

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

EMMANUEL DE JESUS SANDOVAL-
SALINAS,

Petitioner,

v.

Bobby Thompson, Warden, South Texas ICE
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.: 25-CV-01624

**PETITION FOR WRIT OF
HABEAS CORPUS**

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

Petitioner Emmanuel De Jesus Sandoval-Salinas (Petitioner) files this motion requesting the Court's request for a temporary restraining order (TRO) or, in the alternative, for a preliminary injunction preventing his removal pending a final decision in his petition for a writ of habeas corpus.

Petitioner is a Nicaraguan national presently detained by Respondents in The South Texas ICE Processing Center in Pearsall, Texas. Mr. Sandoval-Salinas has been in ICE custody since November 25, 2025. On February 28, 2023, An Immigration Judge granted Mr. Sandoval-Salinas withholding of removal and protection under the U.S. Immigration and Nationality Act (INA), recognizing that he faces clear probability of torture if returned to Nicaragua. Despite this protection order, ICE detained him without any lawful basis or foreseeable prospect of removal.

Mr. Sandoval-Salinas 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). Mr. Sandoval-Salinas removal order and accompanying relief grant became final when ICE failed to timely appeal his relief grant. 8 C.F.R. § 1241.1.

Mr. Sandoval-Salinas 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 his removal is not reasonably foreseeable. He cannot be deported to his home country of Nicaragua because he was granted protection under the Immigration and Nationality Act (INA) with respect to that country. 8 C.F.R. § 1208.17. ICE's half-hearted attempts to remove Mr. Sandoval-Salinas to a random collection of unspecified alternative countries—to which he 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 2018, He received (INA) Immigration and

Nationality Act on February 28, 2023, an Immigration Judge granted Petitioner withholding of removal under the Convention Against Torture (CAT), finding that he faces a substantial risk of torture if returned to Nicaragua.

ICE officers took Petitioner into custody on November 25, 2025 and he is currently detained at The South Texas ICE Processing Center in Pearsall, Texas.

Despite the INA withholding order, ICE has continued to detain Petitioner, even though his 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 his life with his spouse, and deprived him of his liberty without legal justification.

Petitioner, through counsel, filed his pending Petition for Writ of Habeas on December 03, 2025 and is pending before this Court.

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 Immigration and Nationality Act (INA) cannot be lawfully removed to the country of concern, making detention without a lawful basis unlawful and indefinite.

Petitioner seeks this TRO to prevent his removal from the United States while his Petition is before this Court. To not allow him to remain in the United States during his proceedings is a direct violation of his 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 his 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 his 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. 20217). The "status quo" sought to be restored is "the last peaceable uncontested status existing between the parties before the disputed 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 his case.**

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

**2. Petitioner will suffer irreparable harm is Respondents are allowed
to execute his removal order**

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

Additionally, Respondents' refusal to conduct a lawful custody review or recognize Petitioner's INA 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 his INA Withholding, the ability to live with his 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's removal in violation of federal law will result in separation from his family, the loss of his lawful status and the opportunity to contest his 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: December 03, 2025

Respectfully submitted,



John F. Waldron, Attorney at Law
3201 Cherry Ridge, Suite A-109
San Antonio, Texas 78230
(210) 838-1704
(210) 521-5755 Fax
jwaldron@jfwlawfirm.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

On December 03, 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.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John F. Waldron', with a horizontal line extending to the right.

John F. Waldron, Attorney at Law
3201 Cherry Ridge, Suite A-109
San Antonio, Texas 78230
(210) 838-1704
(210) 521-5755 Fax
jwaldron@jfwlawfirm.com
Counsel for Petitioner