

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

DOMINGO MENDOZA MENDEZ,

Petitioner,

v.

RYAN SHEA, in his official capacity as the Freeborn County Sheriff; PETER BERG, in his official capacity as the St. Paul Field Office Director for U.S. Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security,

Respondents.

Case No. _____

**PETITIONER'S
MEMORANDUM OF LAW IN
SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

**EMERGENCY HANDLING
REQUESTED**

I. INTRODUCTION

Mr. Mendoza Mendez brings the instant motion for Temporary Restraining Order (“TRO”) and Preliminary Injunction (“Motion”) seeking injunctive relief and challenging Respondents’ actions in detaining and imminent removal of Mr. Mendoza Mendez. He was arrested by Respondents on July 10, 2025, and remains in detention. There was no lawful basis for DHS to arrest and detain Mr. Mendoza Mendez for removal because he holds a valid deferred action pursuant to bona fide determination (“BFD”) issued by the U.S. Citizenship and Immigration Services (“USCIS”).

On July 11, 2025, Mr. Mendoza Mendez urgently filed a petition for writ of habeas corpus (“petition”) (Doc. No. 1) challenging his arrest and imminent removal as unlawful and seeking an order from this Court for his release. The petition lodged jurisdiction with this Court.¹

Mr. Mendoza Mendez seeks injunctive relief to prevent Respondents from unlawfully detaining him and seeking to remove him. Mr. Mendoza Mendez seeks declaratory and injunctive relief to remedy violations of his constitutional and statutory rights. Finally, as explained in detail in the petition, Mr. Mendoza Mendez’s motion and petition are properly before this Court. *See* No. 1.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Mr. Mendoza Mendez was unlawfully taken into ICE custody and faces imminent removal despite being granted bona fide determination and deferred action by the USCIS.

¹ The instant motion is respectfully submitted without prejudice to Petitioner’s ability to file an amended petition seeking relief from his unlawful arrest and imminent removal as needed.

Petitioner is a married father of two U.S. citizen biological children and one U.S. citizen step-child. Petitioner first entered the United States on January 18, 2000, voluntarily returned to Mexico and then entered the United States on January 20, 2000 without inspection. *See* Exhibit H. He has not left the United States since January 2000. Exhibit I.

In 2005, Petitioner was convicted of DWI and sentenced to 30 days. Exhibit H. Thirteen years later, on August 23, 2018, he was charged with DWI and ultimately convicted of Fourth Degree DWI on December 11, 2024. Exhibit I. After his 2018 DWI arrest, Petitioner was transferred to ICE custody and placed in removal proceedings on August 24, 2018. *See* Exhibit G, H. In proceedings, Petitioner applied for relief from removal in the form of cancellation of removal for certain nonpermanent residents (“COR”).

On November 14, 2018, the Immigration Judge (“IJ”) granted Petitioner’s application for COR. *See* Exhibit F. The DHS appealed and on June 17, 2021, the BIA reversed the IJ’s decision, vacated COR and granted voluntary departure. *See* Exhibit E. On July 15, 2021, Petitioner filed his U visa petition with the USCIS pursuant to the U visa certification signed by the Minneapolis Police Department certifying that Petitioner was a victim of a felonious assault. Exhibit I. He completed and filed all required forms, documents, and fees for a U nonimmigrant status. Included in his application was the waiver he needed to overcome the applicable grounds of inadmissibility.

On or about August 13, 2021, Petitioner filed a motion to reopen his removal

proceedings requesting that his case be reopened and the proceedings remanded to the IJ in order to continue the proceedings and allow Petitioner to await the adjudication of his U visa petition by the USCIS. On June 28, 2023, the BIA denied his motion. Exhibit D.

On November 20, 2024, Petitioner applied for a stay of removal, the Form I-246 with ICE. On November 25, 2024, ICE denied his application. Exhibit C.

Petitioner has been regularly reporting to ICE since he has been placed in removal proceedings until the day he was detained, on July 10, 2025. Exhibit I.

On December 20, 2024, the USCIS issued a notice of a favorable BFD finding and deferred action. Exhibit A. Consistent with law, and the deferred action determination, on June 6, 2025, Petitioner filed an application with the USCIS to obtain work authorization. *See* Exhibit A, B.

On January 22, 2025, Petitioner provided a copy of the BFD notice to ICE and asked for reconsideration of the denied Form I-246, stay of removal but received no response.

On July 10, 2025, Petitioner was arrested and detained after presenting himself at the ISAP/ICE offices in St. Paul, Minnesota, per the instructions he received from the said offices a day earlier to present himself in order to receive an ankle bracelet.

Petitioner advised ICE officers that he had a valid BFD and deferred action granted by USCIS but was allegedly told that they used to “respect it but no longer do so, that it is useless.”

Petitioner currently remains in custody at the Freeborn County Jail in Albert Lea, Minnesota.

Mr. Mendoza Mendez, a recipient of deferred action under the U visa program, is being held in custody despite there being no legal basis for the detention. He falls squarely within the protections of the BFD and USCIS itself recognizes the benefit.

Mr. Mendoza Mendez has complied in every way with his legal obligations and any conditions placed upon him by USCIS, the Immigration Court, and ICE. Now despite having all the protections afforded to him under law, Respondents continue to act unlawfully and in violation of statutory, regulatory, and Constitutional rights.

Mendoza Mendez is at risk of being wrongfully removed from the United States, and has been told he will be removed by Immigration officials.

III. ARGUMENT

A. Mr. Mendoza Mendez is entitled to a temporary restraining order and preliminary injunction.

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

- (1) the probability that the moving party will succeed on the merits;
- (2) the threat of irreparable harm to the moving party;
- (3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and
- (4) whether the issuance of a TRO is in the public interest.

See Dataphase Sys., Inc. v. C.L. Sys., Inc., 640 F.2d 109, 114 (8th Cir. 1981); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Consideration of these four factors

does not require mathematical precision but rather should be flexible enough to encompass the particular circumstances of each case. *See id.* at 113. The basic question is whether the balance of equities so favors the moving party “that justice requires the court to intervene to preserve the status quo until the merits are determined.” *Id.* Although the probability of success on the merits is the predominant factor, the Eighth Circuit has “repeatedly emphasized the importance of a showing of irreparable harm.” *Caballo Coal Co. v. Ind. Mich. Power Co.*, 305 F.3d 796, 800 (8th Cir. 2002). Here, all four factors weigh in favor of granting injunctive relief.

1. Mr. Mendoza Mendez is likely to succeed on the merits of his amended petition for writ of habeas corpus.

Writs of habeas corpus “may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). The writ of habeas corpus shall not extend to a prisoner unless...He is in custody in violation of the Constitution or laws or treaties of the United States. 8 U.S.C. § 2241(c).

a. Mr. Mendoza Mendez’s arrest and imminent removal are in violation of Due Process.

i. Noncitizens like Mr. Mendoza Mendez are protected by the Fifth Amendment.

The federal courts have held that noncitizens are entitled to guarantees of the Fifth Amendment. *Sanchez-Velasco v. Holder*, 593 F.3d 733, 737 (8th Cir. 2010); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) (“all aliens[] are clearly protected by the Fifth and Fourteenth Amendments”). Courts treat Equal Protection and

Due Process rights under the Fifth Amendment in the same manner as Equal Protection Claims under the Fourteenth Amendment. *Wienberger v. Wiesenfeld*, 420 U.S. 636 (1975).

Due process is only implicated when governmental decisions deprive an individual of “liberty” or “property” interests within the meaning of the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693-94 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67 (1976); *Yamataya v. Fisher*, 189 U.S. 86 (1903); *see also Rusu v. INS*, 296 F.3d 316, 321-22 (4th Cir. 2002).

The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be...deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. *See Zadvydas*, 533 U.S. at 690 (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem”); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10, 413 (D.N.J. 1999) (holding that, in analyzing due process in the immigration context, the first factor in the procedural due process analysis, “the petitioner’s private interest in his

physical liberty, must be accorded the utmost weight.”).

ii. Respondents arrested and detained Mr. Mendoza Mendez without a lawful or factual basis, in violation of due process.

Mr. Mendoza Mendez is likely to succeed in demonstrating that he is in custody in violation of the Constitution and laws of the United States. *See* 8 U.S.C. § 2241(c)(3). In addition to violating the Constitution, Respondents are also violating the Administrative Procedure Act (“APA”), 28 U.S.C. § 2241, 5 U.S.C. §§ 701 and 101 *et. seq.* and 8 U.S.C. §§ 1101 *et. seq.* by denying Mr. Mendoza Mendez his constitutional right to due process, arbitrarily and capriciously, thus exceeding their authority under the Immigration and Nationality Act (“INA”).

Here, Mr. Mendoza Mendez was detained and subjected to imminent removal without notice or a hearing on the effect his lawful grant of deferred action has on his potential removal. Had he received due process, he could have challenged his detention and removal, as his BFD and deferred action status rendered him ineligible for removal under 8 U.S.C. § 1184(p)(6). Respondent’s decision to detain and remove Petitioner without an opportunity to respond and without a hearing is a procedural due process violation that is likely to succeed on the merits.

Mr. Mendoza Mendez’s BFD operates as an administrative stay of removal and Respondents cannot lawfully detain him without first revoking his deferred action under applicable regulations. He maintains that his deferred action status remains unrevoked under governing regulations. *Id.*

In *Maldonado v. Noem*, a district court evaluated a comparable record and motion.

No. 25-CV-2541 (S.D. Tex. June 5, 2025). The *Maldonado* court found the “likelihood of success” factor favored petitioner because he had a BFD and respondents sought to remove him without notice or a hearing on the effect his lawful grant of deferred action has on his potential removal. *Id.* at *5. Here, Petitioner similarly holds a BFD and was afforded no notice or a hearing prior to his arrest. It is therefore likely that Mr. Mendoza Mendez will succeed on the merits of the petition.

2. Mr. Mendoza Mendez will continue to face irreparable harm if emergency relief is not granted.

a. Mr. Mendoza Mendez will face irreparable harm if he is not immediately released from detention.

It is well established that deprivation of constitutional rights constitutes “irreparable injury” and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976). *See also Planned Parenthood of Minnesota, Inc. v. Citizens for Community Action*, 558 F.2d 861, 867 (8th Cir. 1977). When an alleged deprivation of constitutional rights is involved, no further showing of irreparable injury is necessary. *Planned Parenthood of Minnesota*, 558 F.2d at 867 (citing 11 C. Wright & A. Miller, *Federal Practice & Procedures: Civil* § 2948 at 439 (1973)); *Ng v. Bd. of Regents of the Univ. of Minn.*, 64 F.4th 992, 998 (8th Cir. 2023) (“[T]he denial of a constitutional right is a cognizable injury and an irreparable harm.”); *Hernandez*, 872 F.3d at 994–95; *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”). Further, Mr. Mendoza Mendez is irreparably harmed because indefinite detention bears no “reasonable relation” to its purpose. *Deqa M. Y.*,

2020 WL 4928321, at *3; *see Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing “[a]ny amount of actual jail time is significant and has exceptionally severe consequences for the incarcerated individual” (cleaned up) (internal quotation marks omitted) (citation omitted)).

In the present case, deportation would forcibly separate Petitioner from his U.S. family, a harm courts have consistently deemed irreparable. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Removal would also permanently terminate Petitioner’s deferred action and his pending application for work authorization, extinguishing his lawful status with no concrete avenue for reinstatement if he prevails in this action. Finally, Petitioner’s family would face severe financial hardship as shown in their affidavits. Exhibits J-L. As in *Maldonado*, these harms are specific to Petitioner’s case and outweigh generalized government interests. *Maldonado*, No. 25-CV-2541 at *7.

b. Mr. Mendoza Mendez will face irreparable harm if he remains in detention and is removed or transferred out of Minnesota.

Mr. Mendez Mendoza will further be harmed if Respondents are not enjoined from transferring him to a detention facility in another state (in the event he is not ordered immediately released). In-person meetings between immigrants and their attorneys are necessary for all aspects of representation in immigration matters including: (1) conducting an assessment of clients’ legal claims and eligibility for relief; (2) interviewing clients to obtain a lengthy personal declaration that often details traumatic facts about physical, sexual, and other violence; (3) counseling clients as to their legal options and developments in their case; (4) obtaining signatures on release forms when

seeking client records from outside agencies; and (5) preparing clients to testify in court, including to face cross-examination by an experienced ICE attorney. A transfer further impedes these vital attorney-client exchanges by limiting the means by which Mr. Mendoza Mendez and his attorneys can communicate confidentially. Moving Mr. Mendoza Mendez out of this District, therefore, inhibits these crucial attorney-client communications.

The aforementioned issues establish irreparable harm and justify the prompt issuance of a TRO in this matter ordering Mr. Mendoza Mendez immediately released, or if not immediately released, ordering Respondents not to remove or transfer Mr. Mendoza Mendez out of Minnesota. Thus, this Court should issue a TRO to prevent irreparable harm to Mr. Mendoza Mendez arising from deprivations of due process in violation of Mr. Mendoza Mendez's Fifth Amendment rights.

3. Respondents will face no injury or harm if emergency relief is granted.

a. Respondents will face no injury or harm if Mr. Mendoza Mendez is released from detention.

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221 (10th Cir. 2005).

Mr. Mendoza Mendez's harms, discussed above, are weighty; these harms are the direct result of Respondents' conduct in denying Mr. Mendoza Mendez's due process as required under the Constitution. In fact, Mr. Mendoza Mendez's continued detention and

removal is actually a burden for Respondents in that his unnecessary and unexplained detention and removal is costly to the U.S. government.

Possible injuries to the government, should the restraining order be granted, are minimal and possibly nonexistent. Mr. Mendoza Mendez is seeking to be released from custody back to his home in the United States so that he can be reunited with his U.S. citizen children. There is no justification for Mr. Mendoza Mendez's detention or removal prior to a full adjudication of his claims, particularly given his pending U visa application with a bona fide determination.

For the aforementioned reasons, the irreparable harm to Mr. Mendoza Mendez that will occur should ICE remove him or fail to release him clearly outweighs any burden to Respondents in indefinitely keeping him detained. As this Court held in *Morrison*, 602 F. Supp. at 1484, the balance of harms supports Mr. Mendoza Mendez even though the federal or state government may not be able to recover lost custodial time should Respondents' constitutional interpretation prevail. This insignificant harm is outweighed by the substantial harm facing Mr. Mendoza Mendez. Mr. Mendoza Mendez's harms include deprivations of due process, wrongful detention, and removal depriving Mr. Mendoza Mendez of liberty. Because Mr. Mendoza Mendez is in Respondents' custody, he faces the extreme hardship of deprivation of his due process rights and liberty, and separation from his family, friends, and community unless this Motion is granted.

b. Respondents will face no injury or harm if they are ordered not to move Mr. Mendoza Mendez out of Minnesota.

Similarly, if the Court orders Respondents not to transfer Mr. Mendoza Mendez out of Minnesota, they will face no harm. In fact, such an order would conserve Respondents' time and resources that would be dedicated to flying Mr. Mendoza Mendez to another state, at the cost of the taxpayers. The balance of harms clearly weighs in favor of granting the Temporary Restraining Order and Preliminary Injunction on behalf of Mr. Mendoza Mendez.

4. The issuance of a TRO is in the public interest.

The public—and therefore the government—has an interest in protecting the rights of people in detention and ensuring the rule of law. *See Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”). “It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). Additionally, there is critical public interest in ensuring executive agencies act lawfully. Respondents “cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983).

The protection of individuals’ constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government’s

power to skew, alter, or improperly affect legal proceedings related to an individual's property or liberty interest(s). To ensure the protection of Mr. Mendoza Mendez's constitutional rights, and to protect against overzealous federal government intrusion of constitutional rights of others in similar situations, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from continuing to detain Mr. Mendoza Mendez.

In sum, the public interest favors preserving due process, family unity, and congressional intent to protect crime victims under the U visa program. *See Maldonado*, No. 25-CV-2541 at *7.

B. Mr. Mendoza Mendez has complied with the requirements of Rule 65.

Finally, as set forth *supra*, Mr. Mendoza Mendez asks this Court to find that he has complied with the requirements of Rule 65, Fed.R.Civ.P., for the purpose of granting a temporary restraining order. Respondents have been provided a copy of the instant motion and supporting documents and are on notice. *See Exhibit M.* Rule 65(c) states that the court may issue a preliminary injunction or 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. Under the circumstances of this case, however, Mr. Mendoza Mendez respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from arresting, detaining, or transferring Mr. Mendoza Mendez, and/or to refrain from giving Respondents' unlawful actions legal effect, should

not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. Of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

IV. CONCLUSION

For all of the foregoing reasons, Petitioner asks this Court to grant his Motion for a Temporary Restraining Order and Preliminary Injunction to:

1. Declare that the actions of Respondents as set forth in Mr. Mendoza Mendez's Petition, Motion, and Memorandum of Law violated the Fifth Amendment of the United States Constitution, 28 U.S.C. § 2241, and the APA.
2. Enjoin Respondents from removing Petitioner from the United States during the pendency of his petition for writ of habeas corpus before this Court.
3. Enjoin Respondents from continuing to detain Petitioner in their custody during the pendency of his petition for writ of habeas corpus before this Court.
4. If Petitioner is not immediately released from Respondents' custody, enjoin Respondents from transferring Petitioner to a detention facility out of this District where he would lose access to his counsel and support network.
5. Grant Petitioner such other relief as the Court deems appropriate and just.

Dated: July 13, 2025

/s/ Magdalena Metelska, Esq.

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