UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

ACISCLO VALLADARES URRUELA,

Petitioner,

v.

GARRETT RIPA, Field Office Director Miami Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, Attorney General of the United States,

Respondents.

Case No: 1:25-cv-25194-JEM

PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Petitioner respectfully moves this Court for an Emergency Temporary Restraining Order ("TRO") under Federal Rule of Civil Procedure 65 to enjoin Respondents from removing Petitioner from this District and from the United States. Petitioner is at risk of removal to a third country without any opportunity to present a fear-based claim. He consequently faces the risk of being returned to Guatemala despite an immigration judge granting withholding of removal to Guatemala based on an agreement with the United States government finding that Petitioner established a clear probability of future persecution. Petitioner therefore seeks the entry of an emergency TRO to prevent irreparable harm.

CERTIFICATION OF COMPLIANCE WITH RULE 65(b)

Under Federal Rule of Civil Procedure 65(b), a Court may issue a TRO without written or oral notice to the adverse party when:

> (A) specific facts in an affidavit or a verified complaint 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.

Here, both requirements are satisfied. As set forth above, the verified habeas petition establishes that irreparable harm will result to Petitioner if emergency relief is not granted **today**—a timeframe which does not provide sufficient opportunity for Respondents to submit an opposition to this TRO request.

FACTUAL BACKGROUND[1]

Petitioner is a former Guatemalan government minister who has been granted withholding of removal from Guatemala. At great personal risk in 2020, Petitioner voluntarily traveled to the United States and was paroled by United States authorities to assist with federal criminal investigations involving high-ranking Guatemalan officials and private-sector actors engaging in corruption. Petitioner's cooperation with the United States Attorney's Office and the Federal Bureau of Investigation was substantial, credible, and instrumental. That cooperation is publicly known in Guatemala. Petitioner has consequently faced threats from powerful figures implicated by his disclosures—many of whom currently hold or control positions within the Guatemalan government.

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1 The factual background is drawn from the verified petition for writ of habeas corpus.

Petitioner filed an application for relief from removal in immigration court. He presented evidence demonstrating that his cooperation with the United States government was publicly known in Guatemala, and that he has been subjected to threats to his life by powerful Guatemalan individuals. Pursuant to a stipulated agreement between Petitioner and the Department of Homeland Security ("DHS"), an immigration judge granted Petitioner's application for withholding of removal, thus finding that he demonstrated a clear probability of future persecution and successfully precluded his removal to Guatemala. As part of that agreement, Petitioner was assured by DHS that he would be released from immigration custody.

On October 16, 2024, DHS released Petitioner from custody pursuant to an order of supervision. Petitioner has since maintained compliance with the conditions of his release. However, on November 7, 2025 at a regularly scheduled check-in with ICE, Respondents re-detained Petitioner without formally revoking his order of supervision. Petitioner was not provided with any notice or an opportunity to contest his re-detention. Petitioner is currently located at the Miramar ICE-ERO Center, and on information and belief, will soon be detained at the Krome North Service Processing Center or Broward Transitional Center pursuant to ICE policy and practice.

ARGUMENT

To obtain a TRO, Petitioner must demonstrate that he is (1) likely to succeed on the merits, (2) likely to suffer irreparable harm in the absence of a TRO, (3) the balance of the equities tips in his favor, and (4) an injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Schiavo ex rel. Schindler v. Schiavo, 403* F.3d 1223, 1225–26 (11th Cir. 2005). Petitioner meets these factors, and therefore the Court should grant this request.

I. Petitioner is likely to succeed on the merits of his claims.

Under the substantive due process doctrine, a restraint on liberty like the revocation of a noncitizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: (1) preventing danger to the community or (2) preventing flight prior to removal. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92 (2001) (discussing constitutional limitations on civil detention). The government can make no showing that ICE has detained Petitioner due to his danger to the community, flight risk, or a change in the foreseeability of his removal to Guatemala, as his circumstances have not changed since his release from ICE custody over a year ago. Additionally, Petitioner cannot be removed to Guatemala based on his successful fear-based claim of persecution. Indeed, upon his re-detention, DHS provided no justification for its actions. Because Respondents had no legitimate, non-punitive objective in revoking Petitioner's order of supervision, Petitioner's detention violates his substantive due process rights.

Petitioner's removal is not foreseeable such that it serves as a justification for re-detention. ICE indicated that facilitation of removal to a third country will occur. However, it provided no information as to what steps, if any, had been taken in facilitating such removal. To the extent they exist, any such efforts can proceed without Petitioner in detention, particularly considering his history of compliance with his release conditions from government custody.

Further, Respondents, based on information and belief, have not officially revoked his order of supervision. Rather, they subjected him to re-detention, without providing justification or an opportunity to respond, and indicated his revocation would formally occur at a later date. This constitutes a violation of Petitioner's procedural due process rights. "Procedural due process

imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a noncitizen's order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified). Subjecting Petitioner to detention, despite his release on an order of supervision, without adhering to the agency's own rules, and depriving him of notice and a meaningful opportunity to respond violated his right to procedural due process under the Fifth Amendment to the United States Constitution. *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573 *10 (S.D. Fla. Sept. 9, 2025) (holding that release is "compel[ed] because "[t]he failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause.").

Beyond the due process violation, in re-detaining Petitioner, the government also violated its own regulations. To the extent DHS revoked Petitioner's release pursuant to 8 C.F.R. § 241.4(l)(2), that regulation confers revocation authority on two individuals: (a) the Executive Associate Commissioner and (b) where "circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner" the regulation authorizes a district director revoke release, though only on a finding that it "is in the public interest." *Id.* Yet, ICE provided no regulatory basis for the revocation. There is simply no indication that the individual who authorized his re-detention falls within either authorized category. Indeed, there can be no such individual as revocation, based on information and belief, has not been formally issued. This alone is enough to demonstrate the agency's failure to comply with the regulation, and consequently compels his release. *Grigorian*, 2025 WL 2604573 *10; *M.S.L. v. Bostock*, 2025 WL 2430267 (D.

Or. Aug. 21, 2025) (releasing habeas petitioner where revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so).

Moreover, ICE failed to follow its own rules in affording Petitioner an "informal interview." Petitioner never received an "informal interview." As this Court explained in *Grigorian*, "[t]he failure to provide [p]etitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause. This compels [p]etitioner's release." *Grigorian*, 2025 WL 2604573 *10 (internal citations omitted).

The Eleventh Circuit has held that "executive agencies **must** comply with the procedural requirements imposed by statute," and "**must** respect their own procedural rules and regulations." *Romano-Murphy v. Comm'r*, 816 F.3d 707, 720 (11th Cir. 2016) (emphasis added) (quoting *Gonzalez v. Reno*, 212 F.3d 1338, 1349 (11th Cir. 2000)). Here, Petitioner's re-detention and yet-to-come revocation of his release, therefore, are unlawful and should be set aside. *Grigorian*, 2025 WL 2604573 *9 ("The opportunity to contest detention through an informal interview is not some ticky-tacky procedural requirement; it strikes at the heart of what due process demands.") (citing *Niz-Chavez v. Garland*, 593 U.S. 155, 172 (2021)).

The government's violation of Petitioner's substantive and procedural due process rights, and its failure to comply with its own regulations (*i.e.* detaining him without a formal revocation of his order of supervision, and subjecting him to detention) demonstrates that Petitioner is likely to prevail on the merits of his claims.

II. Petitioner will suffer irreparable harm absent an injunction.

To obtain a TRO, Petitioner must also show he is "likely to suffer irreparable harm in the absence of preliminary relief." *Winter*, 555 U.S. at 20. "To demonstrate irreparable harm, a movant

must show that the injury cannot be undone through monetary remedies. 'It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury.'" *Gayle v. Meade*, 614 F. Supp. 3d 1175, 1205 (S.D. Fla. 2020) (Cooke, J.) (cleaned up) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

The irreparable-harm requirement is easily satisfied here. Petitioner's release pursuant to an order of supervision was revoked without a pre-deprivation hearing in violation of Petitioner's due process rights. Further, Petitioner was granted withholding of removal based on establishing a clear probability of persecution if returned to Guatemala. Therefore, this unlawful detention greatly harms Petitioner. With the government's increased utilization of third country removal, Petitioner must be afforded the opportunity to present a fear-based claim to ensure that he is not returned to Guatemala. Should he be deported to a third country that amounts to a temporary stop on his way back to Guatemala, he will be at risk of the gravest irreparable harm.

III. The balance of hardships and public interest weigh heavily in Petitioner's favor.

The final two factors for a preliminary injunction also demonstrate that such relief is appropriate. "These factors merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009).

"[T]he public is better served by the faithful execution of immigration laws." *Zamora Mejia v. Noem*, No. 2:25-CV-981-SPC-NPM, 2025 WL 3078656, at *3 (M.D. Fla. Nov. 4, 2025) (citing *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013)) (finding the government "cannot suffer harm from an injunction that merely ends an unlawful practice or reads a statute as required to avoid constitutional concerns."); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992) (discussing "the public interest in Government observance of the Constitution and laws").

Here, Petitioner was re-detained in violation of his due process rights despite *consistent* compliance with his release conditions and without a pre-deprivation hearing. Further, Petitioner has been granted a withholding of removal from Guatemala. Therefore, any removal without the opportunity to present a fear-based claim would cause significant, grave hardship. The public interest thus strongly favors Petitioner.

IV. The Court should not require Petitioner to provide security prior to the TRO.

Federal Rule of Civil Procedure 65(c) provides that "[t]he court may issue a preliminary injunction or a [TRO] only if the movant gives security in an amount that the court considers proper to pay the costs and damage sustained by any party found to have been wrongfully enjoined or restrained." Decisions regarding the security required to be posted in connection with the issuance of preliminary relief "are entrusted to the discretion of the district court," including the discretion to "elect to require no security at all." *Transcon. Gas Pipe Line Co., LLC v. 6.04 Acres,* 910 F.3d 1130, 1171 (11th Cir. 2018) (quoting *Corrigan Dispatch Co. v. Casa Guzman, S. A.*, 569 F.2d 300, 303 (5th Cir. 1978)). District courts exercise this discretion and do not require security in cases brought by indigent, detained and/or incarcerated people, those seeking to exercise their constitutional rights, and in cases that benefit the public interest. *See, e.g. Campos v. I.N.S.,* 70 F. Supp. 2d 1296, 1310 (S.D. Fla. 1998); *Cruz v. Dudek*, No. 10-23048-CIV, 2010 WL 4284955, at *16 (S.D. Fla. Oct. 12, 2010), *report and recommendation adopted sub nom. Cruz v. Arnold*, No. 10-23048-CIV, 2010 WL 11601831 (S.D. Fla. Nov. 24, 2010); *Complete Angler, LLC v. City of Clearwater, Fla.*, 607 F. Supp. 2d 1326 (M.D. Fla. 2009); Wright & Miller, Fed. Practice & Proc. § 2954. Petitioner requests that this Court grant this motion and not subject him to pay for the required security.

CONCLUSION

For the foregoing reasons, the Court should issue a TRO enjoining the government from removing Petitioner from this District and from removing him from the United States pending further order from this Court.

Dated: November 7, 2025

Respectfully submitted,

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