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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Edison Vera Bermeo,

Petitioner,

Case No. 25-4601

v.

Pamela Bondi, Attorney General,

Kristi Noem, Secretary, U.S.
Department of Homeland Security,

Todd M. Lyons, Acting Director of
Immigration and Customs
Enforcement,

Samuel Olson, Acting Director, St.
Paul Field Office Immigration and
Customs Enforcement, and

Ryan Shea, Sheriff of Freeborn County.

Respondents.

**MEMORANDUM OF LAW IN
SUPPORT OF EMERGENCY
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Expedited Handling Requested

INTRODUCTION AND FACTUAL BACKGROUND

Petitioner Edison Vera Bermeo (“Mr. Vera Bermeo”) is a resident of Minnesota at risk of imminent and unconstitutional deportation. He was detained by Immigration and Customs Enforcement (“ICE”) on December 10, 2025 and is being held at Freeborn County Detention Facility in Albert Lea, Minnesota without an opportunity to seek release on bond, contact his attorney, or receive due process. Despite having lived in the United States for more than two years, Mr. Vera Bermeo is currently in Expedited Deportation proceedings and subject to transfer or removal at any moment.

Petitioner requests an Emergency Temporary Restraining Order (“TRO”) and a Preliminary Injunction (“PI”) to enjoin Respondents from moving Petitioner outside of the geographic boundaries of the District of Minnesota and ordering Respondents to release Petitioner during the pendency of these proceedings. Emergency preliminary injunctive relief is necessary to avoid irreparable harm to Mr. Vera Bermeo, and to ensure that this Court is not deprived of jurisdiction over his claims should he be removed from the United States or relocated outside of this District.

The facts in Petitioner’s Verified Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief are hereby realleged and incorporated by reference as though set forth in this filing.

STANDARD OF LAW

A temporary restraining order should be issued if “immediate and irreparable injury, loss, or irreversible damage will result” to the applicant in absence of an order. Fed. R. Civ. P. 65(b). The purpose of a temporary restraining order is to prevent irreparable harm before a preliminary injunction hearing is held. *See Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drives Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974).

“[T]he standard for analyzing a motion for a temporary restraining order is the same as a motion for a preliminary injunction.” *Tumey v. Mycroft AI, Inc.*, 27 F.4th 657, 665 (8th Cir. 2022). The relevant factors are: 1) the likelihood of irreparable harm; 2) the likelihood of success on the merits; 3) relevant hardships, and 4) public interest. *See Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 112 (8th Cir. 1981). The Eighth Circuit has held that the first two factors are particularly important as they comprise the “traditional test” employed to evaluate the necessity of a TRO. *Id.* at 12. These factors all militate towards a TRO in Mr. Vera Bermeo’s case, given the gravity of his situation and the clear-cut nature of Respondents’ violations of his rights and of the law.

ARGUMENT

Mr. Vera Bermeo is likely to be deported via expedited removal in violation of his due process rights and the INA without intervention by this Court, and will suffer irreparable injury if he is removed and/or further unlawfully detained.

A. Likelihood of Irreparable Harm

Mr. Vera Bermeo will suffer irreparable harm if the requested relief is not granted because he will continue to be detained, and then summarily deported, losing his ability to assert his due process rights in an immigration proceeding, and will as lose all his physical property (such as his vehicle), his community, his access to health care, his housing, and everything connected to life as he knows it.

The first question according to *Dataphase* is whether threatened irreparable harm exists. *Id.* and *Gelco Corp. v. Coniston Partners*, 811 F.2d 414, 420 (8th Cir. 1987). Detention alone amounts to irreparable harm. *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018). “Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause.” *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001). The facility Mr. Vera Bermeo is held at, Freeborn County, houses state inmates and immigration detainees together. It can be presumed that Mr. Vera Bermeo’s confinement is comparable to criminal imprisonment, because he is housed alongside others who are subject to penal detention.

The government's actions have already deprived Petitioner of his liberty, and because these violations continue each day he remains in custody, he has suffered and will continue to suffer actual prejudice. *See Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010) (prejudice exists where an alternate result may well have occurred absent the violation).

Even more egregiously, without the requested relief Mr. Vera Bermeo is at imminent risk of being removed from the United States without an opportunity for his claims to be considered by the Court. Respondents are already not permitting the undersigned attorney to communicate with Mr. Vera Bermeo, and if he is moved again his access to counsel and to this Court would be further impeded. Mr. Vera Bermeo is subject to an Expedited Removal Order, for which no review exists either in immigration court or by way of an appeal, unlike standard-paced removal proceedings pursuant to 8 U.S.C. 1229(a). *Nken v. Holder*, 566 U.S. 418, 435 (2009). This petition is the only chance he has to avoid the permanent legal, physical, emotional, and financial consequences of expedited deportation. He needs to be accessible to his attorney and under the jurisdiction of this Court in order for his due process rights to have any meaning at all.

B. Likelihood of Success on the Merits

Mr. Vera Bermeo's Writ of Habeas Corpus and Petition for Injunctive Relief challenge his detention and imminent deportation pursuant to an Expedited

Removal Order that violates his rights to due process and the limits in the Immigration and Nationality Act.

“[T]he Due Process Clause applies to all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

Expedited Removal Orders may only be issued to an individual who is encountered within the interior of the United States if certain requirements are met, including, as relevant here, the requirement that the individual has been physically present in the United States for less than two years. 8 U.S.C. § 1225(b)(1)(A)(iii)(II). Any purported determination that Petitioner has been physically present for less than two years lacks any factual basis and thus an Expedited Removal Order is wholly unsupported.

Removing Mr. Vera Bermeo without due process violates his Fifth Amendment rights as a resident who has been in the United States continuously for more than two years. The use of Expedited Removal in this instance also violates the INA, and constitutes an *ultra vires* act or policy beyond the authority of Respondents to carry out.

If Mr. Vera Bermeo is given the opportunity, he and his attorney would be able to provide extensive documentation of his continuous presence since before December of 2023, including: a Minnesota State Identification issued November of

2023, a Minnesota Drivers License subsequently issued, paperwork from at least three hospital visits in 2024 and 2025 at the Hennepin County Medical Center, Minnesota State vehicle registration records dated February and/or March of 2025. Mr. Vera Bermeo could also submit affidavits from friends and family, and multiple other forms of corroborating evidence should he have time and contact with his attorney to locate and submit such evidence.

As a resident of the United States, deportation without notice, an opportunity to be heard, and to consult with his attorney violates Mr. Vera Bermeo's due process rights. Expedited Removal in this instance is unlawful and an *ultra vires* act in violation of the clear text of the INA without any factual basis for the predicate assertion that Mr. Vera Bermeo has been in the United States for less than two years. *See* 8 U.S.C. § 1225(b)(1)(A).

C. Relevant Hardships and Public Interest

“The balance of the equities and the public interest ... factors merge [when] the federal government is the party opposing the injunction.” *Missouri v. Trump*, 128 F.4th 979, 996–97 (8th Cir. 2025). *See also Nken*, 566 U.S. at 435. These factors require the Court to consider “whether the movant's likely harm without a preliminary injunction exceeds the nonmovant's likely harm with a preliminary injunction in place.” *Cigna Corp. v. Bricker*, 103 F.4th 1336, 1347 (8th Cir. 2024).

“There is generally no public interest in the perpetuation of unlawful agency action.” *Trump*, 128 F.4th at 997. To the contrary, courts have long recognized that the public interest includes upholding constitutional safeguards, ensuring due process, and preventing unnecessary deprivation of liberty. *See, e.g., Mohammed H. v. Trump*, 2025 WL 1692739, at *6 (D. Minn. June 17, 2025) (rejecting the government’s public-interest argument where detention rested solely on automatic stay without evidence).

The public interest is not served by needlessly incarcerating a man with no criminal conviction, nor by allowing serious constitutional and legal violations to go addressed through a resource-intensive game of whack-a-mole. Granting Petitioner’s injunctive relief is fully consistent with the government’s ability to enforce its immigration laws. The government retains the ability to issue Petitioner a Notice to Appear and to utilize the ample existing safeguards and processes for contesting an individuals’ presence in this country first raised more than two years after their arrival into the United States. Without the injunction, however, Petitioner will suffer clear irreparable harm through his detention and the process of being ripped from his home and his community without so much as a day in court.

CONCLUSION

The evidence compels the conclusion that Petitioner, who has demonstrated a strong likelihood of success on the merits, will suffer significantly and irreparably in the absence of emergency injunctive relief. As such, a TRO and a PI must be granted, enjoining Respondents from moving Petitioner outside of Minnesota and ordering Respondents to release Petitioner pending completion of these proceedings.

Date: Dec. 11, 2025

/s/ Kira A. Kelley

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