

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

TRUC BA TRINH )  
A# )  
Petitioner, )

vs. )

CASE NO.:  
4:25-CV-373-CDL-CHW

GEORGE STERLING, *Field Office Director of* )  
ICE Atlanta Field Office, and )  
TODD LYONS, *Acting Director of* )  
*Immigration and Customs Enforcement*, and )  
KRISTI NOEM, *Secretary of Homeland* )  
*Security*, and )  
PAMELA BONDI, *U.S. Attorney General* )  
Respondents. )

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**PETITIONER'S REPLY IN SUPPORT OF  
MOTION FOR TEMPORARY RESTRAINING ORDER**

This response reiterates Petitioner's substantial likelihood of success on the merits of his claims because the revocation of his OSUP and resulting detention violates his Fifth Amendment due process rights, the INA, the APA, and the *Accardi* doctrine as outlined in Petitioner's Response to Motion to Dismiss and Brief in Support which arguments are incorporated herein due to space limitations. Further, Respondents cannot credibly assert that Petitioner's removal to Vietnam is reasonably foreseeable and the statute and caselaw show, any authorized detention period for Petitioner expired years ago, it did not reset, and Petitioner is thus facing prolonged and unlawful detention every day. The government's actions are not only procedurally and substantively deficient but also have resulted in irreparable harm to Petitioner and his family, warranting prompt judicial intervention.

As laid out *infra* and in full in Petitioner's Response in Opposition to Respondents' Motion to Dismiss, the record clearly demonstrates Petitioner's OSUP was improperly revoked by an unauthorized official and without a proper hearing in violation of ICE's own regulations, policies, the *Accardi* doctrine, the APA, and the Fifth Amendment. Petitioner's unlawful detention further violates statutes, agency regulations, and due process where Respondents have not and cannot show that his removal is significantly likely to occur in the reasonably foreseeable future. Thus, his detention is invalid and this Court should grant his TRO and a writ of habeas corpus ordering: (1) that he be immediately released from the Respondents' custody; or (2) that he be immediately released pursuant to the terms and conditions of his OSUP.

Petitioner has fully supported his claims in his habeas petition, motion for TRO<sup>1</sup>, and the contemporaneously-filed Opposition to Respondents' MTD. Accordingly, Petitioner summarizes the arguments as to rebut Respondents' responses here. To the extent necessary, Petitioner incorporates those portions of his TRO and Opposition to the MTD in full herein by reference.

#### **I. THE COURT HAS JURISDICTION TO ISSUE A TRO OR INJUNCTIVE RELIEF**

As outlined in Petitioner's Response to the Motion to Dismiss, Respondents erroneously claim that 8 U.S.C. § 1252(a)(2)(B)(ii) limits this court's ability to review ICE/ERO's discretionary determination regarding "appropriate place[] of detention" ECF No. 28 at 6, quoting 8 U.S.C. § 1231(g)(1). Federal courts have clear jurisdiction to review whether ICE has complied

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<sup>1</sup> A TRO is warranted here where Petitioner has clearly demonstrated: (1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered unless the injunction issues; (3) that the threatened injury to Petitioner outweighs any harm the proposed injunction may cause the Government; and (4) that the injunction would not be adverse to the public interest. *See Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *Wreal, LLC v. Amazon.com, Inc.*, 840 F.3d 1244, 1247 (11th Cir. 2016); *Four Seasons Hotels & Resorts v. Consorcio Barr*, 320 F.3d 1205, 1210 (11th Cir. 2003). The standard for a temporary restraining order is identical (*see Parker v. State Bd. of Pardons & Paroles*, 275 F.3d 1032, 1034 (11th Cir. 2001)).

with its own regulations and constitutional requirements in the process of revoking an OSUP, detaining a noncitizen, and in the procedures and notice required before executing any removal.

Respondents next erroneously asserts that this Court lacks jurisdiction under 8 U.S.C. § 1252(g), relies on an overly broad interpretation of § 1252(g) that has been consistently rejected by the Supreme Court and numerous circuit and district courts, including the Middle District of Georgia. See rebuttal arguments in Petitioner’s Response to Motion to Dismiss since this reply is limited to 10 pages. Accordingly, this Court’s jurisdiction encompasses review of ICE’s compliance with regulatory and constitutional requirements for both detention and removal and supports the full scope of injunctive relief sought here.

**II. THE COURT CAN AND SHOULD ORDER PETITIONER’S RELEASE FROM CUSTODY VIA A TRO OR PRELIMINARY INJUNCTIVE RELIEF.**

Petitioner requests an order for his immediate release from ICE/ERO unlawful detention stemming from its invalid revocation of his OSUP, pending a ruling on his Petition. Respondents object and falsely claim that here “the status quo is Petitioner’s detention in immigration custody—the same position he was in when he filed the Petition.” However, as Petitioner addressed in his TRO motion’s brief of authorities (ECF No. 4-1), the function of preliminary injunctive relief is to **prevent irreparable harm and preserve the status quo ante pending final adjudication**. Courts have repeatedly emphasized that, where the status quo itself is causing irreparable injury, it may be necessary to alter the situation to prevent further harm, even if this requires affirmative action. Courts have held that the status quo ante to be achieved by injunctive relief is the position **the parties held at the time of the last uncontested act between them, not simply the state of affairs at the time the complaint was filed**. Thus, even if a complaint seeks to address the same wrongful conduct, where the preliminary relief is still necessary to prevent irreparable harm, the motion should be granted to restore Petitioner to the status quo ante before

the government unlawfully detained him without due process. The Eleventh Circuit, like other circuits, also recognizes the principle of restoring **the status quo ante as a form of equitable relief**. *See Lewis v. Federal Prison Industries, Inc.*, 953 F.2d 1277, 1286 (11th Cir. 1992).

Here, since the Respondents are responsible for intervening events in violation of law, the Court is not deprived of its authority to compel the defendant to undo what has been wrongfully done. *See, e.g., Does v. Bd. of Regents of Univ. of Colo.*, 100 F.4th 1251 (10th Cir. 2024).

Therefore, this Court should grant the TRO and Enjoin Respondents from detaining Petitioner during the pendency of this habeas action; Restore and reinstate Petitioner's OSUP unlawfully and unilaterally revoked; Enjoin Respondents from altering the conditions of Petitioner's OSUP without due process and compliance with all applicable regulations; Enjoin Respondents from altering the conditions of Petitioner's OSUP, absent compliance with constitutional protections, which include, at a minimum, strict compliance with the requirements of 8 C.F.R. 241.8 and the form of notice and opportunity to be heard prescribed in 8 C.F.R. 241.4(l); and Grant any such relief which the court deems equitable and just.

Respectfully Submitted,

This 3rd day of December, 2025.

/s/ Karen Weinstock  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of December, 2025, this PETITIONER'S REPLY IN SUPPORT OF MOTION FOR A TEMPORARY RESTRAINING ORDER was served, via electronic delivery to Respondents' counsel via CM/ECF system which will forward copies to Counsel of Record.

/s/ Karen Weinstock

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