



June 13, 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:

This letter brief is submitted in reply to Respondents' Memorandum of Law in Opposition to Petitioner's Letter Motion to Compel Petitioner's Transfer to this District. ECF 9.

A. Mr. Capunay's transfer gives effect to the Court's June 9, 2025 Order

On June 9, 2025 this Court issued an order restraining the Respondents from removing Mr. Capunay out of the Southern District of New York. ECF 3. ("Pending consideration of the Petition, Respondents are hereby RESTRAINED from transferring the Petitioner out of the Southern District of New York.") Due to the fact that Respondents had moved Mr. Capunay out of the Southern District of New York by the time of the Order – despite having knowledge of the pending habeas – Mr. Capunay's transfer back to the district is necessary to serve the purpose of the Court's Order and to give it effect. This Court has the power to issue orders necessary to make the habeas remedy effective and made such an order in this case. In reviewing the habeas claims in *Ozturk*, the District of Vermont reiterated the longstanding Second Circuit and Supreme Court precedent regarding the courts' "equitable and flexible" authority in habeas petitions:

[T]he Second Circuit has recognized the "equitable and flexible nature of habeas relief." *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d. Cir. 2020). The Supreme Court has held that the "exercise of a court's equity powers ... must be made on a case-by-case basis." *Baggett v. Bullitt*, 377 U.S. 360, 375 (1964). The "flexibility" inherent in "equitable procedure" enables courts "to meet new situations [that] demand equitable intervention,



and to accord all the relief necessary to correct ... particular injustices.” *Hazel–Atlas Glass Co. v. Hartford–Empire Co.*, 322 U.S. 238, 248 (1944). The Court also has the inherent authority and responsibility to protect the integrity of its proceedings which were undoubtedly impacted when Ms. Ozturk was transferred to Louisiana. *See Degen v. United States*, 517 U.S. 820, 823 (1996) (“Courts invested with the judicial power of the United States have certain inherent authority to protect their proceedings and judgments in the course of discharging their traditional responsibilities.”).

*Ozturk v. Trump*, No. 2:25-CV-374, 2025 WL 1145250, at \*23 (D. Vt. Apr. 18, 2025), amended sub nom. *Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025) (citation modified).

Therefore, contrary to Respondents’ claims, the transfer of Mr. Capunay back to the Southern District of New York is not a request for a preliminary injunction and is not subject to preliminary injunction standards. *See* Resp. Memorandum, ECF 9 at 3-5.<sup>1</sup> Return of Mr. Capunay is required to give effect to this Court’s Order.

Respondents’ claim, that they cannot comply with the Court’s Order due to “bedspace limitations,” is unconvincing and self-serving. Respondent’s declaration explains that when there was a “lack of bed space” at the border, Respondents released Mr. Capunay from custody on his own recognizance. ECF 10, Canales Decl. at ¶ 6. Now, without any change in circumstances, after Mr. Capunay has been living peacefully in New York, has attended all court hearings, has filed an application for asylum protection and has taken all actions required of him, Respondents claim that the “lack of bed space” requires them to keep Mr. Capunay detained and to transfer him approximately 1,400 miles away to Allen Parish, Louisiana. In addition, the information about bed space limitations is unclear and insufficient. Respondents make vague references to Mr. Capunay’s “risk classification,” without any additional context or information, and claim that the local facilities “are at or near capacity *for his risk classification*.” ECF 10, Canales Decl. at ¶ 18

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<sup>1</sup> Notably, courts in this circuit have flatly rejected arguments similar to those raised by Respondents here, that the public interested would be disserved by Mr. Capunay’s return to the district. “The government now argues that it, and by extension the public, would suffer an injury if Ms. Ozturk’s detention were subject to judicial review. While the executive branch assuredly has an interest in effectuating statutes enacted by the legislative branch, the judicial branch is charged with ensuring that the other branches do so in comport with the laws and the Constitution.” *Ozturk v. Trump*, No. 2:25-CV-374, 2025 WL 1190759, at \*2 (D. Vt. Apr. 24, 2025) (collecting cases).



(emphasis added). Based on all information and knowledge, Mr. Capunay does not have any criminal arrests or convictions and is unaware of his risk classification. ECF 1; Declaration of M. Leonetti (Leonetti Decl.), ECF 17, ¶5. The vague claims of “risk classification” cannot guide the determination when the information before the Court demonstrates that Mr. Capunay has been living in New York for more than a year, he has attended all court hearings and has local pro bono counsel to support him in what is a fast moving, complex process to pursue his asylum claims. Leonetti Decl. ¶¶ 6-29.

B. Transfer is appropriate because Mr. Capunay’s presence before the Court is required for a hearing, if he is not immediately released, and to serve due process.

Petitioner and Respondents agree that this habeas petition was properly filed when Mr. Capunay was in the Southern District of New York and that his physical location after the filing does not affect the Court’s jurisdiction over the petition. *See* Resp. Mem, ECF 9 at 6. *Ozturk v. Hyde*, 136 F.4th 382, 392 (2d Cir. 2025) (citing *Ex parte Endo*, 323 U.S. 283 (1944)). However, the parties fundamentally disagree as to whether Mr. Capunay’s presence is required for the habeas proceedings in this case. As in the recent *Ozturk* decision, and the long line of cases on which *Ozturk* relies, Mr. Capunay’s presence in this district is in fact necessary for the Court to proceed on the requested relief in this case, should release not be immediately granted, in the form of a hearing for release. In addition, his presence is required to ensure due process in the proceedings before this Court. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (“The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.”)

Mr. Capunay seeks immediate release or an order for a hearing before this Court on his request for release. ECF 1 at 16 - 17 (Prayer for Relief). As to be set forth more fully in Petitioner’s habeas traverse-reply, Mr. Capunay seeks immediate release because his current detention is unlawful. Fundamental to a federal court’s habeas authority is the ability to order release from detention. *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (“[T]he traditional function of the writ is to secure release from illegal custody.”); *Allen v. McCurry*, 449 U.S. 90, 98, n. 12 (1980) (Noting that the “unique purpose” of the writ is “to release the applicant ... from unlawful confinement.”); *see also, Ostrer v. United States*, 584 F.2d 594, 596 n. 1 (2d Cir.1978) (Finding that “[a] district court has inherent power to enter an order affecting the custody of a habeas petitioner who is properly before it contesting the legality of his custody.”)

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In the alternative to an order for immediate release, Mr. Capunay seeks a hearing before this Court regarding his release on bail. The Second Circuit recognizes that “[the Court’s] inherent power to affect[ ] the custody of a detainee extends to admitting petitioners to bail in the immigration habeas context.” *Elkimya v. Dep’t of Homeland Sec.*, 484 F.3d 151, 153 (2d Cir. 2007) (citing *Mapp v. Reno*, 241 F.3d 221, 227 (2d Cir.2001) (internal quotations omitted). *See also, Leslie v. Holder*, 865 F. Supp. 2d 627, 633 (M.D. Pa. 2012) (“On this threshold jurisdictional question we agree with the petitioner that we are empowered to conduct bail proceedings in habeas corpus proceedings brought by immigration detainees. Indeed, the authority to conduct such hearings has long been recognized as an essential ancillary aspect of our federal habeas corpus jurisdiction.”); *see also Mahdawi v. Trump*, 2025 WL 1243135, at \*8-14 (D. Vt. Apr. 30, 2025) (Holding a hearing and ordering petitioner’s release from ICE detention under *Mapp*).

In *Ozturk*, the District of Vermont was prepared to hold a bail hearing on Ms. Ozturk’s habeas petition and her request for immediate release. *See Ozturk*, 2025 WL 1145250 at \*21. To conform with due process, the court ordered the government to return Ms. Ozturk to the district for the hearing, “The Court finds that Ms. Ozturk’s presence in Vermont will facilitate her ability to work with her attorneys, coordinate the appearance of witnesses, and generally present her habeas claims, many of which are based on events that occurred in New England.” *Ozturk*, 2025 WL 1145250, at \*22. Respondents attempt to dismiss *Ozturk* by claiming that the “[f]acts and circumstances of this case are far afield of those in *Ozturk*.” Doc. 9 at 7. However, Mr. Capunay is also seeking immediate release or a hearing before this Court on his claims of unlawful detention, and his transfer to the district will likewise facilitate his ability to work with his attorneys, coordinate witnesses and “generally present [his] habeas claims,” all of which are based on events within the Southern District of New York. *See Leonetti Decl.* Like Ms. Ozturk, Mr. Capunay also does not have any criminal history and he was also subject to unjust processes. *Leonetti Decl.* ¶¶ 9-12, 19-22 (describing Mr. Capunay’s appearance at his immigration court hearing, at which time plain clothes officers entered the courtroom and told everyone to come with them, Mr. Capunay was immediately handcuffed, transported to 26 Federal Plaza until 2:00am where he was forced to sleep with 40-50 other people on the floor while in ankle-cuffs, then transferred to Orange County Jail and eventually put on a plane to an ICE jail in Louisiana). Mr. Capunay has been following all procedures required of him by the U.S. government and his recent, arbitrary detention, without any substantive change in circumstances regarding flight risk or danger, is unlawful. *See ECF 1.* Mr. Capunay’s due process rights are no less than those of Ms. Ozturk.

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“Any unnecessary delay of Ms. Ozturk's transfer to this District would likely disrupt or delay the Court's proceedings, potentially prolonging the very detention that is at the heart of this case. Meanwhile, Ms. Ozturk's return to Vermont would not unduly burden the government and would restore the status quo at the time of the order from the District Court in Massachusetts. The Court ordered that Ms. Ozturk be returned to Vermont precisely so that the Court could resolve the habeas petition as expeditiously as possible, and the Court intends to do so.” *Ozturk v. Trump*, No. 2:25-CV-374, 2025 WL 1190759, at \*3 (D. Vt. Apr. 24, 2025). The same rationale applies here for Mr. Capunay.

As the Supreme Court explained, “[i]t must never be forgotten that the writ of habeas corpus is the precious safeguard of personal liberty and there is no higher duty than to maintain it unimpaired.” *Bowen v. Johnston*, 306 U.S. 19, 26 (1939). The Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Black v. Decker*, 103 F.4th 133, 143 (2d Cir.2024) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)). And “[t]he fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Mathews*, 424 U.S. at 333 (1976); see also, *Jennings v. Rodriguez*, 583 U.S. 281, 314 (2018) (instructing that “ ‘due process is flexible,’ ... and ... ‘calls for such procedural protections as the particular situation demands.’ ” (alteration omitted) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972))). Mr. Capunay’s presence is required in this district as his requested relief is for immediate release or the Court may hold a hearing to consider release, and due process requires his physical presence and opportunity to be heard.

Respectfully submitted,

/s/ Elyssa Williams

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