

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

GUSTAVO BASURTO OJEDA,

Petitioner,


v.

NIKITA BAKER,
in her official capacity as Field Office Director,
Baltimore Field Office, U.S. Immigration and
Customs Enforcement;

Respondent.

Civil Action No. _____

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE
WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE

Petitioner **GUSTAVO BASURTO OJEDA** (A-Number ) , by and through undersigned counsel, respectfully moves this Court for an emergency temporary restraining order pursuant to Rule 65 of the Federal Rules of Civil Procedure and requests that the Court issue an order to show cause why a preliminary injunction should not issue.

As set forth in the accompanying memorandum and supporting exhibits, Petitioner is a Mexican national who was granted withholding of removal under 8 U.S.C. § 1231(b)(3) on December 10, 2014, by Immigration Judge Elizabeth A. Kessler. See Exhibit A. On June 10, 2025, during a routine ICE check-in, ICE detained him and stated it intended to remove him to El Salvador—a country never addressed in his prior proceedings and where he has never had an opportunity to seek protection.

Petitioner has expressed a credible and well-founded fear of torture if removed to El Salvador. The Respondent has not provided a lawful process to assess his eligibility for asylum, withholding of removal, or protection under the Convention Against Torture (CAT) with respect to that country. Removal under these conditions violates his statutory and constitutional rights and places him at immediate risk of irreparable harm.

Pursuant to Standing Order 2025-01 (D. Md. Misc. No. 00-308), the filing of this habeas petition and related filings automatically stays Petitioner's removal through the second business day following docketing. However, because that administrative stay is brief and does not resolve the legal deficiencies surrounding Petitioner's removal or detention, Petitioner separately seeks emergency relief under Rule 65 to prevent unlawful transfer and ensure due process protections are preserved.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests the following relief:

- A. A Temporary Restraining Order enjoining Respondents from removing Petitioner to El Salvador or any third country not previously adjudicated in his removal proceedings, unless and until Respondents provide him with prior written notice and a meaningful opportunity to apply for asylum, protection under 8 U.S.C. § 1231(b)(3), and relief under the Convention Against Torture before an immigration judge;
- B. An order enjoining Respondents from transferring Petitioner outside the jurisdiction of this Court;
- C. An Order to Show Cause why a preliminary injunction should not issue;
- D. A stay under 5 U.S.C. § 705 of any DHS directive or internal policy under which ICE is pursuing re-detention and removal of individuals granted withholding to non-designated third countries without prior protection screening;
- E. Waiver of any bond requirement under Rule 65(c); and
- F. Any further relief this Court deems just and proper.

A memorandum of law in support and a proposed order accompany this motion.

Respectfully submitted,

/s/Christine Somerlock
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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2025, I served a true and correct copy of the foregoing by electronic mail to the following agency official:

NIKITA BAKER

Field Office Director, Baltimore Field Office
U.S. Immigration and Customs Enforcement
Office of Enforcement and Removal Operations

Email: Baltimore.Outreach@ice.dhs.gov

/s/ Christine Somerlock
Christine Somerlock
Counsel for Petitioner