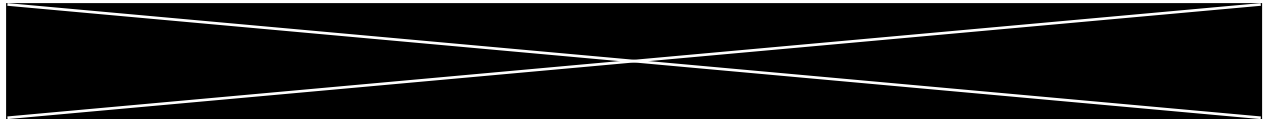



continuing to unlawfully detain him and ordering his immediate release pending resolution of his Petition for Writ of Habeas Corpus.

Petitioner requests emergency relief because he is currently suffering irreparable harm due to unlawful, prolonged, and indefinite detention without statutory authority and in violation of the Due Process Clause.

I. FACTUAL BACKGROUND

Petitioner is a thirty-eight-year-old native and citizen of Nicaragua who fled his home country on or about March 24, 2022, after suffering persecution and repeated threats of violence



. Fearing for his life, Petitioner escaped Nicaragua and made his way to the United States seeking protection.

Petitioner entered the United States through the Texas border on or about April 19, 2022, without prior admission or parole and immediately expressed fear of return. On July 5, 2022, he underwent a Credible Fear Interview, which resulted in a positive finding, confirming the legitimacy of his fear of persecution. Petitioner was then placed into removal proceedings before the Immigration Court on July 6, 2022.

Throughout his time in the United States, Petitioner has diligently complied with every requirement of the immigration process. On April 17, 2023, he timely filed his Form I-589 Application for Asylum and Withholding of Removal, including protection under the Convention

Against Torture, based on the harm he suffered and fears he continues to face from the Nicaraguan government due to his political opinion.

On June 18, 2024, Petitioner appeared before the Immigration Judge for his merits hearing. Despite the credible evidence presented, the Immigration Judge denied his applications and ordered his removal to Nicaragua. Petitioner immediately exercised his statutory right to appeal, filing a timely Form EOIR-26 Notice of Appeal with the Board of Immigration Appeals (“BIA”) on the same day. His appeal remains pending, and no final administrative decision has been issued.

Despite having no criminal history, maintaining stable employment, filing taxes, and fully complying with all immigration obligations, Petitioner was unexpectedly taken into ICE custody on November 22, 2025, and has remained detained at El Valle Detention Facility ever since. Because his case is now on appeal before the BIA, Petitioner is not eligible for a bond hearing and has no ability to seek custody review before an Immigration Judge, leaving him trapped in prolonged, mandatory-like detention with no meaningful opportunity to challenge his confinement.

Petitioner’s detention is causing significant, ongoing irreparable harm. He is the financial provider for his three children, who remain in Nicaragua and depend on him for their survival. His sudden detention has also caused serious emotional and psychological distress. With no criminal history, demonstrated good moral character, documented fear of persecution, and full compliance with every legal requirement, there is no legitimate governmental interest in continuing to detain him during the pendency of his appeal.

Immediate judicial intervention is necessary. A Temporary Restraining Order (“TRO”) is warranted to prevent continued unlawful detention, to protect Petitioner’s constitutional due

process rights, and to halt further irreparable harm until the Court can fully consider the merits of his habeas petition.

II. LEGAL STANDARD

The standard for granting a temporary restraining order ("TRO") in the Fifth Circuit requires the petitioner to demonstrate:

- (1) a substantial likelihood of success on the merits;
- (2) a substantial threat of irreparable injury if the injunction is not granted;
- (3) that the threatened injury outweighs any harm the injunction may cause the government; and
- (4) that the injunction will not disserve the public interest.

Mississippi Power & Light Co. v. United Gas Pipe Line Co., 760 F.2d 618, 621 (5th Cir. 1985).

In the immigration habeas context, a TRO serves to preserve this Court's jurisdiction and prevent continued unlawful restraint of liberty in violation of the Constitution and federal law. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

III. ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits

Petitioner is detained without statutory authority. A timely BIA appeal automatically stays execution of a removal order. 8 C.F.R. § 1003.6(a). Thus, his removal order is not final, and he cannot be lawfully held under § 1231. Pre-final-order detention falls under 8 U.S.C. § 1226, requiring individualized justification which ICE has never provided.

Detention violates due process. Petitioner has been detained since November 22, 2025, and will remain detained without any individualized assessment of flight risk or danger, despite having

no criminal history. This violates the Fifth Amendment and the principles of *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Detention under current circumstances is arbitrary and unlawful. ICE has not provided, and cannot provide, any legitimate governmental purpose for this continued detention.

Petitioner is ineligible for a bond hearing, as such hearings are not available to individuals whose cases are pending on appeal. Consequently, Petitioner has no administrative means to seek release and remains detained indefinitely without meaningful judicial review, resulting in a continued deprivation of his most fundamental liberty interests.

B. Petitioner Faces Immediate and Irreparable Harm from Continued Detention

Petitioner is suffering ongoing harm including, severe emotional and psychological distress, inability to support his family financially, and ongoing confinement without due process.

Continued confinement of a noncitizen without lawful authority constitutes irreparable harm. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 529–30 (2003). Each additional day of unlawful detention deepens the constitutional injury and cannot be remedied by monetary damages. See *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

C. The Balance of Equities Favors Petitioner

The harm to Petitioner from continued unlawful detention—loss of liberty in a facility meant for criminal aliens, deterioration of health, and ongoing constitutional injury—vastly outweighs any administrative burden on the government in effecting his release under appropriate conditions. The government retains full authority to supervise Petitioner through reporting or monitoring conditions, rendering detention unnecessary to ensure appearance.

Petitioner presents no danger, has no criminal history, and has a long record of compliance with immigration requirements. ICE has offered no justification for detention. The harm to Petitioner far outweighs any governmental interest.

D. The Public Interest Supports Immediate Release

The public interest is served by ensuring that government detention authority is exercised within constitutional and statutory bounds. Upholding due process and preventing unlawful imprisonment preserves confidence in the rule of law and the integrity of immigration proceedings.

Granting the requested relief also promotes judicial economy by ensuring this Court can fully adjudicate the habeas petition without the case becoming moot due to prolonged or arbitrary detention.

IV. CONCLUSION

Because Petitioner has shown (1) a substantial likelihood of success on the merits of his habeas claim; (2) irreparable harm from continued detention; (3) that the balance of equities strongly favors release; and (4) that release under appropriate safeguards serves the public interest, this Court should grant the temporary restraining order and order Petitioner's immediate release from ICE custody under appropriate safeguards determined by DHS.

V. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court **IMMEDIATELY** issue a temporary restraining order:

1. Directing Respondents to immediately release Petitioner from custody;

2. Restraining and enjoining Respondent, their agents, employees, and successors from removing Petitioner from the United States;
3. Directing Respondent to take all necessary steps to halt any removal preparations;
4. Requiring Respondent to notify all relevant personnel that Petitioner shall not be removed;
5. Set an expedited hearing on Petitioner's motion for preliminary injunction;
6. After hearing, issue a preliminary injunction maintaining the relief requested above during the pendency of this action;
7. Waive or set security in a nominal amount;
8. Award attorney's fees and costs; and
9. Grant such other relief as this Court deems just and proper.

VII. SECURITY AND NOTICE

Petitioner respectfully requests that the Court waive the security requirement under Fed. R. Civ. P. 65(c) due to his indigent status, or set security in a nominal amount.

Petitioner has taken reasonably calculated steps to effect service of process on each of the Respondents named herein, and has provided them with copies of the present motion as described in the Certificate of Service, below.

Respectfully submitted,

Matthew Mendez

Attorney for Petitioner
State Bar No. 24098092
6300 Gulfton Street
Houston, Texas 77081
Tel. (346) 205-4343
matt@mendezlawoffice.com

CERTIFICATE OF EMERGENCY

I hereby certify that this motion seeks emergency relief due to Petitioner's imminent risk of removal, which would render his habeas corpus petition moot and cause irreparable constitutional harm.

Matthew Mendez
Attorney for Petitioner

Date

CERTIFICATE OF CONFERENCE

I hereby certify that due to the emergency nature of this motion and the imminent threat of removal, I have been unable to confer with opposing counsel regarding this motion.

Matthew Mendez
Attorney for Petitioner

Date

CERTIFICATE OF SERVICE

On December 3, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Francisco Venegas, in his Official Capacity as Warden of EL Valle Detention Facility** at 1800 Industrial Drive. Raymondville, TX 78580.

_/s/ Matthew Mendez _____

___12/03/2025_____

Matthew Mendez
Attorney for Respondent

Date

On December 3, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Miguel Vergara, in his Official Capacity as Field Office Director, of ICE Enforcement and Removal Operations San Antonio Field Office**, at the Office of the Field Office Director, Enforcement and Removal Operations, 1777 NE Loop 410 Floor 15 San Antonio, TX 78217.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Respondent

12/03/2025
Date

CERTIFICATE OF SERVICE

On December 3, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Kristi Noem, in her Official Capacity as Director of U.S. Department of Homeland Security**, at the Office of General Counsel, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0485, Washington, D.C. 20530.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Respondent

12/03/2025
Date

On December 3, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Pam Bondi, in her Official Capacity as Attorney General of the United States**, at U.S. Attorney General email, USATXS.CivilNotice@usdoj.gov.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Respondent

12/03/2025
Date