UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 25-60673-CV-WILLIAMS

MARIA DOLORES NAVARRO MARTIN,

Petitioner,

v.

UNITED STATES ATTORNEY GENERAL,

Respondent.

_____/

DEFENDANT'S RESPONSE TO PETITIONER'S MOTION REQUESTING A TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND ADMINISTRATIVE STAY

The United States Attorney General, through the undersigned counsel and pursuant to the Court's July 29, 2025, Order [D.E. 20], responds in opposition to Petitioner Maria Dolores Navarro Martin's ("Petitioner") "Motion Requesting a Temporary Restraining Order, Preliminary Injunction, and Administrative Stay," [D.E. 19] ("Motion").

The Court should deny the Petitioner's Motion on several grounds. First, Petitioner has failed to establish a likelihood of success on the merits in this matter, a critical element required to obtain preliminary injunctive relief. Second, pursuant to the 28 U.S.C. § 2241(c)(3), the Administrative Procedure Act, 5 U.S.C. §§ 701–706, and Civil Asset Forfeiture Reform Act, 18 U.S.C. § 983, the Court lacks subject matter jurisdiction over Petitioner's claims, which challenge the retention of property seized pursuant to a search warrant. Additionally, should the Court reach the merits of the claims, which it should not, Petitioner no longer has an interest in the property identified in the appendices to her Motion.

I. FACTUAL BACKGROUND

Petitioner's Immigration Proceeding[1]

Petitioner Maria Dolores Navarro Martin is presently in the custody of the Department of Homeland Security/Immigration and Customs Enforcement ("ICE") at the Broward Transitional Center. D.E. 1, "Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241," at 1. *See also* EARM Detention History, attached as Exhibit A. Petitioner is a native of Venezuela and a citizen of Spain. *See* Record of Deportable/Inadmissible Alien (I-213) at 1, redacted and attached as Exhibit B. On March 10, 2014, Petitioner adjusted her status to that of a lawful permanent resident of the United States. *See id.* at 2. On September 20, 2019, Petitioner was convicted in Orange County, Florida, of Witness Tampering in violation of section 914.22(2)(D) of the Florida Statutes. *See id.* She was sentenced to a prison term of seven years. *See id.*

Petitioner was detained by ICE on December 30, 2024. *See* Ex. A, EARM Detention History. She was placed in removal proceedings via the issuance of a Notice to Appear dated January 9, 2025. *See* Notice to Appear (NTA), attached as Exhibit C. On February 12, 2025, the immigration judge sustained the charge in the NTA, finding that Petitioner's conviction constituted an aggravated felony, pursuant to Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (INA), as defined in section 101(a)(43)(S) of the INA, an offense relating to obstruction of justice for which the term of imprisonment is at least one year. *See* February 12, 2025, Order of the Immigration Judge, attached as Exhibit D. The immigration judge also denied Petitioner's motion to dismiss removal proceedings on the same date. *See* Ex. D. On March 13, 2025, the immigration judge reset the case to allow Petitioner to file any applications for relief before the court, and the matter was adjourned. *See* Notice of Hearing, attached as Exhibit E. On

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[1] A fuller history of the Petitioner's immigration history is set forth in the Government's Response to the Petitioner's Motion for Leave to File an Amended Complaint and Order to Show Cause. D.E. 15.

March 29, 2025, the Board of Immigration Appeals dismissed Petitioner's interlocutory appeal. *See* Decision of Board of Immigration Appeals, attached as Exhibit F. On April 2, 2025, the immigration judge denied Petitioner's motion to reconsider. *See* April 2, 2025, Order of the Immigration Judge, attached as Exhibit G.

On June 9, 2025, the immigration judge entered an oral decision denying Petitioner's applications for relief and ordering her removed from the United States. *See* June 12, 2025, Written Order of the Immigration Judge, attached as Exhibit H. Petitioner filed an appeal of the immigration judge's decision; the appeal is pending. *See* July 22, 2025, Notice–Briefing Schedule, attached as Exhibit I. The BIA has issued a briefing notice, with a brief due on October 9, 2025. *See* September 18, 2025, Notice—Briefing Schedule, attached as Exhibit J.

An Immigration Judge held a custody redetermination hearing on August 8, 2025, at the Broward Transitional Center. *See* August 8, 2025, Order of the Immigration Judge, attached as Exhibit K. At the hearing, the Immigration Judge denied the Petitioner's request for custody redetermination and determined that she is subject to mandatory detention under section 236(c) as an individual who was convicted of an aggravated felony. *Id.* The Immigration Judge also stated in the Order that the Petitioner has been ordered removed with no further relief aside from her pending relief as she presents a significant risk of flight. *Id.* at 2. *See also* August 19, 2025, Order of the Immigration Judge, attached as Exhibit L.

Petitioner's Other Federal Filings

On February 24, 2025, the Petitioner filed a prior Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 in *Maria Delores Navarro Martin v. United States Attorney General*, Case No. 24-60355-CIV-SMITH, attached as Exhibit M. In that matter, as well as this one, the Petitioner raised four identical "Grounds for Your Challenge in This Petition," each

claiming violations of the Due Process Clause. *See id.* at 6–7. In this similar matter, the Court conducted a *sua sponte* review of the Petition and dismissed the matter for lack of jurisdiction. D.E. 5, Case No. 24-60355-CIV-SMITH, attached as Exhibit N. In the dismissed matter, Petitioner sought relief in the form of injunctive and declaratory relief challenging the dismissal of her motion to dismiss the Notice to Appear in her immigration matter. *See* Ex. M at 7. Here, the Petitioner seeks an order requiring the execution of a bond hearing. *See* D.E. 12, Amended Petition at 25.

Petitioner filed a third Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 with the District Court for the District of Columbia, which was transferred to this district on May 5, 2025. *See* Order Transferring Civil Action No. 25-1228 to the Southern District of Florida, attached as Exhibit O. This Court dismissed that matter as duplicative on July 9, 2025. *See* Paperless Order Dismissing and Closing Case, D.E. 8, Case No. 0:25-CV-61348 (July 9, 2025), attached as Exhibit P.

Petitioner's Motion Requesting a Temporary Restraining Order, Preliminary Injunction, and Administrative Stay

In the Instant Motion, Petitioner alleges that the Defendant in this matter, the Attorney of the General of the United States, has withheld the return of property seized pursuant to a search warrant issued in the state case against her. *See* Motion, D.E. 19 at 1. Petitioner argues that following the *nolle prosequi* of two charges of Medicaid Fraud on February 14, 2024, the Department of Homeland Security improperly failed to return property seized pursuant to a search warrant in state matter Case No. 2017-CV-001585-B-O. *Id.* at 3. In the Motion, the Petitioner requests that the Court pursuant to the Administrative Procedure Act, 5 U.S.C. §§ 701–706. order the Department of Homeland Security to return her property. *Id.* at 20.

This is not the Petitioner's first attempt to compel the return of her property. On April 9, 2024, the Petitioner filed a Complaint against United States Custom and Border Protection seeking the return of her properties. *See* D.E. 1, "Motion for Return of Properties," Case No. 8:24-cv-00821-SDM-UAM (M.D. Fla. Apr. 9, 2024), attached as Exhibit Q. There, the court *sua sponte* dismissed the action for failing to state a claim upon which relief may be granted and for failing to establish jurisdiction. *See* D.E. 19, "Order," Case No. 8:24-cv-00821-SDM-UAM (M.D. Fla. Oct. 4, 2024), attached as Exhibit R. The court construed the motion as a claim for the return of property pursuant to the Federal Tort Claim Act and determined that Petition had failed to exhaust administrative remedies before filing this case. *Id.* In dismissing the matter, the court provided leave to amend should Petitioner elect to exhaust her remedies. *Id.* Petitioner filed an amended complaint, which the court *sua sponte* dismissed the matter for failure to exhaust her administrative remedies. *See* D.E. 30, "Order," Case No. 8:24-cv-00821-SDM-UAM (M.D. Fla. Apr. 23, 2025), attached as Exhibit S.

Petitioner's Property

Regarding the property identified in the Appendices to the Motion, Customs and Border Protection ("CBP") and Homeland Security Investigations ("HSI") can account for each item seized by the federal government pursuant to the search warrant identified in the Petitioner's Motion. In the Declaration of Supervisory Paralegal Specialist Rebecca Gabbard, Ms. Gabbard accounts for the items seized and held by CBP. *See* September 22, 2025, Declaration of Supervisory Paralegal Specialist Rebecca Gabbard, attached as Exhibit T. Ms. Gabbard's Declaration identifies those items identified in Appendix A to the Petitioner's Motion as well as additional vehicles not appearing in the Appendix. *Compare* Ex. T to D.E. 19-1 at 4–8. Ms. Gabbard's Declaration details that each item, except for three boxes of documents, were held by

CBP and administratively forfeited pursuant to 19 U.S.C. §§ 1607 and 1609. The three items not held in possession, line items 36–38 on page 4 of the Declaration, were seized for evidentiary purposes only and not subject to administrative forfeiture. Those documents were destroyed in May 2024. *See* Order to Destroy and Record of Destruction of Forfeited, Abandoned, or Unclaimed Merchandise, attached as Exhibit U.

II. ARGUMENT

A. Pleading Standard for Temporary Restraining Orders and Injunctive Relief

Temporary restraining orders and preliminary injunctions are "extraordinary and drastic" remedies. *See Schiavo ex rel. Schindler v. Schiavo,* 403 F.3d 1223, 1231 (*quoting United States v. Jefferson* County, 720 F.2d 1511, 1519 (11th Cir. 1983)); *see also Siegel v. Lepore,* 234 F.3d 1163, 1176 (11th Cir. 2000). A party seeking a temporary restraining order or preliminary injunctive relief must establish four elements: (1) a substantial likelihood of success on the merits, (2) irreparable injury that will be suffered unless an injunction issues, (3) that the threatened injury to the movant outweighs the threatened harm an injunction may cause the opponent, and (4) that an injunction will not be adverse to the public interest. *Siegel,* 234 F.3d at 1176. A court should not grant the relief unless the movant clearly establishes his burden of persuasion as to all four elements. *Id.*

While Petitioner styles her Motion as a request for temporary restraining order, her request asks the Court to order the immediate return of her property to this Court. *See* Motion at 20. "A typical preliminary injunction is prohibitive in nature and seeks simply to maintain the *status quo* pending a resolution of the merits of the case." *Rudnikas v. Nova Se. Univ., Inc.,* No. 19-25148-CIV, 2021 WL 3621955, at *7 (S.D. Fla. June 2, 2021), *report and recommendation adopted*, No. 19-25148-CIV, 2021 WL 2980203 (S.D. Fla. July 15, 2021), *aff'd,* No. 21-12801,

2022 WL 17952580 (11th Cir. Dec. 27, 2022) (citations omitted). "When a preliminary injunction is sought to force another party to act, rather than simply to maintain the *status quo*, it becomes a "mandatory or affirmative injunction" and the burden on the moving party increases." *K.G. ex rel. Garrido v. Dudek*, 839 F. Supp. 2d 1254, 1260 (S.D. Fla. 2011) (citations omitted).

What Petitioner truly seeks here is a mandatory injunction with the return of her property, which only increases her pleading burden. A mandatory injunction "should not be granted except in rare instances in which the facts and law are clearly in favor of the moving party." *Rudnikas v. Nova Se. Univ., Inc.,* 2021 WL 3621955, at *7. A petitioner seeking such relief bears a heightened burden of demonstrating entitlement to preliminary injunctive relief. *See Verizon Wireless Pers. Commc'n LP v. City of Jacksonville, Fla.,* 670 F.Supp.2d 1330, 1346 (M.D. Fla. 2009) (quotation and citation omitted); *Mercedes-Benz U.S. Int'l, Inc. v. Cobasys,* LLC, 605 F. Supp. 2d 1189, 1196 (N.D. Ala. 2009); *OM Group, Inc. v. Mooney,* 2006 WL 68791, at *8–9 (M.D. Fla. Jan. 11, 2006). As discussed below, Petitioner cannot meet her burden of showing entitlement to even a temporary restraining order or a preliminary injunction, let alone a mandatory injunction. Therefore, the Court should deny the Motion.

B. Petitioner Fails to Establish Substantial Likelihood of Success on The Merits.

1. The Motion is Unrelated to the Petition for Writ of Habeas Corpus.

The Motion suffers from a fatal defect as it is wholly unrelated to the underlying Petition seeking habeas relief. The first element that a petitioner must demonstrate and that a court reviews in determining whether a temporary injunction is appropriate is whether the movant can demonstrate the likelihood of "success on the merits at trial." *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1307 (11th Cir. 1998). The motion or claim for injunctive relief sought must be related to the complaint, or at least discuss the complaint, as "[t]he purpose of a preliminary

injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held." *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395, 101 S. Ct. 1830, 1834, 68 L. Ed. 2d 175 (1981).

Here, a trial on the merits, or resolution of the underlying claim in this matter, requires an examination of the Plaintiff's immigration matter as the Motion for Leave to File an Amended Complaint and Order to Show Cause, is a habeas petition pursuant to 28 U.S.C. § 2241 that requests relief from Petitioner's immigration detention. *See*, *generally*, D.E. 12. The actual relief sought in her Motion for Leave, which is identified in the Prayer for Relief, is for this Court to issue order compelling a "bond hearing" to determine "appropriate conditions" for her release. *See* D.E. 12 at 25. The Motion for Leave and its Prayer for Relief do not mention or allude to the subject matter of the instant Motion. This disconnect is symmetrical as the Motion is likewise silent on the allegations of the original and amended habeas petitions.

The Petitioner makes no attempt to demonstrate a likelihood that she will succeed on the merits of the causes of action raised in her Motion for Leave. Instead, the Motion focuses on property seized pursuant to a search warrant and makes only passing references to current detention at BTC. Accordingly, the Petitioner has failed to establish that a likelihood of success on the merits in her Motion—a requisite for the Court to provide injunctive relief—as she has failed to entirely address this element. Therefore, the Motion should be denied.

2. The Court Lacks Subject Matter Jurisdiction.

The Court should deny the Motion because it lacks subject matter jurisdiction as to (1) the Petitioner's habeas petitions, *see*, *generally*, Defendant's Response to the Petitioner's Motion for Leave to File an Amended Complaint and Order to Show Cause, D.E. 15., and (2) this Motion. Subject matter jurisdiction must be established before a case can proceed on the merits.

See Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 93–95 (1998). This is because "[f]ederal courts are courts of limited jurisdiction." *Kokkonen v. Guardian Life Ins. of Am.*, 511 U.S. 375, 377 (1994) (alteration added). [S]ubject matter jurisdiction, because it involves a court's power to hear a case, can never be forfeited or waived." *United States v. Cotton*, 535 U.S. 625, 630 (2002). "If the court determines at any time that it lacks subject matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3). The burden to establish the existence of federal subject matter jurisdiction rests with the party bringing the claim. *Sweet Pea Marine, Ltd. v. APJ Marine, Inc.*, 411 F.3d 1242, 1248 n.2 (11th Cir. 2004).

To the extent that the Petitioner claims that this Court can exercise jurisdiction over the claims raised in this Motion, Petitioner does so in the conclusion of the Motion where she claims entitlement to relief pursuant to the Administrative Procedure Act, ("APA") 5 U.S.C. § 706. However, any argument that the APA provides a basis for jurisdiction is without merit. By its terms, the APA at 5 U.S.C. § 705 expressly states that it does not authorize district courts to issue temporary restraining orders that alter the *status quo* or dictate specific terms and conditions to an agency. *Salt Pond Associates v. U.S. Army Corps of Engineers*, 815 F. Supp. 766, 776 (D. Del. 1993); *see also* Attorney General's Manual on the Administrative Procedure Act 105 (1947) ("The subsection does not permit a court to order the grant of an initial license pending judicial review of an agency's denial of such a license."). Petitioner asks the Court to return property, rather than maintain its storage with CBP, which is permanent relief altering the status quo.

3. The Attorney General of the United States is not the Proper Defendant

This Court should dismiss Plaintiff's APA claim for failing to allege sufficient facts as required by Fed. R. Civ. P. 8(a)(2). *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). In *Twombly*, the Supreme Court found that a complaint was inadequate because "[f]actual

allegations must be enough to raise a right to relief above the speculative level." *Twombly* 550 U.S. at 555. That is, the complaint must contain "allegations plausibly suggesting (not merely consistent with)" an entitlement to relief. *Id.* at 557.

The Petitioner is not entitled to relief because she has failed to plead plausible allegations against a proper Defendant.[2] The Petitioner argues repeatedly that Pam Bondi, the Attorney General of the United States, has deprived her of her property because Ms. Bondi served as the Attorney General of Florida at the time of the execution of the search warrant. *See* Motion at 10–11. Ms. Bondi is not named as the Respondent in her individual capacity, but rather in her official capacity in the Complaint. *See Duman v. Wigand*, No. 25-CV-61151, 2025 WL 2324362, at *2 (S.D. Fla. July 28, 2025), *report and recommendation adopted*, No. 25-61151-CIV, 2025 WL 2322437 (S.D. Fla. Aug. 12, 2025) (holding that "official-capacity" suits are those taken against an entity of which an officer is an agent). In the Petitioner's habeas petitions, the Petitioner claims entitled to a bond redetermination hearing a matter of course and does not allege that Ms. Bondi or the proper defendant personally harmed her, but rather the agency detaining her. Any perceived actions alleged to have been taken in 2018 by Ms. Bondi during her tenure as the Attorney General of Florida cannot be imputed upon the Respondent in this habeas corpus petition or this Motion that seeks relief from the United States Attorney General.

Furthermore, the property at interest in the Motion is allegedly being held by an entirely different department of the executive branch—the Department of Homeland Security—not the Department of Justice. Neither the Department of Homeland Security nor Customs and Border Protection are named as Defendants or Respondents in the Petition, and neither has been named as a Defendant or Respondent to the Motion. The Motion contains no allegations establishing

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[2] This is not first filing that the Respondent has raised this issue as the Petitioner incorrectly named the Attorney General of the United States as the Respondent in her Petition when the warden of the Broward Transitional Center should have been named. D.E. 15 at 6–7.

that the Department of Justice or the Attorney General have improperly deprived Petitioner of her property interest. Therefore, the Motion should be dismissed for failing to state a claim upon which relief may be granted.

4. Petitioner has not Adequately Plead a Claim for Relief Under CAFRA

Any claim for relief pursuant to the Civil Asset Forfeiture Reform Act, ("CAFRA") 18 U.S.C. § 983 fails because Petitioner has failed to meet basic pleading standards to identify a claim for relief under which relief may be granted. CAFRA provides several means by which a person can challenge civil and administrative forfeiture. *See* 18 U.S.C. §§ 983(d–f) (permitting multiple defenses and challenges to forfeiture). Petitioner neither identifies the section of the statute through which she seeks relief nor adequately pleads facts to demonstrate entitlement to that relief. Depending on which relief she seeks pursuant to CAFRA, she is subject to limitations on time, venue, and parties to the suit. Therefore, the Petitioner has failed to plausibly state a claim upon which may be granted pursuant to CAFRA and, thus, cannot demonstrate a likelihood of success on the merits of such a claim.

C. The Petitioner has not Followed Proper Procedure for the Return of her Property.

In its Paperless Order of September 12, 2025, [D.E. 20] the Court instructed the Respondents to address whether the Petitioner "is entitled to return of her properties following the nolle prose of criminal charges in 2024. The Respondent contends argue that the process in which she has sought the return of those properties in the Motion is improper as she cannot meet her pleading burden for injunctive relief. And a prior court, examining this same request, *sua sponte* dismissed her complaint pursuant to the FTCA due to the failure to adhere to the requirements for filing such a case. *See* Exs. R, S.

Federal Rule of Criminal Procedure 41(g), which is copied below in its entirety, provides one mechanism through which individuals may seek the return of property seized during a criminal investigation.

> **Motion to Return Property.** A person aggrieved by an unlawful search and seizure of property or by the deprivation of property may move for the property's return. The motion must be filed in the district where the property was seized. The court must receive evidence on any factual issue necessary to decide the motion. If it grants the motion, the court must return the property to the movant, but may impose reasonable conditions to protect access to the property and its use in later proceedings.

Indeed, "[r]ule 41(g) provides a mechanism by which an individual may recover property that the government has taken as evidence." *United States v. Guerra*, 426 Fed. App'x 694, 697 (11th Cir.2011). However, "[r]ule 41(g) applies only during a criminal proceeding. If a motion for return of property is filed after the criminal proceedings, the court should treat a motion for return of property as a civil action in equity. *United States v. Stoune*, 2018 WL 7020873, at *6 (M.D. Fla. Sept. 11, 2018), *report and recommendation adopted*, 2018 WL 6522100 (M.D. Fla. Dec. 11, 2018), aff'd, No. 19-10538-HH, 2019 WL 3814583 (11th Cir. Aug. 6, 2019) (citations omitted). In instances where a Rule 41(g) motion is filed after the termination of criminal proceedings, a district court can exercise equitable jurisdiction over the motion and craft equitable relief that it deems applicable. *United States v. Potes Ramirez*, 260 F.3d 1310, 1315 (11th Cir. 2001).

If the Court is inclined to treat the instant Motion as a motion in equity, this Court is the improper venue as the property at issue was seized in Orlando, Florida, and stored in Tampa, Florida, both located in the Middle District of Florida. Moreover, the Respondent is not the proper Defendant. The alleged possessor of the property is the Department of Homeland Security, who is not named a party to this lawsuit. If the Court is to treat the Motion as a motion

in equity for the return of property, the likelihood of success on the merits of this claim that is brought forth in the Southern District of Florida that names the Attorney General of the United States as the Defendant is unlikely.

D. Petitioner Does Not Retain a Property Interest in the Identified Property.

Assuming that the Petitioner has identified the correct Defendant, filed suit in the correct venue, properly established jurisdiction, properly plead a claim for injunctive relief, and met the burden to obtain injunctive relief, Petitioner does not retain a property interest in the identified items following the administrative forfeiture of those items.

> Administrative forfeiture is a procedure that permits federal law enforcement agencies to forfeit certain types of seized assets, without judicial intervention, provided that: the facts upon which the seizure is based meet the legal standard of probable cause, the facts supporting the administrative forfeiture satisfy the burden of probable cause, the agency has properly noticed all parties having an interest in the asset, and no one has filed a claim to the asset.

Asset Forfeiture Policy Manual 2025, available at https://www.justice.gov/criminal/criminal-afmls/file/839521/dl?inline= (last accessed Sept. 12, 2025). The guidelines to meet the notice are found at 18 U.S.C. § 983(a)(1). CBP contends that it undertook the necessary steps to administratively forfeit the items identified in the Gabbard Declaration. *See*, *generally*, Ex. T, Gabbard Declaration. Accordingly, Petitioner no longer retains an interest in the property.

I. CONCLUSION

For the reasons set forth above, the Court should deny the Motion.

Dated: September 22, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2025, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on the *pro se* Petitioner via U.S. Mail at the service address below.

By: *[/s/ David Werner]*
David E. Werner
Assistant United States Attorney

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