United States District Court
Western District of Texas
San Antonio Division

Juan Carlos Sanchez Rodriguez Petitioner, v. Kristi Noem, Secretary, U.S. Department of Homeland Security, et al. Respondents.	No. 5:26-CV-00515-FB

Federal Respondents'[1] Opposed Motion to Lift the Stay of Removal

Federal Respondents move this Court to remove, lift, or vacate the Order granting a stay of removal. ECF No. 2 at 3. The Court entered this Order to preserve the ability to hear the case. *Id.* This stay should be lifted.

Petitioner's chief complaint in this habeas petition is that ICE has not timely removed him from the United States, but this judicial stay is the only impediment to removal in this case. Once the stay is lifted, a third country removal is imminent.

This Court is divested of subject matter jurisdiction to issue a stay of removal. In 8 U.S.C. § 1252(g), this Court shall not have jurisdiction to hear any cause or claim arising from the decision or action of the Attorney General to "execute" removal orders against an alien. *See also Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). The Fifth Circuit recently, in an unpublished opinion, found that the District Court lacked jurisdiction to grant a stay of removal to preserve the status quo as the stay of removal *is* a challenge to the removal order. *Imran v. Harper*, No. 25-30370 *2–3 (5th Cir. 2026) (collecting cases).

[1] The named warden in this action is not a federal employee. The Department of Justice does not represent him in this action.

Second, removing the stay will allow ICE to execute the removal order. While the stay of removal remains in effect, ICE is unable to facilitate Petitioner's removal, and Petitioner's detention continues under the 90-day removal period, which is paused until any stay is lifted.

Federal Respondents respectfully request this Court immediately lift or vacate the stay of removal.

Certificate of Conference

On April 21, 2026 the undersigned counsel conferred with petitioner's counsel via email. Petitioner's counsel is opposed to the relief requested.

Dated: April 21, 2026

Respectfully submitted,

JUSTIN R. SIMMONS
UNITED STATES ATTORNEY

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Proposed Order

The Court, having reviewed Respondents' Opposed Motion to Lift the Stay of Removal, finds that it is meritorious. The motion is, therefore, **GRANTED**. As such, the stay entered in this case on or about January 29, 2026 is hereby lifted. Respondents may execute the removal order in the ordinary course of business.

IT IS SO ORDERED.

Signed and entered this ____ day of April, 2026.

Fred Biery
U.S. District Court Judge