

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROSA ELIDA CASTRO and	:	
A.A.G.C. (a minor) :	:	
Petitioners,	:	
	:	
v.	:	Civ. No. 15-6153
	:	
U.S. DEPARTMENT OF	:	
HOMELAND SECURITY et al.,	:	
Respondents.	:	
	:	

ORDER OF TEMPORARY STAY OF REMOVAL

Today, Petitioners filed an Emergency Motion for Stay of Removal in connection with their Petition for a Writ of Habeas Corpus. (Doc. Nos. 1, 3.) Given statutory restrictions on this Court’s authority to review “expedited removal orders,” I am concerned that this Court lacks jurisdiction to review the merits of the expedited removal orders issued here, as well as the underlying Habeas Petition. 8 U.S.C. § 1252(e)(2) (providing three limited jurisdictional bases for district courts to review collateral attacks on expedited removal orders); see M.S.P.C. v. U.S. Customs & Border Prot., 60 F. Supp. 3d 1156, 1161 (D.N.M. 2014) (concluding, in an analogous case, that district courts lack jurisdiction to review the merits of expedited removal orders); Al Khedri v. Sedlock, No. 09 C 6483, 2009 WL 3380681, at *2 (N.D. Ill. Oct. 20, 2009) (“[A]t least two circuit courts have held that sections 1252(e)(2) and 1252(e)(5) preclude judicial review of whether the expedited removal process was lawfully applied to a particular alien.”).

In its communications with my Chambers, the Government acknowledged that I have jurisdiction to stay Petitioners’ removal while I consider the thorny jurisdictional issues respecting the expedited removal orders and the Habeas Petition. United States v. Ruiz, 536 U.S. 622, 628 (2002) (“[A] federal court always has jurisdiction to determine its own jurisdiction”); Papageorgiou v. Gonzales, 413 F.3d 356, 357 (3d Cir. 2005) (same); M.S.P.C., 60 F. Supp. 3d at

1160 (“[T]he Government conceded that this Court has jurisdiction to issue a stay of removal while it considers its own jurisdiction. The Court entered a limited stay to consider the jurisdictional issues and requested additional briefing.”).

AND NOW, this 19th day of November, 2015, upon consideration of Petitioners’ Emergency Motion for Stay of Removal, it is hereby **ORDERED** that Petitioners’ removal is **STAYED** temporarily while this Court considers whether it has jurisdiction to consider the merits of Petitioners’ Petition and Complaint. It is further **ORDERED** that the Parties shall, in accordance with the following schedule, submit legal memoranda in which they address: (1) whether this Court has jurisdiction over Petitioners claims in light of the statutory barriers to judicial review of “expedited removal orders,” 8 U.S.C. §§ 1225(b)(1), 1252(e)(2); (2) whether these statutory limitations on habeas relief violate the Suspension Clause of the U.S. Constitution; and (3) the viability of Judge Herrera’s Memorandum Opinion in M.S.P.C. v. U.S. Customs & Border Protection. 60 F. Supp. 3d. 1156 (D.N.M. 2014). Petitioners’ shall submit their memorandum **by no later than Monday, November 30, 2015**. The Government shall respond **by no later than December 10, 2015**, to which Petitioners’ shall have until **no later than December 21, 2015** to reply.

AND IT IS SO ORDERED.

/s/ Paul S. Diamond

Paul S. Diamond, J.