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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 Eleazar Esau Avalos Flores,

10 Petitioner,

11 v.

12 Kristi NOEM, Secretary, U.S.
13 Department of Homeland Security;
14 Pamela BONDI, U.S. Attorney General;
15 Todd LYONS, Acting Director,
16 Immigration and Customs Enforcement;
17 Gregory J. ARCHAMBEAULT,
18 Director, San Diego Field Office,
19 Immigration and Customs Enforcement,
20 Enforcement and Removal Operations;
21 Christopher J. LAROSE, Warden, Otay
22 Mesa Detention Center; EXECUTIVE
23 OFFICE FOR IMMIGRATION
24 REVIEW; IMMIGRATION AND
25 CUSTOMS ENFORCEMENT; and
26 DEPARTMENT OF HOMELAND
27 SECURITY,

28 Respondents.

Case No. '25CV3011 BAS BLM

**PETITIONER'S EX PARTE
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE**

1 Pursuant to Rule 65(b)(1) of the Federal Rules of Civil Procedure and CivLR
2 83.3(g)(2), Petitioner hereby moves the Court for emergency relief in the form of:
3
4 1) a temporary restraining order directing Respondents to release Petitioner from
5 their custody or to provide Petitioner with an individualized bond hearing before
6 an immigration judge pursuant to 8 U.S.C. § 1226(a) within seven days of
7 issuance of an Order;
8
9 2) a declaration that Petitioner's detention is governed by 8 U.S.C. § 1226(a) and
10 that his detention under 8 U.S.C. § 1225(b)(2) is unlawful; and
11
12 3) a temporary restraining order enjoining the Respondents from relocating
13 Petitioner outside of the Southern District of California pending final resolution
14 of this case.
15

16 Petitioner seeks this emergency relief because his continued detention
17 without an initial bond hearing is depriving Petitioner of statutory and
18 constitutional rights and is causing immediate and irreparable injury in the form of
19 the unlawful deprivation of his liberty. *See, e.g., Melendres v. Arpaio*, 695 F.3d
20 990, 1002 (9th Cir. 2012) (citation modified) (It "is well established that the
21 deprivation of constitutional rights unquestionably constitutes irreparable injury.")
22
23

24 Petitioner further moves for the issuance of an order to show cause as to why
25 a preliminary injunction should not issue.
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1 This application is supported by the Memorandum of Points and Authorities,
2 accompanying exhibits, as well as any additional submissions that may be
3 considered by the Court.
4

5 As described in the Declaration of Counsel below, counsel for Respondents
6 has been provided with advance notice of this filing. Respondents oppose this Ex
7 Parte TRO Application.
8

9
10 Dated: November 6, 2025

Respectfully submitted,

11 s/ Niels W. Frenzen

12 NIELS W. FRENZEN

13 JEAN REISZ

14 USC GOULD SCHOOL OF LAW,

15 IMMIGRATION CLINIC

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21 Attorneys for Petitioner
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CivLR 83.3(g)(2) DECLARATION OF COUNSEL

Pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure and CivLR 83.3(g)(2), I hereby certify that on Tuesday, November 4, 2025 at approximately 9:45 PM, I emailed Ms. Janet Cabral, Chief, Civil Division, U.S. Attorney's Office, Southern District of California and AUSA Erin Dimbleby and informed them that my office was preparing to file this ex parte application for TRO on Thursday, November 6, 2025. I advised Ms. Cabral of the name of Petitioner and provided an overview of the claims. Ms. Cabral responded by email on Wednesday, November 5, 2025 at approximately 5:15 AM and acknowledged receipt of my email. Respondents oppose the ex parte TRO request.

I will provide a copy of the Application for a Temporary Restraining Order, Memorandum of Points and Authorities, Supporting Exhibits, and Petition for Writ of Habeas Corpus to Ms. Cabral and Mary Wiggins, Civil Docketing Clerk, U.S.

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1 Attorney's Office for the Southern District of California by email immediately after
2 the pleadings are filed via ECF on November 6, 2025.
3

4 Dated: November 6, 2025

Respectfully submitted,

5 s/ Niels W. Frenzen

6 NIELS W. FRENZEN

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12 Attorneys for Petitioner
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 6, 2025, I served a copy of this Application for TRO and OSC by email to the following individuals:

Mary Wiggins
Civil Docketing Clerk
U.S. Attorney's Office
880 Front Street, Suite 6293
San Diego, CA 92101
Email: Mary.Wiggins@usdoj.gov

Janet A. Cabral, Assistant U.S. Attorney
Chief, Civil Division
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s/ Niels W. Frenzen
Niels W. Frenzen
Counsel for Petitioner