

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

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Edison Toapaxi Zapata,	)	
Petitioner	)	
	)	MOTION FOR TEMPORARY
v.	)	RESTRAINING ORDER
	)	
WARDEN, Port Isabel Detention Center;	)	CASE No: 25-356
KRISTI NOEM, Secretary of	)	
the Department of Homeland Security; U.S.	)	
Department of Homeland Security (DHS);	)	
PAMELA BONDI, Attorney General of	)	
the United States, and TODD LYONS,	)	
Director,	)	
Immigration and Customs Enforcement.	)	
	)	
Respondents	)	
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EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY  
INJUNCTION

INTRODUCTION

Petitioner Edison Toapaxi Zapata seeks immediate emergency relief in the form of a Temporary Restraining Order to prevent his continued unlawful detention and any transfer or removal while this Court considers his Petition for Writ of Habeas Corpus. Mr. Toapaxi Zapata is a noncitizen who has been detained by the Department of Homeland Security despite clear statutory authority entitling him to bond consideration and despite the absence of any lawful basis for continued civil detention. He has no criminal history, poses no danger to the community, and presents no risk of flight. Nevertheless, he remains confined without a meaningful custody determination, in violation of the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

This case presents precisely the type of extraordinary circumstance warranting emergency judicial intervention. Mr. Toapaxi Zapata was denied bond based on an erroneous

legal determination that he is subject to mandatory detention as an arriving alien, even though the record establishes that he was processed into the interior of the United States and issued parole. As a result, he is being held indefinitely without the individualized assessment that the Constitution and governing statutes require. Each additional day of detention compounds the constitutional harm, separates him from his family, and inflicts irreparable injury that cannot be remedied after the fact.

The equities overwhelmingly favor immediate relief. Mr. Toapaxi Zapata is the primary support for his family, including his wife, who is currently pregnant, and his minor children, all of whom depend on him emotionally and financially. His detention has already caused severe hardship to his household and threatens further harm to his wife's health and the well-being of his children. Continued detention serves no legitimate governmental interest and instead undermines the core civil purpose of immigration custody, which is limited to preventing flight or danger, neither of which is present here.

Absent a Temporary Restraining Order, Respondents may continue to detain Mr. Toapaxi Zapata unlawfully or transfer him outside this Court's jurisdiction, frustrating judicial review and rendering his habeas petition moot before it can be adjudicated. Emergency relief is therefore necessary to preserve the status quo, protect this Court's jurisdiction, and prevent irreparable constitutional injury while the Court considers the merits of the Petition.

#### **FACTS OF THE CASE**

Petitioner Edison Toapaxi Zapata is a native and citizen of Ecuador. He entered the United States on or about December 5, 2022, and was subsequently processed in the interior of the United States. He was issued a parole document and permitted to reside and work lawfully while pursuing immigration relief. Since his entry, Mr. Toapaxi Zapata has lived openly and peacefully in the United States, maintained stable housing, worked with authorization, paid taxes, and complied with

all known immigration requirements.

Mr. Toapaxi Zapata is married and is the primary support for his household. He lives with his wife and children, including several minor children who rely on him for daily care, emotional stability, transportation, and financial support. His wife is currently pregnant and has experienced medical complications during pregnancy, making his presence particularly critical. Prior to detention, Mr. Toapaxi Zapata was employed, active in his church, and deeply embedded in his local community. He has no criminal convictions, no history of violence, and no adverse conduct suggesting danger or flight risk.

In or around November 2025, Mr. Toapaxi Zapata was stopped while driving and detained by Immigration and Customs Enforcement officers. During the encounter, officers initially confused him with other individuals whose names did not match his identity. Despite Mr. Toapaxi Zapata's attempts to clarify the error and provide documentation, ICE officers detained him. He was first held in Minnesota and was later transferred to the Port Isabel Detention Center in Texas, where he remains confined.

After his transfer to Texas, Mr. Toapaxi Zapata appeared for an initial master calendar and bond hearing before the Immigration Court. Despite the submission of a comprehensive bond packet demonstrating his eligibility for release, the Immigration Judge concluded that the court lacked jurisdiction to consider bond. The denial was based on the determination that Mr. Toapaxi Zapata was subject to mandatory detention as an arriving alien, even though the record reflects that he was processed into the interior and issued parole. As a result, no individualized assessment of danger or flight risk was conducted, and no consideration of alternatives to detention was afforded.

Mr. Toapaxi Zapata remains detained without bond or any meaningful custody review. His next scheduled immigration court hearing is not a merits hearing and will not resolve the legality of his continued confinement. There is no defined end point to his detention, and absent judicial

intervention, he faces many additional months of incarceration despite being a civil detainee who poses no risk to the community.

Mr. Toapaxi Zapata's continued detention has caused and continues to cause irreparable harm. He has been separated from his pregnant wife and minor children, who are suffering emotional and financial distress as a result of his absence. The loss of his income has destabilized the household, and his wife's medical vulnerability has been exacerbated by the lack of his support. Mr. Toapaxi Zapata himself is experiencing significant psychological harm from prolonged detention in prison-like conditions, harm that cannot be remedied through monetary damages or post-hoc relief.

Absent immediate injunctive relief, Respondents retain the authority to continue detaining or transfer Mr. Toapaxi Zapata outside this judicial district, which would frustrate this Court's ability to adjudicate his habeas petition and effectively deprive him of meaningful judicial review. Emergency relief is therefore necessary to preserve the status quo and prevent irreparable constitutional injury.

## LEGAL ARGUMENT

### **I. Legal Standard**

To obtain a temporary restraining order, a petitioner-plaintiff "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Piedmont Heights Civic Club, Inc. v. Moreland*, 637 F.2d 430 (5th Cir. 1981)).

Here, Mr. Toapaxi Zapata is likely to succeed on the merits of his habeas petition because his continued detention rests on a fundamental legal error and violates both the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Mr. Toapaxi Zapata is not presently removable for multiple independent reasons, including his parole into the United States, his placement in INA § 240 proceedings, and his pending

humanitarian relief, which together foreclose removal for a substantial period of time. Nonetheless, Respondents continue to detain him without bond or meaningful custody review. This prolonged civil detention, untethered from any legitimate governmental purpose and imposed without individualized findings of danger or flight risk, is unlawful and constitutes a textbook violation of due process.

***II. Mr. Toapaxi Zapata will likely succeed on the merits.***

Petitioner is likely to succeed on the merits of his habeas petition because Respondents' continued detention of Mr. Toapaxi Zapata is unlawful as a matter of statute and unconstitutional as a matter of due process.

First, Mr. Toapaxi Zapata is detained under the wrong statutory authority. Respondents have treated him as an arriving alien subject to mandatory detention, thereby denying him bond eligibility. That determination is legally erroneous. The record establishes that Mr. Toapaxi Zapata was processed into the interior of the United States and issued parole. As such, he is subject to detention, if at all, under INA § 236(a), which expressly authorizes release on bond or conditional parole. By categorically denying bond jurisdiction, the Immigration Judge applied the wrong legal framework, resulting in unlawful detention without the individualized custody determination required by statute.

Second, even assuming arguendo that Mr. Toapaxi Zapata were properly detained under § 236(a), his continued confinement without a meaningful custody review violates the Due Process Clause of the Fifth Amendment. Civil immigration detention is constitutionally permissible only to serve the limited purposes of preventing flight or protecting the community. Mr. Toapaxi Zapata poses no danger, has no criminal history, and presents no flight risk. He has deep family ties, lawful employment history, stable residence, and pending immigration relief. Detention under these circumstances is not reasonably related to any legitimate governmental purpose and therefore violates due process.

Third, the prolonged nature of Mr. Toapaxi Zapata's detention further underscores its unlawfulness. He faces months, if not years, of continued confinement while pursuing relief in removal proceedings, with no realistic prospect of near-term removal. Courts have consistently held that prolonged immigration detention without an individualized determination of necessity offends fundamental constitutional principles. Here, Respondents have provided no hearing at which they bear the burden to justify continued detention by clear and convincing evidence, rendering the detention constitutionally infirm.

Fourth, Mr. Toapaxi Zapata is not presently removable for multiple independent reasons, including his parole into the United States, his placement in INA § 240 proceedings, and his pending humanitarian relief. Continued detention in the absence of a lawful path to prompt removal transforms civil detention into impermissible punishment. The Constitution does not permit the government to warehouse noncitizens simply because their cases are unresolved.

Mr. Toapaxi Zapata is likewise likely to succeed on his Fifth Amendment substantive due process claim because his continued detention bears no reasonable relation to the government's permissible interests. Substantive due process requires that civil detention maintain a reasonable connection to its purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018). Under *Zadvydas*, the government's only legitimate interests in post-order detention are preventing flight and protecting the community. 533 U.S. at 690–91. But where the Petitioner has substantial ties to the United States, a U visa claim and an asylum claim, as is the case here, “preventing flight” is a “weak or nonexistent” justification. *Id.* at 690.

Nor can the government rely on dangerousness, because civil detention for public safety is permissible only for “specially dangerous individuals” and only with rigorous procedural safeguards. *Id.* at 691; see also *Kansas v. Hendricks*, 521 U.S. 346, 358 (1997).

Taken together, these defects demonstrate that DHS lacks statutory authority to continue

detaining Mr. Toapaxi Zapata and that Mr. Toapaxi Zapata's continued confinement serves no permissible regulatory purpose. The record overwhelmingly supports the conclusion that he is likely to succeed on the merits of each of his claims.

***III. Mr. Toapaxi Zapata will Suffer Irreparable Harm***

Absent immediate injunctive relief, Mr. Toapaxi Zapata will continue to suffer irreparable harm that cannot be remedied through later judicial review or monetary damages. Unlawful civil detention constitutes a paradigmatic form of irreparable injury, particularly where, as here, it results in prolonged physical confinement without lawful authority or meaningful procedural safeguards.

First, each additional day of Mr. Toapaxi Zapata's detention inflicts ongoing constitutional injury. The loss of physical liberty, even for a brief period, constitutes irreparable harm as a matter of law. Mr. Toapaxi Zapata remains incarcerated despite posing no danger and no risk of flight, and without any individualized determination justifying his confinement. Once suffered, this deprivation of liberty cannot be undone, even if he ultimately prevails on the merits.

Second, Mr. Toapaxi Zapata's detention is causing severe and escalating harm to his family, particularly his pregnant wife and minor children. He is the primary emotional and financial support for his household. His wife is currently pregnant and has experienced medical complications, and his absence has exacerbated her vulnerability and stress during pregnancy. His minor children depend on him for daily care, stability, and support. Prolonged separation is inflicting emotional trauma on the children and destabilizing the family unit in ways that cannot be repaired after the fact.

Third, continued detention threatens irreparable economic harm that extends beyond temporary financial loss. Mr. Toapaxi Zapata was lawfully employed prior to detention and

provided essential income for his household. His incarceration has eliminated that income, placing the family at risk of housing instability, inability to meet basic needs, and long-term financial consequences that cannot be fully remedied by post-hoc relief.

Fourth, Mr. Toapaxi Zapata faces serious psychological harm as a result of prolonged detention in prison-like conditions. Immigration detention imposes severe mental and emotional strain, particularly where detention is indefinite and untethered from any lawful purpose. The anxiety, depression, and psychological distress associated with prolonged confinement and family separation constitute irreparable harm recognized by courts as warranting emergency relief.

Finally, absent a Temporary Restraining Order, Respondents may continue to detain Mr. Toapaxi Zapata or transfer him outside this Court's jurisdiction, thereby frustrating judicial review and risking mootness of his habeas petition. The loss of meaningful access to the Court and the risk that his claims will be rendered unreviewable constitute independent and irreparable harms justifying immediate intervention.

Because Mr. Toapaxi Zapata is suffering ongoing deprivation of liberty, family separation, psychological harm, and the imminent risk of loss of judicial review, he has established irreparable harm sufficient to warrant emergency injunctive relief.

#### ***IV. Balance of the Equities and Public Interest***

The “public interest is best served by ensuring the constitutional rights of persons within the United States are upheld.” See *Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The balance of equities weighs decisively in favor of granting emergency relief. Mr. Toapaxi Zapata faces ongoing and irreparable harm from continued unlawful detention, including loss of liberty, separation from his pregnant wife and minor children, severe emotional and financial hardship to his family, and

the risk that his constitutional claims will be rendered meaningless absent judicial intervention. These harms are immediate, concrete, and substantial.

By contrast, Respondents will suffer no cognizable harm from the issuance of a Temporary Restraining Order preserving the status quo. Granting relief will not confer any permanent immigration benefit, interfere with the government's ability to pursue removal proceedings, or prevent Respondents from enforcing the immigration laws. At most, a TRO will require Respondents to cease unlawful detention or transfer while the Court adjudicates the legality of Mr. Toapaxi Zapata's confinement. Where detention is not necessary to mitigate danger or flight risk, the government has no legitimate interest in continued incarceration.

The public interest likewise strongly favors relief. The public has a compelling interest in ensuring that executive agencies act within the bounds of statutory authority and respect constitutional limitations. Prolonged civil detention without lawful justification undermines public confidence in the rule of law and the integrity of the immigration system. Ensuring that detention is tethered to legitimate purposes and accompanied by meaningful procedural protections serves both constitutional values and sound governance.

The public also has a strong interest in preventing the unnecessary incarceration of individuals who pose no danger to the community and no risk of flight, particularly where detention inflicts collateral harm on U.S.-based families and children. Preserving family unity, protecting due process, and preventing arbitrary detention are interests shared by the public at large..

“There is generally no public interest in the perpetuation of unlawful agency action,” and “there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.” *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (cleaned up).

Here, Mr. Toapaxi Zapata's continued detention without bond is in violation of his Fifth Amendment rights and far outweighs any burden the Respondents would suffer.

***V. The Court Has Authority to Grant Mr. Toapaxi Zapata's Immediate Release Pending the Adjudication of His Habeas Petition.***

As a general matter, writs of habeas corpus are used to request release from custody. *Wilkinson v. Dotson*, 544 U.S. 74, 78 (2005). A habeas court has “the power to order the conditional release of an individual unlawfully detained—though release need not be the exclusive remedy and is not the appropriate one in every case in which the writ is granted.” *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (noting that at “common-law habeas corpus was, above all, an adaptable remedy”).

Release in this case is appropriate. Here, the government lacks any statutory authority to continue detaining Mr. Toapaxi Zapata, he has strong equities in relief, and his ongoing confinement violates both the INA and the Constitution. No alternative remedy can redress the daily and compounding harms he suffers, and no legitimate governmental interest is furthered by continued detention. Under these circumstances, habeas courts routinely exercise their authority to order immediate release, and this Court should do the same. *Munoz-Saucedo v. Pittman*, No. CV 25-2258 (CPO), 2025 WL 1750346, at \*5 (D.N.J. June 24, 2025); *accord Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d. 703, 706-07 (S.D. Tex. 2020); *Primero v. Mattivelo*, No. 1:25-CV-11442-IT, 2025 WL 1899115 (D. Mass. July 9, 2025); *see also Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2084400, at \*4 (W.D. Wash. July 24, 2025).

Alternatively, Mr. Toapaxi Zapata respectfully asks that this Court prevent his transfer while the instant Habeas pends and that the Court orders that Mr. Toapaxi Zapata has the opportunity to have a bond hearing with a neutral decisionmaker within seven (7) days of any order.

## **B. CONCLUSION**

For the foregoing reasons, the Court should grant the instant TRO and order his immediate release from ICE custody, order that the Respondents shall not transfer Mr. Toapaxi Zapata from the jurisdiction, or order that Mr. Toapaxi Zapata shall be given a bond hearing within seven (7) days.

Dated: December 24, 2025.

Respectfully Submitted,

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