

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

Guilherme Cavalcante Mol  
Plaintiff

Case No. 1:25-CV-02023-TAD - JPM

JUDGE TERRY  
A. DOUGHTY

MAGISTRATE  
JUDGE PEREZ-  
MONTES

VS.

Eleazar Garcia and Kristi Noem  
Defendants

**PETITIONER'S MOTION FOR RECONSIDERATION OF ORDER DENYING  
TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION**

Petitioner, through undersigned counsel, respectfully moves this Court to reconsider its Order denying Petitioner's Motion for Temporary Restraining Order and/or Preliminary Injunction. This Motion is brought pursuant to Federal Rule of Civil Procedure 54(b) and is based on the Court's express recognition that preliminary relief may be appropriate where circumstances change such that the Court's ability to grant effective habeas relief would otherwise be impaired. This Motion addresses Respondents' opposition and the urgent necessity of maintaining this Court's jurisdiction under the governing standards of the Fifth Circuit.

The Court denied preliminary relief on the ground that Petitioner had not demonstrated imminent removal or circumstances suggesting that a favorable ruling on the habeas petition would be "too little, too late." The Court expressly noted, however, that its findings "may change" and that preliminary relief "might be appropriate" if Respondents' actions altered Petitioner's circumstances such that the Court could not eventually redress Petitioner's claims.

Since the Court's ruling, Petitioner's circumstances have materially changed. Petitioner is now subject to a final order of removal issued on December 19, 2025, and faces imminent execution of that order. This development creates precisely the jurisdictional risk identified by the Court. Absent interim relief, Respondents may remove Petitioner from the United States before this Court has the opportunity to adjudicate the pending habeas petition, thereby mooting the action and depriving the Court of its ability to render a meaningful decision on the merits.

Reconsideration is therefore warranted under Rule 54(b) to account for this changed factual posture and to prevent the irreparable jurisdictional harm that would result from Petitioner's removal while his habeas petition remains pending.

**I. Respondents' mischaracterization of the requested relief ignores the Court's inherent authority to preserve its jurisdiction.**

Petitioner respectfully clarifies that he does not seek release from custody, bond, or any adjudication of the merits of his habeas petition through this Motion for Reconsideration. The sole relief requested is a narrowly tailored, temporary stay of removal to preserve the status quo and this Court's jurisdiction pending resolution of the habeas petition. This request is jurisdiction-preserving, not merits-deciding, and is fully consistent with the Court's recognition that interim relief may be appropriate where removal would foreclose effective judicial review.

Respondents argued that injunctive relief was inappropriate because it was 'duplicative' of the pending habeas petition, and the Court denied relief based on the factual posture then before it. That conclusion rests on a misapprehension of the distinct procedural functions of a

Temporary Restraining Order and a habeas petition. Petitioner does not seek an ultimate merits determination through interim relief; rather, the requested relief functions as a procedural safeguard to ensure that the Privilege of the Writ of Habeas Corpus remains effective.

Under the All Writs Act, 28 U.S.C. § 1651(a), this Court possesses the traditional equitable power to issue orders necessary to prevent a pending case from becoming moot. See *ITT Educ. Servs., Inc. v. Arce*, 533 F.3d 342, 347 (5th Cir. 2008). Where removal would extinguish this Court's ability to resolve the habeas petition, injunctive relief serves not to decide the merits, but to preserve the Court's Article III authority. The Fifth Circuit has emphasized that the function of preliminary relief is to prevent the irreparable loss of rights before judgment. *United States v. Abbott*, 87 F.4th 616 (5th Cir. 2023).

Reconsideration is warranted because the denial of interim relief under these circumstances risks rendering any subsequent ruling on the habeas petition advisory in nature.

## **II. Imminent removal constitutes irreparable harm and materially alters the Court's prior analysis.**

Unlike at the time of the Court's initial ruling, Petitioner now faces imminent removal pursuant to a final order of removal. This factual development distinguishes the present posture from the circumstances addressed in the denial of the TRO. Removal under these conditions would render any subsequent ruling on the habeas petition ineffectual and would deprive Petitioner of meaningful judicial review. The irreparable harm here is not merely the hardship attendant to detention, but the permanent loss of the ability to have Petitioner's legal claims adjudicated by this Court.

Respondents' opposition failed to address, and the Court's Order did not account for, the undisputed fact that Petitioner is now subject to a final order of removal and faces imminent removal as of December 19, 2025. This fact materially alters the irreparable-harm analysis. The Fifth Circuit strictly applies the framework articulated in *Nken v. Holder*, 556 U.S. 418 (2009), which recognizes that a stay of removal is an exercise of judicial discretion guided by equitable principles.

Removal under these circumstances constitutes irreparable harm because Petitioner cannot be restored to the status quo once deported. This injury is not merely the hardship of relocation; it is the permanent loss of the right to have legal claims adjudicated. See *Leiva-Perez v. Holder*, 640 F.3d 962, 968–69 (9th Cir. 2011). Once removal occurs, the pending habeas petition risks becoming moot, depriving this Court of the ability to grant effective relief.

Although the jurisdictional harm alone warrants reconsideration, the irreparable consequences of removal would also extend beyond Petitioner himself. Petitioner is the primary support for his U.S. citizen spouse, who is experiencing severe financial and emotional distress as a result of his detention and threatened removal. The Supreme Court has recognized that removal prior to judicial review raises serious constitutional concerns and risks depriving noncitizens of meaningful habeas relief. *INS v. St. Cyr*, 533 U.S. 289, 301–03 (2001).

### **III. The pending I-130 petition and the need for a meaningful day in court.**

Petitioner is currently the beneficiary of a pending I-130 Petition for Alien Relative filed by his U.S. citizen spouse. While USCIS has not yet adjudicated the petition, the Fifth Circuit has indicated a willingness to ensure that noncitizens have a meaningful "day in court" when

navigating complex removal timelines. *Lugo-Resendez v. Lynch*, 831 F.3d 337, 344 (5th Cir. 2016). By refusing to stay the removal, Respondents seek to bypass the legal pathway provided by Congress for the spouses of U.S. citizens. An injunction is necessary to allow for the "orderly administration of justice" and to prevent a "race to the airport" that subverts the judicial process. *United States v. Texas*, 809 F.3d 134 (5th Cir. 2015). The Court's authority under the All Writs Act to preserve its own jurisdiction survives the jurisdiction-stripping provisions of the INA, particularly where a constitutional or legal challenge is at stake that cannot be remedied post-removal.

#### **IV. The balance of equities and public interest favor reconsideration and interim relief.**

The balance of equities weighs sharply in Petitioner's favor. Granting interim relief merely maintains the status quo while this Court adjudicates the habeas petition. Denying relief risks irreversible harm and forecloses meaningful judicial review. The public interest is served by ensuring that constitutional claims are adjudicated before irreversible government action is taken and by preserving the integrity of the judicial process.

Under the Fifth Circuit's standard articulated in *Wages & White Lion Invs., L.L.C. v. FDA*, 16 F.4th 1130 (5th Cir. 2021), the threat of irreparable harm and the likelihood of success on the merits are the most critical factors. Petitioner has raised non-frivolous constitutional claims regarding his detention and the denial of procedural due process that warrant careful judicial consideration—consideration that cannot occur if removal proceeds.

Petitioner reiterates that he seeks no determination regarding custody, bond, or release, and requests only a temporary stay of removal sufficient to preserve this Court's jurisdiction to adjudicate the pending habeas petition. Accordingly, this Motion does not seek to circumvent the

habeas process, but rather to ensure that the habeas process remains viable and that this Court retains the ability to grant effective relief.

**V. Conclusion and alternative relief.**

For the foregoing reasons, Petitioner respectfully requests that the Court reconsider its Order denying the Motion for Temporary Restraining Order and/or Preliminary Injunction and issue an order enjoining Respondents from removing Petitioner pending resolution of the habeas petition. In the alternative, Petitioner respectfully requests that the Court issue an interim order preventing removal to allow for expedited briefing and consideration of a preliminary injunction, consistent with Federal Rule of Civil Procedure 65.

Respectfully submitted,

**/s/ Luana M. Biagini**  
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**PROPOSED ORDER GRANTING IN PART MOTION FOR RECONSIDERATION AND  
ISSUING LIMITED STAY OF REMOVAL**

Before the Court is Petitioner's Motion for Reconsideration of the Court's Order denying Petitioner's Motion for Temporary Restraining Order and/or Preliminary Injunction. Having considered the Motion, the record, and the applicable law, the Court finds that limited reconsideration is warranted to preserve the Court's jurisdiction pending adjudication of the habeas petition.

Accordingly,

IT IS ORDERED that Petitioner's Motion for Reconsideration is **GRANTED IN PART**.

IT IS FURTHER ORDERED that Respondents, their officers, agents, servants, employees, and all persons acting in concert with them are **ENJOINED** from removing Petitioner from the **United States** pending resolution of Petitioner's habeas petition currently before this Court.

IT IS FURTHER ORDERED that this Order is issued solely to preserve the status quo and the Court's ability to render a meaningful decision on the pending habeas petition and does not constitute a ruling on the merits of Petitioner's habeas claims or any other relief requested therein.

IT IS FURTHER ORDERED that this stay of removal shall remain in effect until further order of the Court.

MONROE, LOUISIANA, this \_\_\_ day of \_\_\_\_\_, 2026.

TERRY A. DOUGHTY

UNITED STATES DISTRICT JUDGE