

1 CHANTELL ABOU-HAMDAN (ID Bar No. 12003)

DETAINED

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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF IDAHO**

11 GONZALEZ HERNANDEZ, JOSE
12 ALBERTO

Case No.:

13 Petitioner,

MOTION FOR TEMPORARY
RESTRAINING ORDER

14 v.

15 KRISTI NOEM, Secretary, Department of
16 Homeland Security; PAM BONDI, Attorney
17 General; TODD LYONS, Acting Director of
18 U.S. Immigration & Customs Enforcement;
19 MARCOS CHARLES, Executive Associate
20 Director of ICE Enforcement and Removal
21 Operations (ERO); MICHAEL
22 BERNACKE, ICE Salt Lake City Field
23 Office Director, JARROD THOMPSON, in
24 his official capacity as Director, Mini-Cassia
25 Detention Center.

26 Respondents.

27 **I. Introduction**

28 Petitioner Jose Alberto Gonzalez Hernandez, through undersigned counsel, respectfully moves this Court pursuant to Fed. R. Civ. P. 65 for a temporary restraining order (TRO) to prevent irreparable harm while the Court considers his petition for writ of habeas corpus.

Petitioner is currently detained at the Mini-Cassia Detention Center following a raid at the Wilder Horse Track. He suffers from anxiety, depression, arthritis, and high cholesterol, and has not received his prescribed medications while in custody. Immediate relief is necessary to prevent serious deterioration of his physical and mental health.

1 **II. Background / Statement of Facts**

- 2 1. Petitioner was arrested during a mass raid, where he was only observing horse races. ICE
3 detained him before asking about his immigration status.
- 4 2. Petitioner has no criminal history and presents strong family and community ties in
Idaho:
- 5 • Four children (three with DACA, one U.S. citizen)
 - 6 • Two U.S. citizen grandchildren
 - 7 • Longstanding employment in agriculture and construction
- 8 3. Petitioner suffers from chronic medical and mental health conditions:
- 9 • Arthritis and high cholesterol
 - 10 • Anxiety and depression, for which he is prescribed anti-depressants
 - 11 • His medications have not been provided in detention, causing increased risk of
harm
- 12 4. The denial of medical care and medication constitutes irreparable harm.
- 13 5. Petitioner filed a habeas petition with this Court challenging the lawfulness of his
detention.

14 **III. Legal Standard**

15 A TRO is appropriate where the movant demonstrates:

- 16
- 17 1. Likelihood of success on the merits
 - 18 2. Likelihood of irreparable harm in the absence of relief
 - 19 3. Balance of equities favors the movant
 - 20 4. Issuance of the TRO is in the public interest

21 See *Winter v. Natural Resources Defense Council*, 555 U.S. 7 (2008).

22 **IV. Argument**

23 **A. Likelihood of Success**

24 Petitioner's detention is unlawful because:

- 25 • He was arrested without an individualized determination of probable cause.
- 26 • ICE detained him before inquiring about immigration status, violating due process.

27 **B. Irreparable Harm**

- 28 • Medical and mental health emergency: Denial of prescribed anti-depressants and ongoing
care places Petitioner at serious risk of harm.

- Courts routinely grant TROs or release in such circumstances (*see, e.g., Diop v. ICE, 656 F.3d 221 (3d Cir. 2011)*).

C. Balance of Equities

- The potential harm to Petitioner’s health outweighs any administrative inconvenience to ICE.

D. Public Interest

- Protecting the health and constitutional rights of detained individuals serves the public interest.

V. Requested Relief

Petitioner requests that the Court issue a TRO requiring:

1. Immediate release from custody, or in the alternative, release under supervised conditions.
2. Provision of prescribed medications, including anti-depressants, and access to medical care.
3. Any other relief the Court deems necessary to prevent irreparable harm while the habeas petition is pending.

VI. Conclusion

For the reasons above, Petitioner respectfully requests that this Court issue a **Temporary Restraining Order** requiring immediate release or alternative supervised release and provision of all prescribed medications and medical care.

Respectfully submitted,



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