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7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**  
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10 HECTOR GRAMAJO LOPEZ,

11 Petitioner,

12 v.

13 MERRICK GARLAND, et al.,

14 Respondents.

Case No. 1:22-cv-00531-SAB-HC

ORDER TO RESPOND

ORDER SETTING BRIEFING SCHEDULE

ORDER TO ELECTRONICALLY FILE  
TRANSCRIPTS AND OTHER NECESSARY  
DOCUMENTS

15  
16 Petitioner, represented by counsel, is an immigration detainee proceeding with a petition  
17 for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner moves for a temporary  
18 restraining order and seeks habeas relief on the ground that he has been detained since  
19 September 2021 without being afforded a bond hearing, in violation of the Fifth and Eighth  
20 Amendment. (ECF Nos. 1, 2).

21 The Court has conducted a preliminary review of the Petition. It is not clear from the face  
22 of the Petition whether Petitioner is entitled to relief. 28 U.S.C. § 2243. Accordingly, pursuant to  
23 Rule 4 of the Rules Governing Section 2254 Cases,<sup>1</sup> the Court **HEREBY ORDERS**:

- 24 1. Within **FOURTEEN (14) days** of the date of service of this order, Respondent  
25 **SHALL FILE a RESPONSE** to the Motion for Temporary Restraining Order  
26 (ECF No. 2).

27 <sup>1</sup> The Rules Governing Section 2254 Cases apply to § 2241 habeas petitions. See Rule 1(b) of the Rules Governing  
28 Section 2254 Cases (“The district court may apply any or all of these rules to a habeas corpus petition not covered  
by” 28 U.S.C. § 2254.).

- 1           2.     Petitioner MAY FILE a Reply to the Response within **SEVEN (7) days** after the  
2           Response to the Motion for Temporary Restraining Order is served. Thereafter,  
3           the Court will set a hearing if necessary.
- 4           3.     Within **SIXTY (60) days** of the date of service of this order, Respondent SHALL  
5           FILE a RESPONSE to the Petition. See Rule 4, Rules Governing Section 2254  
6           Cases; Cluchette v. Rushen, 770 F.2d 1469, 1473–74 (9th Cir. 1985) (court has  
7           discretion to fix time for filing a response). A Response can be made by filing one  
8           of the following:
- 9                     A.     AN ANSWER addressing the merits of the Petition. Any argument  
10                    by Respondent that Petitioner has procedurally defaulted a claim SHALL  
11                    BE MADE in the ANSWER, but must also address the merits of the claim  
12                    asserted.
- 13                    B.     A MOTION TO DISMISS the Petition.
- 14           4.     Within **SIXTY (60) days** of the date of service of this order, Respondent SHALL  
15           FILE any and all transcripts or other documents necessary for the resolution of the  
16           issues presented in the Petition. See Rule 5(c), Rules Governing Section 2254  
17           Cases. **The transcripts or other documents shall only be filed electronically**  
18           **and, to the extent practicable, provided in Optical Character Recognition**  
19           **(“OCR”) format. Respondent shall not file a hard copy of the transcripts or**  
20           **other documents unless so ordered by this Court.**
- 21           5.     If Respondent files an Answer to the Petition, Petitioner MAY FILE a Traverse  
22           within **THIRTY (30) days** of the date Respondent’s Answer is filed with the  
23           Court. If no Traverse is filed, the Petition and Answer are deemed submitted at  
24           the expiration of the thirty days.
- 25           6.     If Respondent files a Motion to Dismiss, Petitioner SHALL FILE an Opposition  
26           or Statement of Non-Opposition within **TWENTY-ONE (21) days** of the date of  
27           service of Respondent’s Motion. Any Reply to an Opposition to the Motion to  
28           Dismiss SHALL be filed within **FOURTEEN (14) days** after the Opposition has

1           been filed in CM/ECF. The Motion to Dismiss will be deemed submitted when  
2           the time to reply has expired. See Local Rule 230(1).

3           7.     Respondent SHALL COMPLETE and RETURN to the Court within **THIRTY**  
4           **(30) days** a Consent/Decline form indicating whether Respondent consents or  
5           declines to consent to the jurisdiction of a United States Magistrate Judge  
6           pursuant to Title 28 U.S.C. § 636(c)(1).

7           Extensions of time will only be granted upon a showing of good cause. All provisions of  
8     Local Rule 110 are applicable to this order.

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10    IT IS SO ORDERED.

11   Dated:   **May 6, 2022**  

  
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UNITED STATES MAGISTRATE JUDGE