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Counsel for Petitioner
Ricardo Manuel Obando Vargas

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

RICARDO MANUEL OBANDO VARGAS, [redacted]

Petitioner,

v.

TODD BLANCHE, in his official capacity as Acting Attorney General,

MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security,

U.S. DEPARTMENT OF HOMELAND SECURITY,

CHRISTOPHER CHESTNUT, in his official capacity as Warden of California City Immigration Processing Center,

SERGIO ALBARRAN, in his official capacity as ICE Field Office Director,

Case No. 1:26-cv-05343-DAD-AC

TRAVERSE IN SUPPORT OF PETITION FOR HABEAS CORPUS AND REPLY IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER

Respondents.

On July 10, 2026, Ricardo Manuel Obando Vargas (Petitioner), by and through his undersigned counsel, filed this petition for a writ of habeas corpus arguing that his continued detention is unconstitutional, as there is no significant likelihood of removal in the reasonably foreseeable future. Dkt. 1. On the same date, Petitioner filed a motion for a temporary restraining order. Dkt. 2. On July 13, 2026, the Court issued a minute order, ordering Respondents to file a response, and indicating an intent to resolve the underlying motion and petition simultaneously. Dkt. 3. This reply/traverse follows.

Respondents argue that Petitioner's requests for relief should be denied: 1) he has failed to comply with their efforts to remove him to a third country (Mexico); and 2) because he has received sufficient process through the agency's fear screening. Dkt. 3, pp. 6-7. Respondents also argue that the cases cited by the Court in its minute order are inapposite to this petitioner. *Id.* at p. 7. Each of these arguments fail.

First, although Respondents repeatedly assert that Petitioner "failed to cooperate" in his removal to Mexico, they do not once explain *how* he failed to cooperate. Deportation Officer Kichak asserts that on April 10, 2026,

May 5, 2026, and June 24, 2026, "Petitioner was advised of his requirements to assist in his removal to a third country in compliance with his removal order and failed to cooperate." Exh. 6-1, p. 3. However, Officer Kichak does not specify how Petitioner failed to cooperate, and instead, cites to Exhibits 9, 10, and 13, as evidence of his failure to cooperate. *Id.* However, those exhibits simply contain two standard forms routinely served on individuals with final orders of removal ("Warning for Failure to Depart" and "Instruction Sheet to Detainee Regarding Requirement to Assist in Removal," and do not contain any specific allegations as to how Petitioner failed to cooperate. *See* Dkt. 6-1, pp.65-66, 68-69, 75-76.

Next, the risk of erroneous deprivation is not mitigated by the fear screening provided by U.S. Citizenship and Immigration Services. *Cf.* Dkt. 6, p. 6. This screening does not safeguard against unlawful detention. Even if Petitioner had been found to have a reasonable fear of persecution or torture, that would not have required his release. Rather, he would have remained in detention while litigating his eligibility for withholding of removal or deferral of removal to Mexico. Moreover, the screening itself has no indicia of thoroughness or reliability and did not follow the agency's usual practices for fear screenings. There is no reasoning provided by the agency for why it determined that Petitioner did not have a reasonable fear

of persecution or torture in Mexico; it simply states "no" to two boilerplate questions about whether Petitioner had established past persecution or torture or a sufficient likelihood of such treatment in the future.[1] Dkt. 6-1, pp. 61-62. There is no indication on the screening form that Petitioner was given the option for a reasonable fear review with an Immigration Judge, which is the standard procedure when an asylum officer finds a non-citizen lacks a reasonable fear of persecution or torture. *See* 8 C.F.R. § 1208.31(g). In short, this "safeguard" provides no protection against unlawful detention and very little protection against unlawful removal to a country in which a non-citizen raises a risk of persecution or torture.

Finally, although Respondents are correct that most of the cited cases in the Court's minute order relate to detention authority under 8 U.S.C. §§ 1225 and 1226, one case cited by the Court is about detention under 8 U.S.C. § 1231. In *Yang v. Kaiser*, 2025 WL 2791778, *2 (E.D. Ca. Aug. 20, 2025) (unpub), the petitioner argued that the revocation of his Order of Supervision was unlawful because "he was not provided with notice of his detention prior to attending his scheduled appointment and has not been provided with an explanation for his re-detention." The court concluded that

[1] Relatedly, this document clearly belies Respondents' repeated assertion that "Petitioner has not indicated to immigration authorities that he has any fear of removal to Mexico." Dkt. 6, pp. 2, 3, 4.

in Yang's case, "the regulatory framework [governing revocations of supervision orders] have proven insufficient to meaningfully mitigate the risk of erroneous deprivation of liberty in this case." *Yang*, 2025 WL at *9. Accordingly, the Court ordered that the agency release Yang and provide him with a pre-detention hearing before a judge before detaining him again in the future. *Id.*

Similar concerns exist in this matter. According to Respondents, Petitioner was re-detained at a scheduled ICE check-in, which he was attending in compliance with his Order of Supervision. Dkt. 6-1, p. 49. He was given no notice prior to his appointment that he would be detained. The Notice of Revocation of his Release simply states "[i]t is appropriate to enforce your removal order, which became administratively final on 1/25/2023." Dkt. 6-1, p. 53. This provides no actual explanation about why Petitioner's Order of Supervision was revoked. Indeed, the first notice of removal to Mexico was not served on Petitioner until February 5, 2026, one month after his detention on January 5, 2006, suggesting that a third country removal was not even a bona fide option at the time that Respondents revoked Petitioner's release. Dkt. 6-1, p. 58. The logical conclusion is that Respondents had no bona fide reason to detain Petitioner on January 5, 2026, other than to continue their apparent arrest philosophy nationwide of

"arrest now, find a justification later."

Although Respondents repeatedly reference Petitioner's criminal history, these references are a red herring, as the criminal history pre-dates the grant of withholding of removal and the issuance of his Order of Supervision.[2] *See* Dkt. 6, p. 4 (listing Petitioner's most recent conviction as a 2018 DUI); Dkt. 6-1, p. 9 (withholding of removal, dated February 24, 2023); Dkt. 6-1, p. 34 (FBI report indicating most recent arrest was on February 17, 2022). As such, it cannot be used to show that he is somehow *now* a danger to the community, requiring detention, when the agency determined he was not a danger to the community and released him on an Order of Supervision in 2023. *Cf.* Dkt. 6, p. 4 (Respondents' hyperbolic assertion that "no one and nowhere is safe were Petitioner to be released"). As such, this Court should follow its ruling in *Yang* and should order Petitioner's release and require Respondents to provide him with a pre-deprivation hearing before re-detaining him in the future. Petitioner does not oppose the Court immediately ruling on his underlying habeas petition.

[2] Although Respondents cite Petitioner's criminal history under the header "Unlikely to comply with removal," they provide no explanation as to how his pre-withholding of removal criminal conduct sheds any light on whether he would comply with a lawful removal. *See* Dkt. 6, p. 4.

CONCLUSION

Respondents' opposition contains repeated falsehoods (that Petitioner has not claimed a fear of harm in Mexico) and irrelevant references to his pre-2023 criminal history that tell this Court nothing about his compliance with Order of Supervision or the reasonable foreseeability of his removal to a third country. Respondents assert that Petitioner has failed to cooperate in his removal to Mexico, but they fail to provide any information on how he allegedly failed to comply. Respondents' own documents strongly imply that they had no concrete plan to deport him to a third country until a full month after they arrested him, leaving no justification for the arrest at the time it was effectuated. Petitioner has now been detained for more than six months, and there is no dispute that he cannot lawfully be removed to Nicaragua. Accordingly, he respectfully requests that this Court order his immediate release and enjoin Respondents from re-detaining him without a pre-deprivation hearing at which they bear the burden of proving by clear and convincing evidence that they have complied with all applicable regulations and that Petitioner is a flight risk or a danger to the community.

RESPECTFULLY SUBMITTED this 14th day of July, 2026

/s/ Sabrina Damast
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