

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

PABLO ALEJANDRO ZAMORA  
MEJIA,

Petitioner,

v.

Case No. 2:25-cv-981-SPC-NPM

KRISTI NOEM, Secretary, Department of  
Homeland Security (“DHS”), TODD  
LYONS, Acting Director, Immigration  
and Customs Enforcement (“ICE”), et al.,  
(all official capacity),

Respondents.

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**Response to Emergency Motion for Temporary Restraining Order**

The Federal Respondents (collectively, ICE) respond to Petitioner Pablo Alejandro Zamora Mejia’s Emergency Motion for Temporary Restraining Order (“TRO”) (Doc. 9). *See* (Doc. 11). Zamora Mejia seeks improper, affirmative relief that would change—not preserve—the status quo. And he does so on an emergency basis despite the fact his detention began roughly two weeks ago. Finally, Zamora Mejia does not establish clear entitlement to relief on this issue, which is related to ongoing litigation already subject to multiple partial stays at the Supreme Court. *Noem v. Nat’l TPS All.*, No. 25A326, 2025 WL 2812732, at \*1 (Oct. 3, 2025) (identifying two stays of district court order related to litigation surrounding termination of Venezuelan TPS). The Court should deny the TRO and rule on the Habeas Petition when ripe on

its current schedule. *See* (Doc. 8); 28 U.S.C. § 2243.

Given Zamora Mejia’s designation as an emergency, ICE has not been able to confer with counsel on the underlying merits of this action. Even without ICE being able to determine any substantive facts in response, the TRO (taken with the Habeas Petition) fails on its face as to the extraordinary relief it seeks.

Zamora Mejia’s detention with ICE seemingly began on October 17—after his release from state custody for a DUI arrest in the early hours of the morning. (Doc. 1 at 2). He does not contest the facts leading to his arrest. So the sworn police report attached to his Petition controls. Fed. R. Civ. P. 10(c).

Below are the undisputed facts leading to Zamora Mejia’s arrest:

The undersigned certifies and swears that herein has just and reasonable grounds to believe, and does believe that the above named Defendant committed the following violation of law:  
On the 17 day of OCTOBER, 2025, at 02:11 at STATE ROAD 826 NB SOF NW 154TH ST. MIAMI, FL,  
ON THE AFOREMENTIONED DATE AND TIME, I OBSERVED A BLACK CHEVROLET SILVERADO TRAVELING 70 MILES PER HOUR IN A 55 MILE PER HOUR ZONE ON NORTHBOUND STATE ROAD 826 SOUTH OF NW 122ND STREET ON THE RIGHT LANE. THE BLACK SILVERADO WAS FAILING TO MAINTAIN ITS LANE AND WOULD GO FROM THE LEFT LINE TO THE RIGHT LINE OF THE LANE AND BACK MULTIPLE TIMES. AT TIMES, THE SILVERADO WOULD TRAVEL OVER THE LINES AS WELL. I CONDUCTED A TRAFFIC STOP ON THE SILVERADO ON STATE ROAD 826 NORTHBOUND SOUTH OF NW 154TH STREET. THE DRIVER OF THE SILVERADO TOOK A LONGER TIME TO STOP THAN USUAL AND PASSED SEVERAL SAFER AREAS TO STOP AT THAN WHERE HE DID. I APPROACHED THE DRIVERS SIDE WINDOW AND OBSERVED A MALE

(Doc. 1-5 at 1). After his arrest, Zamora Mejia failed a field sobriety test and refused the officer’s request for a breathalyzer. (Doc. 1-5 at 3). At some point after, Zamora Mejia was transferred from the state’s custody to ICE detention. (Doc. 1 at 5-6).

On the merits, there appears to be a dispute about when Zamora Mejia’s temporary protected status (“TPS”) ended. (Doc. 1). He believes it will end on November 7, (Doc. 1 at 2); ICE apparently believes his TPS ended on September 10—which is reflected on the face of his TPS paperwork, (Docs. 1 at 6; 1-3; 1-4; 1-6 at 3).

Regardless, it is undisputed (based on the facts alleged) that Zamora Mejia has been in detention for roughly two weeks, received communication from ICE one week

ago regarding its position on TPS, and now seeks an emergency TRO for release (i.e., a change in status quo and essentially all relief sought in this action).

### **Legal Standard**

To get a TRO, movant must show the following:

(1) a substantial likelihood of ultimate success on the merits; (2) the TRO is necessary to prevent irreparable injury; (3) the threatened injury outweighs the harm the TRO would inflict on the non-movant; and (4) the TRO would serve the public interest.

*Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995). This “is an extraordinary remedy.”

*Bloedorn v. Grube*, 631 F.3d 1218, 1229 (11th Cir. 2011).

### **Discussion**

The TRO fails for at least three reasons. Here’s why.

#### **1. Change in Status Quo**

The core purpose of a TRO is to temporarily preserve the status quo on circumstances that will invariably change until a full preliminary injunction decision. *E.g.*, *Cate v. Oldham*, 707 F.2d 1176, 1185 (11th Cir. 1982) (“[M]aintenance of the status quo is the primary purpose of preliminary injunctive relief.”); *United States v. DBB, Inc.*, 180 F.3d 1277, 1282 & n.5 (11th Cir. 1999) (A TRO exists “to preserve the status quo until a court can enter a decision on a preliminary injunction application.”). In fact, changing the status quo is one of the few bases for a granted TRO to get immediately appealed because it has the effect of a preliminary injunction. *Noble Prestige Limited v. Galle*, 83 F.4th 1366, 1375 (11th Cir. 2023).

For about two weeks, Zamora Mejia has been in detention. The status quo is

him remaining in detention. Now, Zamora Mejia seeks to change the status quo without explanation and receive essentially all affirmative relief he wants through this action. This case is about whether ICE can detain him during the next week until the alleged end of his TPS. To grant a TRO, the Court would end the litigation by granting Zamora Mejia the relief requested before ICE even has a chance to formulate a substantive response. That is not the proper use of a TRO. *Fernandez-Roque v. Smith*, 671 F.2d 426, 429 (11th Cir. 1982) (“One inherent characteristic of a temporary restraining order is that it has the effect of merely preserving the status quo rather than granting most or all of the substantive relief requested in the complaint.”).

Because Zamora Mejia wants to alter—not preserve—the status quo and receive all relief sought, a TRO is improper. *E.g.*, *Cherdak v. Cottone*, No. 2:22-cv-634-SPC-NPM, 2022 WL 16908325, at \*3 (M.D. Fla. Oct. 14, 2022) (Chappell, J.).

## **2. Improper Emergency Relief**

In this District, emergency relief is highly circumscribed and demands specificity. M.D. Fla. Local R. 3.01(e). “Emergency motions are appropriate in circumstances like these: a person’s life is in danger, a family is about to be thrown out of its home, or a ruinous calamity is about to descend upon the community at large.” *Cherdak*, 2022 WL 16908325, at \*1 (cleaned up).

The TRO fails to establish the nature of any emergency. (Doc. 9 at 5). Every immigration habeas petitioner contesting their detention is not entitled to immediate release on a TRO before a determination on the merits of detention. What’s more, Zamora Mejia waited two weeks to file the TRO. His choice to do that does not put

the Court or ICE on the clock to resolve the complicated merits of detention (even on a preliminary basis) without necessary information.

To be crystal clear, Zamora Mejia does not contend his removal is imminent. Nor does anything in this limited record suggest that might be an issue. Tellingly, Zamora Mejia's proposed order, (Doc. 9-1), does not seek any injunctive protection from removal. He simply seeks immediate release.

There is no emergency that would require a TRO here. The Court diligently set a habeas briefing schedule and ensured ICE received notice. That briefing is already on an expedited basis to resolve this dispute. While expedited, the habeas briefing at least gives ICE the chance to review its records and confer with its counsel. Zamora Mejia seeks to short-circuit that already condensed briefing schedule—forcing the Court into a preliminary merits decision without a full picture of the parties' dispute.

For what it's worth, this is not a case of ICE picking up an alien with clear legal status on his way to church. Zamora Mejia was arrested after a dangerous DUI—he was driving drunk in a pickup truck at seventy miles per hour. And the parties appear to have a genuine dispute over the proper end date of his TPS. This is not the case for an emergency TRO to change the status quo.

Under these circumstances, Zamora Mejia makes no showing of why the extraordinary relief of an emergency TRO is needed.

### **3. No Showing on Substantial Likelihood of Success**

To get a TRO, movant must establish a significant likelihood of success on the merits. Zamora Mejia fails to do so for at least two reasons.

First, he fails to address the significant ongoing litigation across the country regarding the termination of Venezuelan TPS. The current published regulation mandates 2021 Venezuelan TPS designations (which Zamora Mejia may be) ended on September 10, 2025. 90 Fed. Reg. 9040, 9044, 2025 WL 385744 (Feb. 5, 2025). The face of his TPS ended on that day too. And the Supremes stayed a district court order to the extent that it extended Venezuelan TPS. *TPS All.*, 2025 WL 2812732, at \*1.

Despite substantial uncertainty regarding the end date of TPS for Venezuelans, Zamora Mejia completely fails to address those issues. His whole case rests on the argument that his detention is unlawful because he has TPS status. Yet his TPS documentation reflects date before his detention and the law appears unsettled at best as to TPS end dates. Making matters worse, Zamora Mejia never challenged the end of his TPS until after it expired and he was detained. ICE announced its position back in February. Yet Zamora Mejia waited eight months until after his detention to file a conclusory challenge. In short, he fails to establish clear entitlement to relief.

And second, Zamora Mejia fails to establish irreparable harm. Again, not every immigration habeas petition who disagrees with the basis of their detention is irreparably harmed and entitled to a TRO. Zamora Mejia inadvertently concedes as much by recognizing—“An injury is ‘irreparable’ only if it cannot be undone through monetary remedies.” *Ferrero v. Associated Materials, Inc.*, 923 F.2d 1441, 1449 (11th Cir. 1991); (Doc. 9 at 10-11). If Zamora Mejia suffered a cognizable harm—which ICE disputes—it would be repairable through tort in the form of a false arrest or imprisonment claim. Such claims are specifically permitted for actions of law

enforcement by the Federal Tort Claims Act (“FTCA”). 28 U.S.C. § 2680(h). As Zamora Mejia acknowledges, the availability of possible monetary relief eliminates the need for a TRO.

More important, a TRO can only issue to prevent specific irreparable harms. Fed. R. Civ. P. 65(b)(1)(A) (demanding “specific facts” showing “immediate and irreparable injury, loss, or damage will result”). Immediate and irreparable harm cannot be implied, assumed, or speculated to receive a TRO. *Id.* Holding otherwise would convert every single habeas petition into a TRO. *But see, e.g., Vicks v. Louisiana*, No. 25-313, 2025 WL 816251, at (E.D. La. Mar. 13, 2025) (“A TRO or preliminary injunction is not intended to supplant the normal process by which a petitioner may obtain federal habeas corpus relief.”). Zamora Mejia fails to identify any specific irreparable harm that will result in the absence of a TRO. Rather, he simply contends he disagrees with ICE on the end of his TPS and claims that entitles him to immediate release. This argument for a TRO presents nothing not otherwise addressed by the Court ruling on his Habeas Petition in the normal, expedited course.

As explained, Zamora Mejia failed to establish the merits of his TRO.

### **Conclusion**


For those reasons, the Court should deny the TRO—maintaining the status quo—until it rules on the Habeas Petition under the current schedule.

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Date: October 31, 2025

Respectfully submitted,

GREGORY W. KEHOE  
United States Attorney



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Kevin R. Huguelet  
Assistant United States Attorney  
Florida Bar Number 125690  
[Kevin.Huguelet@usdoj.gov](mailto:Kevin.Huguelet@usdoj.gov)  
2110 First Street, Suite 3-137  
Fort Myers, Florida 33901  
(239) 461-2237

**(Lead Counsel for Respondents)**