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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

Luis Angel MALDONADO FLORES A[redacted] Petitioner, v. Craig LOWE, *et al.*, Respondents.	Case No. 1:25-cv-02398-JPW

PETITIONER'S MEMORANDUM IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER

Petitioner Luis Angel Maldonado Flores respectfully requests that this Court grant his request for a Temporary Restraining Order to maintain the status quo and prevent Respondents from removing him from the United States to Honduras prior to his petition for a writ of habeas corpus being heard. Absent this Court's intervention, Luis will be deprived of his fundamental rights and his legal entitlement to fair treatment under the law.

I. STATEMENT OF FACTS AND PROCEDURAL HISTORY

Luis was brought to the U.S. in 2003, as a four-year-old child, with no control over his immigration to the U.S. His mother was a victim of domestic abuse at the hands of his father. On September 24, 2004, Luis and his mother were granted voluntary departure by the Detroit Immigration Court. For reasons outside of Luis's control, Luis's mother did not comply with the terms of voluntary departure, and, subsequently, a final order of removal was entered against him. Being a small child, Luis had no control over whether he complied with the terms of voluntary departure.

Luis filed a Petition for a Writ of Habeas Corpus with this Court [Dkt. 1] seeking to enjoin Respondents from removing him from the United States until the Board of Immigration Appeals and any U.S. Courts of Appeals rule on his pending Motion to Reopen his removal proceedings. Although Luis filed a Motion to Reopen his removal proceedings with the Immigration Court on December 11, 2025, there is no decision from the Immigration Court as of the filing of this motion.

In 2015, approximately **nine years *after his removal order was issued,*** Luis applied for, and was granted, Deferred Action through the DACA program. In 2017, Luis' father took him back to Honduras. Unfortunately, country conditions significantly deteriorated after Luis arrived, as described further below. In 2021,

fearing for his life, Luis returned to the United States by entering without inspection. He was not encountered by DHS at the time of his 2021 entry.

Luis is engaged to his partner Daiana Briyith Diaz Quiroz, who is the mother of their U.S. citizen child. Daiana has an approved Special Immigrant Juvenile Status with deferred action. With current processing times, it will be approximately a year before she can apply for Legal Permanent Residence, at which point she can file a family-based petition for Luis once they are married.[1]

Despite their engagement and urgent desire to legitimize their family unit, Respondents are actively preventing Petitioner from marrying Ms. Diaz Quiroz. On December 8, 2025, Petitioner's counsel submitted a formal request to ICE officials at Pike County Correctional Facility seeking permission for the couple to marry. (See **Exhibit A**, Correspondence with ICE).

On December 10, 2025, ICE Supervisory Detention and Deportation Officer John J. Coulter, Jr. effectively denied the request. Officer Coulter admitted that 'there are no impediments to his removal' but stated that because 'the process for a marriage request usually takes 2-3 weeks to complete,' ICE 'will not stop the removal process to facilitate the marriage.' Id. Officer Coulter confirmed that Petitioner's removal is imminent (likely within 5-7 days), thereby creating a

[1] Daiana's I-360 priority date is September 12, 2022. *See* Dkt. 1, Exhibit C, I-360 Approval with Deferred Action. Based on the December 2025 Visa Bulletin, the current priority date in the relevant (EB4) category is February 15, 2021. *See* https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2026/visa-bulletin-for-december-2025.html.

paradox where Petitioner is being removed too quickly to be permitted to exercise his fundamental right to marry.

Luis filed a Motion to Reopen with the Immigration Court on December 11, 2025. In the Motion he argued that changed country conditions in his native country of Honduras warranted the reopening of his immigration case, and that he warrants the equitable tolling of the filing deadline for motions to reopen or, alternatively, that his case presents exceptional circumstances because of his age at the time he was ordered removed, his lack of understanding of and control over the consequences of his mother's failure to arrange their departure after accepting an order of voluntary departure, and his mother's abuse at the hands of his father. Luis's motion to reopen requests that the Immigration Court reopen his case so that he may pursue relief by marrying his partner, filing a family-based petition for adjustment of status when her priority date becomes current, and filing for asylum and withholding of removal based on changed country conditions. The motion, along with the motion for an emergency stay of removal, remains pending.

On December 2, 2025, Luis was taken into DHS custody. He is being held by DHS at the Pike County Correctional Facility.

II. ARGUMENT

The standard for issuing a temporary restraining order is identical to the standard for a preliminary injunction. *Georgia Vocational Rehab. Agency Bus.*

Enter. Program v. United States, 354 F. Supp. 3d 690, 693 (E.D. Va. 2018). In deciding whether to issue a preliminary injunction, a court must consider whether: (1) the plaintiff is likely to succeed on the merits; (2) the plaintiff is likely to suffer irreparable harm if an injunction is not granted; (3) the balance of equities tips in the plaintiff's favor; and (4) an injunction is in the public interest. *Nken v. Holder*, 556 U.S. 418 (2009) citing *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008).

1. Petitioner is likely to succeed on the merits.

Luis has a strong likelihood of success in his habeas action, as this Court should find that the BIA's procedures for adjudicating motions to reopen and stays of removal will be found to be inadequate to provide administrative and judicial review of Luis's motion. The Immigration & Nationality Act provides immigrants with a statutory right to seek a motion to reopen. 8 U.S.C. §1229a(c)(7) and removal before his motion to reopen could be considered would deprive Luis of the right to have the Immigration Court take the changed country conditions into account while considering whether he should be removed from the U.S. In addition, although Luis has filed a request for a stay of removal to the Immigration Court, the Immigration Court's own practice manual states that it does not rule on a stay unless removal is imminent and the individual is in ICE's physical custody. Immig. Ct. Practice Manual Ch. 8.3(c)(2)(A).

Courts have stayed removal so that motions to reopen can be adjudicated. *See e.g., Patel v. Barr,* 2020 U.S. Dist. LEXIS, 14553 (E.D.Pa. August 13, 2020) (stay removal so that BIA could decide motion to reopen); *Sean B. v. McAleenan,* 412 F. Supp.3d 472 (D.N.J. September 13, 2019) (granting a stay of removal in habeas proceedings because removal would curtail petitioner's constitutional and statutory rights in litigating his motion to reopen*); Compere v. Nielsen*, 358 F. Supp. 3d 170 (D.N.H. Jan. 24, 2019) (granting a stay of removal for petitioner because deportation to Haiti would vitiate his ability to pursue an appeal to the BIA of the IJ's denial for a motion to reopen); *Devitri v. Cronen*, 289 F. Supp. 3d at 294 (D. Mass. 2018), appeal docketed, 18-1281 (Apr. 6, 2018) (granting preliminary injunction staying the removal to allow the petitioners to seek adjudication of motions to reopen before the BIA); *Ibrahim v. Acosta*, No. 17-cv-24574-GAYLES (S.D. Fla. Dec. 19, 2017) (ordering a stay of removal pending consideration of habeas challenge); *Neth v. Marin*, No. SACV 17-01898-CJC (C.D. Ca. Dec. 14, 2017) (Ordering a stay of removal pending consideration of habeas challenge to re-detention, noting that a stay was necessary given the speed with which the government intended to remove Petitioners); *Sied v. Nielsen, 2018 U.S. Dist. LEXIS 35696.* 17-cv-06785-LB, 2017 WL 6316821 (M.D. Ca. March 2, 2018) (ordering a stay of removal pending consideration of habeas challenging removal to allow petitioner time to file a motion to reopen); *Darweesh v. Trump*,

17-cv- 480 (AMD) (E.D.N.Y. January 28, 2017) (ordering a stay of removal pending consideration of habeas petition challenging removal and detention).

In each of these cases, the District Court has determined that the petitioner had a statutory right to have his motion to reopen considered and that a stay of removal so that the reviewing agency could act was appropriate. Like the petitioner in *Compere,* Luis is awaiting a decision on his motion to reopen, yet ICE seeks to deport him before the motion is adjudicated.

Also like the petitioner in *Compere,* Luis has a statutory right to file a motion to reopen with the reviewing agency and he has an associated right to seek judicial review in the court of appeals from a decision by the BIA denying such a motion. *Compere*, 2019 WL 332193, at *9.

2. *Petitioner is likely to suffer irreparable harm if deported to Honduras.*

To establish "irreparable harm," a plaintiff must show that the harm is "neither remote nor speculative, but actual and imminent." *Kabando v. United States*, No. 1:15cv1040 (JCC/JFA), 2015 WL 5052665, at *4 (internal quotation marks omitted) (quoting *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 812 (4th Cir. 1991)). Luis faces actual and imminent irreparable harm if he is removed to Honduras. He has a two-year-old U.S. citizen child, and if Luis was deported he would suffer greatly from being deprived that relationship with his son. Moreover, Luis has a credible fear of persecution and torture both by the state

of martial law in Honduras as well as by violent gangs targeting him for recruitment and/or extortion, because of his status as a young male deportee. See Exhibit B, Dkt. 1.

Furthermore, absent a stay, Luis will suffer the irreparable harm of being denied his fundamental right to marry and the subsequent statutory right to pursue adjustment of status. The Supreme Court has recognized marriage as a fundamental right protected by the Due Process Clause. *See Obergefell v. Hodges*, 576 U.S. 644 (2015); *Turner v. Safley*, 482 U.S. 78 (1987).

Respondents have indicated they will not pause the removal machinery for the "2-3 weeks" required to process a marriage request. *See* Exh. A, Dkt. 1. If Luis is removed before this marriage occurs, he loses the ability to file a Form I-130 petition as the spouse a future Lawful Permanent Resident. This deprivation is final; once removed, the statutory bars to his return will likely permanently sever his ability to reunite with his family in the United States. A stay is the only mechanism available to preserve the status quo long enough for Petitioner to exercise this fundamental right.

3. *A stay of Petitioner's removal is both in the public interest and supported on consideration of the balance of equities.*

Luis is neither a flight risk nor a danger to the public. He has no criminal record. What he does have are a fiancée with SIJ status and a two-year-old U.S. citizen child whom he provides for financially, emotionally, and developmentally,

and suffers acutely each day they are separated. Additionally, Luis has had a removal order for 21 years, **and was even granted DACA by the U.S. immigration authorities with knowledge of that order.** There is simply no urgency to remove him now. The government would not suffer any harm if Luis is not deported immediately. The balance of equities lies heavily on allowing Luis to stay to give him time to get married and give time for his partner to file a marriage-based petition for him.

III. CONCLUSION

The Supreme Court has recognized that "there is a public interest in preventing aliens from being wrongfully removed, particularly to countries where they are likely to face substantial harm." *Nken*, 556 U.S. at 436. The public's interest in providing due process for non-citizens to ensure that they are not removed to a country where they will be persecuted is an extremely weighty one. *Cf. Kucana v. Holder*, 558 U.S. 233, 242 (2010) ("The motion to reopen is an 'important safeguard' intended 'to ensure a proper and lawful disposition' of immigration proceedings." (quoting *Dada*, 554 U.S. at 18 (2008)).

The preliminary injunction factors weigh in Petitioner's favor, and this Court should stay Luis's removal from the United States to Honduras to allow for the adjudication of his pending Motion to Reopen and to permit his marriage to the mother of his U.S. citizen son.

Dated: December 13, 2025

Respectfully submitted,

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Memo in Support of Temporary Restraining Order are true and correct to the best of my knowledge.

DATED: DECEMBER 13, 2025

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