

JULIO J. RAMOS (SBN. 189944)
LAW OFFICES OF JULIO J. RAMOS
35 Grove St, Suite 130
San Francisco, California 94102
Telephone: (415) 948-3015
Email: ramoslawgroup@yahoo.com

Attorneys for Petitioner

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

AVILES-MENA, PEDRO JOAQUIN

Plaintiff,

vs.

POLLY KAISER, Acting Field Office Director
of the San Francisco Immigration and Customs
Enforcement Office; TODD LYONS, Acting
Director of United States Immigration and
Customs Enforcement; KRISTI NOEM,
Secretary of the United States Department
of Homeland Security, PAMELA BONDI,
Attorney General of the United States, acting
in their official capacities,

Defendant

Case No.: 3:25-CV-06783

**PETITIONER'S NOTICE OF
MOTION AND EX PARTE MOTION
FOR TEMPORARY RESTRAINING
ORDER**

PETITIONER'S NOTICE OF MOTION AND EX PARTE MOTION FOR TEMPORARY RESTRAINING
ORDER - 1

1 PLEASE TAKE NOTICE that, as soon as this matter may be heard, Petitioner Pedro
2 Joaquín Aviles-Mena moves ex parte for a Temporary Restraining Order under Fed. R. Civ. P.
3 65(b) and N.D. Cal. Civil L.R. 65-1. Petitioner seeks immediate relief because he is being
4 unlawfully detained incident to DHS's attempt to route him into expedited removal despite
5 indisputable proof of more than two years' continuous presence in the United States and DHS
6 having granted him parole at entry. Petitioner invokes habeas review authorized by 8 U.S.C. §
7 1252(e)(2), including § 1252(e)(2)(B) (Unlawful Executive Detention).

8
9 As grounds, Petitioner states: (1) DHS paroled him on May 23, 2022, as shown in the
10 signed Interim Notice Authorizing Parole with certificate of service; (2) he properly pursued
11 asylum—USCIS issued an I-589 receipt dated May 22, 2023, scheduled ASC biometrics for June
12 15, 2023, and later approved EAD (C08) valid 11/29/2023–11/28/2028; (3) his 2024 federal tax
13 return (Form 1040) confirms residence and W-2 wages of \$26,649, evidencing sustained presence
14 and ties in Northern California; and (4) USCIS then issued a "Notice of Dismissal of Form I-589"
15 dated June 5, 2025, stating DHS had apprehended Petitioner, placed him in expedited removal,
16 and issued a Form I-860, with a credible-fear interview to be scheduled. These government records
17 collectively establish continuous presence since 2022 and frame the unlawful nature of DHS's
18 current actions.

19
20
21 The immediate precipitating event for this application is Petitioner's arrest at his routine
22 ICE check-in at 630 Sansome Street, San Francisco, on August 8, 2025, at 8:00 a.m. He presented
23 as directed and was taken into custody for expedited-removal processing, without a judicial or
24 administrative warrant, notwithstanding the statutory two-year presence limitation that restricts
25 nationwide expedited removal to individuals who cannot demonstrate two years' continuous
26 physical presence. Petitioner's ICE Personal Report Record itself reflects compliant reporting on
27
28 PETITIONER'S NOTICE OF MOTION AND EX PARTE MOTION FOR TEMPORARY RESTRAINING
ORDER - 2

1 August 2, 2022, and August 2, 2024 (see handwritten entries on the page that follows the “Exhibit
2 B” to Writ of Habeas Corpus, consistent with his parole and filings.

3 Petitioner respectfully asks the Court to issue a Temporary Restraining Order directing his
4 immediate release pending adjudication of this action; or, in the alternative, ordering immediate
5 release and requiring a custody hearing within 14 days at which the government bears the
6 clear-and-convincing burden to establish danger or flight risk. Petitioner further asks the Court to
7 enjoin any transfer or removal that would defeat this Court’s jurisdiction and to prohibit
8 Respondents from placing or maintaining him in expedited removal while this habeas case is
9 pending, in light of his documented two-plus years of U.S. presence and prior parole.
10

11 This application is supported by the concurrently-filed Verified Petition for Writ of Habeas
12 Corpus (including the “Unlawful Executive Detention” claim under 8 U.S.C. § 1252(e)(2)(B)), the
13 Memorandum of Points and Authorities, the Declaration of Counsel (providing notice details under
14 Rule 65(b)(1)(B) and Civil L.R. 65-1), and the following Exhibits: Exhibit A (USCIS Notice of
15 Dismissal of Form I-589, 06/05/2025); Exhibit B (ICE parole and reporting records, including
16 Interim Notice Authorizing Parole, 05/23/2022, and Personal Report Record entries 08/02/2022
17 and 08/02/2024); Exhibit C (USCIS I-589 Receipt, 05/22/2023; ASC Biometrics Notice,
18 06/15/2023; EAD Approval, class C08, valid 11/29/2023–11/28/2028); and Exhibit D (2024 Form
19 1040 reflecting California address and \$26,649 in wages).
20

21 Consistent with N.D. Cal. Civil L.R. 65-1, Petitioner seeks relief at the earliest possible
22 opportunity. Counsel will file a declaration describing notice to the Civil Division of the U.S.
23 Attorney’s Office for the Northern District of California and to agency counsel and explaining
24 why immediate and irreparable injury will occur before Respondents can be heard in opposition.
25

1 Date: August 11, 2025

Respectfully submitted,

2 /s/ Julio J. Ramos

3 Julio J. Ramos (SBN. 189944)

4 LAW OFFICES OF JULIO J. RAMOS

5 *Attorney for Petitioner*