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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Jeyson Estuardo Tobar Tovar
Petitioner,

v.

Kristi Noem, Secretary of Dept. of Homeland
Security, et al.
Respondents.

Civil Case No. 4:25-cv-06056

**EMERGENCY MOTION
FOR TEMPORARY
RESTRAINING ORDER**

I. INTRODUCTION

Petitioner, Jeyson Estuardo Tobar Tovar (hereinafter “Petitioner”), by and through undersigned counsel, respectfully moves this Court for an emergency Temporary Restraining Order (“TRO”) pursuant to Federal Rule of Civil Procedure 65(b) enjoining Respondents from:

1. Proceeding with Petitioner’s Individual (Merits) Hearing scheduled for December 29, 2025 before the Houston Immigration Court;
2. Enforcing the December 27, 2025 evidence call-up deadline; and
3. Continuing conduct that interferes with Petitioner’s access to counsel and ability to litigate his immigration case,
pending resolution of this habeas action or further order of the Court.

Absent immediate injunctive relief, Petitioner will suffer irreparable constitutional harm, including the loss of his right to a full and fair immigration hearing, which cannot be remedied after the fact.

II. JURISDICTION AND AUTHORITY

This Court has jurisdiction under 28 U.S.C. §§ 2241 and 1331, and authority to grant injunctive relief ancillary to habeas jurisdiction to prevent ongoing constitutional violations. Federal courts exercising habeas jurisdiction possess equitable authority to issue injunctive relief necessary to prevent ongoing constitutional violations and to preserve the court's ability to grant effective relief. *See INS v. St. Cyr*, 533 U.S. 289, 300–01 (2001). The venue is proper in the Southern District of Texas because the Petitioner is currently detained within this District and the Respondents exercise custody here.

III. FACTUAL BACKGROUND

1. Petitioner has resided in Massachusetts since entry to the United States and was detained there, where counsel is located.
2. After counsel was retained in the matter, DHS transferred Petitioner to Texas, separating him from counsel, family, witnesses, and documentary evidence.
3. Since the transfer, detention conditions at the Houston Contract Detention Facility have substantially interfered with attorney-client access, preventing meaningful preparation for immigration proceedings.
4. After Petitioner was moved to the Houston Contract Facility, counsel experienced persistent and documented barriers to attorney access.

5. To obtain an initial meeting necessary to complete relief forms and secure a declaration, counsel emailed the facility three times on October 6, October 7, and October 8, 2025, receiving a response only on October 8, 2025.
6. That October 8 meeting was the only attorney-client meeting facilitated for several weeks.
7. Following that meeting, counsel repeatedly sought a timely follow-up appointment by emailing the facility on November 12, 13, 14, and 18, 2025, receiving no response.
8. Counsel also directly emailed a facility staff member, Jeclecia Bouldin, in an effort to resolve the lack of access. That communication went unanswered.
9. Counsel further faxed a written request for attorney access on November 14, 2025, which likewise received no response.
10. Due to these ongoing barriers, Petitioner filed the present habeas corpus petition and separately filed a bond motion, both seeking to cure unconstitutional interference with access to counsel.
11. The habeas petition remains pending. The bond motion was denied without a hearing, leaving the access-to-counsel violations unresolved.
12. On December 17, 2025, the Houston Immigration Court denied counsel's request for a further Master Calendar Hearing and set the matter for a detained merits hearing on December 29, 2025, imposing a three-day evidence call-up deadline of December 27, 2025.
13. Although counsel has now been granted a single attorney-client meeting scheduled for the upcoming Tuesday, December 22, 2025, that isolated meeting is insufficient to cure weeks of interference or to allow adequate preparation for a detained merits hearing involving discretionary relief.

IV. LEGAL STANDARD

In the Fifth Circuit, a TRO is warranted where the movant demonstrates a substantial likelihood of success on the merits, a substantial threat of irreparable injury absent relief, the threatened injury outweighs any harm to the opposing party, and the injunction will not disserve the public interest. *See Texas v. EPA*, 829 F.3d 405, 433 (5th Cir. 2016).

Where constitutional rights are threatened, irreparable injury is presumed. *Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012).

V. ARGUMENT

a. Petitioner is likely to succeed on the merits

Due process requires fundamental fairness and a meaningful opportunity to be heard in removal proceedings. *See Reno v. Flores*, 507 U.S. 292, 306 (1993). Government interference with attorney-client access that forces a noncitizen to proceed to the merits without adequate preparation violates due process and is cognizable in habeas. *See Ponce-Osorio v. Johnson*, 824 F.3d 502, 506 (5th Cir. 2016).

Here, DHS's transfer of Petitioner away from counsel, compounded by documented obstruction of attorney access and the immigration court's refusal to allow sufficient preparation time, establishes a strong likelihood of success on Petitioner's due-process claims.

b. Petitioner faces imminent and irreparable harm

If the December 29 merits hearing proceeds:

- Petitioner will permanently lose the ability to present witnesses and corroborating evidence;
- The administrative record will be irrevocably incomplete; and
- Any later judicial review will be incapable of restoring Petitioner's constitutional rights.

Loss of a meaningful hearing constitutes irreparable harm as a matter of law. *See Elrod v. Burns*, 427 U.S. 347, 373 (1976).

c. Balance of Equities and public interest weigh in favor of the Petitioner

A brief pause in immigration proceedings imposes minimal burden on Respondents, while denial of relief will result in severe, non-speculative, and irreversible harm. The public interest is served by ensuring immigration proceedings comply with constitutional due process. *See Nken v. Holder*, 556 U.S. 418, 436 (2009).

VI. RULE 65(b) – TRO WITHOUT NOTICE

A TRO without notice is warranted because the immigration court's call-up deadline and merits hearing are imminent, and providing notice would risk mooted this Court's ability to grant effective relief. Petitioner has attempted to obtain relief in immigration court and through bond proceedings without success.

VII. REQUESTED RELIEF

Petitioner respectfully requests that the Court:

1. Issue a Temporary Restraining Order enjoining Respondents from proceeding with the December 29, 2025, merits hearing and December 27, 2025, call-up deadline;
2. Order Respondents to cease interference with Petitioner's access to counsel;
3. Set an expedited schedule for further proceedings; and

4. Grant such other relief as justice requires.

Respectfully submitted,
Jeyson Estuardo Tobar Tovar,
By His Counsel,

//s// Elizabeth Shaw

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Date: 12/18/2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Jeyson Estuardo Tobar Tovar, and submit this verification on his behalf. I hereby verify that the foregoing Emergency Motion for Temporary Restraining Order was served on Respondents via EM/CF on this day.

Date: 12/18/2025

//s// Elizabeth Shaw

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