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Attorney for Petitioner

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

)
) No. _____
)
)
In re: ESTEBAN TIZNADO-REYNA)
) **EMERGENCY**
) **PETITION FOR WRIT**
) **OF MANDAMUS**
)
)
)
_____)

I. INTRODUCTION

On May 30, 2012, Petitioner Esteban Tiznado-Reyna filed a petition for writ of habeas corpus and motion for preliminary injunction to the United States District Court of the District of Arizona. *See* Exhibit 1, Docket Report for 12-cv-01159-SRB-SPL. In this petition, Mr. Tiznado-Reyna contends that Immigration and Customs Enforcement (“ICE”) lacks jurisdiction to detain him on the basis of his non-frivolous claim to United

States Citizenship. Six months later, the district court has failed to rule on the preliminary injunction or Mr. Tiznado-Reyna's multiple motions to expedite, and the magistrate judge has failed to issue a Report and Recommendation on the habeas petition. The district court's failure to act effectively abrogates this Court's decision in *Flores-Torres v. Mukasey*, 548 F.3d 708 (9th Cir. 2008), which requires a threshold decision on ICE's jurisdiction to detain a person with a non-frivolous claim to United States citizenship. On this basis, Mr. Tiznado-Reyna seeks an emergency petition for mandamus and injunctive relief.

II. RELIEF SOUGHT

Pursuant to FRAP 21(a) and 27-3, Mr. Tiznado-Reyna requests that this Court order the magistrate judge to issue a Report and Recommendation on his petition for habeas corpus within 21 days. Mr. Tiznado-Reyna also requests that the Court order the district court to rule on his motion for a preliminary injunction within 21 days. Finally, Mr. Tiznado-Reyna requests that this Court order his immediate release from ICE custody until such time as the district court issues a final decision on his petition for habeas relief.¹

¹ If the Court grants Mr. Tiznado-Reyna's request for immediate release pending the outcome of the district court's final decision on his habeas petition, this would moot his request for a preliminary injunction such that he would be willing to withdraw it. Moreover, if Mr. Tiznado-Reyna were immediately released, his stake in a prompt adjudication of the habeas

III. ISSUE PRESENTED

In *Flores-Torres*, this Court held that ICE lacks jurisdiction to detain a person with a non-frivolous claim to U.S. citizenship. Six months after Mr. Tiznado-Reyna filed his habeas petition, the district court has still failed to rule on his motion for preliminary injunction and the magistrate judge has not issued a Report and Recommendation. Has the district court violated *Flores-Torres* by failing to rule on Mr. Tiznado-Reyna's habeas petition, thereby granting ICE *de facto* jurisdiction to detain a person with a non-frivolous claim to U.S. citizenship?

IV. RELEVANT FACTS

Mr. Tiznado-Reyna is a 37 year-old with developmental disabilities who was born in Mexico. He has long claimed to have acquired U.S. citizenship from his father, Jesus Tiznado, who was born in the United States and satisfies all the requirements for acquisition of citizenship under 8 U.S.C. §1401(g). ICE disagrees and has denied Mr. Tiznado-Reyna's request for a certificate of citizenship on numerous occasions.

On April 24, 2008, Mr. Tiznado-Reyna was acquitted in a jury trial of illegal reentry under 8 U.S.C. § 1326 on the grounds that he was a U.S. citizen. *See* Exhibit 2, Jury Verdict Form, April 24, 2008; Exhibit 3, Judgment of Acquittal, April 24, 2008. Nevertheless, ICE continues to

petition would be significantly lessened such that the time frame for the magistrate judge's issuance of the Report and Recommendation could be enlarged.

reinstate Mr. Tiznado-Reyna's prior orders of removal and deport him from the United States.

On approximately April 13, 2012, ICE took Mr. Tiznado-Reyna into custody in Tucson, Arizona and transferred him to Pinal County Jail in Florence, Arizona, where he remains detained. ICE has placed Mr. Tiznado-Reyna in removal proceedings, but the immigration judge has continued his case at least four times, and it remains pending in immigration court.

On May 30, 2012, Mr. Tiznado-Reyna filed a Petition for Writ of Habeas Corpus and Motion for Preliminary Injunction with the United States District Court of the District of Arizona.² See Exh. 1, Dkt. Entry 1. Several weeks later, the district court issued an Order to Show Cause ordering the Government to respond to the petition and motion for preliminary injunction within 20 days. Exh. 1, Dkt. Entry 7. The district court referred the petition to the magistrate judge and retained the motion for preliminary injunction. Exh. 1, Dkt. Entry 7.

² Mr. Tiznado-Reyna also filed a Motion for a Temporary Restraining Order, which the district court denied on the grounds that Mr. Tiznado-Reyna "has failed to clearly show that he will suffer immediate and irreparable injury 'before the adverse party can be heard in opposition.'" Dkt. Entry 7 (quoting Fed. R. Civ. P. 65(b)(1)(A)). Since ICE subsequently submitted an extensive Response to his petition, on July 10, 2012, this reasoning can no longer justify Mr. Tiznado-Reyna's continued incarceration.

On July 10, 2012, the government filed a response opposing the petition and motion for preliminary injunction. Exh. 1, Dkt. Entry 13. On July 27, 2012, Mr. Tiznado-Reyna filed a reply to the response. Exh. 1, Dkt. Entry 15. No further action has been taken by the court since that time. *See* Exh. 1.

On September 1, 2012, Mr. Tiznado-Reyna filed a Motion to Expedite the adjudication of his petition and motion for preliminary injunction. Exh. 1, Dkt. Entry 16. To date, the district court has not ruled on this Motion.

On October 28, 2012, Mr. Tiznado-Reyna filed a Second Motion to Expedite the adjudication of his petition and motion for preliminary injunction. Exh. 1, Dkt. Entry 18. To date, the district court has not ruled on this Motion.

On November 19, 2012, Mr. Tiznado-Reyna's undersigned counsel called the chambers of the district court judge to inquire about the adjudication of the petition and motions. The clerk stated that the petition was still pending.

On November 19, 2012, Mr. Tiznado-Reyna's undersigned counsel called the chambers of the magistrate judge to inquire about the adjudication of the petition and motions. She left a voicemail message asking someone to contact her but did not receive a reply.

On November 21, 2012, Mr. Tiznado-Reyna's undersigned counsel again called the chambers of the magistrate judge to inquire about the adjudication of the petition and motions. She spoke with someone who stated that she would inquire and call Mr. Tiznado-Reyna's counsel back.

On November 26, 2012, Mr. Tiznado-Reyna's undersigned counsel received a call from the chambers of the magistrate judge informing her that the petition was still pending before the magistrate judge and that the motion for preliminary injunction and motions to expedite were still pending before the district court.

Mr. Tiznado-Reyna has now spent over seven months in immigration custody—much of it in solitary confinement. He suffers from depression and anxiety and has difficulty sleeping. Given the numerous continuances by the immigration judge, he has no idea when he will be released from detention. In addition, Mr. Tiznado-Reyna's mother is partially blind and her health is in serious decline. Prior to his arrest, Mr. Tiznado-Reyna had served as her caretaker, but since his incarceration, she has been without assistance. Mr. Tiznado-Reyna's depression and anxiety is severely heightened by his concern for his mother and his fear that she may pass away while he is in detention and that he will never see her again.

V. REASONS PETITION SHOULD BE GRANTED

A. The District Court's Actions Violate *Flores-Torres*.

The district court has violated this Court's decision in *Flores-Torres* by failing to rule on Mr. Tiznado-Reyna's habeas petition, thereby granting ICE *de facto* jurisdiction to detain a person with a non-frivolous claim to U.S. citizenship.

In *Flores-Torres v. Mukasey*, 548 F.3d 708, 709 (9th Cir. 2008) this Court considered whether the district court had jurisdiction to adjudicate a petition for habeas corpus challenging his immigration custody at the time he was in removal proceedings. The district court had dismissed the habeas petition in part, holding that it lacked jurisdiction to determine whether the petitioner was a citizen who could not be held in immigration detention. *Id.* at 710. The Court reversed, concluding that the district court possessed jurisdiction to consider his habeas petition and noting that the "critical" factor in Torres' case is that Torres "does not challenge any final order of removal, but challenges his *detention* prior to the issuance of any such order." *Id.* at 711 (emphasis in original).

Significantly this Court stated that "[t]here is no dispute that if Torres is a citizen the government has no authority under the INA to detain him, as well as no interest in doing so," and that his detention would be "unlawful

under the Constitution and under the Non-Detention Act, 18 U.S.C. § 4001.” *Id.* at 710. The Court noted that “[t]here are also serious questions concerning the government's position that an individual who asserts a non-frivolous claim of citizenship can be detained during immigration proceedings.” *Id.* at 712. The Court found that the petitioner’s claim was “non-frivolous on its face” and remanded to the district court to hear the merits of the habeas petition. *Id.* at 713. While the Court denied the petitioner’s request for immediate release, it did so only on the assumption that “the district court *will act promptly.*” *Id.* at 713 (emphasis added).

Here, the district court has not acted promptly. Rather, it has failed to rule on a motion for preliminary injunction and multiple motions to expedite, thus permitting a person with a non-frivolous claim to U.S. citizenship to remain in solitary confinement for six months. While Mr. Tiznado-Reyna understands that the district court is subject to a heavy workload, the practical effect of its failure to act is an implicit holding that ICE possesses jurisdiction to detain a person with a non-frivolous claim to U.S. citizenship—a finding that directly violates *Flores-Torres*.

Courts have held that jurisdiction is a threshold matter that must be resolved promptly. *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 94 (1998) (stating that jurisdiction “must be established *as a threshold*

matter,” a requirement that “springs from the nature and limits of the judicial power of the United States *and is inflexible and without exception*”) (emphasis added) (internal quotation marks omitted). As such, the district court has a responsibility to determine as expeditiously as possible whether a case presents a non-frivolous claim to U.S. citizenship such that ICE even has jurisdiction to detain the individual. *See Iasu v. Smith*, 511 F.3d 881, 891 & 893 (9th Cir. 2007) (holding that “a non-frivolous claim to U.S. citizenship gives a person a constitutional right to judicial review,” and acknowledging that “alienage is also a jurisdictional prerequisite at the administrative level”) (internal quotation marks omitted).

Given the irreparable deprivation of liberty involved when ICE unlawfully detains a U.S. citizen, six months is not expeditious. If the district court allows ICE to detain a potential U.S. citizen for six months without meaningful review of his claim, it is likely that the person will be detained for the entirety of his administrative proceedings. Such an outcome would nullify the Court’s decision in *Flores-Torres* and strip the petitioner of any right to judicial review.

B. Mr. Tiznado-Reyna’s Acquittal of Illegal Reentry by a Jury Establishes a Non-Frivolous Claim to U.S. Citizenship.

The United States Supreme Court has suggested that a non-frivolous claim is essentially the same as a colorable one. *See Jones v. Barnes*, 463

U.S. 745, 750-51 (1983). This Court has defined a frivolous claim as one that lacks an arguable basis in law or fact. *Guti v. INS*, 908 F.2d 495, 496 (1990). As a factual matter, a claim must be “supported by competent evidence” in order to be non-frivolous. *Lew Shee v. Nagle*, 7 F.2d 367, 368 (9th Cir. 1925).

In 2006, Mr. Tiznado-Reyna was charged with illegal reentry under 8 U.S.C. § 1326. However, a person may only be convicted under § 1326 if he is not a U.S. citizen. *United States v. Smith-Baltiher*, 424 F.3d 913, 921 (9th Cir. 2005) (defendant's alienage is an essential element of the § 1326 offense). Therefore, the question of whether Mr. Tiznado-Reyna was found guilty of the element of “alienage” for purposes of this charge before the same court is directly relevant to the instant case.³

³ Criminal prosecution under 8 U.S.C. § 1326 requires the government to establish alienage “beyond a reasonable doubt.” In removal proceedings, evidence of foreign birth gives rise to a rebuttable presumption of alienage, and the burden then shifts to the petitioner to prove citizenship. *See e.g. Scales v. INS*, 232 F.3d 1159, 1163 (9th Cir. 2000). While these two standards arguably differ, the relevant question at issue here is not whether Mr. Tiznado-Reyna has met the standard to prove his citizenship in removal proceedings, but rather whether the government’s failure to establish alienage “beyond a reasonable doubt” in his prior criminal proceedings proves that Mr. Tiznado-Reyna has a non-frivolous claim to U.S. citizenship such that the Government lacks jurisdiction to detain him. For the reasons set forth herein, Mr. Tiznado-Reyna has unquestionably met this standard.

In April 2008, a three-day trial was held to determine whether Mr. Tiznado-Reyna was guilty of illegal reentry as an “alien.” At the conclusion of this trial, Mr. Tiznado-Reyna was acquitted by a jury of illegal reentry. *See* Exh. 2, 3.

It is difficult to imagine more conclusive and resounding evidence of a non-frivolous claim to U.S. citizenship than acquittal by a jury on an element of alienage. In light of the not guilty verdict, it would be absurd to state that Mr. Tiznado-Reyna’s claim to citizenship “lacks an arguable basis in law or fact.” *See Guti v. INS*, 908 F.2d 495, 496 (1990). Similarly, a contention that Mr. Tiznado-Reyna’s claim to citizenship is not “supported by competent evidence,” *see Lew Shee v. Nagle*, 7 F.2d 367, 368 (9th Cir.1925), would directly contradict the jury’s findings of fact. Simply put, it is impossible to contest that the jury’s acquittal of Mr. Tiznado-Reyna on the element of alienage establishes anything other than a *prima facie* claim to U.S. citizenship. Therefore, Mr. Tiznado-Reyna has far exceeded his burden to prove that he has a non-frivolous claim to U.S. citizenship, and under *Flores-Torres*, ICE lacks jurisdiction to detain him.

C. Mr. Tiznado-Reyna’s Continued Detention Will Cause Irreparable Harm to Himself and His Mother.

Mr. Tiznado-Reyna has a history of developmental disabilities and currently suffers from depression, anxiety, and sleeping disorders. Since his

incarceration over seven months ago, he has been kept primarily in solitary confinement where he has limited access to a phone and visits from his family. The conditions of his confinement have aggravated his psychological state, and he continues to grow more frustrated and fearful with every passing day.

Prior to his incarceration, Mr. Tiznado-Reyna served as the primary caretaker for his elderly mother, Julia, who is partially blind, suffers from a variety of ailments, and lives on a fixed income. Much of Mr. Tiznado-Reyna's anxiety comes from his concern for his mother's health and well-being since she has been living alone since his arrest. Mr. Tiznado-Reyna's greatest fear is that his mother will pass away before he is released from immigration detention and he will not be able to see her again or even attend her funeral due to his incarceration.

In light of this situation, it is clear that Mr. Tiznado-Reyna's continued detention will cause irreparable harm. First, the unlawful detention of a U.S. citizen in immigration custody will *always* cause irreparable harm since there is no way to recapture lost time with loved ones and make up for the inexcusable deprivation of liberty. But in Mr. Tiznado-Reyna's situation, the stakes are even higher given that he is subject to the crushing psychological effects of solitary confinement on top of his pre-

existing developmental disability, depression, and anxiety. Furthermore, Mr. Tiznado-Reyna's detention also causes irreparable harm to his mother, who is robbed of her son and caregiver at a time when she desperately needs assistance in light of her advanced age and health. Finally, the knowledge of his mother's frail health is exacerbating Mr. Tiznado-Reyna's own mental state, and if she did indeed pass away without Mr. Tiznado-Reyna being able to see her again, this would constitute the ultimate irreparable harm.

In contrast, ordering Mr. Tiznado-Reyna released would cause minimal—if any—harm to ICE since it may still continue with his removal proceedings at an immigration court in Arizona. Furthermore, there is no risk of flight since the Government knows exactly where Mr. Tiznado-Reyna will be—at the home of his mother in Tucson, Arizona. Since the balance of hardships tips far in the direction of Mr. Tiznado-Reyna, there is no reason not to order him released and thereby avoid the very real potential of unlawfully detaining a United States citizen since the agency may still go forward with its adjudication of his citizenship claim. For these reasons, Mr. Tiznado-Reyna respectfully asks the Court to order his release pending the final outcome of the district court's determination of his habeas petition.

VI. CONCLUSION

The district court's failure to expeditiously adjudicate Mr. Tiznado-Reyna's petition for habeas corpus, motion for preliminary injunction, and multiple motions to expedite have effectively nullified this Court's decision in *Flores-Torres* by granting ICE *de facto* jurisdiction to detain a person with a non-frivolous claim to United States citizenship. This failure has caused Mr. Tiznado-Reyna and his mother irreparable harm by subjecting a potential U.S. citizen to six months of solitary confinement, causing great distress to both Mr. Tiznado-Reyna and his mother. For these reasons, Mr. Tiznado-Reyna respectfully requests that this Court: 1) order the magistrate judge to issue a Report and Recommendation within 21 days; 2) order the district court to rule on his motion for preliminary injunction within 21 days; and 3) order Mr. Tiznado-Reyna's immediate release pending the district court's final decision on his petition for habeas corpus.

Dated: December 1, 2012

Respectfully submitted,

/s/Kara Hartzler

Kara Hartzler

Attorney for Petitioner

Certificate of Compliance

I certify that: Pursuant to Fed. R. App. P. 21(d), the attached petition is proportionally spaced, has a typeface of 14 points or more, and contains fewer than 30 pages, exclusive of certificates of counsel.

Dated: December 1, 2012

Respectfully submitted,

/s/Kara Hartzler

Detention Status

Petitioner is currently being held in the custody of Immigration and Customs Enforcement at Pinal County Jail in Florence, Arizona.

Dated: December 1, 2012

Respectfully submitted,

/s/Kara Hartzler

Certificate of Service

I declare that I am over the age of eighteen (18) years and not a party to the instant action. I am in good standing with the State Bar of Arizona. My work address is 2445 Market St., San Diego, CA, 92102.

On the date-listed below, I served one copy of the attached document, entitled **Emergency Petition for Writ of Mandamus** to the following individuals/entities:

Honorable Susan R. Bolton
United States District Court of Arizona
Sandra Day O'Connor U.S. Courthouse
401 W. Washington Street, Suite 130, SPC 50
Phoenix, AZ 85003-2118

Honorable Steven P. Logan
United States District Court of Arizona
Sandra Day O'Connor U.S. Courthouse
401 W. Washington Street, Suite 130, SPC 82
Phoenix, AZ 85003-2118

Hans Harris Chen
US Dept of Justice - Office of Immigration Litigation
P.O. Box 868
Washington, DC 20007

[xx] BY ELECTRONIC SERVICE. On the date listed below, I filed a copy of the attached petition by filing a Notice in Case No. 2:12-cv-01159-SRB-SPL of the filing of this Petition. To counsel's knowledge all parties above are registered CM/ECF users and will be served by the appellate CM/ECF system.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on December 1, 2012 in San Diego, California.

/s/Kara Hartzler _____

EXHIBIT 1

**U.S. District Court
DISTRICT OF ARIZONA (Phoenix Division)
CIVIL DOCKET FOR CASE #: 2:12-cv-01159-SRB-SPL**

Tiznado-Reyna v. Kane et al
Assigned to: Judge Susan R Bolton
Referred to: Magistrate Judge Steven P Logan
Related Cases: [4:06-cr-01121-FRZ-BPV-1](#)
[4:11-cr-01075-CKJ-GEE-2](#)
Cause: 28:2241 Petition for Writ of Habeas Corpus (Federal)

Date Filed: 05/30/2012
Jury Demand: None
Nature of Suit: 463 Immigration: Habeas
Corpus - Alien Detainee
Jurisdiction: U.S. Government Defendant

Petitioner

Esteban Tiznado-Reyna
Agency No. 090-219-302

represented by **Kara Lee Hartzler**
Kara Hartzler
2445 Market St.
San Diego, CA 92102
917-853-1250
Email: KaraHartz@aol.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Respondent

Katrina S Kane
*named as: Katrina Kane/ in her official
capacity as Field Office Director,
Immigration and Customs Enforcement*

represented by **Hans Harris Chen**
US Dept of Justice - Office of
Immigration Litigation
P.O. Box 868
Washington, DC 20007
202-307-4469
Fax: 202-305-7000
Email: hans.h.chen@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

Eric Himpton Holder, Jr.
*named as: Eric H. Holder, Jr./ in his
official capacity as Attorney General of
the United States*

represented by **Hans Harris Chen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Respondent

Janet A Napolitano
*named as: Janet Napolitano/ in her
official capacity as Secretary of the U.S.*

represented by **Hans Harris Chen**
(See above for address)
LEAD ATTORNEY

Department of Homeland Security

ATTORNEY TO BE NOTICED

Respondent

James Kimble

*in his official capacity as Warden of Pinal
County Jail*

represented by **Hans Harris Chen**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

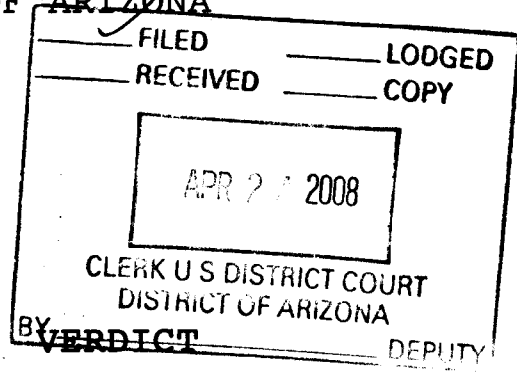
Date Filed	#	Docket Text
05/30/2012	1	PETITION for Writ of Habeas Corpus (Fed/2241)/ TRO Requested. Filing fee received: \$5.00, receipt number PHX 0970-6830215, filed by Esteban Tiznado-Reyna (submitted by Kara Hartzler). (Attachments: # 1 Civil Cover Sheet)(REK) (Entered: 05/31/2012)
05/30/2012	2	MEMORANDUM of Points and Authorities in Support of 1 Petition for Writ of Habeas Corpus (Fed/2241) by Petitioner Esteban Tiznado-Reyna (submitted by Kara Hartzler). (REK) (Entered: 05/31/2012)
05/30/2012	3	MOTION for Temporary Restraining Order, MOTION for Preliminary Injunction by Esteban Tiznado-Reyna (submitted by Kara Hartzler). (REK) (Entered: 05/31/2012)
05/30/2012	4	NOTICE OF ASSIGNMENT: (REK) (Entered: 05/31/2012)
05/31/2012	5	*AMENDED MOTION for Temporary Restraining Order , MOTION for Preliminary Injunction by Esteban Tiznado-Reyna. (Hartzler, Kara) * Modified to reflect document contains incorrect case number on 6/1/2012 (DMT). (Entered: 05/31/2012)
06/18/2012	6	NOTICE OF ATTORNEY APPEARANCE: Hans H. Chen appearing for Eric Himpton Holder, Jr, Katrina S Kane, James Kimble, Janet A Napolitano. . (Chen, Hans) (Entered: 06/18/2012)
06/19/2012	7	ORDER denying 5 Petitioner's Motion for Temporary Restraining Order. The Motion for Preliminary Injunction (Doc. 5) remains pending. The Clerk of Court must serve a copy of the Summons, Petition (Doc. 1), Memorandum of Points and Authorities (Doc. 2), Motion for Preliminary Injunction (Doc. 5), and this Order upon the United States Attorney for the District of Arizona by certified mail addressed to the civil process clerk at the office of the United States Attorney. The Clerk of Court also must send by certified mail a copy of the Summons, Petition, and this Order to the United States Attorney General and to Respondents. Respondents must answer the Petition and respond to the Motion for Preliminary Injunction within 20 days of the date of service. The Petition for Writ of Habeas Corpus (Doc. 1) is referred to Magistrate Judge Steven P. Logan for further proceedings and a report and recommendation. The Motion for Preliminary Injunction (Doc. 5) is not referred to the Magistrate Judge and it remains pending before this Court. Signed by Judge Susan R Bolton on 6/19/12.(DMT) (Entered: 06/19/2012)
06/20/2012	8	Summons Issued as to U.S. Attorney Eric Himpton Holder, Jr, Katrina S Kane, James Kimble, Janet A Napolitano, and U.S. Attorney General (DMT) (Entered: 06/20/2012)
06/22/2012	9	SUMMONS (certified receipt) Returned Executed upon US Agency/Officer Katrina

		S Kane served on 6/21/12. (DMT) (Entered: 06/22/2012)
06/25/2012	10	SUMMONS (certified receipt) Returned Executed US Attorney's Office Civil Process Clerk in Phoenix served on 6/22/2012. (DMT) (Entered: 06/25/2012)
06/25/2012	11	SUMMONS (certified receipt) Returned Executed upon US Agency/Officer James Kimble served on 6/22/12. (DMT) (Entered: 06/25/2012)
06/28/2012	12	SUMMONS (certified receipt) Returned Executed upon US Agency/Officer Eric Himpton Holder, Jr served on 6/20/12. (DMT) (Entered: 06/28/2012)
07/10/2012	13	RESPONSE to 1 Petition for Writ of Habeas Corpus (Fed/2241) by Eric Himpton Holder, Jr, Katrina S Kane, James Kimble, Janet A Napolitano. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit, # 8 Exhibit, # 9 Exhibit, # 10 Exhibit, # 11 Exhibit, # 12 Exhibit, # 13 Exhibit, # 14 Exhibit, # 15 Exhibit, # 16 Exhibit, # 17 Exhibit, # 18 Exhibit, # 19 Exhibit, # 20 Exhibit, # 21 Exhibit, # 22 Exhibit, # 23 Exhibit, # 24 Exhibit, # 25 Exhibit, # 26 Exhibit, # 27 Exhibit, # 28 Exhibit, # 29 Exhibit, # 30 Exhibit, # 31 Exhibit, # 32 Exhibit, # 33 Exhibit, # 34 Exhibit, # 35 Exhibit, # 36 Exhibit, # 37 Exhibit, # 38 Exhibit, # 39 Exhibit, # 40 Exhibit, # 41 Exhibit, # 42 Exhibit, # 43 Exhibit, # 44 Text of Proposed Order)(Chen, Hans) (Entered: 07/10/2012)
07/17/2012	14	*SUPPLEMENT re 13 RESPONSE to 1 Petition for Writ of Habeas Corpus (Fed/2241) by Eric Himpton Holder, Jr, Katrina S Kane, James Kimble, Janet A Napolitano. (Attachments: # 1 Exhibit 1, # 2 Affidavit of Renee Fals)(Chen, Hans) *Modified to correct event type and to add document number on 7/17/2012 (LSP). (Entered: 07/17/2012)
07/27/2012	15	*REPLY TO RESPONSE to 14 , 13 Habeas Petition (Fed/2241) and opposition to 5 Motion for Preliminary Injunction filed by Esteban Tiznado-Reyna. (Hartzler, Kara) *Modified to add text and linkage on 7/30/2012 (DMT). (Entered: 07/27/2012)
09/01/2012	16	MOTION to Expedite Habeas and Preliminary Injunction by Esteban Tiznado-Reyna. (Hartzler, Kara) (Entered: 09/01/2012)
10/04/2012	17	NOTICE of Change of Address by Kara Lee Hartzler. (Hartzler, Kara) (Entered: 10/04/2012)
10/28/2012	18	Second MOTION to Expedite Petition for Habeas Corpus by Esteban Tiznado-Reyna. (Hartzler, Kara) (Entered: 10/28/2012)

PACER Service Center			
Transaction Receipt			
12/01/2012 08:54:08			
PACER Login:	us2256	Client Code:	
Description:	Docket Report	Search Criteria:	2:12-cv-01159-SRB-SPL
Billable Pages:	3	Cost:	0.30

EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA



UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 Esteban Tiznado-Reyna)
)
 Defendant.)
 _____)

CASE NO. CR-06-01121-TUC-FRZ

We, the jury, unanimously find that the defendant **Esteban Tiznado-Reyna**

NOT GUILTY of Illegal Re-Entry after
Deportation as charged in the Indictment.

43- Foreperson
Presiding Juror's Number

4-24-08
Date

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ESTEBAN TIZNADO-REYNA,)
)
 Defendant.)

FILED _____ LOGGED _____
RECEIVED _____ COPY _____
APR 24 2008
CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
DEPUTY

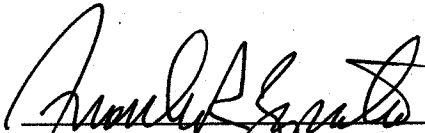
No. CR-06-01121-FRZ(BPV)

JUDGMENT OF ACQUITTAL

A jury trial having been held on the Indictment filed herein and presented against the above named defendant charging violations of Title 8, United States Code, Sections 1326, enhanced by Title 8, United States Code, Section 1326(b)(2), Illegal Re-Entry after Deportation, and a verdict of Not Guilty on the Indictment having been returned,

IT IS ADJUDGED that the defendant is ACQUITTED of the charges.

Dated: April 24, 2008


FRANK R. ZAPATA
UNITED STATES DISTRICT JUDGE

Copies Distributed 4/24/08
Clausen, Smith, PO, PSA, USM (2cc)