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June 9, 2025

Via ECF

Honorable Ronnie Abrams
United States Judge
Southern District of New York
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: Capunay Guzman v. Joyce, et al., No. 25-cv-4777-RA

Dear Judge Abrams:

We represent Petitioner, Derwin Capunay Guzman (“Mr. Capunay”), in his Petition for a Writ of Habeas Corpus filed on June 5, 2025. Your Honor issued an Order to Show Cause today, June 9, which sets a date for Respondents’ return, Petitioner’s reply and a hearing on the requested relief. The Order additionally states, “[p]ending consideration of this Petition, Respondents are hereby RESTRAINED from transferring Petitioner out of the Southern District of New York.” This letter motion¹ is submitted to update the Court on Mr. Capunay’s physical location and to seek the Court to order and compel Mr. Capunay’s transfer back to this district.

On Thursday, June 5, 2025, at or around 11:15 p.m., Petitioner filed a Writ of Habeas Corpus to challenge his detention by Immigration and Customs Enforcement (“ICE”). ECF No. 1. After filing all opening documents, undersigned counsel reached out to the U.S. Attorney’s Office for the Southern District of New York (“AUSA”) by email to notify Respondents of the filing and to request that Mr. Capunay not be removed from the district during the pendency of the Petition. *See* Exhibit A, Email Correspondence. At or around 9:40 a.m. the following day, June 6, 2025, AUSA Brandon Waterman responded that he communicated with ICE and that Mr. Capunay had “departed New York at 5:15 a.m. this morning and is en route to Allen Parish Public Safety Complex in Louisiana.” He stated, “As you likely know, there is a shortage of bed space available

¹ Due to the fast-evolving nature of this petition, undersigned counsel files this letter motion to the Court. However, undersigned counsel can prepare a formal Motion at Your Honor’s request.

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within this District, and so ICE does not agree to house him within the District.” *See id.* Despite having attended all his non-detained immigration court hearings in New York and having filed an asylum application in New York, ECF No. 1, ¶¶ 11-14, Respondents have moved Mr. Capunay to Louisiana. As of the filing of this letter motion, ICE is detaining Mr. Capunay at the Allen Parish Public Safety Complex in Oberlin, LA. *See* Exhibit B, ICE Detainee Locator Screen Capture, June 9, 2025. On information and belief, Respondent DHS filed a motion to change venue of his removal proceedings to Louisiana, which the Immigration Judge granted over Mr. Capunay’s counsel’s opposition.

In order to comply with the spirit of this Court’s order restraining Respondents from transferring Mr. Capunay out of the district, and in the interests of justice, Petitioner seeks an order from this Court for the return of Mr. Capunay to the physical jurisdiction of this Court pending consideration of the Petition. *See Ozturk v. Hyde*, No. 25-1019, 2025 WL 1318154, at *1 (2d Cir. May 7, 2025) (Ordering the government to comply with the district court’s transfer order within one week, “To support the Court’s resolution of these issues, the Court orders that Ms. Öztürk be physically transferred to ICE custody within the District of Vermont no later than May 14, 2025.”).

Thank you for your consideration of this submission.

Respectfully submitted,

/s/ Jessica Swensen

Jessica Swensen

THE BRONX DEFENDERS

360 East 161st Street

Bronx, New York, 10451

(347) 842-1218

jessicas@bronxdefenders.org

cc: Brandon Waterman, Assistant U.S. Attorney