UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

ROSMERI ADALUZ MIRANDA-LOPEZ,

Plaintiff,

vs.

Case No. 6:25-cv-01015

KIMBERLY DEAN, ICE Orlando Field Office Director,

Defendants.
_____/

EMERGENCY MOTION TO STAY DEPORTATION

Plaintiff, ROSMERI ADALUZ MIRANDA-LOPEZ, faces imminent removal. She has been placed on an ankle monitor by ICE Orlando and is scheduled to turn herself in on June 12, 2025, for deportation on June 14, 2025. Undersigned counsel accordingly urges this Court to rule on this Motion.[1]

I. PLAINTIFF MERITS A STAY OF HER REMOVAL

The Court has the authority to issue a stay because a Petition for a Writ of Habeas Corpus is pending. When evaluating a Motion to Stay, the Court should consider both the likelihood of success on the merits and the risk of irreparable harm. The balancing test considers "what to do when there is insufficient time to resolve the merits and irreparable harm may result from delay." *Niken v. Holder*, 556 U.S. 418, 432 (2009); *see also Judulang v. Holder*, 565 U.S. 42, 55 (2011) ("[A]gency action must be based on non-arbitrary, relevant factors," including "the purposes of the immigration laws or the appropriate operation of the immigration system"); *In re Reveal AC, Inc.*, 802 F. 3d 558, 569 (3d Cir. 2015). Here, Plaintiff has lived in Apopka, Florida for 24 years.

[1] Emergency action is necessary because the Court will not consider stay requests on weekends or holidays or on weekdays after operating hours, but Immigration and Customs Enforcement's Enforcement and Removal Operations ("ERO") does conduct removals during these times. *See* Immigration Court Practice Manual, CH. 8.3(c)(ii)(A).

She owns her home with her husband, who was just recently deported on June 7, 2025. Since January 2015, Plaintiff has been under an Order of Supervision ("OSUPS"). ICE refused to accept any of Plaintiff's Stay requests after March 2021 despite keeping her under OSUPS. Plaintiff has reported and complied accordingly.

Plaintiff lives with her four children, ages 9, 13, 15, and 21, all of whom are United States citizens and the oldest of which is married to a United States citizen in the Army Reserve. If Plaintiff is deported, the responsibility of raising and caring for the children, operating the family business, and tending to the home will all rest on Plaintiff's oldest daughter, Beverly. Alternatively, if the family elects to follow their parents to Guatemala, they will have to close their business of 10 employees whose families rely on this business for their own livelihoods, sell their house, and acclimate to an unknown culture and education system.

Plaintiff's removal would not only uproot her, but it would also have earth-shattering and life-altering consequences for her children and the employees of the family business owned and operated by her now-deported spouse.

Finally, and most importantly, Plaintiff's husband has followed the administrative process to obtain a U-Visa application under Category C-14, which grants deferred action to victims of crimes *and their spouses* so that they may receive employment authorization and legal status. On December 20, 2024, Plaintiff and her husband received a Bona Fide Determination Notice on the U-Visa Application from USCIS, allowing them to apply for employment authorization, granting them deferred action, and offering them favorable consideration in these administrative proceedings. Pursuant to that December 2024 Notice, Plaintiff filed for employment authorization on February 5, 2025. That application is still pending. This evidence, not previously considered by ICE in either Plaintiff's or her spouse's case, should be weighed heavily in this Court's consideration of preventing irreparable harm.

II. LIKELIHOOD OF SUCCESS ON THE MERITS

The Administrative Procedure Act ("APA") provides that courts "shall…hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion." 5 U.S.C. 706(2)(A). Additionally, the APA requires that agencies follow their own rules, standards, and procedures. Otherwise, the act is considered a violation of due process and an abuse of discretion. As stated in Plaintiff's Petition for Writ of Habeas Corpus, on December 20, 2024, USCIS notified Plaintiff that her U-Visa Application is bona fide, thereby permitting her to apply for a work permit under deferred action. Additionally, a bona fide U-Visa application warrants a "*favorable exercise of discretion*" to receive employment authorization. *See* December 20, 2024, Bona Fide Determination Notice. Plainly, and in their own words, USCIS acknowledged that Plaintiff's case was strong and that her application warranted a favorable outcome.

Plaintiff filed for her work authorization on February 5, 2025, pursuant to her U-Visa Application and the deferred action granted pursuant thereto. That work authorization is pending. For Immigration and Customs Enforcement to now say that deferred action can only be granted *after* work authorization is received is not only counter-intuitive but it is also arbitrary and capricious.

CONCLUSION

For the foregoing reasons, Plaintiff's Emergency Motion to Stay Deportation should be **granted** pending resolution of her Petition for Writ of Habeas Corpus.

Respectfully submitted,

/s/ Richard J. Diaz
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