

**IN THE UNITED STATES DISTRICT COURT SOUTHERN
DISTRICT OF FLORIDA**

CASE No. 1:25-cv-25011-KMW

ELVIN DONALY GARCIA CASTILLO,

Petitioner/Plaintiff,

v.

CHARLES PARRA, Assistant Field Office Director, U.S. Department of Homeland Security (“DHS”) Immigration and Customs Enforcement (“ICE”) Enforcement and Removal Operations (“ERO”) Miami Field Office; **CONNIE NOLAN**, Director of USCIS Vermont Service Center; **TODD M. LYONS**; Acting Director, U.S. DHS ICE; **KRISTI NOEM**, Secretary, DHS; **PAMELA J. BONDI**, U.S. Attorney General; and U.S. Citizenship and Immigration Services (“USCIS”);

Respondents/Defendants.

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**PETITIONER/PLAINTIFF’S EMERGENCY MOTION FOR PRELIMINARY INJUNCTION
AND/OR TEMPORARY RESTRAINING ORDER**

COMES NOW the Petitioner/Plaintiff, by and through undersigned counsel, and hereby files the instant Emergency Motion and respectfully states as follows:

1. The Petitioner/Plaintiff incorporates by reference the facts and procedural history as set forth in his Verified Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and Complaint for Declaratory and Injunctive Relief. *See D.E. 1.*
2. The Petitioner/Plaintiff seek to “preserve the status quo during the course of litigation in order to prevent irreparable injury to the moving party and in order to preserve the ability of the court to render complete relief.” *Federal Leasing, Inc. v. Underwriters at Lloyds*,

487 F. Supp. 1248, 1259 (D. Md. 1980), *aff'd*, 650 F.2d 495 (4th Cir. 1981).

3. A temporary restraining order and/or a preliminary injunction is warranted where, as here, the plaintiffs establish: (1) a substantial likelihood that they will prevail on the merits; (2) a substantial threat of irreparable injury in the injunction is not granted; (3) greater injustice to the plaintiffs if the injunction is denied than harm caused by granting the injunction; and (4) no substantial disservice to the public interest. *Osmose, Inc. v. Viance, LLC*, 612 F.3d 1298, 1307 (11th Cir. 2010); *Scott v. Roberts*, 612 F.3d 1279, 1290 (11th Cir. 2010); *see* Fed. R. Civ. P. 65.

4. This standard is not rigidly applied by assigning a fixed quantitative value to each of the four factors. Rather, a flexible scale – which balances each consideration and arrives at the most equitable result, given the particular circumstances of each case – is used. *Texas v. Seatrain International, S.A.*, 518 F.2d 785, 787 (5th Cir. 1975)¹.

5. The Petitioner/Plaintiff is likely to succeed on the merits because the Respondents/Defendants are detaining the Petitioner/Plaintiff to execute his deportation despite his grant of deferred action following a bona fide determination of eligibility for U Nonimmigrant status. *See* D.E. 1 at Exh. No. 1 (Copy of Bona Fide Determination, granting deferred action).

6. The Petitioner/Plaintiff will likely suffer irreparable harm in the absence of preliminary relief from deportation. *See, e.g., Padilla v. Kentucky*, 559 U.S. 356, 364 (2010) (“deportation is a particularly ‘severe’ penalty” (citation omitted)).

7. The Petitioner/Plaintiff has complied with Fed. R. Civ. Pro. Rule 65 requirements for purposes of granting a Temporary Restraining Order. Pursuant to this Rule, the Court may issue a temporary restraining order without written or oral notice to the adverse party, but only if

¹ In *Bonner v. Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the U.S. Court of Appeals for the Eleventh Circuit adopted as binding precedent decisions of the former U.S. Court of Appeals for the Fifth Circuit handed down prior to October 1, 1981.

(a) specific facts in an affidavit clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (b) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

8. As undersigned counsel has set forth in her supporting Affidavit, undersigned counsel has provided via email provided the U.S. Attorney's office with a copy of the instant motion and a copy of the instant motion with a copy of the Petition/Complaint and Exhibits.

9. Under the circumstances of this case, the movant should not need to post a security pursuant to Fed. R. Civ. Pro. 65(c) because the Respondents/Defendants will incur no costs or damages from being wrongfully enjoined or restrained.

CONCLUSION

Based on the foregoing, the Petitioner/Plaintiff respectfully requests that this Honorable Court enter the following orders:

- A. The Petitioner/Plaintiff is likely to succeed on the merits of the pending Petition/Complaint;
- B. The Petitioner/Plaintiff will suffer irreparable harm in the absence of preliminary relief, the balance of equities tips in the Petitioner/Plaintiff's favor, and an injunction would serve the public interest;
- C. Enjoin the Respondents/Defendants from detaining and deporting the Plaintiff/Petitioner while he is the beneficiary of a grant of deferred action;
- D. Enjoin Respondent, ICE, from communicating with other Respondent, USCIS, for the purpose of requesting expedited adjudication of Petitioner's Form I-918 or removal from the Bona Fide Determination list, pending resolution of this habeas petition.
- E. Enjoin Respondent, USCIS, from revoking Petitioner/Plaintiff's Bona Fide

Determination, Deferred Action Status, and Employment Authorization Document, pending resolution of this habeas petition.

F. The Petitioner/Plaintiff is entitled to an award of attorney's fees and costs incurred as a result of bringing this action pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

G. Grant the Petitioner/Plaintiff any other relief the Court deems necessary and proper.

Respectfully submitted this 30th day of October, 2025,

By: /s/ Alexandra Friz-Garcia

Alexandra Friz-Garcia, Esq.
Florida Bar No. 0111496
Fonte Friz-Garcia Immigration Firm
Attorney for Petitioner/Plaintiff
901 Ponce De Leon Blvd, Suite 402
Miami, FL 33134
Telephone: (305) 446-1151
afriz@visadoctors.com

VERIFICATION

Undersigned counsel certifies under penalty of perjury that I am submitting this verification because I am one of the Petitioner/Plaintiff's attorneys and I have discussed the facts within this Motion with the Petitioner/Plaintiff's counsel in stay of removal proceedings before Respondents/Defendants. Pursuant to these discussions, I have reviewed the foregoing Motion and that, to the best of my knowledge, the facts therein are true and accurate.

Respectfully submitted this 30th day of October, 2025,

Alexandra Friz-Garcia, Esq.
Attorney for Petitioner/Plaintiff 901
Ponce De Leon Blvd, Suite 402
Miami, FL 33134
Telephone: (305) 446-1151

B: /s/ Alexandra Friz-Garcia

Alexandra Friz-Garcia, Esq.
Florida Bar No. 0111496

afriz@visadoctors.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing document with the Court Clerk and to the best of my knowledge a true and correct copy of the foregoing, along with a Notice of Electronic Filing, will be served through the Court's ECF system to all counsel of record this 30th day of October, 2025. As no attorney from the U.S. Attorney's Office has entered an appearance yet in the instant matter, I provided a copy of the foregoing to the U.S. Attorney, Chantel Doakes Shelton, via email at chantel.doakeshelson@usdoj.gov.

Respectfully submitted,

By: /s/ Alexandra Friz-Garcia
Alexandra Friz-Garcia, Esq.
Florida Bar No. 0111496
Fonte Friz-Garcia Immigration Firm
Attorney for Petitioner/Plaintiff
901 Ponce De Leon Blvd, Suite 402
Miami, FL 33134
Telephone: (305) 446-1151
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ELVIN DONALY GARCIA CASTILLO

Petitioner/Plaintiff,

v.

CHARLES PARRA, Interim Director,
U.S. DHS ICE ERO Miami Field
Office, *et al.*,

Respondents/Defendants.

**AFFIDAVIT OF ALEXANDRA PAOLA FRIZ-GARCIA,
COUNSEL FOR PETITIONER/PLAINTIFF**

1. My full name is Alexandra Paola Friz-Garcia, and I am the attorney of record in the above-captioned matter.
2. I am a member of The Florida Bar (Florida Bar No. 0111496) and I am admitted to practice in the U.S. District Courts for the Southern District of Florida, Middle District of Florida, and the U.S. Courts of Appeals for the Eleventh Circuits.
3. On October 30, 2025, I notified the U.S. Attorney for the Southern District of Florida, the U.S. Attorney, Chantel Doakes Shelton, via email at chantel.doakesshelton@usdoj.gov, that I intended to file the Petitioner/Plaintiff's Motion for Preliminary Injunction and/or Temporary Restraining Order and I attached copies of the proposed Motion with this Affidavit and the Petition and Complaint with Exhibits at D.E. 1.

4. The purpose of this Affidavit is to comply with Fed. R. Civ. Pro. 65, which states that the Court may only issue a temporary restraining order without written or oral notice to the adverse party if specific facts in an affidavit clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition and the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

5. The Petitioner/Plaintiff is under imminent threat of deportation despite the Petitioner/Plaintiff's pending I-918 Petition with bona fide determination granting him deferred action. The Plaintiff has a young, U.S. citizen child and deportation would forcibly separate the Petitioner from his child until he could return with a U-nonimmigrant visa, and the backlogs in I-918 Application adjudications outlined in the Petition/Complaint could make this separation interminable.

6. Again, I certify that I have made proper efforts to give notice to the Respondents/Defendants' counsel of the Petitioner/Plaintiff's Motion.

I declare under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. § 1746.

Date: October 30, 2025

Alexandra Friz-Garcia
Signature of Counsel