

CUAUHTEMOC ORTEGA (Bar No. 257443)
Federal Public Defender
Chad Pennington (Bar No. 354831)
(E-Mail: Chad_Pennington@fd.org)
David Menninger (Bar No. 281460)
David_Menninger@fd.org
Deputy Federal Public Defenders
3801 University Ave., Ste. 700
Riverside, California 92501
Telephone: (951) 276.6346

Attorneys for Petitioner
YOSTIN SLEIKER GUTIERREZ-CONTRERAS

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

YOSTIN SLEIKER GUTIERREZ-
CONTRERAS,

Petitioner,

v.

WARDEN, DESERT VIEW ANNEX,
ANDRE QUINOES, ICE FIELD
OFFICE DIRECTOR; TODD M.
LYONS, ACTING DIRECTOR OF
ICE; KRISTI NOEM, SECRETARY
OF HOMELAND SECURITY; PAM
BONDI, ATTORNEY GENERAL;
DONALD J. TRUMP, PRESIDENT
OF THE UNITED STATES, in their
official capacities.

Respondent(s).

Case No. 25-cv-965

**PETITION FOR A TEMPORARY
RESTRAINING ORDER FOR
NOTICE PRIOR TO ANY
REMOVAL UNDER THE ALIEN
ENEMIES ACT**

**HEARING TIME AND DATE:
TBD**

1 Petitioner Yostin Sleiker Gutierrez-Contreras, through counsel of
2 record Deputy Federal Public Defenders Chad Pennington and David
3 Menninger, submits this application, requesting the Court issue a
4 temporary restraining order as set forth below pursuant to Federal Rule of
5 Civil Procedure 65. At approximately 2:00 p.m., on April 21, 2025,
6 Petitioner telephonically notified respondents regarding this filing, during
7 that call, respondents indicated they cannot stipulate regarding the Court
8 issuing a temporary restraining order in this matter at this time.

9 This *ex parte* application for a temporary restraining order complies
10 with Local Civil Rule 7-19's requirements. This request is properly made *ex*
11 *parte* without resort to the standard notice requirements because of the
12 immense threat to Petitioner's safety and well-being through expulsion
13 from the United States under the Alien Enemies Act and because he is not
14 at fault in creating the urgency. *See Mission Power Eng'g Co. v. Cont'l Cas.*
15 *Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995).

16 Contact information for opposing counsel:

17 Christina Marquez

18 Assistant United States Attorneys

19 300 North Los Angeles Street

20 Room 7516

21 Los Angeles, CA 90012

22 213.894.4061

23 christina.marquez@usdoj.gov

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Respectfully submitted,

CUAUHTEMOC ORTEGA
Federal Public Defender

DATED: April 21, 2025

/s/ Chad Pennington

Chad Pennington
Deputy Federal Public Defender
Attorneys for YOSTIN SLEIKER
GUTIERREZ-CONTRERAS

I. INTRODUCTION

Petitioner, Mr. Guiterrez-Contreras, is a Venezuelan national who is currently in immigration custody at the Desert Annex facility in Adelanto, California.¹ He requests a temporary restraining order providing the same relief this Court granted last week with respect to his prior habeas petition:

- Respondents are ordered to provide fourteen days notice to Petitioner and his counsel, in writing, prior to attempting to remove, deport, or expel him out of the United States under the Alien Enemies Act or any legal authority other than the Immigration and Nationality Act. Respondents are enjoined and barred from removing Petitioner under the Alien Enemies Act or any legal authority other than the Immigration and Nationality Act without first providing such notice;
- Respondents are enjoined from transferring, relocating, or removing Petitioner from the Desert View Annex immigration detention facility; and
- Respondents are enjoined from transporting Petitioner outside of Adelanto, California without an Order from the Court;

See Gutierrez-Contreras v. Warden, No. 5:25-cv-911 (C.D. Cal. 2025),² ECF Nos. 7 (order granting temporary restraining order), 10 (order clarifying temporary restraining order).

¹ Petitioner incorporates by reference the declaration filed in support to the petition for relief under 28 U.S.C. § 2241 filed in this matter. *See* ECF No. 1, p. 10.

² Petitioner filed this second petition out of an abundance of caution. Respondents have argued that the Court lacks jurisdiction over his first petition since Petitioner was purportedly transported out of the Central District of California hours before it was filed. As detailed below, Respondents subsequently returned Petitioner to the Central District on April 19, 2025. Petitioner believes that his return to the Central District renders the government's jurisdictional objection moot. But to remove any doubts about this Court's jurisdiction, Petitioner's counsel filed this second petition upon confirming that he was back within the Central District.

1 This relief is as important now as ever. Last week, Respondents
2 transported Petitioner out of the Central District of California to the
3 Bluebonnet Detention Facility in the Northern District of Texas. This is the
4 same facility from which (according to public reports) the government
5 placed at least 28 Venezuelans on buses last Friday, April 18, 2025, and
6 began driving them to the airport, in an apparent effort to remove them to
7 El Salvador under the Alien Enemies Act.³ The government abruptly called
8 off that operation amidst emergency litigation, shortly before the Supreme
9 Court issued a late-night order prohibiting the government from removing
10 individuals detained in the Northern District of Texas from the United
11 States absent further order of that Court. *See A.A.R.P. v. Trump*, 604 U.S.
12 ___, 2025 WL 1147238 (Apr. 19, 2025). The government then transported
13 Petitioner back to this District on April 19, 2025.

14 Absent a temporary restraining order, Petitioner is in immediate
15 danger of being removed under the Alien Enemies Act without notice and
16 an opportunity to challenge the legality of any AEA designation. Indeed, it
17 appears the government may have already been taking steps to remove
18 Petitioner under the AEA—by transferring him to the Bluebonnet
19 Detention Facility—before this Court intervened with respect to his prior
20 habeas petition and blocked his removal. The Court should issue the same
21 relief in this case to ensure that Petitioner’s due process rights are
22 protected. *See Trump v. J.G.G.*, 604 U.S. ___, 2025 WL 1024097, at *2 (Apr.
23 7, 2025) (“[D]etainees subject to removal orders under the AEA are entitled
24 to notice and an opportunity to challenge their removal.”).

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26
27 ³ See Vaughn Hillyard, et al., *As Legal Fight Raged, ICE Buses Filled with*
28 *Venezuelans Heading Toward Airport Turned Around, Video Shows* (NBC News Apr. 20,
2025), <https://www.nbcnews.com/politics/immigration/legal-fight-raged-ice-buses-filled-venezuelans-heading-airport-turned-rcna202007>.

II. BACKGROUND

On March 14, 2025, President Donald J. Trump proclaimed “that all Venezuelan citizens 14 years of age or older who are members of TdA [Tren de Aragua], are within the United States, and are not actually naturalized or lawful permanent residents of the United States are liable to be apprehended, restrained, secured, and removed as Alien Enemies.” See the White House, *Presidential Proclamation*, March 14, 2025, <https://www.whitehouse.gov/presidential-actions/2025/03/invocation-of-the-alien-enemies-act-regarding-the-invasion-of-the-united-states-by-tren-de-aragua/> (last accessed April 14, 2025). The proclamation states that the President’s removal authority is vested pursuant to the AEA. In *United States v. Guiterrez-Contreras*, 5:25-CR-121-KK (C.D. Cal.)⁴, a criminal case pending against Petitioner, the government claims that Petitioner is a member of TdA. See generally, Complaint, ECF No. 1. Petitioner is 14 years-of age-or-older. Although Petitioner vigorously disputes that he is a member of TdA, the government claims he is a member of the gang and he is thus facially subject to the President’s proclamation of removal under the AEA.

On April 12, 2025, Petitioner informed the undersigned that on March 19, 2025, ICE officials told him that he may be removed to El Salvador. On April 14, 2025, the undersigned communicated with the Petitioner’s family telephonically. The family indicated that they had received a communication from Petitioner that morning stating he would be moved from Desert Annex to a different location. That proved to be true. On April 14, 2025, Respondents transported Petitioner from this District to the

⁴ On March 26, 2025, the Court released Petitioner pretrial on conditions in the criminal matter. However, Petitioner has remained in immigration custody since his March 26, 2025, criminal initial appearance.

1 Bluebonnet Detention Facility in the Northern District of Texas—a facility
2 that appears to have been used as a staging area for potential removals
3 under the AEA. After the Supreme Court issued an order prohibiting the
4 government from removing individuals detained in the Northern District of
5 Texas under the AEA, *A.A.R.P.*, 2025 WL 1147238, Respondents
6 transported Petitioner back to this District, where he remains.

7 As of right now: Petitioner is being held in respondents' immigration
8 custody (he has been ordered released pretrial in the criminal matter); no
9 immigration court has issued a final order of removal against Petitioner;
10 the immigration proceedings are pending; at least one respondent has
11 proclaimed Petitioner must be removed under the AEA forthwith; and the
12 government recently transferred him to a facility that it appears to have
13 been using to attempt to remove Venezuelan nationals under the AEA. This
14 came after Respondents had already removed similarly situated persons
15 from the United States to El Salvador, and indefinite incarceration in the
16 notorious CECOT prison. *A.A.R.P.*, April 18, 2025, Supreme Court
17 Application 24A1007, p. 7 n.4. (reporting that on March 15, 2025, “at least
18 137 Venezuelans were removed under the AEA to the CECOT prison in El
19 Salvador”).

20 Petitioner asks that this Court again act to preserve the status quo so
21 that he is not sent to a prison in El Salvador before being afforded notice
22 and an opportunity to challenge his removal.

23 III. LEGAL AUTHORITY

24 Although *ex parte* applications are “rarely justified,” this Court has
25 authority to issue relief on an *ex parte* basis when the circumstances
26 warrant. *Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488, 490
27 (C.D. Cal. 1995). To justify *ex parte* equitable relief, a party must
28 demonstrate (1) that his cause of action will be irreparably prejudiced if the

1 underlying motion is heard according to regular noticed procedures; and (2)
2 that he is without fault in creating the crisis that requires *ex parte* relief, or
3 that the crisis occurred because of excusable neglect. *See id.* at 492.

4 To obtain a temporary restraining order, a party must show: (1) a
5 likelihood of success on the merits; (2) a likelihood of irreparable harm to
6 him in the absence of preliminary, equitable relief; (3) that the balance of
7 equities tips in his favor as the movant; and (4) that an injunction is in the
8 public interest. *See Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20
9 (2008). The court may also apply a sliding scale test, in which the elements
10 of the *Winter* test are balanced “so that a stronger showing of one element
11 may offset a weaker showing of another.” *All. for the Wild Rockies v.*
12 *Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). The moving party has the
13 burden of persuasion. *Hill v. McDonough*, 547 U.S. 573, 584 (2006).

14 Here, Petitioner’s cause of action will be irreparably prejudiced if the
15 underlying motion is heard according to regular noticed procedures. He is at
16 imminent risk of being summarily removed from the United States to third
17 countries under the AEA, including to El Salvador, where he would be
18 subject to harsh confinement conditions and torture, and may be held
19 incommunicado for the rest of his life. *See J.G.G.*, 2025 WL 1024097, at *5
20 (Sotomayor, J., dissenting) (“[I]nmates in Salvadoran prisons are ‘highly
21 likely to face immediate and intentional life-threatening harm at the hands
22 of state actors.’”). The ordinary noticed motion requirements are insufficient
23 to address Respondent’s efforts to remove individuals under the AEA on a
24 lightning-fast basis, with little to no notice—in direct contravention of an
25 order of the Supreme Court. *See J.G.G.*, 2025 WL 1024097, at *2. It is
26 therefore Respondents, not Petitioner, that have created the exigency and
27 need for Petitioner’s requested accelerated equitable relief.
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1 Moreover, immediate removal under the AEA would occasion
2 immediate and irreparable injury to Petitioner—particularly since the
3 government has claimed that it is powerless to return someone from El
4 Salvador, even if they were erroneously removed. *See Abrego-Garcia v.*
5 *Noem*, No. 8:25-cv-951-Px (D. Md. Apr. 15, 2025), ECF No. 77 ¶ 7 (“DHS
6 does not have authority to forcibly extract an alien from the domestic
7 custody of a foreign nation.”). Removal to El Salvador and the prospect of
8 lifetime imprisonment in a prison system rife with “egregious human rights
9 abuses,” is textbook irreparable harm. *See J.G.G.*, 2025 WL 1024097, at *9
10 (Sotomayor, J., dissenting). This harm is not speculative as respondents
11 have removed similarly situated persons under the AEA to the El Salvador
12 detention facilities without a validly issued removal order. And they appear
13 to have attempted to do so again as recently as last Friday.

14 Mr. Gutierrez-Contreras is also likely to succeed on the merits of his
15 claim that he is entitled to notice before any AEA removal. The Supreme
16 Court has expressly said as much:

17 AEA detainees must receive notice after the date of
18 this order that they are subject to removal under the
19 Act. The notice must be afforded within a reasonable
20 time and in such a manner as will allow them to
21 actually seek habeas relief in the proper venue before
22 such removal occurs.

23 *J.G.G.*, 2025 WL 1024097, at *2; *see also id.*, at *6 (Sotomayor, J.,
24 dissenting) ([W]e all agree with the *per curiam*’s command that the Fifth
25 Amendment requires” notice prior to any AEA removal sufficient to allow a
26 habeas corpus challenge); *A.A.R.P.*, No. 24A1007 (U.S.), slip op. at 5 (Alito,
27 J., dissenting) (“[T]he Executive . . . ha[s] an obligation to follow the law
28 [and] must proceed under the terms of our order in [*J.G.G.*].”).

1 Maintaining the status quo is required to afford the parties the ability
2 to develop a fuller record for the court to consider a request for a
3 preliminary injunction and other forms of relief consistent with the filed
4 petition. The events that have transpired to date demonstrate that
5 Petitioner was, and remains, in imminent danger of unlawful removal
6 under the AEA. Maintaining the status quo, with Petitioner in immigration
7 custody, is necessary to prevent the government from taking removal
8 measures inconsistent with an appropriately issued removal order.

9 Finally, the balance of the equities favors Petitioner. The government
10 remains free to conduct immigration proceedings under the INA while
11 Petitioner is in immigration custody. The public interest is best served
12 through a temporary restraining order to ensure that Petitioner receives
13 the process he is due to challenge any attempt to remove him from the
14 country. Maintaining the status quo ensures the nation's immigration laws
15 are adhered to by immigration and executive branch actors. *See e.g., All. for*
16 *the Wild Rockies*, 632 F.3d at 1135 (Ninth Circuit holding that status quo
17 injunctive relief is appropriate where "serious questions going to the merits
18 were raised and the balance of hardships tips sharply in the plaintiff's
19 favor.").

20 IV.CONCLUSION

21 Petitioner seek a temporary restraining order requiring notice prior to
22 any AEA removal, in order to allow a preliminary injunction to be fashioned
23 and for his § 2241 petition to be adjudicated.

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Respectfully submitted,

CUAUHTEMOC ORTEGA
Federal Public Defender

DATED: April 21, 2025.

/s/ Chad Pennington

Chad Pennington
Deputy Federal Public Defender
Proposed Attorney for Yostin Guiterrez-
Contreras