

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-62212-CIV-SMITH

**RIGO HERRERA-ESCOBAR,**

Petitioner,

v.

**PAMELA BONDI**, U.S. Attorney General,  
et al.,

Respondents.

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**RESPONDENTS' RESPONSE TO PETITIONER'S EMERGENCY MOTION FOR  
TEMPORARY RESTRAINING ORDER/PRELIMINARY INJUNCTION, MOTION  
FOR AN ORDER TO SHOW CAUSE, AND TO CONSOLIDATE A PRELIMINARY  
INJUNCTION WITH THE MERITS IN THE COMPLAINT UNDER RULE 65(a)(2)**

Respondents, by and through the undersigned Assistant United States Attorney, hereby respond to Petitioner's Emergency Motion for Temporary Restraining Order/Preliminary Injunction, Motion for an Order to Show Cause, and to Consolidate a Preliminary Injunction with the Merits in the Complaint Under Rule 65(a)(2) [DE 4], and, in support thereof, state the following.

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The Eleventh Circuit has repeatedly held that "a preliminary injunction is an **extraordinary and drastic remedy** not to be granted unless the movant clearly established the 'burden of persuasion' as to each of the four prerequisites." *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (internal quotations omitted and

alterations accepted; emphasis added) (quoting *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998); see also *Texas v. Seatrain Int'l, S.A.*, 518 F.2d 175, 179 (5th Cir.1975) (granting a preliminary injunction “is the exception rather than the rule,” and plaintiff must clearly carry the burden of persuasion).

For the reasons set out in Respondents’ Return in Opposition to the Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief [DE 8], Petitioner cannot meet his burden here as he is not likely to succeed on the merits.<sup>1</sup>

Petitioner’s Emergency Motion for Temporary Restraining Order/Preliminary Injunction, Motion for an Order to Show Cause, and to Consolidate a Preliminary Injunction with the Merits in the Complaint Under Rule 65(a)(2) should be denied.

Respectfully submitted,

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<sup>1</sup> Since the Petition and the Motion raise the same legal questions—specifically which statute controls Petitioner’s detention, 8 U.S.C. § 1225(b)(2) or 8 U.S.C. § 1226(a)—and effectively the same relief—a bond hearing under § 1226(a)—the Petition and the Motion may be consolidated.