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UNITED STATES DISTRICT COURT FOR THE

SOUTHERN DISTRICT OF CALIFORNIA

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| JUAN CARLOS CORTES HERNANDEZ,<br><br>Petitioners,<br>vs.<br><br>Kristi NOEM, Secretary, U.S. Department of Homeland Security; Pamela BONDI, U.S. Attorney General; Todd LYONS, Acting Director, Immigration and Customs Enforcement; Gregory J. ARCHAMBEAULT, Director, San Diego Field Office, Immigration and Customs Enforcement, Enforcement and Removal Operations; Christopher J. LAROSE, Warden, Otay Mesa Detention Center; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; IMMIGRATION AND CUSTOMS ENFORCEMENT; and DEPARTMENT OF HOMELAND SECURITY,<br><br>Respondents | Case No. '25CV3167 JO MMP<br><br>**VERIFIED PETITION FOR HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**<br><br>IMMIGRATION HABEAS CASE<br><br>**ORAL ARGUMENT REQUESTED** |

## INTRODUCTION

1. Petitioner Juan Carlos Cortes Hernandez ("Mr. Cortes") is in the physical custody of Respondents at the Otay Mesa Detention Center in San Diego, California. He is a citizen of Mexico and now faces removal to an unknown third country. Respondents seek to remove him without an opportunity to apply for humanitarian-based protections from removal to that country, even though immigration laws and due process require otherwise.
2. Further, Petitioner should not be detained and merits immediate release from custody. On June 21, 2016, he was encountered and placed into withholding only proceedings before the Immigration Court. On April 6, 2017, DHS filed their own request for bond before the Executive Office for Immigration Review in San Diego. The government itself attested to Petitioner's *Franco-Gonazlez* class membership at that time, demonstrating the severity of his mental health issues. As support it included over 80 pages of medical records. On information and belief, both the Court and ICE found that Petitioner should not remain detained and suffered from severe mental health issues. As a result, Petitioner was released on an order of supervision and has remained non-detained and compliant with all requirements and conditions of his release since that time, which is a period of over 8 years.
3. The Government has never contended or demonstrated that his posture for supervision should be changed in the form of a pre-deprivation hearing. On October 25, 2018, Petitioner was ordered removed but granted relief in the form of protection under the Convention Against Torture. To merit this relief from removal, Petitioner had to demonstrate to the Court that it was "more likely than not" he would be tortured if removed to the proposed country of removal. *See* 8 C.F.R. § 208.16(c)(2).
4. On September 23, 2025, Mr. Cortes was taken into ICE custody without notice or cause despite having a final, unrevoked grant of deferral of removal under the Convention Against Torture ("CAT"), issued by an Immigration Judge on October 25, 2018. He had presented his valid work permit, which remains in effect through June 27, 2029, and had fully complied with all terms of his supervision for years prior to his re-detention. On information and belief, he has done nothing to warrant being taken back into custody. His sudden arrest and detention occurred without an opportunity to contest the decision, and without any indication that ICE had lawfully terminated his CAT protection or undertaken the required procedures under 8 C.F.R. § 208.17(d).

5. Mr. Cortes was taken into ICE custody without notice or cause despite having a final, unrevoked grant of deferral of removal under the Convention Against Torture ("CAT"), issued by an Immigration Judge on October 25, 2018. On information and belief, he has done nothing to warrant his re-detention.
6. On October 24, 2025, ICE officers informed counsel that removal was imminent, and they were just "working on" identifying a third country for removal. Today again on November 14, 2025 they asserted they were close to finding a third country. On information and belieg they will remove him as soon as they were able to effectuate this and Mr. Cortes would be sent to an unspecified third country. He has not received written notice of termination of his CAT deferral, has been given no opportunity to present evidence, and has not had a hearing before an Immigration Judge to determine whether he would be safe in the proposed country.
7. This all happens under the backdrop of the fact that DHS is aware that he is diagnosed Petitioner suffers from anxiety and paranoid delusions, is hypervigilant and has Schizophrenia (paranoid type). They know this because they themselves furnished extensive medical records during Petitioner's prior proceedings. They also know this because medications were withheld from Petitioner upon his arrival to detention during the past roughly two months, causing a psychotic break. While counsel does not have access to these medical documents, the government now has the ability to produce medical records and information that he was put into restraints and isolation and has been hospitalized due to his health since being taken into custody in September.
8. Prior to being detained, Petitioner's medication regimen included 7 medications, including:

[redacted]

This is a complex medical regimen that relies on consistency and close monitoring by a physician.
9. DHS's own prior submissions and medical records establish that Petitioner suffers from anxiety, paranoid delusions, hypervigilance, and Schizophrenia (paranoid type). The government is thus on notice that Petitioner has a serious mental disorder that affects his ability to understand and participate in legal proceedings. Nonetheless, when ICE re-detained him in September 2025, officers did not provide any meaningful accommodation for his

disability. Medications were withheld on arrival, precipitating a psychotic break. On information and belief, he was placed in restraints, isolated, and hospitalized. Respondents therefore possess current medical records documenting the severity of his mental illness since his re-detention. ICE has failed to demonstrate they have meaningfully reevaluated his competency. This means there is no assurance that Petitioner could meaningfully comprehend or respond to any notice of intent to remove him, and without coordinating with counsel to safeguard his due-process rights.

10. Once the government has actual knowledge that a person subject to removal proceedings suffers from a serious mental illness that may impair competence, the Due Process Clause and governing statutes require, at a minimum, a good-faith assessment of his ability to understand the proceedings, tailored notice that he can meaningfully comprehend, and coordination with counsel to safeguard his rights. ICE has not shown that it undertook any such reassessment before revoking his supervision or initiating third-country removal. As a result, there is no assurance that Petitioner could understand or respond to any notice of intent to remove him, much less participate in a fear-based screening or motion practice. Proceeding with detention and removal in the face of known incompetence violates the Fifth Amendment's guarantee of due process and the statutory scheme that presupposes a minimally competent, informed respondent.

11. It is more likely than not that Petitioner's current conditions rise above what the law permits as civil detention. Because of his mental illness and recent decompensation, it is unclear whether he could even communicate any notice of removal to a third country to counsel in time for legal intervention, or whether Respondents have any plan at all to ensure continuity of psychiatric care if he is removed to an unknown country. Respondents should not be permitted to benefit from their own failure to provide a pre-deprivation hearing and to accommodate his disability, thereby circumventing the statutory and constitutional protections that govern detention, mental-health care, and third-country removal. His release from custody is therefore crucial.

## RELEVANT CHANGES IN IMMIGRATION POLICY AND LEGAL INTERPRETATION

12. Since the change in administration, DHS has initiated an aggressive new enforcement campaign targeting people who are on orders of supervision, particularly those post-final orders of removal.

13. On July 9, ICE released a memo instructing staff that ICE may deport a person to a third country not designated on the removal order without providing any notice or an opportunity to be heard if the State Department confirms that it has received diplomatic assurances that individuals will not be persecuted or tortured. If no diplomatic assurances are received, officers are instructed to serve on the individual a Notice of Removal that is meant to include the intended third country of removal. It tells officers not to ask whether the individual is afraid of removal to that country and states that officers should generally wait at least 24 hours following service of the notice before effectuating removal.

14. The memo also states that in exigent circumstances ICE may effectuate a removal in as little as 6 hours "as long as the [noncitizen] is provided reasonable means and an opportunity to speak with an attorney" As noted, in the instant case, certain precautions would be required to ensure any methods or means would be reasonable for an inconsistently treated person with Schizophrenia. This concern becomes even more clear given that this memo states that if a noncitizen does not affirmatively state a fear of persecution and torture if removed to the country of removal listed on the notice they receive within 24 hours, DHS can proceed with removal to that country.

15. The INA, the Foreign Affairs Reform Restructuring Act of 1998 (FARRA) and their implementing regulations ensure that prior to any removal, Respondents must provide Petitioner an opportunity to present a claim of fear of torture or persecution to a third country. Specifically pursuant to 8 U.S.C. Sec. 1231(b)(3), Respondents may not remove persons who are more likely than not to face persecution if removed. Pursuant to the Convention Against Torture (CAT), which is codified as a statutory note to Sec 1231. Respondents may not remove persons to a country where they are likely to face torture.

16. The Due Process Clause of the Fifth Amendment Also requires that, prior to third country removal, Petitioner must receive meaningful notice and opportunity to access these mandatory statutory protections. As the Supreme Court recently held in *A.A.R.P. v. Trump*, this means a person "must receive notice" that "they are subject to removal" (here to a third country), and such notice must be provided "within a reasonable time and in such manner as will allow the [][noncitizen] to actually seek…relief." 605 U.S. 91,95 (2025)(per

curiam)(quoting *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025)). Respondents have only informed Petitioner that they intend to remove him to a third country. There is credible evidence they will do so as removing individuals with withholding of removal and protection under CAT has been widespread.

17. Accordingly, Petitioner seeks an order that DHS not remove him and comply with proper screening mechanisms and requires Respondents: (1) to inform him and counsel in writing of any planned removal to a third country at least two weeks prior to removal, (2) to provide a reasonable fear claim as to that country, (3) if the RFI is denied, to provide 15 days to file a motion to reopen with the immigration court and (4) to ensure that prior to any of these interviews, procedural safeguards are put into place as required by law. DHS themselves have extensive documentation that confirms Petitioner's severe mental health disabilities and other critical health issues.

18. The litigation and settlement in Franco-Gonzalez v. Holder, No. 10-02211 (C.D. Cal. Apr. 23, 2013), illustrate how DHS and EOIR themselves have recognized that people with serious mental illness cannot be subjected to routine immigration enforcement without additional safeguards. In that case, the government agreed to systematic screening, competency evaluations, appointment of qualified representatives, and modified procedures for individuals whose mental disorders impaired their ability to represent themselves. Although this habeas petition does not seek enforcement of the Franco injunction as such, it relies on the same constitutional principles: where DHS knows that a person's psychiatric condition prevents meaningful participation in proceedings, due process requires additional procedural protections before re-detention or removal. In the current climate of accelerated enforcement, rapid transfers, and expanded third-country removals, people like Mr. Cortes—whose serious mental illness is well documented in DHS records—are uniquely vulnerable to being swept back into custody and removed without notice, screening, or accommodation.

## JURISDICTION

19. Petitioner is in the physical custody of Respondents and detained at the Otay Mesa Detention Center.

20. Jurisdiction is proper and relief is available pursuant to: 28 U.S.C. Sec. 1331 (federal question); 5 U.S.C. §§ 701 et seq., the Administrative Procedure Act (APA); 28 U.S.C. Sec. 1346 (original jurisdiction); 5 U.S.C. Sec 702 (waiver of sovereign immunity); 28 U.S.C. Sec

2241 (habeas corpus jurisdiction); habeas jurisdiction pursuant to 28 U.S.C. § 2241 et seq.; Art I., § 9, Cl. 2 of the United States Constitution (the Suspension Clause); 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (Declaratory Judgment Act); The Fourth and Fifth Amendments to the U.S. Constitution; and Article I, Section 9, clause 2 of the United States Constitution (the Suspension Clause).

21. Nothing in 8 U.S.C. 1252 deprives this Court of jurisdiction. Sec. 1252(a)(5) and (b)(9) do not apply here. Petitioner is not seeking judicial review of his final order. The challenged action is to the revocation of his order of supervision without proper procedural protections and a pre-deprivation hearing before a neutral arbiter, as well as a challenge to the action of planned removal, which arises after removal proceedings were complete. *See Ibarra-Perez v. United States*, No. 24-631 ---F. 4th ---, WL 2461663, at *9-10 (9th Cir. August 27, 2025).

22. Finally, nothing under FARRA bars this case. Section 2242(d) of FARRA limits review of "regulations adopted to implement [CAT]." Here the CAT regulations are not being challenged. Rather Petitioner is requesting that Respondents be required to provide him with a process to access protections he is entitled to under federal law.

23. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, the Suspension Clause, and the Court's inherent equitable powers

## VENUE

24. Pursuant to Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Southern District of California as it is the judicial district where Petitioner is being detained.

25. Venue is also properly in this court pursuant to 28 U.S.C. Sec. 1391(e) because Respondents are employees, officers and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.

## REQUIREMENTS OF 28 U.S.C. § 2243

26. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to

show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." Id.

27. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added) (citation omitted). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); see also *Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (habeas corpus is "a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination").

## PARTIES

28. Petitioner Juan Carlos Cortes is a citizen of Mexico. On October 25, 2018 he became subject of a final order of removal, but granting protection under the Convention Against Torture. He has remained compliant with his order of supervision and non-detained since April of 2017.
29. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.
30. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.
31. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.
32. Todd Lyons is the Acting Director of Immigration and Customs Enforcement, a federal law enforcement agency within the Department of Homeland Security. ICE's responsibilities include operating the immigration detention system. Mr. Lyons exercises control over and is a custodian of persons held at ICE facilities nationally. He is the Petitioner's immediate custodian and is responsible for Petitioner's detention. He is sued in his official capacity.

33. Respondent Gregory J. Archambeault is the Director of the San Diego Field Office of ICE's Enforcement and Removal Operations division. As such, he is the custodian of all persons held at the ICE facilities in the San Diego Field Office. He is Petitioners' immediate custodian and is responsible for Petitioners' detention. He is sued in his official capacity.

34. Respondent Christopher J. LaRose is the Warden of the Otay Mesa Detention Center in San Diego, California, where certain Petitioners are detained. He has immediate physical custody of Petitioners. He is sued in his official capacity.

35. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

36. Respondent Immigration and Customs Enforcement (ICE) is the agency within DHS responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

## LEGAL FRAMEWORK

### LIBERTY INTEREST AND POST-FINAL ORDER OF SUPERVISION

37. 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." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017)(quoting *Zadvydas*, 533 U.S. at 693). These due process rights are both substantive and procedural.

38. *First*, "[t]he touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective." *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

39. These protections extend to noncitizens facing detention, as "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

40. Substantive due process thus requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*,

406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

41. *Second*, the procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards.

42. Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

43. After an initial release from custody on conditions, even a person paroled following a conviction for a criminal offense for which they may lawfully have remained incarcerated has a protected liberty interest in that conditional release. *Morrissey* at 408 U.S. at 482. As the Supreme Court recognized, "[t]he parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* "By whatever name, the liberty is valuable and must be seen within the protection of the [Constitution]." *Id.*

44. This reasoning applies with equal if not greater force to people released from civil immigration detention at the border, like Petitioner. After all, noncitizens living in the United States like Petitioner have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. "Given the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees in *Morrissey*." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) (citing *Morrisey*, 408 U.S. at 487).

45. These constitutional principles take on heightened significance for individuals with serious mental illness. When the government knows that a person's psychiatric condition may render him incompetent to understand or participate in proceedings, it must take reasonable steps to assess competence and tailor procedures accordingly. See Jackson, 406 U.S. at 731–33; Zinermon, 494 U.S. at 127–28. DHS has already recognized, in litigation such as Franco-Gonzalez v. Holder, that mentally impaired noncitizens cannot be treated as if they were fully

competent respondents. Yet here, despite DHS's own records documenting Mr. Cortes's Schizophrenia and psychotic decompensation in custody, ICE re-detained him and moved toward third-country removal without any apparent reassessment of his competence, without accommodations in notice or procedure, and without a meaningful opportunity for him, through counsel, to be heard. That failure converts what should be a carefully limited civil detention into arbitrary confinement, in violation of the liberty interests protected by *Zadvydas* and *Morrissey*.

**THE INA'S SCHEME FOR DETERMINING THE COUNTRY OF REMOVAL**

46. Most noncitizens facing removal are placed into removal proceedings under 8 U.S.C. § 1229a. Typically, at the outset of such a removal proceeding, the parties or the immigration judge designates a country of removal. *See* Imm. Ct. Prac. Manual § 4.15(i)

47. As relevant here, the INA "provides four consecutive removal commands" about where to remove a noncitizen. *Jama v. ICE*, 543 U.S. 335, 341 (2005)

48. First, in most cases, the noncitizen must be provided the opportunity to "designate one country to which the [noncitizen] wants to be removed." 8 U.S.C. § 1231(b)(2)(A)(i).

49. Second, if the noncitizen declines to designate a country—which often occurs where the noncitizen fears return to their country of origin—DHS then designates the "country of which the [noncitizen] is a subject, national, or citizen" for removal, as required by statute. *Id.* § 1231(B)(2)(D). The statute requires DHS to attempt removal to these countries before seeking alternatives. *See id.* § 1231(b)(1), (b)(2)(A), (D) (repeatedly instructing where DHS "shall" remove someone by order of priority).

50. Third, if DHS is unable to remove the individual to either the country of their designation or the country of which they are a subject, national, or citizen, then the government is required to remove them to any of the following options: (1) "[t]he country from which the [noncitizen] was admitted to the United States;" (2) "[t]he country in which is located the foreign port from which the [noncitizen] left for the United States or for a foreign territory contiguous to the United States;" (3) "[a] country in which the [noncitizen] resided before [they] entered the country from which [they] entered the United States;" (4) "[t]he country in which the [noncitizen] was born;" (5) "[t]he country that had sovereignty over the [noncitizen's] birthplace when the [noncitizen] was born;" or (6) "the country in which the [noncitizen's] birthplace is located when the [noncitizen] is ordered removed." *Id.* § 1231(b)(2)(E).

51. Finally, only where it is "impracticable, inadvisable, or impossible to remove the [noncitizen] to each country described" above may DHS seek removal to some other alternative country. *See id.* § 1231(b)(2)(E)(vii).

52. For individuals with documented serious mental illness, the government's statutory obligations are intertwined with its constitutional duty to ensure that any notice of a proposed country of removal is intelligible and that the person has a realistic ability to respond. Before initiating or executing removal to a third country, DHS must comply with the sequential framework of 8 U.S.C. § 1231(b) and the procedures in 8 C.F.R. § 208.17(d), and must also ensure that a mentally impaired person like Petitioner can comprehend the nature of the proposed removal and communicate with counsel about potential claims. Where, as here, a person's psychiatric condition precludes such comprehension, proceeding without accommodations or counsel coordination renders any third-country designation constitutionally defective.

## WITHHOLDING OF REMOVAL AND THE CONVENTION AGAINST TORTURE

53. U.S. immigration law affords noncitizens in the United States three forms of protection from persecution and/or torture: asylum, withholding of removal, and protection under the Convention Against Torture (CAT). Individuals who are not eligible for asylum, e.g., because they did not apply within one year of entering the country, *see id.* § 1158(a)(2)(B), may qualify for withholding of removal or protection under CAT. These protections are mandatory protection that prohibits removal to a designated country where a noncitizen establishes that they are more likely than not to face persecution. *INS. v. Aguirre-Aguirre*, U.S. 415, 419 (1999). Withholding of removal also contains exceptions for, inter alia, individuals who have committed certain serious crimes. *See* 8 U.S.C. § 1231(b)(3)(B). DHS has implemented withholding and CAT protections via regulation. *See generally* 8 C.F.R. §§ 208.16–208.18, 1208.16–1208.18.

54. Pursuant to FARRA, Congress instructed that the U.S. government may not "expel, extradite, or otherwise effect the involuntary return of *any person* to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture." Pub. L. 105-277 Div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681–822 (1999) (codified as statutory note to § 1231). This mandate applies to all persons and contains no exceptions.

55. No matter where DHS seeks to remove a person, the INA's protections against removal to a country where a person may face persecution and FARRA's protections against removal to a country where a person may face torture apply. Removals pursuant to § 1231(b) are "subject to paragraph (3)," which, as noted, provides the framework for withholding of removal. *See* 8 U.S.C. § 1231(b); *see also, e.g.*, *Jama*, 543 U.S. at 348. Similarly, FARRA and the regulations implementing CAT prohibit deportation to a country where the noncitizen will face torture. *See* FARRA § 2242(b); 8 C.F.R. §§ 208.16(c)–208.18, 1208.16(c)–1208.18.

**SPECIAL OBLIGATIONS IN EXECUTING REMOVAL FOR PERSONS WITH MENTAL OR PHYSICAL DISABILITIES**

56. In addition to establishing the order of priority for countries of removal and the prohibitions on refoulement contained in the INA and FARRA, Congress has imposed a specific requirement on the government when executing a removal order for a person whose mental or physical condition necessitates special care. Under 8 U.S.C. § 1231(b)(1)(F): "If the Attorney General believes that an alien being removed requires personal care because of the alien's mental or physical condition, the Attorney General may employ a suitable person for that purpose who shall accompany and care for the alien until the alien arrives at the final destination."

57. This statutory language presupposes that DHS must make an individualized determination of whether a person's "mental or physical condition" requires special planning or "personal care" as part of the execution of removal. Where such a need exists, the statute contemplates more than routine transport: it requires that the government identify an appropriate escort, develop a plan to ensure the person's safety and stability, and provide continuity of necessary treatment until the individual reaches the country of removal.

58. For individuals with serious mental illness, § 1231(b)(1)(F) obligates the agency to evaluate whether removal is medically and psychiatrically feasible at all, whether the individual can safely travel without destabilization, whether an escort trained in managing psychiatric disabilities is required, and whether the receiving country has the capacity to provide ongoing treatment and support. These are not discretionary considerations; they are part of Congress's statutory design for humane and lawful execution of removal orders.

59. In Petitioner's case, DHS has long possessed extensive medical documentation demonstrating that he suffers from Schizophrenia (paranoid type), experiences psychotic breaks when medication is interrupted, and recently required hospitalization while in ICE custody. Yet Respondents have made no showing that they conducted any assessment under § 1231(b)(1)(F), devised any plan for continuity of psychiatric treatment during transport, or evaluated whether an unidentified third country can provide the care he requires. Proceeding toward removal in the absence of this mandatory assessment renders the planned action inconsistent with the statutory framework and further underscores the unlawfulness of Respondents' conduct.

## FACTUAL ALLEGATIONS

60. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690. Petitioner has been non-detained and compliant with an order of supervision for since 2017. Despite this, on September 23, 2025, without warning or a custody redermination hearing, Petitioner was detained by armed plain clothes officers for the likely purpose of repatriating him to an unknown third country.

61. Until June 23, 2025, individuals like Petitioner were entitled to receive notice and an opportunity to apply for CAT relief prior to removal due to a temporary restraining order, and later, a preliminary injunction, in *D.V.D. v. DHS*, No. 1:25-cv-10676-BEM (D. Mass.). The *D.V.D.* litigation challenges, inter alia, DHS's failure to provide certain noncitizens with final orders of removal the statutory and constitutional process they are entitled to receive pursuant to 8 U.S.C. § 1231(b)(3), FARRA, and the Due Process Clause.

62. On April 18, 2025, the district court in *D.V.D.* certified a nationwide class of noncitizens with final removal orders entered in removal proceedings under 8 U.S.C. § 1229a and certain other administrative removal processes. *D.V.D. v. DHS*, 778 F. Supp. 3d 355, 378, 394 (D. Mass. 2025).

63. At the same time, the court issued a classwide injunction that required the government to undertake certain procedures before removing a person to a third country. *Id.* at 392–93. Specifically, the court ordered that prior to any third-country removal, noncitizens and their counsel, if any, must receive written notice of the country of removal in a language the noncitizen understands and a meaningful opportunity to assert a claim for CAT protection

related to that third country. *Id.* at 392. The court's framework adopted DHS's existing process of scheduling RFIs to screen people for a fear, and then provided those did not pass the interview a window of fifteen days to move to reopen their removal cases. *Id.* at 392–93.

64. On May 21, 2025, after the government violated the preliminary injunction order,the district court clarified that noncitizens must receive at least ten days' notice prior to removal to a third country. *D.V.D. v. DHS.*, No. CV 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025). The *D.V.D.* defendants subsequently sought a stay of the preliminary injunction with the U.S. Supreme Court. Their application for a stay emphasized, inter alia, that the district court lacked jurisdiction to provide classwide injunctive relief because of 8 U.S.C. § 1252(f)(1). *See* App. for a Stay, *DHS v. D.V.D.*, No. 24A1153, at 19–22 (U.S. May 27, 2025). On June 23, 2025, the Court granted the stay application without providing any reasoning. *See DHS v. D.V.D.*, 145 S. Ct. 2153 (2025).

65. On March 30, 2025, after the Plaintiffs in *D.V.D.* filed their case, DHS issued a new memo entitled "Guidance Regarding Third Country Removals," which the *D.V.D.* defendants claimed satisfies the INA, FARRA, and due process. *See D.V.D.*, No. CV 25-10676-BEM, ECF No. 43-1 (D. Mass. Mar. 30, 2025). Pursuant to the memo, Respondents do not need to provide any notice or process whatsoever to a noncitizen prior to their removal if the United States has received "diplomatic assurances [from the country of removal] that [noncitizens] removed from the United States will not be persecuted or tortured." If the United States has not received such assurances, then the memo simply provides that a deportation officer must "inform the [noncitizen] of removal to [the third] country." *Id.* at 2. "Immigration officers will not affirmatively ask whether the [noncitizen] is afraid of being removed to that country."

66. On July 9, 2025, following the Supreme Court's stay of the *D.V.D.* preliminary injunction, ICE issued guidance regarding how to implement DHS's now-operative March 30 Memo. *See D.V.D.*, No. CV 25-10676-BEM, ECF No. 190-1 (D. Mass. July 15, 2025). The July 9 Guidance is identical to the March 30 Memo except that, in cases where diplomatic assurances do not exist, it provides that an officer will serve a "Notice of Removal" with interpretation.

67. DHS may effectuate removal 24 hours after serving notice; however, "[i]n exigent circumstances," with approval from chief counsel of DHS or ICE, DHS may execute removal to the third country with a mere six hours' notice if ICE provides the noncitizen "means an opportunity to speak with an attorney." *Id* Respondents' March 30 memo, July 9 guidance,

and their practice as to other third-country removals demonstrate that DHS's policy permits the government to provide a slip of paper listing the country of removal mere hours before a planned third-country of removal.

68. Respondents' extreme position has been born out in several instances. On May 7, 2025, the *D.V.D.* defendants attempted to remove several *D.V.D.* class members to Libya- a country embroiled in active conflict after providing only hours of notice of removal. *See* Declarations of Johnny Sinodis and Tin Thanh Nguyen, *D.V.D.*, No. 1:25- cv-10676-BEM, ECF No. 99-2 & 99-3 (D. Mass. May 14, 2025). On on May 21, 2025, "several class members were [placed on a plane] to South Sudan after having received less than 24 hours' notice of their impending deportations." *D.V.D.*, 145 S. Ct. at 2157 (Sotomayor, J., dissenting). South Sudan, like Libya, is the subject of grave U.S. Department of State warnings against travel and is on the verge of open armed conflict. These are just examples of this lack of notice in practice. There have been other removals to Ghana, notwithstanding the fact that the five indivdiuals removed had won withholding of removal to their countries of origin. *See* Order, *D.A. v. Noem*, No. 1:25-cv-03135-TSC (D.D.C. Sept. 15, 2025), Dkt. 41 at 2. Even where notice is provided, DHS's policy is to provide not more than 24 hours following referral to USCIS for a person to prepare their entire defense against removal to a third country.

69. In typical withholding and CAT cases, individuals have months to prepare and often submit applications with hundreds of pages of supporting evidence, including testimony, expert witness declarations, and country conditions evidence to explain why a person fears persecution or torture.

## LEGAL ARGUMENT

70. here are countless urgent and sensitive issues that arise from Petitioner's case. The first is the unlawful commencement of his current detention and resulting deprivation of liberty. This was done despite the government's long-standing knowledge that Petitioner suffers from Schizophrenia and related disorders requiring close monitoring, medication management, and safeguards to ensure that he meaningfully understands any legal proceedings affecting him..

71. By proceeding against Mr. Cortes without reassessing his competence, without tailoring notice to his mental limitations, and without coordinating with counsel before revoking his supervision and initiating third-country removal, Respondents have deprived him of the basic procedural protections the Due Process Clause requires for any person whose liberty is being withdrawn. See Mathews v. Eldridge, 424 U.S. 319, 333–35 (1976); Morrissey, 408 U.S. at

481–82. The government's own records show that he is vulnerable to psychotic breaks when medication is disrupted, that he has recently been hospitalized in ICE custody, and that he may be unable to understand or respond to standard written notices. In these circumstances, a bare assertion that a notice was served is not sufficient to satisfy due process.

72. Federal law also recognizes that mental and physical disabilities require individualized planning when removal is executed. Under 8 U.S.C. § 1231(b)(1)(F), if the Attorney General "believes that an alien being removed requires personal care because of the alien's mental or physical condition," the government must employ a suitable person to accompany and care for the individual until arrival in the country of removal. This provision presupposes that DHS will identify, in advance, whether a person's mental illness requires special arrangements and whether removal is feasible at all in light of the person's condition and the receiving country's capacity to provide care. Respondents have made no showing that they conducted any such assessment for Mr. Cortes or that they have any plan to ensure continuity of psychiatric treatment in an unknown third country. That failure further underscores the arbitrariness of both his re-detention and the planned removal.

73. In short, DHS has unlawfully detained Petitioner and deprived him of liberty and access to necessary medication, apparently for the sole purpose of facilitating third-country removal. Absent a legitimate, non-punitive justification related to flight risk or danger to the community—and absent the procedural safeguards required for a person with his mental-health profile—continued detention violates the Fifth Amendment and the statutory scheme governing civil immigration custody.

74. Regarding third-country removals, The INA, FARRA, and the Due Process Clause demand far more than Respondents' policy requires. For the INA's and FARRA's statutory protections against persecution and torture to be meaningful, there must be a means of accessing those procedures. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Reno v. Flores*, 507 U.S. 292, 306 (1993). Thus, "no person shall be removed from the United States without opportunity, at some time, to be heard." *A.A.R.P.*, 605 U.S. at 94 (citation modified). The Supreme Court has long applied this principle to people facing removal. *See Yamataya v. Fisher*, 189 U.S. 86, 99–101 (1903) (holding that, even though what Congress provided as to exclusion was "due process of law," the statute must be interpreted to provide "notice and . . . an opportunity to be heard" as to whether a person is in the United States "in violation of law").

75. Just earlier this year, the Supreme Court explained that for these due process rights to be meaningful, a person must actually receive notice of their planned removal with sufficient time before it occurs so that the person has a genuine chance to seek relief from that removal. *A.A.R.P.*, 605 U.S. at 94–95. "[N]otice roughly 24 hours before removal, devoid of information about how to exercise due process rights to contest that removal, surely does not pass muster." *Id.* at 95.

76. These principles are well established in the Ninth Circuit in the context of third-country removals. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) ("Failing to notify individuals who are subject to deportation that they have the right to apply for . . . withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process."); *Ibarra-Perez v. United States*, --- F.4th, No. 24-631, 2025 WL 2461663, at *5 (9th Cir. Aug. 27, 2025) (affirming "there are restrictions on DHS' removal authority" and DHS "violates [noncitizens'] constitutional right to due process" where it fails to notify them of their right to apply for withholding of removal to the country of removal).

77. Respondents' policy does not remotely comport with these instructions. Respondents seek to bypass the process entirely as to many claimants via diplomatic assurances Respondents' "notice" provides no information about a planned date of removal or about a person's right to apply for protection from that removal. The notice can also be provided mere hours before placement on a plane. Due process demands far more.

78. Respondents' notice also does not require notice to counsel, which DHS is *required* to provide "[w]henever a person is required" by the immigration regulations to receive notice. 8 C.F.R. §§ 292.5(a), 1292.5(a). Notice to Counsel becomes of the utmost importance when there is clear evidence in the possession of DHS that the individual may not understand or appreciate any notice received due to mental incapacity.

79. Due process also demands that the government "ask the noncitizen whether [s/he] fears persecution or harm upon removal to the designated country and memorialize in writing the noncitizen's response. Respondents' policy is also deficient in other ways. The withholding statute, FARRA, and their implementing regulations envision *individualized* consideration of feared persecution or torture. *See* 8 U.S.C. § 1231(b)(3); *id.* (note); 8 C.F.R. §§ 208.31, 1208.16, 1208.18. Yet Respondents' policy authorizes the agency to deem all claims invalid simply if a country provides a categorical diplomatic assurance to the United States that no

persecution or torture will occur as to all noncitizens removed to it. With CAT claims, the regulations allow diplomatic assurances, but only in *individual* cases. *See* 8 C.F.R. § 1208.18(c)(1); *see also* Regulations Concerning the Convention Against Torture, 64 Fed. Reg. 8478, 8484 (Feb. 19, 1999) (noting that cases of assurances are meant to be "rare").

80. Respondents' failure even to acknowledge, much less comply with, their obligations under § 1231(b)(1)(F) reinforces the unlawfulness of the planned third-country removal. With decades of medical records documenting Petitioner's serious mental illness and recent evidence of psychotic decompensation following the interruption of his medications, DHS cannot plausibly claim ignorance of his need for "personal care" in any attempted removal. Yet there is no indication that ICE has identified a suitable escort, developed a plan for continuity of psychiatric treatment, or evaluated whether the proposed third country is capable of providing the care he requires. A removal carried out in these circumstances would not only be arbitrary and capricious; it would disregard an explicit statutory command directed to precisely this kind of situation.

81. In addition, Respondents' diplomatic assurances do not protect against chain refoulment, which ultimately results in the removal of a noncitizen to their country of origin, despite an immigration judge order that the person not be returned to their country of origin.

82. Requiring a person to demonstrate full entitlement to withholding or CAT protection in a screening hours after receiving the initial notice about removal to a third country does not provide a meaningful opportunity to be heard. As noted above, in standard § 1229(a) proceedings or in "withholding-only" proceedings before the immigration court, the evidence often includes hundreds of pages of documentation that detail the noncitizen's own testimony, the testimony of witnesses, expert reports, and other country conditions. Expecting a noncitizen, especially one with severe mental health issues, to produce such an application mere hours or a day or two after finding out about the new country to which DHS plans to remove them does not provide a person with "sufficient time and information to reasonably be able to contact counsel, file . . . , and pursue appropriate relief." *A.A.R.P.*, 605 U.S. at 95.

## CLAIMS FOR RELIEF

## Count I

### Writ of Habeas Corpus – Violation of the INA

83. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

84. 8 U.S.C. § 1231(b)(3) prevents removal to a country where a noncitizen is more likely than not to face persecution.

85. Notwithstanding this statutory mandate, Respondents seek to remove Petitioner to a third country without providing him the opportunity to access the protections required pursuant to § 1231(b)(3) and its implementing regulations. Because of Petitioner's serious mental illness and recent psychiatric decompensation in custody, meaningful access to those protections requires more than the bare service of a generic "notice of removal." It requires procedures that take account of his competence, allow for effective communication with counsel, and provide sufficient time and information to prepare a claim. By attempting to move forward with third-country removal without such accommodations, Respondents have deprived Petitioner of a meaningful opportunity to invoke the rights that § 1231(b)(3) confers.

86. Further, Respondents' sudden re-detention of Petitioner without prior notice, hearing, or any opportunity to contest the basis for revocation of his release violates both the procedural component of the Due Process Clause and the statutory structure governing custody determinations under the INA. See *Zinermon v. Burch*, 494 U.S. 113, 127 (1990); *Morrissey v. Brewer*, 408 U.S. 471 (1972). Once released under supervision, Petitioner possessed a constitutionally protected liberty interest in remaining free from physical restraint. Before that liberty could lawfully be withdrawn, the government was required to provide notice and a meaningful pre-deprivation hearing. Its failure to do so—particularly in the case of a *Franco-Gonzalez* class member whose mental illness prevents him from comprehending the proceedings—renders the re-detention and any ensuing removal actions unlawful.[1]

87. The INA also requires the government, when executing removal, to assess whether a person's "mental or physical condition" requires "personal care" and, if so, to employ a suitable person

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[1] *See Morrissey v. Brewer*, 408 U.S. 471, 482–84 (1972) (holding that individuals conditionally released from custody retain a protected liberty interest and must receive notice and an opportunity to be heard before re-detention); *Young v. Harper*, 520 U.S. 143, 152–53 (1997) (same for pre-parole release); *Hurd v. District of Columbia Gov't*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("A pre-deprivation hearing is generally required before conditional release may be revoked."); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970–71 (N.D. Cal. 2019) (applying *Morrissey* to noncitizens released from immigration custody and holding that liberty interest in continued release requires notice and hearing before re-detention).

to accompany and care for the individual until arrival in the country of removal. 8 U.S.C. § 1231(b)(1)(F). Respondents have made no showing that they performed any such assessment for Petitioner, despite knowing of his Schizophrenia, recent psychotic break in custody, and hospitalization, and have articulated no plan to provide personal care or continuity of psychiatric treatment during or after removal to an unknown third country. Their failure to discharge this statutory obligation renders the planned removal unlawful under the INA.

88. Accordingly, Petitioner's planned third-country removal is unlawful as is his redetention.

**Count II**

**Writ of Habeas Corpus – Violation of FARRA**

89. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

90. FARRA prevents removal to a country where a noncitizen is more likely than not to face torture.

91. Notwithstanding this statutory mandate, Respondents seek to remove Petitioner to a third country without providing him the opportunity to access the protections required pursuant to FARRA and the Convention Against Torture. For a person with Petitioner's psychiatric disabilities, meaningful access to CAT protection requires that he be able to understand where he is being sent, to communicate the basis of his fear, and to work with counsel to marshal evidence regarding the risk of torture or extreme suffering, including the likelihood of medical neglect. By attempting to remove him rapidly to an unidentified third country, after withholding necessary medication and precipitating a psychotic break, Respondents have effectively denied him any realistic chance to present a CAT claim. Because FARRA implements the United States' non-refoulement obligations under Article 3 of the Convention Against Torture, those obligations cannot be discharged through procedures that a mentally ill person is incapable of understanding or using.

92. Where a person's mental illness is so severe that removal without appropriate personal care and treatment will likely result in extreme suffering, rapid decompensation, or conditions amounting to cruel, inhuman, or degrading treatment, the failure to comply with § 1231(b)(1)(F) also heightens the risk of torture within the meaning of FARRA and CAT. For Petitioner, whose stability depends on continuous psychiatric medication and monitoring, being transported and deposited in an unfamiliar third country with no plan for care is

functionally indistinguishable from intentional exposure to a substantial risk of severe mental and physical pain.

**Count III**

**Writ of Habeas Corpus – Violation of the Due Process Clause**

93. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

**UNLAWFUL DETENTION:**

94. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law." U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

95. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

96. Petitioner is not a flight risk or danger to the community and has been compliant and non-detained since 2017. Respondents' detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment. Moreover, Petitioner's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"), but for to effectuate third-country removal.

**THIRD COUNTRY REMOVAL:**

97. The Due Process Clause requires Respondents to provide meaningful notice and opportunity to be heard regarding statutory protections to which Petitioner is entitled. Respondents seek to remove Petitioner to a third country without providing meaningful notice or a meaningful opportunity to seek protection under the mandatory provisions of 8 U.S.C. § 1231(b)(3) and FARRA's provisions with respect to CAT.

98. Accordingly, Petitioner's planned third country removal is unlawful.

**Count IV**

**Writ of Habeas Corpus – Violation of the Administrative Procedure Act (5 U.S.C. §**

**706)**

99. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

100. Respondents' revocation of Petitioner's supervision and attempt to effectuate removal to a third country, without notice, reasoned explanation, or adherence to 8 C.F.R. § 208.17(d) and related procedural safeguards, constitute final agency action that is arbitrary, capricious, and contrary to law in violation of 5 U.S.C. § 706(2)(A)–(D). The agencies have offered no rational basis for abruptly changing his long-standing, successful supervision to detention, and have ignored the factors—particularly his serious mental illness—that Congress and the Constitution deem relevant to custody and removal decisions.

101. Moreover, where DHS possesses extensive records documenting a detainee's serious mental illness and recent psychiatric hospitalization in custody, the failure to assess his need for "personal care" under 8 U.S.C. § 1231(b)(1)(F), to plan for such care in the execution of removal, or to consider whether the proposed third country can provide necessary treatment is itself arbitrary and capricious. By ignoring this explicit statutory directive, Respondents have acted in a manner that is not the product of reasoned decision-making and that is contrary to law within the meaning of 5 U.S.C. § 706(2)(A)–(C) and is unlawful under the APA.

**Count V**

**Writ of Habeas Corpus – Violation of the Suspension Clause**

102. To the extent Respondents argue that this Court lacks jurisdiction to review Petitioner's re-detention or imminent third-country removal, such an interpretation of the jurisdictional statutes would itself violate the Suspension Clause. The Constitution guarantees that "the Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2.

103. By re-detaining Petitioner and attempting to remove him without notice, hearing, or any available administrative or judicial mechanism for timely review, Respondents have effectively suspended the writ of habeas corpus as to him. The Suspension Clause preserves the fundamental right of individuals to obtain judicial review of unlawful executive detention. *INS v. St. Cyr*, 533 U.S. 289, 301–05 (2001) (holding that the Suspension Clause ensures availability of habeas review for questions of law and constitutional claims arising from immigration detention); *Boumediene v. Bush*, 553 U.S. 723, 771 (2008) (holding that the writ

of habeas corpus must be available to challenge the legality of executive detention even where Congress has attempted to restrict jurisdiction).

104. Where, as here, the government acts outside the statutory removal scheme—re-detaining a mentally incompetent *Franco-Gonzalez* class member with a final grant of deferral of removal under the Convention Against Torture—there exists no adequate or effective substitute for habeas corpus review. Petitioner has no available administrative mechanism to challenge his re-detention or imminent transfer to a third country, and no judicial forum other than this Court in which to contest the lawfulness of those actions.

105. Absent habeas jurisdiction, Petitioner would be deprived of any meaningful opportunity to test the legality of his detention and removal, contrary to Article I, Section 9, Clause 2 of the United States Constitution. The Suspension Clause therefore requires that this Court retain jurisdiction to review and remedy Respondents' unlawful detention and removal actions. See *Thuraissigiam v. Dep't of Homeland Sec.*, 140 S. Ct. 1959, 1969 (2020) (reaffirming that the Suspension Clause protects against the "executive detention of citizens and noncitizens alike" absent adequate substitute review).

## PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a) Assume jurisdiction over this matter;
b) Issue an order immediately releasing Petitioner from ICE custody without GPS monitoring, or in the alternative, requiring Respondents to provide an individualized bond hearing before an Immigration Judge within seven (7) days;
c) Enjoin Respondents from executing or attempting to execute any removal of Petitioner pending full compliance with applicable law, including:
    a. Verification of Petitioner's competence and coordination with counsel, and implementation of any reasonable accommodations required by his serious mental illness, consistent with the Due Process Clause, 8 U.S.C. § 1231(b)(1)(F), and DHS's own policies for individuals with mental disabilities;
    b. Provision of written notice identifying the specific country to which removal is contemplated;
    c. Provision of notice of any proposed removal at least ten (10) days in advance, in a language and format Petitioner can understand; and

d. Provision of a meaningful opportunity to contest removal through a reasonable-fear interview or equivalent process consistent with 8 C.F.R. § 208.31 and 8 C.F.R. § 208.17(d);

e. Require Respondents, before executing any removal order, to conduct and document an assessment under 8 U.S.C. § 1231(b)(1)(F) of Petitioner's need for personal care during removal and in the receiving country, and to certify to this Court any plan for such care, including identification of a suitable escort and arrangements for continuity of psychiatric treatment.

d) Prohibit Respondents from transferring Petitioner outside the jurisdiction of the United States District Court for the Southern District of California during the pendency of these proceedings;

e) Order Respondents to produce evidence of the steps taken to assess Petitioner's competence, to accommodate his mental-health needs, and to comply with all notice and screening obligations before taking any further enforcement action against him;

f) Award Petitioner reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412; and

g) Grant such other and further relief as the Court deems just and proper.

**RESPECTFULLY SUBMITTED this 14th day of November, 2025,**

**/s/ Emily L. Robinson**

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