

UNITED STATES DISTRICT COURT FOR
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JAQUELINE ROXANA MARQUEZ-
AMAYA,

Petitioner,

v.

Rose Thompson, Warden, Karnes County
Immigration Processing Center; **Miguel Vergara**,
Field Office Director of Immigration & Customs
Enforcement, Enforcement and Removal
Operations San Antonio Field Office, **Todd Lyons**, Acting Director, ICE, **Kristi Noem**,
Secretary of the U.S. Department of Homeland
Security; and **Pamela Bondi**, Attorney General of
the United States, in their official capacities,

Respondents.

Civil Action No.: 5:25-cv-01501

**PETITION FOR WRIT OF
HABEAS CORPUS**

**PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER OR, IN THE
ALTERNATIVE, FOR A PRELIMINARY INJUNCTION**

Petitioner Jaqueline Roxana Marquez-Amaya (Petitioner) files this motion requesting the Court's request for a temporary restraining order (TRO) or, in the alternative, for a preliminary injunction preventing her removal pending a final decision in her petition for a writ of habeas corpus.

Petitioner is a Salvadorian national presently detained by Respondents in Karnes County Immigration Processing Center in Karnes City. Mrs. Marquez-Amaya has been in ICE custody since November 20, 2025. On January 30, 2023, An Immigration Judge granted Mrs. Marquez-Amaya withholding of removal and protection under the Convention Against Torture (CAT), recognizing that she faces clear probability of torture if returned to El Salvador. Despite this protection order, ICE detained her without any lawful basis or foreseeable prospect of removal.

Mrs. Marquez Amaya is detained pursuant to 8 U.S.C. § 1231, which governs the detention of non-citizens with a final order of removal that has been withheld or deferred by an IJ. due to a substantial risk of persecution or torture in their home country. 8 U.S.C. §1231(a)(1)(B)(i). Mrs. Marquez-Amaya's removal order and accompanying relief grant became final when ICE failed to timely appeal her relief grant. 8 C.F.R. § 1241.1.

Mrs. Marquez Amaya's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because her removal is not reasonably foreseeable. She cannot be deported to her home country of El Salvador because she was granted protection under the Convention Against Torture (CAT) with respect to that country. 8 C.F.R. § 1208.17. ICE's half-hearted attempts to remove Mrs. Marquez Amaya to a random collection of unspecified alternative countries—to which she has no ties, and which have no policy or history of accepting non-citizen deportees—are speculative and futile.

Respondents' expressed intent to remove Petitioner is prohibited by federal law. Petitioner requests this Court's assistance to ensure that Respondents comply with federal law and prevent Petitioner's removal.

I. FACTUAL BACKGROUND

Petitioner came to the United States in 2013, She received (CAT) Convention Against

Torture on January 30, 2023, an Immigration Judge granted Petitioner withholding of removal under the Convention Against Torture (CAT), finding that she faces a substantial risk of torture if returned to El Salvador.

ICE officers took Petitioner into custody on November 20, 2025 and she is currently detained at Karnes County immigration processing center in Karnes City Texas.

Despite the CAT withholding order, ICE has continued to detain Petitioner, even though her removal is not reasonably foreseeable and no lawful basis exists for continued confinement. Harm from Detention: Petitioner's continued detention has caused significant physical and emotional hardship, interrupted her life with her spouse, and deprived her of her liberty without legal justification. Petitioner, through counsel, filed this pending Petition for Writ of Habeas on November 26, 2025.

ARGUMENT

Petitioner's detention is governed by federal law, including §§ 1226 and 1231, and by the Constitution's Fifth Amendment, which guarantees that no person shall be deprived of liberty without due process of law. under 8 U.S.C. § 1231(a)(1)(c), the government may not detain an individual indefinitely if removal is not reasonably foreseeable. in *Zadvydas v. Davis*, 533 u.s.678 (2001), the Supreme Court held that prolonged detention of noncitizens whose removal is not reasonably foreseeable violates the Constitution. individuals granted withholding of removal under the Convention Against Torture (CAT) cannot be lawfully removed to the country of concern, making detention without a lawful basis unlawful and indefinite.

Petitioner seeks this TRO to prevent her removal from the United States while her Petition is before this Court. To not allow her to remain in the United States during her proceedings is a direct violation of her right to Due Process.

Respondents have expressed their intent to remove Petitioner in violation of federal law. If removed, Petitioner will suffer irreparable harm if her removal is not enjoined. Respondents will suffer no harm since an order from this Court will simply instruct them to comply with federal law. Lastly, granting a TRO or preliminary injunction is in the public interest because it upholds the important principle that federal officers are bound to comply with the regulations that bind them. Accordingly, this Court should enter an order enjoining Respondents from executing Petitioner's removal order prior to her hearings and a final disposition in the case.

A. The Legal Standard for a Preliminary Injunction

A plaintiff is entitled to a preliminary injunction to preserve the status quo and prevent irreparable harm until the parties' rights can be determined at trial on the merits. *City of Dallas v. Delta Air Lines, Inc.*, 847 F.3d 279, 285 (5th Cir. 2017). The "status quo" sought to be restored is "the last peaceable uncontested status existing between the parties before the dispute developed." Charles Alan Wright & Arthur R. Miller, 11A FEDERAL PRACTICE & PROCEDURE § 2948 (3d ed. 2013). Thus, the status quo in this case means preventing Respondents from executing Petitioner's removal order..

To obtain a preliminary injunction, a plaintiff must show (1) a substantial likelihood of prevailing on the merits; (2) a substantial likelihood of irreparable injury if the injunction is not granted; (3) the threatened injury outweighs any harm that will result to the nonmovant if the injunction is not granted; and (4) the injunction will not disserve the public interest. *Winter v. Natural Resources Defense Council, Inc.*, 129 S.Ct. 365, 374 (2008). The first two factors, substantial likelihood of prevailing on the merits and of irreparable harm, are the most critical. *Nken v. Holder*, 556 U.S. 418, 434 (2009). In this circuit, the first factor, likelihood of success on the merits, is the most important. *Tesfamichael v. Gonzales*, 411 F.3d 169, 176 (5th Cir. 2005).

Further, “where there is a serious legal question involved and the balance of the equities heavily favors [an injunction], the movant only needs to present a substantial case on the merits.” *Lake Eugenie Land & Dev., Inc. v. BP Exploration & Prod. (In re Deepwater Horizon)*, 732 F.3d 326, 345 (5th Cir. 2013) (quoting *Weingarten Realty Investors v. Miller*, 661 F.3d 904, 910 (5th Cir. 2011)).

**B. Petitioner is entitled to a TRO and/or a Preliminary Injunction
Because Respondents’ threatened action violates federal law**

**1. Petitioner has a substantial likelihood of prevailing on the merits
of her case.**

Petitioner’s petition for writ of habeas only seeks to have her released while ICE officers seek to locate a third-party country that will receive her. She has no pending court case before the immigration courts. Furthermore, she has no fixed release date. Based on this argument and the arguments contained in her petition, Petitioner case has a substantial likelihood of success on the merits.

**2. Petitioner will suffer irreparable harm if Respondents are allowed
to execute her removal order**

Petitioner will suffer immediate and irreparable harm if Respondents execute her removal order at this time. As stated above, Respondent has a pending petition before this court and her right to due process merit that she stay in the country while her case is decided. To do so would case petitioner irreparable harm.

Additionally, Respondents’ refusal to conduct a lawful custody review or recognize Petitioner’s CAT protection deprives him of due process under the Fifth Amendment. Constitutional violations—particularly those involving physical liberty—are presumed to be

irreparable. The continuation of detention and the threat of an unlawful removal together create a degree of irreparable harm that no later court ruling can cure.

“In general, a harm is irreparable where there is no adequate remedy at law, such as monetary damages.” *Janvey v. Alguire*, 647 F.3d 585, 600 (5th Cir. 2000). No amount of money physically restores Petitioner’s status in the United States. If denied preliminary relief, Petitioner will suffer irreparable harm, namely the loss of her CAT Withholding, the ability to live with her family, and the opportunity to work in this country.

3. The Balance of Equities Tips Heavily in Favor of Petitioner and an Injunction is in the Public Interest

The threatened injury to Petitioner far outweighs any harm that will result to Respondents if the Court issues a TRO or an injunction. Further, the issuance of an injunction does not disserve the public interest but rather promotes it because it upholds the rule of law.

Petitioner is protected from removal. Her removal in violation of federal law will result in separation from her family, the loss of her lawful status and the opportunity to contest her removal. The resulting harms to the Defendants are nonexistent or at most minimal. They are simply held to the rule of law.

In addition, granting the injunction does not disserve the public interest but rather promotes it. It is in the public interest for government officials to comply with federal law. *MCR Oil Tools, L.L.C v. United States DOT*, 2024 U.S. App. LEXIS 14297 at *19 (5th Cir. June 12, 2024) (“There is a ‘substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.’”) (quoting *Texas v. United States*, 40 F.4th 205, 229 (5th Cir. 2022)). And in this case, the law is clear that Respondents have no authority to execute Petitioner’s removal order. Granting the injunction promotes the rule of law.

II. CONCLUSION

For the foregoing reasons, this Court should issue a restraining order or preliminary injunction and instruct Respondents to abstain from executing Petitioner's removal order.

Dated: November 26, 2025

Respectfully submitted,

s/ Stephen O'Connor

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CERTIFICATE OF SERVICE

On November 26, 2025, undersigned counsel served a copy of this motion on the U.S. Attorney for the Western District of Texas as required by serving one of his designated agents for service of process. In addition, undersigned counsel emailed this motion to Assistant U.S. Attorney Lacy McAndrew at to the following address: Lacy.McAndrew@usdoj.gov.

Dated: November 26, 2025

Respectfully submitted,

s/ Stephen O'Connor

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