

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA**

ZU PING CHEN
A# 

Petitioner,

vs.

MELLISSA B. HARPER, Field Office Director
New Orleans Field Office, and
TODD LYONS, *in his official capacity as Acting
Director of Immigration and
Customs Enforcement*, and
KRISTI NOEM, *Secretary of Homeland Security*,
and PAMELA BONDI, *U.S. Attorney General*

Respondents.

Case No.: 3:25-cv-00970

**PETITIONER’S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION**

I. INTRODUCTION

COMES NOW Petitioner, Zu Ping CHEN, by and through counsel, and pursuant to Federal Rule of Civil Procedure 65, hereby files this Motion for Temporary Restraining Order and Preliminary Injunctive Relief against Respondents, and states as follows in support thereof:

Petitioner hereby incorporates all contents of the Writ of Habeas Complaint, ECF 1, into this motion. Petitioner hereby requests the Court to issue a Temporary Restraining Order and/or Preliminary Injunction, pursuant Fed. R. of Civ. P. 65, to “prevent irreparable injury so as to preserve the court’s ability to render a meaningful decision on the merits,” and “to insure that a remedy will be available.” *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 24 (2008). See also *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974)). This emergency TRO is required to “prevent

irreparable injury so as to preserve the court's ability to render a meaningful decision on the merits," and "to insure that a remedy will be available." *U.S. v. State of Ala.*, 791 F.2d 1450, 1459 (11th Cir. 1986), *citing Corrigan Dispatch Co. v. Casa Guzman, S. A.*, 569 F.2d 300, 302 (5th Cir. 1978). The Eleventh Circuit also recognizes the principle of restoring the status quo ante as a form of equitable relief. *See Lewis v. Federal Prison Industries, Inc.*, 953 F.2d 1277, 1286 (11th Cir. 1992) (an employer's discriminatory acts disable an employee, he/she may seek equitable relief, including changes in working conditions, to restore the status quo ante).

II. GROUNDS FOR EX PARTE RELIEF

Petitioner seeks a TRO on an **ex parte** basis because immediate and irreparable injury will occur before Respondents can be heard in opposition. Specifically, Petitioner has an ICE Order of Supervision (OSUP) reporting appointment scheduled for the morning of December 16, 2025, at 7:00 a.m. in the ICE Office in Montgomery, Alabama. Once attending, he is all but guaranteed to be detained. See Complaint, ECF Dkt. 1 and Exhibit Attorney Declaration ECF Dkt. 1-3. Petitioner will then be moved outside the immediate jurisdiction of this Court, and the government will be able to move him further, thereby frustrating this Court's ability to grant effective relief on the pending habeas petition. The risk of irreparable harm is not speculative: the loss of liberty, separation from U.S. citizen children, and the potential for removal or transfer to a remote facility without Due Process are injuries that cannot be remedied by money damages or subsequent proceedings.

Federal Rule of Civil Procedure 65(b)(1) authorizes the Court to issue a TRO without notice to the adverse party only if:

1. It clearly appears from specific facts shown by affidavit or verified complaint that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
2. The movant's attorney certifies in writing any efforts made to give notice and the reasons why notice should not be required.

Here, Petitioner's counsel certifies that, due to the imminent detention of Petitioner on Monday, December 16, 2025 and quick transfer of detainees outside of the district to detention centers in Louisiana and Texas and the high risk that Respondents could move Petitioner outside this Court's jurisdiction or effectuate removal before a hearing can be held, notice is not feasible without risking the very harm the TRO is intended to prevent. Courts have repeatedly recognized that ex parte TROs are appropriate where, as here, notice would enable the government to take irreversible action before the court can intervene, thus defeating the purpose of the requested relief. See *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423, 438-39 (1974).

Petitioner faces not only the loss of liberty, but also the risk of being moved to a location where access to counsel, family, and the court is severely restricted, or of being removed from the United States altogether. These are precisely the types of irreparable injuries that justify ex parte relief under Rule 65(b).

Any harm to Respondents from granting the TRO is negligible, as the relief sought does not impose new duties but merely compels adherence to their own binding regulations and constitutional mandates. The injunction would require Respondents to provide Petitioner with a pre-deprivation hearing prior to any OSUP revocation and re-detention and prohibit his transfer from the district, thereby preserving this Court's jurisdiction to adjudicate the merits of his claim. The injunction is required because ICE is currently routinely failing to follow its own binding

regulations and constitutional mandates so the TRO is required to compel them to do so in Petitioner's case.

III. FACTUAL AND LEGAL BASIS FOR RELIEF

Petitioner is a long-term resident of the United States, married to his wife and their two U.S. citizen children, and has established deep family and community ties. In total, he has resided in the United States for over twenty-five years. He is at risk of imminent detention December 16 due to ICE indiscriminately revoking OSUPs for almost all who come to report and have final orders of removal.

As Petitioner has been complying with the terms of his OSUP and does not have any civil or criminal violations, Petitioner's detention is not supported by any finding of changed circumstances, OSUP violation on his part, flight risk or danger to the community. Petitioner's detention, transfer or removal would cause irreparable harm, including loss of liberty, family separation, and the inability to pursue his claims in this Court.

IV. NECESSITY OF EX PARTE RELIEF

Ex parte relief is necessary and just in this case because:

- Petitioner is scheduled for imminent detention and transfer, and notice to Respondents would likely result in his removal from this Court's jurisdiction before the Court can act. Petitioner is scheduled to attend an OSUP reporting on December 16, 2025 in the morning.
- The harm—loss of liberty, family separation, and potential removal—is immediate and irreparable.
- There is no adequate remedy at law; once Petitioner is transferred or removed, the Court's ability to grant effective relief will be irretrievably lost.

- The balance of equities and the public interest favor immediate intervention to preserve the status quo and prevent irreparable harm, especially where the government's actions are alleged to be unlawful and contrary to due process.

Petitioner's counsel certifies that, under these circumstances, notice should not be required because delaying a decision will precipitate the very harm the TRO is intended to prevent.

Despite previously being released by ICE/DHS on or around 2003 on an Order of Supervision (OSUP), fully complying with that order to date (approximately 22 years later) and complying with Immigration Court hearings and orders, is currently threatened with re-detention in his upcoming OSUP reporting Tuesday, December 16, 2025. In fact, last year in 2024, Petitioner's OSUP was revoked without Due Process and without notice when he went to report to the ICE office. He was re-detained and put in a vehicle on the way to Louisiana when a car accident happened and he suffered injuries and after medical treatment was released. Petitioner was given another OSUP in 2024, he remains under that OSUP, fully complying with all requirements, and not being a danger to the community nor a flight risk. Petitioner faces imminent deprivation of liberty and separation from his family. Because no administrative remedy exists to force Respondents to maintain Petitioner under his current OSUP, judicial intervention is necessary at this time to prevent irreparable harm.

If unrestrained, Respondents will insulate their unlawful actions from judicial review, leaving Petitioner confined indefinitely without lawful basis to revoke his OSUP and unable to work, care for himself or for his family, which includes a wife and two U.S. citizen children. Because ICE in the past few months has been unlawfully violating noncitizens' constitutional and regulatory rights by unilaterally cancelling or revoking OSUPs all over the country despite full compliance with the terms, this Emergency Motion for Temporary Restraining Order and/or

Preliminary Injunction is necessary, just, and of an imminent nature prior to Petitioner's next reporting date on December 16, 2025. In addition, there is no remedy at law that can adequately compensate Petitioner for the consequences of the imminent revocation and re-detention, including separation from his family, deterioration of his mental and physical health, loss of employment eligibility, and interference with his ability to continue supporting his family. Every day that Petitioner's OSUP status is unlawfully altered will cause irreparable harm, deprives Petitioner of liberty in violation of the Constitution, and frustrates the statutory framework that governs the supervision and revocation of the OSUP.

Through the instant Motion, Petitioner seeks to order to maintain his status under the OSUP or restrain Respondents from imminently unlawfully detaining him or altering the status quo in any way (such as putting him on an ankle monitoring device) and to preserve the status quo ante while this Court considers the merits of this Writ of Habeas Corpus. Specifically, Petitioner asks this Court to order Respondents to maintain Petitioner under the terms of Petitioner's *existing* OSUP, to prevent any unlawful action to revoke it, including modifying Petitioner's current reporting circumstances.

This Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction is necessary, just, and of an imminent nature because DHS through ICE is attempting to alter Petitioner's status contrary to law and the U.S. Constitution which will cause Petitioner significant hardships and harm. Petitioner's continued uncertainty regarding his status is justifying the need for Court intervention to prevent irreparable harm. In addition, there is no remedy at law that can adequately compensate Petitioner for the consequences of the imminent unlawful revocation and if continued could lead to irreversible impacts.

Immediate injunctive relief is essential because Petitioner has a substantial likelihood of success on the merits of the complaint; Petitioner will suffer irreparable harm in the absence of injunctive relief; there is no adequate remedy available at law; the balance of hardships favor Petitioner, and the requested injunctive relief will not harm the public interest. The facts and legal arguments supporting this motion are set forth in detail Petitioner's Memorandum of Authorities in Support of Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction filed contemporaneously herewith.

Should Respondents' unlawfully cancel his OSUP and detain Petitioner, Petitioner will lose his ability to maintain a current status under the OSUP; lose ability to work and support family; and continue to be separated from family. Petitioner also faces ongoing harms to health and safety if incarcerated. These harms include the loss of liberty itself, which gives rise to a Due Process claim, and injury to Petitioner's fundamental interest in family unity. This loss will cause tremendous hardship to Petitioner and Petitioner's family and frustrates the statutory scheme that entrusts detention of noncitizens and unilaterally revoking Orders of Supervision. The basis for this Motion is set forth in the attached Memorandum of Authorities.

The habeas statute at 8 U.S.C. § 2243 outlines the procedure for handling petitions for writs of habeas corpus. It mandates that the court must either grant the petition or issue an order to show cause "forthwith," unless the Petitioner is not entitled to relief. If an order to show cause is issued, **the Respondents are required to file a return within three days.**

V. CONCLUSION AND PRAYER FOR RELIEF

Immediate injunctive relief is essential because Petitioner has a substantial likelihood of success on the merits of the complaint; Petitioner will suffer irreparable harm in the absence of injunctive relief; there is no adequate remedy available at law; the balance of hardships favor Petitioner, and the requested injunctive relief will not harm the public interest. The facts and legal arguments supporting this motion are set forth in detail Petitioner's Memorandum of Authorities in Support of Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction filed contemporaneously herewith.

Other Courts granted nearly identical relief in nearly identical circumstances, including in one case for undersigned counsel.

WHEREFORE, for the reasons set forth in the accompanying brief, Petitioner respectfully prays that the Court grant his Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction through which he requests the Court issue the following orders:

1. A Preliminary and Permanent Injunction ordering Respondents to comply with the law, specifically by: (a) Enjoining Respondents from altering or revoking Petitioner's Order of Supervision (OSUP) without first complying with **all** the mandatory procedural requirements of 8 C.F.R. §§ 241.4, 241.13, and the Due Process Clause of the Fifth Amendment. (b) Mandating that any future attempt to deprive Petitioner of his liberty be preceded by (i) advance, individualized written notice of the factual and legal grounds for the action, and (ii) a pre-deprivation hearing before a neutral decision-maker as specified in these regulations.

2. **Enjoin Respondents from transferring Petitioner** outside of this judicial district while this action is pending, under the All Writs Act, thereby preserving this Court's habeas jurisdiction under 28 U.S.C. § 2241 and its ability to grant a final remedy.
3. **Schedule an emergency hearing** on Petitioner's motion at the earliest practicable time and permit remote participation of counsel;
4. Issue an Order to Show Cause, **returnable within three (3) days, requiring Respondents to demonstrate the legality of Petitioner's detention and show cause why the Writ of Habeas Corpus should not be granted.**
5. **Grant such other and further relief as the Court deems just and proper.**

Respectfully Submitted,

This 11th day of December, 2025.

/s/ Karen Weinstock
Karen Weinstock
Attorney for Petitioner, Pro Hac Vice
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com

CERTIFICATE OF SERVICE

I certify that on December 11 2025, I electronically filed the foregoing Document with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to Respondents' attorney(s) of record.

/s/ Karen Weinstock
Karen Weinstock
Attorney for Petitioner, Pro Hac Vice
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com