

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

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MOWAFAK SHAHLA,

*Petitioner,*

v.

**SCOTTY RHODEN**, in his official  
capacity as Warden, Baker County  
Detention Center;

Case No. 3:25-cv-01404

**GARRETT RIPA**, in his official capacity  
as Field Office Director, Miami Field  
Office, U.S. Immigration and Customs  
Enforcement;

**KRISTI NOEM**; in her official capacity  
as Secretary of the U.S. Department of  
Homeland Security,

**PAM BONDI**, in her official capacity as  
Attorney General of the United States,

*Respondents.*

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**PETITIONER'S REPLY TO DEFENDANTS' RESPONSE TO PLAINTIFF'S  
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND  
STAY OF REMOVAL**

Petitioner, by and through undersigned counsel, files this reply to the Respondents' Response to Plaintiff's Emergency Motion for Temporary Restraining Order and Stay of Removal. This case is scheduled for a hearing on December 9, 2025 at 10:00 am. The Court has extended the Temporary Restraining Order up to and including December 9, 2025. *Doc. 10.*

### **PROCEDURAL HISTORY**

On November 18, 2025, Petitioner filed a Petition for Writ of Habeas Corpus (Doc. 2) and an Emergency Motion for Temporary Restraining Order and Stay of Removal (Doc. 3). In the Emergency Motion for Temporary Restraining Order, Petitioner provided no notice to Respondents as permitted under Fed.R.Civ.P. 65. This Court granted the Temporary Restraining Order (“TRO”) on November 19, 2025 “to the extent that Respondents are enjoined from removing Shahla from the Jacksonville Division of the Middle District of Florida until December 4, 2025 unless this temporary restraining order is extended or earlier dissolved.” Doc. 8, pg. 9. On November 24, 2024, this Court extended the TRO to December 9, 2025 and scheduled the case for argument on that day. Doc. 10.

Petitioner initially requested a Temporary Restraining Order under Fed.R.Civ.P. 65(b), which does not require prior notice to the adverse party. Temporary restraining orders may not exceed 14 days except for good cause or upon the consent of the opposing party. Fed.R.Civ.P. 65(b)(2). Unlike temporary restraining orders, preliminary injunctions may not be issued without notice to the adverse party. Fed.R.Civ.P. 65(a)(1). Preliminary injunctions do not have a temporal limitation of 14 days or any other time based limitation. *See id.*

The interplay between temporary restraining orders and preliminary injunctions is fluid. *Ciena Corp. v. Jarrard*, 203 F.3d 312 (4th Cir. 2000). Notice

required in Fed.R.Civ.P. 65(a) contemplates giving respondents a hearing in which the respondents are given a fair opportunity to oppose the motion and to prepare for such opposition. *See id.* Broad discretion is given to the district court in determining timing and process for entry of injunctions. *See id at 319.*

Moreover, whether a motion is labeled as a temporary restraining order or a preliminary injunction is “not of particular moment, so long as the party opposing the injunction is given notice and an opportunity to oppose that is commensurate with the duration of the injunction.” *See id at 320.*

Because Petitioner filed an emergency motion for temporary injunction with no notice, Petitioner was unable to seek a preliminary injunction at the time, which requires notice. Respondents have since received notice as the Temporary Restraining Order was served on each Respondent which outlined the request for a stay of removal pending Habeas Corpus proceedings, the Court held a status hearing to discuss the issues and scheduled a hearing for argument on the issues, and the Court has provided Respondents with an opportunity to be heard and to oppose the preliminary injunction. Therefore, Petitioner now seeks a preliminary injunction that extends throughout the Habeas Corpus proceedings.

#### **ARGUMENT AND MEMORANDUM OF LAW**

In their response, Respondents claim that Petitioner has not satisfied the four factors a court should consider in determining whether to issue a TRO or

preliminary injunction. Petitioner now addresses each of the Respondents' arguments.

**I. Likelihood of Success on the Merits**

**A. Petitioner was granted deferred action**

Respondents claim that "Petitioner has not been granted deferred action status." Doc. 12, pg. 4. Respondents also claim that Petitioner has presented no evidence that Petitioner applied for or has received employment authorization, which in turn is the trigger to begin deferred action. Doc. 12, pg. 6. On March 22, 2022, USCIS sent Petitioner a letter that stated, "[b]ecause USCIS has determined your petition is bona fide and you warrant a favorable exercise of discretion, you may be issued an employment authorization document and may be placed in deferred action." Doc. 2-2. Thus, on March 22, 2022, USCIS made the determination to grant Petitioner deferred action.

Subsequently, Petitioner submitted a Form I-765 - Application for Employment Authorization Document on July 25, 2022, which was approved on October 16, 2023. *See Exhibit A - Form I-797C - Notice of Action*. The I-765 Approval Notice specifically authorized employment from October 16, 2023 through October 15, 2027. Therefore, Petitioner was granted employment authorization and deferred action and Petitioner continues to have deferred action through October 15, 2027.

**B. Petitioner's Order of Supervision ("OSUP") was not properly revoked.**

Petitioner challenges both the detention and attempted deportation of Petitioner while he is in deferred action status and separately challenges the revocation of his order of supervision. On the issue of whether Petitioner's OSUP was improperly revoked, Respondents claim that ICE properly revoked Petitioner's OSUP according to the regulations. Doc. 12, pg. 6. Respondents' claim that they provided a Notice of Revocation on November 12, 2025 and advised Petitioner that he would receive a prompt informal hearing. Doc. 12, pg. 7. However, the Notice of Revocation was not signed by Petitioner. Interestingly, Respondents' response also does not claim to have actually provided Petitioner with a prompt informal hearing.

Furthermore, the reason for revocation listed in the Notice is insufficient. In the Notice of Revocation of Release, ICE claims that Petitioner "can be expeditiously removed from the United States..." and that Petitioner's "case will be submitted for review by the Government of Syria for the issuance of a travel document." Doc. 12-1. Yet the notice provides only conclusory statements and no basis for ICE's newfound hope of obtaining a travel document from the government of Syria despite failing to obtain a travel document from that country for the past eleven years. Respondents have provided no evidence that Syria will actually issue a travel document for Petitioner and no evidence that

Petitioner will be expeditiously removed from the United States. They have provided no notice to him regarding these issues and provided him with no opportunity to respond.

Respondents also incorrectly argue that Petitioner has the burden to establish that Petitioner's removal is not likely in the reasonably foreseeable future. *Doc. 12, pg. 7*. However, as related to the first factor, it is Petitioner's burden only to establish a substantial likelihood of success on the merits, not to establish that Petitioner's deportation is not likely in the reasonably foreseeable future. Petitioner is likely to succeed on the merits because Petitioner has established that Respondents violated due process, the immigration statutes, and federal regulations in revoking Petitioner's OSUP. It is also difficult to imagine how any Petitioner would be able to establish a fact that would be known only to the Respondents. Petitioner would have no access to Respondents' efforts or lack of efforts and the success of those efforts to obtain a travel document. Petitioner would have no access to information exchanged between the U.S. government (the Respondents) and the government of Syria regarding whether Syria would issue a travel document for Petitioner's return.

Finally, the fact that Respondents have failed to obtain a travel document from Syria in the last eleven years is evidence that his deportation is not likely in the reasonably foreseeable future. Combined with no evidence that Respondents have recently obtained a travel document or that a travel document would be

issued in the reasonably foreseeable future, Petitioner has established that he is not likely to be deported in the reasonable foreseeable future. For these reasons, Petitioner is likely to succeed on his second claim that the OSUP was revoked in violation of law.

Petitioner has established a likelihood of success on the merits related to both claims. First, Petitioner is likely to succeed on the claim that Respondents' unlawfully detained him and are attempting to deport him while he has deferred action. Second, Petitioner is likely to succeed on the claim that Respondents' unlawfully detained him in violation of due process, immigration laws and federal regulations when they revoked his OSUP.

**II. Petitioner will suffer irreparable harm.**

Respondents' claim that Petitioner will not suffer irreparable harm because a) he is receiving adequate medical care at the Baker County Detention Center, b) USCIS can still adjudicate his U visa if deported, and c) the adjudication of the U Visa is not imminent.

Respondents' claim that Petitioner is getting adequate medical care at the Baker County Detention Center is not relevant to whether he will suffer irreparable harm if he were to be deported to Syria before the conclusion of these proceedings in which he is challenging the lawfulness of that detention and deportation.

In addition to potential medical complications and separation from his family if he were deported, Petitioner also would not be able to return to the United States for several years, if at all, even if his U visa petition were approved. If Petitioner were deported prior to his I-918 petition approval, he would have to file a Form I-212, application for permission to reapply for admission to the United States after a deportation or removal. *See 8 C.F.R. §1212.2*. The current processing time<sup>1</sup> for an I-212 is 37.5 months. *See Exhibit B - USCIS I-212 Current Processing Time*. This time frame does not include the additional time it would take to prepare the form and evidence. Petitioner would not have to file this form or incur the delay in processing time if he is not physically deported. Therefore, if Petitioner is deported prior to resolution of the Habeas Petition, he will lose at least three years of his life in the United States with his family.

Respondents also claim that current data does not support Petitioner's claim that adjudication of his U visa petition is imminent. *Doc. 12, pg. 9*. However, USCIS posted notice stating that "[w]hen the new fiscal year begins on Oct. 1, 2025, we will resume approving eligible principal petitions for U-1 nonimmigrant status starting with petitions filed on or before April 30, 2017, prioritizing the oldest petitions." *Doc. 2-3*. Therefore, beginning two months ago, USCIS began adjudicating cases filed before April 30, 2017, which includes Petitioner's petition which was filed on February 17, 2017. Therefore,

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<sup>1</sup> USCIS adjudicates 80% of cases within the processing time. *See Exhibit B*.

Petitioner's case is no longer on the waitlist, but rather in the process of adjudication. Furthermore, Petitioner has filed a Complaint for Declaratory and Mandamus Relief (Case #3:25-cv-1394) seeking to have the district court order USCIS to adjudicate Petitioner's Form I-918 Petition.

Finally, Petitioner would suffer irreparable harm if he were deported to Syria because he is a Christian and would face persecution and violence because of his faith. *See Exhibit C - Petitioner statement dated July 11, 2025 and Exhibit D - Petitioner's wife's statement dated June 29, 2025.* The U.S. Department of State noted in the *2023 Report on International Religious Freedom: Syria* that "Christians reportedly continued to face discrimination and violence at the hands of extremist groups." *Exhibit E.* The report goes on to detail the discrimination against and targeting of Christians, who are estimated to be between 2.5% - 10% of the population. *See id.* Because of Petitioner's Christian faith, he would face violence and discrimination if deported to Syria.

### **III. The balance of equities and public interests favor Petitioner**

Respondents' claim that the balance of equities and public interests favor the Government because A) there is a public interest in prompt execution of removal orders and B) removal would bring an end to an ongoing violation of United States law. *Doc 12, pgs. 9-10.*

#### **A. Public interest in prompt execution of removal orders**

Respondents claim that the public interest factor favors the government because there is a public interest in the prompt execution of removal orders. However, that argument has limited value in Petitioner's case. The government is not attempting to promptly execute a removal order. Petitioner was ordered removed eleven years ago and Respondents are attempting to execute a removal eleven years after it was entered. This can hardly be described as an attempt to promptly execute a removal order. To be sure, it is not due to any government negligence that the removal order has not been executed. However, the public interest in the prompt execution of removal orders is surely higher when a removal order is fresh and physical removal is easily accomplished.

The government's detention of Petitioner eleven years after the initial removal order was entered, while Petitioner has been granted deferred action and is awaiting a decision from USCIS on his U visa petition does not serve any public interest. Quite the contrary. The public has an interest in holding the government accountable to honor its grant of deferred action and to allow the lawful process to conclude without circumventing that process with a premature removal. Petitioner has a viable, lawful pathway to remain in the United States. It has been a very long and arduous pathway, to be sure. Yet, as Petitioner nears the end where he seeks a decision from one government agency (USCIS), that will either allow him to stay in the United States or not stay in the United States, a separate agency within the same government (ICE), seeks to prematurely cut

that pathway off. The government, on one hand (USCIS), has informed Petitioner that they will not deport him while they make a decision on a petition that would lead to lawful status, but on the other hand (ICE) has detained and sought to deport him before the other hand (USCIS) can act. It is in the public interest to allow Petitioner to obtain a decision from USCIS without his lawful pathway being circumvented.

### **B. No ongoing violation of United States law**

Respondents' claim that it is in the public interest to prevent an ongoing violation of law. Doc. 12, pg. 10. However, Petitioner is in compliance with the law. Although he was ordered removed eleven years ago, the government has been unable to physically deport him. Respondents concede that Petitioner was legally entitled to release on OSUP after 90 days, pursuant to 8 U.S.C. §1231(a)(3). Doc. 12, pg. 6. Additionally, Petitioner was granted deferred action, which was a government decision not to deport Petitioner through October 15, 2027. Therefore, the government has no public interest in preventing an ongoing violation of law because Petitioner is in compliance with the law.

### **Conclusion**

The Court has broad discretion to grant a temporary restraining order and preliminary injunction to preserve the status quo. *Fernandez-Roque v. Smith*, 671 F.2d 426, 419 (11th. Cir. 1982). Petitioner has established that he ultimately will prevail on the merits, will incur irreparable harm if he is not granted a

preliminary injunction preventing his removal from this jurisdiction or removal from the country, and that a stay is in the public interest, and therefore Petitioner respectfully requests this Court issue an injunction preventing Petitioner's removal from this jurisdiction and removal from the country pending the outcome of Petitioner's Petition for Writ of Habeas Corpus.

Respectfully submitted,

DATED: December 5, 2025

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