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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA  
8 FRESNO DIVISION

9 Cristian Amaya-Quinteros,  
10  
11 Petitioner,

12 v.

13 CORECIVIC, INC., a Maryland corporation,  
14 operating the California City Detention  
15 Facility; Kristi NOEM, Secretary of the  
16 Department of Homeland Security; Pamela  
17 BONDI, U.S. Attorney General; in their  
18 official capacity; Moises BECERRA, in his  
19 official capacity as Field Office of  
20 Immigration and Customs Enforcement,  
21 Enforcement and Removal Operations.

22 Respondents.

Case Number: 1:25-cv-01672-WBS-AC(HC)

**MEMORANDUM OF LAW IN SUPPORT  
OF PETITIONER'S AMENDED  
PRELIMINARY INJUNCTION.**

**INTRODUCTION**

23 Petitioner was processed for expedited removal and referred to a credible fear interview  
24 in 2022, but was released by the Department of Homeland Security into the United States.  
25 Shortly after Petitioner's release, he applied for asylum with the United States Citizenship and  
26 Immigration Service and was granted special immigrant juvenile status, which places him on the  
27 path to lawful permanent resident status when a visa becomes available. Petitioner was  
28 summoned to a credible fear interview on November 24, 2025 at the San Francisco Asylum  
Office and taken into custody by Department of Homeland Security officials. He is being  
detained at the California City Correctional Facility.

1 Petitioner's expedited removal order was vacated by the Immigration Judge and he  
2 continues to be held without being noticed to appear for removal proceedings before an  
3 Immigration Judge or referral to the USCIS for an asylum interview. Petitioner is being held  
4 without bond.  
5

6 Petitioner respectfully requests this Court grant his preliminary injunction on the grounds  
7 that he will be irreparably injured by remaining in custody without an applicable charge of  
8 inadmissibility given that he was granted SIJ status that paroles him and makes inapplicable  
9 certain charges. The DHS's continued detention in disregard of statutory and regulatory  
10 processes violates the protections afforded to human trafficking victims under the William  
11 Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457,  
12 122 Stat. 5044, 5074 (2008), 8 U.S.C. section 1226(a), and the Due Process clause of the Fifth  
13 Amendment to the United States Constitution.  
14

#### 15 **STATEMENT OF FACTS**

16  
17 On November 11, 2021, Petitioner was encountered by Department of Homeland  
18 Security Officials in the locked cargo area of a U-Haul truck driven by a smuggler along  
19 Highway 35 in Laredo, Texas. (See Exh. A.)  
20

21 Petitioner was held for over two months until he was subsequently processed for  
22 expedited removal on January 26, 2022. (See Exh. B.) He was ordered removed under section  
23 235(b)(1) of the Immigration and Nationality Act for a period of five years. (See Exh. C.)  
24

25 However, the expedited removal order was not executed because, Petitioner expressed a  
26 fear of being returned to El Salvador. Based on his redacted FOIA records, it appears he attended  
27 a credible fear interview with the assistance of a Spanish interpreter before USCIS but the results  
28 are unknown. (See Exh. D.)

1 The outcome of the credible fear interview is unknown due to redactions in Petitioner's  
2 records. A search of the EOIR automated system did not reveal any scheduled removal  
3 proceedings before an Immigration Judge that would indicate a Notice to Appear had been issued  
4 under Section 240 of the Act, suggesting a positive determination was recorded and that the prior  
5 order was vacated. (See Exh. E.)  
6

7 On January 31, 2022, five days after his expedited removal order was issued, Petitioner  
8 was released into the United States by the DHS after being identified as having a chronic care  
9 condition. (See Exh. F.)  
10

11 On April 18, 2022, Petitioner applied for asylum with USCIS. (See Exh. G.)

12 On October 3, 2022, Petitioner submitted a petition for Special Immigrant Juvenile (SIJ)  
13 findings and appointment of a guardian in the California Superior Court in Alameda County.  
14 (See Exh. H.)  
15

16 The California Superior Court subsequently granted the guardianship and SIJ petitions.  
17 (See Exh. I.)

18 On October 22, 2022, Petitioner filed a Form I-360 petition for SIJ status with USCIS.  
19 (See Exh. J.)  
20

21 On June 27, 2023, Petitioner's SIJ application was granted, along with deferred action.<sup>1</sup>  
22 (See Exh. K.).  
23

24  
25 <sup>1</sup> USCIS, consistent with its discretionary authority to defer removal under Volume 6, Part J—  
26 “Special Immigrant Juveniles,” Chapter 4, Part G.1 (“Prior Grants of SIJ Deferred Action”),  
27 provides:

28 If USCIS previously granted deferred action to an alien with SIJ classification in the exercise of  
discretion, the alien's deferred action remains valid for the authorized period, unless terminated  
by USCIS on a case-by-case basis. USCIS will not consider requests for renewal of deferred  
action for aliens with SIJ classification who remain ineligible to apply for adjustment of status  
because an immigrant visa number is not immediately available.

1 Currently, only SIJs with priority dates (approval dates) before July 1, 2020 may file for  
2 adjustment of status to become lawful permanent residents.<sup>2</sup> (See Exh. L.).

3 As of September 2025, there were over 242,689 individuals, including Petitioner, with  
4 approved petitions waiting for visa availability.<sup>3</sup>

5  
6 On November 12, 2025, Petitioner received a notice scheduling him for a credible fear  
7 interview at the San Francisco Asylum Office. (See Exh. M.)

8 On November 24, 2025, Petitioner appeared for the scheduled credible fear interview.  
9 Following the interview, Petitioner was detained by DHS officials and transferred to California  
10 City Corrections Center, located at 22844 Virginia Boulevard, California City, CA 93505. (See  
11 Exh. N.)

12  
13 On December 3, 2025, the Immigration Judge vacated the Asylum Officer's negative  
14 credible fear finding and vacated the expedited removal order. (See Exh. O.) The same day the  
15 USCIS decided to terminate Petitioner's deferred action granting him work authorization despite  
16 finding his application still approved. (See Exh. P.)

17  
18 On December 10, 2025, Petitioner moved the Immigration Court in Adelanto, California  
19 for a bond redetermination hearing, but does not expect that it will be successful as undersigned  
20 counsel has recently had an IJ deny a motion for bond redetermination based on their adherence  
21 to the Board of Immigration Appeals decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216  
22 (BIA 2025) and defiance to the U.S. District Court's decision in *Lazaro Maldonado Buatista, et*  
23 *al v. Ernesto Santacruz, Jr., et al.*, 5:CV-01873-SSS-BFM (C.D. Cal.) (See Exh. Q "Motion for  
24 Bond Redetermination" and Exh. R "Immigration Judge Decision Finding No Jurisdiction).  
25

26  
27 <sup>2</sup> U.S. Department of State, Visa Bulletin, Number 8, Volume XI, Washington, D.C. found at  
[https://travel.state.gov/content/dam/visas/Bulletins/visabulletin\\_November2025.pdf](https://travel.state.gov/content/dam/visas/Bulletins/visabulletin_November2025.pdf)

28 <sup>3</sup> See USCIS Immigration and Citizenship Data, Form I-140, I-360, I-526, Approved  
Employment-Based Petitions Awaiting Visa Availability found at  
<https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data>.

1 *Matter of Yajure Hurtado* deprives Immigration Judge’s of jurisdiction to entertain bond  
2 redetermination motions for any aliens present in the United States without admission – even  
3 those who are detained pursuant to the discretionary procedures for interior arrests pursuant to 8  
4 U.S.C. § 1226(a). *Matter of Yajure Huartado*, 29 I&N Dec. at 219-220.  
5

6 Petitioner is being held in conditions that are inhumane and unjustified. (Exh. S  
7 “Declaration”).

### 8 ARGUMENT

9 A TRO and a preliminary injunction are both extraordinary remedies. In general,  
10 “[t]emporary restraining orders are governed by the same standard applicable to preliminary  
11 injunctions.” *Aiello v. One West Bank*, No. 2:10-cv-0227-GEB-EFB, 2010 WL 406092, at \*1  
12 (E.D. Cal. Jan. 29, 2010) (internal citations omitted); *see also* E.D. Cal. L.R. 231(a).  
13

14 For both a TRO and a preliminary injunction, courts consider whether Petitioner has  
15 established: “[1] that he is likely to succeed on the merits, [2] that he is likely to suffer  
16 irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his  
17 favor, and [4] that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*,  
18 555 U.S. 7, 20 (2008). Petitioner must “make a showing on all four prongs” of  
19 the *Winter* test. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). In  
20 evaluating a petitioner's motion, a district court may weigh petitioner's showings on  
21 the *Winter* elements using a sliding-scale approach. *Id.* A stronger showing on the balance of the  
22 hardships may support issuing a preliminary injunction even where the petitioner shows that  
23 there are “serious questions on the merits ... so long as the [petitioner] also shows that there is a  
24 likelihood of irreparable injury and that the injunction is in the public interest.” *Id.* Simply put,  
25 Petitioner must demonstrate, “that [if] serious questions going to the merits were raised [then]  
26  
27  
28

1 the balance of hardships [must] tip[ ] sharply” in Petitioner's favor in order to succeed in a  
2 request for a preliminary injunction. *Id.* at 1134–35.

3 **A. Petitioner is Likely to Succeed on the Merits.**

4  
5 Petitioner is currently detained well beyond the 90-day removal period under 8 U.S.C. §  
6 1231(a)(1)(A). There is no evidence that he poses a danger to the community, a risk of flight or a  
7 threat to property. The government has not demonstrated that removal is reasonably foreseeable  
8 because he has been granted special immigrant juvenile status that makes inapplicable all  
9 grounds of inadmissibility relating to expedited removal and paroles him for the purposes of  
10 adjustment of status.  
11

12 Petitioner’s visa is caught up in the backlog of SIJ-based adjustment applications  
13 currently at 242,689 as of the third quarter of 2025. Petitioner’s deferred action, SIJ status, and  
14 visa backlog demonstrates that removal is not imminent if his adjustment of status application  
15 were to be denied years from now. Continued detention in these circumstances is therefore  
16 unreasonable.  
17

18 Petitioner has also been granted special immigrant juvenile status and can be paroled for  
19 adjustment of status because he is no longer inadmissible under (6)(C) or (7)(A), of section  
20 1182(a). The Department of Homeland Security violated 8 U.S.C. § 1255(h)(2) by detaining him  
21 pursuant to the expedited removal order even though his inadmissibility under (6)(C) or (7)(A),  
22 of section 1182(a) no longer apply. 8 U.S.C. § 1255(h)(2)(A).  
23

24 **B. Plaintiff has suffered and will continue to suffer irreparable harm.**

25 The private interest at stake—the freedom from physical restraint—is the most  
26 fundamental liberty interest recognized in American law Few rights in our constitutional system  
27 are more fundamental than the right to be free from physical confinement. “Freedom from bodily  
28

1 restraint has always been at the core of the liberty protected by the Due Process Clause.” *Kansas*  
2 *v. Hendricks*, 521 U.S. 346, 356 (1997). The Supreme Court has long recognized that “Liberty  
3 under the Due Process Clause includes protection against unlawful or arbitrary personal restraint  
4 or detention.” *Zadvydas v. Davis*, 533 U.S. 678, 718 (2001)(citations omitted).

5  
6 The liberty interest here is not theoretical and not attenuated—Petitioner is a young SIJS  
7 recipient who has lived in the United States for four years, has deep community ties, has been on  
8 a congressionally-created path to lawful permanent residence, and was abruptly seized and  
9 placed into jail despite having no current charges of inadmissibility and no pending lawful  
10 removal process. He is not serving a sentence. He is not charged with any offense. He is held  
11 solely at the discretion of the agency that revived a defunct process that Congress never  
12 authorized to be reopened.  
13

14 This type of liberty deprivation is the paradigmatic form of irreparable harm. Every  
15 additional day Petitioner spends in confinement deepens that harm.  
16

17 Petitioner’s individual circumstances heighten the liberty interest far beyond the typical  
18 detainee. Several factors amplify the severity of the harm here:

19 1. He is a Special Immigrant Juvenile (SIJ)—Congress created SIJS  
20 precisely to protect abused and abandoned youth from dangerous environments and to  
21 place them on a “clear path to lawful permanent residency.” Detaining an SIJS recipient  
22 in prison-like conditions runs directly counter to the statutory scheme and intensifies the  
23 liberty deprivation.  
24

25 2. He was living freely for nearly four years in the United States applying for  
26 asylum, and preparing for an adjustment application. He built a life during that period of  
27 release under § 1226(a). His sudden re-incarceration creates a whiplash, destabilizing  
28

1 intrusion into his liberty that is far greater than for someone who has been recently  
2 apprehended at the border.

3 3. He is being held under conditions that are harsh, inhumane, and unsafe,  
4 including the physical and mental toll described in his declaration.

5  
6 4. He is not removable in the reasonably foreseeable future, because—by  
7 statute—his SIJS grant renders him paroled for adjustment and removes the  
8 inadmissibility grounds. With over 242,000 SIJS beneficiaries awaiting visa availability,  
9 his removal is not just unlikely—it is legally impossible until years in the future.

10  
11 Detention during this multi-year limbo creates precisely the irreparable liberty harm the  
12 Supreme Court confronted in *Zadvydas*.

13 No post-hoc remedy can compensate for unlawful detention. Even if Petitioner were  
14 eventually released, there is no retroactive cure for the months spent incarcerated without lawful  
15 authority. Courts uniformly treat unlawful detention as per se irreparable because there is no  
16 damages remedy against the federal government for wrongful immigration detention.

17  
18 Petitioner will suffer irreparable harm for which there is no adequate remedy at law  
19 because his removal to El Salvador prevents him from filing for adjustment of status. Adjustment  
20 of status is available only to noncitizens physically present in the United States. *See* 8 U.S.C. §  
21 1255(a); 8 U.S.C. § 245.2(a)(1); U.S. Citizenship & Immigr. Servs., Form I-485 Instructions at 2  
22 [You must be **physically present** in the United States to file this application]. If Petitioner is  
23 removed to El Salvador, the Attorney General is the only authorized official who could, in their,  
24 unreviewable discretion grant or deny him parole to complete the adjustment of status process in  
25 the United States. 8 U.S.C. § 1252(a)(2)(B)(ii), INA § 212(d)(5)(A), 8 C.F.R. § 212.5(a). Given  
26  
27 Petitioner's prima facie eligibility for adjustment of status based on his approved special  
28

1 immigrant juvenile status application, it seems unlikely that the DHS’s current removal efforts  
2 will be reversed by a grant of parole years from now when his visa becomes available

3  
4 The Government has no legitimate interest in detaining a person without statutory  
5 authorization, without a warrant, and without a viable removal path. The Supreme Court has held  
6 repeatedly that the government “cannot suffer harm from an injunction that merely ends an  
7 unlawful practice.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013).

8  
9 In contrast, Petitioner suffers the gravest harm recognized by the Constitution: the loss of  
10 physical liberty. He faces continued incarceration in harsh facility conditions, separation from his  
11 guardian, disruption of medical care, and a complete halt to his SIJS-based path toward lawful  
12 permanent residency. The equities could not be more lopsided.

13  
14 **D. Petitioner is at imminent risk of removal justifying an ex parte temporary**  
15 **restraining order.**

16 The public interest is always served when the Government adheres to the Constitution  
17 and follows the detention procedures Congress enacted. The public also has a compelling interest  
18 in ensuring that SIJS youth—those whom Congress specifically sought to protect from  
19 exploitation and instability—are not subjected to arbitrary and unauthorized incarceration.

20  
21 An injunction here does not require the Court to adjudicate Petitioner’s immigration  
22 claims. It requires only that DHS follow the law and refrain from detaining individuals without  
23 statutory authority.

24 Date: December 10, 2025

25 Respectfully Submitted,  
26 /s/ Mario Salgado  
27 Mario Salgado, Esq.  
28 SALGADO & PERALTA, P.A.

**CERTIFICATE OF SERVICE**

I, Mario Salgado, am over the age of 18 years and maintain a business address located at 605 Market Street Suite 1111 in San Francisco, California 94105. I mailed the **MEMORANDUM OF LAW IN SUPPORT OF PETITIONER'S AMENDED PRELIMINARY INJUNCTION** to:

1. **CORECIVIC, INC.** Attn: Amanda Garcia, Registered Corporate Agent  
Authorized Employee, located at 330 N. Brand Blvd, Glendale, CA 94103
2. **Kristi NOEM**, Secretary of the Department of Homeland Security, Office of the General Counsel; U.S. Department of Homeland Security; 245 Murray Lane, SW; Mail Stop 0485; Washington, D.C. 20258-0485.
3. **Pamela BONDI**, U.S. Attorney General, U.S. Department of Justice; 950 Pennsylvania Avenue, NW; Washington, D.C. 20530-0001
4. **Civil Process Clerk & United States Attorney's Office for the Eastern District of California**; 2500 Tulare Street, Suite 4401, Fresno, CA 93721.
5. **Moises BECERRA**, Field Office of Immigration and Customs Enforcement, Enforcement and Removal Operations, Department of Homeland Security, Office of the General Counsel; U.S. Department of Homeland Security; 245 Murray Lane, SW; Mail Stop 0485; Washington, D.C. 20258-0485.

I also electronically filed the above referenced document to the court's filing system.

I swear under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

Date: November 29, 2025

/s/ Mario Salgado  
Mario Salgado, Esq.