

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

EMMANUEL STEPHANE RUKIRANDE)	
MUKIZA)	
)	Case No. 3:25-cv-02081-E-BT
Petitioner.)	
)	
v.)	
)	ORAL ARGUMENT
THOMAS BERGAMI, WARDEN,)	REQUESTED
PrairieLand Detention Center, et al.)	
)	
Respondents.)	

**SECOND SUPPLEMENT TO EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND MANDATORY INJUNCTION AND SUPPLEMENTAL
BRIEF**

Petitioner files this Second Supplement to Emergency Motion for Temporary Restraining Order and Mandatory Injunction per the Court’s Order dated September 15, 2025 (ECF #10) and would respectfully show:

- I. Immediate and irreparable injury, loss, or harm to Plaintiff
 1. Counsel is **not** aware of any immediate and irreparable injury loss, or damage to Plaintiff that will result prior to Defendants being heard in opposition so long as the Temporary Restraining Order (“TRO”) remains in place until the Court rules because if the TRO is removed and Defendants are free to carry out their clear intent to remove Plaintiff, the irreparable injury loss, or damage to Plaintiff would be severe and include serious physical harm, the loss of his ability to continue with his appeal and thus the ability to stay here with his U.S. citizen wife and her children, his step-children that he raised.
 2. Petitioner will suffer irreparable harm for three main reasons. First, forced deportation would send Petitioner to Gabon (his country of birth), The Democratic Republic of Congo (his

country of purported citizenship), or possibly a third country, where it is more likely than not that he will face serious harm. *Accord Padilla v. Kentucky*, 559 U.S. 356, 130 S.Ct. 1473, 1481 (2010) (“[D]eportation is a particularly severe ‘penalty.’”) (quoting *Fong Yue Ting v. United States*, 149 U.S. 698, 740 (1893); *Lehman v. United States*, 353 U.S. 685, 691 (1957) (Black, J., concurring) (“To banish [an immigrant] from home, family, and adopted country is punishment of the most drastic kind.”); *Bridges v. Wixon*, 326 U.S. 135, 154 (1945) (“Though deportation is not technically a criminal proceeding, it visits a great hardship on the individual and deprives him of the right to stay and live and work in this land of freedom.”)).

3. Second, should Petitioner-Plaintiff be physically removed, he will lose his ability to pursue the appeal of his removal proceedings which would result in losing the ability to apply for lawful permanent residence within the U.S., potentially banishing him permanently from the U.S. Respondent filed a Motion to Re-open Sua Sponte which was denied by the Immigration Judge. Exhibit F. He properly appealed to the Board of Immigration Appeals. Exhibit G. That appeal remains pending and his physical departure from the United States would bar that appeal. *See Ovalles v. Holder*, 577 F.3d 288 (5th Cir. 2009) (while the departure bar does not apply to statutory motions to reopen, departure bar does apply to regulatory sua sponte motions to reopen).
4. Petitioner-Plaintiff has a high likelihood of winning his appeal because his case meets the standard of exceptional circumstances and not for the purposes of circumventing the regulations where enforcing them might result in hardship. He is married to a U.S. citizen, and she has an approved I-130 Petition for Alien Relative for him (See Exhibit H) which is the basis for his potential application for Lawful Permanent Residence. Once his removal proceeding are re-opened he would be prima facie eligible to apply for his Lawful Permanent

Residence under Section 245(a) of the Immigration and Nationality Act "INA;" 8 USC § 1255(a) as the spouse of a U.S. citizen who entered lawfully. Petitioner-Plaintiff would require a waiver for his criminal history and there is a waiver available under INA § 212(h); 8 USC § 1182(a). He qualifies for the waiver under this section because he has a U.S. citizen spouse that would suffer extreme hardship if the waiver is not granted as well as showing rehabilitation and other positive discretionary factors. Exhibit I. Under due process of law Petitioner is entitled to at least the chance to apply for relief from removal.

II. Certification of Counsel regarding Notice to Respondent/Defendants

5. Counsel for Respondent attaches her Certification of efforts made earlier in the day to contact Defendant ICE to ascertain if her client was going to be transferred but was unable to get any information. Counsel for Petitioner was willing to give notice to Respondent-Defendants but was unable to due to the fact that Petitioner was taken by Defendant ICE on Friday night at approximately 10:30 PM when no government offices were open, and would not be open on Saturday or Sunday, the two (2) following days. Petitioner-Plaintiff was in fact willing to give notice to Respondent and an opportunity to respond.
6. As Petitioner remains in government custody within the U.S. Petitioner is willing to give the Respondent-Defendants the opportunity to respond but given their recent conduct and pattern and practice of removing non-citizens without notice the threat of removal is high credible. Petitioner-Plaintiff therefore requests that the TRO remain in place preventing his removal pending the Court's decision on the pending habeas petition.

Respectfully submitted,

/s/Amy M. Hsu
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ATTORNEY FOR PETITIONER

**CERTIFICATION OF COUNSEL IN SUPPORT OF EMERGENCY TEMPORARY
RESTRAINING ORDER**

1. I am counsel for Petitioner-Plaintiff in this matter.
2. Petitioner has separate counsel, Mr. Rober Urenda, for the appeal with the Board of Immigration Appeals.
3. On Friday, September 19, 2025 in the afternoon Petitioner's wife informed me that Petitioner's commissary account balance was zero, which apparently is a sign that someone might be transferred. I called Prairieland Detention Center and requested to speak to the ICE officer in charge of Petitioner's case, or in the alternative, be provided with his or her contact information. The reception desk clerk informed me that she did not know how to get in contact with the ICE officer.
4. I contacted Mr. Urenda who did have a contact email for the ICE officer purportedly in charge of his case. He emailed the officer requesting an update at approximately 3 PM but received an automated email reply that the officer was out of the office from September 2 to September 25, 2005.
5. At approximately 10:30 PM on Friday, September 12, 2025 Petitioner's wife called me to inform me that Petitioner had called her and informed her that ICE was taking him somewhere else.
6. I was unable to give notice the Respondent/Defendants before filing the Emergency Motion for Temporary Restraining Order because it was approximately 12:15 A.M. on Saturday, September 13, 2025 when I filed through email for the Emergency Filing procedures and Defendants, as part of the federal government, were not open at that time. Nor were they open for business at all on Saturday, September 13, 2025 so I was unable to call them or contact them to conference with them before filing the Emergency Motion for a Temporary Restraining Order.
7. I also certify that on Sunday, September 13, 2025 Defendants' offices were closed but at approximately 11:35 AM I emailed Assistant U.S. Attorney Ann Haag and Assistant U.S. Attorney Brian Stolz at their official email addresses in the ECF system to inform them that I would shortly be filing the Supplement to the Emergency Motion for Temporary Restraining Order unless they could confirm the location of my client. I did not receive a response so I filed the Supplement to Emergency Temporary Restraining Order at approximately 1 PM.
8. On Tuesday, September 16, 2025 I mailed the 1) Emergency Motion for Temporary Restraining Order, 2) Brief in Support of Emergency Motion for Temporary Restraining with the Appendix, 3) the Proposed Order, and 4) the Supplement to Emergency Motion for Temporary Restraining Order and Supplemental Brief with Appendix to the U.S. Attorney's Office for the Northern District of Texas by U.S. Postal Service Express Mail

and it was delivered on September 17, 2025.

9. On Thursday September 18, 2025 I also emailed Ms. Ann Haag, counsel for the defendants, the same documents: the 1) Emergency Motion for Temporary Restraining Order, 2) Brief in Support of Emergency Motion for Temporary Restraining with the Appendix, 3) the Proposed Order, and 4) the Supplement to Emergency Motion for Temporary Restraining Order and Supplemental Brief with Appendix

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Amy Hsu
AMY HSU

Date: September 22, 2025

CERTIFICATE OF SERVICE

I certify that I served the foregoing Second Supplement to Motion for Temporary Restraining Order and Mandatory Injunction and Supplemental Brief via ECF on September 22, 2025.

/s/ Amy Hsu
AMY HSU