

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

R.A.B.,

Plaintiff,

v.

KRISTI NOEM, in her official capacity as Secretary of Homeland Security; the U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, in her official capacity as Attorney General of the United States; the U.S. DEPARTMENT OF JUSTICE; DAREN MARGOLIN, in his official capacity of Director of the Executive Office for Immigration Review; the EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; BRIAN MCSHANE, in his official capacity as Field Office Director, Philadelphia Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; DAVID O'NEILL, in his official capacity as Deputy Field Office Director, Philadelphia Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; J.L. JAMISON, in his official capacity as Warden of the Federal Detention Center, Philadelphia;

Defendants.

Case No: 2:25-cv-6310

MOTION FOR A TEMPORARY RESTRAINING ORDER

Plaintiff, R.A.B, by undersigned counsel, hereby moves for a Temporary Restraining Order staying removal proceedings against him while the Court considers his challenge to the revocation of his humanitarian parole. In support of his Motion, Plaintiff avers as follows:

1. Plaintiff is a citizen and national of Venezuela who was allowed to enter the United States in October 2022 pursuant to a grant of humanitarian parole under 8 U.S.C. § 1182(d)(5)(A). *See Ex. A: ICE Form G-56 (“Call-In Letter”) and Related Documents.* He then filed a timely application for asylum, *see Ex. B: I-589 Receipt Notice*, and has complied with all conditions of his parole.

2. On October 29, 2025, Defendant ICE and/or Defendant DHS, through their agents, arrested Plaintiff after unlawfully terminating Plaintiff’s humanitarian parole without notice or explanation, and without first making an individualized determination required by 8 C.F.R. § 212.5(e) that “neither humanitarian reasons nor public benefit warrants the continued presence of the [noncitizen] in the United States.”

3. After terminating his humanitarian parole, defendant DHS commenced removal proceedings against Plaintiff in the Elizabeth Immigration Court. *See Ex. C: Notice to Appear*, which has scheduled a master calendar hearing for Monday, November 10, 2025, at 1:30 p.m. *See Ex. D: Hearing Notice.*

4. Among the relief Plaintiff seeks is an Order reinstating his humanitarian parole, vacating the Notice to Appear, and terminating the removal proceedings against him.

TRO Standard

5. Temporary Restraining Orders are governed by Federal Rule of Civil Procedure 65, which requires consideration of the following: (1) likelihood of success on the merits; (2) likelihood of irreparable harm to the movant in the absence of relief; (3) balance of the harms between the plaintiff on the one hand and the defendants on the other; and (4) the public interest. *See also Osorio-Martinez v. Att’y Gen.*, 893 F.3d 153, 178 (3d Cir. 2018).

6. The Third Circuit has described the first two requirements as “gateway factors.” *Reilly v. City of Harrisburg*, 858 F.3d 173, 179 (3d Cir. 2017). If the gateway factors are met, then a court should consider the remaining factors. *Id.*; see also *Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343, 1350 (Fed. Cir. 2001) (“[A] movant cannot be granted a preliminary injunction unless it establishes both of the first two factors, i.e., likelihood of success on the merits and irreparable harm”).

7. All four factors weigh in Plaintiff’s favor. First, Plaintiff’s likelihood of success on the merits is high. DHS regulations require that, before humanitarian parole may be terminated, DHS make an individualized determination that neither humanitarian reasons nor public benefit weigh in favor of the parolee’s continued presence in the United States. That did not occur in Plaintiff’s case. Therefore, Plaintiff is likely to succeed on his Due Process and Administrative Procedure Act (APA) claims. The termination of his humanitarian parole was agency action that was arbitrary, capricious, and contrary to the law.

8. Second, Plaintiff is likely to be irreparably harmed in the absence of TRO relief. Removal proceedings are already underway and moving quickly. Plaintiff’s first hearing is set for Monday, November 10, 2025. Immigration Judges are under increased pressure to adjudicate asylum cases quickly. For example, an April 11, 2025 Memorandum by the Acting Director of the Executive Office for Immigration Review (EOIR) opens with a reminder to Immigration Judges that they have a duty to “efficiently manage their dockets” and that “[i]t is clear from the almost 4 million pending cases on EOIR’s docket, that has not been happening.”¹ The memorandum urges

¹ See Sirce E. Owen, *Pretermission of Legally Insufficient Applications for Asylum*, EOIR PM 25-28 (Apr. 11, 2025), available at <https://www.justice.gov/eoir/media/1396411/d1?inline>.

immigration judges to take “all appropriate action to immediately resolve cases on their dockets that do not have viable legal paths for relief or protection from removal.”² As a result, Plaintiff faces an increased chance that his asylum application will be denied without a hearing and, if he is granted a hearing, his hearing will be held as early as possible. In the absence of TRO relief, there is an increased risk that his case will be adjudicated before the final disposition of this case.

9. Third, the likelihood of harm to Defendants is low. Although prolonging Plaintiff’s removal case would increase the cost to Defendants DHS and ICE provided that they continue to detain Plaintiff, the decision to detain him – also challenged in this suit – was made by the Defendants when Plaintiff had been fully compliant with the terms of his parole. Even if Defendants maintain that Plaintiff has no right to a bond hearing under 8 U.S.C. § 1226(a), they cannot deny that they continue to have the authority to grant humanitarian parole at any time. Therefore, to the extent that there is any risk of harm to Defendants at all, it is far outweighed by the risk that Plaintiff will be deported before this Court has the opportunity to decide whether he should have ever been in removal proceedings in the first place.

10. Fourth, the public interest also weighs in favor of granting temporary injunctive relief because every member of the public has an interest in the fair administration of our laws. Plaintiff poses no danger to the community at large. He has lived in the United States for three years and has been fully compliant with the conditions of his parole.

² *See id.*

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order staying removal proceedings for a period of 28 days.

Respectfully Submitted,

Dated: November 7, 2025

/s/ David S. Santee

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Defendants.

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ORDER

AND NOW, this _____ day of November 2025, upon consideration of Plaintiff's Motion for a Temporary Restraining Order, **IT IS HEREBY ORDERED** that said Motion is **GRANTED**.

The Executive Office for Immigration Review is hereby **ORDERED** to **STAY** removal proceedings against Plaintiff for a period of 28 days from the date of this Order.

It is so **ORDERED**.

BY THE COURT:

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I, David S. Santee, hereby certify that a true and correct copy of the foregoing motion, together with the Proposed Order, was electronically filed with the Court on November 7, 2025, and is available for viewing and downloading from the ECF system by all counsel of record.

Dated: November 7, 2025

/s/ David S. Santee

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