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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ELIAS MENDOZA PEREZ,
Petitioner,
v.
MARGARET MIMS, Warden, Fresno
County Jail,
Respondent.

No. 1:16-cv-01935-SKO HC
TEMPORARY STAY OF EXTRADITION

(Doc. 4)

Petitioner Elias Mendoza Perez is a federal prisoner detained in the Fresno County Jail pending extradition to Mexico pursuant to a Certification of Extraditability and Order of Commitment filed March 11, 2016 in this Court. *United States of America v. Perez* (1:15-mj-00074-SKO), Doc. 38. On December 27, 2017, the United States Secretary of State issued a decision to extradite Petitioner. On December 28, 2016, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241 and moved *ex parte* for a stay of extradition pending its resolution.

To obtain a stay of extradition, Petitioner must demonstrate (1) the probability of success on the merits and irreparable injury, and (2) that his petition raises serious legal issues and that the balance of hardships tip in Petitioner’s favor. *Artukovic v. Rison*, 784 F.2d 1354, 1355-56 (9th

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1 Cir. 1986). Petitioner's *ex parte* submission is insufficient to permit the Court to rule on the
2 motion for a stay pending resolution of the habeas petition.

3 Accordingly, it is hereby ORDERED:

- 4 1. Petitioner and Respondent shall fully brief the question of
5 the propriety of the issuance of a stay as follows:
- 6 a. Petitioner's Opening Brief, January 6, 2017;
 - 7 b. Respondent's Responsive Brief, January 13, 2017; and
 - 8 c. Petitioner's Reply, if any, January 18, 2017.
- 9 2. Petitioner's motion for stay is set for hearing on January 25,
2017, at 9:30 a.m.
- 10 3. Petitioner's extradition to Mexico is temporarily stayed
11 pending resolution on the merits of his motion for stay on
January 25, 2017.

12 IT IS SO ORDERED.

13 Dated: December 29, 2016

14 /s/ Sheila K. Oberto
15 UNITED STATES MAGISTRATE JUDGE