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

HUGO GIL CANDIDO-BOLANOS

Plaintiff,

V.

TODD M. LYONS, Acting Director,
U.S. Immigration and Customs
Enforcement, in his official capacity as
well as successors and assigns,

JOHN MATTOS, Warden of the Nevada Southern Detention Center,

KRISTI NOEM, Secretary for the U.S. Department of Homeland, in her official capacity as well as her successors and assigns,

Defendants

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MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiff Hugo Gil Candido-Bolanos (“Plaintiff”), by and through his undersigned counsel, respectfully moves this Honorable Court pursuant to Federal Rule of Civil Procedure 65(b) for an Temporary Restraining Order to preventing Defendants from removing Plaintiff to El Salvador, in violation of the Convention Against Torture (“CAT”) and the Due Process Clause of the Fifth Amendment to the United States Constitution. In support of this motion, Plaintiff alleges as follows:

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I. INTRODUCTION

Plaintiff is a native and citizen of El Salvador who has been lawfully granted protection from removal under the CAT since February 4, 2008, due to credible and documented fear of torture and persecution by government- affiliated actors in El Salvador. He is currently being detained at the Nevada Southern Detention Center in Pahrump, Nevada, and has been informed of imminent removal to El Salvador, scheduled for Tuesday, July 29, 2025 – despite the existing CAT protection, and without notice of any valid legal revocation of that relief.

Immediate action by this Court is necessary to prevent irreparable harm, as Plaintiff’s removal may result in torture or death, in direct violation of U.S. treaty obligations, federal regulations (8 C.F.R. § 208.18), and established constitutional protections.

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II. JURISDICTION AND VENUE

This Court has jurisdiction pursuant 8 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241 (habeas corpus), and 5 U.S.C. § 702 (Administrative Procedure Act), as Petitioner challenges unlawful government action affecting his liberty interests.

Venue lies in this District pursuant to 28 U.S.C. § 1391(e), as Petitioner is detained within the District of Nevada, and a substantial part of the events giving rise to this action

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1 occurred in this District.

2 III. STATEMENT OF FACTS

3 Plaintiff is a native and citizen of El Salvador who entered the United States and was placed
4 into removal proceedings after being arrested on criminal charges in California in 2004. While in
5 removal proceedings, Plaintiff applied for relief from removal by submitting an I-589, Application
6 for Asylum and for Withholding of Removal, seeking protection under U.S. and international law.
7 In support of his claim, Plaintiff submitted credible and detailed evidence to the Immigration Court
8 documenting the torture, abuse, and assault he suffered at the hands of Salvadoran government
9 officials.

10 On February 4, 2008, the Immigration Judge presiding over his removal case in San Pedro,
11 California ordered the Plaintiff removed to El Salvador with an alternative order granting Deferral
12 of Removal pursuant to the CAT under 8 C.F.R. § 208.1, after finding it more likely than not that
13 Plaintiff would be tortured if returned to El Salvador.

14 After the conclusion of his immigration case, Plaintiff's related criminal proceedings in
15 California were also resolved. Since receiving CAT protection in 2008, Plaintiff has not engaged
16 in any further criminal conduct, and he has remained in the United States under CAT protection,
17 without any lawful revocation of that relief. He has fully complied with all conditions of
18 supervision, including attending annual check-ins with U.S. Immigration and Customs
19 Enforcement ("ICE") and reporting as directed.

20 On July 21, 2025, Plaintiff was returning home from work when he was stopped by officers
21 and transferred to ICE custody. Plaintiff is now currently detained at Nevada Southern Detention
22 Center, where he was recently advised of his imminent removal to El Salvador – without formal
23 notice, hearing, or legal justification.

1 On July 24, 2025, Plaintiff was issued a Notice of Revocation of Supervision Release,
2 stating that he would be removed. He was further advised that removals to El Salvador occur on
3 Tuesdays, placing his deportation at imminent risk.

4 To date, there is no record of a valid revocation of CAT protection through lawful process.
5 Proof has already been established that Plaintiff's life and safety are at imminent risk if returned
6 to El Salvador. Furthermore, because Plaintiff has been awarded CAT, which is not revoked at
7 this time, it is unlawful for ICE to immediately remove Plaintiff to El Salvador.

8 IV. LEGAL STANDARD

9 To obtain a Temporary Restraining Order, the petitioner must demonstrate four essential
10 elements: first, there must be a likelihood of success on the merits of the underlying claim. This
11 requires showing that the petitioner has a valid legal claim that is supported by the facts. *See*
12 *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Second, the petitioner must establish
13 a likelihood of irreparable harm in the absence of the requested relief. This means that the harm
14 must be immediate and cannot be adequately remedied through monetary damages. *See Rodriguez*
15 *v. Robbins*, 715 F.3d 1127, 1135 (9th Cir. 2013) (holding that irreparable harm is presumed when
16 constitutional rights are at stake). Third, the balance of equities must tip in favor of the petitioner,
17 indicating that the harm the petitioner would suffer outweighs any potential harm to the respondent
18 from granting the Temporary Restraining Order. *See Rosemere Neighborhood Ass'n v. U.S. Army*
19 *Corps of Engineers*, 450 F.3d 978, 983 (9th Cir. 2006). Finally, the issuance of the Temporary
20 Restraining Order must be in the public interest, which entails considering the broader implications
21 for the community and the enforcement of constitutional rights. Courts have consistently
22 recognized these standards, emphasizing that the protection of constitutional rights is a paramount
23 concern. *See Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008); *Elrod v. Burns*,

1 427 U.S. 347 (1976) (noting that the loss of constitutional freedoms for even minimal periods
2 constitutes irreparable injury).

3 V. ARGUMENT

4 In the present case, all four factors are present and support the granting of a Temporary
5 Restraining Order. Absent the revocation of Plaintiff's CAT protection, there is no basis under law
6 for ICE to effectuate or require Plaintiff's removal to El Salvador. Plaintiff is seeking a protective
7 order to ensure that he is not removed in violation of the law and his rights.

8 **1) Plaintiff is Likely to Succeed on the Merits**

9 The first factor is whether Plaintiff is likely to succeed on the merits. In this case, the central
10 legal question is whether Defendants may lawfully remove Plaintiff to El Salvador, without first
11 initiating formal proceedings to terminate his protection under the CAT. The answer is
12 unequivocally no.

13 CAT protection prohibits revocation and removal from an alien's home country unless
14 protections are properly terminated through lawful procedures—not through informal, secretive,
15 or arbitrary action. Pursuant to 8 C.F.R. § 208.17(d), deferral of removal under CAT may only be
16 terminated by an Immigration Judge upon motion by the Department of Homeland Security
17 ("DHS"), and only after a full hearing in which the government establishes that the noncitizen is
18 no longer eligible for protection.

19 Here, Plaintiff has never received notice of such a motion, nor has any hearing been held
20 or any lawful order entered terminating his CAT protection. Accordingly, any attempt to remove
21 Plaintiff at this time is in direct violation of binding federal regulations and the Due Process Clause
22 of the Fifth Amendment.

23 Plaintiff is likely to succeed on the merits because he is not asking the Court to reweigh
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1 evidence or grant new relief, but rather to require Defendants to follow the procedures clearly set
2 forth in the governing regulations. The scope of relief sought is narrow: to restrain Defendants
3 from effectuating Plaintiff's removal until such time as his CAT protection has been lawfully
4 terminated.

5 Because the governing law unambiguously requires formal process to revoke CAT
6 protection—and because no such process has occurred—this factor weighs strongly in Plaintiff's
7 favor.

8 **2) Plaintiff Faces Irreparable Harm Without a Temporary Restraining Order**

9 The second factor requires a showing that Plaintiff will suffer irreparable harm in the
10 absence of temporary injunctive relief. Irreparable harm exists where a party faces immediate and
11 significant injury that cannot be remedied through monetary damages. As the Ninth Circuit has
12 long recognized, "... that the deprivation of constitutional rights 'unquestionably constitute
13 irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v.*
14 *Burns*, 427 U.S. 347, 373 (1976)).

15 Here, Plaintiff faces the imminent and unlawful removal to El Salvador, a country to which
16 the U.S. government has already found—through a final order of an Immigration Judge—it is more
17 likely than not he would be tortured or killed if returned to. The irreparable nature of this harm is
18 both self-evident and legally well-established. The Supreme Court has recognized that "[t]he
19 removal of an alien may cause irreparable harm," especially where the individual has raised claims
20 involving potential torture or persecution. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

21 Moreover, the risk of unlawful removal without due process—specifically, without formal
22 revocation of his existing protection under CAT—constitutes an ongoing violation of Plaintiff's
23 constitutional rights, including his rights under the Due Process Clause of the Fifth Amendment.

1 Plaintiff is entitled to notice, an opportunity to be heard, and the procedures established by law
2 before the government may effectuate his removal. Any removal prior to lawful termination of his
3 CAT protection would not only irreparably endanger his life, but would also violate his most
4 fundamental legal protections under U.S. and international law.

5 Accordingly, Plaintiff has met his burden of demonstrating immediate and irreparable
6 harm, and this factor strongly supports the issuance of a temporary restraining order.

7 **3) The Balance of Equities and Public Interest Favor Granting a Temporary Restraining**
8 **Order**

9 The final two factors—the balance of equities and the public interest—also weigh heavily
10 in favor of granting a Temporary Restraining Order.

11 On one side of the scale, Plaintiff faces irreparable, life-threatening harm if he is unlawfully
12 removed to El Salvador, despite an active deferral of removal under the CAT. On the other side,
13 Defendants will suffer no legally cognizable harm by being required to follow proper legal
14 procedures and refrain from removing Plaintiff until such protection is lawfully terminated. The
15 government has no legitimate interest in carrying out an action that violates federal regulations,
16 constitutional due process, and international treaty obligations.

17 Preventing the unlawful deportation of a protected individual not only preserves Plaintiff's
18 rights, but also serves the public interest in ensuring that the United States honors its obligations
19 under the CAT, and complies with its own laws and procedures.

20 Moreover, it is well-established that the public interest is served when the government
21 adheres to the rule of law and respects constitutional protections. As the Ninth Circuit has noted,
22 “*public interest concerns are implicated when a constitutional right has been violated, because all*
23 *citizens have a stake in upholding the Constitution.*” *Preminger v. Principi*, 422 F.3d 815, 826 (9th
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1 Cir. 2005). Upholding due process, particularly in life-or-death immigration matters, reinforces
2 public confidence in the fairness and legitimacy of our legal system.

3 In sum, the balance of hardships clearly favors Plaintiff, and the public interest is best
4 served by ensuring that the government complies with established legal procedures before taking
5 irreversible action. These final factors further support the issuance of immediate injunctive relief.

6 **VI. CONCLUSION**

7 WHEREFORE, for the forgoing reasons, Plaintiff respectfully requests a Temporary
8 Restraining Order preventing Defendants from removing Plaintiff from the United States while
9 the appeal of his removal order remains pending.

10 Respectfully submitted on this 25th day of July 2025.
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