IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Greenbelt Division)

MOBOALJI OLUFUNMILAYO AOKO,	*	
Petitioner,	*	
		Case No. 8:25-cv-03901-JRR
v.	*	
KRISTI NOEM, *et al.*,	*	
Respondents.	*	

* * * * * * * * * * * * *

RESPONDENTS' RESPONSE IN OPPOSITION TO
MOTION FOR A TEMPORARY RESTRAINING ORDER

Respondents, United States Department of Homeland Security ("DHS") Secretary Kristi Noem, Acting Director of United States Immigration and Customs Enforcement ("ICE") Todd Lyons, and Acting Field Office Director for the ICE Baltimore Field Office Jeremy Bacon[1] (collectively, "Respondents"), by and through undersigned counsel, Kelly O. Hayes, United States Attorney for the District of Maryland, and Megan L. Micco, Assistant United States Attorney for that District, oppose the Motion for a Temporary Restraining Order (ECF No. 2) (the "Motion") filed by Petitioner Moboalji Olufunmilayo Aoko ("Petitioner"), and state as follows:

I. INTRODUCTION

Petitioner is a citizen and native of Nigeria who overstayed her visa, has been denied asylum, withholding of removal, and other immigration benefits to date due to her own credibility issues and misrepresentations, and is presently subject to a final order of removal to Nigeria. In

[1] Pursuant to Federal Rule of Civil Procedure 25(d), upon the departure of a public officer sued in their official capacity, "[t]he officer's successor is automatically substituted as a party." Fed. R. Civ. P. 25(d). Jeremy Bacon has recently been named Acting Field Office Director for the ICE Baltimore Field Office. Thus, he is automatically substituted as the respondent for former-Acting Field Office Director Nikita Baker.

August 2010, an Immigration Judge found that Petitioner willfully misrepresented a material fact in a 1991 application for Temporary Protected Status which rendered her inadmissible under 8 U.S.C. § 1182(a)(6)(C)(i) and that she was not eligible to waive application of 8 U.S.C. § 1182(a)(6)(C)(i) to adjust her status. Petitioner was granted voluntary departure with an alternative order of removal to Nigeria. On May 2, 2012, the Board of Immigration Appeals ("BIA") affirmed the Immigration Judge's decision in a written opinion and ordered Petitioner to be removed.

On November 25, 2025, the day before her next regularly scheduled check-in with ICE, Petitioner filed a Motion to Reopen her removal proceedings and an accompanying Motion for a Stay of Removal/Deportation with the BIA. *See* ECF No. 2-1. Until and unless those motions are granted, they do not invalidate Petitioner's final removal order. When Petitioner presented to the ICE Baltimore Field Office for her check-in the next day, November 26, 2025, ICE conducted a record check, confirmed that Petitioner is subject to a final order of removal, determined that Petitioner's order of removal is executable, and detained Petitioner pursuant to a signed Warrant of Removal/Deportation, Form I-205. Petitioner subsequently initiated this habeas action and filed the instant Motion, which asks the Court to "release her from detention, block her transfer outside the [D]istrict of Maryland, and stay her removal from the United States." ECF No. 2 at 14.

Petitioner's Motion should be denied. She cannot establish a likelihood of success on the merits because her detention is lawful pursuant to 8 U.S.C. § 1231(a)(6) and *Castaneda v. Perry*, 95 F.4th 750 (4th Cir. 2024), and her arrest was effectuated pursuant to a warrant in accordance with the Fourth Amendment. Petitioner's request to prevent her transfer from the District of Maryland is also fruitless given that the same argument has been rejected by numerous judges in this District in prior cases and the ICE Baltimore Hold Room is not a detention facility. Petitioner also fails to satisfy the other requirements for injunctive relief.

II. RELEVANT FACTUAL BACKGROUND

On or about May 1, 1991, Petitioner entered the United States with a valid B-2 (tourism) visitor visa. ECF No. 1 at ¶¶ 1, 13; *see also Visitor Visa*, U.S. DEP'T OF STATE, https://travel.state.gov/content/travel/en/us-visas/tourism-visit/visitor.html (last visited Dec. 2, 2025) (explaining that "visitor visas are nonimmigrant visas for persons who want to enter the United States temporarily for business (B-1 visa), for tourism (B-2 visa), or for a combination of both purposes (B-1/B-2 visa)"). At some point in 1991, Petitioner also submitted an application for Temporary Protected Status. *See* Exhibit ("Ex.") 1, May 2, 2012 Decision of the BIA, at p. 2. "The signed application provided that [Petitioner] [wa]s a citizen of Liberia," which was not true. *Id.*[2] Eventually, Petitioner's B-2 visitor visa expired, but she failed to depart the United States. *See* ECF No. 1 at ¶¶ 1, 13. DHS subsequently initiated removal proceedings. *Id.*

On June 23, 1993, an Immigration Judge found that Petitioner "lacked credibility and denied her applications for asylum, withholding of removal and voluntary departure." Ex. 1 at p. 1. Petitioner appealed that decision, but the BIA dismissed the appeal. *Id.* On December 30, 2002, Petitioner filed a motion to reopen the case with the BIA, which was denied as untimely. *Id.*

On August 16, 2005, Petitioner sought to reopen her removal proceedings again, claiming that she previously received ineffective assistance of counsel and was eligible for adjustment of status. *Id.* The BIA granted the motion and remanded the case to an Immigration Judge, who granted Petitioner's application for adjustment of status. *Id.* DHS appealed that decision. *Id.* On December 26, 2007, the BIA remanded the case back to the Immigration Judge for a determination as to whether Petitioner made a willful misrepresentation in the 1991 application for Temporary

[2] In a June 23, 1993 hearing, Petitioner testified that she did not read the application before she signed it, but she later testified in a May 16, 2006 hearing that she read the application before it was filed, saw that it mistakenly said she was from Liberia, and signed it anyway. Ex. 1 at p. 2.

Protected Status that would render her inadmissible under Immigration and Nationality Act ("INA") § 212(a)(6)(C)(i) (8 U.S.C. § 1182(a)(6)(C)(i)). *Id.*

On December 15, 2008, the Immigration Judge found that Petitioner "willfully misrepresented a material fact in order to gain immigration benefits and that she would need to file a[n] [INA § 212(i) (8 U.S.C. § 1182(i))] waiver to establish eligibility for adjustment of status." *Id.* "A[n] [8 U.S.C. § 1182(i)] waiver serves to waive application of [8 U.S.C. § 1182(a)(6)(C)(i)] for those who are the spouse, son, or daughter of a United States citizen or alien lawfully admitted for permanent residence if refusal of admission would result in extreme hardship to the citizen or lawful resident spouse or parent." *Id.* at p. 2. On August 9, 2010, the Immigration Judge adjudicated Petitioner's waiver application and concluded that Petitioner was not eligible to waive application of 8 U.S.C. § 1182(a)(6)(C)(i) to adjust her status because her "lawful permanent resident mother would not suffer extreme hardship if [Petitioner] was denied admission." *See id.* at pp. 1–3. The Immigration Judge granted Petitioner voluntary departure until October 8, 2010 with an alternative order of removal to Nigeria and set a voluntary departure bond of $500 to be paid within five days. Ex. 2, August 9, 2010 Order of the Immigration Judge. Petitioner appealed that decision. *See* Ex. 1 at p. 1. On May 2, 2012, the BIA affirmed the August 9, 2010 decision of the Immigration Judge in a written opinion and ordered Petitioner to be removed. *See generally* Ex. 1.

Because Petitioner was not removed following the BIA's adjudication of her appeal, Petitioner was subject to regular check-ins with ICE. On November 25, 2025, the day before her next scheduled check-in with ICE, Petitioner filed a Motion to Reopen her removal proceedings and an accompanying Motion for a Stay of Removal/Deportation with the BIA. *See* ECF No. 2-

1. Until and unless those motions are granted, they do not invalidate Petitioner's final removal order. The motions presently remain pending with the BIA.

On November 26, 2025, Petitioner presented to the ICE Baltimore Field Office for her check-in. At that time, ICE conducted a record check, confirmed that Petitioner is subject to a final order of removal, and determined that Petitioner's order of removal is executable because Nigeria is accepting its own citizens for removal and issuing travel documents. *See* Ex. 3, Declaration of Joseph Burki, at ¶ 5. ICE arrested Petitioner pursuant to a signed Warrant of Removal/Deportation, Form I-205. *See* Ex. 4, November 26, 2025 Warrant of Removal/Deportation.

On December 1, 2025, DHS hand-delivered a travel document request packet for Petitioner to the Nigerian Embassy in Washington, D.C. Ex. 3 at ¶ 6. Upon hand-delivery of the travel document request packet, the Nigerian Embassy advised DHS that it would issue travel documents for Petitioner once DHS provides a flight itinerary for Petitioner. *Id.* at ¶ 7. The Nigerian Embassy can generally provide travel documents within a few days of receipt of a flight itinerary. *Id.* ICE is prepared to remove Petitioner to Nigeria imminently. *Id.* at ¶ 8. To effectuate Petitioner's removal, ICE need only place Petitioner on a flight itinerary and provide that itinerary to the Nigerian Embassy in order to obtain Petitioner's travel documents. *Id.* Because ICE is presently enjoined from removing Petitioner from the United States, *see* ECF No. 9, it cannot place Petitioner on a flight itinerary at this time, but it is prepared to do so promptly once such action is permitted. *See* Ex. 3 at ¶ 8.

III. LEGAL STANDARD

Temporary restraining orders and preliminary injunctions are "extraordinary remedies" involving the exercise of "very far-reaching power" to be granted only "sparingly" and "in limited

circumstances." *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 816 (4th Cir. 1991); *see also Profiles, Inc. v. Bank of Am. Corp.*, 453 F. Supp. 3d 742, 747 (D. Md. 2020) (citing *MicroStrategy, Inc. v. Motorola, Inc.*, 245 F.3d 335, 339 (4th Cir. 2001)).

Petitioner must satisfy four elements to show entitlement to a temporary restraining order, including: first, that she is likely to succeed on the merits; second, that she will likely suffer irreparable harm unless the court grants relief; third, that the balance of equities weighs in her favor; and fourth, that an injunction is in the public interest. *Profiles, Inc.*, 453 F. Supp. 3d at 746 (citing *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 236 (4th Cir. 2014)); *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008). The last two factors—balance of equities and the public interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009).

While the first two factors are the most critical, *see id.* at 434, a movant must satisfy each of the four factors to obtain injunctive relief, *see Profiles, Inc.*, 453 F. Supp. 3d at 746. Thus, if a movant fails to satisfy the likelihood-of-success factor, the movant is not entitled to a temporary restraining order regardless of a showing on the other factors. *See Profiles, Inc.*, 453 F. Supp. 3d at 746. Moreover, "[t]o establish irreparable harm, the movant must make a 'clear showing' that [she] will suffer harm that is 'neither remote nor speculative, but actual and imminent.'" *Mountain Valley Pipeline, LLC v. 6.56 Acres of Land, Owned by Sandra Townes Powell*, 915 F.3d 197, 216 (4th Cir. 2019) (quoting *Direx Israel, Ltd.*, 952 F.2d at 812).

V. ARGUMENT

A. Petitioner Cannot Establish a Likelihood of Success on the Merits.

1. *Petitioner's detention is lawful pursuant to 8 U.S.C. § 1231(a)(6) and* Castaneda v. Perry, *95 F.4th 750 (4th Cir. 2024).*

ICE's detention authority stems from 8 U.S.C. § 1231, which provides for the detention and removal of aliens with final orders of removal. 8 U.S.C. § 1231. 8 U.S.C. § 1231(a)(1)(A) directs immigration authorities to remove an alien with a final order of removal within a period of 90 days, which is known as the "removal period." 8 U.S.C. § 1231(a)(1)(A). Per 8 U.S.C. § 1231(a)(2)(A), "[d]uring the removal period, the Attorney General *shall detain the alien.*" 8 U.S.C. § 1231(a)(2)(A) (emphasis added). When the removal period expires, ICE may either release an alien on supervision under 8 U.S.C. § 1231(a)(3) or continue detention under 8 U.S.C. § 1231(a)(6). 8 U.S.C. § 1231(a)(6) plainly provides that ICE may continue detention beyond the removal period for "[a]n alien ordered removed who is inadmissible under [8 U.S.C. § 1182]." 8 U.S.C. § 1231(a)(6). "[I]n authorizing such 'post-removal-period-detention,' the statute 'does not specify a time limit on how long DHS may detain an alien in the post-removal period.'" *Castaneda v. Perry*, 95 F.4th 750, 755–56 (4th Cir. 2024) (first quoting *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001), then quoting *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021)).

However, "[d]ue to the 'serious constitutional concerns' that would arise if § 1231 were interpreted to authorize 'indefinite detention,' the Supreme Court in *Zadvydas* 'construed the statute to contain an implicit "reasonable time" limitation.'" *Id.* at 756 (quoting *Zadvydas*, 533 U.S. at 682). The Supreme Court held that the Government cannot detain an alien "indefinitely" beyond the 90-day removal period, limiting "post-removal-period detention to a period reasonably necessary to bring about the alien's removal from the United States." *Zadvydas*, 533 U.S. at 682, 689. The Supreme Court further held that a detention period of six months is "presumptively

reasonable." *Id.* at 701. "After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*

In *Castaneda*, the petitioner challenged his continued post-removal-period detention during the pendency of withholding-only proceedings, which spanned several years. *See* 750 F.4th at 755–56. He argued that the "uncertain future" of the withholding-only proceedings combined "with the amount of time he ha[d] already been detained" demonstrated that "his removal from the United States [wa]s not significantly likely to occur in the reasonably foreseeable future, thus entitling him to immediate release under *Zadvydas*." *Id.* at 756. The Fourth Circuit disagreed. It observed:

> In this case, Vasquez Castaneda's detention simply is not the type of "indefinite and potentially permanent" detention at issue in *Zadvydas*. Vasquez Castaneda is being detained pending the completion of withholding-only proceedings that he voluntarily initiated. Critically, withholding-only proceedings are *finite*. In the ordinary course, they continue only for such time as a determination can be made concerning the legality of removing the alien to the designated country. If the alien fails to obtain withholding-only relief, and absent any other diplomatic or logistical barriers, then the government can—and must—promptly carry out the alien's removal to the designated country. If the alien prevails, then the government may still remove the alien to another country, assuming it continues to pursue removal at all. In either case, however, the withholding-only proceedings *end*. And if the withholding-only proceedings have a definite ending point, then so too must the detention *pending* the resolution of those proceedings. . . . As such, ongoing withholding-only proceedings, even lengthy ones, simply do not present the same risk of "indefinite and potentially permanent" detention at issue in *Zadvydas*. Stated differently, ongoing withholding-only proceedings do not, standing alone, cast doubt on the foreseeability of an alien's removal in the future.

Id. at 757–58 (emphases in original).

Here, ICE's detention is lawful under 8 U.S.C. § 1231(a)(6) given that Petitioner has been deemed inadmissible and ordered removed to Nigeria by an Immigration Judge, which decision has been affirmed by the BIA, and ICE has demonstrated a significant likelihood of removal of

Petitioner to Nigeria in the reasonably foreseeable future. *See* Exs. 1, 2, 3. Moreover, as in *Castaneda*, Petitioner's recent, voluntary efforts to reopen her removal proceedings and stay her removal order "alone are insufficient to demonstrate that removal is no longer reasonably foreseeable." 750 F.4th at 758. If Petitioner does not prevail in her efforts, "then nothing stands in the way of [her] prompt removal to [Nigeria]. And if [s]he does succeed, nothing would prevent ICE from removing [her] to another country. As things currently stand, [Petitioner] does not find herself in a 'removable-but-unremovable limbo.'" *Id.* (quoting *Jama v. Immigr. & Customs Enf't*, 543 U.S. 335, 347 (2005)). And, like withholding-only proceedings, any proceedings that may result from Petitioner's efforts to reopen her removal proceedings and stay her removal order will be finite.

Because ICE has statutory authority to detain Petitioner to effectuate her removal order and has demonstrated a significant likelihood of removal in the reasonably foreseeable future, Petitioner's detention is lawful, and the Court should deny the Motion.

2. *Petitioner was lawfully arrested pursuant to a warrant of removal.*

In addition to challenging the lawfulness of her detention, Petitioner contends that she was arrested without a warrant in violation of the Fourth Amendment. *See* ECF No. 1 at ¶¶ 34–35; *see also* ECF No. 2 at 10–11. Petitioner is incorrect. ICE arrested Petitioner pursuant to a signed Warrant of Removal/Deportation issued on November 26, 2025, the date Petitioner was arrested and detained. *See* Ex. 4. ICE issued the warrant because Petitioner is subject to a final order of removal. *Id.*

3. *Petitioner must be transferred out of the District of Maryland.*

Finally, Petitioner seeks to "block her transfer outside the [D]istrict of Maryland." ECF No. 2 at 14. This argument has been rejected by numerous members of this Court in prior cases.

See, e.g., *Chavez de Vasquez v. Noem*, Civil No. 25-3657-SAG, ECF No. 2 (motion for temporary restraining order seeking, in part, to prevent the transfer of the petitioner from Maryland), ECF No. 7 (November 7, 2025 Order denying motion for temporary restraining order following argument in a telephonic hearing); *Maldonado de Leon v. Baker*, Civil No. 25-3084-TDC, ECF No. 25 (September 25, 2025 Order denying the petitioner's motion for temporary restraining order which objected to relocation to an immigration detention facility outside of Maryland); *Quintana Flores v. Bondi*, Civil No. 25-1950-DLB, ECF No. 4 (June 19, 2025 motion for temporary restraining order seeking to enjoin the Government from transferring petitioner outside of Maryland until the habeas petition is adjudicated), ECF No. 8 (June 20, 2025 Order denying motion for temporary restraining order following argument on a telephone conference).

Moreover, Petitioner must be transferred out of the District of Maryland because no ICE detention facilities exist in Maryland. Under Maryland's Dignity Not Detention Act, state and local governments are prohibited from entering into contracts with ICE to detain individuals for federal civil immigration violations. Dignity Not Detention Act, H.B. 16, 2021 Leg., 443rd Sess. (Md. 2021). And Petitioner cannot stay in the ICE Baltimore Hold Room because it is intended only for temporary custody of aliens while they are being processed and transferred to a facility designed for longer-term detention. Indeed, the very issue of how long an alien can be detained in the Hold Room is currently being litigated in this Court. *See D.N.N. v. Baker*, Civil No. 25-cv-1613-JRR. Thus, Petitioner's request to remain detained in Maryland is both legally baseless and factually impossible.

B. Petitioner Fails to Satisfy the Other Requirements for a Temporary Restraining Order.

For the reasons set forth above, Petitioner is not likely to succeed on the merits of her claims. Because Petitioner cannot establish likelihood of success on the merits, her Motion should be denied and the Court's analysis of the *Winter* factors should end here.

Even if the Court were to determine that Petitioner is likely to succeed on the merits, Petitioner cannot establish irreparable harm. According to the Motion, Petitioner will suffer irreparable harm if she is removed to Nigeria, where she claims she will face danger in the form of persecution, torture, and possibly death. ECF No. 2 at 6–7. However, as of December 1, 2025, ICE is presently enjoined from removing Petitioner from the United States or altering her legal status. ECF No. 9. Thus, Petitioner's alleged concerns regarding removal to Nigeria set forth in the Motion are currently moot. Petitioner also contends that she has medical issues and requires regular medication and monitoring, but she fails to identify any specific treatment or medication that she purportedly needs, nor does she allege that she has made requests for or been denied medication or treatment by ICE. *See* ECF No. 2 at 7. To the contrary, Petitioner is free to request medication and/or treatment from ICE. Finally, Petitioner suggests that transferring her from Maryland will deprive her of access to her local counsel and impair her ability to participate in her ongoing proceedings, but similar arguments were recently rejected by Judge Chuang in *Maldonado de Leon*. *See* Civil No. 25-3084-TDC, ECF No. 25.

As to the third and fourth *Winter* factors, the balance of equities does not favor Petitioner and injunctive relief is not in the public interest. Petitioner is in the country illegally after having overstayed her visa. She committed a misrepresentation while trying to obtain immigration benefits, and, as a result, is now subject to a lawful, final removal order.

VI. CONCLUSION

For the foregoing reasons, the Court should deny Petitioner's Motion for a Temporary Restraining Order.

Dated: December 2, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of December, 2025, a copy of the foregoing Respondents' Response in Opposition to Motion for a Temporary Restraining Order and all supporting exhibits was served electronically on all parties and counsel receiving service via CM/ECF in this case.

/s/ Megan L. Micco
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