UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 25-CV-23792-BLOOM/ELFENBEIN

PIERRE REGINALD BOULOS,

Petitioner,

v.

DIRECTOR, U.S. DHS ICE ERO MIAMI FIELD OFFICE, *et al.*,

Respondents.

_____/

PETITIONER'S REPLY IN SUPPORT OF EXPEDITED MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION

INTRODUCTION

Respondents do not rebut Dr. Boulos' arguments—they run from them. They offer no meaningful counterargument to Dr. Boulos' claim that he remains a U.S. citizen, nor do they even venture a response to his ultra vires challenge to the regulation under which he has been detained without the possibility of release on bond for 127 days. Instead, Respondents advance specious arguments challenging this Court's jurisdiction to consider Dr. Boulos' citizenship claim while sidestepping the significant Suspension Clause concerns Dr. Boulos raised in his TRO, mischaracterizing Dr. Boulos' motion as a challenge to the conditions of his confinement (which it is not), and asserting that Dr. Boulos is seeking through the motion the same relief he is seeking through his habeas petition (which he is not). Notwithstanding their callous description of Dr. Boulos' pain and suffering, Respondents also fail to dispute that he will suffer irreparable injury absent relief. In sum, nothing in Respondents' Response should give this Court a moment's pause about ordering Dr. Boulos' immediate release.

I. RESPONDENTS FAIL TO CONTEST DR. BOULOS' ARGUMENT THAT HE IS MANDATORILY DETAINED UNDER AN UNLAWFUL REGULATION

Respondents offer no defense to Dr. Boulos' argument that the regulation under which he has been detained for 127 days without the possibility of release on bond—8 C.F.R. § 1003.19(h)(2)(i)(C)—is ultra vires. *Compare* Dkt. 31 at 16–18, *with* Dkt. 35. Nor do they challenge this Court's power to release Dr. Boulos on the basis that his continued detention under 8 C.F.R. 1003.19(h)(2)(i)(C) is unlawful. Any objections to Dr. Boulos' position are therefore waived. *T.R. by & through Brock v. Lamar Cnty. Bd. of Educ.*, 25 F.4th 877, 884–85 (11th Cir. 2022) (deeming waived argument appellant failed to raise in brief in opposition to summary judgment motion). For these reasons alone, the Court can and should order Dr. Boulos' immediate release.

II. RESPONDENTS POINT ONLY TO THE IJ'S HOLLOW REMOVABILITY FINDING TO COMBAT DR. BOULOS' CITIZENSHIP CLAIM

Respondents fail to substantively engage with Dr. Boulos' argument that he is a U.S. citizen. They do not explain why the State Department has failed to produce a single *approved* certificate of loss of nationality, nor do they acknowledge the IJ's statement that Dr. Boulos

"remains a U.S. citizen." Dkt. 31-5.[1] Instead, Respondents hide behind flawed jurisdictional arguments and assert that the IJ resolved the issue of Dr. Boulos' citizenship. *See* Dkt. 35 at 4.

Notably, Respondents do not grapple with the reality that the IJ's "finding" that Dr. Boulos is not a U.S. citizen is utterly hollow. It is the product of an analysis—or lack thereof—in which the IJ expressly disclaimed his authority to critically examine the State Department's actions. At no point do Respondents address the IJ's incoherent position on his authority to determine alienage. Dkt. 31 at 10–11 n.11. The IJ stated repeatedly that he lacked jurisdiction to consider Dr. Boulos' challenge to the validity of his alleged renunciation. *See id.* at 6–7 (collecting quotations). For example, when Dr. Boulos' counsel told the IJ that the threshold issue to resolve is alienage, the IJ stated that this was different from the "normal case," because here he was being asked to "determine whether what the Department of State did is correct or not[,]" which he believed he lacked jurisdiction to do. *Id.* at 16.[2] However, one might mistakenly conclude from reading Respondents' brief that Dr. Boulos had a fair shot at terminating his proceedings based on his citizenship, when, in fact, he never did. Dkt. 35 at 4–5.

Despite four months of litigation before the IJ, the agency has not meaningfully considered Dr. Boulos' citizenship claim, nor will it for possibly years to come. Given the conclusion that the IJ lacks the power to assess whether the State Department effectively renounced Dr. Boulos' citizenship, his citizenship claim will not be reviewed until the IJ renders a *final* decision resolving all applications for relief in the removal proceedings;[3] he appeals to the BIA; and then waits

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[1] Respondents do not dispute the myriad procedural defects in the renunciation process identified in Dr. Boulos TRO. Dkt. 31 at 15 n. 14. Their silence speaks volumes.

[2] *See also id.* at 21 ("I am not going to travel down that path of determining whether [the renunciation] was done correctly."); *id.* at 24 (refusing to rule on "whether the Department of State did it the right way or not.").

[3] 8 C.F.R. §§ 1003.1(b)(3) (establishing BIA jurisdiction over appeals of decisions of IJs in removal proceedings); *id.* § 1240.50 (the "decision of immigration judge" shall include deportability findings and "the reasons for granting or denying the request [for relief from removal.]"). In footnote 1 of Respondents' brief, they imply that Dr. Boulos can *now* file an appeal of the IJ's removability determination and obtain administrative review of the IJ's implicit alienage finding. Dkt. 35 at 5 n.1. Not so. Such an appeal would be an interlocutory appeal, which the BIA is virtually certain *not* to entertain under these circumstances. "As a general rule," the BIA "does not entertain appeals from interlocutory decisions of immigration judges." *Matter of Ruiz-Campuzano*, 17 I. & N. Dec. 108, 109 (B.I.A. 1979). In fact, the BIA generally limits such appeals to "instances involving either important jurisdictional questions regarding the administration of the immigration laws or recurring questions in the handling of cases by Immigration Judges." *Matter of K-*, 20 I. & N. Dec. 418 (B.I.A. 1991).

patiently for well over six months for the BIA (recently reduced from 28 to 15 members) to decide.[4] Even then, the BIA could well remand the case to the IJ for factfinding, because the BIA does not engage in it. 8 C.F.R. § 1003.1(d)(3)(iv). With blithe bureaucratic indifference, Respondents ignore this reality and its implications for a 69-year-old U.S. citizen's liberty, health, and well-being.

III. RESPONDENTS' ARGUMENTS THAT THE COURT LACKS JURISDICTION OVER DR. BOULOS' REQUEST FOR RELEASE BASED ON HIS U.S. CITIZENSHIP FALL FLAT

a. Respondents' argument that § 1252(b)(5) strips jurisdiction is unavailing.

Respondents assert that "[a]n individual in removal proceedings may have [their] nationality claim decided *only* as provided under 8 U.S.C. § 1252(b)" and then make the unsupported leap to conclude that this Court—while sitting in habeas and entertaining a challenge to the legality of Dr. Boulos' confinement—"lacks jurisdiction[.]" Dkt. 35 at 5. This demonstrates a misunderstanding of the statute. First, as then-District Judge Jordan has noted, § 1252(b)(5) "does not address the jurisdiction of a federal district court to decide [citizenship] issues[.]" *Roberts v. ICE*, 2009 WL 1069945, at *1 (S.D. Fla. May 12, 2009). Moreover, nothing in § 1252(b) strips this Court of the power to release Dr. Boulos based on his claimed U.S. citizenship. *See Lopez v. Doe*, 681 F. Supp. 3d 472, 483 (E.D. Va. 2023) (finding that § 1252 does not bar habeas review of unlawful detention based on a citizenship claim). What § 1252(b) establishes is a scheme for judicial review of *final orders of removal*, which Dr. Boulos may pursue if he does not prevail in his removal proceedings.[5] At this time, of course, Dr. Boulos is not subject to a final order of removal, and his release would not interfere with the statutory scheme described in § 1252(b), because he would remain in removal proceedings if released. Thus, Respondents' reliance on § 1252(b) is decidedly incorrect. Dkt. 35 at 5.

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[4] *See* 90 Fed. Reg. 15525, 15528 (2025); 8 C.F.R. § 1003.1(a)(1) (2025); *Rodriguez v. Bostock*, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (noting that government data from 2024, before the BIA was purged of half its members, "showed an average processing time of 204 days for *bond* appeals."). Another factor sure to further slow already glacial processing times is the massive expansion of immigration detention. *See* TRAC Immigr., Table, ICE Detainees – 2019 to present, https://tracreports.org/immigration/detentionstats/pop_agen_table.html [https://perma.cc/FV27-82QM] (indicating that on September 21, 2025, there were 59,762 individuals in ICE custody as compared to 39,152 on December 29, 2024).

Moreover, as noted in *Roberts*, the jurisdiction stripping provisions at 8 U.S.C. § 1252 only apply to *non*citizens. 2009 WL 1069945, at *2. Adopting the reasoning of *Ayesh v. ICE*, 2008 WL 4442633 (N.D. Ill. Sept. 26, 2008), *Roberts* held that when a petitioner has a "colorable claim of nationality" the jurisdictional bars at § 1252 do "not apply at this stage of the proceedings, and the merits [of the habeas petition] can be adjudicated." 2009 WL 1069945, at *2 (referencing § 1252(g), a similar jurisdiction-channeling provision that applies only to noncitizens). In *Ayesh*, the court explained that the scheme at 8 U.S.C. § 1252 does not address the court's jurisdiction over a habeas petition filed by a potential U.S. citizen in removal proceedings:

> Without such clear and convincing evidence, it would be inappropriate to apply a jurisdictional prohibition against a person who does not fall within its express scope . . . . Accordingly, to determine whether [§ 1252] bars the Court's jurisdiction over Ayesh's petition, **the Court must determine whether Ayesh is an alien or a citizen[**.]"

2008 WL 4442633, at *3 (emphasis added). Dr. Boulos has much more than a mere "colorable claim" to citizenship, and thus § 1252 is not implicated here. *See, e.g.*, *Roberts*, 2009 WL 1069945, at *2 (exercising jurisdiction over habeas claim of petitioner in removal proceedings and finding colorable claim to citizenship based on approved naturalization application); *Flores-Torres v. Mukasey,* 548 F.3d 708, 713 (9th Cir. 2008) (finding claim of derivative citizenship "non-frivolous on its face" despite unresolved issue of legitimacy under foreign law). Dr. Boulos was born a U.S. citizen. Dkt. 1-1. Respondents' own evidence shows that the State Department botched Dr. Boulos' renunciation once before and failed to discover its error for over a decade. Dkt. 16-2. This admission alone makes it plausible that the 2019 renunciation was also defective. Coupled with a review of the purported 2019 CLN and the Expert Declaration of Ian Hopper, identifying multiple deviations from mandatory Foreign Affairs Manual procedures, none of which Respondents bother to explain, the evidence far surpasses that of a colorable claim to citizenship. Dkt. 18-1.

b. **Section 1503(a) does not divest this Court of jurisdiction because Dr. Boulos' citizenship claim arose outside of removal proceedings.**

Respondents incorrectly claim that 8 U.S.C. § 1503(a)(1) divests this Court of jurisdiction over Dr. Boulos' claim. That statute creates a cause of action for any person denied a right or privilege of citizenship but restricts the right to bring such an action where "the issue . . . arose" in removal proceedings. *Id.* As discussed below and in Dr. Boulos' TRO, the "issue" of Dr. Boulos'

U.S. citizenship arose not in 2025 but in 2019, when the State Department made clear that his attempted 2008 renunciation was ineffective.[6] Dkt. 31 at 11.

Notably, Respondents' position rests on an unpublished out-of-circuit decision, *Olopade v. Attorney General*, that did not even reach the issue of whether § 1503(a)(1) barred habeas review. Dkt. 35 at 6; *Olopade*, 565 F. App'x. 71, 74 (3d Cir. 2014) ("We need not determine whether the [d]istrict [c]ourt retained habeas jurisdiction to consider Olopade's claim, however, as the petition was properly dismissed as being without merit."). In *Olopade*, the petitioner was subject to a final order of removal in which an IJ had issued "factual findings" regarding his claim to citizenship based on completing all but one of the steps of the naturalization process. 565 F. App'x at 74.[7] But *Olopade* is inapposite, because Dr. Boulos has not been ordered removed and has not had the benefit of "factual findings" but rather a conclusory ruling from an IJ who, despite finding Dr. Boulos a citizen and the renunciation "botched," refused to engage with evidence of citizenship.

Respondents also cite to *Rios Valenzuela v. DHS*, 506 F.3d 393 (5th Cir. 2007), but it also does not apply. Dkt. 35 at 5. There, the Fifth Circuit held that a court retains jurisdiction where "a citizenship claim finds its genesis outside of the context of removal proceedings[.]" 506 F.3d at 398–99; *see also id.* at 398 (defining the exception contained at § 1503(a) as focusing on "the proceeding in which the particular claim to citizenship originates, not the proceeding in which it is being pursued."). The court concluded that the foreign-born petitioner's claim—premised on derivative citizenship asserted through naturalization applications filed during removal proceedings—did not meet that standard because it arose within removal proceedings. By contrast, applying the *Rios Valenzuela* test, *Raya v. Clinton* found that § 1503(a) did not bar review of the citizenship claim of a diplomat's U.S.-born daughter, whose passport application was denied years before removal proceedings began. 703 F. Supp. 2d 569, 572–73, 575 (W.D. Va. 2010). The court

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[6] Respondents do not invoke 8 U.S.C. § 1503(a)(2), the only other subsection that limits habeas review over certain citizenship claims. Petitioner assumes they declined to rely on that provision because they cannot plausibly argue that Dr. Boulos' citizenship claim is "in issue" in his removal proceedings. Something must be "under discussion" or "in dispute" to be "in issue." *Issue*, Merriam-Webster.com, https://www.merriam-webster.com/dictionary/issue (last visited Nov. 21, 2025). But the IJ expressly refused to entertain Dr. Boulos' arguments regarding his citizenship.

[7] The brief analysis engaged in by the *Olopade* court regarding § 1503 only undermines Respondents' opposition. *See* 565 F. App'x. at 73–74 ("While the REAL ID Act stripped federal courts of habeas jurisdiction over petitions for review of removal orders . . . the Act did not specifically preclude habeas review over claims of citizenship raised outside of the context of a challenge to a removal order.")

held that, although the plaintiff "sought to terminate the removal proceedings based on the assertion that she is a United States citizen by birth, her nationality claim in the instant action clearly 'finds its genesis outside of the context of removal proceedings.'" *Id.* at 575 (quoting *Rios-Valenzuela*, 506 F.3d at 399). The denial of the passport—not the removal proceedings—formed the basis of the habeas claim. *Id.* Like the petitioner in *Raya*, Dr. Boulos' citizenship claim unquestionably "finds its genesis outside of removal proceedings." *Id.* Unlike the petitioner in *Rios Valenzuela*, who sought to acquire citizenship through naturalization applications filed during proceedings, 506 F.3d at 396, Dr. Boulos possessed U.S. citizenship his entire life and to this day. The genesis of his claim is the State Department's mishandling of his renunciation in 2008 and subsequently in 2019, in a series of events that occurred entirely outside of and prior to these removal proceedings. Thus, § 1503(a) does not bar the instant claim.[8]

c. The administrative process that Respondents describe has failed here, sharpening the Suspension Clause concerns.

The rosy picture of the statutory scheme Respondents paint is that of a well-functioning administrative process in which an individual in removal proceedings with a claim to U.S. citizenship receives meaningful adjudication of that claim before the agency. Dr. Boulos' case looks nothing like this. The IJ has repeatedly disclaimed the ability to engage with the factual underpinnings of Dr. Boulos' citizenship claim. *See supra.* Rather than conducting the searching review Respondents claim exists, the IJ simply refused to look beyond the State Department's assertion that the renunciation was valid, while at the same time acknowledging glaring errors in the process. Exhausting the administrative process in this case means Dr. Boulos will potentially face years of unlawful detention as a putative U.S. citizen, during which time he runs a significant risk of irreversible vision loss, among other great bodily harm.[9]

To determine whether the Suspension Clause applies, courts must consider (1) whether the petitioner is entitled to invoke the clause and (2) whether an adequate and effective substitute to habeas exists to test the legality of the detention. *Boumediene v. Bush*, 553 U.S. 723, 766 (2008).

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[8] To the extent this Court finds otherwise, it need not find that the statute has a knock-on effect on Dr. Boulos' unlawful detention claims. *See Lopez*, 681 F. Supp. 3d at 486 (finding that § 1503(a) barred review of citizenship claim but "does not take [petitioner's] detention claim with it, despite . . . involv[ing] the same underlying question [of] whether Mr. Lopez is a [U.S.] citizen.").

[9] Dr. Boulos' evidence of medical neglect and need for urgent medical intervention is completely unrebutted by Respondents. *See* Dkt. 31-2, 31-3, 31-7.

Whether a petitioner may invoke the Suspension Clause turns on (1) his citizenship and status of and the adequacy of the status determination; (2) the nature of the cite of arrest and detention; and (3) practical obstacles to resolving entitlement to the writ. *Id. First*, Dr. Boulos has "'longstanding' ties to the United States," having been born here as a U.S. citizen. *Lopez*, 681 F. Supp. 3d at 487. *Second*, he was arrested and detained in the United States. *See id.* (finding arrest in United States "tilts the second factor in favor of the Suspension Clause."). *Third*, there are no "practical obstacles to resolving the writ," other than the kind of "incremental expenditure of resources" that is not "dispositive[.]" *Id.* (quoting *Boumediene*, 553 U.S. at 769).

Where, as here, no adequate alternative exists, the Suspension Clause must be invoked. *Lopez,*681 F. Supp. 3d at 488; *see also Axon Enter., Inc. v. FTC*, 598 U.S. 175, 904 (2023) (habeas court should timely provide relief to petitioner claiming immediate injury from unconstitutional agency action). In this unique case, where Dr. Boulos is suffering irreparable harm and has a bona fide claim to U.S. citizenship that has not been heard because the administrative scheme Respondents tout has failed, "[t]he separation of powers and the Suspension Clause commands that the Judiciary have a role[.]" *Lopez,* 681 F. Supp. 3d at 490. Notably, Respondents do not address Dr. Boulos' Suspension Clause argument at all, and thus waive any challenge to it. *T.R. by & through Brock,* 25 F.4th at 884–85. Respondents cannot explain how a years' long—and, in this case, defective—administrative process, where the IJ is prohibited from evaluating whether he should be detained at all, constitutes an "adequate and effective alternative" to habeas for someone like Dr. Boulos, who faces undisputed imminent harm. *See Lopez*, 681 F. Supp. 3d at 488 (invoking suspension clause where putative U.S. citizen "would have suffered months (or years) of unjustified and unlawful detention without any review. It is hard to call a process that potentially results in extended unlawful detention 'adequate' and 'effective.' Indeed it is anything but."). It is imperative that the Court exercise jurisdiction over Dr. Boulos' claim and order his release.

IV. RESPONDENTS MISCHARACTERIZE EVIDENCE OF IRREPARABLE HARM AS A CONDITION-OF-CONFINEMENT CHALLENGE

Respondents do not deny that the permanent loss of vision and even blindness that Dr. Boulos might suffer absent relief constitutes irreparable harm. Instead, Respondents attempt to distract the Court by mischaracterizing Dr. Boulos' habeas petition and request for immediate release as "ultimately an objection to his conditions of confinement." Dkt. 35 at 7. But neither Dr. Boulos' habeas petition nor his TRO argue that inadequate treatment for wet macular degeneration

or any other condition of his confinement warrants his release. What justifies granting the TRO and ordering Dr. Boulos' immediate release is that his detention is unlawful because he is a U.S. citizen and because the regulation under which he has been mandatorily detained is ultra vires. Dr. Boulos' habeas petition says nothing about wet macular degeneration, the prospect of irreversible vision loss or blindness, medical treatment he has or has not received, or use the words "deliberate indifference," as Respondents suggest. *Id.* at 8 n.2. Dr. Boulos has raised the alarm of potentially irreversible vision loss as one critical factor establishing irreparable harm and requiring urgent, injunctive relief on an expedited basis.

Each case cited to support Respondents' mischaracterization of this evidence concerns a condition-of-confinement challenge and is thus inapposite. For example, in *Gomez v. United States*, the petitioner sought habeas relief based on a federal prison's purported inability to provide adequate treatment for late-stage AIDS. 899 F.2d 1124, 1125–26 (11th Cir. 1990). In *Vaz v. Skinner*, the petitioner sought habeas relief because "he had not received adequate medical treatment for pain in his right eye." 634 F. App'x 778, 780 (11th Cir. 2015). And in *Matos v. Lopez Vega*, the petitioners "challeng[ed] the *conditions of their confinement*" due to the COVID-19 pandemic and "not the *fact or duration* of their detention." 614 F. Supp. 3d 1158, 1167 (S.D. Fla. 2020) (alteration in original). None of these cases govern how the Court should proceed here, and the Court need not be fooled by such a red herring.

Courts may consider conditions of confinement in the context of analyzing the irreparable harm necessary to grant a TRO, even though the underlying habeas petition cannot seek relief on such grounds. For example, in *Ambrosi v. Warden, Folkston ICE Processing Center*, a detained petitioner subject to a removal order sought his immediate release or a bond hearing because his prolonged detention violated his due process rights and the APA. 2025 WL 2779210, at *2 (S.D. Ga. Aug. 18, 2025), *report and recommendation adopted*, 2025 WL 2772500 (S.D. Ga. Sept. 29, 2025). As here, the petitioner sought habeas relief and his immediate release based on the unlawfulness of his detention and *not* any condition of confinement. Nevertheless, in support of his claim for injunctive relief requiring his immediate release, he raised "health concerns and [an] avowed lack of proper medical care" to establish an "irreparable injury that outweigh[ed] whatever perceived harm [the Government] face[d] by releasing [the Dr. Boulos] from ICE's custody." 2025 WL 2779210, at *4. The district court properly considered the petitioner's health concerns as evidence of irreparable harm, without mischaracterizing such concerns as the ultimate grounds for

the petitioner's habeas petition and request for release. *See Mahmood v. Nielsen*, 312 F. Supp. 3d 417, 425 (S.D.N.Y. 2018) (habeas plaintiff challenging constitutionality of continued detention established irreparable harm required for TRO releasing him from custody by showing "consequences of [his] detention" including hospitalizations "for stress-related heart issues"). Accordingly, the Court can and should consider the inadequate treatment that Dr. Boulos has received for a severe eye condition that could blind him as evidence of irreparable harm.

V. THE TRO SEEKS DISTINCT RELIEF FROM THE HABEAS PETITION AND ANY OVERLAP PROVIDES NO BASIS TO DENY THE TRO

Respondents also mischaracterize Dr. Boulos' release as the "relief that he ultimately pursues in this habeas action," Dkt. 35 at 8–9, ignoring the breadth of other claims advanced in the habeas petition and the narrow relief sought in the TRO. Among other things, Dr. Boulos' habeas petition seeks a declaration that his detention violates the First Amendment and declaration that the Attorney General, EOIR Acting Director, and Secretary of State violated the APA. The instant TRO does not seek relief as to *any* of those claims, and Dr. Boulos' habeas case and parallel removal proceedings will proceed even if the Court issues a TRO and orders Dr. Boulos' release. The mere fact that some of the relief sought in the instant TRO and the habeas petition overlaps does not preclude Dr. Boulos' immediate release.[10]

Moreover, Respondents' contention that Dr. Boulos seeks to alter the status quo through this TRO, *id.* at 8, contravenes Eleventh Circuit law. "Courts have long held that the status quo for the purposes of considering a temporary restraining order or preliminary injunction refers to the *last peaceable uncontested status* existing between the parties before the dispute developed." *Doe 1 v. Bondi*, 785 F. Supp. 3d 1268, 1287–88 (N.D. Ga. May 2, 2025) (emphasis added) (citing *Canal Auth. of Fla. v. Calloway*, 489 F.2d 567, 576 (5th Cir. 1974)); *see also FHR TB, LLC v. TB Isle Resort, LP*, 865 F. Supp. 2d 1172, 1193 (S.D. Fla. 2011) ("[T]he *status quo ante* to be achieved by injunctive relief is the position the parties held *at the time of the last uncontested act* between the

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[10] Respondents' reliance on *Nyang v. Barr*, 2019 WL 13223717 (N.D. Ala. Nov. 25, 2019), is unavailing. Dkt. 35 at 9. There, petitioner "simply restate[d] the grounds for habeas relief" in his TRO. 2019 WL 13223717, at *1. Here, however, the TRO only seeks Dr. Boulos' release on two of the claims advanced in his habeas petition; the other claims will remain before the Court even if it grants Dr. Boulos' TRO. Further, unlike in *Nyang*, there is "a sufficient basis for temporary injunctive relief separate from the underlying merits of [Dr. Boulos'] petition," *id.* at *2, including the unavailability of adequate treatment for his wet macular degeneration, which has already caused Dr. Boulos a harrowing injury and could result in lifelong blindness. *See* Dkt. 31 at 19–20.

parties." (alteration in original)). In other words, "[s]tatus quo does not mean the situation existing at the moment the lawsuit is filed, but the last peaceable uncontested status existing between the parties before the dispute developed." *Nutra Health, Inc. v. HD Holdings Atlanta, Inc.*, 2021 WL 5029427, at *2 (N.D. Ga. June 29, 2021) (citation omitted). In Dr. Boulos' case, the status quo was when he lived at liberty as a lawful permanent resident, exercising his freedom from unlawful restraint.[11] The Court should restore the status quo by ordering Dr. Boulos' immediate release.

VI. RESPONDENTS' BALANCE OF EQUITIES ARGUMENT IS MERITLESS

Respondents advance dubious claims in support of their argument that the balance of equities and public interest tip in their favor. *First*, they argue that declining to release Dr. Boulos serves the public interest because of the government's interest in "preventing detained aliens from absconding and ensuring that they appear for removal." Dkt. 35 at 10. But they identify no interest in detaining Dr. Boulos without considering whether he *actually poses* a risk of flight. As the 69-year-old's TRO explained, he poses no flight risk. He enjoys deep ties to the United States where he has owned a home since 2022. And many U.S. citizen family members reside here, including four adult children, three grandchildren, a partner, and siblings.

Second, Respondents assert government interests at the intersection of "foreign policy and national security." *Id.* But they advance no claim that national security interests compelled or motivated Dr. Boulos' detention. In fact, the ground of deportability applicable to Dr. Boulos refers only to "foreign policy." 8 U.S.C. 1227(a)(4)(C). Moreover, contrary to Respondents' claims, Dr. Boulos offered a basis "to doubt the importance of the national security and foreign policy concerns raised by Secretary Rubio's determination." Dkt. 35 at 11. Dr. Boulos' TRO characterized Secretary Rubio's assertions as unsupported by "one scintilla" of evidence, and difficult to take seriously "because the U.S. government has repeatedly vetted Dr. Boulos and granted him multiple immigration benefits[.]"[12] Dkt. 31 at 2. For the reasons stated in Dr. Boulos' brief, none of which Respondents have successfully rebutted, the public interest favors issuing a TRO.

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[11] Respondents do not bother to define the status quo they seem so concerned with preserving—perhaps because any such status quo favoring their position is illogical. The status quo is not, as Respondents might suggest, the moment that they unlawfully detained Dr. Boulos without any notice or process. If that was the case, then the Court would have to deny Dr. Boulos (and any other petitioner's) expedited relief simply because they were already taken into custody and detained—an interpretation certain to cause absurd results.

[12] Dr. Boulos intends to file a motion for discovery on, *inter alia*, the factual basis of the outrageous assertions contained in Secretary Rubio's determination.

Dated: November 21, 2025

Respectfully Submitted,

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