

District Judge Tiffany M. Cartwright

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MOISES DAVID BONILLA MEJIA,

Petitioner,

v.

LAURA HERMOSILLO, *et al.*,

Respondents.

Case No. 2:25-cv-02196-TMC

FEDERAL RESPONDENTS' RETURN

Petitioner is subject to an *in absentia* removal order that was issued when he failed to appear on time at his immigration hearing in June.¹ U.S. Immigration and Customs Enforcement ("ICE") detained Petitioner pursuant to 8 U.S.C. § 1231(a) to execute the removal order. Petitioner brought this habeas petition seeking his release. He alleges that his detention violates the Immigration and Nationality Act as well as due process because he is not subject to a final order of removal and prior to a hearing on his applications for relief from removal. Thus, the issue in this case is whether the *in absentia* removal order is a final order of removal.

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¹ This Court is referred to the "Factual Background" in Federal Respondents' Brief. Dkt. No. 8, Opp., at 2-4.

Undersigned counsel apologizes for any confusion caused by Federal Respondents' briefing in response to Petitioner's Motion for a Temporary Restraining Order regarding the Ninth Circuit's decision in *Cui v. Garland*, 13 F.4th 991, 996 (9th Cir. 2021). To clarify, Federal Respondents assert that *Cui* was wrongly decided for the reasons stated in the brief. Dkt. No. 8, at 9-11. Federal Respondents do not dispute that *Cui* is a valid decision that is binding on this Court. Furthermore, Federal Respondents recognize that their jurisdictional arguments may have appeared to ask this Court to disregard *Cui*'s holding as noted in the Order. Dkt. No., 13, at 5. This was not the intent and Federal Respondents asserted these arguments, along with the argument on the merits, to preserve both for appeal,² while also recognizing that *Cui* is binding precedent in the Ninth Circuit.

DATED this 21st day of November, 2025.

Respectfully submitted,

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*I certify that this memorandum contains 284 words,
in compliance with the Local Civil Rules*

² Federal Respondents recognize that the jurisdictional arguments fail if there is no final order of removal.