

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**D.N.N.,**

Petitioner,

v.

Case No. 2:25-cv-01173

**JOEL GARCIA**, Field Office Director of Enforcement and Removal Operations, El Paso Field Office, Immigration and Customs Enforcement; **TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement; **KRISTI NOEM**, Secretary, U.S. Department of Homeland Security; **U.S. DEPARTMENT OF HOMELAND SECURITY**; Pamela Bondi, U.S. Attorney General; **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**; **DORA CASTRO**, Warden of the Otero County Processing Center.

Respondents.

**ORDER TO SHOW CAUSE WHY PETITION FOR WRIT OF HABEAS CORPUS  
SHOULD NOT BE TRANSFERRED TO DISTRICT OF MARYLAND**

THIS MATTER is before the Court upon Petitioner D.N.N.'s<sup>1</sup> Petition for Writ of Habeas Corpus [**Doc. 1**] (“the Petition”), 28 U.S.C. § 2241, challenging the lawfulness of the duration of her post-removal order detention in ICE custody and the revocation of a Department of Homeland Security (DHS) Order of Supervision, which permitted Petitioner’s release on conditions of supervision in 2012. Petitioner, a Guatemalan national, was detained in May 2025 during a routine check-in at a U.S. Immigration and Customs Enforcement (ICE) Field Office in Maryland and was later transferred to the Otero County Processing Center in Chaparral, New

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<sup>1</sup> The Court refers to Petitioner by her initials because Petitioner filed this case under seal and because this Order refers to a civil action in the District of Maryland, involving Petitioner, which refers to Petitioner by her initials. If it is later established that the docket should instead be public, the Court will refer to Petitioner by her full name in subsequent filings.

Mexico, where she remains in ICE custody.

## BACKGROUND<sup>2</sup>

Petitioner entered the United States most recently without authorization in 2011. [**Doc. 1 at 2 ¶ 2**]. The United States government has twice previously ordered Petitioner's removal to Guatemala, her country of citizenship. [**See Doc. 1 at 2 ¶¶ 33, 34; Doc. 1-2, at 2, 10**]. However, a Washington immigration court's May 2, 2012, withholding order prevented her from being removed at that time. [**Doc. 1-2**]. DHS did not effectuate Petitioner's removal during the requisite period, and Petitioner was released on an Order of Supervision on May 4, 2012. [**Id.**] Petitioner has since complied with the conditions of her supervision, including regular check-ins with U.S. Immigration and Customs Enforcement (ICE) in Baltimore, Maryland. [**Doc. 1 at 2, ¶ 5**]. At the most recent check-in, on May 7, 2025 — over a decade after her initial order of supervised release — Petitioner was detained. [**Id. at 8, ¶ 36**]. ICE did not provide Petitioner with a basis for its decision to detain her or the apparent revocation of her Order of Supervision. [**Id. at 9, ¶ 37**]. ICE did, however, notify Petitioner that it would attempt to deport her to Mexico, a country in which Petitioner has never resided and where she recounts having historically suffered gender-based violence. [**Id.**]

On or about August 31, 2025, U.S. Citizenship and Immigration Services conducted an interview to evaluate Petitioner's fear of return to Mexico. [**Id. at 10 ¶ 42**]. An asylum officer found that Petitioner was more likely than not to be tortured if she was removed to Mexico. Petitioner applied for withholding of removal to Mexico under 8 U.S.C. § 1231(b)(3) and the Convention Against Torture. An immigration court denied both applications after a hearing. [**Id. at 10 ¶ 42**]. Petitioner appealed from the denial of relief. The appeal remains pending. [**Id.**]

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<sup>2</sup> This section summarizes the factual allegations in the Petition and accompanying exhibits. Respondents have not yet appeared in this proceeding, and the Petition remains rebutted.

On November 13, ICE issued a Notice to Continue Detention, informing Petitioner she would remain in custody pending an appeal or ruling on her case and that ICE “is unable to move forward with [her] removal from the United States at this time.” [Doc. 1-2 at 10].

On November 24, 2025, Petitioner filed the Petition in this Court, alleging that the revocation of her 2012 Order of Supervision without notice and the opportunity for an informal interview does not accord with the Immigration and Nationality Act’s implementing regulations, 8 C.F.R. §§ 241.4(l)(1), (3), and violates Petitioner’s due process rights. [Doc. 1 at 12–14]. The Petition further alleges that Petitioner has been detained beyond the period necessary to facilitate removal and that the duration of her detention contravenes *Zadvydas v. Davis*, 533 U.S. 678, 680 (2001), and *Demore v. Kim*, 538 U.S. 510, 527 (2003). The Petition names respondents Joel Garcia, in his capacity as Field Office Director of Enforcement and Removal Operations, El Paso Field Office, ICE; Todd Lyons, in his capacity as Acting Director of ICE, Kristi Noem, in her capacity as Secretary of DHS; DHS; Pamela Bondi, in her capacity as U.S. Attorney General; and the Executive Office for Immigration Review.

### **I. Concurrent Habeas Proceeding in the District of Maryland**

The Petition provides that Petitioner is a named plaintiff in a putative class action and petition for writ of habeas corpus pending in federal district court in the District of Maryland challenging the conditions of her and other putative class members’ confinement at a Baltimore, Maryland ICE holding facility at which Petitioner was initially detained. *D.N.N. and V.R.G., et al.*, No. 1:25-cv-01613 (D. Md. May 9, 2025); [Doc. 1 at 9, ¶ 38]. The Court takes notice of the docket filings in that case to the extent they are relevant to the Court’s assessment of its jurisdiction and the scope of its authority to grant the relief requested in the Petition and the appropriateness of venue in the District of New Mexico. *St. Louis Baptist Temple, Inc. v. Fed. Deposit Ins. Corp.*, 605 F.2d 1169, 1172 (10th Cir. 1979); see *Palma-Salazar v. Davis*, 677 F.3d 1031, 1038 n.3 (10th Cir. 2012)

(holding that district courts have an independent duty to assess jurisdiction over a § 2241 proceeding).

After Petitioner’s apprehension on May 7, 2025, Petitioner was held for approximately 60 hours at a holding facility in Baltimore, Maryland. Second Amended Class Action Complaint for Declaratory Relief, Complaint for Injunctive Relief, and Petition for a Writ of Habeas Corpus, No. 25-cv-01613-JRR (D. Md. July 11, 2025) (Doc. 52) (hereinafter, “Maryland Petition”), at 2 ¶ 1. While detained at the holding facility, Petitioner and another detainee filed a combined complaint and petition for a writ of habeas corpus in the District of Maryland on behalf of themselves and a putative class, challenging the lawfulness of the duration and conditions of their confinement. *See* No. 25-cv-01613-JRR (D. Md. May 9, 2025) (Doc. 1). On July 11, 2025, Petitioner and the other named plaintiff filed an amended class action complaint and habeas petition on behalf of themselves and putative class members. The amended pleading added certain federal respondents and, as relevant here, asserted additional statutory and constitutional claims “[a]s to named Plaintiffs only” in connection with Petitioner’s detention, including her continued detention in New Mexico. Maryland Petition, at 6 ¶ 19; 32 ¶¶ 129–52 (Counts 8–11). The amended claims in the Maryland Petition concern the lawfulness of Petitioner’s detention and the revocation of her order of supervision under the INA, 8 U.S.C. § 1231, *id.* ¶¶ 147–52, as well as alleged violations of the Due Process Clause of the Fifth Amendment. *Id.* ¶¶ 141–46. The amended pleading also challenges the validity of an ICE policy restricting ICE field officers’ discretion to release individuals under the Eighth Amendment and the INA and its implementing regulations, *id.* ¶¶ 129–40; ¶ 31 (defining “No-Release Policy”).

Invoking the Court’s federal question jurisdiction, authority under the Declaratory Judgment Act, habeas jurisdiction under 8 U.S.C. § 2241, and the Suspension Clause of the U.S.

Constitution, Art. I § 9, cl. 2, the Maryland Petition names the following respondents in their official capacities: Nikita Baker, Field Office Director, ICE Enforcement and Removal Operations (ERO) Baltimore Field Office; Joseph C. Burki, Assistant Field Office Director of the ICE ERO Baltimore Field Office; Kenneth Genalo, Executive Associate Director, ICE ERO; Monica Burke, Assistant Director of Custody Management in ICE ERO; Thomas Giles, Interim Assistant Director of Custody Management in ICE ERO; Kristi Noem, Secretary of DHS; and Pamela Bondi, U.S. Attorney General. *See* Maryland Petition.

The District of Maryland docket reflects that the putative class has not been certified,<sup>3</sup> and the Second Amended Complaint remains pending, having survived a motion to dismiss. Memorandum Opinion, No. 25-cv-01613-JRR (D. Md. Dec. 9, 2025) (Doc. 122). Therefore, Petitioner’s claims in the Maryland action remain individual in nature. *See Smith v. Bayer Corp.*, 564 U.S. 299, 313 (2011) (reciting the principle that nonnamed class members are not parties to a class-action litigation before class certification).

#### **LAW REGARDING VENUE AND TRANSFER OF HABEAS PETITIONS**

District courts are vested with discretion to change the venue of civil cases under 28 U.S.C. § 1404(a). Section 1404(a) provides: “For the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought . . . .” 28 U.S.C. § 1404(a). “The term ‘any civil action’ embraces habeas corpus cases; thus, § 140[4](a) applies to habeas cases.” *Hickam v. Janecka*, No. 6-cv-1132-JB-RLP, 2007 WL 2219417, at \*1 (D.N.M. May 7, 2007) (citing *Smart v. Goord*, 21 F. Supp. 2d 309, 313 (S.D.N.Y. Aug. 19, 1998)). Therefore, assuming the existence of jurisdiction, a habeas proceeding may be transferred to another district if considerations of convenience and

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<sup>3</sup> In a July 25, 2025, Memorandum Opinion, the Court denied class certification. Memorandum Opinion, No. 25-cv-01613-JRR (D. Md. July 25, 2025) (Doc. 74).

the interest of justice warrant the transfer.

Traditional venue considerations apply to habeas petitions pursuant to § 2241. *Braden v. 30th Judicial Circuit Ct. of Ky.*, 410 U.S. 484, 493–94 (1973). Factors to be considered in determining the appropriate venue include, but are not limited to, “where the material events at issue took place, (2) where records and witnesses relevant to petitioner's claim are to be found, and (3) the convenience of the forum for both petitioner and respondent.” *Edwards v. I.N.S.*, No. 02-CV-3309(RR), 2002 WL 2022455, at \*1 (E.D.N.Y. July 22, 2002) (citing *Henderson v. I.N.S.*, 157 F.3d 106, 128 n. 25 (2d Cir. 1998)). Along these lines, in considering the propriety of venue in analogous immigration habeas cases, courts have considered the extent of the petitioner’s connections with the district and any prejudice to respondents in litigating in the forum. *See Barton v. Ashcroft*, 152 F. Supp. 2d 235, 240–41 (D. Conn. 2001).

## DISCUSSION

### I. Jurisdiction

The Petition challenges Petitioner’s confinement in New Mexico and seeks her release from a New Mexico detention facility. Petitioner is currently detained at the Otero County Processing Center, within the District of New Mexico. The Petition names Respondent Castro, the warden of the Otero County Processing Center, where Petitioner is detained, and thus Petitioner’s immediate physical custodian. The Petition also names Respondent Garcia, Director of the El Paso ICE, Field Office, whom the petition alleges exercises authority over Petitioner’s detention and removal. **[Doc. 1 at 5, ¶ 18].**

Although “[c]ourts are divided as to how the immediate custodian rule applies to noncitizen detainees,” *see Salvador F-G. v. Noem*, No. 25-CV-0243-CVE-MTS, 2025 WL 1669356, at \*3 (N.D. Okla. June 12, 2025), these facts support this Court’s jurisdiction over the Petition. 28

U.S.C. § 2241(a); *see Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004) (holding that, in *Ex Parte Endo*, 542 U.S. 426, 441 (2004), an immigration-related habeas case, the district court “acquired jurisdiction . . . because Endo properly named her immediate custodian and filed in the district of confinement.”). Under these circumstances, this Court properly exercises jurisdiction over the Petition.

#### **A. Whether Concurrent Jurisdiction Lies in the District of Maryland**

Transfer is permissible only where the transferee court independently has subject matter jurisdiction. *See* 28 U.S.C. § 1404(a); *Weathers v. Circle K Stores, Inc.*, No. 1:19-cv-00669-JCH-LF, 2020 WL 1236573, at \*1 (D.N.M. Mar. 13, 2020). Thus, the District of Maryland’s jurisdiction over the Petition is a prerequisite to transfer. The Maryland district court docket reflects that the Court has not yet reached the question of its subject matter jurisdiction over Petitioner’s individual claims set forth in Counts 8 through 11 of the Maryland Petition — the claims bearing on Petitioner’s continued detention in New Mexico and the revocation of her release on supervision. Yet, the docket reflects that the Court has assumed jurisdiction over the action and Petitioner’s claims seeking habeas relief remain pending. *See* Memorandum Opinion, No. 25-cv-01613-JRR (D. Md. July 25, 2025) (Doc. 74), at 2 n. 3; Memorandum Opinion, No. 25-cv-01613-JRR (D. Md. Dec. 9, 2025) (Doc. 122), at 1–2; 27 (stating that the Second Amended Complaint (the Maryland Petition) is operative and instructing parties to propose a deadline for answer). Therefore, for purposes of transfer, the Court concludes that the District of Maryland has at least a plausible basis for subject matter jurisdiction over the Petition.

As to whether the jurisdiction of the filing court — in this case, the District of Maryland — continues after a petitioner has been transferred to a facility outside the court’s territorial reach, courts have reached differing conclusions. *See, e.g., Salvador F.-G.*, 2025 WL

1669356, at \*3.

It is true that a traditional habeas petition must generally be filed in the district of confinement; this much is black-letter law. *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996) (“A petition under 28 U.S.C. § 2241 . . . must be filed in the district where the prisoner is confined.”). That rule, however, is best understood as a venue principle applicable to ordinary habeas cases, not a rigid jurisdictional limitation on a court’s authority to issue the writ. *See Padilla*, 542 U.S. at 451 (Kennedy, J., concurring) (“The phrase ‘respective jurisdictions’ does establish a territorial restriction on the proper forum for habeas petitions, but does not of necessity establish that the limitation goes to the power of the court to hear the case.”) (quoting 28 U.S.C. § 2241(a)).

Although courts have at times cited the district-of-confinement rule more broadly, such statements risk suggesting — incorrectly — that a court’s habeas authority under § 2241 is categorically limited to detainees physically present within its territorial reach.<sup>4</sup> To be sure, that understanding finds some support in the statutory text and in *Padilla*, which stated that the proper respondent to a habeas petition is generally the petitioner’s immediate custodian. 542 U.S. at 434–35. Emphasizing the statute’s use of the definite article, the Court explained that §§ 2242 and 2243 “contemplate a proceeding against some person who has the *immediate custody* of the party detained, with the power to produce the body of such party before the court or judge.” *Id.* at 435 (quoting *Wales v. Whitney*, 114 U.S. 564, 574 (1886)) (emphasis in original); *see also id.* at 434 (“The federal habeas statute straightforwardly provides that *the* proper respondent to a habeas

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<sup>4</sup> Indeed, in prior unpublished decisions, this Court has at times quoted *Padilla* for the general proposition that a district court’s habeas authority is limited to detainees within its territorial reach. *See, e.g., Gamez Lira v. Noem*, No. 1:25-cv-00855-WJ-KK, 2025 WL 2581710 (D.N.M. Sept. 5, 2025); *Sareemishahab v. Castro, et al.*, No. 2:25-cv-00756-WJ-JMR (D.N.M. Oct. 22, 2025) (Doc. 15). In those cases, such formulations reflected the Court’s concern that a petitioner’s imminent transfer could impair the Court’s ability to grant effective relief before jurisdictional questions were fully resolved. To the extent broader language appears in those orders, this opinion clarifies *Padilla* in light of its express recognition, consistent with *Ex parte Endo*, that jurisdiction properly invoked at filing is not defeated by a post-filing transfer.

petition is ‘the person who has custody over [the petitioner].’) (quoting 28 U.S.C. § 2242) (emphasis added). Moreover, § 2241 authorizes district courts to grant writs of habeas corpus “within their respective jurisdictions.” 28 U.S.C. § 2241(a). The use of this language implies that there is a territorial limitation on the exercise of habeas jurisdiction. *See Aguilar v. Dunbar*, --- F. Supp. 3d ----, 2025 WL 3281540, at \*2 (E.D. Mich. Nov. 13, 2025) (“The Supreme Court defines habeas jurisdiction in terms of ‘territorial jurisdiction.’”) (quoting *Padilla*, 542 U.S. at 444)). And, historically, the jurisdiction of the federal district courts has been territorial in nature, constrained by geographic boundaries unless a statute provides otherwise. *See Quinones v. Pa. Gen. Ins. Co.*, 804 F.2d 1167, 1174–75 (10th Cir. 1986) (“Apart from specific exceptions created by Congress the jurisdiction of the district courts is territorial.”) (quoting *Georgia v. Pa. R.R.*, 324 U.S. 439, 467–68 (1945)).

But *Padilla* does not hold that a district court loses jurisdiction whenever a petitioner is transferred outside the court’s territorial boundaries after filing. To the contrary, the Court expressly recognized that where a petitioner properly files a habeas petition naming her immediate custodian, a subsequent transfer does not divest the filing court of jurisdiction so long as a respondent with authority to effectuate relief remains within the court’s jurisdiction. *Id.* at 441 (“When the Government moves a habeas petitioner after she properly files a petition naming her immediate custodian, the District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner’s release.”).

This principle likewise follows from *Ex Parte Endo*, 323 U.S. 283 (1944), in which the Supreme Court held that an immigration detainee’s transfer during the pendency of her habeas case did not defeat jurisdiction where potential respondents with authority over her detention remained within the territorial reach of the filing court. *Id.* at 304–05. Taken together, *Padilla* and

*Endo* confirm that jurisdiction, once properly attached at filing, is not defeated by a petitioner's subsequent transfer.

Consistent with this understanding, courts in the immigration habeas context have widely recognized that once jurisdiction properly attaches at the time a petition is filed, the filing court retains the ability to issue the writ notwithstanding the petitioner's later transfer, so long as there remains before the court a respondent with the legal authority to effectuate relief. *See, e.g., Anariba v. Dir. Hudson Cnty. Corr. Ctr.*, 17 F.4th 434, 446 (3d Cir. 2021) (“[T]he District Court retained jurisdiction following Argueta’s transfer out of New Jersey because it already had acquired jurisdiction over Argueta’s properly filed habeas petition that named his then-immediate custodian . . . .”) (citing *Padilla*, 542 U.S. at 441)); *Adepoju v. Scales*, 782 F. Supp. 3d 306, 316 (E.D. Va. 2025) (holding that the court retained jurisdiction despite petitioner’s subsequent transfer to a facility outside of Virginia, where petitioner “filed the Petition naming his immediate custodian at the time the Petition was filed” with the court) (citing *Padilla*, 542 U.S. at 441)). The weight of authority within the Tenth Circuit supports this interpretation. *See Castillo v. Andra-Ybarra*, No. 25-CV-1074-JB-JFR, 2025 WL 3251223, at \*13 (D.N.M. Nov. 21, 2025); *Molina Ochoa v. Noem*, 25-CV-00881-JB-LF, 2025 WL 3125846, at \*14 (D.N.M. Nov. 7, 2025) (PFRD); *Arostegui-Maldonado v. Baltazar*, 794 F. Supp. 3d 926, 948 (D. Colo. 2025).

Applying that principle here, the District of Maryland retains jurisdiction over Petitioner’s habeas petition filed in that District notwithstanding Petitioner’s subsequent transfer to a detention facility in the District of New Mexico. In the Maryland proceeding, Petitioner challenged her detention while confined within that District and named as a respondent the individual she alleged was her immediate custodian at the Baltimore holding facility. *See* Second Amended Complaint, No. 25-cv-01613-JRR (July 11, 2025) (Doc. 52), at 7 ¶ 22. Accordingly, jurisdiction properly

attached at the initiation of the habeas proceeding in the District of Maryland and may continue notwithstanding Petitioner's subsequent transfer outside that District.

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Because a petitioner's transfer out of the district after filing does not divest the filing court of jurisdiction, it follows that more than one court may simultaneously possess jurisdiction under 28 U.S.C. § 2241. Section 2241 itself provides that that writs of habeas corpus may be granted by the district courts within their respective jurisdictions. It contains no provision divesting one court of jurisdiction merely because another court may also entertain the petition. Therefore, the simultaneous existence of this Court's jurisdiction does not alone preclude the District of Maryland court from exercising jurisdiction over a habeas petition filed there, where that court independently has jurisdiction to grant the relief sought. *Cf. Braden*, 410 U.S. at 499 ("Nothing in this opinion should be taken to preclude the exercise of concurrent habeas corpus jurisdiction over the petitioner's claim by a federal district court in the district of confinement."). Nonetheless, the Maryland District Court's jurisdiction over the Petition is a statutory prerequisite to transfer. 28 U.S.C. § 1404(a). Whether the District of Maryland has jurisdiction to grant the habeas relief sought in this Petition should be addressed by the parties in their briefing.

## **II. Traditional Venue Considerations Apply and Supplemental Briefing Regarding the Issue is Appropriate**

Because jurisdiction exists in both the District of New Mexico and the District of Maryland, the question becomes not jurisdiction, but the appropriate forum. *See, e.g., Hickam*, 2007 WL 2219417, at \*3–4. Respondents have not yet appeared, and no party has had an opportunity to address these considerations. Therefore, the Court finds it appropriate to request briefing from the parties on the question of venue, including whether traditional venue and forum principles favor proceeding in the District of New Mexico or in the District of Maryland.

### PROCEDURE FOR FILING DOCUMENTS UNDER SEAL

Separately, the Court notes that Petitioner has submitted the Petition and other docket entries under seal. [Docs. 1, 4, 6–12]. The docket does not reflect that Petitioner has submitted a formal request to proceed under seal. Given the “strong presumption in favor of public access” to court records, parties seeking to file a document or categories of documents under seal must seek leave of the Court. *United States v. Bacon*, 950 F.3d 1286, 1293 (10th Cir. 2020) (citation omitted). In support, the movant must demonstrate that there is “some significant interest that outweighs the presumption” of public access. *United States v. Pickard*, 733 F.3d 1297, 1302 (10th Cir. 2013) (citation omitted); *see also Schroeder v. Hutchinson Reg’l Medical Ctr.*, 777 F. Supp. 3d 1256, 1288 (D. Kan. 2025) (“[W]hen documents inform the court’s decision-making process, the movant must articulate a real and substantial interest that justifies depriving the public of access.”) (cleaned up)).

Accordingly, Petitioner **SHALL** file a motion articulating the basis for imposing a seal and to which documents or categories of documents the seal should apply. Alternatively, if there are insufficient grounds to warrant a seal, Petitioner shall re-file unsealed versions of the documents previously filed under seal, with any necessary redactions in accordance with Fed. R. Civ. P. 5.2(a).

### CONCLUSION

The Petitioner is hereby **ORDERED** to show cause within **twenty-one (21) days** why the Petition should not be transferred to the District of Maryland. The briefing should address, but shall not be limited to, (i) Petitioner’s ability to obtain the relief sought in the Petition in the District of Maryland, (ii) the effect of the procedural posture of that case, if any, and (iii) the appropriateness of venue in the District of New Mexico and in the District of Maryland.

It is **FURTHER ORDERED** that Respondents shall file a response no later than **fourteen**

**(14) days** after Petitioner's brief is filed.

Petitioner is to **SERVE** a copy of this Order on the appropriate Respondents and file a certificate of service on the docket.

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Within **five (5)** working days of the date of this Order, Petitioner **SHALL** show cause why the docket should remain under seal and to specify which categories of documents the seal should apply. Alternatively, if there is insufficient basis for a seal, Petitioner shall re-file unsealed versions of the documents previously filed under seal, with any necessary redactions in accordance with Fed. R. Civ. P. 5.2(a).

**IT IS SO ORDERED.**

/s/

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WILLIAM P. JOHNSON  
SENIOR UNITED STATES DISTRICT JUDGE