

**Steven Lyons, Esq. (NY Bar: 1832013)**  
**Martin C. Liu & Assoc., PLLC**  
**135 Bowery, 4<sup>th</sup> Floor**  
**New York, NY 10002**  
**Tel. (212) 255-8833**  
**Fax (212) 226-0036**  
**e-mail: stevenlyons@martinliu.com**

**Attorneys for Petitioner**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

**JOSE GOMEZ MARTINEZ,** )  
 )  
**Petitioner,** )  
 )  
**v.** )  
 )  
**DON JONES, Director, Kay County Detention** )  
**Center;** )  
**TODD M. LYONS, Acting/Director,** )  
**U.S. Immigration and Customs Enforcement** )  
**KRISTI NOEM, Secretary of the U.S.** )  
**Department of Homeland Security; and** )  
**PAM BONDI, Attorney General of the** )  
**United States, in their official capacities** )  
 )  
**Respondents.** )

**Case No. CIV-25-1235-PRW**

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**PETITIONER’S OBJECTION TO MAGISTRATE’S  
RECOMMENDATION AND REPORT PURSUANT TO  
FED. R. CIV. P. 72(b)**

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## I. INTRODUCTION

Petitioner respectfully submits this objection pursuant to Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) to the Magistrate Judge's Report and Recommendation recommending denial of Petitioner's Emergency Motion for Temporary Restraining Order (TRO).

## II. OBJECTION

The Magistrate Judge erred in concluding that Petitioner's Motion for Temporary Restraining Order and Order to Show Cause for a Preliminary Injunction (the "Motion"), failed to comply with Fed. R. Civ. P. 65(b) by not stating why notice should not be given to the adverse party.

The record shows, however that Petitioner mailed notice of the Motion to Respondent, Assistant United States Attorney [Oklahoma] on October 17, 2025 before filing, thereby satisfying Rule 65(b)(1)(B)'s certification requirement. *See* Docket entry #10.

Petitioner filed the Petition for Writ of Habeas Corpus on October 17, 2025 via [newcases@okwd.uscourts.gov](mailto:newcases@okwd.uscourts.gov). Upon opening the case, Petitioner's counsel was given limited electronic filing access to file a Motion to Appear Pro Hac Vice (Doc. 5). Upon granting of Motion to Appear Pro Hac on October 21, 2025 (Doc. 6), Petitioner filed a Motion for Temporary Restraining Order and Order to Show Cause for a Preliminary Injunction on October 22, 2025 (Doc. 7). Petitioner filed the Certificate of Service shortly after.

Petitioner did not seek relief without notice, and the Motion explicitly disclosed that notice was provided by mail before filing.

Because notice was given, Rule 65(b)'s limitation on ex-parte restraining orders does not apply, and the Magistrate Judge's recommendation rests on a clearly erroneous factual premise.

### III. CONCLUSION

The finding should therefore be rejected as contrary to law under Rule 72(b)(3).

#### Request for Relief

Petitioner requests that the District Court:

1. Reject or modify the Report and Recommendation;
2. Reconsider Petitioner's Emergency Motion for TRO in light of the evidence of notice provided; and
3. Grant or schedule expedited hearing pursuant to Rule 65(a).

Respectfully submitted,

Dated: 10/27/2025  
New York, NY

s/ Steven Lyons  
Steven Lyons, Esq. (NY Bar: 1832013)  
Martin C. Liu & Associates PLLC  
135 Bowery, 4<sup>th</sup> Floor  
New York, NY 10002  
Tel: (212) 255-8833  
Fax: (212) 226-0036  
e-mail: [stevenlyons@martinliu.com](mailto:stevenlyons@martinliu.com)  
Attorney for Petitioner