

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Antonio Elpidio Gomez-Alcina,

Petitioner,

No. 2:25-cv-01164-KCD-DNF

v.

Kristi Noem, Secretary of the
Department of Homeland Security et al.,

Respondents.

**RESPONSE TO MOTION TO
EXTEND TEMPORARY RESTRAINING ORDER**

Petitioner Antonio Elidio Gomez-Alcina moves for an order extending a temporary restraining order that expired on January 2, 2026. Respondents oppose the motion, as Gomez-Alcina does not meet his burden for obtaining extraordinary relief.

FACTS

Gomez-Alcina is a 72-year-old citizen of Cuba who was paroled into the United States June 30, 1980. (Composite Exhibit, Ex. A at 4, 5.) On February 27, 1985, he was convicted of second-degree murder and sentenced to three years imprisonment. *Id.* at 5. On August 9, 1988, he was ordered excluded and deported from the United States. *Id.* at 1. The government was unable to deport him at that

time, and an order of supervision was issued on August 9, 1988. *See id.* at 3. In 1999, Gomez-Alcina was convicted of Involuntary Manslaughter and Felonious Assault; he was sentenced to 16 years imprisonment. (Petition, Doc. 1 ¶ 19; Composite Exhibit, Ex. A at 5.)

Gomez-Alcina was most recently detained on December 5, 2025. (Composite Exhibit, Ex. A at 5; ICE Detention History, Ex. C.) On December 23, 2025, he was served with a notice revoking his supervised release under 8 C.F.R. § 241.4(l)(2). (Composite Exhibit, Ex. A at 3.)

ARGUMENT

To obtain a temporary restraining order, a movant must show “(1) a substantial likelihood of ultimate success on the merits; (2) the TRO is necessary to prevent irreparable injury; (3) the threatened injury outweighs the harm the TRO would inflict on the non-movant; and (4) the TRO would serve the public interest.” *Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995).¹ This “is an extraordinary remedy.” *Bloedorn v. Grube*, 631 F.3d 1218, 1229 (11th Cir. 2011).

¹ The traditional standard for a TRO applies in the present case, as the Gomez-Alcina did not move for an extension of the previously entered TRO prior to its expiration. *See* Fed. R. Civ. P. 65(b)(2) (The order expires at the time after entry--not to exceed 14 days--that the court sets, *unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension. The reasons for an extension must be entered in the record.*”).

As demonstrated in Respondents opposition to Gomez-Alcina's petition, he does not possess a likelihood of ultimate success on the merits. This Court lacks jurisdiction over Gomez-Alcina's petition, immigration detention does not violate the Due Process Clause of the Fifth Amendment, and ICE has complied with its regulations regarding revocation of an order of supervision. *See* Resp. Br., Doc. 8. Gomez-Alcina's failure to meet the first factor necessary to obtain a temporary restraining order therefore precludes relief. *See Fla. Preborn Rescue, Inc. v. City of Clearwater, Fla.*, 161 F.4th 732, 738 (11th Cir. 2025) ("The first factor is the most important, and '[w]here a court concludes that the movant fails to establish a substantial likelihood of success on the merits,' it needn't reach the remaining considerations.").

Gomez-Alcina has most acutely failed to show that a prohibition on moving him outside the Middle District of Florida would cause him irreparable injury, outweigh an injury to Respondents, or be in the public interest. *Cf. Maryland v. King*, 567 U.S. 1301, 1303 (2012) ("[A]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury."). Indeed, an order restraining ICE from transporting Gomez-Alcina outside the Middle District of Florida would unduly hamper ICE's ability to manage its facilities as in furtherance of the Executive Branch's immigration functions. *See Herrera v. U.S. Atty. Gen.*, 811 F.3d 1298, 1300 (11th Cir. 2016)

(“Judicial deference to the Executive Branch is especially appropriate in the immigration context.”).

CONCLUSION

Gomez-Alcina’s Motion to Extend Temporary Restraining Order should be denied.

DATED this 15th day of January, 2026.

Respectfully submitted,

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