

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**


Leovigildo Hernandez-Lopez,

Petitioner,

v.

Sam Olson, IMMIGRATION CUSTOMS  
ENFORCEMENT AND REMOVAL  
OPERATIONS CHICAGO FIELD OFFICE  
DIRECTOR; Sandra Salazar, IMMIGRATION  
CUSTOMS ENFORCEMENT AND  
REMOVAL OPERATIONS CHICAGO FIELD  
OFFICE DIRECTOR; Marcos Charles,  
ACTING EXECUTIVE ASSOCIATE  
DIRECTOR, ENFORCEMENT AND  
REMOVAL OPERATIONS; Todd M. Lyons,  
ACTING DIRECTOR, IMMIGRATION  
CUSTOMS ENFORCEMENT, Madison  
Sheahan, DEPUTY DIRECTOR,  
IMMIGRATION CUSTOMS  
ENFORCEMENT; Kristi Nocm, SECRETARY  
OF THE DEPARTMENT OF HOMELAND  
SECURITY; Pam Bondi, ATTORNEY  
GENERAL OF THE UNITED STATES; Donald  
J. Trump, PRESIDENT OF THE UNITED  
STATES

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) Civil Action No. 21-CV-10145

) Agency No. A 

Respondents.

**PETITIONER'S MOTION FOR EMERGENCY  
TEMPORARY RESTRAINING ORDER**

Pursuant to Federal Rule of Civil Procedure 65, Petitioner Leovigildo Hernandez-Lopez, through his attorney, requests that this Court grant him a temporary restraining order ordering Respondents to not remove the Petitioner from the jurisdiction of the United States

or transfer the Petitioner outside of the jurisdiction of the State of Illinois. In support of this motion, Mr. HERNANDEZ-LOPEZ states as follows:

1. On August 25, 2025, Petitioner filed a Petition for Writ of Habeas Corpus, Civil Action No. 21-CV-10145. **See Exhibit A, Filed-Stamped Copy of Petition for Writ of Habeas Corpus with submitted Exhibits.**
2. Respondent is the derivative of a pending humanitarian petition for U Nonimmigrant Status visa filed with U.S. Citizenship and Immigration Services (“USCIS”) on September 24, 2024. **Id.**
3. In creating the U Visa program, Congress sought to “strengthen the ability of law enforcement agencies to detect, investigate, and prosecute” certain serious crimes “while offering protection to victims of such offenses and keeping with the humanitarian interests of the United States.” *See* Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Pub. L. No. 106-386, Title V § 1513(a), 114 Stat. 1464, 1533 (codified at 8 U.S.C. § 1101(a)(15)(U)). By providing victims of crime with an avenue for gaining lawful immigration status, the U visa encourages victims to cooperate with law enforcement agencies, thus strengthening relations between law enforcement and immigrant communities.
4. By statute, USCIS may not grant more than 10,000 U-1 visas in any given fiscal year. 8 U.S.C. § 1184(p)(2)(A). This cap has been reached every year since at least 2010. Due to the significant backlog created by this cap, USCIS has implemented a “Bona Fide Determination” (BFD) process. Through this process, USCIS determines whether an application is bona fide; if so, USCIS considers whether the applicant merits a favorable exercise of discretion. *See* 3 U.S. Citizenship and Immigr. Servs.,

Policy Manual C.5 (June 24, 2025), <https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-5>. If USCIS cannot determine that a petition for U Nonimmigrant Status is bona fide, then it will evaluate the petition for waiting list adjudication. **Id.** When USCIS issues a BFD or waiting list determination, it also generally grants deferred action and employment authorization for a period of four years. **Id.** Both principal and derivative applicants are eligible to receive a BFD or waiting list adjudication and its accompanying benefits. When USCIS grants a U nonimmigrant visa, it confers lawful status in the U.S. and four additional years of work authorization for the recipient. At year three of the visa, U visa grantees may apply to adjust their status to that of Lawful Permanent Resident (LPR).

5. On August 25, 2025, at 8:00AM Petitioner appeared at the USCIS Application Support Center located at 25 South Greenbay Rd, Waukegan, Illinois, for his scheduled biometrics appointment related to his pending derivative petition for U Nonimmigrant Status and was taken into custody by Respondents. The Immigration and Customs Enforcement (“ICE”) officers did not provide Petitioner with the basis for detention, nor does Petitioner’s attorney know the basis for his detention.
6. Unless this Court intervenes, ICE will likely move Mr. Hernandez-Lopez to a location outside of the Court’s jurisdiction and away from his legal counsel, before counsel can ascertain the basis of his detention.
7. Upon information and belief, ICE maintains a policy and practice of transferring noncitizen detainees to immigration detention centers located far from the geographical areas where they were initially apprehended. These transfers frequently occur without adequate notice to the detainee or legal counsel, and often result in

significant barriers to legal representation, communication, and access to evidence.

*See, e.g., Suri v. Trump*, No. 25-1560, 2025 U.S. app. LEXIS 16172, at \*12–13 (4th Cir. July 1, 2025) (noting that the government did not contest the finding “that it used these tactics [of frequent transfers] to shop for a forum it perceived as more favorable and to make it difficult for [the petitioner’s] attorney to file a habeas petition on his behalf.”).

8. Upon information and belief, ICE routinely transfers individuals who have strong ties to Illinois—including those represented by legal counsel within the state—to detention facilities in distant jurisdictions.
9. Upon information and belief, such transfers are routinely carried out without individualized assessments of the detainee’s circumstances or due process considerations.
10. Recent media reports have highlighted instances where ICE’s transfer practices have disrupted legal representation and access to counsel. *See, e.g.,* Eric Levenson and Gloria Pazmino, *Why ICE Is Really Moving Detainees Over A Thousand Miles from Where They Were Arrested*, CNN, (Apr. 10, 2025), <https://www.cnn.com/2025/04/10/us/immigration-detainees-trump-ice-students-visa>; Alma Campos, *Where Do People Go After Ice Arrests Them?*, South Side Weekly (Mar. 13, 2025), <https://southsideweekly.com/where-do-people-go-after-ice-arrests-them/>.
11. It is “well established” that the Fifth Amendment’s Due Process Clause protects detained noncitizens like Petitioner from unconstitutional deprivations of liberty when in deportation proceedings. *Demore v. Kim*, 538 U.S. 510, 523 (2003). The

Supreme Court “repeatedly has recognized that civil commitment *for any purpose* constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 425 (1979) (emphasis added). Additionally, the Court has long held that civil detention is unconstitutional absent a sufficient justification and strong procedural protections. *See generally, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 80–83 (1992); *United States v. Salerno*, 481 U.S. 739 (1987); *Addington*, 441 U.S. at 425–27, 433; *Jackson v. Indiana*, 406 U.S. 715 (1972).

12. Absent a temporary restraining order, Mr. Hernandez-Lopez will suffer irreparable harm.
13. Petitioner has no other remedy at law and cannot adequately pursue relief from detention or removal without first knowing the basis on which Respondents have detained him.
14. Should ICE move Mr. Hernandez-Lopez outside of the jurisdiction of this court, away from counsel, or outside of the jurisdiction of the United States, his injuries will be unable to be adequately addressed.
15. In this case, Petitioner’s irreparable injuries outweigh the threatened harm that a temporary restraining order may cause Respondents.
16. When the balance of harms favors the plaintiff, preliminary relief may be granted. WRIGHT, MILLER & KANE, FEDERAL PRACTICE AND PROCEDURE: CIVIL 2D § 2948.2, n. 5 and accompanying text (1995). The irreparable injury mentioned above demonstrates that the severe injury to Mr. Hernandez-Lopez far outweighs any

alleged policy or administrative harm that a temporary restraining order will cause Respondents.

17. The granting of this injunction will not disserve the public interest.
18. The vindication of fundamental constitutional rights, like the right to due process and to be free from unlawful government custody, is in the public interest. And the public has an interest in governmental agencies being held accountable and in compliance with the constitution.
19. Petitioner's attorney, Bethany T. Hoffmann, has informed the Civil Division of the U.S. Attorney's Office for the Northern District of Illinois-Eastern Division of the filing of the Writ of Habeas Corpus and the intent to file this request for a Temporary Restraining Order.

WHEREFORE, Petitioner prays that the Court grant his Motion for Temporary Restraining Order no later than August 25, 2025 at 11:59PM, to enjoin Respondents, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them from moving the Petitioner away from counsel, away from the Court's jurisdiction, or outside the jurisdiction of the United States.

Respectfully submitted,

s/ Bethany T. Hoffmann  
Hoffmann Immigration Law LLC  
401 E State St, Fl 2  
Rockford, IL 61104  
Tel. 815-394-1359  
Fax. 815-394-1280  
Attorney for Petitioner

**VERIFICATION OF COUNSEL**

I, Bethany T. Hoffmann, hereby certify that I am familiar with the case of the named petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

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Attorney for Petitioner

CERTIFICATE OF SERVICE

I, the undersigned attorney, Bethany T. Hoffmann, certify that I electronically filed the Plaintiff's Emergency Motion for Temporary Restraining Order 2241 with the Clerk of Court using the CM/ECF system on August 25, 2025. Pursuant to FED R. CIV. P. 5(b)(3) AND THE Northern District of Illinois LR 5.9, I have thereby electronically served all electronic filing users with a copy of the Plaintiff's Emergency Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241.

I, the undersigned attorney, Bethany T. Hoffmann, certify that I have also served a paper copy of Emergency Motion for Temporary Restraining Order required by Fed R. Civ. P. 5(a) by sending a complete copy of the Emergency Petition for a Writ of Habeas Corpus and all exhibits by priority mail, proper postage prepaid, and deposited with the U.S. Postal Service before 9:30PM on August 25, 2025 to the U.S. Attorney's Office for the Northern District of Illinois-Eastern Division at 219 S. Dearborn St, 5<sup>th</sup> Fl, Chicago, IL 60604.

By: S/ Bethany T Hoffmann

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