United States District Court
Western District of Texas
San Antonio Division

Luis Bautista Perez,
Petitioner,

v.

Kristi Noem, Secretary, *et al*,
Respondents.

No. 5:26-CV-232-FB

Federal Respondents' Motion to Remove the Stay of Removal

Federal[1] Respondents move this Court to remove, lift, or vacate his Order granting a stay of removal [ECF No. 2 at 3]. This stay should be lifted so Petitioner can depart to Mexico.

On February 24, 2026, an immigration judge granted Petitioner voluntary departure under safeguards[2] to Mexico after Petitioner withdrew his application for cancellation of removal. Exh. A at 1. On February 26, 2026, ICE filed a motion to reconsider the voluntary departure order with the immigration judge. Exh. B. The immigration judge has not issued an order on the motion.

The Parties have conferred. ICE is going to withdraw the motion to reconsider. If the stay of removal was dissolved, ICE could take steps to effect the voluntary departure order.

Petitioner is unopposed to the motion to lift the stay of removal.

Additionally, this stay of removal should be dissolved as this Court is divested of subject matter jurisdiction to issue the stay of removal. In 8 U.S.C. § 1252(g), this Court shall not have jurisdiction to hear any cause or claim arising from the decision or action of the Attorney General to "execute" removal orders against an alien. *See also Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). The Fifth Circuit recently, in an unpublished opinion, found

[1] The Department of Justice does not represent the Warden.
[2] Voluntary Departure under safeguards means Petitioner stays in ICE custody until ICE transports him to the border. There, Petitioner would depart to Mexico.

that the District Court lacked jurisdiction to grant a stay of removal to preserve the status quo as the stay of removal *is* a challenge to the removal order. *Imran v. Harper*, No. 25-30370 *2–3 (5th Cir. 2026) (collecting cases).

Federal Respondents respectfully request this Court lift or vacate his stay of removal so Petitioner can depart the United States.

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

On or about March 11, 2026, I spoke with counsel via phone. Petitioner is unopposed to the motion.

/s/ Anne Marie Cordova
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