

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ANY LUCIA LOPEZ BELLOZA,

Petitioner,

v.

PATRICIA HYDE, Field Office Director,
MICHAEL KROL, HSI New England Special
Agent in Charge, and TODD LYONS, Acting
Director U.S. Immigration and Customs
Enforcement, KRISTI NOEM, U.S. Secretary of
Homeland Security, PAMELA BONDI, U.S.
Attorney General, DONALD J. TRUMP,
President of the United States of America

Respondents.

Case No. 1: 25-cv-13499-RGS

RESPONDENTS' MOTION TO DISMISS HABEAS PROCEEDING

Respondents by and through their attorney, Leah B. Foley, United States Attorney for the District of Massachusetts, respectfully move this Court to dismiss Any Lucia Lopez Belloza's Petition due to its lack of habeas jurisdiction over the action. Respondents do not, however, argue that this Court's Order on Civil Contempt would be impacted by dismissal of this Petition.

Respondents also ask this Court to vacate its November 24, 2025 order which was issued "to provide an opportunity for a fair and orderly consideration of this matter and resolve any contested issues about jurisdiction" and which mandates that Petitioner cannot be "transferred to another district or outside the jurisdiction of the United States unless the government provides advance notice of the intended move." Doc. No. 4 at 2-3. As this Court has determined it lacks habeas jurisdiction over the Petition, the purpose of such Order has been served, and must therefore be vacated. Respondents, nonetheless, also provide, through this filing, advance notice of ICE's

intent to effectuate Petitioner's final order of removal after she is returned to the status quo that existed when ICE effectuated her final order of removal.

This Court should dismiss the Petition filed on November 21, 2025 because as this Court has repeatedly found, it lacks habeas jurisdiction over the Petition because it was filed after Petitioner departed from Massachusetts. Doc. No. 37 at 2, 7; Doc. No. 42 at 4-5. *See Vasquez v. Reno*, 233 F.3d 688, 695 (1st Cir. 2000) (directing the district court to dismiss petition filed "in a jurisdiction where neither [the petitioner] nor his immediate custodian was physically present.").

After conducting a hearing on the Petitioner's Motion for Order to Show Cause, this Court answered the following question: "Does it have jurisdiction over Any's habeas corpus petition given her lawyer's late filing on her behalf in the wrong judicial district?" in the negative. Doc. No. 37 at 2. The Court explained that because the habeas "petition was filed after [Petitioner] had arrived at the detention center in Port Isabel, physical jurisdiction over the petition did not attach in this district, and the petition could only be brought in the district where she was then confined, namely, the Southern District of Texas." *Id.* at 7. The Court, despite concluding it "lacks jurisdiction over Any's habeas petition," nonetheless determined it could order ICE to facilitate Petitioner's return to the United States if necessary as a remedy for ICE's violation of Judge Burrough's emergency order. *Id.* at 7-8.

This Court then entered its Order on Civil Contempt after Respondents explained that issuance of a student-visa was not feasible and that ICE would not voluntarily facilitate Petitioner's return to the United States. Doc. No. 42. In such Order, the Court again noted its agreement "with Respondents that it lacks jurisdiction over the original petition, which was filed by Any's attorney too late in the wrong district." *Id.* at 4-5.

Respondents acknowledge that this Court then ordered and directed ICE to facilitate Petitioner's return to the United States no later than February 27, 2026 and recognize that this Order stems from the Court's determination that an order of civil contempt was appropriate to "return[] all parties to the status quo that existed at the time Any was wrongfully removed from the United States." *Id.* at 6.¹ Compliance with this Court's Order on Civil Contempt does not require this action to remain pending in the District of Massachusetts, especially where this Court has clearly determined that it lacks habeas jurisdiction over the matter. Doc. No. 42 at 5 (finding that the Court's lack of jurisdiction over the habeas petition was "separate, however, from the court's inherent authority to address a violation of one of its orders, as has occurred here.").

Through this filing,² Respondents nonetheless also provide advance notice of ICE's intent to effectuate Petitioner's final order of removal after she is returned to the "status quo that existed" when ICE effectuated her final order of removal. *See* Doc. No. 4. This Court should not stay ICE's effectuation of Petitioner's final order of removal because it lacks habeas jurisdiction over this action and because even if it did have habeas jurisdiction, as the First Circuit and courts within this district and around the country repeatedly find, 8 U.S.C. § 1252(g) prohibits courts from entering stays of removal, even when an alien seeks to apply for alternative forms of relief or seeks

¹ Upon Petitioner's return to the status quo that existed at the time of her removal, she can file a habeas petition in the U.S. District Court for the Southern District of Texas if she seeks to challenge her detention. This Court, however, as it has repeatedly acknowledged, lacks habeas jurisdiction over such a challenge as it would have no jurisdiction over Petitioner's immediate custodian in Texas.

² Respondents have argued throughout the course of this proceeding that Petitioner was subject to arrest, detention, and removal on account of her final order of removal and that if Petitioner was returned to the United States to the "status quo" that existed prior to her removal, Petitioner still would be subject to a final order of removal and ICE would be authorized to detain and remove Petitioner pursuant to such order. Doc. No. 41 at 2.

to reopen removal orders. *See Kong v. United States*, 62 F.4th 608, 618 (1st Cir. 2023) (explaining that Section 1252(g) bars claims arising from “brief detentions” for purpose of effectuation of removal orders which is the case here); *Compere v. Riordan*, 368 F. Supp. 3d 164, 170 (D. Mass. 2019) (Explaining that “the Court simply lacks jurisdiction to grant a stay of a final order of removal.”); *Candra v. Cronen*, 361 F. Supp. 3d 148, 156 (D. Mass. 2019) (Section 1252(g) stripped court of jurisdiction to consider due process challenge to decision not to stay removal and “attempt to frame his claim in due process language does not change this result.”); *Tejada v. Cabral*, 424 F. Supp. 2d 296, 298 (D. Mass. 2006) (“Congress made it quite clear that all court orders regarding alien removal—be they stays or permanent injunctions—were to be issued by the appropriate courts of appeals.”).³

For these reasons, Respondents respectfully request this Court dismiss this action and vacate its Order (Doc. No 4) prohibiting removal from the United States without advance notice to the Court.

³ Circuit courts of appeal are in accord. *See Camarena v. Dir., Immigr. & Customs Enf't*, 988 F.3d 1268, 1274 (11th Cir. 2021) (“[W]e do not have jurisdiction to consider ‘any’ cause or claim brought by an alien arising from the government’s decision to execute a removal order. If we held otherwise, any petitioner could frame his or her claim as an attack on the government’s *authority* to execute a removal order rather than its *execution* of a removal order.”); *Tazu v. Att’y Gen. United States*, 975 F.3d 292, 297 (3d Cir. 2020) (Explaining that “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.”); *E.L.F. v. Prim*, 986 F.3d 959, 964 (7th Cir. 2021) (petitioner’s challenge to removal while she has a pending application for relief therefrom falls squarely in the path of § 1252(g)).

Respectfully submitted,

LEAH B. FOLEY
United States Attorney

Dated: February 26, 2026

/s/ Mark Sauter
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LOCAL RULE 7.1 CERTIFICATION

I, Mark Sauter, hereby certify that pursuant to L.R. 7.1(a)(2), I conferred with Counsel for the Petitioner and attempted in good faith to resolve or narrow the issue.

Dated: February 26, 2026

By: /s/ Mark Sauter
Mark Sauter
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I, Mark Sauter, Assistant United States Attorney, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

Dated: February 26, 2026

By: /s/ Mark Sauter
Mark Sauter
Assistant United States Attorney