

**DETAINED**

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7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE, WASHINGTON

10 **ABEL MARTINEZ ALEMAN**  
a/k/a Pedro RIVERA,

11 Petitioner,

12 v.

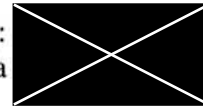
13 **PAMELA BONDI**, Attorney General;  
14 **KRISTI NOEM**, Secretary of Homeland  
Security; **TODD LYONS**, Acting Director,  
U.S. Immigration and Customs Enforcement  
15 (ICE); **CAMMILLA WAMSLEY**, Field  
Officer Director, ICE Seattle Field Office;  
16 **BRUCE SCOTT**, Warden, Northwest ICE  
Processing Center,

17 Respondents.

Case No. 2:25-cv-02346-JNW-MLP

**REPLY IN SUPPORT OF MOTION  
FOR TEMPORARY RESTRAINING  
ORDER AND STAY OF REMOVAL**

Agency File No.:  
a/k/a



18  
19 **REPLY IN SUPPORT OF MOTION FOR TEMPORARY**  
20 **RESTRAINING ORDER AND STAY OF REMOVAL**

21  
**REPLY IN SUPPORT OF EMERGENCY MOTION  
FOR TEMPORARY RESTRAINING ORDER AND  
STAY OF REMOVAL  
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1 Petitioner, by and through counsel, respectfully submits this reply brief in support of his  
2 Emergency Motion for a Temporary Restraining Order (TRO) and Stay of Removal.

3 **I. Introduction**

4 Respondents' opposition rests on two core propositions:

- 5 1. 8 U.S.C. § 1252(g) strips this Court of jurisdiction to enter any order that would  
6 temporarily restrain execution of Petitioner's removal order while his habeas petition  
7 and motion to reopen are adjudicated; and  
8 2. Even if this Court had jurisdiction, Mr. Martinez Aleman cannot satisfy the *Winter*  
9 standard because his detention is lawful under 8 U.S.C. § 1231, and he suffers no  
10 legally cognizable irreparable harm from removal.

11 Both propositions are wrong.

12 First, this case is not a free-standing challenge to the timing of removal. Mr. Martinez  
13 Aleman is in federal custody. He challenges the statutory authority and constitutionality of his  
14 present detention and seeks classic habeas relief---release or a constitutionally adequate custody  
15 determination. The narrow TRO he requests---temporarily preventing his removal and transfer  
16 from the district---is ancillary relief necessary to preserve this Court's habeas jurisdiction and to  
17 avoid mooting his claims before they can be adjudicated. As the Supreme Court and Ninth  
18 Circuit have made clear, section 1252(g) must be read narrowly and cannot be construed to  
19 extinguish the historic core of habeas corpus. *Reno v. Am.-Arab Anti-Discrimination Comm.*  
20 (*"AADC"*), 525 U.S. 471, 482 (1999) (construction section 1252(g) as a "narrow" provision  
21 covering only specific discretionary acts of commencing, adjudicating, or executing removal

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1 order); *I.N.S. v. St. Cyr*, 533 U.S. 289 (2001) (rejecting interpretations that would eliminate  
2 habeas jurisdiction over legal and constitutional questions).

3 Second, Mr. Martinez Aleman satisfies the *Winter* factors. He is likely to succeed on the  
4 merits, or, at the very least, has raised “serious questions” going to the merits of his detention  
5 and the lawfulness of executing his removal order before his motion to reopen and habeas claims  
6 can be meaningfully adjudicated. *See All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131–  
7 35 (9th Cir. 2011) (serious-questions sliding-scale test remains valid when applied within  
8 *Winter*’s four-factor framework). Mr. Martinez Aleman faces irreparable harm from removal to  
9 a country where he fears persecution or torture and from the practical impossibility of pursuing  
10 his statutory and constitutional rights from abroad. The balance of equities and public interest  
11 strongly favor a TRO to maintain the status quo.

12 For these reasons and those set forth in his opening brief, Mr. Martinez Aleman  
13 respectfully requests that this Court grant his motion.

14 **II. Legal Argument**

15 ***A. This Court has jurisdiction to adjudicate Mr. Martinez Aleman’s Petition for  
16 Habeas Corpus and Motion for Temporary Restraining Order.***

- 17 i. Mr. Martinez Aleman’s claims arise from his custody and fundamental  
18 statutory and constitutional rights, not a discretionary “timing” decision.

19 Mr. Martinez Aleman is in Immigration and Customs Enforcement (ICE) custody at the  
20 Northwest ICE Processing Center (NWIPC). He filed a habeas petition under 28 U.S.C. § 2241  
21 challenging (1) the statutory basis for his detention, and (2) the constitutionality of his continued  
incarceration without a meaningful custody determination. That is the classic heartland of section  
2241 habeas jurisdiction. *Hernandez v. Sessions*, 872 F.3d 976, 988–90 (9th Cir. 2017) (affirming

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1 district court’s section 2241 jurisdiction to adjudicate constitutional challenges to immigration  
2 detention and related bond procedure).

3 Section 1252(g) strips jurisdiction only over “any cause or claim . . . arising from the  
4 decision or action . . . to commence proceedings, adjudicate cases, or execute removal orders.”  
5 8 U.S.C. § 1252(g). The Supreme Court has emphasized that this provision is “narrow,” targeting  
6 only those three discrete and discretionary acts and does not bar judicial review of “many other  
7 decisions or actions that may be part of the deportation process.” *AADC*, 525 U.S. at 482.

8 Here, Mr. Martinez Aleman does not challenge the discretionary decision to execute his  
9 removal order at some particular moment. He challenges the legal basis and constitutionality of  
10 his present confinement, and he seeks a TRO only to ensure that the Court can adjudicate those  
11 claims and, if appropriate, order his release or a constitutionally adequate bond process.

12 The Government, in this case and others, has repeatedly tried to argue that section 1252(g)  
13 strips federal courts of jurisdiction over these matters and that argument has repeatedly been  
14 overruled, even recently by this Court. *AADC*, 525 U.S. at 482; *Arce v. United States*, 899 F.3  
15 796, 799–800 (9th Cir. 2018); *Sepulveda Ayala v. Bondi*, 794 F. Supp. 3d 901, 910 (W.D. Wash.  
16 2025) (“The Government’s expansive reading of Section 1252(g) would eliminate Sepulveda  
17 Ayala’s only avenue for challenging his detention, raising serious Suspension Clause  
18 concerns[.]”). Although *Sepulveda Ayala* involved consideration of a grant of deferred action, its  
19 jurisdictional analysis is directly relevant: Where the gravamen of the claim is unlawful detention  
20 and violation of federal law, section 1252(g) does not strip jurisdiction. *See also Jama v. I.N.S.*,

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1 329 F.3d 630 (8th Cir. 2003) (permitting an exercise of habeas jurisdiction where the petitioner  
2 requests review of a question of law).

3 The Government's own authorities confirm this distinction. In *Rauda v. Jennings*, the  
4 Ninth Circuit emphasized that the petitioner was *not* challenging his custody or conditions of  
5 detention; he sought only a temporary stay of removal while he pursued a motion to reopen based  
6 on his asylum application. 55 F.4th 773, 779 (9th Cir. 2022). Mr. Martinez Aleman's claim is  
7 distinguishable for two reasons. First, his habeas claim squarely challenges his detention---its  
8 statutory basis, its duration, and the absence of a constitutionally adequate custody determination.  
9 Second, the underlying relief in Mr. Martinez Aleman's motion to reopen relies on his presence  
10 in the United States. As explained in his petition for habeas corpus and his TRO motion, removal  
11 effectively nullifies any benefit to a motion to reopen because his relief mandates his presence in  
12 the United States. 8 U.S.C. §§ 1229a(b)(1), 1229a(b)(4)(B). Any TRO restraining removal is  
13 derivative of these claims and necessary to ensure that this Court can actually grant habeas relief.

14 The Government's references to other noncontrolling case law on this point are  
15 distinguishable. In *Camarena v. Director, Immigr. & Customs Enforcement*, 988 F.3d 1268 (11th  
16 Cir. 2021), Petitioners argued that a "regulatory right" to pursue a provisional unlawful presence  
17 waiver granted habeas jurisdiction, but Mr. Martinez Aleman makes statutory and constitutional  
18 arguments. In *E.F.L. v. Prim*, 986 F.3d 959 (7th Cir. 2021), the court concluded that the  
19 Petitioner's habeas petition was moot after USCIS granted her requested relief. In *Tazu v. Att'y*  
20 *Gen U.S.*, the Third Circuit refused to consider a habeas petition because the Petitioner did not  
21 "challenge the existence of his removal order." 975 F.3d 292, 298 (3d Cir. 2020). In contrast,

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1 Mr. Martinez Aleman’s motion to reopen, and in some ways, his petition, are predicated on  
2 ineffective assistance of counsel and, therefore, his removal order. *Hamama v. Adducci* is further  
3 distinguishable “[b]ecause the common-law writ [of habeas corpus] could not have granted  
4 Petitioners’ requested relief[.]” 912 F.3d 869, 876 (6th Cir. 2018). Finally, *Silva v. United States*  
5 involves a claim under the Federal Tort Claims Act that arose after allegedly wrongful removal.  
6 866 F.3d 938 (8th Cir. 2017).

7       Regardless of whether these cases are distinguishable, each of these decisions came after  
8 the court issued a temporary stay, which is the instant relief Mr. Martinez Aleman seeks today.  
9 Moreover, this Court maintains jurisdiction over Mr. Martinez Aleman’s petition for habeas  
10 corpus because he is not challenging the discretionary decision to execute a removal order but  
11 rather the legal conclusion of his removal.<sup>1</sup> *See Jama*, 329 F.3d 630.

12           ii. The Suspension Clause forbids reading section 1252(g) to extinguish all  
13 meaningful habeas relief in these circumstances.

14       Even if the Government’s broad reading of section 1252(g) had textual support (it does  
15 not), that reading cannot be applied where it would extinguish the “privilege of the writ of habeas  
16 corpus” without an adequate substitute. U.S. CONST. art. 1, § 9, cl. 2. Habeas historically has been  
17 an “adaptable remedy” used to check the Executive’s restraint of personal liberty, including in  
18 the removal context. *See, e.g., St. Cyr*, 533 U.S. at 302.

19       Here, removal before this Court and the Board can adjudicate Petitioner’s claims would,  
20 as a practical matter, deprive him of any meaningful opportunity to challenge his detention and

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<sup>1</sup> Even if this Court disagrees with that analysis, it has yet to rule on the merits of Petitioner’s habeas petition and the legal arguments therein and, therefore, a stay is warranted until that occurs.

1 removal on statutory and constitutional grounds. He would have to litigate from El Salvador—a  
2 country where he fears persecution or torture—while separated from U.S.-based counsel, family,  
3 and evidence. Additionally, Mr. Martinez Aleman cannot read or write in any language, which  
4 would inhibit his ability to communicate from abroad and has significantly impacted his  
5 immigration proceedings, as explained in his motion to reopen. More importantly, his case would  
6 no longer be worth litigating because he would lose any possibility of redress and, therefore,  
7 standing. *Lujan v. Defs. of Wildlife*, 504 U.S. 555 (1992) (explaining that standing for a legal  
8 action requires, among other things, a likelihood “that the injury will be redressed by a favorable  
9 decision”) (internal quotation marks and citation omitted). That is not an “adequate and effective”  
10 substitute for habeas. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (substitute process must  
11 provide a meaningful opportunity to demonstrate unlawful custody and allow courts to “order the  
12 conditional release of an individual unlawfully detained”).

13 As in the preceding section, this argument is not novel in this Court, and the Suspension  
14 Clause provides an additional avenue by which to assume jurisdiction. *Diaz-Amezcuca v. Barr*,  
15 402 F. Supp. 3d 963 (W.D. Wash. 2019) (concluding that even if section 1252(g) does not allow  
16 jurisdiction over a habeas proceedings, application of that conclusion would violate the  
17 Suspension Clause, and, therefore, the court may assume jurisdiction).

18 *Diaz-Amezcuca* is factually analogous to Mr. Martinez Aleman’s case: both petitioners  
19 were subject to final orders of removal, sought stays pending motions to reopen, and presented  
20 evidence that removal would effectively deprive them of any meaningful opportunity to litigate  
21 those motions from dangerous conditions abroad. While *Rauda* later rejected a similar Suspension

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1 Clause argument on the specific facts of that case, the Ninth Circuit emphasized that the petitioner  
2 could still pursue his motion to reopen and petition for review from abroad. 55 F.4th at 781–82.  
3 Here, by contrast, Mr. Martinez Aleman has submitted evidence that removal to El Salvador  
4 would, as a practical matter, extinguish his ability to litigate his statutory and constitutional  
5 claims---not to mention the fact that he fears for his life if removed to El Salvador.

6 The statutory right to file a motion to reopen grants more than the mere filing of a piece  
7 of paper. *See* Opp. to Pet’r’s Mot., p. 8, n.2. Instead, Congress created this right to preserve a  
8 remedy for individuals who have been ordered removed based on legal error. In these  
9 circumstances, the Suspension Clause requires that this Court retain habeas jurisdiction to prevent  
10 the Government from rendering the writ a nullity by removing Mr. Martinez Aleman before his  
11 claims are heard.

12 iii. The All Writs Act authorizes a TRO to preserve this Court’s jurisdiction  
13 and Petitioner’s access to counsel.

14 In the event that the arguments above are not persuasive, the All Writs Act provides that  
15 federal courts “may issue all writs necessary or appropriate in aid of their respective jurisdictions  
16 and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a). That includes authority  
17 to issue temporary orders preventing the government from undermining a court’s jurisdiction by  
18 transferring or removing a habeas petitioner before his claims can be adjudicated.

19 In *Cruz-Gamez v. Bondi*, No. 2:25-cv-02154-TMC, 2025 WL 3063253, at \*1 (W.D. Wash  
20 Nov. 3, 2025), the court assumed jurisdiction to issue a TRO in a habeas matter under the All  
21 Writs Act and the court’s “inherent authority and responsibility to protect the integrity of its  
proceedings,” which would be “undoubtedly impacted” by a transfer outside the district.

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1 The same reasoning applies here. A TRO temporarily barring Mr. Martinez Aleman's  
 2 removal and transfer is a modest, time-limited measure "in aid of" this Court's jurisdiction. It  
 3 ensures that Petitioner remains within the Court's territorial reach and able to communicate with  
 4 his attorneys while his habeas petition and the BIA proceedings are adjudicated. Without such  
 5 relief, the government can unilaterally moot the case and extinguish the Court's ability to grant  
 6 meaningful habeas relief.

7 ***B. The Hammer Declaration should be struck for factual inaccuracies.***

8 The Declaration of Mihaela Hammer should be struck because it is not a reliable source  
 9 of information for these proceedings.<sup>2</sup>

10 Listed below is a table of the discrepancies noted in the declaration and a citation to  
 11 contrary information included as an exhibit to this reply brief.

Hammer Decl. Paragraph	Actual Occurrence	Citation in the Record
¶ 7 "On September 9, 1989, form I589 was denied in that all forms of relief were denied and Petitioner was placed in deportation proceedings."	I-589, Applications for Asylum, are not denied until they get to immigration court. Instead, they are referred to the court for additional consideration. In any case, the INS issued an order to show cause and notice of hearing on September 8, 1989.	Exhibit A-1 (Tab B, Exhibit R-8, p. 35 of internal filing)
¶ 8 "On November 16, 1989, Petition[er] was ordered deported in absentia."	Petitioner's removal proceedings were administratively closed	Exhibit A-1 (Tab B, Exhibit R-10, p. 38 of internal filing)

20 <sup>2</sup> Mr. Martinez Aleman acknowledges that "Fourth Amendment claims are generally not  
 21 cognizable in federal habeas motions[.]" *Gates v. United States*, No. C20-0446-JCC, 2021 WL  
 5868118, at \*3 (W.D. Wash. Dec. 10, 2021) (citing *Newman v. Wengler*, 790 F.3d 876, 880 (9th  
 Cir. 2015). However, he has not had "a full and fair opportunity to litigate" this claim and must  
 do so here. *Id.*

1		without prejudice; no removal order was entered.	
2	¶ 9 “On January 4, 1990, Petitioner was ordered deported in absentia.”	Petitioner’s removal proceedings were administratively closed without prejudice; no removal order was entered.	Exhibit A-1 (Tab B, Exhibit R-12, p. 40 of internal filing)
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4			
5	¶ 17 “On July 14, 2009, Petitioner was ordered removed by an immigration judge with Mexico in the alternative. Petitioner was granted pre-conclusion voluntary departure and waived appeal.”	Mr. Martinez Aleman’s grant of voluntary departure did not convert into a removal order until he failed to leave before November 12, 2009.	Exhibit A-1 (Tab B, Exhibit R-23, p. 63 of internal filing)
6			
7			
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9	¶ 20 “On February 14, 2012, form I130 Petition for Alien Relative was filed for Petitioner by his spouse.”	Mr. Martinez Aleman’s oldest son filed a petition for him as the parent of a U.S. citizen.	Exhibit A-1 (Tab B, Exhibit R-26, p. 70 of internal filing)
10			
11	¶ 24 “On January 25, 2017, Petitioner filed form I212 Application to Reapply for Admission after Deportation or Removal.”	An I-212 receipt notice did not appear in a Freedom of Information Act request for Mr. Martinez Aleman, and he does not remember filing that form. Therefore, he is unable to confirm the existence of it.	
12			
13			
14	¶ 30 “On or about November 18, 2025, Petitioner was encountered by ICE agents when he reported to the Spokane, Washington ICE sub-office[.]”	ICE only “encountered” Mr. Martinez Aleman because he was attending a previously scheduled check-in. Throughout his time on the Order of Supervision, Mr. Martinez Aleman has been compliant and communicative with ICE agents and has not engaged in any illegal activity or otherwise encountered ICE outside of his scheduled check-ins.	
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1 Because significant and consequential details in Officer Hammer’s declaration are belied  
2 by the record, Mr. Martinez Aleman moves this Court to strike the contents of that declaration.

3 ***C. Mr. Martinez Aleman is likely to succeed on the merits.***

4 To obtain a TRO, a petitioner must show either (1) a likelihood of success on the merits,  
5 or (2) “serious questions going to the merits” and a balance of hardships that tips sharply in his  
6 favor, plus a likelihood of irreparable harm and public-interest support. *Alliance for the Wild*  
7 *Rockies*, 632 F.3d at 1131–35. Mr. Martinez Aleman satisfies this standard.

8 i. There are serious questions as to whether Mr. Martinez Aleman’s  
9 continued detention is lawful.

10 The Government insists that Mr. Martinez Aleman’s detention is straightforwardly  
11 authorized under 8 U.S.C. § 1231(a) because he has a final order of removal and ICE now plans  
12 to remove him “promptly.” But their own narrative underscores why there are, at a minimum,  
13 serious questions:

- 14 • Petitioner has resided in the United States for decades, with U.S. citizen family members  
15 here, and previously complied for years with an order of supervision.
- 16 • He has presented substantial new evidence and legal arguments—including ineffective  
17 assistance of prior counsel, his inability to read or write in any language, and changed  
18 conditions in El Salvador—via a motion to reopen and BIA appeal.
- 19 • ICE tolerated his presence in the community for years, only to terminate supervision and  
20 abruptly detain him at a routine check-in and schedule immediate removal while a motion  
21 to reopen is pending.

1           Moreover, it is not clear from the record whether ICE has complied at all with the  
2 regulatory requirements for revocation of release. 8 C.F.R. § 241.13(i) requires the government  
3 to follow certain procedures when revoking an order of supervision including notification of the  
4 reasons for the revocation. 8 C.F.R. § 241.13(i)(3). The notification that ICE gave Mr. Martinez  
5 Aleman provides no reasons for the revocation, no description of changed circumstances, and  
6 does not even “parrot[] the regulatory text governing re-detention[.]” *Roble v. Bondi*, No. 25-cv-  
7 3196-LMP-LIB, 2025 WL 2443453, at \*3 (D. Minn. Aug. 25, 2025); *see also* Exh. A-3 (Exhibit  
8 R-1, p. 485 of internal filing). The regulations require notifying the noncitizen what has changed  
9 that makes removal more likely in the foreseeable future. 8 C.F.R. § 241.13(i); *see also* 8 C.F.R.  
10 § 241.4(d) (“A decision to retain custody shall briefly set for the reasons for the continued  
11 detention.”). This does not appear to have occurred in this case.

12           Therefore, against this backdrop, Mr. Martinez Aleman’s detention is not a routine 90-  
13 day post-order detention. It is prolonged incarceration of a long-time resident who previously  
14 complied with supervision and who now raises serious statutory and constitutional claims. That  
15 raises at least “serious questions” as to whether his detention is reasonably necessary to effectuate  
16 removal and whether due process permits continued custody without a meaningful, individualized  
17 custody determination.

18           While the Government argues that removal here is “imminent,” that assertion is, at best,  
19 disputed. Petitioner has a pending motion to reopen raising substantial claims as to the validity of  
20 his removal order and his fear of persecution or torture if returned to El Salvador. His brief to the  
21 Board of Immigration Appeals is due in five days, demonstrating that a decision is likely to be

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1 made in the near future. Moss Decl., Exh. C. Moreover, while Mr. Martinez Aleman maintains  
2 his concerns about Officer Hammer’s declaration, if true, she claims that his passport has expired,  
3 so there is no guarantee that he will be permitted to board an airplane. Hammer Decl. ¶ 3. If the  
4 BIA grants reopening, removal may not be legally permissible; if it denies, Mr. Martinez Aleman  
5 will have the right to seek judicial review. The Government’s attempt to accomplish removal  
6 now—before the BIA and this Court can fully adjudicate those claims—creates serious questions  
7 about whether detention is “reasonably necessary” to achieve a lawful removal at all.

8 ii. Due process requires, at a minimum, an individualized custody  
9 determination in these circumstances.

10 Regardless of the statutory authority, if any, for Mr. Martinez Aleman’s detention, due  
11 process requires that noncitizens are not held for prolonged periods without an individualized  
12 determination of flight risk and danger, and with consideration of less restrictive alternatives. The  
13 Ninth Circuit has consistently recognized that immigration detention is subject to constitutional  
14 constraints, including individualized custody determinations. *See Hernandez*, 872 F.3d at 983–  
15 92.

16 Mr. Martinez Aleman, a long-time resident previously on an order of supervision, has not  
17 received a recent, constitutionally adequate custody hearing taking account of his current  
18 circumstances, including his extensive ties to Washington, his family, his compliance with prior  
19 supervision, and the availability of less restrictive alternatives. Instead, the Government asserts  
20 that his detention is simply mandated by the statute. There is no evidence that his detention is  
21 related to a lawful purpose such as preventing danger to the community or flight prior to removal.  
That position raises serious constitutional questions.

1 ***D. Mr. Martinez Aleman faces irreparable harm absent a TRO.***

2 The Government treats removal as if it were a routine administrative step that  
3 Mr. Martinez Aleman can simply challenge “from abroad.” That profoundly understates the harm.

4 First, removal to El Salvador presents the risk of persecution, torture, or other serious  
5 harm—injuries that are quintessentially irreparable. Courts have repeatedly recognized that  
6 wrongful removal to a country where a noncitizen fears persecution or torture is a paradigmatic  
7 irreparable injury. *See, e.g., Nken v. Holder*, 556 U.S. 418, 435 (2009) (acknowledging that “there  
8 is a public interest in preventing [noncitizens] from being wrongfully removed, particularly to  
9 countries where they are likely to face substantial harms”).

10 Second, removal will sever Mr. Martinez Aleman from his family and community in  
11 Washington and from his U.S.-based counsel, making it exceedingly difficult—if not practically  
12 impossible—to litigate his motion to reopen and habeas claims. Additionally, Mr. Martinez  
13 Aleman is unable to read or write in any language, significantly inhibiting his ability to work with  
14 U.S.-based counsel from abroad. The Government’s suggestion that he can simply continue those  
15 proceedings from abroad ignores the real-world obstacles: lack of access to counsel, time zones,  
16 poor telecommunications, and the psychological and physical effects of being returned to a  
17 country where he fears serious harm.

18 Third, besides these humanitarian concerns, Mr. Martinez Aleman will lose his statutory  
19 and constitutional rights to pursue relief because he will lose standing to adjudicate his motion to  
20 reopen and his eligibility for any relief as soon as he leaves the United States. *Lujan*, 504 U.S.  
21 555.

1 The Government offers no meaningful response to these harms. Instead, it emphasizes  
2 Mr. Martinez Alemans’s past mistakes and claim that he has “had multiple opportunities” for  
3 relief. This position fails to account for Mr. Martinez Aleman’s illiteracy, his numerous attempts  
4 to rectify his status, and his unknowing reliance on ineffective assistance of counsel. Additionally,  
5 a TRO analysis focuses on the harms *now*. The undisputed consequences of removal—risk of  
6 persecution, family separation, loss of access to counsel, and potential mooted of statutory and  
7 constitutional rights—satisfy *Winter*’s irreparable-harm requirement.

8 ***E. The balance of equities tips toward Mr. Martinez Aleman.***

9 Finally, the balance of equities and public interest strongly favor granting the requested  
10 TRO.

11 On Mr. Martinez Aleman’s side of the scale are:

- 12 • The risk of persecution, torture, or other severe harm in El Salvador;  
13 • The loss of long-standing ties to his family and community in Washington;  
14 • The practical impossibility of litigating his statutory and constitutional claims from  
15 abroad; and  
16 • The risk that his motion to reopen and habeas petition will be effectively mooted by  
17 removal.

18 On the Government’s side is, at most, a general interest in efficient enforcement of removal  
19 orders. But the requested TRO is narrow and time-limited: it would preserve the status quo only  
20 until the earlier of (1) this Court’s resolution of the habeas petition, or (2) the BIA’s adjudication  
21 of his motion to reopen and any attendant stay request, along with any subsequent review  
permitted by statute. Respondents do not claim that maintaining Mr. Martinez Aleman at NWIPC

1 for that limited period imposes any concrete hardship beyond the normal burdens of detention  
2 that they themselves have chosen to impose.

3 As the Supreme Court explained in *Nken*, the Government's interest in prompt removal is  
4 tempered by the strong public interest in avoiding wrongful removal, especially where the  
5 noncitizen plausibly faces significant harm. 556 U.S. at 435; *see also Sepulveda Ayala*, 794  
6 F. Supp. 3d at 904–06. That balance is especially clear here: a short delay to permit full  
7 consideration of serious statutory and constitutional claims is a modest burden compared to the  
8 potentially life-altering consequences of wrongful removal.

9 **III. Conclusion**

10 WHEREFORE, for the reasons set forth in his Petition for Writ of Habeas Corpus, and  
11 in this Motion the Petitioner respectfully requests this Court:

- 12 1. Grant this Emergency Motion for Temporary Restraining Order and Stay of  
13 Removal today;
- 14 2. Enter the Proposed Order Granting Petitioner's Emergency Motion for Temporary  
15 Restraining Order and Stay of Removal today;
- 16 3. Enjoin Respondents from removing Mr. Martinez Aleman from the United States  
17 pending further order of this Court;
- 18 4. Enjoin Respondents from transferring Petitioner from the Northwest ICE Processing  
19 Center or otherwise moving him outside this District while these habeas proceedings  
20 are pending;

- 1 5. Order Mr. Martinez Aleman's release during the pendency of these proceedings, or,  
2 in the alternative, order Respondents to show cause for Mr. Martinez Aleman's  
3 continued detention;
- 4 6. Issue an order providing for an award of attorney's fees and costs under the Equal  
5 Access to Justice Act at 28 U.S.C. § 2412, and on any other basis justified under the  
6 law; and
- 7 7. Grant such other and further relief as justice may require.

8 Dated: December 4, 2025

9  
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19 *I certify that this memorandum contains*  
20 *4,190 words in compliance with the Local*  
21 *Civil Rules*

**REPLY IN SUPPORT OF EMERGENCY MOTION  
FOR TEMPORARY RESTRAINING ORDER AND  
STAY OF REMOVAL  
(CASE NO. 2:25-cv-02346-JNW-MLP)**

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CERTIFICATE OF SERVICE

The undersigned hereby certifies I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

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Dated: December 4, 2025

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