

Darla Palacio Sambissa,
On behalf of Christopher as
Spouse ("next friend" Petitioner)

DARLA PALACIO SAMBISSA,
CHRISTOPHER SAMBISSA
An Alien Detainee Aff

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II.

FACTUAL BACKGROUND

Mr. Sambissa, a 35-year-old native of the Democratic Republic of Congo, lawfully entered the United States in 2019 under a B1/B2 non-immigrant visa, which permits temporary stay for business or tourism purposes. Following his authorized period of admission, Mr. Sambissa remained in the United States beyond the expiration of his visa. This overstay forms the initial legal backdrop for his current immigration circumstances, preceding his efforts to formalize his residency through established legal channels available under US immigration law, specifically involving family-based petitions. Subsequently, Mr. Sambissa married Darla Palacio Sambissa, a United States citizen, establishing a qualifying relationship for an Adjustment of Status application. On or about March 30, 2025, he formally submitted Form(s) I-130, Petition for Alien Relative, and Form I-485, Application to Register Permanent Resident or Adjust Status, to the United States Citizenship and Immigration Services (USCIS). This comprehensive application, filed pursuant to 8 U.S.C. § 1255, signifies his pursuit of Legal Permanent Resident status from within the United States. His application is currently pending adjudication by USCIS, indicating that it is undergoing the standard review process and has not yet received a final determination. Despite the active pendency of his Adjustment of Status application, Mr. Sambissa was arrested by agents of Immigration and Customs Enforcement (ICE) on June 12, 2025, in the City of Los Angeles, where he resides with his wife and children. This apprehension occurred while his petition for lawful residency was undergoing the established administrative and legal review by USCIS. Following his arrest, Mr. Sambissa was transferred from Los Angeles to the El Paso Processing Center in El Paso, Texas, a facility designated for the detention of individuals awaiting immigration proceedings or removal. On June 30, 2025, Mrs. Sambissa, acting on behalf of Mr. Sambissa, initiated a Petition for Writ of Habeas Corpus in the United States District Court for the Western District of Texas. This legal action challenges two primary aspects of Mr. Sambissa's current situation: First, the conditions under which he is confined at the El Paso Processing Center, and second, the critical absence of formal charges for his arrest. The lack of specific charges is asserted to prolong his confinement indefinitely, thereby raising questions about due process and the legal basis for his prolonged detention. This Habeas petition remains pending adjudication before the District Court, awaiting judicial review of

1 the presented claims. Furthermore, on July 10, 2025, ICE agents communicated to Mr. Sambissa their
 2 intention to deport him without providing him an opportunity to appear before an immigration judge,
 3 despite the ongoing pendency of his Adjustment of Status application. This assertion of impending
 4 removal without judicial review directly conflicts with his pending application for relief. Furthermore,
 5 ICE agents are reportedly continuing to engage in persistent harassment and coercion, attempting to
 6 compel Mr. Sambissa to sign a voluntary deportation agreement, a course of action he explicitly wishes
 7 to avoid, thereby escalating the legal and procedural complexities of his current immigration case.

8 III.

9 ARGUMENT

10 Mr. Sambissa should be granted a preliminary injunction to prevent ICE and DHS from deporting
 11 him from the United States while his Habeas Petition is pending in the District Court. The denial of this
 12 motion would result in irreparable harm, infringing upon his constitutional rights and due process.
 13 Furthermore, it would deprive him of the chance to contest his unlawful detention, leading to the
 14 distressing consequence of family separation. The likelihood of Mr. Sambissa succeeding on the merits
 15 of his Habeas claims is substantial. Case law supports the principle that the government cannot detain
 16 individuals indefinitely without formal charges or the opportunity for a fair hearing to contest the
 17 legality of their detention or removal. This fundamental right is essential to ensuring justice and
 18 protecting individual liberties. In light of these considerations, this Court should grant Mr. Sambissa's
 19 motion to enjoin ICE, DHS, and other relevant government agencies from executing his removal from
 20 the United States until his Habeas Petition is fully adjudicated.

21 IV.

22 LEGAL STANDARD FOR A PRELIMINARY INJUNCTION

23 **A. The general Legal standard for a preliminary injunction**

24 A District Court should enter a preliminary injunction when a Petitioner shows that he "is likely to
 25 succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief,
 26 that the balance of equities tips in his favor, and that the injunction is in the public interests." *Am. Civil*
 27 *Liberties Union v. Clapper*, 785 F.3d 787, 825 (2d. 2015) (quoting *Winter v. Nat. Res. Def. Council*
 28 *Inc.*, 555 U.S. 7, 20 (2008)). "[O]r he may show irreparable harm and either a likelihood of success on

1 the merits or 'sufficiently serious questions going to the merits to make them a fair ground for litigation
2 and a balance of the hardships tipping decidedly toward the party requesting the preliminary relief'" *Id.*
3 (citing *Christian Louboutin v. S.A. v. Yves Saint Laurent Am. Holdings, Inc.*, 696 F.3d 206, 215 (2d. Cir.
4 2012).

5 **B. The "Substantial Likelihood" standard does not apply here.**

6 In two circumstances, "[t]he moving party must make a 'clear' or 'substantial' showing of a
7 likelihood of success" : where "(1) the injunction sought...is properly characterized as a 'mandatory'
8 rather than 'prohibitory' injunction; or (2) the injunction sought will provide the movant with
9 substantially all the relief sought, and that relief cannot be undone even if defendant prevails at trial on
10 the merits." *Jolly v. Coughlin*, 76 F.3d 468, 473 (2d. Cir. 1996). "The 'clear' or 'substantial' showing
11 requirement-the variation in language does not reflect a variation in meaning -thus alters the traditional
12 formula by requiring that the movant demonstrate a greater likelihood of success." *Tom Doherty*
13 *Associates Inc. v. Saban Entm't Inc.*, 60 F.3d 27, 34 (2d. Cir. 1995). "The typical preliminary injunction
14 is prohibitory and generally seeks only to maintain the *status quo* pending a trial on the merits. A
15 mandatory injunction, in contrast, is said to alter the status quo by commanding some positive act." *Id.*
16 (internal citation omitted). "An injunction that prevents a defendant from continuing to interfere with a
17 plaintiff's rights, while altering the status quo (by commanding a cessation of the interference), is
18 nonetheless a prohibitory injunction." *New York ex rel. Spitzer v. Cain*, 418 F.Supp.2d 457, 472
19 (S.D.N.Y. 2006). Neither exception to the general preliminary injunction standard applies here. First,
20 Mr. Sambissa seeks an injunction that prohibits the government from removing him from the United
21 States until the District Court fully adjudicates his Habeas Petition. Second, even if Mr. Sambissa's
22 motion is granted enjoining Respondents, the government could later formally charge Mr. Sambissa and
23 remove him from the United States, should they prevail at trial in his immigration court proceedings.
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1 Thus, any preliminary relief granted by this Court could later be undone. Accordingly, this Court
2 should not apply the heightened standard for a preliminary injunction. As explained below, however,
3 Mr. Sambissa is entitled to the preliminary relief requested.

4 **C. Mr. Sambissa will suffer irreparable harm if his motion is not granted.**

5 "To establish irreparable harm, the movant must demonstrate an injury that is neither remote nor
6 speculative, but actual and imminent and that cannot be remedied by an award of money damages."
7 *Wright v. New York State Dep't of Corr. & Cmty Supervision*, 568 F. App'x 53 (2d Cir. 2014) (citing
8 *Shapiro v. Cadman Towers Inc.*, 51 F.3d 328, 332 (2d Cir. 1995)). Should Mr. Sambissa be removed
9 from the United States before his habeas corpus petition is fully adjudicated, he would suffer several
10 forms of irreparable harm, including: (1) Denial of the right to judicial review; (2) Loss of opportunity to
11 seek relief from removal; (3) Family separation; (4) Inability to return to the United States; and (5)
12 Violation of his constitutional rights to due process. "[I]rreparable harm is presumed where there is an
13 alleged deprivation of constitutional rights." *Am. Civil Liberties Union v. Clapper*, 804 F.3d 617, 622
14 (2d. Cir. 2015) (citing *Statharos v. New York City Taxi & Limousine Comm'n*, 198 F.3d 317, 322 (2d.
15 Cir. 1999) ("Because plaintiff's allege deprivation of a constitutional right, no separate showing of
16 irreparable harm is necessary."). Mr. Sambissa contends that Respondents are attempting to remove him
17 from the United States without due process of law by failing to provide him with a meaningful
18 individualized review of his ongoing detention and by failing to justify his detention with the
19 presentation of formal charges (i.e., Notice to Appear). This allegation alone entitles Mr. Sambissa to a
20 presumption of irreparable harm. As with the plaintiff *Jolly v. Coughlin*, 76 F.3d 468, 482, the alleged
21 violations of Mr. Sambissa's constitutional rights and the mental effects of family separation "each serve
22 as an independent basis for the ...conclusion that [petitioner] would suffer irreparable harm in the
23 absence of preliminary injunctive relief."

24 **D. Mr. Sambissa is substantially likely to prevail on his claim that he is entitled to be issued a**
25 **charging document (Notice to Appear), and review before an immigration judge to**
26 **determine whether he is entitled to remain in the United States.**

27 Mr. Sambissa's continued detention is unlawful because respondents have yet to formally charge
28 him, even though he has been in their custody for over a month. This failure to act contravenes

governing immigration laws and regulations, which require immigration officers to proceed against people they arrest "without unnecessary delay." 8 U.S.C. §1357(a)(2); 8 C.F.R. §287.3(d)(requiring that a determination as to continued custody and the issuance of a notice to appear ordinarily be made "within 48 hours" and under certain exigent circumstances, "within an additional reasonable period of time."). Even in terrorism cases, Congress has required the government to charge people held under color of the Patriot Act's immigration provision in *seven days*, and mandated release where no charges are brought within that time. 8 U.S.C. §1226a(a)(5). When the government fails to pursue removal proceedings, continued immigration detention loses any connection to its sole legitimate purpose- determining whether the government has a legal basis for deportation or removal. *Demore v. Kim*, 538 U.S. 510, 532-33 (2003)(Kennedy J., concurring).

E. The balance of equities and public interests weigh in Mr. Sambissa's favor.

Mr. Sambissa's prolonged detention has already brought severe consequences to his physical and psychological health. It has aggravated his respiratory issues because he cannot get proper medical treatment and has caused severe psychological trauma by inflicting prolonged, indefinite separation from his family and community. And it violates the Constitution's mandate that the government provide due process of law when depriving persons of liberty. Moreover, Mr. Sambissa asks only that the government justify his detention through formal charges (the Notice to Appear). The government would not be prejudiced by such a requirement, as it has had over a month to assemble any evidence it would need to issue the Notice to Appear. No public interest is served by the government detaining Mr. Sambissa absent formal charges. This Court should therefore find that the balance of equities and public interest weigh in favor of granting Mr. Sambissa's motion.

V.

CONCLUSION

For the foregoing reasons, Mr. Sambissa is entitled to a preliminary injunction enjoining Respondents from removing him from the United States until his Habeas Petition can be fully adjudicated.

Dated: 7/13/2025


Darla Palacio Sambissa

Petitioner

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

In The Matter of :

Case No.: 3:25-cv-00237

Darla Pacio Sambissa,

Petitioner,

Christopher Sambissa,

Petitioner, an Alien Detainee A#246-058-695

v.

United States Department of Homeland Security,
Acting Director Kristi Noem, et al.,

Respondents,

[PROPOSED] ORDER GRANTING PRELIMINARY INJUNCTION

This matter having come before the Court on Petitioner's motion for a Preliminary Injunction [Dkt _____], and this Court having reviewed the pleadings, the Court hereby GRANTS petitioner's motion for a Preliminary Injunction.

Petitioner has satisfied the requirements for preliminary injunctive relief. In particular, Petitioner has demonstrated that he is likely to succeed in proving that prolonged detention without formal charges is unconstitutional. Petitioner has also demonstrated that, without relief, he would suffer irreparable harm to his constitutional and due process rights.

Accordingly, Respondents are ordered not to remove or deport petitioner from the United States until his Habeas Petition is fully adjudicated, or, in the alternative, formally charge petitioner with a Notice to Appear (NTA) and provide form his appearance before an immigration judge.

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2 US District Judge
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Dated this 2nd day of August 2010

Motion for Preliminary Injunction Case #3:25-cv-002377

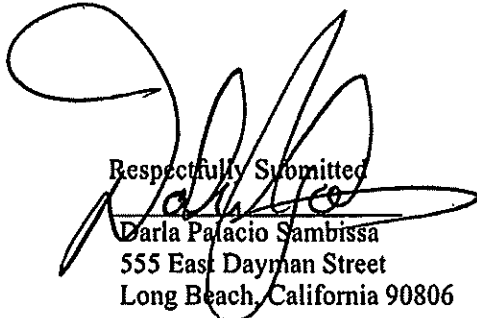
CERTIFICATE OF SERVICE

I, Darla Palacio Sambissa, hereby certify that on this date, I filed this Motion for Emergency Preliminary Injunction. I will furthermore mail a copy by USPS Certified Priority Mail with Return Receipts to each of the following individuals:

**United States Attorney's Office
Attn: AUSA Angelica Saenz
601 NW Loop 410
San Antonio, Texas 78216-5597**

Dated: July 31, 2025

Respectfully Submitted



**Darla Palacio Sambissa
555 East Dayman Street
Long Beach, California 90806**

