

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

DOE, Jane,

Petitioner,

v.

TODD M. LYONS, Acting Director, U.S.
Immigration and Customs Enforcement, U.S.
Department of Homeland Security;
KRISTI NOEM, Secretary of U.S. Department of
Homeland Security;
PAMELA BONDI, Attorney General of the
United States;
Daren K. MARGOLIN, Director of the Executive
Office For Immigration Review;
Carlos CISNEROS, Assistant Field Office
Director of Harlingen Field Office for U.S.
Department of Homeland Security, United States
Immigration and Customs Enforcement,
Enforcement and Removal Operations,

In their official capacities,

Respondents.

Case No.: 1:25-cv-350

**PETITIONER'S EMERGENCY
MOTION FOR PRELIMINARY
INJUNCTION OR TEMPORARY
RESTRAINING ORDER**

**PETITIONER'S EMERGENCY MOTION FOR
PRELIMINARY INJUNCTION OR
TEMPORARY RESTRAINING ORDER**

1. Petitioner, Ms. Jane Doe, by counsel, pursuant to Fed. R. Civ. P. 65(b)(1), hereby requests that this Court issue an emergency temporary restraining order, prohibiting Respondents from deporting her or transferring her to another district during the pendency of this habeas. In support of this motion, Petitioner respectfully represents as follows:

SUMMARY OF THE FACTS

2. Ms. Doe is a non-citizen. ICE had placed her on an Order of Supervision (OSUP) in 2023, rather than detaining her based on her prior order of removal. ICE did not seek detention based on the 2021 ICE Policy Directive which directed ICE Officers to exercise prosecutorial discretion when they encountered crime victims because “the duty to protect non-citizen crime victims is enshrined in VAWA.”
3. But in 2025, ICE changed court with a new policy which grossly deviates from its long-standing policy of not detaining VAWA applicants absent exigent circumstances. Because of this 2025 policy change, Ms. Doe was detained at her December 13, 2025 ICE check-in. She filed a petition for habeas corpus seeking her immediate release from custody because 1) ICE violated the regulations and its long-standing policy by cancelling her OSUP and detaining her, 2) that ICE’s 2025 policy, used to re-detain Ms. Doe, is arbitrary, capricious, and not in accordance with the law, and 3) that it did not follow its own procedures when cancelling her OSUP. Through this TRO, she moves for this Court to prohibit her removal or transfer during the pendency of the habeas.

ARGUMENT

4. A court may issue a preliminary injunction upon notice to the adverse party. Fed. R. Civ. P. 65(a). It is well settled law that “[a] preliminary injunction is an extraordinary remedy never awarded as of right.” *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 24 (2008). A movant seeking a preliminary injunction must establish each of the four Winter elements: (1) that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of

equities tips in his favor, and (4) that an injunction is in the public interest. *Id.* at 20. The legal standard for a TRO is the same.

A. Petitioner is likely to succeed on the merits of her claim

5. Because Ms. Doe is only seeking a prohibitory injunction, she needs to only demonstrate a *prima facie* evidence case. *TitleMax of Tex., Inc. v. City of Dallas*, 142 F.4th 322, 328-29 (5th Cir. 2025). Here, Petitioner requests a *prohibitory* injunction because she seeks only to preserve the *status quo*, which is “the last peaceable uncontested status” existing between the parties before the dispute arose. *Canal Authority of Florida v. Callaway*, 489 F.2d 567, 576 (5th Cir. 1974); *see also United States v. FDIC*, 881 F.2d 207, 210 (5th Cir. 1989) (The district court has the equitable power to return the parties to their last uncontested status.). Ms. Doe moves for this Court to order that she not be removed from the U.S. or transferred to a different jurisdiction during the pendency of the habeas proceedings.
6. Ms. Doe demonstrates *prima facie* eligibility that 1) ICE violated the regulations and its long-standing policy by cancelling her OSUP and detaining her, 2) that ICE’s 2025 policy, used to re-detain Ms. Doe, is arbitrary, capricious, and not in accordance with the law, and 3) that it did not follow its own procedures when cancelling her OSUP.

B. Petitioner will suffer irreparable harm if the TRO is not granted

7. On the irreparable harm prong, although “the burden of removal alone cannot constitute the requisite irreparable injury,” *Nken v. Holder*, 556 U.S. 418, 435 (2009), this case presents far more immediate injury than the garden-variety removal case in which “[a]liens who are removed may continue to pursue their petitions for review, and those

who prevail can be afforded effective relief by facilitation of their return, along with restoration of the immigration status they had upon removal,” *id.*

8. Petitioner is likely to suffer irreparable harm because of the facts of her VAWA case itself. She is suffering anxiety and depression since ICE detained her. She is separated from her minor children, for whom she is the primary caretaker, as well as her support system. If she were removed during the pendency of her habeas, she fears that her husband will find her and harm her once he is no longer on parole. He used to tell her that it would be much easier if she were in Mexico, which she understood to mean that it would be easier for him to harm her or kill her if she were in Mexico. Lastly, the overall Congressional Intent and ICE’s long-standing policy regarding protection of VAWA-eligible non-citizens bolsters her claim that she will face irreparable harm if her TRO is not granted. *See ICE Policies 2021, 2011, 2007, and 2005*, attached as exhibits at Dkt. 1.

C. The Third and Fourth Winter Factors

9. Finally, on the third and fourth Winter factors, “once an applicant satisfies the first two factors, the traditional stay inquiry calls for assessing the harm to the opposing party and weighing the public interest. These factors merge when the Government is the opposing party.” *Nken*, 556 U.S. at 435. Here, the balance of equities and the public interest tilt sharply in favor of the issuance of at TRO, as the public has a significant interest in protecting victims of domestic violence. The United States has passed victim-centered legislation, including the Violence Against Women Act and the Trafficking Victims Protection Reauthorization Act, both designed to protect immigrant victims of crime. The

passage of these laws shows the strong public interest in protecting victims over perpetrators.

D. Rule 65(c)

10. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Under the circumstances of this case, however, Ms. Doe respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from deporting or transferring Ms. Doe, and/or to refrain from giving Respondents' unlawful actions legal effect, should not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. Of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

WHEREFORE, Petitioner respectfully requests that this Court enter a Temporary Restraining Order, prohibiting Respondents from deporting her or transferring her to another jurisdiction during the pendency of this habeas petition.

Respectfully submitted this 20th day of December 2025,

/s/ Jennifer Scarborough
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Verification Pursuant to 28 U.S.C. § 2242

The undersigned counsel submits this verification on behalf of the Petitioner. Undersigned counsel has discussed with Petitioner the events described in this Petition for Motion for Preliminary Injunction and Temporary Restraining Order and, on the basis of those discussions, verify that the statements in the Petition are true and correct to the best of her knowledge and belief.

Date: 22 December 2025

/s/ Jennifer Scarborough
Attorney for Petitioner