

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF PENNSYLVANIA

Alex Gyimah Agyemang,
Petitioner,

v. Civil Action No. 3:25-CV-1417 (Mehalchick, J.)

U.S. Department of Homeland Security, et al.,
Respondents.

**FILED
SCRANTON**

OCT 09 2025

PER DJ
DEPUTY CLERK

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Petitioner, **Alex Gyimah Agyemang** (A# ) proceeding pro se, respectfully moves this Court for an **Emergency Temporary Restraining Order (TRO)** and **Preliminary Injunction (PI)** to:

1. Halt his unlawful mandatory detention by ICE under **INA § 236(c)**;
2. Prevent any transfer of Petitioner outside this Court's jurisdiction; and
3. Direct Respondents to either reclassify Petitioner under **INA § 236(a)** or release him on appropriate conditions pending resolution of his habeas petition.

I. GROUNDS FOR RELIEF

1. Petitioner is currently detained at **Clinton County Correctional Facility** following completion of a federal sentence. He is detained by ICE under **INA § 236(c)**, even though his conviction is pending **direct appeal before the U.S. Court of Appeals for the Third Circuit** (Ex. G, Third Circuit Docket Sheet).
2. Under *Orabi v. Att'y Gen.*, 738 F.3d 535 (3d Cir. 2014), a conviction is not final for immigration purposes while on **direct appeal**. Thus, Petitioner does not fall within § 236(c)'s mandatory detention provisions and should instead be considered under § 236(a), which allows for bond or release on supervision.
3. Petitioner was previously granted **\$12,000 immigration bond in 2019** (Ex. B, IJ Bond Order and Notice to EOIR). He fully complied with all conditions for nearly six years and was never deemed a flight risk or danger. **No IJ or DHS order has ever revoked that**

was never deemed a flight risk or danger. **No IJ or DHS order has ever revoked that bond** under 8 C.F.R. § 1236.1(d).

4. Petitioner has provided **extensive cooperation with five federal agencies**, memorialized in a **5K1.1 letter** (Ex. C) and a **Deferred Action request by DHS in 2020** (Ex. P).
5. Petitioner's ongoing detention inflicts **severe and irreparable harm**:
 - **Medical Needs:** He suffers from untreated **bilateral knee pain** and prior injuries (shattered meniscus, dislocated finger), where an MRI was ordered but denied (Ex. D, BOP Medical Records; Ex. Q, Jail Medical Records). He also suffers from **anxiety, depression, and PTSD** under detention conditions (Ex. Q).
 - **Family Hardship:** His **13-year-old son, N** [REDACTED] lost his **mother (2012)** and **grandmother (Nov. 2024)** (Ex. E, Death Certificates) and has no caretaker besides Petitioner. His wife, **Karina Marrero Santana**, suffers from serious medical conditions and faces **gallbladder surgery** (Ex. F, Medical Records). Two younger children, **K** [REDACTED] (**11, with a blood clotting disorder**) and **L** [REDACTED] (**9**), also depend on him (Ex. F; Ex. O, Letters of Support).
 - **Conditions of Confinement:** Petitioner is housed alongside criminal inmates, faces prolonged lockdowns, collective punishments, and restricted medical access (Ex. Q).
6. Prolonged detention without proper classification is unconstitutional and exceeds the purpose of mandatory detention under *Demore v. Kim*, 538 U.S. 510 (2003).

II. LEGAL STANDARD

To obtain a TRO or PI, a movant must demonstrate:

1. A **likelihood of success on the merits**;
2. **Irreparable harm** in the absence of relief;
3. That the **balance of hardships** tips in the movant's favor; and
4. That the injunction serves the **public interest**. (*Winter v. NRDC*, 555 U.S. 7, 20 (2008)).

Petitioner meets each factor:

- **Likelihood of Success:** Under *Orabi* and *German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203 (3d Cir. 2020), his detention under § 236(c) is unlawful as applied.

His conviction is not final (Ex. G), and his **2019 bond order was never revoked** (Ex. B).

- **Irreparable Harm:** Continued detention causes untreated **physical injuries** (Ex. D, Q), worsening **mental health** (Ex. Q), and irreparable **family separation** (Ex. E, F, O).
- **Balance of Equities:** Petitioner's liberty, health, and family stability outweigh speculative government concerns. His **compliance history**—six years on immigration bond (Ex. L), six years on pretrial supervision (Ex. K), and documented **low risk of recidivism** (Ex. M)—prove he is not a danger or flight risk.
- **Public Interest:** Upholding due process, honoring prior IJ bond decisions, and ensuring lawful application of detention statutes serve the public interest. Petitioner's cooperation with **five federal agencies** (Ex. C, P) further demonstrates trustworthiness and service to the U.S.

III. REQUEST FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. **Issue a Temporary Restraining Order** enjoining Respondents from detaining Petitioner under INA § 236(c) pending further order of this Court;
2. **Issue a Preliminary Injunction** directing Respondents to reclassify Petitioner under INA § 236(a) and either reinstate his prior **2019 bond order (Ex. B)** or release him under reasonable conditions of supervision;
3. **Enjoin Respondents from transferring Petitioner** outside the jurisdiction of this Court while this habeas petition is pending; and
4. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

Dated: October 7, 2025

/s/ Alex Gyimah Agyemang
Petitioner, Pro Se
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