

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

**BRAYAN DAVID MACHUCA-
MEJIA,**

Petitioner,

v.

MARY DE ANDA YBARRA, in her Official capacity as, Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement, and Removal Operations;
JOHN DOE, in his official capacity as Warden of the El Paso service Processing Center (El Paso Camp East Montana);
KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security;
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
PAMELA BONDI, in her official capacity as Attorney General of the United States;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE); EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.

Respondents-Defendants.

**PETITION FOR A WRIT OF
HABEAS CORPUS**

Case No.: 3:25-cv-00641-DCG

MOTION FOR TEMPORARY RESTRAINING ORDER

Petitioner Brayan David Machuca-Mejia by and through undersigned counsel, respectfully move this Court, pursuant to Federal Rule of Civil Procedure 65, 28 U.S.C. §§ 2241 and 2243, and

the All Writs Act, 28 U.S.C. § 1651, for a temporary restraining order (“TRO”) and, after further proceedings, a preliminary injunction.

Petitioner seeks narrowly tailored relief prohibiting Respondents and those acting in concert with them from transferring him outside the Western District of Texas, El Paso Division, or removing him from the United States, while his habeas petition is pending. Petitioner further seeks an order requiring Respondents either to provide him with an individualized custody hearing before a neutral adjudicator under the correct statutory authority, or to release him under appropriate conditions of supervision. In support, Petitioner states as follows:

I. BACKGROUND AND INCORPORATION OF PETITION

1. Petitioner has contemporaneously filed a Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief (“Petition”) challenging the legality of his continued civil immigration detention. The Petition is incorporated herein by reference as though fully set forth.
2. In brief, Petitioner is a 23-year-old citizen of Colombia who entered the United States on or about May 20, 2023, was paroled into the country on June 4, 2023, and has lived with his mother and U.S. citizen stepfather at a fixed address in Miami, Florida. He has no criminal convictions and a single arrest for a July 18, 2025 traffic-related incident in Miami, after which he was taken directly into ICE custody and transferred to El Paso Camp East Montana, where he has been detained since July 18, 2025.
3. Petitioner is in INA § 240 removal proceedings and has a pending asylum application. On October 15, 2025, an Immigration Judge denied his request for bond solely on the basis of “no jurisdiction,” relying on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025),

and *Matter of M-S*, 27 I. & N. Dec. 509 (A.G. 2019), and made no individualized findings regarding danger, flight risk, or less restrictive alternatives to detention.

II. JURISDICTION, VENUE, AND AUTHORITY

4. This Court has jurisdiction over Petitioner's habeas petition under 28 U.S.C. §§ 2241 and 2243 because he is in federal immigration custody within this District and challenges that custody as unlawful under the Constitution and laws of the United States.
5. The Court also has jurisdiction pursuant to 28 U.S.C. § 1331, because this action arises under federal law, including the INA and the Due Process Clause of the Fifth Amendment, and under 28 U.S.C. §§ 2201–2202, which authorize declaratory and further necessary relief.
6. The All Writs Act, 28 U.S.C. § 1651(a), and the Court's inherent equitable powers authorize orders necessary to preserve its jurisdiction and to ensure meaningful judicial review, including temporary restraints on transfer or removal of a habeas petitioner.
7. Venue is proper in the Western District of Texas, El Paso Division, under 28 U.S.C. § 1391(e) because Petitioner is detained at El Paso Camp East Montana in El Paso County, Texas, and his immediate custodian and relevant ICE officials are located within this Division.

III. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

8. A temporary restraining order and preliminary injunction are appropriate to preserve the status quo and prevent irreparable harm pending resolution of the merits. See Fed. R. Civ. P. 65.

9. In the Fifth Circuit, a party seeking such relief must demonstrate: (1) a substantial likelihood of success on the merits; (2) a substantial threat of irreparable harm if the injunction is not granted; (3) that the threatened injury outweighs any harm the injunction may cause the opposing party; and (4) that the injunction will not disserve the public interest. The same standard governs both TROs and preliminary injunctions.
10. Petitioner satisfies all four requirements.

IV. ARGUMENT

A. Petitioner is likely to succeed on the merits

11. Petitioner's habeas petition presents substantial constitutional and statutory claims. In particular, he challenges (1) the use of 8 U.S.C. § 1225(b)(2)(A) to treat him as subject to mandatory detention even though he is in § 240 removal proceedings, and (2) the Immigration Judge's refusal to exercise bond jurisdiction, which has resulted in months of detention without any individualized custody determination.
12. The Fifth Amendment's Due Process Clause applies to all persons in the United States, including noncitizens regardless of status. Freedom from physical restraint lies at the core of the liberty the Clause protects. When civil detention no longer bears a reasonable relation to permissible purposes such as preventing flight or protecting the community it raises serious due process concerns.
13. Under the familiar test in *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court considers: (1) the private interest affected; (2) the risk of erroneous deprivation under existing procedures and the probable value of additional safeguards; and (3) the government's interest and the burdens of additional procedures.

14. All three Mathews factors favor Petitioner. First, his interest in freedom from physical confinement is profound. He has been detained for more than four months, separated from his mother and U.S. citizen stepfather in Miami and unable to work or support their household, despite having a fixed address, work history and a pending asylum claim.
15. Second, the risk of erroneous deprivation under the current procedures is extraordinarily high. Petitioner requested a bond hearing, but the Immigration Judge categorically refused jurisdiction under *Matter of Yajure* and *Matter of M-S-*, without considering any individualized factors such as danger, flight risk, family and community ties, prior parole, or less restrictive alternatives. Petitioner has never had a meaningful opportunity to be heard on whether his detention is necessary or to contest DHS's statutory classification of his custody as mandatory. An individualized custody hearing under the correct statute would vastly reduce the risk that he is being detained unlawfully.
16. Third, the government's interest in continuing to detain Petitioner without individualized review is minimal. Petitioner has no criminal convictions and only a single arrest for a traffic-related offense and resisting without violence; he has strong family support, a stable address, and work history; and he has demonstrated his intent to pursue his asylum case. Reasonable alternatives to detention, such as release on bond, recognizance, or supervision can adequately address any concerns regarding appearance or public safety. The government has no legitimate interest in maintaining a blanket policy that forecloses custody review for noncitizens in Petitioner's position.
17. Petitioner is also likely to succeed on his statutory claim. The INA establishes distinct detention schemes: 8 U.S.C. § 1225(b) for certain "arriving" noncitizens in threshold processing, and 8 U.S.C. § 1226(a) for individuals in INA § 240 removal proceedings,

which authorizes release on bond or conditions of supervision. For years, noncitizens like Petitioner who entered without inspection but are now in § 240 proceedings—were understood to be detained, if at all, under § 1226(a) and to be eligible for bond before an Immigration Judge.

18. In Petitioner's case, DHS has instead invoked § 1225(b)(2)(A) and the Immigration Judge treated that provision, together with *Matter of M-S-* and *Matter of Yajure Hurtado*, as eliminating bond jurisdiction entirely. This use of § 1225(b) to impose mandatory detention on an individual in § 240 proceedings conflicts with the structure and text of the INA and exceeds the detention authority Congress conferred. If Petitioner is properly detained at all, it is under § 1226(a), not § 1225(b)(2)(A).

19. Because Petitioner has never received an individualized custody determination and is being confined under a statutory framework that does not apply to him, he is likely to succeed in establishing that his continuing detention violates due process and the INA.

B. Transfer or Removal would cause immediate and Irreparable Harm

20. Absent a TRO, ICE remains free to transfer Petitioner to a facility far from this Court or to attempt to remove him from the United States before this Court can resolve his habeas petition. Either action would cause irreparable harm.

21. Transfer outside this District would significantly impede Petitioner's ability to communicate with counsel, to gather evidence, and to participate in court proceedings. It would also risk placing him beyond this Court's effective reach and could render meaningful habeas review far more difficult, if not impossible, in practice.

22. Removal from the United States would be an even more extreme harm. It would likely moot this habeas petition, deprive him of any meaningful opportunity for judicial review

of his detention, and separate him from his family and community in the United States. No post hoc award or remedy can fully repair wrongful removal or the time he has spent in unlawful civil confinement.

23. Even if Petitioner ultimately prevails on the merits, the months he has already spent in detention and any additional time he remains detained while this case is pending represent an ongoing deprivation of liberty that cannot be compensated later. Loss of physical freedom, family unity, and access to judicial review are quintessential forms of irreparable injury.

C. The Balance of equities strongly favors Petitioner

24. The balance of hardships weighs heavily in Petitioner's favor. Without injunctive relief, he faces continued confinement without any individualized custody review and the risks of transfer or removal that would frustrate or defeat this Court's ability to adjudicate his claims.
25. By contrast, the burden on Respondents is modest. A TRO and preliminary injunction would require them only to: (1) maintain Petitioner in custody within the Western District of Texas, El Paso Division, absent further order of the Court; and (2) either provide him with a prompt, individualized custody hearing under the correct statutory authority or release him under reasonable conditions of supervision. The government has no legitimate interest in detaining individuals under an unlawful statutory classification or in undermining habeas review through transfer or removal.
26. Any administrative inconvenience associated with arranging a prompt custody hearing or transitioning Petitioner to supervised release is minor compared to the serious deprivation of liberty Petitioner is enduring.

D. The requested relief serves the public interest

27. The public has a strong interest in the lawful and constitutional administration of the immigration laws and in the preservation of meaningful habeas review. Enjoining transfer or removal that would defeat judicial review, and requiring that prolonged civil detention be grounded in the correct statute and justified by individualized findings, advances those interests.
28. The requested relief is narrow. It does not preclude the government from pursuing Petitioner's removal case through the immigration courts. It simply prevents Respondents from transferring or removing Petitioner in ways that would impair this Court's jurisdiction and require them either to justify his detention at an individualized hearing or to release him under appropriate conditions.
29. Because the public has no interest in unlawful or arbitrary detention, and because compliance with constitutional and statutory limits serves the rule of law, the requested TRO and preliminary injunction will not disserve the public interest.

V. SCOPE OF REQUESTED RELIEF

30. Petitioner seeks a narrowly tailored temporary restraining order that:
- a. Prohibits Respondents, and their officers, agents, employees, and all persons acting in concert with them, from transferring Petitioner out of the Western District of Texas, El Paso Division, during the pendency of this action or until further order of the Court;
 - b. Prohibits Respondents from removing Petitioner from the United States while this action is pending or until further order of the Court; and

- c. Requires Respondents to provide at least forty-eight (48) hours' advance written notice to Petitioner's counsel and this Court before taking any action inconsistent with such an order, including any planned transfer or removal.

31. Petitioner further requests that, after appropriate briefing and hearing, the Court enter a preliminary injunction that:

- a. Continues the restrictions on transfer and removal described above for the duration of this action, absent further order of the Court; and
- b. Directs Respondents either:
 - i. To provide Petitioner, within a time period set by the Court, with a prompt, individualized custody hearing before a neutral adjudicator at which the Government bears the burden of justifying continued detention by clear and convincing evidence and the adjudicator must consider less restrictive alternatives to detention; or
 - ii. To release Petitioner under appropriate conditions of supervision if such a hearing is not provided or if the adjudicator concludes he lacks jurisdiction to conduct it.

VI. Conclusion

For the foregoing reasons, and for those set forth in the Petition, Petitioner respectfully requests that the Court grant this Motion, issue a temporary restraining order consistent with the relief described above, set a prompt schedule for briefing and hearing on a preliminary injunction, and grant such other and further relief as the Court deems just and proper.

Dated: 10th of December, 2025

Respectfully Submitted,
/s/ Veronica Semino
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(Application for admission pro hac vice forthcoming.)