

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Northern Division**

Aerica Grey Quintana Flores,

Petitioner,

v.

PAMELA BONDI,

**In her official capacity as Attorney General of
the United States,**

KRISTI NOEM,

**In her official capacity as Secretary of
Homeland Security,**

TODD M. LYONS,

**In his official capacity as Acting Director,
Immigration and Customs Enforcement;**

VERNON LIGGINS,

**In his official capacity as Acting Field Office
Director in charge of ICE Baltimore Field
Office,**

Respondents.

Case No: 1:25-cv-01950-DLB

**PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR A
TEMPORARY RESTRAINING ORDER**

PRELIMINARY STATEMENT

Petitioner is being moved, at this very moment, 1:05 p.m. on June 19, 2025, to the ICE detention facility in Stewart, Georgia. The stated justification for this transfer is her diabetes diagnosis, and the claim

that no facility in this jurisdiction or the nearby Washington, D.C. area of responsibility is able to provide her with adequate medical care. For the reasons below, the Court should enjoin this transfer.

Petitioner-Plaintiff Aerica Grey Quintana Flores, (“Petitioner-Plaintiff” or “Ms. Quintana”), through her undersigned counsel, respectfully moves this Court under Federal Rule of Civil Procedure 65(b) for a temporary restraining order pending its adjudication of her Petition for Writ of Habeas Corpus. Specifically, Ms. Quintana requests the Court to extend the terms of Amended Standing Order 2025-01 and order Respondents-Defendants to cease any ongoing actions and refrain from taking any additional actions toward transferring Ms. Quintana outside the District of Maryland until the Court has adjudicated her petition and complaint.

In support of this Motion, Ms. Quintana relies on the accompanying Memorandum of Law and her previously filed Petition (dkt. 1). As Ms. Quintana shows in the foregoing Memorandum of Law, because Ms. Quintana is likely to succeed in her petition and complaint, as well as to avoid the significant irreparable harm Ms. Quintana would suffer if Respondents-Defendants transfer her outside the District of Maryland, Ms. Quintana respectfully requests that the Court grant her motion for a temporary restraining order and maintain the status quo until this Court has an opportunity to assess her underlying petition.

NOTICE TO RESPONDENT’S-DEFENDANTS

Undersigned counsel provided written notice to the U.S. Attorney’s Office for the District of Maryland by email on June 19, 2025 at 10:46 a.m., regarding Ms. Quintana's intention to file the instant Motion for Temporary Restraining Order. Undersigned counsel affirms he intends to send, via email, a copy of the instant Motion for a Temporary Restraining Order and its accompanying Memorandum of Law, and a proposed order for granting the TRO upon the filing of this motion.

FACTUAL BACKGROUND

Ms. Quintana is a 59 year-old native and citizen of Guatemala. Prior to her detention, she resided in Owings Mills, Maryland with her U.S. Citizen husband. Ms. Quintana has been diagnosed with Type 2 Diabetes, requiring daily medication and careful management of her diet. She has also been diagnosed with Unspecified Trauma and Stressor Related Disorder which affects her cognition and ability to regulate her emotions. Exh. 1, Psychological Evaluation of Ms. Quintana.

Undersigned counsel, located in Takoma Park, Maryland, has represented Ms. Quintana, her daughter-in-law, and her two grandsons in their applications for asylum since approximately May 2018. Ms. Quintana re-filed her application for asylum with USCIS on May 31, 2024, which is currently pending before the Arlington Asylum Office. Exh. 2, Asylum Receipt Notice. Ms. Quintana is also a primary witness in her family members' claims for asylum, which remain pending before the Arlington Asylum Office.

On or about January 9, 2017, Ms. Quintana entered the United States at the San Ysidro Port of Entry with her daughter-in-law and two grandsons. She was processed for expedited removal under 8 U.S.C. § 1225(b)(1). During her initial interview with Customs and Border Patrol officers, Ms. Quintana expressed a fear of return to Guatemala. At that time Ms. Quintana was separated from her family members and detained in California while her family members relocated to Maryland. On February 13, 2017, the U.S. Citizenship and Immigration Services ("USCIS") Asylum Office determined Ms. Quintana had a credible fear of persecution if returned to Guatemala, vacating the Expedited Removal Order against her. However, Ms. Quintana remained detained for over six months.

During this first separation from her family while detained, Ms. Quintana developed anxiety and depression disorders and a skin condition that plagues her to this day. Exh. 3, Detained Medical Records for Ms. Quintana. As Ms. Quintana was indigent and located thousands of miles away, her family members

struggled to afford legal representation for her and were unable to visit her even once. The distance between Ms. Quintana and her family members hindered legal representation in her asylum claim, as her primary witnesses were located across the country. The exponential strain that her lengthy and distant detention put on her family members also prevented them from diligently pursuing their own asylum claims, further compounding the long-term effects of their separation.

On or about July 12, 2017, Immigration Judge Julie L. Nelson ordered that Ms. Quintana be released from DHS custody under a bond of \$8000, and upon Ms. Quintana's release, she moved to Maryland. Exh. 4, 2017 Bond Order. Subsequently, Undersigned Counsel began representing Ms. Quintana and her family members in their consolidated claims for asylum before the Executive Office of Immigration Review in Baltimore, MD. On or about December 20, 2023, the Removal Proceedings against Ms. Quintana and her family members were dismissed as a matter of Prosecutorial Discretion. No longer subject to removal proceedings, Ms. Quintana re-filed her application for asylum with USCIS on May 31, 2024.

ARGUMENT

The standards for granting a TRO and a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure are identical. Where a party requests a TRO that enjoins governmental action, the party must demonstrate that "he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of the preliminary relief, that the balance of equities tip in his favor, and that an injunction is in the public interest." *Winter v. Natural Resources Def. Council, Inc.*, 555 U.S. 7, 20 (2008); see also *Jones v. Wolf*, 467 F. Supp. 3d 74, 81 (W.D.N.Y. 2020) (stating same). Here, because Ms. Quintana meets both the irreparable harm and likelihood of success prongs and because the requested relief is not overly burdensome on Respondents-Defendants, she merits such relief.

To the extent that the government argues there is a question regarding the Court's jurisdiction, it does

not preclude this Court from exercising its inherent authority to issue emergent relief pending further briefing. “[A] federal court always has jurisdiction to determine its own jurisdiction.” *United States v. Ruiz*, 536 U.S. 622, 628 (2002).

**MS. QUINTANA WILL SUFFER IRREPARABLE HARM IF SHE IS TRANSFERRED
OUTSIDE THE DISTRICT OF MARYLAND**

First, Ms. Quintana’s allegations of constitutional violations permit a per se finding of irreparable harm. See e.g., *Conn. Dep’t of Env’tl. Prot. V. O.S.H.A.*, 356 F.3d 226, 231 (2d Cir. 2004) (“[W]e have held that the alleged violation of a constitutional right triggers a finding of irreparable injury.”) (internal citations and quotation marks omitted); *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996) (“[An] alleged violation of a constitutional right . . . triggers a finding of irreparable harm.”) (emphasis in original). In her petition, Ms. Quintana raised specific allegations of violations of her Fifth Amendment right to due process, both substantive and procedural. See ECF No. 1, Pet. for Writ of Habeas Corpus ¶¶36-56. These allegations center on Respondents-Defendants’ failure to provide evidence that her detention is lawful given her pending asylum application before USCIS.

Second, Ms. Quintana satisfies irreparable harm by demonstrating that but for this Court’s granting of equitable relief, there is a substantial chance she cannot be returned to the position she previously occupied. Specifically, if transferred outside the District of Maryland, Ms. Quintana and her family members will suffer the same level of irreparable harm that they already experienced during her prior detention. Ms. Quintana’s separation from her family from January to July 2017 resulted in permanent malignant effects on her physical and mental health; the mental health of her family members; her family member’s finances; and her ability to access adequate legal representation, gather evidence, and produce

witnesses in support of her asylum case. The effects of this family separation were so far-reaching on Ms. Quintana's ability to present her claim for relief that the Department of Homeland Security agreed, in the middle of a final merits hearing, to dismiss the removal proceedings against Ms. Quintana and her family in order to afford them the opportunity to pursue their asylum claims in a non-adversarial setting. *See Exh. 5, Order Regarding Safeguards for Ms. Quintana and Exh. 6, Order Dismissing Removal Proceedings against Ms. Quintana*

Ms. Quintana's long-time legal counsel is located in Takoma Park, Maryland. The cost to continue representing Ms. Quintana should she be transferred outside the District of Maryland would be prohibitive. Ms. Quintana is indigent and her family has few resources to fund the present litigation let alone the cost of legal representation, flights, and boarding that would be required for the Undersigned Counsel to continue representing her in her claim for relief. If Ms. Quintana is transferred outside the District of Maryland and forced to search out new, local counsel, she will be deprived of the confidence, trust, and expertise of her legal counsel of over eight years.

In addition, Ms. Quintana's claim for asylum hinges on strong Fourth Circuit precedent that supports her protected characteristic as the nuclear family member of her deceased son. Moving Ms. Quintana outside the District of Maryland after eight years, where her case would now potentially be adjudicated under the case law of a completely different circuit, will likely have a devastating effect on her claim for asylum relief.

MS. QUINTANA IS LIKELY TO SUCCEED ON HER PETITION

A. Ms. Quintana is Likely to Succeed on Her Claims that her Ongoing Detention and Imminent Removal Violates her Fifth Amendment Right to Substantive Due Process and Procedural Due Process, the Immigration and Nationality Act, and the Administrative Procedures Act

As a "person" within the meaning of the Fifth Amendment, Ms. Quintana is entitled to due process of law while in the United States, and certainly while in immigration custody. U.S. Const.. amend. V; see

Reno v. Flores, 507 U.S. 292, 306 (1993) (“It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.”). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678 (2001) at 690. Civil detention—including immigration—must be carefully limited to avoid due process concerns. See e.g., *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (“Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action”); *Addington v. Texas*, 441 U.S. 418, 425 (1979) (“This Court repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection”); see also *United States v. Salerno*, 481 U.S. 739, 755 (1987) (“In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception”).

In Ms. Quintana’s case, the fundamental nature of freedom weighs in her favor, as she was pursuing an application for asylum properly within the jurisdiction of USCIS, has lived lawfully for more than eight years in the United States, has a U.S. Citizen spouse, and has never been convicted of any crime – much less a crime which would subject her to detention.

Furthermore, in the context of immigration detention, “An alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. However, in Ms. Quintana’s case, there is no significant likelihood of removal in the reasonably foreseeable future as no removal proceedings have been instituted against Ms. Quintana, she has previously demonstrated a credible fear of return to her home country of Guatemala, and she has timely filed her application for asylum and withholding of removal, which remains pending.

The Administrative Procedures Act (APA) provides that a court “shall . . . hold unlawful and set aside agency action . . . found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in

accordance with law.” 5 U.S.C. § 706(2)(A). The decision to detain Ms. Quintana and hold her in violation of the Immigration Judge’s Order Regarding Custody, which orders her release subject to a bond of \$8000, is arbitrary, capricious, and not in accordance with the Immigration and Nationality Act, and contrary to Ms. Quintana’s right to due process under the Fifth Amendment.

**A TEMPORARY RESTRAINING ORDER WOULD NOT SEVERELY HARM THE
GOVERNMENT OR PUBLIC INTEREST**

Ms. Quintana merits a TRO because a TRO would not significantly impede the government or public interest. In inquiries concerning the government’s efforts to remove a noncitizen, the government and public interest factors merge as the government is both the opposing litigant and public interest representative. See *Nken v. Holder*, 556 U.S. 418, 435 (2009).

Here, temporarily restraining the Respondents-Defendants from transferring Ms. Quintana outside the District of Maryland would not be detrimental to the government’s interests because the requested relief is temporary, narrowly tailored, and will only last pending the instant motion.

**THE COURT SHOULD NOT REQUIRE MS. QUINTANA TO PROVIDE
SECURITY PRIOR TO ISSUING A TEMPORARY RESTRAINING ORDER**

Federal Rule of Civil Procedure 65(c) provides that “[t]he court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” However, “Rule 65(c) invests the district court with discretion as to the amount of security required, if any.” *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003) (internal quotation marks and citation omitted). District courts routinely exercise this discretion to require no security in cases brought by indigent and/or incarcerated people. See, e.g., *Toussaint v. Rushen*, 553 F. Supp. 1365, 1383 (N.D. Cal. 1983) (state prisoners); *Orantes– Hernandez v. Smith*, 541 F. Supp. 351, 385 n. 42

(C.D. Cal. 1982) (detained immigrants). This Court should do the same here.

CONCLUSION

Ms. Quintana respectfully requests that the Court grant her motion for a temporary restraining order and maintain the status quo until this Court has an opportunity to assess her underlying petition. A proposed order is attached.

Respectfully submitted,

/s/ Benjamin G. Messer

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Dated: June 19, 2025

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Application for Admission Pending

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EXHIBITS

1. Psychological Evaluation of Ms. Aerica Quintana Flores
2. Asylum application receipt
3. Detained Medical Records for Ms. Quintana
4. Order Regarding Safeguards for Ms. Quintana
5. Order Dismissing Removal Proceedings against Ms. Quintana