

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANDRES EDUARDO APARICIO
RODRIGUEZ,
Petitioner,

v.

KRISTI NOEM,
Secretary of Homeland Security, et al.,
Respondents.

Civil No. 3:25-cv-02858-L-BN

**PETITIONER'S APPLICATION FOR TEMPORARY RESTRAINING ORDER
AND REQUEST FOR HEARING**

TO THE HONORABLE JUDGE HORAN:

Petitioner Andres Eduardo Aparicio Rodriguez ("Mr. Vasquez") respectfully moves this Court for the prompt scheduling of a hearing on his Application for a Temporary Restraining Order ("TRO") and Preliminary Injunction (the "Application"), contained in his Original Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief, and filed earlier today, October 21, 2025. *See* ECF No. 1.

In accordance with the instructions provided by the United States District Clerk's Office, and pursuant to Federal Rule of Civil Procedure 65(b)(3) and Local Civil Rule 78.1, Mr. Vasquez requests that the Court set the Application for oral argument at the earliest practicable time—ideally within forty-eight (48) hours—given the nature of the issues presented and the illegality of ICE's detention of Mr. Vasquez at the Prairieland Detention Center amidst his ongoing removal proceedings before the Houston Immigration Court.

Immediate judicial consideration is necessary because Mr. Vasquez faces ongoing, irreparable harm: he is presently in civil immigration custody, with a last known location of detention at the Prairieland Detention Center in Alvarado, Texas, due to the fact that the Board of Immigration Appeals has adopted a policy unlawfully restraining immigration judges from exercising jurisdiction over most immigration bond requests contrary to the plain language of the relevant statute, *i.e.*, 8 U.S.C. § 1226(a). Mr. Vasquez also fears being transferred outside this District once Respondents realize Mr. Vasquez has sought habeas relief, as Respondents have done precisely that in similar cases in the last several weeks in this and other districts. *See, e.g., Vera Vergara v. Noem*, No. 3:25-cv-02075-E-BT, ECF No. 9 (N.D. Tex. Aug. 21, 2025) (acknowledgment by Respondents of transfer of noncitizen in apparent violation of court's directive).

Absent prompt intervention by this Court, Mr. Vasquez reasonably fears he could be unlawfully forced to depart the United States—or placed beyond this Court's reach—before meaningful judicial review can occur, despite the fact that Mr. Vasquez's continued detention in Respondents' custody is solely as a result of the government's unlawful refusal to permit Mr. Vasquez to request an immigration bond hearing while his removal proceedings remain pending—an action that is also unconstitutional, as a violation of procedural due process.

Under Fed. R. Civ. P. 65(b)(3), the Court must set a hearing on a request for injunctive relief “at the earliest possible time,” and the Supreme Court has emphasized that a TRO is a short-term measure designed only to preserve the status quo until a full hearing can be held. *See Granny Goose Foods, Inc. v. Bhd. of Teamsters*, 415 U.S. 423, 439 (1974). Consistent with that mandate, courts in this Circuit set such matters swiftly where irreparable harm is imminent in order to

“preserve the district court’s power to render a meaningful decision after a trial on the merits.” *Canal Auth. of Fla. v. Callaway*, 489 F.2d 567, 572-73 (5th Cir. 1974).

Counsel for Mr. Vasquez has attempted to confer via email with Ms. Ann Cruce-Haag, Assistant U.S. Attorney for the Northern District of Texas, who represents federal governmental respondents in habeas petitions, as well as Mr. Judson Davis, Counsel for the Department of Homeland Security, in order to notify Respondents that Petitioner seeks preliminary injunctive relief through a TRO. As of the filing of this motion, government counsel has not indicated whether the government opposes the request for an expedited hearing. Given the exigent circumstances, Mr. Vasquez respectfully requests that the Court waive any further conference requirement.

Mr. Vasquez is prepared to present argument and evidence by in-person appearance or, if the Court prefers, by videoconference. Should the Court require live testimony, Petitioner requests to be produced at the hearing.

APPLICATION FOR TEMPORARY RESTRAINING ORDER

Petitioner respectfully requests that this Court issue a preliminary injunction directing Respondents to provide him with an immediate individualized custody redetermination hearing under INA § 236(a) within seven (7) days, or, in the alternative, to release him under reasonable conditions of supervision. Petitioner intends to seek a Temporary Restraining Order through a separate motion that is forthcoming, and upon a final hearing, Petitioner asks for permanent injunctive relief as appropriate.

The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: likelihood of success on the merits, irreparable harm, the balance of equities, and the public interest. *Nken v. Holder*, 556 U.S. 418, 434–35 (2009). As explained below, Petitioner satisfies each of these factors.

A. Mr. Vasquez Is Likely to Succeed on the Merits of His Petition.

Mr. Vasquez has a strong likelihood of success on the merits of his claims. As explained more fully hereinabove, numerous district courts—including several courts from within the Fifth Circuit—have already determined that noncitizens in circumstances substantially similar to that of Mr. Vasquez, who are detained under Section 236(a), are entitled to individualized bond hearings before an immigration judge. *See App’x A, Recent Federal Habeas Decisions.*

Current BIA policy prohibiting immigration judges from exercising jurisdiction over any immigration bond request that Mr. Vasquez might file—due to the Board of Immigration Appeals’ recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—cannot override the clear and unambiguous language of Section 236(a).

Additionally, Mr. Vasquez raises a constitutional claim under the Fifth Amendment, as prolonged detention without any opportunity for individualized custody review violates due process.

Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009), likelihood of success is the most critical factor in evaluating interim relief. Here, Petitioner’s claim is exceptionally strong.

B. Mr. Vasquez Will Suffer Irreparable Harm If a TRO Does Not Issue.

If this Court does not grant immediate relief, Mr. Vasquez will continue to suffer irreparable harm. The Supreme Court has recognized that “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Every day

Mr. Vasquez remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

Even if Mr. Vasquez were eventually granted a bond hearing after protracted litigation, the harm inflicted by the period of unlawful detention—loss of liberty, disruption of family life, psychological strain, and reputational damage—could never be undone. As *Nken* instructs, irreparable harm cannot be speculative; it must be actual and concrete. 556 U.S. at 435. Mr. Vasquez’s ongoing detention without a lawful hearing meets that standard.

C. Balance of Equities Weighs in Mr. Vasquez’s Favor.

The balance of equities tips decisively in Petitioner’s favor. On his side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government’s side, the only asserted interest is administrative convenience in applying the BIA’s recent, and in this Circuit nonbinding, precedents.

There is no evidence that Petitioner poses a danger to the community or a risk of flight, and the dismissal of his recent criminal indictment further diminishes any legitimate basis for continued detention. In contrast, every additional day of unlawful confinement inflicts significant harm on Petitioner. When weighed against each other, the equities clearly support granting immediate relief.

Additionally, the undersigned Counsel for Petitioner has undertaken to contact Counsel for the Department of Homeland Security by emailing the Office of Principal Legal Advisor for Alvarado, Texas, as well as Assistant U.S. Attorney Ann Cruce-Haag, in a good faith effort to notify Respondents of Petitioner’s intent to obtain a hearing on this TRO request as soon as practicable.

D. There Is Strong Public Interest In Maintaining the Pre-2025 Status Quo.

Finally, the public interest strongly supports the issuance of a TRO. The Supreme Court in *Nken* explained that when the government is the opposing party, the balance of equities and the public interest merge. 556 U.S. at 435. The public has no interest in perpetuating unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.

Granting Petitioner an individualized bond hearing promotes confidence in the integrity of the immigration system, reinforces respect for the rule of law, and prevents the arbitrary deprivation of liberty. Protecting fundamental due process rights is not just in Petitioner's interest, but in the interest of the public at large.

Each factor of the equitable test weighs heavily in Mr. Vasquez's favor. He has shown a substantial likelihood of prevailing on the merits based on the interpretation of Section 236(a) by various federal district courts and the Due Process Clause; he faces irreparable harm each day he remains detained without lawful process; the equities tilt overwhelmingly toward protecting his liberty; and the public interest is best served by ensuring that immigration detention is consistent with statutory and constitutional limits.

For these reasons, this Court should issue a Temporary Restraining Order at the earliest possible opportunity, requiring Respondents to provide Mr. Vasquez an immediate bond hearing or release.

CONCLUSION & PRAYER

WHEREFORE, Petitioner respectfully prays that the Court enter an order setting the Application for a TRO for hearing at the earliest practicable time, and upon a hearing, that the Court grant a TRO, as well as any such other relief as the Court deems just and proper.

DATE: October 22, 2025.

Respectfully submitted,

THE LAW OFFICE OF JOHN M. BRAY, PLLC
911 N. Bishop Ave.
Dallas, Texas 75208
Tel: (855) 566-2729
Fax: (214) 960-4164
Email: john@jmblawfirm.com

By: /s/ John M. Bray
John M. Bray
Texas Bar No. 24081360
ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on this day, I served a true and correct copy of the above and foregoing *Petitioner's Application for Temporary Restraining Order and Request for Hearing*, as well as any and all attachments thereto, on Counsel for Respondents by serving the same by filing the same using the Court's CM/ECF system and via email to the U.S. Attorney's Office for the Northern District of Texas and to Counsel for the Department of Homeland Security, at the following email address:

Ann Cruce-Haag,
Counsel for DOJ:

Ann.Haag@usdoj.gov

Judson J. Davis,
Counsel for DHS:

Judson.J.Davis@ice.dhs.gov

/s/ John M. Bray
John M. Bray
Attorney for Petitioner

DATE: October 22, 2025.