IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF OKLAHOMA

WILLIAM MUTHEE MUIRURI, Case No. CIV-25-1270-HE

Petitioner,

v.

DON JONES, et al.,

Respondents.

PETITIONER'S OBJECTIONS TO THE REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), Petitioner William Muthee Muiruri ("Petitioner"), by counsel, respectfully submits these Objections to the Magistrate Judge's Report and Recommendation entered December 16, 2025 (Doc. 10) recommending dismissal of the Petition for Writ of Habeas Corpus (Doc. 1). Petitioner requests *de novo* review of the objected-to portions and an order preserving this Court's ability to provide meaningful review by maintaining the status quo while Petitioner's trafficking-based humanitarian relief and related administrative processes are pending.

I. STANDARD OF REVIEW

The Court must make a de novo determination of those portions of the Report and Recommendation to which specific objections are made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

II. OBJECTIONS

Objection 1: The Report Misconstrues the Petition as a Challenge to the Removal Order and Overreads 8 U.S.C. § 1252(g).

The Petition is directed to custody and process deprivations *collateral* to the merits of the underlying removal order, including Respondents' refusal or failure to provide a meaningful opportunity to seek an administrative stay of removal under 8 C.F.R. § 241.6 and the threat of removal in a manner that would eviscerate statutory protections for trafficking victims and defeat this Court's ability to adjudicate the habeas claims. Petitioner does not ask this Court to review the validity of the 2013 removal order; rather, he seeks to prevent imminent removal long enough for lawful consideration of trafficking-victim protections and pending humanitarian relief that Congress created specifically to protect victims from exactly this kind of premature removal.

Section 1252(g) is narrow. The Supreme Court has explained that § 1252(g) applies only to "three discrete actions" by the Attorney General which is the decision or action to "commence proceedings, adjudicate cases, or execute removal orders" but does not "cover the universe of deportation-related claims." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999). District courts have recognized jurisdiction in materially similar circumstances where ICE arrested

a trafficking survivor at a required USCIS biometrics appointment in connection with a pending T visa filing, and the petitioner challenged the arrest/detention and the resulting interference with completion of the victim-based process, not the validity of the underlying removal order. In *Portillo Vasquez v. Turek*, the District of Vermont held that 8 U.S.C. § 1252(a)(5) did not bar jurisdiction because the petition "challenge[d] only the constitutionality of the arrest and detention, not the final order of removal," and further explained that § 1252(g) is "narrow" under *Reno v. AADC* and does not sweep in all deportation-process claims. *Portillo Vasquez v. Turek*, No. 2:25-cv-00741, slip op. at 7 (D. Vt. Sept. 25, 2025). Whereas here, Petitioner challenges collateral unlawful conduct, including refusal to accept or meaningfully process a regulatory vehicle for administrative stay and conduct that undermines congressionally mandated victim-protection frameworks, the jurisdictional bar should not be read to insulate such conduct from any judicial review. *See also Espinoza-Sorto v. Agudelo*, No. 1:25-cv-23201-GAYLES (S.D. Fla. Oct. 28, 2025) (holding § 1252(g) barred review of discretionary adjudicatory decisions but the court retained jurisdiction to determine whether removal was legally permissible while petitioner remained under DHS-conferred deferred action; entering injunctive relief prohibiting removal while deferred action remained in effect).

Critically, this Court already exercised jurisdiction to enter an order requiring written notice at least seventy-two hours before "removing, transferring, relocating, or otherwise moving" Petitioner. (Doc. 5 ¶ 3(a)). The Government has never sought

to vacate that order. The practical effect of the Report's jurisdictional holding is to render the Court's notice order meaningless, allowing Respondents to remove Petitioner before the Court can adjudicate the Petition or any objections. At minimum, the Court retains authority to enforce its own orders and to issue such ancillary relief as is necessary to preserve its jurisdiction and ability to decide the case. *See* 28 U.S.C. § 1651(a) (All Writs Act).

Objection 2: The Report Fails to Account for the TVPA Framework and DHS/ICE Policies Designed to Prevent Removal That Undermines Trafficking Investigations and Victim-Based Relief.

Congress enacted the Trafficking Victims Protection Act and subsequent reauthorizations to ensure that trafficking survivors can safely report, cooperate, and seek protection without immediate removal. *See*, e.g., 8 U.S.C. § 1101(a)(15)(T) (creating T nonimmigrant status for victims of severe forms of trafficking who assist law enforcement); 22 U.S.C. § 7105(c) (victim protection and assistance, including authority for "continued presence" and work authorization for victims who are potential witnesses). Removal of a trafficking victim while USCIS adjudicates a pending Form I-914 frustrates this congressional design and risks chilling cooperation with labor and criminal investigations.

DHS has implemented policies expressly aimed at preventing civil immigration enforcement actions from compromising trafficking investigations and victim-based adjudications. ICE's Policy No. 11005.4 (effective immediately as of January 31, 2025) directs ICE officers and agents to "coordinate and deconflict

internally, and with local, state, and other federal law enforcement, as appropriate," when determining whether to take civil immigration enforcement actions "to ensure criminal investigative and other enforcement actions will not be compromised." ICE Pol'y No. 11005.4, Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victim-Based Immigration Benefits, at 2 (Jan. 31, 2025). This instruction is especially relevant here: Petitioner has reported severe labor trafficking and has a pending T visa application supported by documentation yet was detained at a USCIS biometrics appointment and threatened with imminent removal.

ICE Policy 11005.4 further recognizes the unique sensitivity of victim-based filings by reaffirming binding statutory confidentiality and information-use limitations under 8 U.S.C. § 1367, including the prohibition on relying on information from "prohibited sources," which in T-visa contexts includes "the trafficker or perpetrator." ICE Pol'y No. 11005.4 at 3. Congress and DHS did not create these protections to be rendered meaningless by removal before USCIS can adjudicate the pending victim-based petition.

These statutory and policy frameworks bear directly on the equities and on the nature of the relief sought: Petitioner requests limited, temporary preservation of the due process to prevent irreparable harm which is the permanent loss of access to trafficking-based humanitarian protection and the compromise of ongoing reporting/cooperation, while the Court adjudicates this habeas action and while USCIS adjudicates the pending I-914. Nothing in the TVPA suggests that Congress

intended victims to be deported before adjudication of the protections it created; rather, the statutory scheme reflects the opposite.

Objection 3: The Report's Reliance on *Thuraissigiam* Does Not Resolve This Case Because Petitioner Seeks Core Habeas Relief to Prevent Unlawful Government Action from Mooting Judicial Review.

The Report cites *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020), for the proposition that the Suspension Clause does not apply where a petitioner ultimately seeks to remain in the United States. But *Thuraissigiam* addressed the scope of habeas review for an expedited-removal applicant seeking additional administrative asylum process. Here, Petitioner is not seeking to expand the scope of immigration merits review; he seeks temporary relief to prevent his imminent physical removal from mooting this Court's ability to adjudicate the Petition and enforce existing court-ordered protections (Doc. 5), where the challenged conduct includes Respondents' interference with access to established regulatory procedures (Form I-246) and the disregard of congressionally grounded trafficking-victim protections. District courts confronting similar facts have granted habeas relief to prevent immigration enforcement actions from unlawfully interfering with trafficking-victim adjudications and mooting judicial review. *See Vasquez v. Turek*, No. 2:25-cv-741, slip op. at 11–13 (D. Vt. Sept. 25, 2025) (holding that arresting a T-visa applicant at a required biometrics appointment and threatening removal before adjudication raised serious due process concerns, and

granting habeas relief to preserve the applicant's ability to complete the T-visa process and obtain a bona fide determination).

Even after *Thuraissigiam*, district courts retain authority in appropriate circumstances to issue limited, ancillary relief necessary to preserve jurisdiction and prevent irreparable injury, particularly where a petitioner faces imminent transfer or removal that would defeat the habeas court's ability to provide any meaningful remedy. *See* 28 U.S.C. § 1651(a). This case presents precisely that circumstance. Without temporary preservation of Petitioner's due process, Petitioner will be removed before the USCIS can adjudicate the pending trafficking-victim petition.

At a minimum, the Court should reject the recommendation to dismiss without first requiring Respondents to show compliance with the Court's 72-hour notice order and to provide sworn, specific information about any scheduled removal, travel document status, and the basis for proceeding with removal despite the pending T visa and trafficking report.

Objection 4: Petitioner Withdraws the Reasonable Fear Interview Argument and Requests Leave to Amend/Clarify Without Dismissal.

Petitioner acknowledges that 8 C.F.R. § 208.31 applies to reinstatement and administrative removal contexts not squarely alleged in the Petition as filed. To the extent the Court views Count One as relying on § 208.31, Petitioner respectfully requests leave to clarify or amend to focus the case on the live, dispositive issues: (i) Respondents' refusal to provide a meaningful opportunity to seek an administrative stay under 8 C.F.R. § 241.6 and (ii) the necessity of interim relief to

prevent removal that would irreparably undermine trafficking-victim protections and moot judicial review. Dismissal of the entire action is unwarranted where an amendment would cure any pleading deficiency and where irreparable harm is imminent.

III. REQUESTED RELIEF

For the foregoing reasons, Petitioner respectfully requests that the Court:

(1) Reject the Report and Recommendation (Doc. 10) and retain jurisdiction over the Petition;

(2) Order Respondents to comply strictly with the Court's October 28, 2025 notice order (Doc. 5 ¶ 3(a)) and to provide immediate written confirmation of any scheduled removal, travel document issuance, and intended transfer;

(3) Order a temporary stay of removal to allow for the adjudication of the T visa petition;

(4) Enter an order preserving the status quo and prohibiting removal of Petitioner pending this Court's ruling on these Objections and any further proceedings necessary to adjudicate the Petition; and

(5) Grant such other and further relief as the Court deems just and proper, including expedited briefing and/or an evidentiary hearing if appropriate.

Respectfully submitted,

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