remove him to Palau without producing the required record and without showing compliance with the required process.



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The Supreme Court's recent emergency decision in *Trump v. J.G.G.*, 604 U.S. ___ (2025), likewise reinforces the basic due process principle that a person facing removal must receive notice and a meaningful opportunity to seek habeas relief before removal occurs. Id. (per curiam). Although *J.G.G.* arose under the Alien Enemies Act and held venue lay in the district of confinement, the Court confirmed that detainees are entitled to notice and an opportunity to be heard appropriate to the case, and that notice must be provided in a manner allowing them actually to seek habeas relief before removal. *Id.*; *see also Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 313 14 (1950).

Respondents' position would reduce the required process to ICE's unilateral assertion that removal is now feasible. That is precisely what § 241.13(i)(3) prevents. The regulation requires notice, an interview, and evaluation of contested facts before continued detention follows from revocation. Respondents have not shown those steps occurred.

D. Petitioner has shown irreparable harm.

Respondents argue that Petitioner's harm is merely the loss of liberty common to all habeas cases. Opp. at 12-13. That misstates the injury. Petitioner does not rely on ordinary detention alone. He faces re-detention after a federal habeas release judgment, alleged imminent removal to a third country, and the loss of any meaningful opportunity to contest the factual and legal basis for that re-detention and removal before it occurs.

*Nken v. Holder,* 556 U.S. 418 (2009), does not help Respondents. *Nken* held that removal alone is not automatically irreparable in every case, but it also recognized the public interest in preventing wrongful removal, particularly to countries where a person may face substantial harm. *Id.* at 435. The Ninth Circuit likewise requires a case-specific showing of harm. *Leiva-Perez v. Holder,* 640 F.3d 962, 969-70 (9th Cir. 2011). Petitioner has made such a



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showing here: removal to Palau would occur before Respondents have produced the record they claim justifies re-detention, before they have shown compliance with § 241.13(i)(3), and before this Court can determine whether its prior judgment has been obeyed.

This is irreparable. Once removed, Petitioner's access to counsel and to this Court may be impaired, the Court's ability to enforce its release judgment may be frustrated, and the process guaranteed by the regulation may be lost at the moment it is most needed. Emergency relief is designed to prevent precisely that kind of irreversible loss.

F. The balance of equities and public interest favor preserving the status quo and requiring the complete record.

The relief Petitioner seeks is modest and tailored. He does not ask the Court to permanently bar removal or adjudicate the ultimate merits without a record. He asks the Court to prevent removal temporarily, require Respondents to produce the record on which they relied, and restore release unless Respondents can establish lawful re-detention after the process required by the Court's judgment and the regulation.

Respondents invoke the public interest in executing removal orders. Opp. at 13-14. But the public also has a strong interest in government compliance with federal court judgments, lawful custody procedures, and meaningful review before third-country removal. *Nken*, 556 U.S. at 435. The government suffers no cognizable injury from being required to prove what it says is already true: that Palau accepted Petitioner, that diplomatic assurances exist, that notice was served, that the release revocation was lawful, and that the required informal interview and custody review occurred. If those facts are true, the records should be readily available.



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By contrast, denying relief would allow removal to proceed based on a conclusory declaration and an admitted inability to confirm compliance with the required interview procedure. That result would undermine both § 241.13(i) and this Court's prior judgment.

## II. CONCLUSION

For these reasons, Petitioner respectfully requests that the Court grant the temporary restraining order, prohibit Respondents from removing Petitioner to Palau, Vietnam, or any third country pending further order, require Respondents to file and serve the complete record supporting re-detention and third-country removal, and restore Petitioner to release under the prior order of supervision unless and until Respondents establish compliance with this Court's judgment and 8 C.F.R. § 241.13(i)(2)-(3).

**CERTIFICATION OF WORD COUNT (LCR 7(e)(6))**

Pursuant to LCR 7(e)(6), I certify that this traverse contains 2,281 words, excluding the caption, signature block, and this certification.



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Respectfully submitted this 4th day of May, 2026.[1]

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1 Petitioner acknowledges that this filing is untimely. *See* Order, Dkt. 8 (directing reply to be filed by April 30). Petitioner is preparing a motion to accept untimely filing which will be filed later today. Counsel apologizes for this oversight.

**Certificate of Service**

I certify that on this date I filed the foregoing using the CM/ECF filing system. The Respondents will therefore receive notice of this filing via CM/ECF.

*/s/ Devin T. Theriot Orr*
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