

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Alfredo Benito Maldonado,

Petitioner,

V.

Kristi Noem
Secretary, U.S. Department of
Homeland Security et al.

Respondents.

Cause No. 4:25-cv-02541

PETITIONER'S EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Petitioner, by and through undersigned counsel, respectfully moves this Court, pursuant to Rule 65 of the Federal Rules of Civil Procedure, for a Temporary Restraining Order and a Preliminary Injunction to prevent the imminent deportation of Petitioner pending resolution of this matter. In support thereof, Petitioner states as follows:

I. INTRODUCTION

Petitioner seeks immediate relief to prevent imminent and irreparable harm caused by deportation. Deportation would result in severe and irreparable injury, including separation from family, severe economic loss to his family for which

he is the sole provider and loss of access to legal remedies.

II. JURISDICTION AND VENUE

This Court has jurisdiction to hear this case under *28 U.S.C. § 2241* and *28 U.S.C. § 1331*, Federal Question Jurisdiction as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to *28 U.S.C. § 2241*, and the *All Writs Act*, *28 U.S.C. § 1651*. Venue is proper in this district pursuant to *28 U.S.C. § 1391(e)*.

III. FACTUAL BACKGROUND

Petitioner Alfredo Benito Maldonado is a Mexican national who last entered the United States in 2011. He has a prior order of removal which the Respondents are seeking to reinstate. Petitioner resides in the United States with his wife and four children, two of which are minor U.S. citizens for whom he is the sole provider. On November 2, 2021, the Petitioner's minor child was the victim of a violent qualifying U-visa crime in which a police report was filed. On September 23, 2022, the San Antonio Police Department certified the Petitioner's child's request on form I-918b. (*See Compl. Ex 1 U Cert -redacted*). Pursuant to the certified I-918b, the Petitioner and his family filed for a U visa on March 13, 2023. Concurrently with his derivative U-visa, the Petitioner filed for a waiver of inadmissibility on form I-192 and a work authorization. (*See*

Compl. Ex 2 U visa and I-192 Receipt Notices) On June 13, 2024, USCIS issued a Bonafide determination notice (“BFD”) to the Petitioner and his family. The BFD states that the U-visa filed in 2023 was a bona fide application and that the Petitioner and his family were placed in deferred action for a period of four years. The notice specifically notes that the Petitioner’s period of deferred action was granted and warranted out of a favorable exercise of discretion. Pursuant to the BFD, the Petitioner was also granted a four-year work authorization. (*See Compl. Ex 3 BFD and Deferred Action Grant*) On May 22, 2025, the Petitioner was apprehended by agents of ICE enforcement and placed in immigration custody at the Montgomery Processing Center in Conroe, Texas. This was in spite of the deferred action grant. On May 23, 2025, a stay or removal was filed with the Respondents; however, it was denied on May 27, 2025. (*Compl. Ex 4 Stay of Removal Denial*)

IV. LEGAL STANDARD

The purpose of a TRO is to preserve the status quo and prevent irreparable harm until the court makes a final decision on injunctive relief. *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974). To obtain a TRO, an applicant must satisfy the following four elements: (1) substantial likelihood of success on the merits; (2) substantial threat of irreparable injury; (3) the threatened injury outweighs any harm the order might cause to the defendant; and (4) the

injunction will not disserve the public interest. *Enrique Bernat F., S.A. v. Guadalajara, Inc.*, 210 F.3d 439,442 (5th Cir. 2000). "[H]arm is irreparable where there is no adequate remedy at law, such monetary damages." *Janvey v. Alguire*, 647 F.3d 585,600 (5th Cir. 2011). In general, a TRO is not appealable ... TROs are "usually effective for only very brief periods of time, far less than the time required for an appeal . . . and are then generally supplanted by appealable temporary or permanent injunctions." *Board of Governors of the Fed. Reserve Sys. v. DLG Fin. Corp.*, 29 F.3d 993, 1000 (5th Cir. 1994).

V. ARGUMENT

A. Likelihood of Success on the Merits

Petitioner is likely to succeed on the merits because the Respondents have taken him into custody and are attempting to effectuate removal from the United States against him despite granting him deferred action based on his pending U visa. It was the Respondents who granted him a deferral of any negative immigration action against him based on their determination that the Petitioner warranted a positive exercise of discretion. Since his grant of deferred action in 2024, the Petitioner has received no notice that his deferred action was terminated or reconsidered. The Petitioner was detained on May 22, 2025, in a targeted operation by ICE despite the legal protection the Respondents granted him in violation of his due process and is arbitrary and capricious agency action.

B. Irreparable Harm

Petitioner is the sole provider for his family which includes his spouse, two minor children and two adult children, for which he pays their college tuition. (*Ex 1 Affidavit from Spouse*) If the Petitioner is removed from the United States, his family would be without means to support themselves. Further, the Petitioner's adult children would be forced to drop out of college due to inability to afford tuition. Petitioner is also currently residing in the United States lawfully under a period of deferred action. (*See Compl. Ex 3 BFD and Deferred Action Grant*) By law deferred action can not be given to an individual outside of the United States. The Petitioner, if removed, would lose his work authorization and ability to lawfully reside in the United States.

C. Balance of Equities and Public Interest

The balance of equities favors the Plaintiff in granting an TRO as it would serve in the public interest to uphold due process and prevent family separation.

VI. PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

- 1) Issue a Temporary Restraining Order prohibiting Respondents from deporting Petitioner pending resolution of this matter.
- 2) Issue a Preliminary Injunction after a hearing.

3) Grant any further relief as appropriate.

VII. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests the Court to grant this Emergency Motion for a Temporary Restraining Order.

/s/Javier Rivera

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CERTIFICATE OF SERVICE

I certify that on June 3, 2025, the foregoing document was filed with the Court through the Court CM/ECF system on all parties and counsel registered with the Court CM/ECF.

Respectfully submitted,

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Exhibit 1

Affidavit of Anabel Mendoza
Ochoa
(Spouse of Petitioner)

ANABEL MENDOZA OCHOA

§
§

HARRIS COUNTY, TEXAS

AFFIDAVIT

THE STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, Anabel Mendoza Ochoa, personally appeared before me - who being duly sworn under oath stated:

"I Anabel Mendoza Ochoa, make the following statement and state under pains of perjury that they are the truth to the best of my personal knowledge, information and belief:

1. "I have been married to Alfredo Benito Maldonado since May of 2002"
2. "He is the sole provider for our family of six. We have four children ranging from 14 to 22 years old"
3. "My husband owns a construction company LLC El Lobo Concrete, with that company he pays our bills that total to \$3,000 to \$4,000 a month. My husband has a valid work permit and has been working with permission."
4. "On top of bills, we pay out of pocket for our two eldest children to attend lone star college and the University of Houston Downton"
5. "I have not worked while in the United States and have no experience to lean on while my husband is detained. I have no means of income or experience

to adequately give my children or myself a sustainable living while my husband is detained.

6. "My two adult children will not be able to sustain our household as they are full-time college and university students"

Anabel Mendoza
client name

2-6-25
Date

Notary Block

SUSCRIBED AND SWORN before me, the undersigned on this 2 day of

June 2025 

