

**DETAINED**

Hilary Smith  
GIBBS HOUSTON PAUW  
1000 Second Avenue, Suite 1600  
Seattle, WA 98104-1003  
(206) 929-3880  
hilary.smith@ghp-law.net

Attorney for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT TACOMA, WASHINGTON

VICTOR CRUZ-GAMEZ,

Plaintiff,

v.

PAMELA BONDI, *et al.*;

Respondents.

CASE NO.: 2:25-cv-2154

**EMERGENCY MOTION FOR  
TEMPORARY RESTRAINING ORDER**

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER  
AND STAY OF REMOVAL**

**I. Motion**

1. Under FRCP 65 and 5 U.S.C. §705, the plaintiff moves this Court for an Emergency Temporary Restraining Order, preventing his transfer to another detention facility while these proceedings are pending.

PETITIONER'S MOTION FOR  
TRO

Case No.: 2:25-cv-2154

Page 1

Gibbs Houston Pauw  
1000 Second Avenue, Suite 1600  
Seattle, WA 98104  
(206) 929-3880

1 **II. Basis for Motion**

2 2. The petitioner, Mr. Victor Cruz-Gamez, is a native and citizen of Mexico.

3 3. In his habeas petition, Mr. Cruz-Gamez seeks release from confinement.

4 4. Mr. Cruz-Gamez is detained at the Northwest ICE Processing Center (NWIPC)  
5 in Tacoma, Washington. The Northwest ICE Processing Center is a privately-owned and  
6 operated immigration detention center run by the GEO Group, a private contractor for  
7 Immigration and Customs Enforcement.

8 5. Mr. Cruz-Gamez was given an alternative bond order at his custody  
9 redetermination hearing on October 28, 2025.

10 6. Additional procedural history is contained in the Declaration of Hilary Smith,  
11 filed with the habeas petition and this motion.

12 **III. Argument**

13 ***A. Standards for Temporary Restraining Order***

14 7. To grant a Temporary Restraining Order, the plaintiff must meet one of two  
15 tests. The more recent test, known as the *Winter* test, requires the plaintiff to prove as follows:  
16

- 17 [1] that he is likely to succeed on the merits,  
18 [2] that he is likely to suffer irreparable harm in the absence of  
19 preliminary relief,  
[3] that the balance of equities tips in his favor, and  
[4] that an injunction is in the public interest.

20 *Sherley v. Sibelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (alteration in original, quoting *Winter*  
21 *v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). “The same standard applies to both

1 temporary restraining orders and to preliminary injunctions.” *Sterling Commercial Credit-*  
2 *Michigan, LLC v. Phoenix Industries I, LLC*, 762 F. Supp. 2d 8, 12 (D.D.C. 2011) (quoting  
3 *Hall v. Johnson*, 599 F. Supp. 2d 1, 3 n.2 (D.D.C. 2009)).

4 8. The traditional test, which remains viable in the Ninth Circuit, is known as the  
5 “sliding scale” test and requires the plaintiff to prove “serious questions going to the merits”  
6 and “a hardship balance that tips sharply toward the plaintiff.” *Alliance For The Wild Rockies*  
7 *v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As under the *Winter* test, the plaintiff must also  
8 show a likelihood of irreparable injury and that the injunction is in the public interest. “Under  
9 this approach, the elements of the preliminary injunction test are balanced, so that a stronger  
10 showing of one element may offset a weaker showing of another.” *Alliance For The Wild*  
11 *Rockies*, 632 F.3d at 1131.

12 9. Mr. Cruz-Gamez meets both of these tests.

13  
14 ***B. Mr. Cruz-Gamez is likely to succeed on the merits and has raised serious legal***  
15 ***questions.***

16 10. As the Petition sets out, Mr. Cruz-Gamez is unlawfully detained and being  
17 denied release on bond.

18 11. Because the application of § 1225(b)(2) to Petitioner unlawfully mandates his  
19 continued detention and violates the INA, Mr. Cruz-Gamez is likely to succeed on the merits,  
20 as *Winter* requires, and he has raised serious legal questions, as the sliding scale test requires.  
21

1 **C. *Mr. Cruz-Gamez faces irreparable harm, and a hardship balance tips sharply toward***  
2 ***him.***

3 12. Mr. Cruz-Gamez faces substantial hardships and irreparable harm if he is  
4 removed from the United States.

5 13. Mr. Cruz-Gamez, has lived in the United States continuously for over 25 years.  
6 He has been swept up in the current dragnet to detain and deport immigrants.

7 14. The probability of transfer to another detention center is high. Petitioner's  
8 daughter called counsel the evening of October 30, 2025. She maintains daily phone contact  
9 with Petitioner. She informed counsel that her father had just called her and told her that his  
10 "commissary account had been drained" and that he was likely being transported to another  
11 facility in the middle of the night. *See* Declaration of Hilary Smith.

12 15. If Mr. Cruz-Gamez is transferred to another detention facility during the  
13 pendency of these proceedings, he will lose contact not only with his family, but also with his  
14 attorneys, in both Oregon and Washington. Already he has been placed about 150 miles from  
15 his home. Any further transfer will severely impair, if not cut, his ties with his legal and social  
16 supports. And this in turn will limit his ability to succeed on the merits of the litigation.

17 **D. *The balance of equities tips in favor of Mr. Cruz-Gamez, and an injunction is in the***  
18 ***public interest.***

19 16. The remaining two factors for an injunction are the same under both legal tests,  
20 and they both favor Mr. Cruz-Gamez.

1 17. As to the balance of equities, although Mr. Cruz-Gamez will suffer great harm if  
2 he is transferred, the Defendants will suffer no harm if he is not transferred. The Defendants  
3 have already scheduled Mr. Cruz-Gamez for a second master calendar hearing in Tacoma.  
4 The government has no counter-argument.

5 18. As to the public interest, it is in the public interest for the government to follow  
6 its word and allow noncitizens to remain in one place during the pendency of their  
7 proceedings especially if they have counsel. It is in the public's interest to allow litigants to  
8 remain in touch with their lawyers, to allow to prisoners to stay in touch with their families  
9 and their lawyers, and to have a government that follows its own policies and regulations.

10 19. Further, this administration is developing a pattern of transferring individuals from a  
11 facility near their home and creating even more of a delay and backlog in a system they claim  
12 they are trying to "fix." Mr. Cruz-Gamez asks that he remain detained in Tacoma at the  
13 NWIPC during the pendency of his habeas litigation and his removal proceedings.

14 **IV. Conclusion**

15 20. Under FRCP 65, the petitioner moves this Court to issue an Emergency  
16 Temporary Restraining Order and Stay of Removal:

17 1. Enjoining and restraining the Respondents and all of their respective  
18 officers, agents, servants, employees, attorneys and persons acting on  
19 their behalf in concert or in participation with them from;

20 a. Transferring Mr. Cruz-Gamez from the Northwest ICE Processing  
21 Center to any other facility during the pendency of these proceedings.

1 WHEREFORE, for the reasons set forth in his Petition for Writ of Mandamus, and in  
2 this Motion the Petitioner respectfully requests this Court:

- 3 1. Grant this Emergency Motion for Temporary Restraining Order and Stay of  
4 Removal today, October 30, 2025;
- 5 2. Enter the Proposed Order Granting Petitioner's Emergency Motion for Temporary  
6 Restraining Order and Stay of Removal today; and
- 7 3. Grant such other and further relief as justice may require.

8  
9 Dated this 30th day of October, 2025.

10 /s/ Hilary Smith  
11 Hilary Smith  
12 GIBBS HOUSTON PAUW  
13 1000 Second Ave., Suite 1600  
14 Seattle, WA 98104  
15 (206) 929-3880  
16 hilary.smith@ghp-law.net