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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Pedro Antonio MIRALRIO GONZALEZ

Petitioner,

Case No. 5:25-cv-01156-JKP

v.

**Sylvester ORTEGA, Acting Field Office
Director of Enforcement and Removal
Operations, San Antonio Field Office,
Immigration and Customs Enforcement;
Kristi NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT
OF HOMELAND SECURITY; Pamela
BONDI, U.S. Attorney General;
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Bobby
THOMPSON, Warden of South Texas
Detention Complex,**

Respondents.

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

INTRODUCTION

Mr. Miralrio files this emergency motion after the Federal Respondents transferred him to a detention facility that provides him with less access to counsel and further deprives him of

due process by not allowing him to be present in person at his own hearing. They further deprived his due process by moving his hearing up two months and only giving him less than two weeks' notice for a final hearing on his case, while simultaneously making it more difficult for his lawyer to prepare him for his hearing.

Mr. Miralrio is challenging the constitutionality of the statutory framework by which the Respondents are detaining him without bond under 8 U.S.C. § 1225. Petitioner asserts that because he was detained in the interior after years of residing in the United States, that if any detention is appropriate, it must be under 8 U.S.C. § 1226 and as such, he is eligible for release. (ECF Nos. 2, 9).

I. Motion for Temporary Restraining Order and Preliminary Injunctive Relief.

To obtain a temporary restraining order, a petitioner-plaintiff “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Piedmont Heights Civic Club, Inc. v. Moreland*, 637 F.2d 430 (5th Cir. 1981)). Under similar circumstances, courts within this Circuit have granted petitions for a writ of habeas corpus pursuant 28 U.S.C. § 2241.

Mr. Miralrio is likely to succeed on the merits, especially given that ICE had been processing non-citizens in Mr. Miralrio's same circumstance under § 1226 for decades. Mr. Miralrio himself was arrested under the authority of § 1226 and was given notice of that with the issuance of a warrant for his arrest. (ECF No 9, Exh. 1). Mr. Miralrio's detention is unlawful under § 1225 and a violation of his Due Process rights.

II. Mr. Miralrio will likely succeed on the merits.

Mr. Miralrio seeks his immediate release because he is unlawfully and unconstitutionally deemed ineligible for bond based on an erroneous finding that he is subject to

mandatory detention under 8 U.S.C. § 1225. A plain reading of the statute makes clear that Mr. Miralrio, who was detained in the interior of the United States after 15 years of residence and pursuant to a warrant citing § 1226, cannot be detained under 8 U.S.C. § 1225, but rather, must be detained under § 1226. The petition for writ of habeas corpus and the petitioner's reply both discuss the legal argument in support of this claim. (ECF Nos. 2, 9).

III. Mr. Miralrio will Suffer Irreparable Harm

The harm that flows from the violation of Mr. Miralrio's constitutional rights is unquestionably irreparable. *See K.A. ex rel. Ayers v. Pocono Mountain Sch. Dist.*, 710 F.3d 99, 113 (3d Cir. 2013). The deprivation of an alien's liberty is, in and of itself, irreparable harm. *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

Mr. Miralrio was detained on July 25, 2025. He was initially held in custody at the South Texas Detention Center in Pearsall, Texas, where he was allowed to appear in person in Immigration Court, as the Immigration Court for Pearsall is in the detention center. This detention center has Zoom meeting access to counsel. Since the Immigration Court is in the detention center, his attorney would have been allowed to appear with him in person in court for his final hearing, with the judge and opposing counsel present, for a full hearing on the merits of his case. The Pearsall immigration court is approximately 2.5 hours from Austin, the location of his attorney. That hearing was scheduled for January 7, 2026.¹

On November 11, 2025, on a federal holiday, he was transferred without notice to counsel to the LaSalle County Detention Center in Encinal, Texas. This facility does not allow for Zoom

¹ The Immigration Court scheduled his hearing on October 20, 2025, which was the date of the Federal Respondents' response to the Petition. See attached Exhibit 2. However, his application for relief was filed on September 19, 2025, and the Immigration Court failed to schedule a hearing for one month. See attached Exhibit 3.

meetings with counsel, only pre-scheduled telephone calls. The facility also does not have a courtroom; any hearings are done by video, meaning that the judge, opposing counsel, counsel for Mr. Miralrio, and Mr. Miralrio are all in different locations. The facility is 3.5 hours from counsel.

On November 14, 2025, the Immigration Court changed his hearing date and the judge on the case. See Exhibit 4. The hearing was moved up two months to November 26, 2025. This leaves Mr. Miralrio and his counsel less than two weeks to prepare for a final hearing deciding his fate in the United States, while simultaneously providing them with less access to prepare for the hearing. He is the essential witness in his hearing, and it is crucial that he be able to prepare for the hearing.

His continued detention for unlawful reasons continues to interfere with his ability to present his case before the immigration judge. He is unable to fully present his case while detained. He has been separated from his wife and children for four months of unlawful detention, deprived of his support system during his removal hearing.

IV. Balance of Equities and Public Interest

The “public interest is best served by ensuring the constitutional rights of persons within the United States are upheld.” *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). As discussed above, the detention without bond of Mr. Miralrio violated federal law and his due process.

Here, Mr. Miralrio's continued detention without bond is in violation of his Fifth Amendment rights and far outweighs any burden the Respondents would suffer.

V. The Court Has Authority to Grant Mr. Miralrio's Immediate Release Pending the Adjudication of His Habeas Petition

As a general matter, writs of habeas corpus are used to request release from custody. *Wilkinson v. Dotson*, 544 U.S. 74, 78 (2005). A habeas court has “the power to order the conditional release of an individual unlawfully detained—though release need not be the

exclusive remedy and is not the appropriate one in every case in which the writ is granted.”

Boumediene v. Bush, 553 U.S. 723, 779 (2008) (noting that at “common-law habeas corpus was, above all, an adaptable remedy”).

Release in this case is appropriate. The Petitioner has been detained since July 25, 2025. His wife and four US citizen children reside in Austin, Texas. If he is released, he will be able to fully present his case for relief before the Immigration Court, with the support of his family. Therefore, Petitioner argues that release from detention is the appropriate relief in this case. Alternatively, Petitioner respectfully asks that this Court order the Immigration Court to allow him to submit an application for release on bond prior to his currently scheduled removal hearing on November 25, 2025.

CONCLUSION

For the foregoing reasons, the Court should grant the instant writ and order his immediate release from ICE custody. We also request that the Federal Respondents be enjoined from requesting a stay of his release with the Immigration Court, or appeal his release with the Board of Immigration Appeals.

DATED this 18th day of November, 2025.

Respectfully Submitted,
/s/ Karen J. Crawford
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CERTIFICATE OF SERVICE

I hereby certify that the defendants on this case are known filing users and service will be accomplished through the Notice of Electronic Filing (NEF).

DATED this 18th day of November, 2025.

Respectfully Submitted,
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NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; Bobby
THOMPSON, Warden of South Texas
Detention Complex,

Respondents.

Case No. 5:25-cv-1156-JKP

**PROPOSED
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

Upon consideration of Petitioner's Emergency Motion for Temporary Restraining Order and Preliminary Injunction, IT IS HEREBY ORDERED that:

1. Respondents shall release Petitioner from their custody on or before November 21, 2025;
2. Respondents shall not seek an emergency stay of his release before the Immigration Court or the Board of Immigration Appeals;
3. Respondents shall not appeal Petitioner's release with the Board of Immigration Appeals.

IT IS SO ORDERED.

JASON PULLIAM
UNITED STATES DISTRICT JUDGE