

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

**GARDY GREGORY ALEXANDRE**

**CIVIL ACTION**

**VERSUS**

**NO. 25-951-SDD-RLB**

**KEVIN JORDAN, *et al.***

**RESPONSE TO PETITIONER'S SECOND MOTION FOR TEMPORARY  
RESTRAINING ORDER BY FEDERAL RESPONDENTS<sup>1</sup>**

Through his second motion for temporary restraining order, Petitioner principally asks the Court to grant him two forms of relief: (1) an injunction from removal from the United States; and (2) an injunction from removal from the Louisiana ICE Processing Center (LIPC). The Court lacks jurisdiction to entertain either claim. The Government has already conceded – twice – that Petitioner is not subject to a final order of removal. It does so here a *third* time. And the Petitioner cannot use the guise of habeas to dictate in which specific facilities the Government may detain him.

The Petitioner's remaining claims are duplicative of those raised in his first motion for temporary restraining order, his first habeas petition, and his amended habeas petition. There are no exigent circumstances present in this case that demand emergency relief. If and when the Petitioner's BIA appeal is dismissed, he will be subject to a final order of removal to Haiti. Until that time, his continued detention is expressly authorized by statute and is mandatory.

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<sup>1</sup> The Respondents are Pamela Bondi, in her official capacity as Attorney General of the United States; Todd Lyons, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement; Kristi Noem, in her official capacity as Secretary of the Department of Homeland Security; and any federal official sued in their official capacity. Undersigned does not represent Kevin Jordan, Warden, Louisiana ICE Processing Center, as Warden Jordan is not a federal employee. However, all arguments made on behalf of U.S. Immigration and Customs Enforcement apply with equal force to Warden Jordan as he is detaining the Petitioner at the request of the United States.

## I. BACKGROUND

Twice now, the Respondents have briefed the Court on the factual background concerning Mr. Alexandre. *See* Doc. 6, pp. 1-3; Doc. 9, pp. 1-4. In short, Mr. Alexandre is a Haitian citizen and convicted aggravated felon who was detained by DHS on April 14, 2025. Doc. 6-1, ¶¶ 3-7. On May 5, 2025, Petitioner appeared in immigration court, where he was represented by counsel. *Id.* ¶ 8. Petitioner sought voluntary departure to Haiti but was denied due to his criminal history. *Id.* When asked to designate a country of removal, Petitioner identified Haiti. *Id.* An immigration judge thereafter ordered him removed to Haiti (the “IJ order”). *Id.*

Petitioner appealed the IJ order without assistance of counsel. Doc. 6-1, ¶ 9. His appeal is pending at the Board of Immigration Appeals (BIA). The Government has not filed a response to that appeal, and there is no suggestion that it has delayed the progress of that appeal. *Id.* ¶¶ 9-10. Because Mr. Alexandre is a convicted aggravated felon, he is subject to mandatory detention during his removal proceedings. 8 U.S.C. § 1226(c).

To date, Petitioner has filed (1) an original petition for writ of habeas corpus, Doc. 1; (2) a motion for temporary restraining order, Doc. 2; (3) an amended petition for writ of habeas corpus, Doc. 3; and (4) a second motion for temporary restraining order, Doc. 8. The Court ordered the Respondents to respond to the first TRO no later than December 2. Doc. 4. The Court likewise ordered the Respondents to respond to the original and amended petitions no later than December 15. Doc. 5. Both responses were timely filed. Docs. 6, 9.

## II. LAW

To obtain a temporary restraining order or a preliminary injunction, Mr. Alexandre has the burden to prove each of the following factors: “(1) a substantial likelihood of success on the merits, (2) a substantial threat that [the] plaintiff will suffer irreparable injury if the injunction is not

granted, (3) that the threatened injury outweighs the threatened harm to the defendant, and (4) that granting the preliminary injunction will not [disserve] the public interest.” *Atakapa Indian de Creole Nation v. Edwards*, No. 19-28-SDD-EWD, 2019 WL 245917, at \*2 (M.D. La. Jan. 17, 2019). Critically, a temporary restraining order “is an extraordinary remedy,” meaning that “it should be granted only if Plaintiff clearly carries his burden of persuasion as to all four factors.” *Id.*; see also *Voting for America, Inc. v. Steen*, 732 F.3d 382, 386 (5th Cir. 2013). The same is true for a preliminary injunction. *Cf. Pegues v. Hooper*, No. 23-270-JWD-SDJ, 2023 WL 3574793, at \*1 (M.D. La. May 19, 2023).

Further, this is a habeas proceeding. Because Mr. Alexandre seeks a writ of habeas corpus under 28 U.S.C. § 2241, only limited relief is available. The Fifth Circuit has adopted a “bright-line rule” that “if a favorable determination of the prisoner’s claim would not automatically entitle him to accelerated release, then the proper vehicle is a civil rights suit,” not a petition for a writ of habeas corpus. *Melot v. Bergami*, 970 F.3d 596, 599 (5th Cir. 2020); see also *Rice v. Gonzalez*, 985 F.3d 1069, 1070 (5th Cir. 2021). Therefore, “a civil rights suit pursuant to 42 U.S.C. § 1983 for a state prisoner or under *Bivens* for a federal prisoner is ‘the proper vehicle to attack unconstitutional conditions of confinement and prison procedures.’” *Melot*, 970 F.3d at 599 (quoting *Carson v. Johnson*, 112 F.3d 818, 820 (5th Cir. 1997)); cf. also *Maxwell v. Thomas*, 133 F.4th 453, 454 (5th Cir. 2025) (holding that the relief of “transfer to a halfway house or home confinement” is unavailable in habeas).

This rule also applies for immigration detention. See *Tahtiyork v. DHS*, No. 20-1196, 2021 WL 389092, at \*3 (W.D. La. Jan. 12, 2021), *report and recommendation adopted*, 2021 WL 372573 (W.D. La. Feb. 3, 2021); *Roman v. Garcia*, No. 6:24-CV-01006, 2025 WL 1441101, at \*4-5 (W.D. La. Jan. 29, 2025), *report and recommendation adopted sub nom. Lobaton v. Garcia*, 2025

WL 1440056 (W.D. La. May 16, 2025). Notably, “[u]nconstitutional conditions of confinement—even conditions that create a risk of serious physical injury, illness, or death—do not warrant release.” *Burk v. Rios*, No. EP-25-CV-199-LS, 2025 WL 2524138, at \*3 (W.D. Tex. Sept. 3, 2025). “Even allegations of mistreatment that amount to cruel and unusual punishment do not nullify an otherwise lawful incarceration or detention.” *Id.* “Accordingly, district courts dismiss § 2241 petitions challenging conditions of confinement for lack of subject matter jurisdiction.” *Id.*

### III. ARGUMENT

At the time he filed his second TRO, Mr. Alexandre claimed his removal from the United States was imminent. Doc. 8, p. 14. But three (3) weeks later, he is still detained at the Louisiana ICE Processing Center (LIPC).<sup>2</sup> His concerns are entirely speculative, and they are not supported by any facts or evidence. The parties *agree* that Mr. Alexandre is not yet subject to a final order of removal.

Mr. Alexandre also asks the Court to compel Respondents not to remove him from LIPC. According to Mr. Alexandre, this relief is necessary to frustrate an impending “*fait accompli*,” or scheme by the Respondents to purposely undermine this Court’s jurisdiction. The request is odd. Petitioner has extensively briefed this Court on his numerous grievances with the operations at LIPC, decrying everything from the facilities and medical care to the cuisine and absence of foot cream. So, it’s unclear why he now wants to remain at LIPC. Nor would transfer to another ICE facility destroy this Court’s jurisdiction. Regardless, Petitioner cannot use this proceeding to dictate where he is housed, as such relief is outside the scope of habeas.

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<sup>2</sup> Mr. Alexandre’s detention status is available through the Online Detainee Locator System, available at: <https://locator.ice.gov/odls/#/search> (last accessed December 17, 2025). The status of Mr. Alexandre’s BIA appeal is available through the Executive Office of Immigration Review (EOIR) Automated Case Information System (ACIS), available at: <https://acis.eoir.justice.gov/en/> (last accessed December 17, 2025).

**A. Petitioner is Not Likely to Succeed on the Merits of His Claims**

***a. Petitioner's Claims of Imminent Removal are Speculative and Unsubstantiated***

Mr. Alexandre is not subject to a final order of removal. Respondents have already conceded this point twice. *Cf.* Doc. 6, p. 3; Doc. 9, p. 4.

To put the matter to rest: an order of removal is not final while an appeal is pending at the BIA. *See Lopez Acosta v. Rosen*, 2021 WL 54772, at \*1 (5th Cir. Jan. 6, 2021). An order of deportation only becomes final upon the earlier of: “(i) a determination by the Board of Immigration Appeals affirming such order; or (ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.” 8 U.S.C. § 1101(a)(47). “An order of removal made by the immigration judge ... shall become final: (a) Upon dismissal of an appeal by the Board of Immigration Appeals... .” 8 C.F.R. § 1241.1; *see also Agyei-Kodie v. Holder*, 418 F. App’x 317, 318 (5th Cir. 2011).

But Mr. Alexandre insists that his removal is, in fact, imminent and that Respondents are colluding to sabotage his appeal at the BIA and this Court’s jurisdiction through an underhanded “fait accompli.” Doc. 8, pp. 9-10. To support this theory, Petitioner directs the Court to a Form I-294 that was served on him on or about November 18, 2025. Doc. 8, p. 31; *see also* Doc. 8-3. Petitioner also points to the “confiscation” of his legal files and a “prior unlawful removal attempt.” Doc. 8, p. 21.

According to Petitioner, a Form I-294 is only issued “immediately before deportation,” Doc. 8, p. 8, indicates that “removal is imminent,” *id.* p. 11, and is “typically served 24-72 hours before removal, confirming that: The threat is real, the harm is imminent, ICE intends to act before the Court can rule.” *Id.* p. 14.

But a month has passed since Mr. Alexandre received this Form I-294, and contrary to his assertions, he has not been removed from the United States. Indeed, the Petitioner has been provided *greater* deference than most because his appeal was not submitted timely to the BIA, but it was nonetheless accepted. Doc. 6-1, ¶ 9. So, with the central argument of Mr. Alexandre’s brief undermined by the passage of time, what remains is either irrelevant or entirely speculative. Petitioner does not explain how the alleged confiscation of his legal files supports the proposition that his removal is imminent and that he is being denied access to the courts. As Respondents have already explained, the Petitioner alleges his files were confiscated in September, but his briefs to the BIA were filed in June, July, and August. *Id.* ¶ 9. If Petitioner is being denied an opportunity to defend his appeal, he provides no explanation how. *Cf.* Doc. 8, p. 8.

Mr. Alexandre also cites an incident in September, when he claims he was nearly removed from the country. Doc. 8, p. 8. But he concedes that ICE “confirm[ed]” his appeal was active and he “was removed from the aircraft before takeoff.” *Id.*; Doc. 1, p. 5. Other than this one event, Petitioner offers no other reason to believe Respondents are conspiring against him.

A recent district court decision is instructive. In *Roe v. United States*, another Haitian citizen sought court intervention “to prevent the Government from deporting him ... .” *Roe*, 2025 WL 1811767, at \*1 (N.D. Tex. 2025).<sup>3</sup> The plaintiff had alleged mistreatment and abuse by federal officers amounting to a “parade of horrors.” *Id.*, at \*1. As a result, the plaintiff was concerned that “his detention and deportation may be imminent” due to retaliation by federal officers interfering with his rights to pursue compensation for the alleged harms. *Id.* But the plaintiff

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<sup>3</sup> Roe sued under the Federal Tort Claims Act (FTCA). However, the Government was seeking plaintiff’s removal from the United States through concurrent immigration court proceedings, so plaintiff sought a TRO enjoining his removal while he pursued his claims under the FTCA.

benefitted from Temporary Protected Status, and his immigration court hearing was not scheduled to occur until October 15, 2026. *Id.* at \*1-2.

The plaintiff conceded “he ‘[was] not subject to a final order of removal,’” so the court concluded “his removal itself is speculative.” *Roe*, 2025 WL 1811767, at \*3. “[T]he only facts *Roe* pleads to support the assertion that he might be detained and deported otherwise are the passage of the Laken Riley Act, the President’s Executive Order 14,165, and the story of a United States citizen whom ICE detained for thirty hours in Florida.” *Id.* “Though the confluence of these factors could reasonably give *Roe* concern about potential detention and removal, it does not rise to the level of imminent harm required for a TRO.” *Id.*

Here, Mr. Alexandre provides the Court with even less. Like *Roe*, he is not subject to a final order of removal but is still working his way through immigration court proceedings. Unlike *Roe*, Petitioner has not alleged any “parade of horrors” to support his conspiracy of imminent removal. At best, he identifies one miscommunication in September. Like *Roe*, Petitioner cites recent cases that pique his concern, here: *Pierre v. Garland* (M.D. La. 2024) and *Souvannarath v. ICE* (M.D. La. 2025). Doc. 8, pp. 13. But *Pierre* is fictitious,<sup>4</sup> and *Souvannarath* bears no resemblance to the facts of this case.<sup>5</sup>

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<sup>4</sup> Petitioner goes so far as to *quote* the decision, noting the Court found “disregard for judicial process” that “raised serious constitutional concerns.” Doc. 8, pp. 8, 13, and 18. Undersigned counsel performed nationwide searches of both quotes through Westlaw. The former quote appears in no immigration decision, while the latter quote appears in several, though none with a petitioner named “Pierre.” There are six district and circuit court immigration opinions that are captioned *Pierre v. Garland*, but none presents any factual scenario that would “mirror” this case. *Cf.* Doc. 8, p. 13. Therefore, despite affording the benefit of the doubt to this *pro se* litigant, the case appears to be fictitious.

<sup>5</sup> *Souvannarath v. U.S. Imm. and Customs Enf., et al.*, Civil Action no. 25-938-SDD-SDJ (M.D. La.). Unlike Mr. Alexandre, Mr. Souvannarath was subject to a final order of removal and detained pursuant to 8 U.S.C. § 1231. *Souvannarath*, Doc. 15-1, ¶ 3. Though the Court had issued an *ex parte* temporary restraining order enjoining the Government from removing him from the district or the country, he had already been removed from the district before the order was issued. *Id.* ¶ 7. And the Government was not aware of the order until the petitioner had departed the United States and was mid-flight. *Id.* ¶ 8. Respondents contended that turning the plane around or obtaining a visa mid-flight was not feasible. *Souvannarath*, Doc. 40, p. 7. Here, the Government already concedes Mr. Alexandre has no final order, so he is not subject to removal “on the next flight.” *Cf. Souvannarath*, Doc. 1, p. 1; Doc. 2, p. 4.

And to be clear, the Court lacks jurisdiction to grant the relief Petitioner is requesting. Mr. Alexandre asks for an order “enjoining Respondents, their agents, employees, and all persons acting in concert with them, from removing or attempting to remove Petitioner from the United States until further order of this Court.” Doc. 8, pp. 29, 31. If Mr. Alexandre’s BIA appeal is dismissed, it is likely that he will be removed to Haiti. Indeed, Respondents have an obligation to do so. *Cf. Zadvydas v. Davis*, 533 U.S. 678 (2001). The INA “maintains the Attorney General’s executive discretion to decide when to commence proceedings, adjudicate cases, and execute removal orders.” *Alvidres-Reyes v. Reno*, 180 F.3d 199, 201 (5th Cir. 1999). So, the Court has no jurisdiction to impede the execution of a removal order, once final. *See* 8 U.S.C. 1252(g). Petitioner should not be allowed to game the system by obtaining such an injunction *in advance* of an unfavorable ruling from the BIA.

***b. Petitioner Cannot Dictate His Own Detention Facility***

Mr. Alexandre asks the Court to enjoin Respondents from transferring him out of LIPC “without first seeking leave of court” and without “this Court’s express authorization.” Doc. 8, p. 29. With no evidence, Petitioner claims the Respondents are colluding to transfer him “in a manner that destroys federal jurisdiction.” Doc. 8, p. 27. The argument is illogical.

First, “claims regarding prison transfers are generally not cognizable under § 2241.” *Ahmed v. Warden*, No. 1:24-CV-00739, 2024 WL 4251810, at \*1 (W.D. La. July 18, 2024), *report and recommendation adopted*, No. 1:24-CV-00739, 2024 WL 4252538 (W.D. La. Aug. 2, 2024) (citing *Greenhill v. Menifee*, 202 F. App’x 799, 800 (5th Cir. 2006); *Zapata v. United States*, 264 F. App’x 242, 243-44 (3d Cir. 2008)). “There is no protected liberty interest in being housed at a particular facility.” *Id.* (citing *Armendariz-Mata v. Lappin*, 157 F. App’x 767 (5th Cir. 2005); *Yates v. Stalder*, 217 F.3d 332, 334 (5th Cir. 2000)).

Nor would transfer to another ICE facility “destroy” the Court’s jurisdiction. “[Petitioner’s] physical presence in this district is not required for the adjudication of his Petition. Jurisdiction attaches upon filing a habeas petition, and it is not destroyed upon the subsequent transfer or custodial change of the petitioner.” *Ahmed*, 2024 WL 4251810, at \*1 (citing *McClure v. Hopper*, 577 F.2d 938, 939-40 (5th Cir. 1978), *cert. denied*, 439 U.S. 1077 (1979); *see also Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004); *Griffin v. Ebbert*, 751 F.3d 288, 290 (5th Cir. 2014).

So, in addition to an absence of factual support, the premise of Petitioner’s argument, that this injunctive relief is necessary to preserve his rights of appeal, is contrary to black letter law. It also contradicts Plaintiff’s own assertions that conditions at LIPC are intolerable.

***c. Petitioner’s Remaining Claims are Duplicative***

Through his second TRO, Mr. Alexandre repeats several claims that have already been raised through his first TRO, his original petition, and his amended petition. For example, Mr. Alexandre insists the purported confiscation of his “legal file” amounts to interference with his access to the courts and that he is entitled to preferential treatment under an ICE directive for veterans. Doc. 8, p. 8.

The purpose of preliminary relief is to prevent irreparable injury and to preserve a court’s ability to render a meaningful decision on the merits. *Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 572 (5th Cir. 1974). Therefore, a TRO should not be used as a device “to give a plaintiff the ultimate relief he seeks” in his underlying claims. *Peters v. Davis*, No. 6:17-cv-595, 2018 WL 11463602, at \*2 (E.D. Tex. Mar. 27, 2018). “Seeking injunctive relief that mirrors the relief requested in the habeas petition is nothing more than a motion to decide my habeas petition now.” *Da Silva v. Tellez*, No. CV 25-1960, 2025 WL 3553041, at \*1 (W.D. La. Dec. 8, 2025) (citing *Garcia-Aleman v. Thompson*, No. 5:25-CV-00886, ECF No. 20 (S.D. Tex. Oct. 30, 2025)). “The

Court will not allow Petitioner to commit an end-run around the habeas process.” *Id.* (denying TRO where petitioner sought a bond hearing, “mirror[ing] the ultimate relief sought in the habeas [p]etition.”)

Respondents have already briefed arguments on these claims in response to the Petitioner’s first TRO and his original and amended petitions. Doc. 6, § III(B)(c); Doc. 9, §§ III(C),(D). Regardless, neither of these claims is cognizable in a habeas proceeding, which is concerned solely with the lawfulness of detention. *Melot v. Bergami*, 970 F.3d 596, 599 (5th Cir. 2020) (The Fifth Circuit has adopted a “bright-line rule” that “if a favorable determination of the prisoner’s claim would not automatically entitle him to accelerated release, then the proper vehicle is a civil rights suit,” not a petition for a writ of habeas corpus.)

**B. Petitioner has not Met his Burden to Show Imminent, Irreparable Injury**

A preliminary injunction “is appropriate only if the anticipated injury is imminent and irreparable,” *Chacon v. Granata*, 515 F.2d 922, 925 (5th Cir. 1975), and not speculative. *ADT, LLC v. Capital Connect, Inc.*, 145 F. Supp. 3d 671, 694 (N.D. Tex. 2015); *see also Holland Am. Ins. Co. v. Succession of Roy*, 777 F.2d 992, 997 (5th Cir. 1985) (“Speculative injury is not sufficient” to show irreparable harm). “To obtain equitable relief for past wrongs, a plaintiff must demonstrate either continuing harm or a real and immediate threat of repeated injury in the future.” *Bauer v. Tex.*, 341 F.3d 352, 357 (5th Cir. 2003). “[E]specially where governmental action is involved, courts should not intervene unless the need for equitable relief is clear, not remote or speculative.” *Machete Prods., L.L.C. v. Page*, 809 F.3d 281, 288 (5th Cir. 2015) (citing *Henschen v. City of Houston*, 959 F.2d 584, 588 (5th Cir.1992) (quoting *Eccles v. Peoples Bank*, 333 U.S. 426, 431 (1948))).

Here, the harm is entirely speculative. Mr. Alexandre has not “explained what irreparable injury he faces outside of the injuries addressed by the merits of [his] underlying habeas petition itself if his order is not granted . . . .” *Abdulla v. Bush*, 945 F. Supp. 2d 64, 67 (D.D.C. 2013). “[T]he central purpose of a [TRO] . . . is to prevent irreparable harm that cannot be undone which authorizes exercise of this equitable power to enjoin before the merits are fully determined.” *Parks v. Dunlop*, 517 F.2d 785, 787 (5th Cir. 1975). “Thus, only those injuries that cannot be redressed by the application of a judicial remedy after a hearing on the merits can properly justify a preliminary injunction.” *Canal Auth. of Fla. v. Callaway*, 489 F.2d 567, 573 (5th Cir. 1974).

Petitioner has offered nothing more than speculation that he will be removed from the United States. In fact, he acknowledges that, when ICE was apprised of his BIA appeal, he was not removed. Petitioner cites no authority that a Form I-294 triggers imminent departure, and the fact that he remains detained at LIPC clearly undermines the allegation. So, if the Court is left with nothing more than Petitioner’s own speculation, he has not alleged an injury. *See Ondrusek v. United States Army Corps of Eng’rs*, No. 3:22-CV-1874-N, 2022 WL 19976460, at \*1 (N.D. Tex. Sept. 1, 2022) (denying TRO because plaintiffs failed to adduce sufficient evidence of imminent and irreparable injury that rises above mere speculation).

### **C. The Balance of Hardships and the Public Interest Favor the United States**

The Supreme Court has recognized that, “when the Government is the opposing party,” the balance of hardships and public interest factors “merge.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, Petitioner has offered the Court no credible explanation why he needs a court order to compel the Government not to remove him, when the Government has already conceded he is not subject to removal. And were the Court to grant such an order, the facts here would be indistinguishable from each and every alien in the country presently detained without a final order of removal. To

entitle every petitioner to “emergency relief” would simply be untenable. *Cf. Roe*, 2025 WL 1811767, at \*3 (“Roe is correct that any injunction in this case would apply to him alone, but so is the Government in suggesting an injunction here would likely contribute to an increase in cases filed against the Government for the sole purpose of delaying immigration enforcement actions.”)

#### IV. CONCLUSION

For the foregoing reasons, the Respondents urge the Court to deny the Petitioner’s second motion for temporary restraining order, Doc. 8.

Respectfully submitted,

UNITED STATES OF AMERICA, by

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#### CERTIFICATE OF SERVICE

I certify that on December 17, 2025, a copy of the foregoing *Response to Petitioner’s Second Motion for Temporary Restraining Order by Federal Respondents* was served by U.S. mail, first class postage prepaid, at the following address:

Louisiana ICE Processing Center  
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Angola, LA 70712

/s/ Davis Rhorer, Jr.

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