UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ANTONIO AGUIRRE VILLA,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 5:25-cv-89
	)	
WARDEN, TONY NORMAND, et al.,	)	
	)	
Respondents.[1]	)	

RESPONSE TO PETITIONER'S MOTION FOR PRELIMINARY RELIEF

Petitioner Antonio Aguirre Villa filed a habeas corpus petition under 28 U.S.C. § 2241 that challenged the application of 8 C.F.R. § 1003.19(i)(2) as a basis to detain him at the Folkston ICE Processing Center. Doc. 1. Almost two weeks later, he filed a Motion for Preliminary Relief. Doc. 7 ("Petitioner's Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction."). This Court ordered Respondents to respond to the Motion for Preliminary Relief within seven days of filing their answer to the Petition. Doc. 10 at 3. Although the Court entered an Order

[1] The magistrate judge entered a Report and Recommendation ("R&R"), finding that the only proper respondent is Warden Tony Normand. *See* Doc. 10 at 2. Respondents agreed with this finding and explicitly stated this agreement. Doc. 16 at 1 n.1. However, because that ruling had not yet been adopted by the Court prior to the deadline to file their Motion to Dismiss, undersigned counsel filed the Motion on behalf of all Respondents "out of an abundance of caution." *Id.* The Court's recent Order subsequently vacated the R&R's recommendation that the non-warden respondents be dismissed. Doc. 19 at 7. Respondents respectfully submit that their position was preserved in their Motion to Dismiss and therefore reiterate the same position: that the only proper respondent to this habeas petition is Warden Normand. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) ("the proper respondent [in a habeas corpus petition] is the warden of the facility where the prisoner is being held"); *Grimes v. Geter*, No. 2:20-cv-42, 2020 WL 13917844, at *1 (S.D. Ga. Apr. 24, 2020) (Cheesbro, J.) ("The only proper respondent in a § 2241 case such as this is the inmate's immediate custodian—the warden of the facility where the inmate is confined.").

on October 16, 2025, *see* Doc. 19, the Order did not address the timing of Respondents response to this Motion. Therefore, Respondents submit this Response in an effort to comply with that Order.[2]

Petitioner's Motion for Preliminary Relief has been mooted by his voluntary amendment of the original Petition, reflecting changed circumstances in the nature of and authority for his detention, and the Court should deny the Motion on this basis alone. But even if this rule did not apply, Petitioner cannot show a likelihood of success on the merits of his claim that his detention under 8 C.F.R. § 1003.19(i)(2) is unlawful for the simple reason that he is not being detained pursuant to that authority. For the same reason, Petitioner cannot show an imminent danger of irreparable harm from the application of § 1003.19(i)(2) to him if he is not being detained under that regulation. His Motion for Preliminary Relief should therefore also be deemed moot or otherwise dismissed.

STANDARD OF REVIEW FOR PRELIMINARY INJUNCTIONS

Although Petitioner titled his Motion as one seeking either a temporary restraining order ("TRO") or a preliminary injunction, Doc. 7 at 1, only the latter is proper in these circumstances. *See* Fed. R. Civ. P. 65(a) (discussing preliminary injunctions). As this Court has noted, "[l]awyers and judges sometimes misuse the term 'TRO.'" *Wachovia Ins. Servs., Inc. v. Paddison*, No. 4:05-cv-83, 2006 WL

[2] The Court's Order tied Respondents' obligation to respond to the Motion for Preliminary Relief to the filing of an answer. Doc. 10 at 3. Because Respondents elected to file a Motion to Dismiss rather than an answer, it is not clear whether the Court's order contemplated a response at this time. Nevertheless, Respondents file this Response out of abundance of caution and to ensure compliance with the Order.

8435308, at *2 (S.D. Ga. Apr. 6, 2006) (Edenfield, J.). But when notice is given, Rule 65(a) applies, not Rule 65(b). *Id.*; *see also Power Equip. Maint., Inc. v. AIRCO Power Servs., Inc.*, 953 F. Supp. 2d 1290, 1299 (S.D. Ga. 2013) (Moore, J.) (treating motion for TRO as motion for preliminary injunction when notice was given to defendants). Therefore, this Court should construe the Motion to be seeking a preliminary injunction, not a TRO.

"A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). Because it is an extraordinary and drastic remedy, "its grant is the exception rather than the rule." *United States v. Lambert*, 695 F.2d 536, 539 (11th Cir. 1983). "The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held." *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981); *see also Ne. Fla. Chapter of Ass'n of Gen. Contractors of Am. v. City of Jacksonville, Fla.*, 896 F.2d 1283, 1284 (11th Cir. 1990) (noting that the chief function of a preliminary injunction is "to preserve the status quo until the merits of the controversy can be fully and fairly adjudicated.").

The moving party bears the burden to establish the need for a preliminary injunction. To grant such "extraordinary relief," the court must find that the movant has established four essential elements: "(1) a substantial likelihood of success on the merits; (2) a substantial threat of injury; (3) that the threatened injury to the plaintiff outweighs the potential harm to the defendant; and (4) that the injunction will not disserve the public interest." *Georgia v. Pruitt*, 326 F. Supp. 3d 1356, 1363 (S.D. Ga.

2018) (Wood, J.). A preliminary injunction should not be granted "unless the movant clearly established the burden of persuasion as to all four elements." *Horton v. City of Augustine, Fla.*, 272 F.3d 1318, 1326 (11th Cir. 2001) (quotation marks omitted). However, "where the government is the party opposing the preliminary injunction, its interest and harm merge with the public interest." *Swain v. Junior*, 958 F.3d 1081, 1091 (11th Cir. 2020).

When a party seeks to change the status quo through an injunction, as is the case here, the injunction is a mandatory injunction. *See, e.g. Meghrig v. KFC W., Inc.*, 516 U.S. 479, 484 (1996) (outlining difference between mandatory and "prohibitory" injunctions). Mandatory injunctions are "particularly disfavored, and should not be issued unless the facts and law clearly favor the moving party." *Martinez v. Mathews*, 544 F.2d 1233, 1243 (5th Cir. 1976); *see also Fox v. City of W. Palm Beach*, 383 F.2d 189, 194 (5th Cir. 1967) ("There is no question but that mandatory injunctions are to be sparingly issued and upon a strong showing of necessity and upon equitable grounds which are clearly apparent."); *Wachovia*, 2006 WL 8435308, at *2 (noting that mandatory injunctions are subject to heightened scrutiny).

Here, Petitioner seeks immediate release, Doc. 7 at 5, which given his detention constitutes a change to his current circumstances. He does not dispute that he must meet a higher standard to obtain relief. Doc. 7-1 at 4. Therefore, he should be held to the heightened scrutiny required of parties seeking to modify the status quo through preliminary relief.

ARGUMENT

I. Petitioner's Motion for Preliminary Relief is moot.

An amended complaint supersedes and renders moot the initial complaint. *See, e.g.*, *Hoefling v. City of Miami*, 811 F.3d 1271, 1277 (11th Cir. 2016); *Dresdner Bank AG v. M/V Olympia Voyager*, 463 F.3d 1210, 1215 (11th Cir. 2006) ("An amended pleading supersedes the former pleading; the original pleading is abandoned by the amendment, and is no longer a part of the pleader's averments against his adversary.") (internal quotation marks and citation omitted).

When other motions stemming from the original complaint are pending when the amended complaint becomes the operative complaint, courts have found those motions also to be moot. *Miles v. Johnston*, No. 24-cv-1012, 2024 WL 5318973, at *6 (D. Minn. Dec. 18, 2024), *report and recommendation adopted*, 2025 WL 71613 (D. Minn. Jan. 10, 2025); *OSRX Inc. v. Anderson*, No. 6:22-cv-1737, 2023 WL 2472417, at *2 (D.S.C. Feb. 7, 2023) (finding that motion for preliminary injunction pending when amended complaint was filed was moot), *aff'd in part, vacated in part, remanded,* No. 23-1252, 2025 WL 1430648 (4th Cir. May 19, 2025); *Garcia v. Mid-Atl. Mil. Fam. Communities LLC*, No. 2:20-cv-308, 2021 WL 1429474, at *3 (E.D. Va. Mar. 4, 2021). After all, "injunctive relief must relate in some fashion to the relief requested in the complaint." *Alabama v. U.S. Army Corps of Eng'rs*, 424 F.3d 1117, 1134 (11th Cir. 2005); *see also Benavides v. Gartland*, No. 5:20-cv-46, 2020 WL 1914916, at *4 (S.D. Ga. Apr. 18, 2020) (Wood, J.) ("It is well-settled that for [habeas] Petitioners to be entitled to relief under Rule 65, they must tether their request for relief to a cause of

action set forth in their pleading."). As this Court has noted, "a motion for preliminary injunction must be of the same character and deal with the conduct closely related to the conduct complained of in the complaint." *Daker v. Owens*, No. 6:14-cv-47, 2021 WL 7541414, at *3 (S.D. Ga. Nov. 29, 2021) (Cheesbro, J.) (denying plaintiff's motion for preliminary injunction), *report and recommendation adopted,* 2022 WL 597246 (S.D. Ga. Feb. 28, 2022).

Here, Petitioner filed his Motion for Preliminary Relief on September 11, 2025. Doc. 7. He subsequently filed an Amended Petition on October 9, 2025, Doc. 15, which replaces and supersedes the original, making the Amended Petition the operative complaint in this civil action. The magistrate judge recently recommended the same outcome. Doc. 19 at 5. The Motion for Preliminary Relief is based upon the earlier, now-moot petition, but it must be based on an active complaint. Since the Motion is instead based upon the earlier, now-moot petition, it too should be denied as moot.

Therefore, the Court should dismiss Petitioner's Motion for Preliminary Relief.

II. Petitioner's Motion for Preliminary Relief should be denied.

A. Petitioner is not likely to succeed on the merits of the original Petition.

To meet the first element of a preliminary injunction, the party requesting preliminary injunctive relief must show a substantial likelihood of success on the merits. *Haitian Refugee Ctr., Inc. v. Christopher*, 43 F.3d 1431, 1432 (11th Cir. 1995). "The requesting party's failure to demonstrate a 'substantial likelihood of success on the merits' may defeat the party's claim, regardless of its ability to establish any of

the other elements." *Id.* The burden to establish this likelihood falls on the party seeking preliminary relief. *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000).

Here, Petitioner is not likely to succeed on the merits of his original Petition and this is sufficient to deny his Motion for Preliminary Relief that is based upon it. His Motion argues that his detention is unlawful because it stems from the Department of Homeland Security's ("DHS") reliance on 8 C.F.R. § 1003.19(i)(2)—described by Petitioner as the automatic stay regulation. Doc. 7 at 2. His entire argument is premised upon his contention that his detention is a result of this regulation and its implementation by DHS. *See* Doc. 7-1 at 6–17. In his original petition—the same petition on which he bases his Motion for Preliminary Relief—he repeatedly describes this regulation as the sole basis for his detention. Doc. 1, ¶¶ 4, 16, 32, 42.

But this regulation is not the legal basis for Petitioner's current detention. As outlined in Respondents' Motion to Dismiss, Doc. 16, he is now detained pursuant to 8 U.S.C. § 1225(b), *see* Doc. 16-1, ¶ 5. His challenge to the previous regulation is therefore moot because it has no relationship to his current detention. *See, e.g.*, *Hussain v. Gonzales*, 492 F. Supp. 2d 1024, 1031 (E.D. Wis. 2007), *aff'd*, 510 F.3d 739 (7th Cir. 2007). Petitioner cannot be deemed likely to succeed in his challenge to DHS's implementation of 8 C.F.R.§ 1003.19(i)(2) because that challenge is now moot. *See* Doc. 19 at 5 (concluding the Amended Petition is "now the operative petition").

Therefore, even if the Court determines not to dismiss the Motion for Preliminary Relief as moot on the basis that it does not relate to the operative

complaint, the Motion should be denied because Petitioner is not likely to succeed on the merits of the original Petition on which his Motion is based.

B. Petitioner has failed to establish that he will suffer irreparable harm by the operation of 8 C.F.R.§ 1003.19(i)(2).

This Court can—and should—end the inquiry by ruling in Respondents' favor on the first element of showing entitlement to a preliminary injunction. *See Haitian Refugee Ctr.*, 43 F.3d at 1432. But even if the Court also examines the remaining elements, Petitioner's Motion for Preliminary Relief should still be denied because Petitioner has not established he will suffer irreparable harm through DHS's implementation of 8 C.F.R.§ 1003.19(i)(2).

Irreparable injury must be specific: "The injury must be neither remote nor speculative, but actual and imminent." *Ne. Fla. Chapter of the Ass'n of Gen. Contractors of Am. v. City of Jacksonville*, 896 F.2d 1283, 1285 (11th Cir. 1990) (internal quotation marks and citation omitted). Merely showing a "possibility" of irreparable harm is insufficient. *Winter*, 555 U.S. at 22. "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Id.*

Petitioner argues that he will suffer irreparable harm if he does not receive preliminary relief, since he argues his detention is harming his health. Doc. 7-1 at 17–18. But his Motion for Preliminary Relief is premised on his original petition, which complains about DHS's implementation of 8 C.F.R.§ 1003.19(i)(2). *See* Doc. 7

at 2. Petitioner's current detention is unrelated to the implementation of this regulation. The regulation therefore is not currently causing Petitioner any harm.

Petitioner also alleges that his continued detention will jeopardize his physical and mental health. Doc. 7-1 at 17. Respondent respectfully submits that Petitioner's conclusory statements on this point are insufficient to meet the high standards for entitlement to injunctive relief. Petitioner has submitted no evidence that he is in poor physical health but has only suggested the possibility of harm, which is insufficient. *See Winter*, 555 U.S. at 22. He alleges he has a physical disability, *see id.*, but no such disability is identified. He similarly alleges that he suffers from a mental health condition—again, without further description. *Id.* His only evidence of any mental concern arises from his immigration counsel, whose lay impression of Petitioner's demeanor was based upon a single Zoom call. *See* Doc. 5-2. But that affidavit also notes that Petitioner has received medication at Folkston, *id.*, ¶ 3, which indicates he is receiving treatment and is consistent with the information provided to Petitioner by DHS staff at Folkston, *see* Doc. 1-4 at 16 (describing mental health care available at Folkston). Petitioner has also not submitted any personal testimony that describes any aspect of his health, mental or physical.[3]

Petitioner's conclusory allegations fall short of establishing that he will suffer irreparable harm unless DHS's implementation of 8 C.F.R.§ 1003.19(i)(2) is enjoined.

[3] Petitioner's Motion for Preliminary Relief is unrelated to his Amended Petition, since it is based instead on his original petition. But even in that recent filing, Petitioner's allegations related to his mental health remain conclusory and lack support. *See* Doc. 15, ¶¶ 50–53.

He also is no longer being detained pursuant to this regulation. Therefore, this Court should find that Petitioner has failed to establish irreparable harm.

C. Petitioner has failed to show that the public interest weighs in favor of granting an injunction.

As argued above, "where the government is the party opposing the preliminary injunction, its interest and harm merge with the public interest." *Swain*, 958 F.3d 1091 (11th Cir. 2020). For several reasons, Petitioner has not shown that the public interest weighs in favor of granting an injunction.

Petitioner fails to support his claim with facts specific to his situation. There is no reasonable dispute that Petitioner's detention is due to his removal proceedings. Doc. 16-1, ¶ 5. Respondents submit that the public interest lies in ensuring that aliens facing removal proceed through established avenues for relief rather than overwhelming the court system. Such is the plain intent of Congress, and the Supreme Court has counseled that courts sitting in equity should not override the policy choices of Congress articulated in statutes. *See United States v. Oakland Cannabis Buyers' Co-op.*, 532 U.S. 483, 497 (2001) (holding no medical necessity exception to marijuana manufacture and distribution). An adverse decision in this case would also negatively impact the public interest by jeopardizing "the orderly and efficient administration of this country's immigration laws." *See Sasso v. Milhollan*, 735 F. Supp. 1045, 1049 (S.D. Fla. 1990); *see also Coal. for Econ. Equity v. Wilson*, 122 F.3d 718, 719 (9th Cir. 1997) ("[I]t is clear that a state suffers irreparable injury whenever an enactment of its people or their representatives is enjoined."). While it is "always in the public interest to protect constitutional rights," if, as here, Petitioner

has not shown a likelihood of success on the merits of that claim, that presumptive public interest evaporates. *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005).

Therefore, Respondents submit that Petitioner has failed to show that the public interest weighs in favor of granting him preliminary relief.

III. If the Court issues an injunction, it should require Petitioner to give security pursuant to Rule 65(c).

Rule 65(c) of the Federal Rules of Civil Procedure states that a court may issue a preliminary injunction "only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." Should the Court grant an injunction to Petitioner, Respondents respectfully request, pursuant to executive policy, that this Court require Petitioner to provide an appropriate security amount to ensure that any damages sustained by the Respondents are paid. *See Presidential Memorandum, Ensuring the Enforcement of Federal Rule of Civil Procedure 65(c)*, 2025 WL 762840 (March 11, 2025). Respondents leave the amount of such security to the discretion of the Court. *See BellSouth Telecommunications, Inc. v. MCIMetro Access Transmission Servs., LLC*, 425 F.3d 964, 971 (11th Cir. 2005) (amount of security required by Rule 65(c) is a matter within the discretion of the trial court).

CONCLUSION

Therefore, this Court should dismiss the Motion for Preliminary Relief.

Respectfully submitted, this 16th day of October, 2025,

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