

ALIEU M. ISCANDARI, ESQ.
SBN: 184307
Iscandari & Associates
333 Hegenberger Road, Suite 503
Oakland, California 94621
Telephone: (510) 606-9062
Email: izcan79@gmail.com

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

BOVIN OKOTH MARCO,

Plaintiff,

vs.

POLLY KAISER, Acting Field Office Director
of the San Francisco Immigration and Customs
Enforcement Office; TODD LYONS, Acting
Director of United States Immigration and
Customs Enforcement; KRISTI NOEM,
Secretary of the United States Department
of Homeland Security, PAMELA BONDI,
Attorney General of the United States, acting
IN THEIR OFFICIAL CAPACITIES

Defendant

Case No.:

**EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE
(28 U.S.C. § 2241; Fed. R. Civ. P. 65(b);
Civil L.R. 7-10)**

**EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE
(28 U.S.C. § 2241; Fed. R. Civ. P. 65(b); Civil L.R. 7-10)**

I. INTRODUCTION AND RELIEF REQUESTED

Petitioner Bovin Okoth Marco respectfully submits this Ex Parte Application for a
Temporary Restraining Order ("TRO") and Order to Show Cause ("OSC") to halt his ongoing
unconstitutional detention and to preserve this Court's jurisdiction pending adjudication of his
Verified Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241.

EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE (28
U.S.C. § 2241; FED. R. CIV. P. 65(B); CIVIL L.R. 7-10) - 1

Petitioner seeks immediate relief because he is currently detained by ICE following a summary arrest at a scheduled marriage-based I-130/I-485 interview at the USCIS San Francisco Field Office and faces the imminent risk of transfer or removal that would irreparably harm him and defeat this Court's jurisdiction before Respondents can be heard.

II. PROCEDURAL POSTURE

1. On December 12, 2025, Petitioner appeared in good faith at the USCIS office at 630 Sansome Street, San Francisco, for a scheduled marriage-based adjustment interview petitioned by his U.S.-citizen spouse.
2. During the interview process, Petitioner was arrested by ICE without notice, warrant, or hearing, notwithstanding years of compliance and supervision.
3. Petitioner is currently detained at California City Detention Facility and remains deprived of liberty without any individualized custody determination under INA § 236(a).
4. Petitioner contemporaneously files:
 - i. A Verified Petition for Writ of Habeas Corpus.
 - ii. A Memorandum of Points and Authorities.
 - iii. Declarations of Carol Munene and Alieu M. Iscandari; and
 - iv. Proposed Orders granting TRO and issuing an OSC.

III. EX PARTE TREATMENT IS WARRANTED

(Fed. R. Civ. P. 65(b); Civil L.R. 7-10)

A. Immediate and Irreparable Harm

Absent immediate relief, Petitioner faces:

- continued unconstitutional physical detention.
- transfer outside this District, or removal.
- loss of meaningful access to counsel; and
- mooted of his habeas petition before judicial review.

1 Loss of liberty constitutes irreparable harm as a matter of law. *Elrod v. Burns*, 427
2 U.S. 347, 373 (1976).

3 **B. Notice Would Undermine the Relief Sought**

4 Providing advance notice to Respondents would create a substantial risk that ICE
5 will transfer or remove Petitioner, thereby defeating this Court's jurisdiction and rendering the
6 requested relief meaningless.

7 This is precisely the circumstance in which ex parte relief is appropriate under
8 Rule 65(b). See *Reno Air Racing Ass'n v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006).

9 **C. Certification Regarding Notice**

10 Pursuant to **Rule 65(b)(1)(B)** and **Civil Local Rule 7-10**, undersigned counsel
11 certifies that:

- 12
- 13 • immediate ex parte relief is necessary to prevent irreparable harm; and
 - 14 • notice has not been provided because of the **imminent risk of transfer or removal**
15 before the Court can act.
- 16

17 Petitioner will **promptly notify Respondents** and the U.S. Attorney's Office
18 upon issuance of any interim order.

19 **IV. THE TRO STANDARD IS SATISFIED**

20 As set forth in the accompanying **Memorandum of Points and Authorities**,
21 Petitioner has demonstrated:

- 22
- 23 1. **Likelihood of success on the merits**, including violations of the Fifth Amendment and
24 INA § 236(a);
 - 25 2. **Irreparable harm** absent immediate relief.
 - 26 3. A **balance of equities** sharply favoring Petitioner; and
 - 27 4. That the **public interest** is served by ensuring constitutional compliance in immigration
28 enforcement.

EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE (28
U.S.C. § 2241; FED. R. CIV. P. 65(B); CIVIL L.R. 7-10) - 3

1 *Winter v. NRDC*, 555 U.S. 7, 20 (2008); *Nken v. Holder*, 556 U.S. 418, 435
2 (2009).

3 **V. RELIEF REQUESTED**

4 Petitioner respectfully requests that the Court:

5 **1. Issue a Temporary Restraining Order:**

- 6 ○ enjoining Respondents from transferring or removing Petitioner.
- 7 ○ maintaining the status quo pending further order; and
- 8 ○ preventing continued detention absent constitutional process.

9 **2. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243**, requiring Respondents to 10 file a return within three (3) days.

11 **3. Set expedited briefing and hearing** on the habeas petition; and

12 **4. Grant such further relief as the Court deems just and proper.**

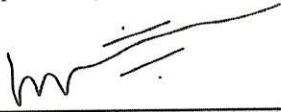
13 **VI. SECURITY**

14 Petitioner requests waiver of any security requirement under Rule 65(c). Courts
15 routinely waive bond in immigration habeas cases involving detention and non-monetary relief.
16 *Barahona-Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir. 1999) (holding that a nominal bond is
17 appropriate in cases involving "indigent aliens" and public interest litigation).

18 **VII. CONCLUSION**

19 This case presents a textbook basis for emergency judicial intervention: a
20 compliant noncitizen arrested during a marriage-based USCIS interview, detained without notice
21 or hearing, and facing imminent transfer or removal. Ex parte relief is necessary to preserve
22 liberty and this Court's jurisdiction.

1 Respectfully submitted,

2 

3 **ALIEU M. ISCANDARI, ESQ.**

4 Attorney for Petitioner
5 Iscandari & Associates

6 Dated: **12/17/2025**