

DETAINED

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6 Attorney for Petitioner

7 UNITED STATES DISTRICT COURT
8 FOR THE WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE, WASHINGTON

10 Evangelina HERRERA Gomez

11 Petitioner,

12 v.

13 Cammilla WAMSLEY, Seattle Field Office
14 Director, Enforcement and Removal Operations,
15 United States Immigration and Customs
16 Enforcement (ICE); Bruce SCOTT, Warden,
17 Northwest ICE Processing Center; Kristi
18 NOEM, Secretary, United States Department of
19 Homeland Security; Pamela BONDI, United
20 States Attorney General; UNITED STATES
21 DEPARTMENT OF HOMELAND
SECURITY;

Respondents.

Case No. 2:25-cv-2642

**EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER
AND STAY OF REMOVAL**

AGENCY FILE NO:



**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
AND STAY OF REMOVAL**

1 **I. Motion**

2 Under FRCP 65 and 5 U.S.C. §705, the petitioner moves this Court for an Emergency
3 Temporary Restraining Order and Stay of Removal, preventing her removal from the United States
4 and her transfer to another detention facility while these proceedings are pending.

5 **II. Basis for Motion**

6 The petitioner came to the U.S. to seek asylum with her husband and three children in
7 2023. She has lived here without incident and in compliance with her reporting requirements since
8 that time. She was redetained on December 12, 2025 after dropping her children off at school.

9 Ms. Herrera is at risk of being arbitrarily transferred out of state, away from her spouse
10 and legal representation. The undersigned has represented approximately 8 individuals who were
11 detained at Tacoma, Washington since October, 2025. Half of those individuals have been
12 transferred out of state without cause or warning.

13 **III. Argument**

14 ***A. Standards for Temporary Restraining Order***

15 To grant a Temporary Restraining Order, the petitioner must meet one of two tests. The
16 more recent test, known as the *Winter* test, requires the petitioner to prove as follows:

- 17 [1] that he is likely to succeed on the merits,
18 [2] that he is likely to suffer irreparable harm in the absence of preliminary
relief,
19 [3] that the balance of equities tips in his favor, and
20 [4] that an injunction is in the public interest.

21 *Sherley v. Sibelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (alteration in original, quoting *Winter v.*
Natural Res. Def. Council, Inc., 555 U.S. 7, 20 (2008)). “The same standard applies to both
temporary restraining orders and to preliminary injunctions.” *Sterling Commercial Credit-Michigan*,

1 *LLC v. Phoenix Industries I, LLC*, 762 F. Supp. 2d 8, 12 (D.D.C. 2011) (quoting *Hall v. Johnson*, 599
2 F. Supp. 2d 1, 3 n.2 (D.D.C. 2009)).

3 The traditional test, which remains viable in the Ninth Circuit, is known as the “sliding
4 scale” test and requires the petitioner to prove “serious questions going to the merits” and “a
5 hardship balance that tips sharply toward the petitioner.” *Alliance For The Wild Rockies v. Cottrell*,
6 632 F.3d 1127 (9th Cir. 2011). As under the *Winter* test, the petitioner must also show a likelihood
7 of irreparable injury and that the injunction is in the public interest. “Under this approach, the
8 elements of the preliminary injunction test are balanced, so that a stronger showing of one element
9 may offset a weaker showing of another.” *Alliance For The Wild Rockies*, 632 F.3d at 1131.

10 Ms. Herrera meets both of these tests.

11 ***B. Ms. Herrera is likely to succeed on the merits and has raised serious legal questions.***

12 Ms. Herrera’s fundamental due process rights were violated when she was detained
13 without explanation after having previously been released by the Department of Homeland
14 Security at the border.

15 ***C. Mr. Grajeda faces irreparable harm, and a hardship balance tips sharply toward her.***

16 If transferred, Mr. Herrera faces long term separation from her family, a change in
17 jurisdiction over his custody, and prolonged and unnecessary detention.

18 ***D. The balance of equities tips in favor of Ms. Herrera, and an injunction is in the public
interest.***

19 The remaining two factors for an injunction are the same under both legal tests, and they
20 both favor Ms. Herrera. As ICE agents continue to aggressively arrest people in the community it
21

1 is critical that they be held to account and follow basic principles of due process. The public has a
2 vested interest in ensuring that their liberty interests are honored and protected.

3 **IV. Conclusion**

4 1. Under FRCP 65, the petitioner moves this Court to issue an Emergency
5 Temporary Restraining Order and Stay of Removal:

6 1. Enjoining and restraining the Respondents and all of their respective
7 officers, agents, servants, employees, attorneys and persons acting on their
8 behalf in concert or in participation with them from:

9 a. Removing or deporting Ms. Herrera from the United States while these
10 proceedings are pending;

11 b. Transferring Ms. Herrera from the Northwest ICE Processing Center to
12 any other detention facility during the pendency of these proceedings.

13 WHEREFORE, for the reasons set forth in his Petition for Writ of Habeas Corpus, and in
14 this Motion the Petitioner respectfully requests this Court:

- 15 1. Grant this Emergency Motion for Temporary Restraining Order and Stay of Removal
16 today;
- 17 2. Enter the Proposed Order Granting Petitioner's Emergency Motion for Temporary
18 Restraining Order and Stay of Removal today; and
- 19 3. Grant such other and further relief as justice may require.

20 Dated: Dec. 21, 2025

21 *s/Stephen C. Robbins*

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