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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LAVV,)	Case No. 1:25-CV-02004
)	
Petitioner,)	Agency No: A 
)	
vs.)	MOTION FOR TEMPORARY
)	RESTRAINING ORDER AND
SAMUEL OLSON, Field Office Director of)	SUPPORTING MEMORANDUM
Enforcement and Removal Operations, Chicago)	
Field Office, Immigration and Customs)	ORAL ARGUMENT
Enforcement, et al.)	REQUESTED
)	
Respondents.)	Expedited hearing requested

MOTION

Petitioner moves the court for the following relief by way of a temporary restraining order (“TRO”):

a) Issuance of an immediate order barring the respondents from removing petitioner from the state of Wisconsin, without notice to the court and approval by the court;

b) Issuance of an order to show cause why this petition should not be granted

MOTION AND MEMORANDUM FOR TEMPORARY RESTRAINING ORDER

within three (3) days.

SUPPORTING MEMORANDUM

I. LEGAL STANDARDS.

The standard for a TRO is the same as for preliminary injunction. See *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977). A TRO is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008).

For preliminary relief, a party must show (a) likelihood of succeed on the merits, (b) likely irreparable harm without preliminary relief, (c) the balance of equities tips in party, and (d) an injunction is in the public interest. *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing *Winter*, 555 U.S. at 20).

As alternative test is if “serious questions going to the merits were raised and the balance of the hardships tips sharply in the plaintiff’s favor,” thereby allowing preservation of the status quo when complex legal questions require further inspection or deliberation. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134- 35 (9th Cir. 2011).

III. ARGUMENT.

A. Petitioner will likely suffer irreparable harm.

Without a TRO, petitioner will be imminently transferred out of the District of Wisconsin. This will transfer petitioner away from his lawyer and his family, possibly seeking to undermine this court’s jurisdiction.

The petitioner is married to a US citizen, and has (6) US citizen children. The

petitioner is the sole financial provider for his wife and children. At this time, the petitioner's wife and children are suffering not only extreme psychological hardship due to the petitioner's continued detention, but they are also suffering extreme financial hardship without his financial support. Such impacts constitute irreparable harm. See e.g., *Leiva-Perez v. Holder*, 640 F.3d 962, 969-70 (9th Cir. 2011) (describing "separation from family members" and the mental damage concomitant with such separation as irreparable harm) (quotation marks omitted); see also *Ching v. Mayorkas*, 725 F.3d 1149, 1157 (9th Cir. 2013) ("The right to live with and not be separated from one's immediate family is 'a right that ranks high among the interests of the individual' and that cannot be taken away without procedural due process.") (quoting *Landon v. Plasencia*, 459 U.S. 21, 34-35 (1982)).

B. Likely to succeed on the merits.

Due process requires government action not be irrational and arbitrary. See *United States v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). The petitioner has lived in the United States since on or about 2007. During this time, the petitioner has married a US citizen, and has had (6) US citizen children. The petitioner and his wife own a roofing company called "██████████." The petitioner and his US citizen spouse have begun the lengthy process of obtaining legal status for the petitioner. The petitioner is approximately 2/3 of the way in this process. The petitioner has twice been charged with a criminal offense, to wit, driving without a license – 2nd offense. Only on one occasion was he convicted of this charge as a criminal offense. As of this writing, the petitioner's

criminal conviction record, therefore, consists of (1) conviction for operating without a license.

On December 18, 2025, the Central District Court of California entered a final judgment in *Maldonado Baustista v. Garland*, certifying the nationwide class and declaring the police of detaining migrants that entered without inspection (EWIs) under USC § 1225(b)(2) unlawful. The petitioner is a member of the class in *Maldonado Baustista*.

C. Balance of equities and public interest tips sharply in favor of TRO.

The balance of hardships tips substantially favors petitioner. “[I]n addition to the potential hardships facing Plaintiffs in the absence of the injunction, the court ‘may consider . . . the indirect hardship to their friends and family members.’” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017), quoting *Golden Gate Rest. Ass’n v. City & Cty. of San Francisco*, 512 F.3d 1112, 1126 (9th Cir. 2008). As explained above, the petitioner’s (6) US citizen children are suffering tremendous psychological hardship as a result of their father’s continued detention. The petitioner’s US citizen spouse is suffering extreme psychological and financial hardship as a result of his continued detention.

The merits of the petition weight the public interest toward a TRO. “Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the Constitution.” *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005); see also *Zepeda v. U.S. I.N.S.*, 753 F.2d 719, 727 (9th

Cir. 1983) (“INS cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations”). “The public interest also benefits from a preliminary injunction that ensures that federal statutes are construed and implemented in a manner that avoids serious constitutional questions.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1146 (9th Cir. 2013).

III. CONCLUSION

For the above reasons, a TRO should be granted.

Dated this 22nd day of December 2025

/s/ Luca L Fagundes

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