

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

JORGE ROCHA MANZANAREZ,)	CIVIL NO. 13-00354 SOM BMK
)	
Petitioner,)	ORDER REGARDING UPCOMING
)	HEARING
vs.)	
)	
ERIC HOLDER, United States)	
Attorney General; MICHAEL)	
SAMANIEGO, District Director,)	
Investigations and Customs)	
Enforcement; DAVID SHINN,)	
Warden, Honolulu Federal)	
Detention Center,)	
Respondents.)	
_____)	

ORDER REGARDING UPCOMING HEARING

The court directs the parties to address the following questions either by filing a memorandum of no more than 1000 words by Friday, October 4, 2013, or (in light of the government shutdown) coming to the hearing prepared to discuss these matters.

1. Does this court have before it the issue of whether the Immigration Judge and Board of Immigration Appeals erred in ruling that Petitioner had the burden of proving that he was not a danger to the community? If Petitioner submits that it is, Petitioner is directed to cite the court to the language in the petition raising the issue. The Government's opposition memorandum says that that issue is not raised by Petitioner. Petitioner's reply memorandum does raise the issue. Even if Petitioner has violated the local rule prohibiting the raising of

new issues in a reply memorandum, why couldn't this be remedied by allowing the Government a fair opportunity to address the issue?

2. Assuming the issue is before this court, does the Government disagree with Petitioner on this point?

3. Does the pending appeal preclude this court's addressing of that issue? Or, are the parties of the view that, because appeals that are clearly wrongful do not normally divest a district court of jurisdiction, this court may proceed to address the issue?

4. Assuming this court may address the issue, how do the parties propose the court should proceed?

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 1, 2013.



/s/ Susan Oki Mollway
Susan Oki Mollway
Chief United States District Judge

Jorge Rocha Manzanarez v. Eric Holder, Civil No. 13-00354 SOM
BMK, Order Regarding Upcoming Hearing