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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 MARTIN CRUZ ODED,

12 Petitioner,

13 v.

14 JEFFERSON SESSIONS,

15 Respondent.

Case No.: 18cv0647 GPC (NLS)

**ORDER DIRECTING RESPONDENT
TO FILE A SUR-REPLY**

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17 Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241
18 challenging his order of removal and his continued detention. In response, Respondent
19 argues the Court does not have jurisdiction to consider Petitioner’s challenges to his
20 removal order and that his challenge to his continued detention is now moot as he was
21 recently released under the “Alternatives to Detention” (“ATD”) program on May 3,
22 2018. In reply, Petitioner presents new arguments not raised in his petition. Specifically,
23 he argues that while he was released on bond, he was improperly removed to Mexico on
24 November 17, 2018 despite a stay by the Ninth Circuit and then paroled back into
25 detention on January 6, 2018 essentially revoking his bail. (Dkt. No. 7 at 3¹.) After the
26 United States Supreme Court decision in Sessions v. Dimaya, 138 S. Ct. 1204 (2018), the
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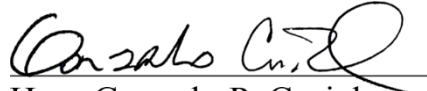
28 ¹ Page numbers are based on the CM/ECF pagination.

1 government moved to remand the removal proceedings to the BIA which was granted on
2 April 27, 2018. (ECF No. 5, Ex. at 53-56.) On May 3, 2018, ICE released Petitioner
3 from custody under the “Alternatives to Detention” program (“ATD”). Petitioner claims
4 that his forced removal on November 17, 2018 was unconstitutional and therefore, his
5 constructive detention under the ATD programs is unconstitutional.

6 To the extent that Petitioner is seeking to be released on bond rather than be
7 subject to the ATD program, the Court DIRECTS further briefing from Respondent.
8 Accordingly, Respondent shall address the factual and legal bases underlying the
9 November 17, 2018 removal, the parole back into detention on January 6, 2018, why he
10 was under continued detention until May 8, 2018 despite his release from bond prior to
11 the removal, and the underlying IJ proceedings, if any, releasing Petitioner under the
12 ATD program. Respondent shall file a sur-reply on or before **July 13, 2018.**

13 IT IS SO ORDERED.

14 Dated: June 27, 2018


15 Hon. Gonzalo P. Curiel
16 United States District Judge
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