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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Antonio Alejandro Garcia Morao,

Plaintiff

v.

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security,

TODD LYONS, in his official capacity as
Acting Director of Immigration and Customs
Enforcement,

MARCOS CHARLES, in his official capacity
as ICE Field Officer Director,

JOHN MATTOS, in his official capacity as the
warden of the Nevada Southern Detention
Facility,

PAMALA BONDI, in her official capacity as
the United States Attorney General,

The Executive Office for Immigration Review

United States Immigration and Customs
Enforcement.

United States Citizenship and Immigration
Services

Defendants

Civil No.: **2:25-cv-02588-MMD-NJK**

**EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER**

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EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

This Plaintiff Antonio Alejandro Garcia Morao respectfully moves this Court pursuant to Federal Rule of Civil Procedure 65(b) for a Temporary Restraining Order enjoining Defendants, including the United States Immigration and Customs Enforcement (“ICE”) and the Executive Office for Immigration Review (“EOIR”), from proceeding with removal hearings, issuing removal orders, or taking enforcement action that would interfere with adjudication of Plaintiff’s pending Form I-485 application while this Court adjudicates Plaintiff’s claims under the Administrative Procedure Act and the Mandamus Act.

I. INTRODUCTION

Emergency relief is necessary to prevent immediate and irreparable harm and to preserve this Court’s jurisdiction. Plaintiff is currently detained and in active removal proceedings while simultaneously maintaining a pending Form I-485 application for adjustment of status for which he is prima facie eligible. Federal agencies have refused to adjudicate that application or to facilitate completion of the required adjustment interview, while at the same time continuing removal proceedings that threaten to nullify the very statutory process Congress created.

Plaintiff does not seek termination of removal proceedings, a grant of permanent residence, or a permanent restraint on enforcement authority. Plaintiff seeks only a temporary, jurisdiction-preserving stay of proceedings and enforcement actions so that this Court may determine whether Defendants have unlawfully withheld or unreasonably delayed adjudication of Plaintiff’s adjustment-of-status application.

Absent a Temporary Restraining Order, Defendants’ continued prosecution of removal proceedings risks issuance of a removal order that would moot this action, extinguish Plaintiff’s statutory claims, and deprive this Court of its ability to grant meaningful relief.

1 **II. LEGAL STANDARD**

2 A Temporary Restraining Order is appropriate where the movant demonstrates:

- 3
- 4 1. A likelihood of success on the merits;
 - 5 2. A likelihood of irreparable harm absent relief;
 - 6 3. That the balance of equities tips in the movant’s favor; and
 - 7 4. That an injunction is in the public interest.

8 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

9

10 Where ongoing immigration enforcement threatens to moot pending judicial review or

11 foreclose access to congressionally authorized relief, courts routinely find these factors satisfied.

12 **III. ARGUMENT**

13 **A. Plaintiff Is Likely to Succeed on the Merits**

14 Plaintiff’s Amended Pleadings seek to compel Defendants to perform a mandatory,

15 nondiscretionary duty: adjudication of a properly filed Form I-485 within a reasonable time and

16 facilitation of the procedural steps necessary to render a decision. These claims arise under the

17 Administrative Procedure Act and the Mandamus Act and seek only to compel agency action

18 unlawfully withheld or unreasonably delayed.

19 The relief requested in this motion is procedural and jurisdiction-preserving, not substantive.

20 Plaintiff does not ask this Court to decide his immigration status, grant adjustment, or terminate

21 removal proceedings. Rather, Plaintiff seeks a narrowly tailored TRO to ensure that Defendants’

22 enforcement actions do not preempt judicial review of Plaintiff’s statutory claims.

23 If removal proceedings culminate in a removal order or enforcement action before this Court

24 can rule, Plaintiff’s claims risk becoming moot through agency action alone. Courts consistently

25 recognize that preservation of jurisdiction and meaningful review supports injunctive relief.

1 **B. Plaintiff Will Suffer Immediate and Irreparable Harm Absent a TRO**

2
3 Absent immediate injunctive relief, Plaintiff will suffer irreparable harm that cannot be
4 remedied after the fact. Continued removal proceedings threaten the issuance of a removal order that
5 would extinguish Plaintiff’s ability to pursue adjustment of status before adjudication of the pending
6 Form I-485. Such an outcome would permanently foreclose statutory relief, separate Plaintiff from his
7 United States citizen spouse, and nullify the federal claims currently before this Court.
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9 Once a removal order issues or enforcement proceeds to execution, no subsequent ruling can
10 fully restore the status quo or undo the resulting deprivation of statutory rights. Courts have long
11 recognized that loss of family unity, deprivation of meaningful judicial review, and foreclosure of
12 congressionally authorized relief constitute irreparable harm as a matter of law. *Leiva-Perez v. Holder*,
13 640 F.3d 962, 969–70 (9th Cir. 2011); *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Zadvydas v. Davis*,
14 533 U.S. 678, 690 (2001).
15

16 **C. The Balance of Equities Strongly Favors Plaintiff**

17 The balance of equities overwhelmingly favors Plaintiff. A temporary stay of removal
18 proceedings imposes minimal burden on Defendants, who retain full authority to proceed with
19 enforcement should they ultimately prevail. The requested relief is temporary and narrowly tailored to
20 preserve jurisdiction while the Court resolves legal claims already properly before it.
21
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23 By contrast, denial of relief would inflict permanent and irreversible harm on Plaintiff based
24 solely on the timing of agency inaction. Where the choice is between preserving the status quo for a
25 limited period and permanently extinguishing statutory rights, equity decisively favors injunctive relief.
26

27 **D. The Public Interest Supports Injunctive Relief**

28 The public interest is served when courts are able to meaningfully review executive action and
when federal agencies comply with statutory mandates enacted by Congress. Granting a Temporary

1 Restraining Order preserves judicial review, prevents irreparable humanitarian harm, and upholds the
2 rule of law by ensuring that agency enforcement actions do not undermine pending federal jurisdiction.
3

4 The public has no interest in enforcement actions that moot active litigation, foreclose
5 congressionally authorized relief, and deprive a court of the opportunity to adjudicate claims properly
6 before it. The public interest instead favors temporary preservation of the status quo so that this Court
7 may determine whether Defendants have acted lawfully before irreversible consequences are imposed.
8

9 **IV. RELIEF REQUESTED**

10 For the foregoing reasons, Plaintiff respectfully requests that the Court:

11 A. Issue an Emergency Temporary Restraining Order enjoining Defendants, including DHS,
12 ICE, and EOIR, from taking enforcement or adjudicatory actions that would moot this Court's
13 jurisdiction or foreclose adjudication of Plaintiff's pending Form I-485;
14

15 B. Order that the status quo be maintained pending adjudication of Plaintiff's APA and
16 Mandamus claims; and
17

18 C. Grant such other and further relief as the Court deems just and proper.
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20 DATED: January 29, 2026
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23 Respectfully submitted,

24
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