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

_____/

Petitioner's Reply
To Defendant's Response to Petitioner's Motion Requesting A Temporary Restraining Order, Preliminary Injunction, And Administrative Stay.

COMES NOW, Plaintiff, Maria Dolores Navarro Martin, pro se, and requested to this honorable court to "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. 706(1); and who refused to an unequivocal mandate where the Attorney General's failed to serve her with the response and appendix of exhibits it filed separately from its answer, (See Doc. 22 filed on September 22, 2025); with which the defendant had failed to comply. Plaintiff file this motion to compel service of the referenced response (See Doc # 22), under the requirement. Fed. R. Civ. P. 5(a)(1)(B), 7(a)(2); and is support alleges as follows:

I. Jurisdiction

1. The Supreme Court held – not just once, but twice – that such hurried removals violate the Fifth Amendment's Due process Clause. See Trump v. J.G.G, 604 U.S. 670 145 SCT 1003 221 L.Ed.2d 529 (2025) (detainees are entitles to notice and opportunity to be heard appropriate to the nature of the case…where detainees seek equitable relief… fall within the "core" of the writ of habeas corpus) and under A.A.R.P v Trump, 605 U.S. 91 145 S.Ct. 1364 221 L.Ed.2d 765 (2025).(A district court's inaction in the face of extreme urgency and a high risk of serious, perhaps, irreparable, consequences may have the effect of refusing an injunction…District Courts should approach requests for preliminary relief…Preliminary relief is customarily granted on the basis of procedures that are less formal and evidence that is less complete than in a trial on the merits"

2. On the basis of and evidence that is less complete than in a trial on the merits, the plaintiff is entitle to a preliminary relief, "because the "alien in streamlined removal proceedings cannot seek review of her final administrative removal order (FARO) before the immigration judge or the BIA, the period to seek review expires as soon as the FARO is issued – meaning that the order becomes final immediately upon issuance…(Petitioner's) FARO constituted "the final order of removal" Riley v. Bondi, 145 S.Ct. 2190 22 L.Ed. 2d 497 (2025).

3. This court has jurisdiction to review the order rendered by the final administrative removal order (FARO) where the "30 day filing deadline for judicial review of a "final order of removal, 8 U.S.C. 1252(b)(1)…is not jurisdictional…alien can obtain review" Riley v. Bondi, 145 S.Ct. 2190 22 L.Ed. 2d 497 (2025).

4. "An APA claim does not accrue for purposes of 2401(a)'s 6-year statute of limitations until the plaintiff is injured by final agency action." Corner Post, Inc. v. Bd. of Governors of The Fed. Rsrv. Sys. 603 US, 144 S Ct, 219 L Ed 2d 1139 (2024). Here, "grant of nolle prosequi was sufficient to satisfy the requisite element of favorable termination of the criminal action… constituted a termination favorable to appellant. Thus, appellant's claims did not accrue until the charges were dismissed, (on February 14, 2023) and the action was not time-barred" Uboh v. Reno, 141 F.3d 1000 (11th Cir. 1998). The plaintiff showed "actual success" on the merits. "The District Court has jurisdiction to decide a non-Federal question where a substantial Federal question is also involved. The fact that the requisite jurisdictional amount is involved in respect to some of the coplaintiffs is enough to sustain a Federal district court's jurisdiction of a suit for an injunction" Grosjean v American Press Co. 297 US 233, 243, 244, 80 L ed 660, 665, 56 S Ct 444 (1936).

II. Petitioner's Claim

Petitioner contends her detention is unlawful because she has been detained longer than the presumptively reasonable period of ninth months under an unconstitutional state statute of conviction and in violation of her constitutional's rights, and requests to this honorable court to "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. 706(1); and who refused to an unequivocal mandate to return the petitioner's properties to the court:

1. Here, the petitioner should be able to demonstrate that she is entitled to relief, since that the final order of deportation/removal (FARO) issued by the DHS was issued in violation in violation of petitioner's right "to notice", since that the unconstitutional statute of conviction was not stated in the Notice to appear (NTA) which "violate the Fifth Amendment's Due process Clause. See Trump v. J.G.G, 604 U.S. 670 145 SCT 1003 221 L.Ed.2d 529 (2025) (detainees are entitles to notice). A.A.R.P v Trump, 605 U.S. 91 145 S.Ct. 1364 221 L.Ed.2d

765 (2025) (recognizing courts may resolve questions of the "interpretation and constitutionality"). Further, "the public, when the state is a party asserting harm, has no interest in enforcing an unconstitutional law." Scott v. Roberts, 612 F.3d 1279, 1297 (11th Cir. 2010).

2. Petitioner also challenge her detention pursuant to "Proclamation 10903 is declared unlawful…does not comport with the legal mandates of the INA…the AEA would control here…without providing 30-days notice of and an opportunity to respond to any designation as an alien enemy under the proclamation prior to the removal…petitioner has standing as a class member.. petitioner detention impacts her liberty and property rights and is independently sufficient to establish an injury-in-fact that is concrete and particularized…The All the writ act permit this court to "enjoin almost any conduct "which left unchecked would have…the practical effect of dismissing the court's power"…the court has jurisdiction to enjoin respondents" M.A.P.S. v. Garite, 2025 U.S. Lexis 109033, EP-25-CV-00171-DB (W.D. Tex. 2025).

3. "The allegation that the deprivation of property resulted from a state statute that was procedurally defective under the due process clause stated a cause of action under 42 USCS 1983 since the statutory scheme was a product of state action, as a private party's joint participation with state officials in the seizure of disputed property is sufficient to characterize that party as a "state actor" for purposes of the Fourteenth Amendment" *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 102 S. Ct. 2744, 73 L. Ed. 2d 482 (1982). "This statutory provision covers the unauthorized seizure of personal property by police officers. Therefore, the state has provided an adequate postdeprivation remedy when a plaintiff claims that the state has retained his property without due process of law." *Byrd v. Stewart*, 811 F.2d 554, 555 n. 1 (11th Cir.1987) (citing *Norred v. Dispain*, 119 Ga. App. 29, 166 S.E.2d 38 (1969) (trover action may be brought against police chief for seizure and retention of automobile)). Because plaintiff has not had access to an adequate postdeprivation remedy, procedural due process violation had occurred. "We distinguished a complaint under the Fourth Amendment "that the search and seizure itself was unlawful," from a complaint "that the officers have failed to return the items seized without due process of law," which is a cause of action under the Fourteenth Amendment. 811 F.2d 554, 554-55 (11th Cir. 1987). A complaint of continued retention of legally seized property raises an issue of procedural due process under the Fourteenth Amendment.

III. STATEMETS OF FACTS

The Respondent is depriving to the Plaintiff of "notice of and an opportunity to respond", since that the respondent has not served a response of the Attorney General's Response (See Doc. #22 filed on September 22, 2025) on the plaintiff place of confinement. And in Support of this claim the Plaintiff file the witnesses' affidavits, attached herein, (See Exhibit A).

The due process and equal protection clauses of the Fourteenth Amendment were violated by the deprivation of Plaintiff 's right to "notice of and an opportunity to respond". Defendant's claims as stated in the Doc. # 22, should be dismissed solely in account of a plaintiff's inability to obtain the Attorneys General Response (See Doc. #22). Here, the "due process is not satisfied even if meaningful postdeprivation process is available" *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 102 S. Ct. 1148, 71 L. Ed. 2d 265 (1982); and due to "the denial of appellant's application to inspect and copy the records". *Newman v. Graddick,* 696 F.2d 796, 799-800 (11th Cir.1983).

IV. LEGAL ARGUMENT

Under the Federal Rules of Civil Procedure, any pleading must be served on every party, and there is no question that an answer to a complaint, such as a state's answer to a 28 U.S.C.S. 2254 petition, is a pleading for purposes of this service requirement. Fed. R. Civ. P. 5(a)(1)(B), 7(a)(2). Thus, the procedural rules governing 2254 proceedings mandate that an answer in a habeas corpus proceeding must be served on a petitioner. "Whether the underlying claims are meritorious. *Dupree v. Warden*, 715 F.3d 1295, 1298-99 (11th Cir. 2013) The Rules Governing 2254 Cases in the United States District Courts ("The district court may apply any or all of these rules to a habeas petition not [filed under 28 U.S.C. 2254]."); The Court may apply any of the Rules Governing 28 U.S.C. 2254 Cases in the United States District Courts to applications for release from custody under 28 U.S.C. 2241. Harris v. Warden, FCC Coleman USP 1, 2024 U.S. App. LEXIS 14667, No. 23-13137 (11th Cir 2024).

"A petitioner must have a meaningful opportunity to challenge the propriety of rulings on procedural grounds. These cases often present close calls which are subject to debate. See, e.g., Conner v. Hall, 645 F.3d 1277, 1289-92 (11th Cir. 2011), Here, the Plaintiff "was procedurally required, by R. Governing 2254 Cases U.S. Dist. Cts. 5 and Fed. R. Civ. P. 10(c), to serve the inmate with the exhibits included in the appendix and referenced in its answer to the petition and it failed to do so…the Advisory Committee Notes, which are a reliable source of insight into the meaning of a rule, confirm that Rule 5 necessarily implies" that service of the answer on the petitioner or his attorney is a procedural requirement. Rule 5 Advisory Committee's Note, 1976 Adoption." Rodriguez v. Florida Dep't of Corr., 748 F.3d 1073, 1075 (11th Cir. 2014) (quotation omitted), cert. denied, 135 S. Ct. 1170, 190 L. Ed. 2d 913 (2015).

The Respondent is depriving to the Plaintiff of "notice of and an opportunity to respond", since that the respondent has not served a response of the Attorney General's Response (See Doc. #22) on the plaintiff's place of confinement. Moreover, the Circuit has routinely sustained "when the non-movant has failed to submit a factual statement in the form called for by the pertinent rule and thereby conceded the movant's version of the facts" "). See also *United States v. Olson*, 716 F.2d 850, 852 (11th Cir. 1983) ("The government's concession might well be the end of this case, but since the district court did not accept the government's concession filed with it and addressed the matter at length, we shall do so also…. The court held that appellant's substantial rights were negatively impacted when the government failed to file an information with respect to appellant's prior convictions). See also *United States v. Valentine,* 21 F.3d 395, 397-98 (11th Cir.1994) (involving government concession of *Burns* violation where basis for upward departure was not mentioned until sentencing); the Government has failed to show the district court's mandatory application of the Guidelines was harmless beyond a reasonable doubt; which "was required to serve the inmate with a copy of the exhibits in its appendix that were cited in its response, and it was undisputed that the state failed to do so. Moore v. Fla. Dep't of Corr., 657 Fed. Appx. 826 (11th Cir. 2016).

CONCLUSION

WHEREFORE, the petitioner Maria Dolores Navarro Martin, pro se, and respectfully request to this honorable court, granted this motion and/or in the alternative and find as a matter of judicial discretion that:

1. In the light of Rodriguez v. Florida Dep't of Corr., 748 F.3d 1073, 1075 (11th Cir. 2014) (quotation omitted), cert. denied, 135 S. Ct. 1170, 190 L. Ed. 2d 913 (2015). And because the Attorney General did not first serve Plaintiff with the response and exhibits attached to the appendix it filed with the district court even though the state referenced those documents in its response, the Attorney General response (Doc # 22), should be dismissed.

2. And/or in the alternative compel the Attorney General to file a certificate as received by the plaintiff and executed the officer in charge of legal mail system.

3. The Petitioner's Motion Requesting A Temporary Restraining Order, Preliminary Injunction, And Administrative Stay, should be granted.

4. And/or any other appropriate relief that this honorable court deem just and proper.

OATH

UNDER PENALTIES OF PERJURY, I, Maria Dolores Navarro Martin, declare that I have read the foregoing document, and I Understand its content; this document is filed in good faith and is timely filed, I understand its content in English, has potential merit, and that facts contained in the documents are true and correct.

Date: October 2, 2025

Maria Navarro Martin
Pro se Petitioner
A#: [redacted]
Broward Transitional Center
3900 N. Powerline Rd.
Pompano Beach Fl. 33073

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct original of the foregoing document has been furnished by U.S. Mail-postage prepaid to The Clerk of the District Court Southern District. I Further Certify that the clerk can e-serve a copy of this document to The Clerk of the Immigration Court and Office of the Board of Immigration appeals to the U.S. Dpt. of Justice, 950 Pennsylvania Av. NW. Office of the Attorney General, Room 5114, Washington DC. 20530-0001, to Nelson Perez, Chief Counsel. Carlos Lopez, Deputy Chief Counsel. Michael J. Gross, Esq., Assistant Chief Counsel. Office of the principal Legal Advisor. Immigration and Custom Enforcement. Department of Homeland Security. Broward Transitional Center.3900 N. Powerline Road, Pompano Beach, Fl 33073, and all the lawyer on record via e-filing court system, on this day October 2, 2025.

Respectfully Submitted:

Maria Navarro Martin
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INSPECTED

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