UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Case No. 2:26-cv-9-SPC-DNF

RAUL PEREZ,
Petitioner,

v.

KELIE WALKER, et al.,

Respondents.
_____/

PETITIONER'S EMERGENCY MOTION FOR STAY OF REMOVAL

Courts have the power "to issue injunctive relief to prevent irreparable harm and to preserve jurisdiction over the matter." *See A.A.R.P. v. Trump*, No. 24-1177, 2025 WL 1417281, at *6. (U.S. May 16, 2025) (upholding administrative stay of removal for habeas petitioners.) The petitioner, Raul Perez (hereinafter "Mr. Perez" or "Petitioner"), has been committed to civil immigration detention after being detained by agents of Immigration and Customs Enforcement (ICE) at a regularly scheduled ICE check-in.

But, as a Mariel Cuban, he is entitled to procedural protections embodied in federal regulations. *See* 8 C.F.R. 212.12 ("This section applies to any native of Cuba who last came to the United States between April 15, 1980, and October 20, 1980…who is being detained…pending his or her return to Cuba or to another country."). The protections include a hearing before a 'Cuban Review Panel,' similar to a parole board. 8 C.F.R. §212.12(d). As a matter of both due process and regulatory compliance, Petitioner must also receive an informal interview, notice of the actual grounds of revocation of his Order of Supervision (OSUP), and a meaningful opportunity to respond. *See* 8 C.F.R §241.4(l); 241.13.

Furthermore, Respondents' detention of Petitioner at Alligator Alcatraz amounts to an

unaccountable delegation of federal immigration detention authority to a Florida state agency. This arrangement was entirely uncontemplated by Congress and exceeds the scope of Respondents' statutory authority to detain. Petitioner, by and through the undersigned, moves the Court to issue an order administratively staying his removal from the United States in order to preserve this Court's jurisdiction over his claims.

Argument

Temporary or "administrative" stays "do not typically reflect the court's consideration of the merits of the stay application. Rather, they 'freeze legal proceedings until the court can rule on a party's request for expedited relief.'" *United States v. Texas*, 144 S. Ct. 797, 798 (2024) (Barrett, J., and Kavanaugh, J., concurring in denial of applications to vacate stay) (mem) (cleaned up).[1] Under the All Writs Act, 28 U.S.C. § 1651, a federal court has the authority to issue a stay or injunctive orders "in a case even before the court's jurisdiction has been established." *ITT Cmty. Dev. Corp. v. Barton*, 569 F.2d 1351, 1359 n.19 (5th Cir. 1978).[2] "When *potential* jurisdiction exists, a federal court may issue status quo orders to ensure that once its jurisdiction is shown to exist, the court will be in a position to exercise it." *Id.* (emphasis added) (citing *FTC v. Dean Foods Co.*, 384 U.S. 597, 603–05 (1966)). "This rationale is consistent with the All Writs Act provisions for 'all writs [] *in aid* of their respective jurisdictions.'" *V.N.A. of Greater Tift Cnty., Inc. v. Heckler*, 711 F.2d 1020, 1028 n.22 (11th Cir. 1983) (emphasis in original).

The Supreme Court and lower federal courts routinely issue administrative stays solely "to

[1] While the *Texas* Court diverged on precisely when and how administrative stays may be employed by federal courts (as compared to the use of temporary restraining orders or preliminary injunctions under different legal standards), it squarely recognized that administrative stays are an available tool that may be employed by federal courts to freeze the status quo during short periods of uncertainty in order to allow the court to deliberate with reason. *See Texas*, 144 S. Ct. 797, 798 (Barrett, J., and Kavanaugh, J., concurring in denial of applications to vacate stay); *id.* at 805 (Kagan, J., dissenting from denial of applications to vacate stay) ("Administrative stays surely have their uses.").

[2] All decisions handed down by the Fifth Circuit prior to September 30, 1981, are binding authority for this Court. *See Bonner v. City of Prichard, Ala.*, 661 F.2d 1206, 1207 (11th Cir. 1981).

permit time for briefing and deliberation[,]" without considering the merits of the stay application. *Texas*, 144 S. Ct. at 798; *see Rodriguez-Delgado v. Noem*, No. 25-cv-22671, ECF No. 4 at 2 (S.D. Fla. June 13, 2025) (Gayles, J.,); *M.S.P.C. v. U.S. Customs & Border Prot.*, 60 F. Supp. 3d 1156, 1160 (D.N.M. 2014) ("The Court entered a limited stay to consider the jurisdictional issues and requested additional briefing on the Suspension Clause issue."); *Devitri v. Cronen*, 290 F. Supp. 3d 86, 88 (D. Mass. 2017) ("The Court temporarily stayed removal to determine if the Court has jurisdiction.").

The All Writs Act permits courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). Further, the Supreme Court recognizes "a limited judicial power to preserve the court's jurisdiction or maintain the status quo by injunction pending review of an agency's action through the prescribed statutory channels." *F.T.C. v. Dean Foods Co.*, 384 U.S. 597, 604 (1966) (citing cases).

An All Writs Act injunction is warranted here because it is necessary to ensure that the Court can retain jurisdiction over the plaintiff's cause of action. "There are at least three different types of injunctions a federal court may issue." *Klay v. United Healthgroup, Inc.*, 376 F. 3d 1092, 1097 (CA11 2004). "The first is a 'traditional' injunction, which may be issued as either an interim or permanent remedy for certain breaches of common law, statutory, or constitutional rights." *Id.* (footnote omitted). "The requirements for a traditional injunction are well-known," being the normal four-factor test that courts apply, and it also required that "any motion or suit for a traditional injunction must be predicated upon a cause of action." *Id.* But that is not true of all the different types of injunctions that a federal court may issue. For example, some injunctions are "not a traditional injunction, and could not be justified as such, [where] the plaintiffs had no cause of action against the defendants upon which the injunction was based." *Id.*, at 1098.

That point is important for jurisdictional purposes as will be discussed later. As relevant to this motion: The final type of injunction is an injunction under 28 U.S.C. § 1651(a), the All Writs Act, which states, "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." The Act does not create any substantive federal jurisdiction. *See Brittingham v. Comm'r*, 451 F.2d 315, 317 (5th Cir.1971) ("It is settled that ... the All Writs Act, by itself, creates no jurisdiction in the district courts. It empowers them only to issue writs in aid of jurisdiction previously acquired on some other independent ground."). Instead, it is a codification of the federal courts' traditional, inherent power to protect the jurisdiction they already have, derived from some other source. *See Procup v. Strickland*, 792 F.2d 1069, 1074 (11th Cir.1986) (en banc) ("Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions.").

In allowing courts to protect their "respective jurisdictions," the Act allows them to safeguard not only ongoing proceedings,... but potential future proceedings,... as well as already-issued orders and judgments.... *See Wesch v. Folsom*, 6 F.3d 1465, 1470 (11th Cir.1993) ("In addition, courts hold that despite its express language referring to 'aid ... of jurisdiction,' the All–Writs Act empowers federal courts to issue injunctions to protect or effectuate their judgments."). *Id.*, at 1099–100 (emphasis added) (footnotes omitted).

A "court may grant a writ under this act whenever it is 'calculated in [the court's] sound judgment to achieve the ends of justice entrusted to it,' and not only when it is ' "necessary" in the sense that the court could not otherwise physically discharge its . . . duties.' " *Klay*, 376 F. 3d, at 1100 (citation omitted). "Such writs may be directed to not only the immediate parties to a proceeding, but to 'persons who, though not parties to the original action or engaged in wrongdoing,

are in a position to frustrate the implementation of a court order or the proper administration of justice, and . . . even those who have not taken any affirmative action to hinder justice.' " *Id.* (citation omitted).

"Whereas traditional injunctions are predicated upon some cause of action, an All Writs Act injunction is predicated upon some other matter upon which a district court has jurisdiction." *Id.* "Thus, while a party must 'state a claim' to obtain a 'traditional' injunction, there is no such requirement to obtain an All Writs Act injunction—it must simply point to some ongoing proceeding, or some past order or judgment, the integrity of which is being threatened by someone else's action or behavior." *Id.* (emphasis added). "The requirements for a traditional injunction do not apply to injunctions under the All Writs Act because a court's traditional power to protect its jurisdiction, codified by the Act, is grounded in entirely separate concerns." Id., at 1100–01 (footnotes omitted) (citations omitted).

If deported, the Petitioner's cause of action may make the *status quo ex ante* impossible to restore, jeopardizing this Court's jurisdiction over his claims challenging his unlawful Order of Supervision revocation and detention in the Middle District of Florida. *See AARP V. Trump*, 605 U.S. ___ (2025) (citing *Abrego Garcia v. Noem*, No. 25-cv-951 (D.Md.), ECF Docs. 74,77) ("The government has represented elsewhere that it is unable to provide for the return of an individual deported in error to El Salvador.") Federal courts have power to issue injunctive relief to prevent irreparable harm and to preserve jurisdiction. *See id*, (citing 28 U.S.C. §1651(a)).

In fact, the Court has "the constitutional obligation to protect [its] jurisdiction from conduct which impairs their ability to carry out Article III functions." *Klay* at 1097 (CA11 2004). (quoting *Procup*, 792 F. 2d, at 1074). The Supreme Court has reiterated that federal courts have jurisdiction "to preserve jurisdiction" in cases involving imminent removal. *A.A.R.P v. Trump*, 605 U.S.

___(2025). Petitioner also moves the Court enter an order preventing his transfer outside of the District of Middle Florida to ensure Petitioner is able to participate in the adjudication of his claim for habeas relief, including participation in court proceedings and access to legal counsel during the pendency of his case.

Following briefing, the petitioner requests a hearing on the matter. In aid of that hearing and of the Court's ability to order swift and effective relief, the petitioner requests that the Court order that the respondent produce the petitioner's body for the Court to take custody over the petitioner while it decides his case. Last, the petitioner preserves his right to propound interrogatories under 28 U. S. C. § 2246, or to request any other discovery by motion that would help "to render [this] habeas corpus proceeding effective," *Harris*, 394 U. S., at 300, 300 n. 7.

Respectfully submitted,

Dated: January 8, 2026

s/ Felix A. Montanez
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Certificate of Conferral

This habeas petition was filed on January 2, 2026, and no Assistant U.S. attorney has yet entered an appearance. Thus, the undersigned has not had an opportunity to know who the government will assign to this case and has not been able to confer with opposing counsel about this motion.

However, initial show cause proceedings in habeas petitions are designed to operate in an ex parte fashion,[3] and per the ECF notices in this case, and the court clerk is providing the government with notice of this case by email at USAFLM.Alcatraz@usdoj.gov.

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[3] See, *supra*, n. 1.