

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

ARCILA PEREZ, RAFAEL E.

Petitioner,

v.

NOEM et Al.

Respondents.

Civil Action No.: 2:26-cv-00107-SPC-NPM

**PETITIONER/PLAINTIFF'S EMERGENCY MOTION FOR PRELIMINARY INJUNCTION
AND/OR TEMPORARY RESTRAINING ORDER**

CERTIFICATION OF EMERGENCY PURSUANT TO LOCAL RULE 3.01(f)

Pursuant to Local Rule 3.01(f) of the Middle District of Florida, undersigned counsel hereby certifies that this Motion is filed as a true emergency. Specifically:

1. As a member of the Bar of this Court, I have carefully examined this matter, and it is a true emergency, and the urgency has not been caused by my or the party's own dilatory conduct.
2. Immediate and irreparable injury, loss, or damage will result to Plaintiff if the requested relief is not granted as soon as possible.
3. The emergency nature of this motion arises from recent developments, including Petitioner/Plaintiff's detention at the Florida Soft Side South (Alligator Alcatraz). The Petitioner has been removed from Alligator Alcatraz and was transferred to Adams County Correctional Center in Mississippi. It is believed that the intention of moving the Petitioner is to execute his removal order and remove him from the United States despite the pending matter;

4. Notice has been provided to the U.S. Attorney, Mr. Gregory Kehoe, via email gregory.kehoe@usdoj.gov on January 25, 2026, as there has been no Attorney assigned to the matter for the Defendants.
5. This Motion is not being filed for the purpose of delay.
6. After reviewing the facts and researching applicable legal principles, I certify that this Motion in fact presents a true emergency (as opposed to a matter that may need only expedited treatment) and requires an immediate ruling because the Court would not be able to provide meaningful relief to a critical, non-routine issue after the expiration of seven days. I understand that an unwarranted certification may lead to sanctions.
7. I further certify that I have made a bona fide effort to resolve this matter without the necessity of emergency action.

Respectfully submitted,

/s/ Juliana G. Lamardo, Esq.

Florida Bar No. 50995
Law Offices of Juliana G. Lamardo, P.A.
2414 SW 22nd Street, 2nd Floor
Miami, Florida 33145
(305) 444-0099
JLamardo@LamardoLaw.com

January 25, 2026.

**PETITIONER/PLAINTIFF'S EMERGENCY MOTION FOR
PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER**

COMES NOW the Petitioner/Plaintiff, by and through undersigned counsel, and hereby files the instant Emergency Motion and respectfully states as follows:

1. The Petitioner/Plaintiff incorporates by reference the facts and procedural history as set forth in his Verified Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and Complaint for Declaratory and Injunctive Relief. *See* D.E. 1.

2. The Petitioner/Plaintiff seek to “preserve the status quo during the course of litigation in order to prevent irreparable injury to the moving party and in order to preserve the ability of the court to render complete relief.” *Federal Leasing, Inc. v. Underwriters at Lloyds*, 487 F. Supp. 1248, 1259 (D. Md. 1980), *aff'd*, 650 F.2d 495 (4th Cir. 1981).

3. A temporary restraining order and/or a preliminary injunction is warranted where, as here, the plaintiffs establish: (1) a substantial likelihood that they will prevail on the merits; (2) a substantial threat of irreparable injury in the injunction is not granted; (3) greater injustice to the plaintiffs if the injunction is denied than harm caused by granting the injunction; and (4) no substantial disservice to the public interest. *Osmose, Inc. v. Viance, LLC*, 612 F.3d 1298, 1307 (11th Cir. 2010); *Scott v. Roberts*, 612 F.3d 1279, 1290 (11th Cir. 2010); *see* Fed. R. Civ. P. 65.

4. This standard is not rigidly applied by assigning a fixed quantitative value to each of the four factors. Rather, a flexible scale – which balances each consideration and arrives at the most equitable result, given the particular circumstances of each case – is used. *Texas v. Seatrain International, S.A.*, 518 F.2d 785, 787 (5th Cir. 1975) ~~encl.~~

5. The Petitioner/Plaintiff is likely to succeed on the merits because the Respondents/Defendants are detaining the Petitioner/Plaintiff to execute his deportation despite

his grant of Temporary Protected Status.

6. The Petitioner/Plaintiff will likely suffer irreparable harm in the absence of preliminary relief from deportation. *See, e.g., Padilla v. Kentucky*, 559 U.S. 356, 364 (2010) (“deportation is a particularly ‘severe’ penalty” (citation omitted)).

7. The Petitioner/Plaintiff has complied with Fed. R. Civ. Pro. Rule 65 requirements for purposes of granting a Temporary Restraining Order. Pursuant to this Rule, the Court may issue a temporary restraining order without written or oral notice to the adverse party, but only if (a) specific facts in an affidavit clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (b) the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

8. As undersigned counsel has set forth in her supporting Affidavit, undersigned counsel has provided via email provided the U.S. Attorney’s office with a copy of the instant motion and a copy of the instant motion with a copy of the Petition/Complaint and Exhibits.

9. Under the circumstances of this case, the movant should not need to post a security pursuant to Fed. R. Civ. Pro. 65(c) because the Respondents/Defendants will incur no costs or damages from being wrongfully enjoined or restrained.

CONCLUSION

Based on the foregoing, the Petitioner/Plaintiff respectfully requests that this Honorable Court enter the following orders:

- A. The Petitioner/Plaintiff is likely to succeed on the merits of the pending Petition/Complaint;
- B. The Petitioner/Plaintiff will suffer irreparable harm in the absence of preliminary relief, the balance of equities tips in the Petitioner/Plaintiff’s favor, and an injunction would

serve the public interest;

- C. Enjoin the Respondents/Defendants from detaining and deporting the Plaintiff/Petitioner while he is the beneficiary of a grant of deferred action through Temporary Protected Status (TPS);
- D. Grant the Petitioner/Plaintiff any other relief the Court deems necessary and proper.

Respectfully submitted,

/s/ Juliana G. Lamardo, Esq.

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JLamardo@LamardoLaw.com

January 25, 2026.

VERIFICATION

Undersigned counsel certifies under penalty of perjury that I am submitting this verification because I am the Petitioner/Plaintiff's attorney, and I have discussed the facts within this Motion with the Petitioner/Plaintiff's counsel in stay of removal proceedings before Respondents/Defendants. Pursuant to these discussions, I have reviewed the foregoing Motion and that, to the best of my knowledge, the facts therein are true and accurate.

Respectfully submitted,

/s/ Juliana G. Lamardo, Esq.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing document with the Court Clerk and to the best of my knowledge a true and correct copy of the foregoing, along with a Notice of Electronic Filing, will be served through the Court's ECF system to all counsel of record this 25th day of January, 2025. As no attorney from the U.S. Attorney's Office has entered an appearance yet in the instant matter, I provided a copy of the foregoing to the U.S. Attorney, Gregory W. Kehoe, at his email address listed with the Florida Bar, gregory.kehoe@usdoj.gov.

Respectfully submitted,

/s/ Juliana G. Lamardo, Esq.

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AFFIDAVIT OF JULIANA G. LAMARDO
COUNSEL FOR PETITIONER/PLAINTIFF

1. My full name is Juilana Gnecco Lamardo, and I am the attorney of record in the above-captioned matter.
2. I am a member of The Florida Bar (Florida Bar No. 50995), and I am admitted to practice in the U.S. District Courts for the Southern District of Florida, Middle District of Florida, and Northern District of Florida
3. On January 23, 2026, the Petitioner was moved from Florida Soft Side South (Alligator Alcatraz) and was transferred to Adams County Correctional Center in Mississippi.
4. On January 23, 2026, I emailed the U.S. Attorney for the Middle District of Florida, the U.S. Attorney, Kevin R. Huguelet, via email at Kevin.Huguelet@usdoj.gov, requesting the name of the Attorney assigned to the above captioned matter in preparation for filing the Petitioner/Plaintiff's Motion for Preliminary Injunction and/or Temporary Restraining Order.
5. The Petitioner did not show up on the ICE detainee locator until later in the day on Friday,

January 23, 2026.

6. On January 24, 2025, Petitioner's wife, Yenny Graciela Herrera Parra, advised undersigned counsel that after speaking to the Petitioner, the Petitioner stated ICE advised that he would be removed to Venezuela on Monday, January 26, 2026.
7. On January 25, 2026, I notified the U.S. Attorney for the Middle District of Florida, the U.S. Attorney, Gregory W. Kehoe, at his email address listed with the Florida Bar, gregory.kehoe@usdoj.gov., that I intended to file the Petitioner/Plaintiff's Motion for Preliminary Injunction and/or Temporary Restraining Order and I attached copies of the proposed Motion with this Affidavit and the Petition and Complaint.
8. The purpose of this Affidavit is to comply with Fed. R. Civ. Pro. 65, which states that the Court may only issue a temporary restraining order without written or oral notice to the adverse party if specific facts in an affidavit clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition and the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.
9. The Petitioner/Plaintiff is under imminent threat of deportation despite the Petitioner/Plaintiff's protection under Temporary Protected Status.
10. Again, I certify that I have made proper efforts to give notice to the Respondents/Defendants' counsel of the Petitioner/Plaintiff's Motion.

I declare under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. § 1746.

Date: January 25, 2026



Signature of Counsel