

United States District Court  
Western District of Texas  
San Antonio Division

Sigifredo Medellin Martinez  
Petitioner,

v.

Pamela Jo Bondi, United States Attorney  
General et. al.,  
Respondents.

No. 5:25-CV-01319-OLG

**Federal<sup>1</sup> Response in Opposition to  
Petitioner's Emergency Motion for Temporary Restraining Order  
and Preliminary Injunctive Relief**

Petitioner, through counsel, filed a habeas petition with this Court on or about October 17, 2025, concurrently with a Motion for Temporary Restraining Order (TRO) and/or Preliminary Injunction. ECF Nos. 1, 3. The Court ordered Respondents to respond to the TRO motion no later than October 31, 2025. ECF No. 6. In his TRO, Petitioner, requests the Court, *inter alia*, order his immediate release from custody on an order of supervision and an expedited hearing before the Court. ECF No. 3 at 2. Petitioner's motion should be denied.

First, the TRO seeks an injunction to grant the same ultimate relief he seeks on the merits of the habeas proceeding. ECF Nos. 1, 3.; *see e.g., Garcia-Aleman v Warden Bobby Thompson*, SA-25-CV-00886-OLG \*1 (W.D.T.X. October 30, 2025) (collecting cases).

Second, Petitioner is not entitled to release from post-removal-order custody at this time. Despite being granted relief from removal under the Convention Against Torture (CAT), such relief extends on to the country where Petitioner was found to have a reasonable fear of being tortured: Mexico. *See* 8 C.F.R. §§ 208.16–208.17, 1208.16; 1208.17; 208.31(a); 1208.31(a); 8

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<sup>1</sup> The Department of Justice does not represent the warden.

U.S.C. § 1231(b)(3)(A). In other words, nothing prevents DHS from removing Petitioner to a third country. *See e.g., Guzman Chavez*, 594 U.S. at 531–32, 535–36; 8 U.S.C. § 1231(b)(1)(c)(iv); 8 C.F.R. §§ 208.16(f); 1208.16(f); 208.17(b)(2); 1208.17(b)(2).

Moreover, Petitioner’s 50-day detention does not violate the constitution as applied to him, because he is being given sufficient procedural and substantive due process. As such, Petitioner is not likely to succeed on the merits of these claims and this TRO should be denied.

Specifically, Petitioner is not likely to succeed for several reasons: (1) his post-removal detention is authorized by statute 8 U.S.C. § 1231(a); (2) while this Court may review an as-applied constitutional challenge, Petitioner cannot show that his continued detention violates procedural due process as ERO served notice of the order of supervised release revocation and afforded Petitioner an opportunity to respond and; (3) his detention is not unconstitutionally prolonged (or indefinite) in violation of his substantive due process rights, because he has been detained for fifty days in post-removal-order detention. This TRO should be denied.

#### **I. Relevant Background**

Petitioner is a native and citizen of Mexico. ECF No. 1 at ¶13. On July 22, 2019, an immigration judge granted Petitioner’s application for withholding of removal to Mexico under CAT. ECH No. 1 at ¶22; *See* 8 C.F.R. §§ 208.16–208.17, 1208.16; 1208.17; 208.31(a); 1208.31(a); 8 U.S.C. § 1231(b)(3)(A). On the same date, ICE released Petitioner on an order of supervision. ECF No. 1 at ¶¶22, 24. On September 12, 2025, ICE revoked his order of supervision determining there were changed circumstances and ICE could execute the removal order. Exh. A at 1. The same day, ICE afforded Petitioner an opportunity to respond to the reasons for revocation. *Id.* at 3. Petitioner declined to provide a written statement or documents. *Id.*

## II. Legal Standards

A preliminary injunction is an “extraordinary and drastic remedy.” *Canal Auth. v. Callaway*, 489 F.2d 567, 573 (5th Cir. 1974). As such, it is “not to be granted routinely, but only when the movant, by a clear showing, carries [the] burden of persuasion.” *Black Fire Fighters Ass’n v. City of Dallas*, 905 F.2d 63, 65 (5th Cir. 1990) (quoting *Holland Am. Ins. Co. v. Succession of Roy*, 777 F.2d 992, 997 (5th Cir. 1985)). Importantly, temporary restraining orders are ordinarily aimed at temporarily preserving the status quo. *Foreman v. Dallas Cty.*, 193 F.3d 314, 323 (5th Cir. 1999), *abrogated on other grounds by Davis v. Abbott*, 781 F.3d 207 (5th Cir. 2015). “The four prerequisites are as follows: (1) a substantial likelihood that plaintiff will prevail on the merits, (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted, (3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant, and (4) that granting the preliminary injunction will not disserve the public interest.” *Canal Auth.*, 489 F.2d at 572. A preliminary injunction should be granted only if the movant has “clearly” carried the burden of persuasion on all four of these prerequisites. *Id.* at 573.

## III. Argument

### A. Plaintiff Is Unlikely to Succeed on the Merits.

The immigration judge’s order granted relief from removal only to the country where Petitioner was found to have a reasonable fear of being tortured: Mexico. *See* 8 C.F.R. §§ 208.16–208.17, 1208.16; 1208.17; 208.31(a); 1208.31(a); 8 U.S.C. § 1231(b)(3)(A). In other words, nothing prevents DHS from removing Petitioner to a third country. *See e.g., Guzman Chavez*, 594 U.S. at 531–32, 535–36; 8 U.S.C. § 1231(b)(1)(c)(iv); 8 C.F.R. §§ 208.16(f); 1208.16(f); 208.17(b)(2); 1208.17(b)(2).

Respondent's fifty-day post-removal-order custody is presumptively reasonable, and Petitioner's substantive due process violation claim is premature. *See Zadvydas v. Davis*, 533 U.S. 678, 689, 701 (2001) (limiting an alien's post-removal-period detention to a person reasonably necessary to bring about that alien's removal from the United States and designating six months as a presumptively reasonable period of post-order detention).

Petitioner cannot establish a procedural due process violation because he was not deprived of liberty without adequate safeguards. *See Mathews v. Eldridge*, 424 U.S. 319, 332 (1976); *Daniels v. Williams*, 474 U.S. 327, 331 (1986). ICE provided notice his order of supervision was revoked and afforded Petitioner an opportunity to respond on the same day he was arrested (September 12, 2025). *See* Exh. A. Even if Petitioner has alleged a violation, the remedy is not immediate release from custody, as Petitioner is requesting from this Court, but an opportunity for the government to provide substitute process. *Virani v. Huron*, No. SA-19-CV-00499-ESC, 2020 WL 1333172 at \*12 (W.D. Tex. Mar. 23, 2020).

**B. Remaining Factors Do Not Favor Relief.**

With respect to the balancing of the equities and public interest, it cannot be disputed that (1) Petitioner is subject to a final order of removal, and ICE can seek removal to third countries; and (2) both the government and the public at large have a strong interest in the enforcement of the immigration laws. His allegations regarding conditions of administrative detention do not provide a basis for release in habeas and should similarly not support a basis for release in the

TRO.<sup>2</sup> The Court should therefore deny the TRO.

#### IV. Conclusion

This TRO motion should be denied, because Petitioner has not clearly shown that his circumstances merit such an extraordinary remedy. Petitioner's substantive due process violation claim is premature, and the remedy to his alleged procedural due process violation is substitute process, not release from custody. The Court should deny the Petition.

Respectfully submitted,

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<sup>2</sup> See *Rice v. Gonzalez*, 985 F.3d 1069, 1070 (5th Cir. 2021) (rejecting a habeas petitioner's argument that alleged deficiencies in the conditions of confinement would entitle him to release, with the explanation that "[s]imply stated, habeas is not available to review questions unrelated to the cause of detention," and its "sole function is to grant relief from unlawful imprisonment or custody and it cannot be used properly for any other purpose" (internal quotation marks and citation omitted))