

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA**

Juan Carlos Maradiaga,

Case No.: \_\_\_\_\_

Petitioner,

v.

Jail Warden Pinellas, ICE Detention Facility,  
Todd M. Lyons, Acting Director, U.S. Immigration  
and Customs Enforcement (ICE),  
Kristi Noem, Secretary of the Department  
of Homeland Security,  
Pamela Bondi, Attorney General  
Garrett J. Ripa Field Office Director  
Enforcement and Removal Operations ICE

Respondents.

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER  
AND EXPEDITED HEARING**

Petitioner Juan Carlos Maradiaga (“Petitioner”), by and through undersigned counsel, respectfully moves this Court for entry of a Temporary Restraining Order (“TRO”) and expedited hearing, and states as follows:


**I. INTRODUCTION**

1. This is an emergency motion to prevent Petitioner’s continued unlawful detention and imminent transfer outside the Middle District of Florida while

this Court considers his pending Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

2. Without immediate injunctive relief, Respondents may transfer Petitioner to a remote detention facility, frustrating this Court's jurisdiction and causing irreparable harm.

## II. FACTUAL BACKGROUND

3. Petitioner has continuously resided in the United States since March 2005 and has been under ICE supervision since 2012, fully complying with all reporting requirements. See Exhibits A and B.
4. Petitioner has been married to a United States citizen since 2010 and is the father of two U.S. citizen children, ages eighteen (18) and eight (8). See Exhibit C.
5. Petitioner has consistently filed federal tax returns and jointly owns a home and other assets with his U.S. citizen spouse, which support their household. See Exhibit D.
6. Petitioner is the beneficiary of an approved Form I-130, Petition for Alien Relative (Receipt No. , filed by his U.S. citizen spouse and approved on April 13, 2013. See Exhibit E.

7. Without warning, individualized findings, or a custody determination pursuant to INA § 236(a), ICE detained Petitioner.
8. Petitioner has no criminal convictions that would subject him to mandatory detention under INA § 236(c).
9. Removal proceedings under INA § 240 are pending, with a master calendar hearing scheduled for March 26, 2027, at 1:00 p.m. before the Orlando Immigration Court. *See* Exhibit F.
10. Petitioner is prima facie eligible for multiple forms of relief, including consular processing based on his approved I-130 petition, asylum, and cancellation of removal. *See* Exhibit G.
11. Despite Petitioner's long-term presence in the United States and years of ICE supervision, Respondents have asserted detention authority under INA § 235(b).

### **III. LEGAL STANDARD**

12. A TRO is warranted where the movant demonstrates:
  - (1) substantial likelihood of success on the merits;
  - (2) irreparable injury absent relief;
  - (3) the balance of harms favors relief; and
  - (4) the TRO is not adverse to the public interest.

## IV. ARGUMENT

### A. Substantial Likelihood of Success on the Merits

13. Petitioner is likely to succeed on the merits of his habeas petition because ICE lacks statutory authority to detain him under the expedited removal authority of INA § 235(b)(2), and his detention is instead governed by the non-mandatory custody provisions of INA § 236(a). This principle has been repeatedly recognized by federal district courts in 2025, which have granted habeas relief where the Government attempted to impose mandatory detention on long-term residents who entered without inspection.
14. In Jimenez v. FCI Berlin, Warden, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025), the U.S. District Court expressly disagreed with the Board of Immigration Appeals' new interpretation in Matter of Yajure Hurtado that all individuals who entered without inspection are subject to § 235(b)(2) without bond eligibility. The court granted habeas relief where detention was improperly classified under § 235 rather than § 236.
15. Similarly, courts in the District of Massachusetts have issued multiple decisions ordering relief under § 236(a) and rejecting the Government's automatic essential "applicant for admission" position, emphasizing that noncitizens physically present in the United States are entitled to individualized custody review and bond determinations. These cases include

Gomes v. Hyde, Doe v. Moniz, Romero v. Hyde, and related decisions holding that § 236(a) governs detention, absent specific statutory exceptions.

16. Courts outside the First Circuit have reached the same conclusion. In Lopez Benitez v. Francis, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025), the district court rejected DHS's claim that § 235(b)(2) applied to long-term residents, recognizing that statutory text and structure support § 236(a) custodial authority and bond eligibility.
17. In Leal-Hernandez v. Noem, 2025 WL 2430025 (D. Md. Aug. 24, 2025), the U.S. District Court concluded that the Government's new interpretation of § 235(b)(2) was in tension with the statutory scheme governing detention and issued habeas relief ordering custody redetermination.
18. Likewise, Kostak v. Trump, 2025 WL 2472136 (W.D. La. Aug. 27, 2025), and Lopez-Campos v. Raycroft, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025), granted habeas relief requiring § 236(a) bond hearings where the Government sought to classify detainees under § 235(b).
19. The statutory structure supports these holdings: the text and headings of INA § 235 indicate that it applies to "arrival" and "inspection" contexts, whereas INA § 236 governs detention of noncitizens already present in the United States and subject to removal proceedings. District courts have relied on this textual analysis, e.g., in Barco Mercado v. Francis, recognizing that §

235(b)(2) cannot be extended to individuals who have resided in the United States for many years.

20. In O.E. v. Bondi, 2025 WL 2466670 (D. Minn. Aug. 27, 2025), and related matters such as Maldonado v. Olson, 2025 WL 2374411 (D. Minn. Aug. 15, 2025), federal courts in Minnesota granted habeas relief because the Government's classification of long-term residents under § 235(b) conflicted with established law and the INA's statutory scheme.

21. These decisions confirm that Petitioner's detention without individualized custody determination under § 236(a) is unlikely to withstand legal scrutiny; therefore, Petitioner is substantially likely to prevail on the merits of his habeas petition.

### **B. Irreparable Harm**

22. Unlawful physical detention absent statutory authority constitutes irreparable harm as a matter of law. See, e.g., federal judges ordering release of immigration detainees on habeas corpus where detention lacked lawful justification. Most recently, a federal judge in New Mexico ordered the release of an immigration detainee after nearly five months, finding that prolonged detention without lawful grounds violated due process.

23. Courts across the country have granted temporary injunctive and habeas relief to prevent transfers outside a district where transfer would impair access to

counsel and hamper meaningful judicial review. *See, e.g.*, temporary orders issued to prevent re-detention of Kilmar Ábrego García immediately before a check-in with ICE, where the court emphasized the need to preserve access to judicial process.

### **C. Balance of Harms and Public Interest**

24. The balance of harms favors Petitioner. Respondents suffer no legitimate harm from maintaining the status quo and preserving this Court's jurisdiction over a properly filed habeas corpus petition.
25. The public interest clearly favors compliance with statutory mandates and constitutional protections against unlawful detention, as reflected by ongoing litigation challenging denial of bond hearings and detention without custody review. A federal class-action lawsuit, filed on behalf of individuals denied bond hearings under recent DHS policies, argues that this practice violates statutory and constitutional due process rights — highlighting the broader public importance of such protections.
26. District courts have also found that denial of bond hearings and mandatory detention policies that ignore statutory distinctions undermine due process and customary immigration enforcement practices that have been in place for decades.

#### **D. Public Interest**

27. It is clearly in the public interest to uphold statutory limits on detention authority and ensure access to meaningful judicial review, as reflected by class-action litigation brought by the ACLU and other advocates challenging widespread denial of bond hearings on due process grounds.

28. Recent executive branch detention guidance eliminating bond hearings for certain noncitizens has already sparked litigation nationwide, reaffirming the public interest in preserving well-established statutory and constitutional protections.

#### **V. REQUEST FOR RELIEF**

**WHEREFORE**, Petitioner respectfully requests that this Court:

- A. Enter a Temporary Restraining Order prohibiting Respondents from transferring Petitioner outside the Middle District of Florida;
- B. Order Petitioner's immediate release or, alternatively, a prompt custody determination hearing;
- C. Set an expedited hearing on Petitioner's habeas petition;
- D. Grant such further relief as the Court deems just and proper.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on December 16, 2025, I sent a copy of the Emergency Petition for Writ of Habeas Corpus Pursuant To 28 U.S.C. § 2241, And Motion for Temporary Restraining Order and Preliminary Injunctive Relief to the following respondents: Office of the United States Attorney at Middle District of Florida – Tampa Division 501 E. Polk Street, Suite 1000 Tampa, FL 33602; Current Warden Sheriff Bob Gualtieri of Pinellas County Sheriff’s Office at 10750 Ulmerton Road Largo, FL 33778; Warden / Jail Administrator Pinellas County Jail 14400 49th Street North Clearwater, FL 33762; and Attorney General of the United States U.S. Department of Justice at 950 Pennsylvania Avenue, NW Washington, DC 20530; Acting Director U.S. Immigration and Customs Enforcement at 500 12th Street, SW Washington, DC 20536; Secretary U.S. Department of Homeland Security at 245 Murray Lane, SW Washington, DC 20528; Field Office Director ICE Enforcement and Removal Operations Miami Field Office at 333 S. Miami Avenue, Suite 700 Miami, FL 33130 via certified mail.

  
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**GABRIELA KVASNA, ESQ.**  
**Attorney for Petitioner**