

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

GASPAR MANUEL SEBASTIAN,

Civil Case No. 2:26-cv-731

Petitioner,

v.

MARCOS CHARLES, Immigration and Customs
Enforcement (ICE) Enforcement and Removal
Operations (ERO) Acting Executive Associate
Director.

JUAN AGUDELO, Interim Miami Field Office Director.

CHARLES WALL, Principal Legal Advisor for ICE's
Office of the Principal Legal Advisor.

PAMELA BONDI, U.S. Attorney General,

KRISTI NOEM, U.S. Secretary of the Department
of Homeland Security,

TODD M. LYONS, Senior Official Performing the
Duties of the Director of US Immigration and
Customs Enforcement;

DAVID HARDIN, in his official capacity
as Sheriff of Glades County and custodian of Petitioner; and

JOHN DOE, Custodian.

Respondents.

_____/

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Petitioner Gaspar Manuel Sebastian, through undersigned counsel, respectfully moves this Court for a Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure prohibiting Respondents from removing Petitioner from the United States or transferring him outside the jurisdiction of this Court while his Petition for Writ of Habeas Corpus is pending.

In support thereof, Petitioner states as follows:

I. INTRODUCTION

1. Petitioner filed a Petition for Writ of *Habeas Corpus* pursuant to 28 U.S.C. § 2241 challenging the lawfulness of his continued civil immigration detention. As explained in the Petition, Petitioner remains detained despite the absence of a reasonably foreseeable removal while multiple Motions to Reopen and related immigration proceedings remain pending.

2. Absent immediate relief, Respondents retain the authority to remove Petitioner from the United States or transfer him to another detention facility at any time. Such action could occur before this Court has the opportunity to review the legality of Petitioner's detention and would risk rendering the habeas petition ineffective.

3. Petitioner; therefore, seeks a Temporary Restraining Order preserving the status quo while this Court considers the merits of the pending *habeas* petition.

II. LEGAL STANDARD

A Temporary Restraining Order may issue where the movant demonstrates:

1. A substantial likelihood of success on the merits;
2. A substantial threat of irreparable injury if the relief is not granted;
3. That the threatened injury outweighs any damage the proposed injunction may cause the opposing party; and
4. That the injunction would not be adverse to the public interest.

See Siegel v. LePore, 234 F.3d 1163 (11th Cir. 2000).

III. ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits

As set forth in the Petition for Writ of *Habeas* Corpus filed contemporaneously with this motion, Petitioner's continued detention violates the constitutional limitations recognized in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Petitioner remains detained despite the absence of a reasonably foreseeable removal while multiple Motions to Reopen remain pending before the Immigration Court and the Board of Immigration Appeals [hereinafter, the "BIA"]. Petitioner has also requested emergency stay relief and has a pending petition for relief under the Violence Against Women Act (hereinafter, "VAWA.")

Because removal cannot presently occur while those proceedings remain unresolved, Petitioner's continued detention no longer bears a reasonable relationship to the Government's legitimate purpose of effectuating removal.

B. Petitioner Will Suffer Irreparable Harm Absent Immediate Relief

Petitioner faces a substantial risk of irreparable harm absent immediate injunctive relief. Respondents retain the authority to remove Petitioner from the United States or transfer him to another detention facility at any time.

Removal from the United States before this Court has the opportunity to adjudicate the legality of Petitioner's detention would irreparably harm Petitioner by preventing this Court from providing meaningful *habeas* relief.

Similarly, transfer outside the jurisdiction of this Court could substantially interfere with Petitioner's ability to pursue this *habeas* action and obtain effective judicial review.

C. The Balance of Equities Favors Temporary Relief

The requested relief merely preserves the status quo while the Court considers the merits of the habeas petition. Respondents would suffer no prejudice from a short-term order preventing removal or transfer while this Court reviews the legality of Petitioner's detention.

By contrast, Petitioner faces a substantial risk of immediate and irreparable harm if Respondents remove or transfer him before this Court has the opportunity to adjudicate his claims. Removal from the United States before the Court reviews the legality of Petitioner's detention would effectively deprive Petitioner of meaningful *habeas* review and could render this action moot. Courts have consistently recognized that deportation prior to judicial review constitutes irreparable harm. See *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011) (recognizing that removal before judicial review may constitute irreparable harm); *Nken v. Holder*, 556 U.S. 418, 435 (2009) (noting that removal may result in serious and irreparable consequences for noncitizens seeking judicial review).

Similarly, transfer of Petitioner to another detention facility outside this Court's jurisdiction could substantially interfere with his ability to pursue this habeas petition and consult with counsel, further risking the loss of meaningful judicial review. See *Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding irreparable harm where removal would prevent meaningful review of claims).

D. The Public Interest Supports Temporary Relief

The public interest strongly favors ensuring that constitutional challenges to executive detention receive meaningful judicial review. Preserving the Court's ability to adjudicate the pending *habeas* petition promotes respect for the rule of law and protects fundamental constitutional rights.

IV. CERTIFICATION PURSUANT TO FED. R. CIV. P. 65(b)

Undersigned counsel certifies that, due to the risk of immediate removal or transfer by the Department of Homeland Security [hereinafter, "DHS"], Petitioner seeks temporary relief without prior notice in order to preserve this Court's ability to adjudicate the pending habeas petition.

Providing advance notice could permit Respondents to remove or transfer Petitioner before the Court has an opportunity to consider this motion. Counsel will promptly provide notice of this motion to Respondents upon filing.

V. CONCLUSION

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a Temporary Restraining Order prohibiting Respondents from removing Petitioner from the United States or transferring Petitioner outside the jurisdiction of this Court while the Petition for Writ of Habeas Corpus is pending;
2. Maintain the status quo pending the Court's review of the habeas petition; and
3. Grant such other and further relief as the Court deems just and proper.

Dated: March 13, 2026

Respectfully submitted,

By: /s/ Matthew P. Meyers, Esq.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing was filed via the CM/ECF portal on this 13th day of March, 2026.

Respectfully submitted,

/s/ Matthew P. Meyers, Esq.

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