

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CLERK
U.S. DISTRICT C
DISTRICT OF NEW JERSEY

2025 MAY 14 A

Eduardo H. Jimenez Perez,
Petitioner, Pro-Se,

v.

U.S. Department of Homeland Security, et al.,
Respondents.

Civil Action

No.: 2:25-cv-03000 (EP)

Rule Pursuant to

Fed. R. Civ. P. 6(c)(1)(C)

7(b), 11, and 65

**NOTICE OF MOTION FOR EXPEDITED CONSIDERATION OF
EMERGENCY TEMPORARY STAY OF REMOVAL**

PLEASE TAKE NOTICE that Petitioner, Eduardo H. Jimenez Perez, respectfully moves this Honorable Court, pursuant to Federal Rule of Civil Procedure 6(c)(1)(C), 7(b), 11, and 65, and Local Civil Rule 7.1 of the District of New Jersey, for expedited consideration of his pending Emergency Motion for Temporary Stay of Removal.

This Motion is submitted in light of the imminent risk of removal arising from Petitioner's scheduled immigration hearing before the Executive Office for Immigration Review (EOIR) on June 3, 2025, and the pending adjudication of his Habeas Corpus Petition under 28 U.S.C. § 2241. Petitioner respectfully requests that the Court resolve the Stay Motion prior to June 2, 2025, to preserve the Court's jurisdiction and prevent irreparable harm.



Respectfully submitted,
Eduardo H. Jimenez Perez
Petitioner, Pro-Se
256 Columbia Ave., 2nd Floor
Lodi, NJ 07644

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR EXPEDITED
CONSIDERATION**

I. INTRODUCTION

Petitioner, Eduardo H. Jimenez Perez, is a lawful permanent resident of the United States since 2006. His green card remains valid through 2033. He respectfully moves this Court for expedited consideration of his previously submitted Emergency Motion for Temporary Stay of Removal. The urgency of this request is based on a final immigration hearing scheduled for June 3, 2025, and this Court's pending review of his Habeas Corpus Petition under 28 U.S.C. § 2241. On May 8, 2025, Petitioner filed an Emergency Motion for Temporary Stay of Removal. This motion remains pending and requires expedited resolution due to the imminent immigration hearing scheduled for June 3, 2025, which threatens to moot Petitioner's federal constitutional claims.

II. PROCEDURAL BACKGROUND

On April 28, 2025, this Court administratively terminated Petitioner's Habeas Corpus Petition for non-payment of the filing fee. Petitioner promptly complied and submitted payment on April 30, 2025. On May 2, 2025, Petitioner filed a Motion to Reopen the case under **Fed. R. Civ. P. 59(e), 60(b), and Local Rule 7.1(i)**, which remains pending. Simultaneously, Petitioner submitted an Emergency Motion for Temporary Stay of Removal to prevent irreparable harm associated with his upcoming immigration hearing.

III. LEGAL STANDARD FOR EXPEDITED RELIEF

Federal Rule of Civil Procedure 6(c)(1)(C) authorizes courts to expedite consideration of motions where justice so requires. Additionally, Rule 65 empowers the Court to issue temporary injunctive relief, including a stay of removal, to prevent irreparable harm. This relief is particularly critical where constitutional claims are pending, and imminent government action threatens to render judicial review ineffective.

The Supreme Court has clearly established that federal courts possess inherent authority to grant stays of removal when necessary to preserve jurisdiction and prevent irreparable harm. *In Nken v. Holder*, 556 U.S. 418, 426 (2009), the Court emphasized:

"[A] stay 'simply suspends judicial alteration of the status quo,' while the court considers the merits of the underlying claim."

This precedent firmly underscores the importance of preserving meaningful access to judicial review and preventing irreparable harm before constitutional claims can be adjudicated.

In *Boumediene v. Bush*, 553 U.S. 723, 779 (2008), the Supreme Court similarly reinforced that:

“The writ of habeas corpus remains a critical safeguard of liberty, and the Suspension Clause ensures that it may not be withdrawn when it is the only effective means of ensuring that a person’s detention is not unlawful.”

Consistent with this principle, in *INS v. St. Cyr*, 533 U.S. 289, 314 (2001), the Court held that:

“[J]udgments about the legality of removal must remain subject to review by federal courts, particularly where constitutional or statutory questions are at stake.”

The Third Circuit Court of Appeals strongly prioritizes adjudication on the merits and discourages dismissals based solely on procedural technicalities. In *Poulis v. State Farm Fire & Cas. Co.*, 747 F.2d 863, 868 (3d Cir. 1984), the Third Circuit explicitly warned that dismissal is a harsh remedy that should be resorted to only in extreme cases. This principle was reiterated in *Max’s Seafood Café v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999), where the Court stated that motions under Rule 59(e) should be granted:

“[T]o prevent manifest injustice and ensure fair adjudication on the merits.”

Additionally, the Third Circuit has consistently recognized federal courts’ equitable authority to grant injunctive relief to safeguard due process rights in the immigration context. In *Leslie v. Attorney General*, 678 F.3d 265, 271 (3d Cir. 2012), the Third Circuit granted habeas relief precisely to prevent irreparable due process violations resulting from immigration detention and potential removal. Further reinforcing this principle, the court in *Chavez-Alvarez v. Warden*, 783 F.3d 469, 477–481 (3d Cir. 2015), found prolonged immigration detention without individualized review unconstitutional, thus warranting judicial intervention.

Similarly, in *Diop v. ICE/Homeland Security*, 656 F.3d 221, 234 (3d Cir. 2011), the Third Circuit held that arbitrary government actions affecting liberty interests violate due process and compel judicial intervention.

District courts within this Circuit, including the District of New Jersey, have explicitly applied these principles to grant stays of removal pending habeas corpus review. In *Akinola v. Weber*, No. 10-03950, 2010 WL 2925178 (D.N.J. July 21, 2010), the court granted a stay of removal specifically to preserve judicial review of habeas claims. Likewise, in *Gomez v. Tsoukaris*, No. 20-4121 (D.N.J. Feb. 2021), the court again granted a temporary stay pending adjudication of constitutional claims in a habeas petition.

Collectively, these binding precedents from the Supreme Court, the Third Circuit, and the District of New Jersey conclusively affirm this Court's authority and responsibility to promptly intervene to prevent irreparable constitutional harm and to preserve meaningful judicial review.

Additionally, the Immigration and Nationality Act expressly affirms that all constitutional claims arising from removal proceedings may be reviewed by federal courts. See 8 U.S.C. § 1252(b)(9). Moreover, under 8 U.S.C. § 1229a(c)(3)(A), the burden of proof in removal proceedings rests squarely with the Department of Homeland Security, which must establish removability by clear and convincing evidence.

Proceeding with removal while these core constitutional and statutory issues remain unresolved would violate both the INA and the Due Process Clause.

IV. APPLICATION TO PRESENT CASE

Petitioner satisfies the factors set forth by the Supreme Court in *Nken v. Holder*, 556 U.S. 418, 426 (2009), demonstrating:

- A likelihood of success on the merits, as recognized by this Court's April 29, 2025 Order;
- "Immediate and irreparable harm due to potential mootness;"
- The balance of hardships strongly in Petitioner's favor; and
- The public interest in preserving constitutional rights and ensuring due process.

Furthermore, removal at this stage would violate the requirements of **8 U.S.C. § 1229a(c)(7)**, which allows a stay of removal pending the resolution of legal claims, and undermine the guarantee of federal judicial review under **8 U.S.C. § 1252(a)(2)(D)**, which explicitly preserves the court's jurisdiction over constitutional and legal challenges arising from immigration proceedings.

V. RELIEF REQUESTED

Petitioner respectfully requests that this Court:

1. Grant expedited consideration of his Emergency Motion for Temporary Stay of Removal *pursuant to Fed. R. Civ. P. 6(c)(1)(C)*; and
2. Temporarily stay the immigration hearing and any removal actions scheduled for June 3, 2025, pending resolution of the Habeas Corpus Petition
3. Such relief is necessary to preserve the Court's jurisdiction, protect Petitioner's constitutional rights, and ensure full and fair review.

DECLARATION IN SUPPORT OF EXPEDITED MOTION

I, Eduardo H. Jimenez Perez, under penalty of perjury pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Petitioner in this matter.
2. I have held lawful permanent resident status in the United States since 2006, with a green card valid through 2033.
3. I filed a Petition for Writ of Habeas Corpus in this Court under 28 U.S.C. § 2241, which was administratively terminated on April 28, 2025.
4. On May 2, 2025, I submitted a Motion to Reopen this case, following full compliance with the Court's directive.
5. I also filed an Emergency Motion for Temporary Stay of Removal on May 8, 2025.
6. I am scheduled to appear before the Immigration Court on June 3, 2025, where I risk being issued a final order of removal.
7. If I am removed before this Court resolves my Habeas Petition, I will suffer immediate and irreparable harm by losing my lawful permanent residency, family unity, and meaningful access to constitutional and judicial review.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on **May 14, 2025**, in Lodi, New Jersey.



Eduardo H. Jimenez Perez
Petitioner, Pro-Se

CERTIFICATE OF SERVICE

I hereby certify that on **May 14, 2025**, I served a true and correct copy of this Motion for Expedited Consideration, including all supporting documents, via Certified Mail upon:

- **U.S. Attorney's Office, District of New Jersey**
970 Broad Street, Suite 700
Newark, New Jersey 07102
- **Office of Chief Counsel, DHS/ICE**
970 Broad Street, Room 1300
Newark, New Jersey 07102
- **Clerk of Court**
U.S. District Court, District of New Jersey
Martin Luther King Jr. Federal Building
50 Walnut Street
Newark, New Jersey 07102

Executed on **May 14, 2025**, in Lodi, New Jersey.



Eduardo H. Jimenez Perez
Petitioner, Pro Se

PROPOSED ORDER

Upon consideration of Petitioner Eduardo H. Jimenez Perez's Motion for Expedited Consideration, and for good cause shown, it is hereby ORDERED that:

GRANTED – Petitioner's Emergency Motion for Temporary Stay of Removal shall be reviewed and resolved by the Court on or before June 2, 2025.

DENIED – Petitioner's motion is denied.

DATED: _____, 2025

HON. EVELYN PADIN

United States District Judge

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
NEWARK IMMIGRATION COURT

LEAD FILE: [REDACTED]
IN REMOVAL PROCEEDINGS
DATE: Apr 8, 2024

TO: Law offices of Richard S. Mazawey
Mazawey, Richard S
1135 Broad street
Suite 211
Clifton, NJ 07013

RE: [REDACTED] JIMENEZ PEREZ, EDUARDO H

Notice of In-Person Hearing

Your case has been scheduled for a INDIVIDUAL hearing before the immigration court on:

Date: Jun 3, 2025
Time: 10:30 A.M. ET
Court Address: 970 BROAD STREET, ROOM 1200
COURTROOM G, NEWARK, NJ 07102

Representation: You may be represented in these proceedings, at no expense to the Government, by an attorney or other representative of your choice who is authorized and qualified to represent persons before an immigration court. If you are represented, your attorney or representative must also appear at your hearing and be ready to proceed with your case. Enclosed and online at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers> is a list of free legal service providers who may be able to assist you.

Failure to Appear: If you fail to appear at your hearing and the Department of Homeland Security establishes by clear, unequivocal, and convincing evidence that written notice of your hearing was provided and that you are removable, you will be ordered removed from the United States. Exceptions to these rules are only for exceptional circumstances.

Change of Address: The court will send all correspondence, including hearing notices, to you based on the most recent contact information you have provided, and your immigration proceedings can go forward in your absence if you do not appear before the court. If your contact information is missing or is incorrect on the Notice to Appear, you must provide the immigration court with your updated contact information within five days of receipt of that notice so you do not miss important information. Each time your address, telephone number, or email address changes, you must inform the immigration court within five days. To update your contact information with the immigration court, you must complete a Form EOIR-33 either online at <https://respondentaccess.eoir.justice.gov/en/> or by completing the enclosed paper form and mailing it to the immigration court listed above.