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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Carlos Ruben BASILIO MOSSO,

Petitioner,

v.

John CANTU, Field Office Director of Phoenix
Office of Detention and Removal, U.S. Immigrations
and Customs Enforcement; U.S. Department of
Homeland Security;

Todd M. LYONS, Acting Director, Immigration and
Customs Enforcement, U.S. Department of Homeland
Security;

Kristi NOEM, in her Official Capacity, Secretary,
U.S. Department of Homeland Security; and

Pam BONDI, in her Official Capacity, Attorney
General of the United States;

Respondents.

Case No.



**MOTION FOR
TEMPORARY
RESTRAINING
ORDER**

Challenge to Unlawful
Incarceration; Request for
Declaratory and Injunctive Relief

NOTICE OF MOTION

Petitioner Carlos Ruben Basilio Mosso ("Mr. Basilio Mosso") applies to this honorable Court for a temporary restraining order enjoining Respondents Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), and Pam Bondi, in her official

capacity as the U.S. Attorney General, (1) from continuing to detain him based on an unlawful action by ICE, (2) ordering his immediate release from immigration detention; and (3) from re-arresting Mr. Basilio Mosso until he is afforded a hearing before a neutral decisionmaker, as required by the Due Process clause of the Fifth Amendment, to determine whether circumstances have materially changed such that his re-incarceration would be justified because there is clear and convincing evidence establishing that DHS-ICE is able to remove him to a third country.

If the Court deems oral argument necessary, Petitioner requests to appear by video.

Dated: November 10, 2025

Respectfully submitted,

/s/ Spencer C. Lee

Spencer C. Lee

Attorney for Petitioner-Plaintiff Client Name

Introduction

Petitioner Carlos Ruben Basilio Mosso (“Petitioner” or “Mr. Basilio Mosso”), a Mexican national, moves this Court for a Temporary Restraining Order (“TRO”) directing his immediate release from immigration detention. Mr. Basilio Mosso has been detained by U.S. Immigration and Customs Enforcement (“ICE”) beyond the period authorized by law and over seven (7) years after his prior release from their custody without demonstrably changed circumstances. An Immigration Judge ordered him removed on August 15, 2028, but deferred his removal to Mexico finding it more likely than not Mr. Basilio Mosso would be tortured if he were removed. The order became administratively final on September 14, 2018 when the thirty (30) day appeal period ran and neither party appealed the decision. Petitioner was released from ICE custody on September 11, 2018 pursuant to an order of supervision (OSUP) and has maintained contact with

ICE since his released. Despite his continued compliance with ICE, he was no-notice re-arrested on July 1, 2025. He has remained in ICE custody since that date. ICE has had over seven (7) years to effect removal and has failed to do so clearly establishing that no significant likelihood of removal exists in the reasonably foreseeable future and continued detention is unlawful under *Zadvydas v. Davis*, 533 U.S. 678 (2001). Petitioner seeks immediate release under reasonable supervision.

Jurisdiction and Venue

This Court has jurisdiction under 28 U.S.C. § 2241 and 28 U.S.C. § 1331. Venue lies in this District because Petitioner is detained within the District of Arizona at the Florence Correctional Center. This motion challenges only the legality of Petitioner's continued detention, not the underlying removal order. See *Zadvydas*, 533 U.S. at 688.

Legal Standard for Temporary Restraining Order

A temporary restraining order is warranted when the moving party demonstrates (1) a likelihood of success on the merits, (2) irreparable harm absent relief, (3) that the balance of equities tips in their favor, and (4) that an injunction is in the public interest. See *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

1. Petitioner is a Mexican national who has resided in the United States.
2. On August 15, 2018, an Immigration Judge ordered Petitioner removed but deferred his removal to Mexico as it is more likely than not Petitioner will be tortured if removed. The order became administratively final on September 14, 2018 when the thirty (30) day appeal period ran and neither party submitted an appeal.
3. Petitioner was in ICE custody on the date of the removal order.

4. On September 11, 2018, Petitioner was released from ICE custody pursuant to an order of supervision. Petitioner has maintained contact with ICE since that date and has complied with all terms of his supervision.
5. On July 1, 2025, ICE no-notice arrested Petitioner despite a lack of changed circumstances.
6. Petitioner has remained in ICE custody since that date.
7. The ninety-day removal period prescribed by 8 U.S.C. § 1231(a)(1)(A) expired on September 29, 2025.
8. More than 130 days have passed since ICE regained custody, yet ICE has not effectuated removal and cannot do so absent travel documents.
9. The Mexican consulate is unable to provide a birth certificate for Petitioner.
10. No administrative appeal, motion to reopen, or other collateral proceeding delays removal.
11. Petitioner remains detained without a significant likelihood of removal in the reasonably foreseeable future particularly considering the 7 years ICE has had to effect removal and failed to do so.

Argument

I. Petitioner Is Likely to Succeed on the Merits

Under 8 U.S.C. § 1231(a)(1)(A), the government must remove a noncitizen within ninety days of a final removal order. Detention is mandatory only during that ninety-day removal period. 8 U.S.C. § 1231(a)(2). Afterward, detention is authorized only for a period reasonably necessary to effect removal. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). The Supreme Court established six months as a presumptively reasonable period. *Id.* Once that period ends, if removal is not

significantly likely in the reasonably foreseeable future, the detainee must be released. *See also Clark v. Martinez*, 543 U.S. 371, 377 (2005). Here, Petitioner has been detained for more than ninety days since ICE regained custody. Removal is not reasonably foreseeable because ICE has failed to do so in the past 7 years, re-detained him without proof of a third country who would accept him, and is unable to obtain a birth certificate or other identity document to effect removal. Accordingly, Petitioner is likely to succeed on the merits.

II. Petitioner Will Suffer Irreparable Harm Absent Relief

Continued detention beyond the statutory period constitutes irreparable harm. The deprivation of physical liberty is a core constitutional injury. *See Zadvydas*, 533 U.S. at 690. Absent a TRO, Petitioner faces ongoing unlawful detention.

III. The Balance of Equities Strongly Favors Petitioner

Petitioner seeks only release under supervision pending removal efforts. The government suffers minimal harm from supervised release, whereas Petitioner suffers ongoing unlawful detention. The balance of equities tips sharply in Petitioner's favor.

IV. The Public Interest Supports Relief

The public has an interest in ensuring that government detention complies with statutory and constitutional limits. *See Zadvydas*, 533 U.S. at 682. Granting this TRO upholds the rule of law and prevents unlawful deprivation of liberty.

Prayer for Relief

For the foregoing reasons, Petitioner respectfully requests that this Court grant his motion for a temporary restraining order and:

1. Order Petitioner's immediate release from ICE custody under reasonable conditions of supervision;

2. Declare that Petitioner's continued detention violates 8 U.S.C. § 1231 and the Fifth Amendment Due Process Clause; and
3. Grant such other relief as the Court deems just and proper.

Dated: November 16, 2025

Respectfully submitted,

/s/ Spencer C. Lee

Spencer C. Lee

Attorney for Carlos Ruben Basilio Mosso