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10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 VICTRO MANUEL DE JESUS ALAS,
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14 Petitioner,

15 v.

16 F. SEMAIA, et al.

17 Respondents.
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No. 5:25-cv-02916-RGK-AJR

**RESPONDENTS' OPPOSITION TO
PETITIONER'S FOR [sic] EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER TO SHOW
CAUSE [sic] TO SHOW RE:
PRELIMINARY INJUNCTION [Dkt.
no. 4]**

Hon. R. Gary Klausner
United States District Judge

RESPONDENTS' OPPOSITION TO EX PARTE APPLICATION

Petitioner's "ex parte application," Dkt. no. 4, displays pervasive typographical errors and defects, as well as violations of the Local Rules. Construing it as an *ex parte* TRO Application, Respondents concisely oppose as follows, pointing out several threshold fatal defects in the Petitioner's request for a TRO blocking his removal.

First, the Application fails to contain the supporting declaration required by Central District of California Local Civil Rule 65-1. For an attorney to make arguments in a brief does not satisfy the standard required for seeking exigent relief. For this reason alone, the Application must be denied.

Second, the Application erroneously argues that Petitioner cannot be removed because he is applying for relief under the Violence Against Women Act, VAWA, and has received a "prima facie determination" in that regard. Petitioner argues that he cannot be removed until this application. He is wrong. Unlike some other types of immigration applications, a pending VAWA application does not bar the government from removing the applicant. Petitioner cites no case law on this subject, nor any statutory authority. District Courts are divested of subject matter jurisdiction over blocking the enforcement of a final removal order in such cases. *See Suarez-Reyes v. Williams*, 2020 WL 3414781 (D. Ariz. June 22, 2020) (finding claims attempting to challenge and block noncitizen's removal before the adjudication of a VAWA petition are barred by 8 U.S.C. § 1252(g)). As the First Circuit put it in a similar case, "Franjul-Soto is, of course, at risk of being removed while his VAWA self-petition remains pending. But the self-petition in and of itself says nothing about its merits. Thus, the risk that he could be removed before USCIS rules on it provides no reason to preclude the BIA from requiring that he make a prima facie case that it has merit as a predicate for his motion to reopen." *Franjul-Soto v. Barr*, 973 F.3d 15, 19 (1st Cir. 2020).

Third, Petitioner has not moved to reopen his removal proceedings, nor sought and obtained a stay of removal via that mechanism.

1 **Fourth**, Courts have consistently held that 8 U.S.C. § 1252(g) strips jurisdiction in
2 District Court over claims seeking to *delay* removal pending another process that will
3 allegedly stop a removal. Specifically, the government cannot be prevented from
4 deciding *when* to execute a removal order, nor delayed in that execution. The Ninth
5 Circuit rather exhaustively explained this in connection with affirming a district court’s
6 finding that it had no jurisdiction to block a removal pending the resolution of a
7 putatively meritorious motion to reopen filed with the BIA:

8 Matias also attempts to avoid § 1252(g)’s jurisdictional bar by arguing that
9 his challenge pertains not to the Attorney General’s discretionary authority,
10 but rather to the Attorney General’s allegedly unlawful decision to “remov[e]
11 him *now*.” But § 1252(g)’s jurisdictional bar on “claim[s] ... arising from the
12 decision or action by the Attorney General to ... execute removal orders”
13 does not include any temporal caveats. As the Third Circuit has observed,
“the discretion to decide *whether* to execute a removal order includes the
discretion to decide *when* to do it. Both are covered by the statute.”

14 *Rauda v. Jennings*, 55 F.4th 773, 777 (9th Cir. 2022) (quoting *Tazu v. Att’y Gen. United*
15 *States*, 975 F.3d 292, 297 (3d Cir. 2020) (emphasis in original).

16 Furthermore, 8 U.S.C. § 1252(a)(5) and 1252(b)(9) also preclude review of
17 Immigration Court and BIA decisions in this Court, as claim channeling. “Taken
18 together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—
19 arising from *any* removal-related activity can be reviewed *only* through the [petition-for-
20 review] process.” *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (emphasis in
21 original); *see id.* at 1035 (“§§ 1252(a)(5) and [(b)(9)] channel review of all claims,
22 including policies-and-practices challenges . . . whenever they ‘arise from’ removal
23 proceedings”); *accord Ruiz v. Mukasey*, 552 F.3d 269, 274 n.3 (2d Cir. 2009) (only when
24 the action is “unrelated to any removal action or proceeding” is it within the district
25 court’s jurisdiction
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1 For all these reasons the TRO Application should be denied.

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3 Dated: November 4, 2025

Respectfully submitted,

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8 /s/ Daniel A. Beck

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12 **CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2**

13 The undersigned, counsel of record for Respondents, certifies that the
14 memorandum of points and authorities contains 689 words, which complies with the
15 word limit of L.R. 11-6.1.
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17 Dated: November 4, 2025

/s/ Daniel A. Beck

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