

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

JUANIER DIAZ HERNANDEZ

Plaintiff/Petitioner,

Case No.: Case No. 3:26-cv-1016-WWB-LLL

v.

MARKWAYNE MULLIN as Secretary for
The Department of Homeland Security (DHS);

TODD M. LYONS as Acting Director, Miami
Field Office, Enforcement and Removal Operations (ERO),
Department of Homeland Security;

TODD BLANCHE as Acting United States Attorney General;

RONNIE WOODALL as Warden of Baker Correctional Institute in
Sanderson, Florida,

Respondents/Defendants.

**PETITIONER'S RENEWED MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION BASED ON INTERVENING BINDING
AUTHORITY**

INTRODUCTION

Petitioner Juanier Diaz Hernandez respectfully renews his motion for a temporary restraining order and preliminary injunction enjoining Respondents from removing him from the United States pending final resolution of this habeas proceeding. On May 6, 2026 — the same day this Court entered its Order denying the original motion without prejudice (Doc. 5) — the United States Court of Appeals for the Eleventh Circuit issued a published, precedential decision in *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, Nos. 25-14065 & 25-14075

(11th Cir. May 6, 2026) (attached hereto as **Exhibit A**), that directly and materially changes the legal landscape of this case. This intervening binding authority resolves the primary deficiency in Petitioner's original motion by establishing a clear likelihood of success on the merits. Petitioner's renewed motion also directly addresses the two grounds on which the Court denied the original motion: (1) that the TRO sought affirmative relief rather than preservation of the status quo; and (2) that the Court retains jurisdiction over the habeas petition even if Petitioner is transferred. Neither ground precludes the specific relief now sought — a stay of removal only — which is squarely within this Court's authority and is the paradigmatic form of status quo relief in immigration habeas proceedings.

PROCEDURAL AND FACTUAL BACKGROUND

Petitioner is a Cuban national who was formally paroled into the United States at the Eagle Pass International Bridge on July 21, 2022, pursuant to INA § 212(d)(5). He has resided continuously in Florida for over three years, has no criminal history, has a lawful permanent resident domestic partner, and has a pending Form I-485 application for adjustment of status under the Cuban Adjustment Act ("CAA"), receipt number [REDACTED] filed on July 15, 2025.

At his February 20, 2026 Master Hearing, Petitioner appeared pro se — not by choice, but because he was the victim of a sophisticated \$14,000 fraud perpetrated by persons posing as immigration attorneys who fabricated government documents and staged a fake bond hearing. His domestic partner filed a Tampa Police Department criminal complaint on February 8, 2026. When Petitioner disclosed the fraud to the Immigration Judge at the Master Hearing, the IJ declined to adjourn, found Petitioner ineligible for bond, and ordered him removed to Cuba. Petitioner's Motion to Reopen was denied; his BIA appeal is pending. He has been detained at Baker Correctional Institute in Sanderson, Florida since that time.

On May 5, 2026, Petitioner filed his Petition for Writ of Habeas Corpus (Doc. 1) and Emergency Motion for TRO (Doc. 2). On May 6, 2026, this Court denied the TRO without prejudice on two grounds: (1) the motion sought affirmative relief — a bond hearing — rather than preservation of the status quo; and (2) the Court retains jurisdiction over the habeas petition even if Petitioner is transferred, citing *Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004). (Doc. 5 at 1–2.) The Court set an expedited response schedule with Respondents' response due June 5, 2026. On the same day this Court entered its Order, the Eleventh Circuit issued *Hernandez Alvarez* — binding precedent that Petitioner could not have presented when the original motion was filed. This renewed motion is based on that intervening authority and on the narrowed, status-quo-preserving relief now specifically requested: a stay of removal only, not a bond hearing.

ARGUMENT

A temporary restraining order requires the movant to establish: (1) substantial likelihood of success on the merits; (2) irreparable injury absent the injunction; (3) the threatened injury outweighs harm to the opposing party; and (4) the injunction would not be adverse to the public interest. *Nken v. Holder*, 556 U.S. 418, 425–26 (2009). All four factors favor Petitioner.

I. PETITIONER NOW HAS A CLEAR LIKELIHOOD OF SUCCESS ON THE MERITS UNDER BINDING ELEVENTH CIRCUIT PRECEDENT.

The Eleventh Circuit's decision in *Hernandez Alvarez* (Ex. A) establishes binding precedent directly controlling the outcome of this habeas proceeding. The Court held that 8 U.S.C. §

1225(b)(2)(A) — which authorizes mandatory no-bond detention — applies only to aliens actively “seeking admission,” meaning those taking an affirmative, ongoing step to obtain lawful entry through inspection and authorization by an immigration officer. Aliens present in the interior of the United States are not “seeking admission” and are therefore governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and bond eligibility before an Immigration Judge. Ex. A at 4–5.

The Court carefully distinguished two statutory phrases in § 1225(b)(2)(A): “an alien who is an applicant for admission” — a passive status defined by mere presence without lawful entry — and “an alien seeking admission” — an active, ongoing pursuit of lawful entry through official inspection. Ex. A at 15–20. Because the petitioners in *Hernandez Alvarez* were arrested during traffic stops and were taking no affirmative steps to obtain lawful entry, the Court held they were not “seeking admission” and § 1226(a) governed their detention. Ex. A at 20–21.

Petitioner’s facts are stronger than those in *Hernandez Alvarez* on every dimension. The petitioners there were EWI aliens. Petitioner here presented at a port of entry, was formally inspected, and was conditionally admitted by parole. He has resided in Florida for over three years. He was not at the border when detained. He was not pursuing lawful entry. He was not “seeking admission” under any cognizable standard. The Eleventh Circuit’s holding applies with full — and greater — force to Petitioner.

This conclusion is further reinforced by *Torres v. United States Department of Homeland Security*, Case No. 3:26-cv-646-TJC-LLL (M.D. Fla. Apr. 8, 2026), in which a sister court in this District granted habeas relief to a Cuban national paroled into the United States who had filed a CAA adjustment application, resided in the community, and had no criminal history — facts indistinguishable from Petitioner’s. The court held it would be “absurd” to classify such a person as “arriving” after years of interior residence, and that § 1226 governed detention.

Additionally, the government’s position that expiration of parole returns a noncitizen to arriving alien status has been uniformly rejected, including in this District. *Torres* at *11–12; *see also Vasquez Salgado v. Francis*, 2026 WL 915304, at *6 (S.D.N.Y. Apr. 3, 2026); *Qasemi v. Francis*, 2025 WL 3654098, at *8 (S.D.N.Y. Dec. 17, 2025). Likelihood of success is established.

II. THIS RENEWED MOTION SEEKS STATUS QUO RELIEF — A STAY OF REMOVAL ONLY — NOT THE AFFIRMATIVE RELIEF PREVIOUSLY REQUESTED.

This Court denied the original TRO in part because Petitioner’s request for a bond hearing sought “affirmative relief” rather than preservation of the status quo. (Doc. 5 at 1, citing *Fernandez-Roque v. Smith*, 671 F.2d 426, 429 (11th Cir. 1983).) Petitioner no longer seeks a bond hearing through this motion.

The sole relief requested in this renewed motion is a stay of removal — an order prohibiting Respondents from removing Petitioner from the United States pending final resolution of this habeas proceeding. A stay of removal is the paradigmatic status quo remedy in immigration habeas cases. It does not grant Petitioner freedom. It does not modify the conditions of his detention. It preserves exactly the situation that existed the moment this petition was filed: Petitioner remains in custody in the United States while this Court adjudicates whether his detention is lawful. Removal is the irreversible act that would permanently foreclose this Court’s ability to grant meaningful relief. Preventing that outcome is the definition of preserving the status quo. *See Nken*, 556 U.S. at 428–29.

Courts routinely grant stays of removal as status quo relief in § 2241 habeas proceedings pending adjudication of the petition. *See, e.g., Arevalo v. Ashcroft*, 344 F.3d 1, 7 (1st Cir. 2003); *Andreiu v. Ashcroft*, 253 F.3d 477, 484–85 (9th Cir. 2001). A court that issues a show cause order to the government necessarily contemplates that the petitioner will remain available to receive meaningful relief if the petition is granted. Allowing removal to proceed before that adjudication renders the show cause order a futile exercise.

III. THIS COURT’S JURISDICTION DOES NOT RESOLVE THE IRREPARABLE HARM FROM REMOVAL.

This Court’s May 6 Order noted that it retains jurisdiction over the habeas petition even if Petitioner is transferred, citing *Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004). (Doc. 5 at 1–2.) That principle addresses transfer between detention facilities within the United States. It does not address removal from the United States entirely, which presents categorically different and irreversible consequences.

If Petitioner is removed to Cuba before this Court adjudicates the petition, the harm is not jurisdictional — it is practical and permanent. Cuba is among the least cooperative countries for repatriation of removed aliens, making return virtually impossible. Petitioner’s pending CAA adjustment application — a meritorious, USCIS-filed application that could result in lawful permanent residence — would be rendered a nullity: he would no longer satisfy the physical presence requirement, and his removal order would render him inadmissible. The Court’s continued nominal jurisdiction over a petition is no substitute for the ability to grant meaningful relief. Only a stay of removal preserves that ability.

IV. THE BALANCE OF HARMS AND PUBLIC INTEREST FAVOR A STAY.

The balance of harms is not close. Petitioner faces permanent removal to Cuba — separation from his lawful permanent resident domestic partner, destruction of his pending CAA application, and practical impossibility of return — if the stay is denied and the petition is later granted. Respondents face nothing more than a brief delay in removal while this Court conducts expedited habeas review on a schedule already ordered by the Court.

The public interest likewise favors a stay. Congress enacted the Cuban Adjustment Act specifically to protect Cuban nationals in Petitioner’s position. Removing Petitioner before his CAA application is adjudicated defeats the congressional purpose of that statute. The Eleventh Circuit’s decision in *Hernandez Alvarez* further reflects the public interest in ensuring that aliens detained in the interior receive the individualized bond hearings Congress provided for in 8 U.S.C. § 1226(a). A stay of removal is necessary to ensure those interests are vindicated.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant his Renewed Motion and issue an order: (1) staying Petitioner’s removal from the United States pending final resolution of this habeas proceeding and exhaustion of all appellate review; and (2) requiring Respondents to provide three days’ notice before any attempted removal so that Petitioner may seek emergency relief if necessary. In the alternative, Petitioner requests that the Court consolidate consideration of this motion with its review of Respondents’ response to the habeas petition due June 5, 2026, and treat this motion as a motion for preliminary injunction to be decided on that expedited schedule.

Respectfully submitted this 11th day of May 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of May 2026, a true and correct copy of the foregoing Renewed Motion was filed with the Clerk of Court via the CM/ECF system, which will serve electronic notice upon all counsel of record.

/s/ Jose Antonio Leon

Jose Antonio Leon, Esq.