IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

ALFREDO BARAJAS ZARAGOZA, Petitioner, v. MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security, et al., Respondents.	§	3-26-CV-02192-DB ***** EXPEDITED ***** **PETITIONER REMAINS OUTSIDE THE UNITED STATES**

PETITIONER'S RESPONSE TO RESPONDENTS' STATUS REPORT AND MOTION FOR AN ORDER DIRECTING RESPONDENTS TO ARRANGE AND FUND PETITIONER'S TRANSPORTATION TO THE PORT OF ENTRY

TO THE HONORABLE DAVID BRIONES, SENIOR UNITED STATES DISTRICT JUDGE:

I. SUMMARY

1. Eight days after Respondents conceded that they removed Petitioner unlawfully, and four days after this Court ordered them to report on the specific steps taken to bring him back, Respondents' answer is that they sent one email and that the timeline is "unknown."

2. In the meantime, Respondents have communicated a demand. On September 1, 2026, an ICE officer telephoned Petitioner's wife and stated that Petitioner must present himself at Ciudad Juárez, Chihuahua, in order to return to the United States. Petitioner is in the State of Guanajuato, roughly one thousand miles from Ciudad Juárez, because Respondents flew him to Oaxaca.

3. Respondents removed Petitioner from this country at their own expense, aboard an aircraft they chartered, in violation of a federal statute. Having done so, they now propose

that Petitioner reverse it at his own expense and his own risk, across the length of Mexico, with no date, no documents, and no assistance.

4. That is not facilitation. The Supreme Court has explained that an order in these circumstances properly requires the Government both to facilitate the person's return and "to ensure that his case is handled as it would have been had he not been improperly" removed. *Noem v. Abrego Garcia*, 604 U.S. ___ (2025) (per curiam). Had Respondents not removed Petitioner, he would be in El Paso. Requiring him to fund and survive a thousand-mile journey to undo Respondents' own unlawful act shifts the cost of the violation onto the person who suffered it.

5. Petitioner asks the Court to order Respondents to arrange and pay for his transportation from his present location to the port of entry, to fix a date, to identify a responsible officer, and to communicate through counsel.

II. SUPERVENING DEVELOPMENT: THE IMMIGRATION JUDGE HAS GRANTED THE MOTION TO REOPEN

6. On August 26, 2026, Immigration Judge Ann McDermott granted Petitioner's Motion to Reopen and Rescind *In Absentia* Order of Removal, finding that "[l]ack of notice has been demonstrated" and noting that "DHS has not filed a written response." Ex. 3.

7. The *in absentia* order of removal entered July 23, 2026 has therefore been rescinded. There is at present no order of removal against Petitioner. He was deported pursuant to an order that no longer exists.

8. Petitioner respectfully notes, for the accuracy of the record, that the Court's Order of August 28, 2026 describes the motion to reopen as "pending . . . before the Board of

Immigration Appeals." ECF No. 5 at 1. The motion was filed with, and has now been granted by, the Las Vegas Immigration Court. No appeal has been taken to the Board.

9. On August 28, 2026, the Las Vegas Immigration Court issued an Initial Scheduling Order requiring Petitioner to file written pleadings within thirty days and stating that the entry of pleadings is a mandatory duty of the respondent and his counsel under 8 C.F.R. § 1240.10(c). Ex. 4. A master hearing was set for September 17, 2026 and then cancelled the same day, with notice of a new setting to issue. Exs. 5-6. Petitioner can comply with none of this from central Mexico.

IV. RESPONDENTS HAVE DIRECTED PETITIONER TO PRESENT AT A PORT ONE THOUSAND MILES AWAY

10. On September 1, 2026, an officer of U.S. Immigration and Customs Enforcement telephoned Petitioner's wife, Rubi Sanchez, in Kerrville, Texas, and informed her that Petitioner must travel to Ciudad Juárez, Chihuahua, in order to be returned to the United States.

11. Petitioner is presently in the State of Guanajuato, Mexico. The distance from Guanajuato to Ciudad Juárez is approximately one thousand miles. Petitioner did not choose to be in central Mexico; Respondents put him there.

12. Petitioner is without resources to make that journey. The route crosses regions of Mexico in which highway travel presents well documented risks to persons traveling alone and without documents.

13. Respondents have not offered to arrange or fund that travel, have not identified a date on which Petitioner should present, have not identified the port or the officer to whom he should present, and have not stated what documents he will need in order to be admitted.

V. FACILITATION REQUIRES ARRANGING AND FUNDING THE TRAVEL RESPONDENTS' CONDUCT MADE NECESSARY

14. The governing principle is restoration. An order requiring the Government to facilitate a wrongfully removed person's return properly requires it "to ensure that his case is handled as it would have been had he not been improperly" removed. *Abrego Garcia*, 604 U.S. at ___. The Supreme Court has likewise recognized that a noncitizen who prevails after removal "can be afforded effective relief by facilitation of [his] return." *Nken v. Holder*, 556 U.S. 418, 435 (2009).

15. Relief that exists only if the person can first self-fund a thousand-mile journey across a foreign country is not effective relief. It is a condition Respondents created and now ask Petitioner to satisfy.

16. The equities are one-sided. Respondents bore the cost of removing Petitioner unlawfully. Petitioner bore the consequences. There is no principle under which the expense of correcting Respondents' violation falls on Petitioner, and Respondents have identified none.

17. The mechanism is ordinary. Parole under INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A), permits Respondents to bring Petitioner into the United States to attend his reopened proceedings. Respondents coordinate transportation with foreign consulates and arrange the movement of noncitizens as a matter of daily practice. Nothing about this case requires a novel exercise of authority; it requires that the authority be exercised.

18. Petitioner emphasizes what he is not asking for. He does not ask the Court to direct the conduct of foreign relations or to compel any act by the Government of Mexico. He asks

that Respondents purchase transportation, fix a date, and tell him where to go and whom to see.

VI. COMMUNICATIONS SHOULD BE DIRECTED TO COUNSEL

19. Petitioner is represented by undersigned counsel in this action and in his reopened removal proceedings, where a Form EOIR-28 has been on file since August 21, 2026.

20. Respondent's wife, Mrs. Sanchez, has communicated to counsel that despite being born in the United States, she experienced anxiety and fear when personnel from ICE communicated with her.

21. Directions of operational consequence should be given to counsel, in writing. Petitioner respectfully requests an order to that effect.

VII. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that the Court:

(a) ORDER Respondents to arrange and pay for Petitioner's transportation from his present location in the State of Guanajuato, Mexico to the port of entry at which Respondents intend to admit him, including any lodging, meals, and incidental costs reasonably required for that travel;

(b) ORDER Respondents to designate, within seventy-two (72) hours, a date, time, port of entry, and responsible officer for Petitioner's presentation and admission, and to state what documents Petitioner will be required to present;

(c) ORDER Respondents to identify a named point of contact, with a direct telephone number and electronic mail address, through whom undersigned counsel may communicate regarding Petitioner's return;

(d) ORDER that all communications from Respondents concerning Petitioner's return be directed to undersigned counsel and not to Petitioner's family members;

(e) ORDER that Respondents' further status reports under ECF No. 5 state, at a minimum, the specific actions taken since the prior report, the identity of the officials who took them, the responses received, the obstacles encountered, and a date certain or, if none can be given, the reason;

(f) SET a date certain by which Petitioner's return shall be accomplished;

(g) CONFIRM that the Court's Order of August 24, 2026 remains in full force and effect, and ORDER that upon Petitioner's return Respondents shall not remove him, transfer him outside this Division, or relinquish custody of him absent leave of this Court;

(h) RETAIN jurisdiction until Petitioner's return is accomplished; and

(i) GRANT such other and further relief, including all remedies previously reserved, as the Court deems just and proper.

Respectfully submitted, September 1, 2026.



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VERIFICATION

I, J. Daniel Garcia, declare under penalty of perjury under the laws of the United States of America that I am counsel of record for Petitioner; that I have read the foregoing; and that the factual statements herein are true and correct to the best of my knowledge, information, and belief. Statements concerning the September 1, 2026 telephone call from an ICE officer are based on my communication with Rubi Sanchez, who received that call. Statements concerning Petitioner's present location are based on my communications with Petitioner and his family. 28 U.S.C. § 1746.



J. DANIEL GARCIA

CERTIFICATE OF CONFERENCE

Undersigned counsel has not conferred with counsel for Respondents regarding this filing. Respondents have represented to the Court that they "will work with the appropriate immigration authorities to facilitate Petitioner's return" and "will continue to take appropriate steps to effectuate Petitioner's return." ECF No. 4 at 2. The relief requested herein seeks to give effect to that representation. Petitioner will promptly advise the Court if Respondents indicate that they oppose it.



J. DANIEL GARCIA

CERTIFICATE OF SERVICE

I certify that on September 1, 2026, a true and correct copy of the foregoing was filed and served upon counsel through the Court's CM/ECF system.



J. DANIEL GARCIA