

**IN THE UNITED STATES DISTRICT COURT SOUTHERN  
DISTRICT OF FLORIDA**

CASE No. 1:25-cv-23201-DPG

**LUIS ALONSO ESPINOZA-SORTO,**

Petitioner/Plaintiff,

v.

**JUAN AGUDELO**, Interim Director,  
U.S. DHS ICE ERO Miami Field  
Office, *et al.*,

Respondents/Defendants.

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**PETITIONER/PLAINTIFF'S MOTION FOR PRELIMINARY  
INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER**

**COMES NOW** the Petitioner/Plaintiff, by and through undersigned counsel, and hereby files the instant Emergency Motion and respectfully states as follows:

1. The Petitioner/Plaintiff incorporates by reference the facts and procedural history as set forth in his Verified Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and Complaint for Declaratory and Injunctive Relief. *See* D.E. 1.
2. The Petitioner/Plaintiff seek to “preserve the status quo during the course of litigation in order to prevent irreparable injury to the moving party and in order to preserve the ability of the court to render complete relief.” *Federal Leasing, Inc. v. Underwriters at Lloyds*, 487 F. Supp. 1248, 1259 (D. Md. 1980), *aff'd*, 650 F.2d 495 (4th Cir. 1981).
3. A temporary restraining order and/or a preliminary injunction is warranted where,



as here, the plaintiffs establish: (1) a substantial likelihood that they will prevail on the merits; (2) a substantial threat of irreparable injury in the injunction is not granted; (3) greater injustice to the plaintiffs if the injunction is denied than harm caused by granting the injunction; and (4) no substantial disservice to the public interest. *Osmose, Inc. v. Viance, LLC*, 612 F.3d 1298, 1307 (11th Cir. 2010); *Scott v. Roberts*, 612 F.3d 1279, 1290 (11th Cir. 2010); see Fed. R. Civ. P. 65.

4. This standard is not rigidly applied by assigning a fixed quantitative value to each of the four factors. Rather, a flexible scale – which balances each consideration and arrives at the most equitable result, given the particular circumstances of each case – is used. *Texas v. Seatrain International, S.A.*, 518 F.2d 785, 787 (5th Cir. 1975)<sup>1</sup>.

5. The Petitioner/Plaintiff is likely to succeed on the merits because the Respondents/Defendants are detaining the Petitioner/Plaintiff to execute his deportation despite his grants of an order of supervision (“OSUP”) and deferred action following a bona fide determination of eligibility for U Nonimmigrant status, and the Respondents/Defendants have apparently revoked the Petitioner/Plaintiff’s OSUP without providing him regulatory notice or an opportunity to be heard pursuant to 8 C.F.R. §§ 241.4(l) and 241.13(i). See D.E. 1 at Exh. No. 1 and Exh. No. 3 (OSUP and grant of deferred action).

6. The Petitioner/Plaintiff will likely suffer irreparable harm in the absence of preliminary relief from deportation. See, e.g., *Padilla v. Kentucky*, 559 U.S. 356, 364 (2010) (“deportation is a particularly ‘severe’ penalty” (citation omitted)); see also D.E. 1 at Exh. 5 (Petitioner/Plaintiff’s administrative application for a stay of removal based on her pending I-918 Petition for victims of certain crimes, U.S. citizen children, non-citizen child and spouse, compliance with OSUP, prior stay application approvals, and lack of negative equities like

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<sup>1</sup> In *Bonner v. Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the U.S. Court of Appeals for the Eleventh Circuit adopted as binding precedent decisions of the former U.S. Court of Appeals for the Fifth Circuit handed down prior to October 1, 1981.



criminal history, fraud, and threats to national security or public safety).

7. The Petitioner/Plaintiff has complied with Fed. R. Civ. Pro. Rule 65 requirements for purposes of granting a Temporary Restraining Order. Pursuant to this Rule, the Court may issue a temporary restraining order without written or oral notice to the adverse party, but only if (a) specific facts in an affidavit clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (b) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

8. As undersigned counsel has set forth in her supporting Affidavit, undersigned counsel has provided via email provided the U.S. Attorney's office with a copy of the instant motion and a copy of the instant motion with a copy of the Petition/Complaint and Exhibits.

9. Under the circumstances of this case, the movant should not need to post a security pursuant to Fed. R. Civ. Pro. 65(c) because the Respondents/Defendants will incur no costs or damages from being wrongfully enjoined or restrained.

### **CONCLUSION**

Based on the foregoing, the Petitioner/Plaintiff respectfully requests that this Honorable Court enter the following orders:

- A. The Petitioner/Plaintiff is likely to succeed on the merits of the pending Petition/Complaint;



- B. The Petitioner/Plaintiff will suffer irreparable harm in the absence of preliminary relief, the balance of equities tips in the Petitioner/Plaintiff's favor, and an injunction would serve the public interest;
- C. Enjoin the Respondents/Defendants from detaining and deporting the Plaintiff/Petitioner while she is the beneficiary of a grant of deferred action and while in compliance with an OSUP;
- D. The Petitioner/Plaintiff is entitled to an award of attorney's fees and costs incurred as a result of bringing this action pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.
- E. Grant the Petitioner/Plaintiff any other relief the Court deems necessary and proper.

Respectfully submitted this 17th day of July 2025,

By: /s/ Alexandra Friz-Garcia

Alexandra Friz-Garcia, Esq.

Florida Bar No. 0111496

Fonte Friz-Garcia Immigration Firm

Attorney for Petitioner/Plaintiff

901 Ponce De Leon Blvd, Suite 402

Miami, FL 33134

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**VERIFICATION**

Undersigned counsel certifies under penalty of perjury that I am submitting this verification because I am one of the Petitioner/Plaintiff's attorneys and I have discussed the facts within this Motion with the Petitioner/Plaintiff's counsel in stay of removal proceedings before Respondents/Defendants. Pursuant to these discussions, I have reviewed the foregoing Motion and that, to the best of my knowledge, the facts therein are true and accurate.

Respectfully submitted this 17th day of July, 2025,

Alexandra Friz-Garcia, Esq.  
Attorney for Petitioner/Plaintiff  
901 Ponce De Leon Blvd, Suite 402  
Miami, FL 33134  
Telephone: (305) 446-1151

By: /s/ Alexandra Friz-Garcia  
Alexandra Friz-Garcia, Esq.  
Florida Bar No. 0111496  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I electronically filed the foregoing document with the Court Clerk and to the best of my knowledge a true and correct copy of the foregoing, along with a Notice of Electronic Filing, will be served through the Court's ECF system to all counsel of record this 17th day of July, 2025. As no attorney from the U.S. Attorney's Office has entered an appearance yet in the instant matter, I provided a copy of the foregoing to the U.S. Attorney, Natalie Diaz, via email at Natalie.Diaz@usdoj.gov.

Respectfully submitted,

By: /s/ Alexandra Friz-Garcia  
Alexandra Friz-Garcia, Esq.  
Florida Bar No. 0111496  
Fonte Friz-Garcia Immigration Firm  
Attorney for Petitioner/Plaintiff  
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**AFFIDAVIT OF ALEXANDRA PAOLA FRIZ-GARCIA,**  
**COUNSEL FOR PETITIONER/PLAINTIFF**

1. My full name is Alexandra Paola Friz-Garcia, and I am the attorney of record in the above-captioned matter.

2. I am a member of The Florida Bar (Florida Bar No. 0111496) and I am admitted to practice in the U.S. District Courts for the Southern District of Florida, Middle District of Florida, and the U.S. Courts of Appeals for the Eleventh Circuits.

3. On June 17, 2025, I notified the U.S. Attorney for the Southern District of Florida, the U.S. Attorney, Natalie Diaz, via email at [Natalie.Diaz@usdoj.gov](mailto:Natalie.Diaz@usdoj.gov) that I intended to file the Petitioner/Plaintiff's Motion for Preliminary Injunction and/or Temporary Restraining Order

and I attached copies of the proposed Motion with this Affidavit and the Petition and Complaint with Exhibits at D.E. 1.

4. The purpose of this Affidavit is to comply with Fed. R. Civ. Pro. 65, which



states that the Court may only issue a temporary restraining order without written or oral notice to the adverse party if specific facts in an affidavit clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition and the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

5. The Petitioner/Plaintiff is under imminent threat of deportation after the OHS ICE ERO Miami Field Office has yet adjudicate the application for an administrative stay of removal despite the Petitioner/Plaintiffs pending I-918 Petition with bona fide determination granting him deferred action. The Plaintiff has young, U.S. citizen children, and deportation would forcibly separate the Petitioner from his children until which time he could return with a U-nonimmigrant visa, and the backlogs in I-918 Application adjudications outlined in the Petition/Complaint could make this separation interminable.

6. Again, I certify that I have made proper efforts to give notice to the Respondents/Defendants' counsel of the Petitioner/Plaintiffs Motion.

I declare under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. § 1746.

Date: July 17, 2025

*Alexandra Friz-Garcia*  
Signature of Counsel