

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 1:25-cv-25960-PCH

HUSSAM MOHAMMAD ABUEL-HAWA,

Petitioner,

v.

KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity;
TODD LYONS, Acting Director and Senior Official Performing the Duties of the Director of ICE, in his official capacity; **GARRETT RIPA**, Field Office Director for ICE ERO Miami, in his official capacity; **Warden of the Krome North Service Processing Facility**, in his/her official capacity, **U.S. Department of Homeland Security; and U.S. Immigration and Customs Enforcement,**

Respondents.

**RESPONDENTS' RESPONSE TO PETITIONER'S EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER TO ENJOIN UNLAWFUL REMOVAL AND
ORDER IMMEDIATE RELEASE [DE 9]**

Respondents by and through the undersigned Assistant United States Attorney file this Response to Petitioner's Emergency Motion for Temporary Restraining Order to Enjoin Unlawful Removal and Order Immediate Release [DE 9] (herein after referred to "Motion for TRO") and state in support thereof as follows:

I. INTRODUCTION

Petitioner files this Motion for TRO stating that as a stateless Palestinian he "faces an imminent risk of removal to a third country without compliance with governing statutes and regulations." [DE 9]. Petitioner's arguments are duplicative of those set forth in the Verified Petition for Writ of Habeas Corpus and Complaint for Injunctive Relief [DE 1], which remains

pending before this Court. The Court should not entertain this Motion for TRO as substantively it does not raise any new issues. Instead, the Motion for TRO directs this Court to a *Guardian* news article stating that “recent public reporting demonstrates that ICE has effectuated removals of similar situated stateless Palestinians via private charter flights without documented adherence to required protocols.” [DE 9, p. 1]. In sum, Petitioner argues that absent emergency relief, Petitioner could be removed, thereby mooted his habeas petition. *Id.* However, Petitioner fails to meet the prerequisites in order for a temporary restraining order to be granted and accordingly, the motion should be denied.

II. ARGUMENT

A. Standard

In order to obtain the extraordinary remedy of a preliminary injunction, a plaintiff must prove: “(1) substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest.” *McDonald’s Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998). Because a preliminary injunction is “an extraordinary and drastic remedy,” it should not be granted unless the plaintiff “clearly carries the burden of persuasion as to the four prerequisites” *Zardui-Quintana v. Richard*, 768 F.2d 1213, 1216 (11th Cir. 1985) (citation and internal quotations marks omitted).

B. Petitioner is Unlikely to Succeed on the Merits.

Respondents incorporate their arguments from the Response to Order to Show Cause [DE 6], as if fully set forth herein and for those reasons, maintain Petitioner will be unsuccessful on the merits. However, Respondents will address additional arguments raised in the TRO, which

also fail. Specifically, Petitioner argues that Respondents are disregarding required protocols for third-country removal pursuant to 8 U.S.C. § 1231(b)(2) (post-removal order detention authority) without providing any basis for this factually incorrect assertion. [DE 7]. Additionally, throughout the briefing in this proceeding, Petitioner has argued he is stateless and not a native or citizen of Jordan [DE 7, p. 2]. However, subsequent to briefing concluding following Respondents' filing of a Sur-Reply [DE 11] as to the issue of Jordanian citizenship, documentation became available from Petitioner's A-file, of which the Court should be apprised.

Respondents are not "confused" as to Petitioner's country of birth, nationality. See [DE 7, p. 2]. To the contrary, Petitioner has inconsistently presented his nationality, country of birth, and citizenship throughout immigration applications and proceedings. For example, Petitioner's immigrant visa application from 1978 listed Jordan as his country of birth and nationality. See Composite Ex. 1, p. 5. During the removal proceeding in which the Immigration Judge's decision ordered Petitioner removed to Jordan, Petitioner stated under oath he is a citizen of Jordan. *Id.* at p. 14. However, in Petitioner's application for Cancellation of Removal, he listed Israel as his country of citizenship. Ex. 2, p. 12.

Therefore, to the extent that Petitioner suggests removal to Jordan would constitute "third country removal," this would be incorrect if he is, in fact, a citizen of Jordan, which he once claimed to be, but now denies. Nonetheless, Petitioner's citizenship, whether Jordanian or Israeli, is irrelevant for purposes of effectuating a final order of removal. Enforcement and Removal Operations intend to effectuate removal to Jordan upon issuance of a Jordanian travel document. Petitioner has held a Jordanian passport on at least two occasions—in 1978 (when he was admitted to the United States as a lawful permanent resident) and again in 1998. See Ex. 1, p. 5; [DE 11-1]. If Jordan has issued passports to non-Jordanians in the past—which is likely what Petitioner had

if he is not a citizen of Jordan—there exists, the ability to either submit an application to renew the temporary passport or to request a re-issued passport for one that has been lost or damaged. See e.g. <https://www.ecoi.net/en/document/1147274.html> (last visited February 24, 2026); see also <https://www.middleeastmonitor.com/20230912-jordan-issues-72000-passports-to-jerusalemmites/> (last visited February 24, 2026). As discussed in Respondents' Sur-Reply, [DE 11], Petitioner claims he has not been issued a passport by Jordan but did not provide evidence of a denial.

Furthermore, Petitioner has no evidence that Respondents have violated protocols associated with third-country removal. Rather, Petitioner relies on a *Guardian* news article concerning ICE's removal of Palestinians via private charter flights to Israel and the West Bank without documented acceptance or individual travel documents. [DE 9-1]. Even if the news article were accurate, this would not be evidence of any violation relating to third country removals, let alone any violation applicable to this case. Petitioner then concludes this suggests a systemic departure from the very protocols that govern third-country removal. [DE 9, p. 7]. Petitioner's argument is speculative and not tailored to his individual circumstances, which is that Jordan is the designated country of removal. Also, if Petitioner were removed to a third country, such effectuation would be compliant with the requirements articulated in *D.V.D. v. United States Dep't of Homeland Sec.* No. 25-10676 (D. Mass. Filed March 23, 2025). Again, Petitioner claims a *Zadvydas v. Davis*, 533 U.S. 678 (2001), violation has occurred, as removal is not reasonably foreseeable given his statelessness and the refusal of any country accept him. *Id.* However, Respondents remain within the presumptive six-month period to effectuate post-order removal as permitted under *Zadvydas*. Thus, Petitioner does not satisfy the first pre-requisite for issuance of a temporary restraining order.

C. There is no Substantial Threat Petitioner will Suffer Irreparable Injury if he is Not Released.

Petitioner claims to face an imminent risk of removal due to non-compliance with required procedures given recent ICE removals of similarly situated stateless Palestinians via private charter flights. [DE 9, p. 8]. Petitioner then states if Petitioner is removed before the Court can rule, the habeas petition would be effectively mooted. Throughout the pendency of this habeas proceeding, Petitioner has remained in detention at Krome North Processing Center in Miami, Florida. [DE 6-5; DE 11-2]. And since the inception of these proceedings, Respondents have indicated a travel document request to Jordan was pending. *Id.* Irreparable injury must be *likely* in the absence of an injunction. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008)(emphasis in original). Petitioner has not satisfied this requirement, as all allegations relating to irreparable injury are based upon conjecture.

D. Petitioner Cannot Show Threatened Injury Outweighs Whatever Damages the Proposed Injunction May Cause the Opposing Party.

Petitioner contends the balance of equities favor him, as he lived under supervision for nearly twenty years without incident, therefore, permitting continued detention would sanction unlawful executive action. [DE 9, p. 9]. An injunction precluding Respondents from removing Petitioner would deprive Respondents of their statutory and discretionary ability to execute Petitioner's removal order. The government's interests in maintaining the existing removal procedures are legitimate and significant. As a general matter, the Supreme Court has stressed that the government "need[s] . . . flexibility in policy choices rather than the rigidity often characteristic of constitutional adjudication" when it comes to immigration regulation. *Mathews v. Diaz*, 426 U.S. 67, 81 (1976).

E. If Issued, the Injunction would be Adverse to the Public Interest.

Petitioner requests that this Court enjoin removal to a third country unless and until Respondents demonstrate on the record full compliance with all statutory and regulatory protocols governing such removal under 8 U.S.C. § 1231(b)(2) and implementing regulations. [DE 9, p. 9]. An issuance of an injunction preventing Respondents from transferring Petitioner or executing the removal order would be adverse to the public interest because enforcing federal immigration law furthers the public's interest. *See Garcia v. Martin*, 379 F. Supp. 3d 1301, 1308 (S.D. Fla. 2018) (denying a preliminary injunction requesting a stay of removal because an execution of a removal order "is commensurate with the public's interest in enforcing federal law").

The balance of harms and the public interest elements of the injunctive relief test merge when the government is the opposing party. *Nken v. Holder*, 556 U.S. 418, 435 (2009). "There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings [Congress] established, and permit[s] and prolong[s] a continuing violation of United States law." *Id.* at 436 (alterations in original); *see Landon v. Plasencia*, 459 U.S. 21, 34 (1982) ("The Government's interest in efficient administration of the immigration laws . . . is weighty."). Detention following entry of a final removal order remedies this risk by "increasing the chance that, if ordered removed, the alien[] will be successfully removed." *Demore v. Kim*, 538 U.S. 510, 528 (2003).

III. CONCLUSION

Based upon the foregoing reasons, the Motion for TRO should be denied.

Dated: February 24, 2026

Respectfully submitted,

JASON A. REDING QUIÑONES
UNITED STATES ATTORNEY

By: /s/ Jeanette M. Lugo
Jeanette M. Lugo
Assistant United States Attorney
Florida Bar No. 122060
Email: Jeanette.Bernard@usdoj.gov
United States Attorney's Office
101 South U.S. 1, Suite 3100
Fort Pierce, Florida 34950
Phone: 772-293-0352

Counsel for Respondents