

corpus. Petitioner Jorge Alvaro Garcia Vasquez is currently at the Immigration and Customs Enforcement (“ICE”) Montgomery Processing Center, located at 806 Hilbig Road, Conroe, TX 77301. He has been in ICE custody since December 8, 2025, and seeks emergency relief to obtain his release and prevent his unlawful removal. In support thereof, Petitioner states the following:

II. FACTUAL BACKGROUND

Petitioner Jorge Alvaro Garcia Vasquez is a 27-year-old male, a native and citizen of Guatemala, born on March 1, 1998, in Totonicapán, Guatemala. *See attached, Exhibit A, ID.*

Petitioner last entered the United States without inspection on or about September 9, 2021, at or near an unknown location. He has remained in the United States since that time. *See attached, Exhibit B, Form I-213.*

On or about April 6, 2023, the Department of Homeland Security (“DHS”) served Petitioner with a Notice to Appear, charging him as removable under INA § 212(a)(6)(A)(i) as an alien present in the United States without being admitted or paroled. Removal proceedings were initiated before the Immigration Court. *See attached, Exhibit C, Notice to Appear.*

On or about April 6, 2023, Petitioner was taken into custody by U.S. Immigration and Customs Enforcement (“ICE”) and detained at the Montgomery Processing Center in Conroe, Texas. *See attached, Exhibit D, Warrant for Arrest of Alien.*

Petitioner sought release from ICE custody pursuant to INA § 236(a) and requested a custody redetermination hearing before the Immigration Court. On June 1, 2023, an Immigration Judge determined that Petitioner was bond eligible and ordered his release upon the posting of bond. *See attached, Exhibit E, Bond Order.*

Following the Immigration Judge's bond determination, Petitioner was released from ICE custody and remained in the community while continuing to pursue relief from removal in good faith.

On December 8, 2025, ICE re-detained Petitioner and placed him back into immigration custody at the Montgomery Processing Center, despite the prior bond determination and without any new custody hearing, bond revocation order, or finding that Petitioner is subject to mandatory detention. *See attached*, Exhibit F, ICE Notice to EOIR: Alien Address

ICE has not identified any changed circumstances, new criminal conduct, or statutory basis justifying Petitioner's re-detention, nor has Petitioner been afforded a new custody determination before an Immigration Judge.

Petitioner's removal proceedings remain ongoing and not administratively final, and no final order of removal has been entered in his case. Petitioner continues to pursue relief from removal before the Immigration Court. *See attached*, Exhibit G, I-589.

As a result of ICE's unilateral re-detention, Petitioner is currently being held without lawful authority and without due process, in violation of the Immigration and Nationality Act and the Fifth Amendment to the United States Constitution.

Petitioner now submits this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and TRO, seeking immediate release from unlawful detention or, in the alternative, a prompt and constitutionally adequate custody hearing before a neutral decision-maker.

III. LEGAL STANDARD

The standard for granting a temporary restraining order ("TRO") in the Fifth Circuit requires the petitioner to demonstrate:

- (1) a substantial likelihood of success on the merits;
- (2) a substantial threat of irreparable injury if the injunction is not granted;
- (3) that the threatened injury outweighs any harm the injunction may cause the government; and
- (4) that the injunction will not disserve the public interest.

Mississippi Power & Light Co. v. United Gas Pipe Line Co., 760 F.2d 618, 621 (5th Cir. 1985).

In the immigration habeas context, a TRO serves to preserve this Court's jurisdiction and prevent continued unlawful restraint of liberty in violation of the Constitution and federal law. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

IV. ARGUMENT

A. Petitioner Faces Immediate and Irreparable Harm from Continued Detention

Petitioner has been detained by ICE since December 8, 2025. His removal order is not final because removal proceedings are still pending. Petitioner has no criminal history and poses no risk to the community. He has demonstrated no conduct indicating that he is a threat to the United States or otherwise eligible for deportation.

Petitioner has no administrative avenue for release and remains indefinitely detained without judicial review—an ongoing deprivation of his most fundamental liberty interest.

Continued confinement of a noncitizen without lawful authority constitutes irreparable harm. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 529–30 (2003). Each additional day of unlawful detention deepens the constitutional injury and cannot be remedied by monetary

damages. See *Jennings v. Rodriguez*, 583 U.S. 281 (2018). Petitioner's prolonged confinement also exacerbates his medical conditions, further establishing immediate and irreparable harm absent this Court's intervention.

B. Petitioner is Substantially Likely to Succeed on the Merits

Petitioner's detention is unlawful under 28 U.S.C. § 2241 because no final order of removal exists, and ICE has failed to justify his continued confinement. Under *Zadvydas*, detention authority under 8 U.S.C. § 1231(a) arises only after a removal order becomes final. Petitioner remains in removal proceedings, which are ongoing and pending before the Immigration Court, and no final order of removal has been entered.

The Fifth Circuit has recognized that immigration detention must be narrowly tailored and subject to constitutional limits. *Zadvydas v. Underdown*, 185 F.3d 279 (5th Cir. 1999), rev'd on other grounds, 533 U.S. 678 (2001). Absent a final removal order or individualized finding of necessity, detention becomes arbitrary and violates substantive due process. See *Reno v. Flores*, 507 U.S. 292, 302 (1993).

Petitioner poses no flight risk or danger to the community and has complied with all ICE reporting requirements. ICE's failure to articulate any legitimate reason for his detention demonstrates that it is punitive, not regulatory, and therefore unconstitutional. *Zadvydas*, 533 U.S. at 690–91.

For these reasons, Petitioner is substantially likely to prevail on the merits of his habeas corpus petition and is entitled to immediate release.

C. The Balance of Harms Favors Petitioner

The harm to Petitioner from continued unlawful detention—loss of liberty in a facility meant for criminal aliens, deterioration of health, and ongoing constitutional injury—vastly outweighs any administrative burden on the government in effecting his release under appropriate conditions. The government retains full authority to supervise Petitioner through reporting or monitoring conditions, rendering detention unnecessary to ensure appearance.

Where, as here, the government cannot articulate a lawful basis for custody, continued detention serves no legitimate purpose and inflicts disproportionate harm.

D. The Public Interest Supports Immediate Release

The public interest is served by ensuring that government detention authority is exercised within constitutional and statutory bounds. Upholding due process and preventing unlawful imprisonment preserves confidence in the rule of law and the integrity of immigration proceedings.

Granting the requested relief promotes judicial economy by ensuring this Court can fully adjudicate the habeas petition without the case becoming moot due to prolonged or arbitrary detention.

V. CONCLUSION

Because Petitioner has shown (1) a substantial likelihood of success on the merits of his habeas claim; (2) irreparable harm from continued detention; (3) that the balance of equities strongly favors release; and (4) that release under appropriate safeguards serves the public

interest, this Court should grant the temporary restraining order and order Petitioner's **immediate release from ICE custody under appropriate safeguards determined by DHS.**

VI. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court **IMMEDIATELY** issue a temporary restraining order:

1. **Directing Respondents to immediately release Petitioner from custody;**
2. In the alternative, an order requiring a prompt custody or bond hearing pursuant to INA § 236(a), 8 U.S.C. § 1226(a)
3. Restraining and enjoining Respondent, their agents, employees, and successors from removing Petitioner from the United States;
4. Directing Respondent to take all necessary steps to halt any removal preparations;
5. Requiring Respondent to notify all relevant personnel that Petitioner shall not be removed;
6. Set an expedited hearing on Petitioner's motion for preliminary injunction;
7. After hearing, issue a preliminary injunction maintaining the relief requested above during the pendency of this action;
8. Waive or set security in a nominal amount;
9. Award attorney's fees and costs; and
10. Grant such other relief as this Court deems just and proper.

VII. SECURITY AND NOTICE

Petitioner respectfully requests that the Court waive the security requirement under Fed. R. Civ. P. 65(c) due to his indigent status, or alternatively, set security in a nominal amount.

Petitioner has taken reasonably calculated steps to effect service of process on each of the Respondents named herein, and has provided them with copies of the present motion as described in the Certificate of Service, below.

Respectfully submitted,

/s/ Matthew Mendez

Matthew Mendez
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CERTIFICATE OF EMERGENCY

I hereby certify that this motion seeks emergency relief due to Petitioner's imminent risk of removal, which would render his habeas corpus petition moot and cause irreparable constitutional harm.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

12/23/2025
Date

CERTIFICATE OF CONFERENCE

I hereby certify that due to the emergency nature of this motion and the imminent threat of removal, I have been unable to confer with opposing counsel regarding this motion.

/s/ Matthew Mendez

Matthew Mendez
Attorney for Petitioner

12/23/2025

Date

CERTIFICATE OF SERVICE

On December 23, 2025, Counsel for Petitioner served a copy of the attached Motion via USPS Certified Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Randy Tate, in his official capacity as Warden of the Montgomery Processing Center;** at the Immigration and Customs Enforcement (“ICE”) Montgomery Processing Center, located at 806 Hilbig Rd, Conroe, TX 77301.

/s/ Matthew Mendez

Matthew Mendez
Attorney for Petitioner

12/23/2025

Date

CERTIFICATE OF SERVICE

On December 23, 2025, Counsel for Petitioner served a copy of the attached Motion via USPS Certified Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Bret Bradford, in his Official Capacity as Field Office Director, of ICE Enforcement and Removal Operations Houston Field Office**, at (1) Office of the Field Office Director, Enforcement and Removal Operations, Houston Field Office, 126 Northpoint Drive, Houston, Texas 77060, and (2) to the United States at Civil Process Clerk, U.S. Attorney's Office, 1000 Louisiana Street, Suite 2300, Houston, Texas 77002.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

12/23/2025
Date

CERTIFICATE OF SERVICE

On December 23, 2025, Counsel for Petitioner served a copy of the attached Motion via USPS Certified Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Kristi Noem, in their Official Capacity as Director of U.S. Department of Homeland Security**, at (1) Office of General Counsel, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0485, Washington, D.C. 20530; and (2) to the United States at Civil Process Clerk, U.S. Attorney's Office, 1000 Louisiana Street, Suite 2300, Houston, Texas 77002.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

12/23/2025
Date

CERTIFICATE OF SERVICE

On December 23, 2025, Counsel for Plaintiff served a copy of the attached Petition via email, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Pam Bondi, in their Official Capacity as Attorney General of the United States**, at USATXS.CivilNotice@usdoj.gov.

/s/ Matthew Mendez

Matthew Mendez
Attorney for Petitioner

12/23/2025

Date