

Katie Rosenberger, 30830-49
katie@vrlegal.com
VILLARRUBIA & ROSENBERGER, P.C.
6349 S East Street
Indianapolis, IN 46227
463-207-9900

Yazmin Rodriguez, 39837-49
yazmin@vrlegal.com
VILLARRUBIA & ROSENBERGER, P.C.
6349 S East Street
Indianapolis, IN 46227
463-207-9900

Attorneys for Petitioner

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

JAIRO JOSE ESPINOZA CRUZ,)
)
Petitioner,)

Case No. 3:25-cv-919

v.)
)

BRIAN ENGLISH, Warden, Miami Correctional)
Facility; **KAMSING LEE**, of Indianapolis Field)
Office U.S. Immigration and Customs Enforcement;)
KRISTI NOEM, Secretary of the U.S. Department)
of Homeland Security; and **PAMELA JO BONDI**,)
Attorney General of the United States,)
in their official capacities,)
)
Respondents.)

**PETITIONER’S MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Petitioner Jairo Jose Espinozs Cruz, by counsel, respectfully moves this Court under Fed.
R. Civ. P. 65 for a temporary restraining order and preliminary injunction preventing Respondents

and their agents from transferring him out of Miami Correctional Facility during the pendency of this habeas proceeding.

INTRIDUCTION

Petitioner has filed a habeas petition under 28 U.S.C. §2241 challenging the legality of his detention. Unless enjoined, DHS may transfer him to another facility at any time, which would frustrate this Court's jurisdiction, impede counsel's access, and irreparably harm his ability to pursue habeas relief.

LEGAL STANDARD

Rule 65 authorizes the Court to issue a TRO and PI where the movement shows: the likelihood of success on the merits; likelihood of irreparable harm absent relief; that the balance of equities tips in his favor; and that the injunction is in the public interest. *Winter v Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20, (2008); *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997).

ARGUMENT

Petitioner is likely to succeed on the merits.

Petitioner is likely to succeed on the merits as he has been detained without a review by ICE officer and has not yet been removed. Furthermore, Petitioner has been granted a bona fide U nonimmigrant visa determination and deferred action. Wherein USCIS warrants that Petitioner is not a priority for removal. There have been no changed circumstances to justify change or revocation of deferred action.

Petitioner faces irreparable harm absent relief

Petitioner will suffer irreparable harm. Deportation would forcibly separate Petitioner from his U.S. family, a harm courts have consistently deemed irreparable. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Removal would also render moot Petitioner's deferred action and work

authorization, no concrete avenue for reinstatement if he prevails in this action and indefinite separation from his family. Petitioner's family would face severe financial and emotional hardship, leaving the mother of his children alone to care and provide for a newborn and a two-year old with a genetic disorder.

The balance of equities favors Petitioner and the public interest supports relief.

The equities weigh decisively in Petitioner's favor. Without an injunction, he will continue to suffer unlawful detention and faces the additional risk of being transferred to another facility, which would impede his access to counsel and interfere with this Court's ability to adjudicate his habeas petition. These harms are significant, irreparable, and cannot be remedied once they occur. In contrast, Respondents will experience no meaningful hardship from maintaining Petitioner at the Miami Correctional Facility during the pendency of this action. Courts routinely recognize that the government has no valid interest in enforcing unlawful detention practices or in transferring a detainee in a manner that obstructs judicial review.

The public interest likewise supports injunctive relief. It is served when federal detention authority is exercised within the bounds set by Congress and when constitutional safeguards are respected. Permitting DHS to transfer Petitioner while his habeas petition remains pending would undermine both principles by hindering judicial review and limiting his access to counsel. Preserving the status quo ensures that Petitioner can meaningfully pursue relief before this Court and that his detention remains consistent with federal law. Thus, the public interest strongly favors entry of an injunction.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Issue a temporary restraining order enjoining Respondents, their agents, and all persons acting in concert with them from transferring Petitioner Jairo Jose Espinoza Cruz out of Miami Correctional Facility during the pendency of this case;
2. Convert the TRO to a preliminary injunction after appropriate briefing and hearing;
3. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

/s/ Katie Rosenberger

Katie Rosenberger, 30830-49
VILLARRUBIA & ROSENBERGER, P.C.
6349 S East Street
Indianapolis, IN 46227
katie@vrlegal.com
463-207-9900

/s/ Yazmin Rodriguez

Yazmin Rodriguez, 39837-49
VILLARRUBIA & ROSENBERGER, P.C.
6349 S East Street
Indianapolis, IN 46227
yazmin@vrlegal.com
463-207-9900
Counsel for Petitioner

Dated: November 19, 2025

VERIFICATION

I represent Petitioner, Jairo Jose Espinoza Cruz, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Motion for Temporary Restraining Order are true and correct to the best of my knowledge.

Dated this 19th day of November, 2025.

s/Katie Rosenberger

Katie Rosenberger, 30830-49

Counsel for Petitioner

VILLARRUBIA & ROSENBERGER, P.C.

6349 S East Street

Indianapolis, IN 46227

katie@vrlegal.com

463-207-9900

/s/ Yazmin Rodriguez

Yazmin Rodriguez, 39837-49

VILLARRUBIA & ROSENBERGER, P.C.

6349 S East Street

Indianapolis, IN 46227

yazmin@vrlegal.com

463-207-9900