UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 25-CV-23201 GAYLES

LUIS ALONSO ESPINOSA-SORTO,

Petitioner,

vs.

JUAN AGUDELO, Interim Field Office Director, U.S. Dept. Of Homeland Security Immigration and Customs Enforcement and Removal Operations Miami Field Office; TODD M LYONS, Acting Director U.S. DHS ICE; KRISTI NOEM, Secretary DHS; PAMELA J. BONDI, U.S. Attorney General; and U.S. CITIZENSHIP AND IMMIGRATION SERVICES,

Defendants.
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RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION FOR PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER AND PETITION FOR HABEAS CORPUS

JUAN AGUDELO, in his official capacity as Interim Field Office Director, U.S. Dept. Of Homeland Security Immigration and Customs Enforcement and Removal Operations Miami Field Office, et. al., ("Respondents")[1], by and through the undersigned Assistant U.S. Attorney, hereby file their response in opposition to Petitioner's Motion for Preliminary Injunction and/or Temporary Restraining Order

[1] A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). Petitioner is currently detained at the Krome Service Processing Center, an ICE detention facility in Miami, Florida. His immediate custodian is Charles Parra, Assistant Field Office Director. The proper Respondent in the instant case is Mr. Parra in his official capacity.

[ECF 4] (the "TRO Motion") and to Petitioner's Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief [ECF 1] (the "Petition"). Petitioner cannot meet the high threshold for injunctive relief as requested in his Petition. The Court should deny the TRO Motion dismiss the Petition, and lift the temporary stay of removal [ECF Nos. 5 and 8].

In the underlying Petition, Petitioner claims that his detention violates the Due Process Clause of the Fifth Amendment because U.S. Citizenship and Immigration Services ("USCIS") granted him deferred action and issued employment authorization pursuant to the bona fide determination process for U-1 nonimmigrant status petitioners. *Id.*, ¶¶ 4, 55-59. Petitioner seeks (1) a release from custody, and (2) a stay of his removal. *Id.* ¶ 5.

This Court lacks jurisdiction to review ICE's decision to lawfully detain Petitioner under 8 U.S.C. § 1252(g). Regardless, Petitioner's detention is lawful under Title 8, Section 1231, which governs the detention of an alien subject to a final order of removal from the United States, such as Petitioner. Petitioner has been detained since June 17, 2025, and thus the Petition is premature under *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491 (2001).

The Petition also raises an Administrative Procedure Act ("APA") challenge of the Department of Homeland Security's ("DHS") purported "arbitrary and capricious" decision to "revoke Petitioner/Plaintiff's OSUP [Order of Supervision] without notice or an opportunity to be heard in violation of 8 C.F.R. §§ 241.4(*l*) and 241.13(i)." *Id.* at ¶¶ 69-70. To the extent Petitioner's request for habeas relief is grounded in his assertion that he has not been timely afforded a post-revocation informal interview as described in the Notice of Revocation of Release, this is an insufficient basis on which to grant habeas release from immigration detention. Regardless, the evidence supports a finding that ICE has complied with § 241.4(*l*), thus mooting Petitioner's APA claim.

FACTS

Petitioner Luis Alonzo Espinoza-Sorto, is a native and citizen of Honduras. *See* Exhibit 1, Record of Deportable / Inadmissible Alien (I-213). He unlawfully entered

the United States on or about December 11, 2011, at a time or place other than as designated by the Secretary of the Department of Homeland Security. *See* Exhibit 2, Notice and Order of Expedited Removal (I-860). On December 13, 2011, Petitioner was encountered by U.S. Customs and Border Patrol. *See* Exhibit 1, I-213. Petitioner was determined to have unlawfully entered the United States and did not possess documents to enter, pass through or remain in the United States. *See* Exhibit 1, I-213; *see also* Exhibit 1, I-860.

Petitioner was detained by ICE on December 14, 2011, and processed for expedited removal under section 235(b)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(1). *See* Exhibit 1, I-213; Exhibit 2, I-860; Exhibit 3, EARM Detention History. He was removed from the United States on January 4, 2012. *See* Exhibit 4, Notice to Alien Ordered Removed / Departure Verification.

On an unknown date after his removal, Petitioner re-entered the United States illegally. *See* Exhibit 1, I-213. On or about October 19, 2018, Petitioner was encountered in the United States by immigration officials and his prior order of removal was reinstated. *See* Exhibit 1, I-213; *see also* Exhibit 5, Notice of Intent / Decision to Reinstate Prior Order (I-871). On February 01, 2019, Petitioner was convicted in the United States District Court for the Southern District of Florida for Illegal Reentry after removal in violation of 8 U.S.C. § 1326(a). *See* Exhibit 6, Conviction Records; *see also* Exhibit 1, I-213. He was sentenced to credit time served and one (1) year of supervised release. *See* Exhibit 6, Conviction Records; *see also* Exhibit 1, I-213.

Petitioner was detained by ICE on February 4, 2019. *See* Exhibit 3, EARM Detention History. On February 22, 2019, Petitioner's request for an Administrative Stay of Deportation or Removal was granted for a period of one year. *See* ECF 1-6, p. 42 of 126. He was released from ICE custody on an Order of Supervision on February 26, 2019. *See* Exhibit 3, EARM Detention History. Petitioner has submitted

documentation that on June 14, 2019, he was granted deferred action by U. S. Citizenship and Immigration Services.[2] *See* ECF 1-6, p. 44 of 126.

On June 17, 2025, Petitioner was taken into ICE custody pursuant to the final order of removal. *See* Exhibit 2, I-860 *see also* Exhibit 1, I-213 *and* Exhibit 3, EARM Detention History. Petitioner is presently detained at the Krome Service Processing Center in Miami, Florida. *See* Exhibit 3, EARM Detention History. He is detained under 8 U.S.C. § 1225(b)(1) and 8 C.F.R. § 1235.3(b)(2)(iii). On July 23, 2025, ICE issued a Notice of Revocation of Release to the alien based on changed circumstances, namely a violation of the conditions of release insofar as the Petitioner is associated with a transnational criminal organization, the MS-13 gang. *See* Exhibit 7, Notice of Revocation of Release. ICE also conducted an informal interview pursuant to 8 C.F.R. § 241.4(*l*). *Id.*; *see also* Exhibit 8, Declaration of Deportation Officer Karina Jurdi.

Petitioner has filed a habeas petition and complaint for declaratory and injunctive relief in the District Court for the Southern District of Florida, challenging ICE custody.

LEGAL BACKGROUND

Congress has established a streamlined process for removing aliens who have previously been removed from the United States under a final order of removal and have then reentered the country unlawfully. If the Department of Homeland Security ("DHS") "finds that an alien has reentered the United States illegally after having been removed ... under an order of removal, the prior order of removal is reinstated from its original date." 8 U.S.C. § 1231(a)(5). DHS may "at any time" effectuate removal "under the prior order." *Id.* The reinstated order "is not subject to being

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[2] "[D]eferred-action status is an 'administrative convenience' giving [certain] cases lower priority for removal. . . ." *Patel v. Wilkinson*, No. 19-4254, 2021 WL 2253966, at *2 (6th Cir. Feb. 1, 2021). *See also, e.g.,* 8 C.F.R. § 274a.12(c)(14) (2020) (permitting aliens granted deferred status to apply for employment authorization and noting that deferred action is "an act of administrative convenience to the government which gives some cases lower priority. . ."). Deferred action status is a matter of prosecutorial grace. *See generally Matter of Quintero*, 18 I&N Dec. 348 (BIA 1982).

reopened or re-viewed," and the alien "is not eligible and may not apply for any relief" from the reinstated order of removal. *Id.*

Under the INA, the Department has the authority to grant an order of supervision for an alien subject to a final order of removal who has not been removed within the 90- day removal period. 8 U.S.C. § 1231(a)(3). The regulations explain that an alien released after the removal period "shall be released pursuant to an order of supervision." 8 C.F.R. § 241.5(a). This order of supervision comes with conditions of supervision. *Id.* The regulations also permit the government to revoke this order of supervision. 8 C.F.R. § 241.4(*l*). If an alien violates the conditions of release, he or she is notified of the reasons for revocation and afforded an informational interview to respond to the reasons for revocation. 8 C.F.R. § 241.4(*l*)(1). The regulation also allows the government to terminate an order of supervision if the ICE District Director chooses to in his discretion. 8 C.F.R. § 241.4(*l*)(2). The district director may:

> revoke release of an alien when, in the district director's opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner. Release may be revoked in the exercise of discretion when, in the opinion of the revoking official:
> (i) The purposes of release have been served;
> (ii) The alien violates any condition of release;
> (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or
> (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.

Id. The regulation permits the government extraordinarily broad discretion to revoke an OSUP; and that discretion is expressly not limited to circumstances where an alien violates the conditions of his OSUP. Further, the regulation does not compel the government to demonstrate what facts or factors, if any, it based its decision to revoke under subsections (i), (iii), or (iv); nor does the regulation (or any other authority) require the government to demonstrate what, if any, steps it took to effect or secure removal prior to OSUP revocation.

STANDARD OF REVIEW

Preliminary injunctive relief—whether through a temporary restraining order or a preliminary injunction—is "an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). A preliminary injunction is warranted "only if the moving party shows that: (1) it has a substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest." *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000). "A preliminary injunction is an extraordinary and drastic remedy not to be granted unless the movant clearly established the 'burden of persuasion' " as to each of the four prerequisites. *Id.* (internal citation omitted).

ARGUMENT

In his Petition, the Petitioner asks, *inter alia*, for this Court to enjoin his removal pending adjudication of the Petition, find that the revocation of Petitioner's OSUP and his re-detention violates his Fifth Amendment right to Due Process and the Administrative Procedures Act, and issue a writ of habeas corpus to release Petitioner immediately. *See* Petition at pg. 16-17. Petitioner's claims lack merit.

I. Petitioner Cannot Establish a Likelihood of Success on the Merits of Any Claim

A. 8 U.S.C. § 1252(g) Precludes Review of Petitioner's Claims

The jurisdiction of the federal courts is presumptively limited. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). They "possess only that power authorized by Constitution and statute, which is not to be expanded by judicial decree." *Kokkonen*, 511 U.S. at 377 (internal citations omitted). As relevant here, in 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), which included provisions intended to deprive this Court of jurisdiction over Petitioner's request for injunctive relief that would effectively stay Petitioner's removal.

Specifically, 8 U.S.C. § 1252(g) deprives the Court of jurisdiction to review claims arising from the three discrete actions identified in § 1252(g), including, as relevant here, the decision or action to "execute removal orders." Congress spoke clearly, emphatically, and repeatedly, providing that "no court" has jurisdiction over "any cause or claim" arising from the execution of removal orders, "notwithstanding any other provision of law," whether "statutory or nonstatutory," including habeas, mandamus, or the All Writs Act. 8 U.S.C. § 1252(g). Accordingly, by its terms, this jurisdiction-stripping provision precludes habeas review under § 2241 (as well as review pursuant to the All Writs Act and Administrative Procedures Act) of claims arising from a decision or action to "execute" a final order of removal. *See Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999).

Because a request for a stay of removal arises from the decision by the Attorney General to execute removal orders, the district court lacks jurisdiction to stay an order of removal. *See Camarena v. Director, I.C.E.*, 988 F.3d 1268, 1274 (11th Cir. 2021) ("the statute's words make that clear. One word in particular stands out: 'any.' Section 1252(g) bars review over 'any' challenge to the execution of a removal order—and makes no exception for those claiming to challenge the government's 'authority' to execute their removal orders."). Section 1252(g) explicitly states that "no court shall have jurisdiction to hear *any* cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." (emphasis added). § 1252(g). Indeed, every circuit court of appeals to address this issue has held that § 1252(g) eliminates subject matter jurisdiction over habeas challenges, including constitutional claims, to an arrest or detention for the purpose of executing a final removal order. *See Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022) (holding that it lacked jurisdiction over noncitizen's habeas challenge to the exercise of discretion to execute his removal order); *Tazu v. Att'y Gen. U.S.*, 975 F.3d 292, 297 (3d Cir. 2020) (observing that "the discretion to decide *whether* to execute a removal order includes the discretion to decide *when* to do it" and that "[b]oth are covered by the statute") (emphasis in original); *Silva v. United States*, 866 F.3d 938, 941 (8th

Cir. 2017) (Section 1252(g) applies to constitutional claims arising from the execution of a final order of removal, and language barring "any cause or claim" made it "unnecessary for Congress to enumerate every possible cause or claim"); *Elgharib v. Napolitano*, 600 F.3d 597, 602 (6th Cir. 2010) ("[A] natural reading of 'any other provision of law (statutory or nonstatutory)' includes the U.S. Constitution." (quoting 8 U.S.C. § 1252(g)).

In the habeas petition, Petitioner seeks to have this Court "grant temporary and permanent injunctive relief staying the Petitioner's imminent removal" and "requiring the Respondents to release the Petitioner from custody." Petition at p. 16. Petitioner further requests that the Court "enjoin the Respondents from detaining and deporting the Petitioner while she is the beneficiary of a grant of deferred action and while in compliance with an OSUP." TRO Motion at p. 4. These claims for relief, however, are exactly what § 1252(g) precludes. Petitioner is subject to a reinstated removal order. *See* Exhibit 5, Form I-871, Notice of Intent / Decision to Reinstate Prior Order. The government now intends to execute this order and the Court lacks jurisdiction to intervene. *See E.F.L. v. Prim*, 986 F.3d 959, 965 (7th Cir. 2021) ("Section 1252(g) precludes judicial review of 'any' challenge to 'the decision or action by [DHS] to ... execute removal orders.' That includes challenges to DHS's 'legal authority' to do so and the decision to re-detain Petitioner. *Foster v. Townsley,* 243 F.3d 210, 213 (5th Cir. 2001) (holding that the claim regarding the denial of due process, among others, was "directly connected to the execution of the deportation order" and fell "within the ambit of section 1252(g)" which precluded judicial review). Otherwise, § 1252(g) would be a paper tiger; any petitioner challenging the execution of a removal order could characterize his or her claim as an attack on DHS's 'legal authority' to execute the order and thereby avoid § 1252(g)'s bar."). Thus, Petitioner cannot show a likelihood of success on the merits of Petitioner's claims seeking a stay of removal.

Likewise, Petitioner's argument that the government has unlawfully detained Petitioner is precluded by 8 U.S.C. § 1252(g). Petitioner incorrectly argues that re-detention violates his due process rights. Petition at ¶¶ 71-78. Even if Petitioner

were able to show that ICE violated the regulations, the INA precludes claims that "arise from" the decision to execute a removal order. *Foster*, 243 F.3d at 213. In this case, the revocation of the OSUP and detention of Petitioner were secondary to ICE's plans to execute the final removal order. Thus, Petitioner's claims regarding detention incident to removal are also likely to fail where this Court lacks jurisdiction to review them. *Foster v. Townsley*, 243 F.3d 210, 213-14 (5th Cir. 2001) (holding that the claim regarding the denial of due process, among others, was "directly connected to the execution of the deportation order" and fell "within the ambit of section 1252(g)" which precluded judicial review).

Finally, Petitioner cannot regain this Court's jurisdiction through citation to the APA, as that statute does not provide jurisdiction to review the decision to detain Petitioner prior to removal. *See* Petition at ¶¶ 64-70 (Count I). Section 701(a) of the APA explicitly states, "This chapter applies, according to the provisions thereof, except to the extent that— (1) statutes preclude judicial review; or (2) agency action is committed to agency discretion by law." 5 U.S.C. § 701(a). Not only does § 1252(g) preclude judicial review, but also the government's decision to execute the removal order is discretionary. *American–Arab*, 119 S. Ct. at 943.

To the extent Petitioner's request for habeas relief is grounded in his assertion that he has not been afforded a post-revocation informal interview as described in the Notice of Revocation of Release, this is an insufficient basis on which to grant the requested relief. Neither the Notice of Revocation of Release nor § 241.4(*l*)(1) sets forth a timeframe within which such an interview will take place—other than to assure that it will be done "promptly." The Court should not find that any perceived delay of his interview is sufficiently violative of Petitioner's rights to "promptness" such that the Court should exercise its authority to order Petitioner released. Such an administrative or procedural delay does not rise to the level of constitutional injury warranting the Great Writ. *See Holland v. Heckler*, 764 F.2d 1560, 1563 (11th Cir. 1985) (finding "[t]he ALJ's failure to adequately inform plaintiff of her statutory right is a statutory wrong" but does not "rise[] to the level of a constitutional wrong"); *Tanha v. Warden, Balt. Det. Facility*, No. 25-cv-02121, 2025 U.S. Dist. LEXIS 140142,

at *15 (D. Md. July 22, 2025) (finding government's failure to provide § 241.4(*l*)(1) interview within 21 days of OSUP revocation insufficient basis to grant habeas relief and order release from immigration detention). Regardless, the evidence supports a finding that ICE has followed § 241.4(*l*), thus mooting Petitioner's APA claim. *See* Exhibit 7, Notice of Revocation Release *and* Exhibit 8, Jurdi Declaration; *Roe v. Oddo*, No. 25-cv-128, 2025 U.S. Dist. LEXIS 130489, at *21 (W.D. Pa. July 9, 2025) (finding that once notice under § 241.4(*l*)(1) is provided, "no APA violation exists.")

B. Petitioner Cannot Seek a Stay via a Writ of Habeas Corpus

The relief sought by Petitioner—a stay of removal so as to remain in the United States while an application is pending—is relief that is unavailable in habeas. This is not a challenge to the legality of Petitioner's detention. "Habeas is at its core a remedy for unlawful executive detention." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). The writ of habeas corpus and its protections are "strongest" when reviewing "the legality of Executive detention." *INS v. St. Cyr*, 533 U.S. 289, 301 (2001). Therefore, the traditional function of the writ is to seek one's release from unlawful detention. *Department of Homeland Security v. Thuraissigiam*, 140 S. Ct. 1959, 1969 (2020) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)). As the Supreme Court has held, relief other than "simple release" is not available in a habeas action. *See Thuraissigiam*, 140 S. Ct. at 1970–71 ("Claims so far outside the core of habeas may not be pursued through habeas.") (internal quotations and citations omitted).

But instead of simple release, Petitioner seeks a full stop to removal. *See generally* TRO Mot., Habeas Pet. This is not the type of relief that the Supreme Court found to be subject to habeas review. *See Thuraissigiam*, 140 S. Ct. at 1970 (holding that the relief sought, which did not include release, fell "outside the scope of the common-law habeas writ"). In reversing the Ninth Circuit's decision, the Supreme Court concluded that habeas has been historically used to challenge confinement and detention. *Id.* at 1969–70. In *Thuraissigiam*, the petitioner did not seek "simple release," and if he had sought proper habeas relief, it would take the form of release "in the cabin of a plane bound for [the designated country]." *Id.* at 1970. Other circuits have followed this principle. *See, e.g.*, *Tazu*, 975 F.3d at 300 ("And Tazu's

constitutional right to habeas likely guarantees him no more than the relief he hopes to avoid—release into 'the cabin of a plane bound for Bangladesh.'") (brackets omitted); *E.F.L.*, 986 F.3d at 965-66 (holding that a petitioner could not invoke an alleged Suspension violation when a petition does not contest the lawfulness of restraint or seek release from custody).

Though Petitioner claims to seek release from detention, in reality Petitioner seeks to remain in the United States to pursue other immigration benefits. The Supreme Court has taken a "narrow view of habeas relief in the immigration context, which supports [a] reluctance to extend habeas relief to aliens who are released from detention." *See Bacilio-Sabastian v. Barr*, 980 F.3d 480, 483 (5th Cir. 2020) (citing *Thuraissigiam*, 140 S. Ct. at 1963). Because this Court should reject Petitioner's request to expand it further, Petitioner's habeas claim is not likely to succeed on the merits.

C. The Government Lawfully Re-Detained Petitioner

Should this Court determine that it retains jurisdiction over Petitioner's habeas claim, Petitioner still cannot establish a likelihood of success on the merits. Petitioner is subject to a reinstated order of removal. Pursuant to 8 U.S.C. § 1231(a)(5), Petitioner's "prior order of removal is reinstated from its original date . . . and [Petitioner] shall be removed under the prior order at any time after the reentry." Because Petitioner's prior order of removal was final on December 13, 2011, Petitioner is now outside of the 90-day removal period during which the government "shall detain" the individual. 8 U.S.C. § 1231(a)(2). Petitioner was permitted to remain in the United States under an OSUP, as authorized by 8 U.S.C. § 1231(a)(3). However, 8 U.S.C. § 1231(a)(6) allows the government to detain an alien ordered removed beyond the removal period if the individual is inadmissible under § 1182, removable under § 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4), or has been determined to be a risk to the community or unlikely to comply with the order of removal. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), Petitioner may be held in confinement until it has been determined that there is "no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701

Furthermore, the Supreme Court has emphasized that "detention during deportation proceedings [remains] a *constitutionally valid* aspect of the deportation process." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (emphasis added). The Supreme Court has never held that aliens have a constitutional right to be released from custody during the pendency of removal proceedings, and, in fact, has held precisely the opposite. *See id.* at 530; *see also Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of this deportation procedure.").

Regulations also allow the government to terminate an order of supervision if the ICE District Director chooses to in his discretion. 8 C.F.R. § 241.4(*l*)(2). In reviewing a similar case, a district court judge in Texas described 8 C.F.R. § 241.4 as a regulation that "prescribes in considerable detail a set of custody reviews, release procedures, and other processes, but through that forest has been cut that short and straight path for immigrants whom the government is ready and able to remove." *Alam*, 312 F. Supp. 3d at 582. That court noted that ICE officials have discretion to revoke a person's release when "[i]t is appropriate to enforce a removal order." *Id.* (citing 8 C.F.R. § 241.4(*l*)(2)(iii)). In turn, "the possibility of 'prompt removal' suspends the custody reviews that the regulation otherwise requires." *Id.* (citing 8 C.F.R. § 241.4(k)(3)). Because ICE intends to remove Petitioner to Honduras, Petitioner cannot establish a likelihood of success on the argument that the decision to revoke the OSUP violated any due process rights.

II. Petitioner Will Not Suffer Irreparable Harm

Petitioner argues he will "likely suffer irreparable harm in the absence of preliminary relief from deportation." TRO Motion at p. 2. But the relief available in habeas is release from confinement, not a full stop to removal to pursue other immigration relief. Petitioner would not be irreparably injured by denying a stay when these habeas proceedings cannot provide the relief Petitioner seeks. ICE's actions here are nothing more than an attempt to enforce the final removal order in accordance with the law. *See AADC*, 525 U.S. at 490 (presence of removable foreign national is a "continuing violation of United States law"). Petitioner does not establish a cognizable harm in the motion for preliminary relief.

III. Petitioner Cannot Show That His Threatened Injury Outweighs Whatever Damages the Proposed Injunction May Cause the Government.

Second, the threatened injury to Petitioner does not outweigh the damage the injunction will cause Respondents. An injunction precluding Respondents removing Petitioner would deprive Respondents of their statutory ability to execute his removal order. The government's interests in maintaining the existing removal procedures are legitimate and significant. As a general matter, the Supreme Court has stressed that the government "need[s] . . . flexibility in policy choices rather than the rigidity often characteristic of constitutional adjudication" when it comes to immigration regulation. *Mathews v. Diaz*, 426 U.S. 67, 81 (1976).

Yet, Petitioner would have this Court enjoin the enforcement of an unquestionably lawful and final removal order. Petitioner's request for a stay would result in the extension of "ongoing violation[s] of United States law" through delay and fragmentation of the enforcement of the immigration laws. *AADC*, 525 U.S. at 491. Congress, however, specifically amended the INA, including through 8 U.S.C. § 1252(g), with precisely such delay and fragmentation in mind. *See AADC*, 525 U.S. at 487 ("[8 U.S.C. § 1252(g)] is specifically directed at the deconstruction, fragmentation, and hence prolongation of removal proceedings."). The public has a strong interest in enforcement of these laws, and "[t]he contention that a violation must be allowed to continue because it has been improperly selected is not powerfully appealing." *Id.* As the Supreme Court observed, "[t]here is always a public interest in prompt execution of removal orders[.]" *Nken v. Holder*, 556 U.S. 418, 436 (2009) (internal quotation omitted). And "that interest may be heightened" by the circumstances of a particular case. *Id.* Here, the public interest generally favors the removal of an individual who has demonstrated repeated disregard for both the immigration and criminal law.

IV. If Issued, the Injunction Would be Adverse to the Public Interest.

An issuance of an injunction preventing Respondents from executing the removal order would be adverse to the public interest because enforcing federal immigration law furthers the public's interest. *See Garcia v. Martin*, 379 F. Supp. 3d

1301, 1308 (S.D. Fla. 2018) (denying a preliminary injunction requesting a stay of removal because an execution of a removal order "is commensurate with the public's interest in enforcing federal law."); *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) ("The Government's interest in efficient administration of the immigration laws . . . is weighty."). Detention following entry of a final removal order remedies this risk by "increasing the chance that, if ordered removed, the alien[] will be successfully removed." *Demore*, 538 U.S. at 528.

CONCLUSION

For the foregoing reasons set forth above, the Court should deny the Petition, deny the TRO Motion, and dismiss this case.

Respectfully submitted this July 29, 2025,

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APPENDIX: LIST OF EXHIBITS