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10 UNITED STATES DISTRICT COURT
11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
12 SAN DIEGO DIVISION

13 PAWAN KUMAR SINGH

14 Petitioner

15 Case No. '25CV3720 JLS DDL

16 v.

17 EMERGENCY MOTION FOR
18 TEMPORARY RESTRAINING ORDER
19 AND STAY OF REMOVAL

20 Gregory J. ARCHAMBEAULT,
21 Field Office Director of Enforcement and
22 Removal Operations, San Diego Field
23 Office, Immigration and Customs
24 Enforcement; Kristi NOEM, Secretary,
25 U.S. Department of Homeland Security;
26 U.S. DEPARTMENT OF HOMELAND
27 SECURITY; Pamela BONDI, U.S.
28 Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW;
Christopher J. LAROSE Warden of Otay
Mesa Detention Center,

Respondents

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND STAY OF
REMOVAL

TO RESPONDENTS AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Petitioner, by and through undersigned counsel, moves for an emergency Temporary Restraining Order (“TRO”) pursuant to Federal Rule of Civil Procedure 65, staying Petitioner’s removal from the United States and prohibiting transfer outside this District, pending expedited consideration of Petitioner’s habeas petition and related claims.

1 This Motion is made on the grounds that removal is imminent; that removal would cause
2 irreparable harm and moot the Court's ability to grant effective relief; and that Petitioner raises at
3 least serious questions going to the merits of his custody and process claims.
4

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6 Respectfully Submitted,

7 /s/ Mario Tafur
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 Petitioner is a long-term resident of the United States who has maintained lawful
4 nonimmigrant status for many years, including through multiple approved H-1B petitions since
5 approximately 2011. Petitioner also has an approved I-140 immigrant petition with a priority date of
6 approximately 2011. Petitioner also has an approved I-140 immigrant petition with a priority date of
7 July 2015. He is the spouse and parent of a U.S.-based family, including a U.S. citizen child, and he
8 owns a home in Arizona.

9 Petitioner now faces imminent removal through expedited removal procedures following a
10 border encounter that occurred after Petitioner's passport and phone were stolen while he was on a
11 short trip outside the United States. Removal could occur at any time. Once removed, Petitioner will
12 suffer immediate and irreversible harms—separation from his spouse and children; loss of
13 employment and housing stability; and severe immigration consequences associated with expedited
14 removal, including a multi-year bar.

15
16 A brief TRO is necessary to preserve the status quo while this Court considers the legality of
17 Petitioner's detention and the government's use of expedited removal procedures in circumstances
18 where Petitioner asserts he had valid lawful status and should have been placed into ordinary INA
19 §240 proceedings, where he could seek bond and contest removability.

20 II. REQUESTED RELIEF

21 Petitioner respectfully requests that the Court:

22
23 Temporarily restrain Respondents and their officers, agents, servants, employees, and
24 attorneys from removing Petitioner from the United States for fourteen (14) days (and for any
25 extension permitted under Fed. R. Civ. P. 65(b)(2));

26 Order Respondents to provide Petitioner's counsel with at least seventy-two (72) hours'
27 advance written notice of any planned removal date/time and itinerary while any TRO/PI is in
28 effect;

1 Enjoin Respondents from transferring Petitioner outside this District without advance notice
2 to counsel and leave of Court (except for transport to and from court proceedings);

3 Set an expedited briefing schedule and hearing (or Order to Show Cause) on preliminary
4 injunctive relief; and

5 Grant such other and further relief as the Court deems just and proper to preserve
6 jurisdiction and prevent irreparable harm.
7

8 III. FACTUAL BACKGROUND

9 Because removal appears imminent, Petitioner provides this working summary based on
10 information currently available. Petitioner will submit sworn declarations and supporting exhibits
11 with specific dates, A-Number, custody location, and documentation of status, employment history,
12 and family ties.

13 A. Longstanding residence and family ties

14 Petitioner has lived in the United States for approximately fifteen (15) years.

15 Petitioner owns a home in Arizona (approximately seven (4) years).

16 Petitioner's immediate family resides in the United States, including his spouse (on H-4
17 EAD) and children, including a U.S. citizen daughter (age approximately 12) and a son in college.
18

19 Petitioner reports no criminal history.

20 B. Immigration status and employment background

21 Petitioner reports that he has held H-1B status since approximately 2011 with over ten (10)
22 approved H-1B petitions across multiple employers.
23

24 Petitioner has an approved I-140 with a priority date of July 2015.

25 Petitioner reports that his most recent contract employment ended abruptly while he was
26 traveling, and that he did not receive timely notice because his phone was stolen.
27

28 Petitioner has identified prospective new employment and is prepared to pursue H-1B
portability / new petition filings as soon as he is able.

1 C. Travel, passport theft, border encounters, and detention

2 In or about August 2025, Petitioner traveled to Mexico for a short trip. During the trip, his
3 passport and phone were stolen.

4 Petitioner sought a replacement passport through the Indian consulate in Mexico, which he
5 was told could take multiple weeks due to printing constraints.

6 Petitioner attempted to re-enter the United States at or near the Otay Mesa Port of Entry
7 without a current passport and was refused entry.

8 After additional questioning and paperwork over multiple days, Petitioner was taken into
9 custody and issued an expedited removal order and associated documents.

10 Petitioner is currently detained in ICE custody at the Otay Mesa Detention Center in San
11 Diego, California (A# 208-848-679) and faces imminent removal.

12 IV. JURISDICTION AND AUTHORITY TO ENTER A BRIEF TRO

13 This Court has jurisdiction over Petitioner's custody challenge under 28 U.S.C. § 2241 and
14 28 U.S.C. § 1331, and venue is proper in the district of detention.

15 Petitioner acknowledges that Congress has enacted limits on review and relief related to
16 expedited removal orders. See, e.g., 8 U.S.C. § 1252(e). Petitioner nevertheless seeks narrowly
17 tailored, individual relief to preserve the status quo for a brief period so that the Court may
18 determine jurisdiction and adjudicate Petitioner's custody challenge without irreparable mootness.
19 In addition, even where heightened standards apply to enjoining removal, Petitioner seeks only a
20 short, status-quo TRO and will show that executing removal now would be prohibited as a matter of
21 law in light of the serious statutory and regulatory defects alleged in his forthcoming habeas
22 petition. See 8 U.S.C. § 1252(f)(2).

23 V. LEGAL STANDARD

24 A TRO is an extraordinary but appropriate remedy to preserve the status quo pending a
25 prompt hearing on preliminary injunctive relief. A movant must show: (1) a likelihood of success

1 on the merits (or, in some circuits, serious questions going to the merits); (2) likelihood of
2 irreparable harm absent relief; (3) that the balance of equities tips in the movant’s favor; and (4) that
3 the injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7 (2008). The
4 purpose of a TRO is to preserve the status quo long enough to hold a hearing, not to decide the
5 merits. *Granny Goose Foods, Inc. v. Teamsters*, 415 U.S. 423 (1974).

7 VI. ARGUMENT

8 A. A brief stay of removal is necessary to preserve this Court’s ability to grant meaningful relief

9 If Petitioner is removed before this Court can evaluate the legality of custody and process,
10 the habeas action may become moot or its relief impossible to effectuate. The Court should
11 therefore enter a brief TRO to maintain the status quo and ensure that the Court’s review is not
12 defeated by unilateral executive action.

13
14 B. Petitioner raises at least serious questions on the merits

15 Expedited removal is a summary process that applies when an immigration officer
16 determines that an alien who is arriving in the United States is inadmissible under INA §
17 212(a)(6)(C) (misrepresentation) or INA § 212(a)(7) (documentation). See 8 U.S.C. §
18 1225(b)(1)(A)(i); 8 C.F.R. § 235.3(b)(1).

19 Petitioner’s forthcoming habeas petition will contend, among other things, that the
20 government acted unlawfully by placing Petitioner into expedited removal and detaining him
21 without access to ordinary INA § 240 removal proceedings and the bond process available in that
22 forum, despite Petitioner’s longstanding lawful presence and asserted maintenance of valid status.

23
24 Petitioner will also submit evidence concerning the 60-day grace period regulation
25 applicable to H-1B and other nonimmigrants. DHS regulations provide that an alien admitted in H-
26 1B (and certain other classifications) “shall not be considered to have failed to maintain
27 nonimmigrant status solely on the basis of a cessation of the employment” for up to 60 consecutive
28 days (or until the end of the authorized validity period, whichever is shorter), once during each

1 authorized validity period. 8 C.F.R. § 214.1(l)(2). Petitioner will present evidence that he remained
2 eligible for this regulatory protection and that the government's summary process did not
3 appropriately account for his lawful status, employment transition, and documentation
4 circumstances.

5
6 C. Irreparable harm is certain absent immediate relief

7 Removal is irreparable. Once removed, Petitioner will be separated from his spouse and
8 children and may face a multi-year bar on reentry. Removal will also impair Petitioner's ability to
9 pursue employment-based immigration processes tied to his approved I-140 and will cause
10 immediate disruption to family stability, including housing and financial support.

11 D. The balance of equities and the public interest favor preserving the status quo

12 The balance of equities strongly favors maintaining the status quo for a brief period.
13 Petitioner seeks only temporary, individualized relief to prevent irrevocable harm while the Court
14 considers the case. The government's interest in immediate removal is minimal compared to the
15 profound and irreversible harm to Petitioner and his U.S.-based family. The public interest is served
16 when constitutional and statutory limits are observed and courts can adjudicate claims on a
17 complete record.

18
19 E. No security should be required under Rule 65(c)

20 Petitioner requests waiver of any bond because Petitioner is detained, lacks access to
21 income, and seeks to vindicate fundamental rights. Alternatively, any bond should be nominal.

22
23 VII. CONCLUSION

24 For the foregoing reasons, Petitioner respectfully requests that the Court enter a Temporary
25 Restraining Order staying removal and prohibiting transfer outside this District, and set an
26 expedited schedule for further proceedings.

27 Respectfully Submitted,

28 /s/ Mario Tafur

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