

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

ORLANDO DIVISION

Case No.:6-25-cv-02457

RICARDO MACHADO,

Plaintiff/ Petitioner,

v.

NORMAN S. BRADLEY, et al.,

Defendants/Respondents.

**PLAINTIFF/PETITIONER'S EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

The Plaintiff/Petitioner, **RICARDO MACHADO** (Mr. Machado), moves this Honorable Court, pursuant to Federal Rule of Civil Procedure 65 and Local Rule 6.01, for issuance of a Temporary Restraining Order ("TRO") and a Preliminary Injunction against Defendants/Respondents from removing Mr. Machado from the Middle District of Florida. Plaintiff further requests that this Honorable Court set a hearing within 15 days to determine whether this TRO should be converted into a Preliminary Injunction, in support thereof, Mr. Machado states as follows:

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1. Mr. Machado incorporates by reference the *Writ of Habeas under 28 U.S.C. §2241* and *Request for Emergency Injunctive Relief* filed on his behalf on December 19, 2025. (DE:1). Through the *Writ*, Mr. Machado seeks release from his unlawful detention. This motion seeks to have this Honorable Court enter a TRO preventing the Respondents from removing or transferring Mr. Machado outside of the Court's jurisdiction pending the disposition of Mr. Machado's *Writ*.

2. Mr. Machado was unlawfully arrested on December 17, 2025 while reporting at the Immigration & Customs Enforcement (ICE) Office in Orlando, Florida. Mr. Machado was reporting as he had been so doing for the past twenty-five years, pursuant to an Order of Supervision (OSUP). Mr. Machado was never provided with any notice of any intent to revoke his OSUP.

3. Immediately after his arrest, Mr. Machado was taken to the Orange County Corrections Department (OCCD) where he remained, upon information and belief, until Saturday, December 20th, 2025. Mr. Machado, as of the filing of this motion has been moved to Alligator

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Alcatraz. Alligator Alcatraz is a state-run facility, however, ICE controls who is admitted, detained, and released.

4. Mr. Machado seeks emergency relief in the form of an order from this Court preventing the Defendants from removing him from the Middle District of Florida until such time as this Court resolves his pending Writ of *Habeas*.

5. Without issuance of a temporary restraining order Mr. Machado faces imminent removal from the jurisdiction which will have the effect or rendering his *writ of habeas* moot and thereby denying him the opportunity to seek judicial review.

Legal Memorandum

6. Mr. Machado has a pending *Writ of Habeas* before this Court. This request for issuance of a Temporary Restraining Order relates to said writ. See *Alabama v. U.S. Army Corps of Eng'rs*, 424 F.3d 1117, 1134 (11th Cir. 2005). In order to obtain a TRO a party must demonstrate that (1) there is a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury would outweigh the harm the relief would inflict on the

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nonmoving party; and (4) that the relief would serve the public interest. See *Chavez v. Fla. SPWarden*, 742 F.3d 1267, 1271 (11th Cir. 2014). The burden is on the petitioner to establish all four elements. See *Wreal, LLC v. Amazon.com, Inc.*, 840 F.3d 1244, 1247 (11th Cir. 2016).

7. Mr. Machado has a constitutional and statutory right to counsel of his choice. See 8 U.S.C. §1362; *Baires v. INS*, 856 F.2d 89, 91 n. 2 (9th Cir. 1988)(“We have consistently emphasized the critical role of counsel in deportation proceedings [and] have characterized the alien’s right to counsel of choice as ‘fundamental’ and have warned INS not to treat it casually.”). Transferring Mr. Machado outside of this jurisdiction would infringe upon his constitutional rights to effective assistance of counsel and due process of law.

8. Mr. Machado has challenged his detention on based *Zadvydas v. Davis*, 533 U.S. 678 (2001) and 8 U.S.C. §1231(a)(6). The Supreme Court in *Zadvydas* ruled that the statute authorized the detention of noncitizens with an order of deportation for a “period reasonably necessary” to bring about the noncitizen’s removal from the United States. Further, the Court determined that six months of post-removal

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detention was “presumptively reasonable” . *Id* at 701. Quoting, 8 U.S.C. §1231(a)(6), the Court further explained that the statute’s justification for the continuation of detention of the noncitizen applied *only if* the Government is seeking to “ensure the appearance of the alien’s future immigration proceedings” and in order to [p]revent danger to the community.” *Id* at 690.

9. Mr. Machado has been on supervision for twenty-five years. During this time period he has never been arrested let alone, engaged in any acts of violence. He has dutifully reported to the INS and later ICE. He has been married for twenty-five years to Amy Jimenez Machado, a native born United States citizen. He has three United States citizen children: Ricardo, Jr., a recent high school graduate, native born United States citizen, and fraternal, native born United States citizens, 14-year old twins, A [REDACTED] and Z [REDACTED]. He owns his own home in Sebastian, Florida. He cares for his elderly parents, both of whom are United States citizens. He is brother to his three siblings, Gabriel Florit, a retired career United States Air Force Officer, Adolfo, Jr., who served in the United States Army for eight years, Roly, who is a pharmacist. All

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three siblings are United States citizens. He has served his community, in many ways, most notably at MacDill Air Force Base and also volunteered for events involving the Indian River County Sheriff's Office. He has provided financially for his family by being gainfully employed. He is neither a risk of flight nor is he a danger to the community.

10. Prior to being placed on an order of supervision (OSUP) Mr. Machado was held by legacy Immigration & Naturalization (INS) for almost two years. Realizing that they were unable to remove Mr. Machado's release from custody over twenty-five years ago was due to a determination by INS (now ICE) that there was no "significant likelihood of removal in the reasonably foreseeable future". In re-arresting Mr. Machado, ICE has also failed to follow their own regulations, see 8 C.F.R. §§241.4(b)(4) and 13, ICE.

Mr. Machado Meets the Standards for the Grant of a TRO

11. To obtain a temporary restraining order, a plaintiff "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparably harm in the absence of preliminary relief, that the

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balance of equities tips in his favor, and that an injunction is in the public interest..” See *Chavez v. Fla. SPWarden, supra*.

12. Mr. Machado is likely to prevail on the merits. ICE has deprived him of his liberty. ICE has separated him from his family and his community. ICE has deprived him of meaningful access to counsel. His continued detention is causing Mr. Machado both physical and psychological harm.

(a) Mr. Machado is unlawfully detained by U.S. Immigration and Customs’s Enforcement (ICE), through it’s subdivision Enforcement and Removal Operations (ERO), in violation of the Fifth Amendment and governing immigration statutes. The period ICE had for detaining Mr. Machado for a “reasonably necessary” period of time has already taken place. In fact, twenty-five years ago, Mr. Machado was subjected to prolonged, illegal and unjustified detention for over two years. Once he was released and placed on supervision, ICE cannot simply re-arrest Mr. Machado. The Honorable Judge Polster Chappell in recently granting a writ of habeas which raised issues similar to Mr. Machado, determined that once a period of detention under *Zadvydas* has taken place, a re-

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detention of the noncitizen is improper. Specifically, the Court found that a re-detention of a noncitizen would “effectively allow DHS to detain noncitizens indefinitely and avoid judicial scrutiny by releasing and re-detaining them every six months. As the Eleventh Circuit recognized, “[t]he Supreme Court’s stated rationale for establishing a presumptively reasonable ‘6-month period’ for detention pending removal supports our conclusion that this period commences at the beginning of the removal period.” *Krechmar v. Parra, et al., Case No.: 2:25-cv-01095-SPC-DNF (M.D. Fla. Dec. 15, 2025)* (See Opinion at DE:13 at pg. 6-7).

ICE has failed to make individualized findings that Mr. Machado poses a danger or flight risk. Detention is no longer reasonably related to its civil, non-punitive purpose.

(b) ICE has violated its own regulations. The period of removal for Mr. Machado has long since past, as he was released from custody over twenty-five years ago. ICE improperly revoked Mr. Machado’s OSUP. See 8 C.F.R. §§241.4(b)(4) and 241.13 applies. ICE has violated this provision by having properly placed Mr. Machado under an OSUP, after a determination had been made that there was “good reason to believe

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there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country in the foreseeable future.”

(c) ICE has violated its own regulations governing Orders of Supervision. Before revoking his OSUP, ICE must notify Mr. Machado of its intent to revoke, provide Mr. Machado with a factual basis establishing that there exists a renewed “significant likelihood of removal to the country to which he was ordered removed, or to a third country”. Finally, Mr. Machado must be provided with an opportunity to respond. ICE has provided none of these safeguards, rather, they have arbitrarily and cruelly arrested him. Mr. Machado reported as directed for decades and was arrested without warning while complying with supervision requirements. ICE has not identified any changed country conditions.

13. Without a TRO, Mr. Machado faces imminent removal from the jurisdiction, which would effectively render his *writ* moot. Should Mr. Machado be removed from this jurisdiction he will not be able to vindicate his Due Process rights. See *Connection Distributing Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998)(deprivation of a constitutional right “constitutes irreparable injury sufficient to justify injunctive relief”).

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14. Should the Court not grant this Mr. Machado will be deprived of his fundamental right to challenge his illegal confinement and the deprivation of his freedom that has resulted from this. Each day of confinement, is a day that is lost forever to Mr. Machado. Moreover, Mr. Machado will suffer the psychological trauma that has resulted from the unexpected separation from his family, his wife, his children and separation from the only country he has ever known. He faces permanent separation from his entire family all whom reside in Sebastian, and Jacksonville, Florida. Mr. Machado was six (6) years of age when he came to the United States. He has never traveled outside of the United States since his arrival as a child. Mr. Machado suffers from chronic high blood pressure and at the time of his unlawful detention was taking three different blood pressure medications (Amlodipine, Terazosin, and Carvedilol). Mr. Machado as the primary provider in his family, faces his own financial ruin and that of his family who rely on him for financial support.

15. The balancing of equities overwhelmingly favors Mr. Machado. He has lived peacefully in the United States since his release from

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custody, ICE has never asserted any violations of the conditions of his supervision, indeed he has been compliant. Mr. Machado absolutely and unequivocally poses no risk of flight nor any danger to the community. By contrast, the Respondents suffer no cognizable hard from maintaining the status quo while this Court adjudicates the pending *writ of habeas*. ICE has already determined that Mr. Machado cannot be removed.

15. Granting this TRO serves the public interest by ensuring that federal agencies comply with constitutional limits, statutory mandates, and their own regulations. The public has a strong interest in preventing arbitrary detention, safeguarding access to the courts, and ensuring that immigration enforcement operates within the rule of law and thereby operates humanely. See *Gannett Co., Inc. v. DePasquale*, 443 U.S. 368, 383 (1979).

Based on the foregoing, Mr. Machado respectfully requests this Honorable Court to enter an order granting this Motion for Temporary Injunction preventing the Defendants from removing him from this jurisdiction until such time as his *writ of habeas* is resolved by this Court.

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I HEREBY Certify that a copy of the foregoing was furnished by US MAIL to United States Attorney's Office, Civil Division, 400 North Tampa Street, Suite 2300, Tampa, FL 33602 and via email to Shelby.Hill, Legal Assistant to the Chief of the Civil Division, US Attorney's Office for the Middle District of Florida via email Shelby.Hill@usdoj.gov on this 22nd Day of December, 2025.

Respectfully submitted this 22nd Day of December, 2025.

Respectfully submitted,

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