

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

Jose Alejandro Suarez-Garcia,

Petitioner,

v.

WARDEN, Florida Soft Side South,
Alligator Alcatraz;
GARRETT J. RIPA, Miami Field
Office Director, U.S. Immigration and
Customs Enforcement and
Removal Operations;
KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security;
PAMELA BONDI, Attorney General
of the United States,
in their official capacities,

Respondents.

Case No. 2:26-cv-00687-KCD-DNF

**EMERGENCY MOTION FOR
TRO AND STAY OF REMOVAL**

EMERGENCY MOTION FOR TEMPORARY

RESTRAINING ORDER (TRO) AND STAY OF REMOVAL

Counsel for Petitioner respectfully moves this Honorable Court for an
Emergency Temporary Restraining Order ("TRO") and Immediate Stay of
Removal, and states as follows:

INTRODUCTION

Petitioner has a pending Petition for Writ of Habeas Corpus before this Court pursuant to 28 U.S.C. § 2241, challenging the legality of his detention.

The Government's response is due on April 1st, 2026. However, ICE officers in their official capacity are actively attempting to coerce Petitioner into signing and providing fingerprints on documents effectuating his removal, in an apparent effort to execute his deportation before this Court can adjudicate his habeas petition. Petitioner was coerced under intimidation, including verbal abuse, and an ICE officer yelled at him, "Tienes que poner las huellas, cabrón" (translated as "You have to put your fingerprints, asshole").

Absent immediate judicial intervention, Petitioner will suffer irreparable harm, including removal from the United States and the effective nullification of this Court's jurisdiction.

JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 28 U.S.C. § 2241, which authorizes federal courts to review the legality of executive detention.

The Supreme Court has confirmed the continued importance of habeas review in the immigration context. *See* INS v. St. Cyr, 533 U.S. 289 (2001); Boumediene v. Bush, 553 U.S. 723 (2008).

Venue is proper in this District because Petitioner is detained within the Middle District of Florida.

FACTUAL BACKGROUND

1. Petitioner is currently detained at Florida Soft Side South, Alligator Alcatraz, within this District.
2. Petitioner filed a Petition for Writ of Habeas Corpus challenging the legality of his detention.
3. The Government's response deadline is April 1st, 2026.
4. On or about April 1, 2026, at 6:30 PM, ICE officers in their official capacity attempted to compel Petitioner to sign removal-related documents and provide fingerprints.
5. Petitioner requested to speak with his attorney before signing or giving fingerprints, but the officers refused to allow him to contact counsel.
6. Petitioner was coerced into providing his fingerprints under intimidation, including verbal abuse. An ICE officer yelled at him,

“Tienes que poner las huellas, cabrón” (translated as “You have to put your fingerprints, asshole”).

7. Under this coercion and intimidation, Petitioner provided his fingerprints.
8. These events were communicated by Petitioner directly to a family member via telephone call from detention.
9. Petitioner does not knowingly or voluntarily consent to removal or to signing any such documents.

LEGAL STANDARD

A Temporary Restraining Order (“TRO”) is an emergency form of injunctive relief designed to preserve the status quo until a court can consider a preliminary injunction or the merits of the case. In evaluating whether to grant a TRO, courts consider the same four factors applied to preliminary injunctions:

1. Likelihood of success on the merits;
2. A substantial threat of irreparable injury if relief is not granted;
3. That the threatened injury outweighs any harm the relief would cause the opposing party; and

4. That the relief would not be adverse to the public interest. *See Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008); Fed. R. Civ. P. 65(b).

ARGUMENT

A. Petitioner Faces Immediate and Irreparable Harm

Removal prior to adjudication of the habeas petition would:

1. Render the petition moot;
2. Deprive Petitioner of meaningful judicial review;
3. Effectively extinguish this Court's jurisdiction.

Courts consistently recognize that deportation during pending habeas proceedings constitutes irreparable harm.

B. This Court Retains Jurisdiction Under 28 U.S.C. § 2241

Federal Courts retain jurisdiction to review the legality of immigration detention under § 2241. *See INS v. St. Cyr*, 533 U.S. 289 (2001).

C. Coercion and Denial of Counsel Violates Due Process

The Government's actions demonstrate coercion incompatible with due process:

1. Petitioner requested to consult his attorney before signing or giving fingerprints.
2. ICE officers refused this request, forcing Petitioner to act under duress.
3. Petitioner's due process rights were violated. Any purported waiver of rights or consent must be knowing and voluntary. Actions taken under duress, intimidation, or coercion are not valid. Under the Constitution, no individual may be compelled to act against their will, and no waiver of rights is valid if obtained under duress. These actions deprived Petitioner of the fundamental procedural protections guaranteed by due process.

D. Balance of Equities and Public Interest Favor Relief

The Government faces minimal burden in preserving the status quo pending judicial review. By contrast, Petitioner faces permanent removal and loss of constitutional protections. The public interest strongly favors safeguarding judicial review and preventing coercive government conduct.

DECLARATION UNAVAILABLE:

FACTS PRESENTED UPON INFORMATION AND BELIEF

Petitioner is currently detained at Florida Soft Side South, Alligator Alcatraz, and does not have meaningful access to legal resources or the ability to prepare

a sworn declaration. Due to the urgency of the circumstances and the imminent risk of removal, this Motion is being filed on an emergency basis without a sworn declaration from Petitioner.

The factual assertions set forth herein are based upon information provided by a family member who communicated directly with Petitioner regarding the events described, and are presented upon information and belief. Petitioner respectfully requests leave to supplement the record with a sworn declaration as soon as it becomes practicable.

REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

1. Issue an Emergency Temporary Restraining Order (TRO) prohibiting Respondents from removing Petitioner from the United States or the jurisdiction of this District;
2. Grant an immediate stay of removal pending resolution of the habeas petition;
3. Order Respondents to cease any coercive efforts to obtain Petitioner's signature or fingerprints on removal-related documents and to allow access to counsel;
4. Grant such other further relief as this Court deems just and proper.

Respectfully submitted on April 3rd, 2026.

/s/ Bonnie Smerdon

Bonnie Smerdon (FL Bar No. 123933)

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COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Emergency Motion was served on Respondents via CM/ECF on April 3, 2026.

/s/ Bonnie Smerdon

Bonnie Smerdon (FL Bar No. 123933)