

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

DIEGO ALBERTO HERNANDEZ GARCIA,)

Petitioner,)

v.)

Case No. 3:25-cv-605-DCLC-JEM

UNITED STATES DEPARTMENT OF)
HOMELAND SECURITY et al.,)

Respondents.)

**MOTION TO STAY RELEASE PENDING FORTHCOMING MOTION TO
RECONSIDER**

The United States, by and through Francis M. Hamilton III, United States Attorney for the Eastern District of Tennessee, and on behalf of Federal Respondents United States Department of Homeland Security (“DHS”), Scott Ladwig, Kristi Noem, Pamela Bondi, Executive Office for Immigration Review (“EOIR”), and Todd Lyons¹ moves the Court for an Order staying the Court’s Order [Doc. 4] directing the immediate release of Petitioner from custody until such time as the Court may consider a forthcoming motion to reconsider, which the United States expects to file on or before Sunday, December 14, 2025.

The United States files this motion to highlight for the Court additional facts that were not before the Court when it entered its Order for immediate release, and which the United States submits may be material to the Court’s consideration of Petitioner’s request. Specifically, in its

¹ This response is filed on behalf of Federal Respondents DHS, Scott Ladwig, Kristi Noem, Pamela Bondi, Todd Lyons, and EOIR. 28 U.S.C. § 517 allows the United States Attorney to appear in court to attend to the United States’ interests. Consistent with that statute and *Roman v. Ashcroft*, 340 F.3d 314, 319-20 (6th Cir. 2003), this filing attends to the United States’ interests to the extent that the petition also names Paul Cooper, Warden of the Roger D. Wilson Detention Facility, as a respondent.

Order, the Court noted in part that “Mr. Garcia is likely to succeed on the merits of his habeas claim because of his deferred action status, which ... remains in effect until May 2026.” [Doc. 4 at p.3]. On December 11, 2025 (yesterday), however, U.S. Citizenship and Immigration Services (USCIS) issued a notice terminating Petitioner’s period of deferred action. A redacted copy of the Termination Notice, which the undersigned received shortly after receiving notice of the Court’s Order for release, is attached. Considering these additional facts, the United States intends to file a motion to reconsider more fully explaining why, with the termination of Petitioner’s deferred action status, continued detention pending the Court’s disposition of this case on the merits is appropriate and supported by law. The United States anticipates that it will be able to file a motion to reconsider no later than Sunday, December 14, 2025.

Respectfully submitted,

FRANCIS M. HAMILTON III
United States Attorney

/s/ Robert C. McConkey III

Robert C. McConkey III (BPR # 018118)

Assistant United States Attorney

800 Market Street, Suite 211

Knoxville, TN 37902

(865) 545-4167

Robert.McConkey@usdoj.gov

Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2025, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to counsel for the Petitioner.

/s/ Robert C. McConkey III

Robert C. McConkey III

Assistant United States Attorney