

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

F.J.C.G.,

Petitioner,

v.

MARCELLO VILLEGAS, Facility Administrator
Of the Bluebonnet Detention Center;
JOSHUA JOHNSON, Acting Dallas Field Office
Director for U.S. Immigration and Customs
Enforcement; KRISTI NOEM, Secretary of the
U.S. Department of Homeland Security; and
PAMELA BONDI, Attorney General of the
United States, in their official capacities,

Respondents.

Case No. 1:25-cv-00079-H

**MOTION TO LIFT STAY
OF PROCEEDINGS**

On July 28, 2025 this Court entered an order staying these proceedings “pending the outcome of the appeal of [*W.M.M. v. Trump*, No. 25-10534] at the Fifth Circuit.” On September 2, 2025, the Fifth Circuit issued its opinion, holding among other things that the President’s Proclamation issued on March 14, 2025 improperly invoked the Alien Enemies Act to detain and remove purported Tren de Aragua members as there was no evidence of an invasion or predatory incursion. *W.M.M. v. Trump*, No. 25-10534, Doc. 195-1, p. 35 (5th Cir. Sept. 2, 2025). Because Respondents’ sole basis for detaining F.J.C.G. in violation of the Bond Order issued by the Immigration Court in Chicago, Illinois is the same Proclamation that the Fifth Circuit has now found to be *ultra vires*, Petitioner seeks the immediate lift of the Motion to Stay and an order from this Court granting the Writ of Habeas Corpus. In further support of this Motion, Petitioner states:

1. Following Petitioner's arrest on March 21, 2025 in Illinois by the U.S. Immigration and Customs Enforcement and the Department of Homeland Security, Petitioner was transferred to Dodge Detention Facility in Juneau, Wisconsin. This Petition was initially filed in the U.S. District Court for the Northern District of Illinois ("NDIL Court") on April 15, 2025 upon information and belief that on April 14, 2025 ICE and DHS had transferred Petitioner back to the Broadview Processing Center in Broadview, Illinois with the intent to transfer Petitioner to a detention center in Texas for removal from the United States.

2. On May 15, 2025, based upon evidence submitted by Respondents that Petitioner had already been moved out of Illinois at the time the petition was filed and was now detained at the Bluebonnet Detention Center in Anson, Texas, the parties agreed to, and the NDIL Court ordered, the transfer of the case to the Northern District of Texas.

3. Although the Immigration Court in Chicago, Illinois issued an order dated April 24, 2025, ordering Petitioner's release from detention on payment of a \$1,500 bond (the "Bond Order"), Respondents have rejected Petitioner's multiple attempts to post bond and have refused to release Petitioner in violation of the Immigration Court's Bond Order.

4. Petitioner remains in detention at the Bluebonnet Detention Center. On May 1, 2025, Respondents gave Petitioner notice that he was arrested and detained pursuant to the AEA. *See* Decl. of Laura Smith in Support of Petitioner's Application for Issuance of Order to Show Cause filed with this Court as Attachment 2 of Document Number 47 in this matter.

5. On June 23, 2025 this Court entered an order directing Respondents to show cause why the petition for a writ of habeas corpus filed by Petitioner pursuant to 28 U.S.C. § 2241 should not be granted. Respondents did not file a response to the Order for Show Cause and instead on July 8, 2025 filed a Motion for Stay of Proceedings. On July 28, 2025 this Court entered an order

staying these proceedings “pending the outcome of the appeal of [*W.M.M. v. Trump*, No. 25-10534] at the Fifth Circuit.”

6. On September 2, 2025, the Fifth Circuit issued its ruling in *W.M.M. v. Trump* concluding “that the findings do not support that an invasion or a predatory incursion has occurred. We therefore conclude that petitioners are likely to prove that the AEA was improperly invoked.” *W.M.M. v. Trump*, No. 25-10534, Doc. 195-1, p. 35.

7. In short, the sole basis for Petitioner’s continued detention as asserted by Respondents – the invocation of the Presidential Proclamation issued March 14, 2025 – has been found by the Fifth Circuit to be invalid.

8. The federal habeas corpus statute provides that “[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

9. Section 2243 further provides that the writ or order to show cause “**shall be returned within three days**, unless for good cause additional time, not exceeding twenty days, is allowed.” (emphasis added). Section 2243 further provides that the court shall hold a hearing on the writ or order to show cause “not more than five days after the return unless for good cause additional time is allowed.” In addition, Section 2243 states that the court “shall summarily hear and determine the facts, and dispose of the matter as law and justice require.”

10. As of the date of this filing, Petitioner has been imprisoned for 166 days. Petitioner remains in detention notwithstanding a ruling by the Immigration Court in Chicago finding that Petitioner has no criminal record, is not a flight risk or a danger to community, and should be released on the statutory minimum bond of \$1,500. In addition, the Presidential Proclamation

under which Respondents claimed the independent right to detain Petitioner has now been found by the Fifth Circuit Court of Appeals to have been an improper invocation of the Executive Branch's authority under the AEA. Although Respondents' counsel has noted their opposition to this motion because they intend to appeal the Fifth Circuit decision in *W.M.M. v. Trump*, No. 25-10534, to the U.S. Supreme Court, see attached Certificate of Conference, that decision should have no bearing on this case. Respondents' hope for a different outcome by a different court in a different case does not justify the further detention of Petitioner.

For all of the aforementioned reasons, Petitioner respectfully requests that the stay be lifted and that pursuant to 28 U.S.C. §2243, this Court enter a Writ of Habeas Corpus.

Dated: September 3, 2025

Respectfully Submitted,

/s/ Laura Smith

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Attorneys for Petitioner

CERTIFICATE OF CONFERENCE

I certify that pursuant to LR 7.1(a), Petitioner's counsel conferred with counsel for Respondents regarding the relief requested in this motion. Counsel for Respondents stated that they oppose the motion because its office intends to appeal the recent Fifth Circuit decision in *W.M.M. v. Trump*, No. 25-10534, to the U.S. Supreme Court.

Dated: September 3, 2025

/s/ Laura Smith
Laura Smith
Attorney for Petitioner
Admitted Pro Hac Vice

CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2025, a true and correct copy of the foregoing document was electronically filed via the Court's CM/ECF system which sends notice of electronic filing to all counsel of record.

Dated: September 3, 2025

/s/ Laura Smith
Laura Smith
Attorney for Petitioner
Admitted Pro Hac Vice