

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

ANTONIO AGUIRRE VILLA

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Petitioner,

vs.

TONY NORMAND, *in his official capacity as*
Warden of Folkston Detention center, and
TODD LYONS, *in his official capacity as Acting*
Director of Immigration and Customs Enforcement, and
GEORGE STERLING, *Field Office Director ICE Atlanta*
Field Office
KRISTI NOEM, *Secretary of Homeland Security, and*
PAMELA BONDI, *Attorney General*

Respondents.

CASE NO.:
5:25-cv-89-LGW-BWC

**PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION**

COMES NOW Petitioner, Antonio Aguirre Villa, and files this Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction. Petitioner hereby requests the Court to issue a temporary restraining order and/or preliminary injunction, pursuant Fed. R. of Civ. P. 65, to “prevent irreparable injury so as to preserve the court’s ability to render a meaningful decision on the merits,” and “to insure that a remedy will be available.” *U.S. v. State of Ala.*, 791 F.2d 1450, 1459 (11th Cir. 1986), *citing Corrigan Dispatch Co. v. Casa Guzman, S. A.*, 569 F.2d 300, 302 (5th Cir. 1978). *See also Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974)).

Despite a neutral adjudicator’s order of release on bond, Petitioner remains confined

despite a neutral adjudicator's finding that he is not a danger or a flight risk, and he faces ongoing risks to his safety and mental health while detained. Because no administrative remedy exists to lift the automatic stay or to enforce the Immigration Judge's order, judicial intervention is necessary at this time to prevent irreparable harm.

Through the instant Motion, Petitioner seeks to restrain ICE from continuing to unlawfully detain him and to preserve the status quo while this Court considers the merits of his Writ of Habeas Corpus. Specifically, Petitioner asks this Court to enforce the Immigration Judge's July 14, 2025 bond order authorizing release on a \$10,000 bond, which DHS unilaterally nullified by filing a Form EOIR-43 Notice of Intent to Appeal Custody Redetermination and triggering the automatic stay regulation, 8 C.F.R. § 1003.19(i)(2). Due to DHS' bond appeal, the automatic stay regulation has kept him confined ever since.

While detained, Petitioner has faced grave risks to his safety. In August 2025, his family and counsel reported that he was harassed by other detainees, was the victim of an attempted sexual assault, and expressed suicidal ideation requiring emergency medical attention. Counsel has repeatedly raised concerns with ICE, but Petitioner remains confined in unsafe conditions. Petitioner only has minor traffic offenses who is being detained and has been assaulted by hardened criminal. *See* ECF D.E. 1-4 (Correspondence Regarding Detainee Safety).

Petitioner further seeks to ensure he remains available to prosecute his pending application for cancellation of removal, which he cannot actively participate in due to his fragile mental state. *See* ECF D.E. 5-2 affidavit from his attorney. By continuing to detain Petitioner solely by operation of the automatic stay regulation, despite an Immigration Judge's bond order, Respondents effectively nullify that judicial determination and risk mooted this habeas action. If unrestrained, Respondents will insulate their unlawful actions from judicial review, leaving Petitioner confined

indefinitely without lawful basis and unable to prepare for his upcoming cancellation of removal hearing and properly defend against his removal.

Because DHS relies solely on an ultra vires regulation to override a lawful judicial determination and has not committed to releasing Petitioner despite an Immigration Judge's bond order, this Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction is necessary, just, and of an imminent nature. In addition, there is no remedy at law that can adequately compensate Petitioner for the consequences of his continued unlawful detention, including separation from his U.S. citizen children, deterioration of his mental health, exposure to threats and attempted assault while in custody, and interference with his ability to prepare and present his pending cancellation of removal application. Each day of confinement causes irreparable harm, deprives him of liberty in violation of the Constitution, and frustrates the statutory scheme that entrusts custody determinations to Immigration Judges.

Despite filing this instant action on August 29, 2025 and filing a motion for order to show cause on September 3, 2025, Petitioner still remains unlawfully detained. "The writ, or order to show cause . . . shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed." § 2243. It has been almost two weeks and an Order to Show Cause has still not been entered. Based on experience undersigned counsel had in multiple Federal District Courts around the country of late, Writs of Habeas and Orders to Show cause in these circumstances have been expedited to a matter of days.

This Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction is necessary, just, and of an imminent nature because DHS through ICE is detaining Petitioner contrary to law and the U.S. Constitution which causes him significant hardship and mental incapacity that he would be unable to comprehend removal proceedings against him and unable to

participate in building his defense to removal. *See* ECF D.E. 5-2 affidavit from attorney. Petitioner's continued unlawful detention is justifying the need for Court intervention to prevent irreparable harm. In addition, there is no remedy at law that can adequately compensate Petitioner for the consequences of his continued unlawful detention and if continued could lead to irreversible health impacts and potentially death.

Immediate injunctive relief is essential because Plaintiff has a substantial likelihood of success on the merits of the complaint; Plaintiff will suffer irreparable harm in the absence of injunctive relief; there is no adequate remedy available at law; the balance of hardships favor Plaintiff, and the requested injunctive relief will not harm the public interest. The facts and legal arguments supporting this motion are set forth in detail Petitioner's Memorandum of Authorities in Support of Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction filed contemporaneously herewith.

Should Respondents' unlawful detention continue, Petitioner will remain confined indefinitely despite an Immigration Judge's finding that he is not a danger or flight risk; lose the ability to adequately prepare and present his cancellation of removal application now scheduled before the Immigration Court; and continue to be separated from his U.S. citizen children and long-time partner. He also faces ongoing threats to his safety and mental health as documented by counsel and family members. These harms include the loss of liberty itself, which gives rise to a Due Process claim, and injury to his fundamental interest in family unity. This loss will cause tremendous hardship to Petitioner and his family and frustrates the statutory scheme that entrusts custody determinations to neutral adjudicators. The basis for this Motion is set forth in the attached Memorandum of Authorities.

WHEREFORE, for the reasons set forth in the accompanying brief, Petitioner respectfully prays that the Court grant his Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction through which he requests the Court issue the following orders and set the case for a hearing on the instant Motion:

1. Compel Respondents to immediately release Petitioner under an order of supervision, or in the alternative, to effectuate the Immigration Judge's July 14, 2025 bond order; and
2. Grant such other and further relief as the Court deems just and proper.
3. Should the court have questions, we hereby request an expedited emergency hearing to be scheduled (telephonically or virtually if possible).

Respectfully submitted this 11th Day of September, 2025

/s/ Karen Weinstock

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CERTIFICATE OF SERVICE

I certify that on September 11, 2025, I electronically filed the foregoing PETITIONER'S EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to Respondents' attorney(s) of record.

/s/ Karen Weinstock

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