

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

|                                   |                                |   |
|-----------------------------------|--------------------------------|---|
| <hr/>                             |                                | ) |
| FELICIANO GOMEZ LOPEZ             |                                | ) |
|                                   |                                | ) |
| Petitioner,                       |                                | ) |
|                                   |                                | ) |
| v.                                |                                | ) |
|                                   | Civ. No. <u>17-cv-11470-IT</u> | ) |
|                                   |                                | ) |
| ANTONE MONIZ,                     |                                | ) |
| Superintendent of Plymouth County |                                | ) |
| Correctional Facility,            |                                | ) |
| JOSEPH D. MCDONALD, JR.,          |                                | ) |
| Sheriff of Plymouth County,       |                                | ) |
|                                   |                                | ) |
| Respondents.                      |                                | ) |
| <hr/>                             |                                | ) |

**MOTION FOR ORDER TO SHOW CAUSE**

Petitioner Feliciano Gomez Lopez has been unlawfully detained for six months and continues to be held despite being granted withholding of removal to Guatemala on November 17, 2017. Because it is now clear that there is “no significant likelihood of removal in the reasonably foreseeable future,” Mr. Gomez is entitled to immediate release. Zadvydas v. Davis, 533 U.S. 678, 701 (2001). He respectfully moves for an order requiring the government to show cause why he should not be released before the Thanksgiving holiday.

Mr. Gomez was detained by DHS on May 22, 2017 and notified of the government’s intention to reinstate his prior order of removal. ECF No. 14, ¶ 8; ECF No. 17-1. After demonstrating a reasonable fear of removal to Guatemala, he was placed in proceedings to determine whether he was entitled to withholding of

removal, a form of protection that bars the government from returning him to Guatemala. ECF No. 17-2.

Mr. Gomez filed this petition for writ of habeas corpus on August 9, 2017, arguing that his detention without a bond hearing during the pendency of his “withholding-only” proceedings in immigration court was unlawful. ECF No. 1. In response, the government asserted that Mr. Gomez’s detention was governed by 8 U.S.C. § 1231(a). ECF No. 13 at 4-7. A hearing on the petition was held on September 7, 2017. ECF No. 16.

On November 17, 2017, the immigration judge awarded Mr. Gomez withholding of removal. Ex. 1. No alternative country of removal was designated during Mr. Gomez’s immigration court proceedings. Mr. Gomez is not a citizen of any country other than Guatemala and has no ties to any third country. Notwithstanding the grant of withholding of removal, Mr. Gomez remains in immigration detention and separated from his nine-year-old U.S. citizen son and a 12-year-old U.S. citizen step-daughter. Ex. 2.

Mr. Gomez’s continued detention is unlawful because there is “no significant likelihood of removal in the reasonably foreseeable future.” Zadvydas, 533 U.S. at 701. He has been awarded withholding of removal to Guatemala, the only country of which he is a citizen and the only country that has ever been designated for removal. Ex. 2, ¶ 6; see ECF No. 15-1. DHS has had six months to locate any potential third country that might accept Mr. Gomez, and to provide notice to Mr.

Gomez of potential removal to that country as required by due process, see Andriasian v. INS, 180 F.3d 1033, 1041 (9th Cir. 1999); see also 8 C.F.R. § 1240.10(f). It has not done so. It is consequently not possible for anyone in the government to credibly claim any likelihood that Mr. Gomez will be removed in the foreseeable future.

### CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court order the government to show cause why he should not be immediately released.

Respectfully submitted this 22nd day of November, 2017.

/s/ Julio Cortes del Olmo  
BBO # 685135  
Del Olmo Law  
251 Harvard Street, Suite #4  
Brookline, Massachusetts 02446  
(617) 391-0110

/s/ Adriana Lafaille  
Matthew R. Segal (BBO # 654489)  
Adriana Lafaille (BBO # 680210)  
American Civil Liberties Union  
Foundation of Massachusetts, Inc.  
211 Congress Street  
Boston, Massachusetts 02110  
(617) 482-3170 x 308

**CERTIFICATION UNDER LOCAL RULE 7.1**

I, Adriana Lafaille, state that counsel for the Petitioner have attempted to confer with counsel for the Respondents in an effort to resolve or narrow the issues raised herein.

DATED: November 22, 2017

/s/ Adriana Lafaille  
Adriana Lafaille (BBO# 680210)  
American Civil Liberties Union  
Foundation of Massachusetts, Inc.

**CERTIFICATE OF SERVICE**

I, Adriana Lafaille, hereby certify that this document will be filed through the ECF system on November 22, 2017, which will cause counsel for all parties to be electronically served.

Respectfully submitted,

/s/ Adriana Lafaille  
Adriana Lafaille (BBO# 680210)  
American Civil Liberties Union  
Foundation of Massachusetts, Inc.