

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 25-CV-25618-BLOOM

**MOHAMMAD ABDELRAHMAN
SAMHAN,**

Petitioner,

v.

**KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security, et al.,**

Respondents.

**RESPONDENTS' RESPONSE IN OPPOSITION TO PETITIONER'S
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
TO ENJOIN UNLAWFUL REMOVAL AND ORDER IMMEDIATE RELEASE**

Respondents, by and through the undersigned Assistant United States Attorney, respond in opposition to Petitioner's Emergency Motion for Temporary Restraining Order to Enjoin Unlawful Removal and Order Immediate Release [DE 13] (TRO Motion), and in accordance with the Order re: Petitioner's Emergency Motion for Temporary Restraining Order to Enjoin Unlawful Removal and Order Immediate Release [DE 14] (Order); and in support thereof, state the following.

Petitioner seeks an impermissible advisory opinion by way of the TRO motion. *Elend v. Basham*, 471 F.3d 1199, 1205 (11th Cir. 2006) ("If an action for prospective relief is not ripe because the factual predicate for the injury has not fully materialized, then it generally will not contain a concrete injury requisite for standing."). In the TRO Motion, Petitioner asks the Court is issue an order "[e]njoining Respondents from removing Petitioner to any third country unless and until Respondents demonstrate on the record full compliance with all statutory and regulatory protocols governing such removal under 8 U.S.C. 1231(b)(2) and implementing regulations." TRO Motion p.8. Petitioner, however, fails to allege any that he will be removed

to a third country, much less that any legally cognizable rights have been violated in that purported removal attempt. Rather, Petitioner merely alleges that Respondents alleged “recent practice creates a concrete and imminent *risk* that Respondents *will attempt* to remove Petitioner without compliance with the required procedures.” TRO Motion p.3-4 (emphasis added). Petitioner’s theoretical harm is insufficient to establish standing to bring an action seeking an order from the Court.

Respondents are not aware of any current plan to remove Petitioner to a third country. Respondents will provide Petitioner notice and opportunity before removing Petitioner to a third country. Declaration of Deportation Officer Samuel F. Deck ¶8.

The TRO Motion should be denied.

Respectfully submitted,

JASON A. REDING QUIÑONES
UNITED STATES ATTORNEY

Anthony Erickson-Pogorzelski

Anthony Erickson-Pogorzelski
Assistant United States Attorney
Florida Bar No. 619884
99 N.E. 4th Street, Suite 300
Miami, Florida 33132-2111
Tel: 305.961.9296
Email: anthony.Pogorzelski@usdoj.gov