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28**NOT FOR CITATION**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RAVIN MAHARAJ,

Petitioner,

No. C 05-2096 PJH

v.

**ORDER GRANTING TEMPORARY
STAY OF REMOVAL**

MICHAEL CHERTOFF, et al.,

Respondents.

Petitioner Maharaj filed a petition for writ of habeas corpus under 28 U.S.C. §2241 today, May 23, 2005. He has also filed a request for an emergency stay of removal pending the resolution of his habeas petition, indicating that he is to be removed tomorrow, May 24, 2005. Maharaj alleges that jurisdiction in this court is proper because the REAL ID Act of 2005, which vests jurisdiction over immigration habeas petitions solely in the appellate courts, is unconstitutional.

A temporary stay of removal is GRANTED, pending resolution of the question of whether the court has jurisdiction over this request. Respondents shall file an opposition to the petition no later than May 25, 2005, and petitioner's reply, if any, shall be filed no later than May 27, 2005. While section 106 of the REAL ID Act appears to divest this court of jurisdiction over the merits of this case entirely, Maharaj's removal is nonetheless stayed to permit the government to file a response on the threshold jurisdictional questions.

Execution of the final order of removal is hereby STAYED pending a further order from this court.

IT IS SO ORDERED.

Dated: May 23, 2005



PHYLLIS J. HAMILTON
United States District Judge