


65, for entry of a temporary restraining order to prevent his removal by Immigration and Customs Enforcement (“ICE”) from the United States during the pendency of his petition for writ of habeas corpus. Petitioner Marcos Abel Bustillo Cruz is currently detained at the Joe Corley Processing Center, operated under contract with ICE, located at 500 Hilbig Rd, Conroe, TX 77301. He has been in ICE custody since November 3, 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 is a thirty-five-year-old male native and citizen of Honduras. *See attached, Exhibit A: Petitioner’s Identification.* He fled Honduras on March 29, 2020, due to persecution and threats of violence against him 

 and because he faces a substantial risk of torture if returned to Honduras.

On March 29, 2020, Petitioner entered the United States without inspection. On November 3, 2025, Petitioner was detained by ICE officers and charged with being an alien present in the United States without being admitted or paroled. *See attached, Exhibit B: Notice to Appear.* Following his arrest, Petitioner was processed and held at the Joe Corley Processing Center, located at 500 Hilbig Rd, Conroe, TX 77301. *See attached, Exhibit C, Form I-830E (Notice to EOIR: Alien Address).* Petitioner’s removal proceedings are currently pending before the Conroe Immigration Court, where he is scheduled for a hearing on January 21, 2026. *See attached, Exhibit D, Case Notice.* Petitioner states that he intends to submit an application for asylum at the earliest practicable time.

The government has not been able to articulate any meaningful reason why Petitioner should continue to remain in detention pending the outcome of his removal proceedings. Petitioner, through Counsel, now submits the present Petition for Writ of Habeas Corpus to this Honorable Court, and respectfully requests the Court to order Respondents to effect his immediate release.

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 November 3, 2025, with no final order of removal having ever been issued against him in a removal proceeding, though he is subject to

no form of mandatory detention. 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.

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).

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. He has now been placed in removal proceedings, which remain pending before the Conroe Immigration Court, and no final removal order has been issued against him. Accordingly, the government lacks statutory authority to detain him under § 1231(a).

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—he has no criminal record, and has complied with any 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, 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:

Directing Respondents to immediately release Petitioner from custody;

Restraining and enjoining Respondent, their agents, employees, and successors from removing Petitioner from the United States;

Directing Respondent to take all necessary steps to halt any removal preparations;

Requiring Respondent to notify all relevant personnel that Petitioner shall not be removed;

Set an expedited hearing on Petitioner's motion for preliminary injunction;

After hearing, issue a preliminary injunction maintaining the relief requested above during the pendency of this action;

Petitioner requests that this Court order the Immigration Judge to conduct a bond hearing within 7 days governed under INA §1226(a) in the alternative, if immediate release is not possible

Waive or set security in a nominal amount;

Award attorney's fees and costs; and

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
Attorney for Petitioner
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Houston, Texas 77081
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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

12/26/25
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

12/26/25
Date

CERTIFICATE OF SERVICE

On December 26, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Certified Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Grant Dickey, in his official capacity as Co-Associate Warden of the Joe Corley Processing Center ;** at the Joe Corley Processing Center , 500 Hilbig Rd, Conroe, TX 77301

/S/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

12/26/25
Date

CERTIFICATE OF SERVICE

On December 26, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Certified Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Raymond Thompson , in his official capacity as Co-Associate Warden of the Joe Corley Processing Center ;** at the Joe Corley Processing Center , 500 Hilbig Rd, Conroe, TX 77301

/S/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

12/26/25
Date

CERTIFICATE OF SERVICE

On December 26, 2025, Counsel for Plaintiff served a copy of the attached Motion via USPS 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

12/26/25
Date

CERTIFICATE OF SERVICE

On December 26, 2025, Counsel for Plaintiff served a copy of the attached Motion via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Kristi Noem, in her 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

12/26/25
Date

CERTIFICATE OF SERVICE

On December 26, 2025, Counsel for Plaintiff served a copy of the attached Motion via email, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon

the Respondent, Pam Bondi, in her Official Capacity as Attorney General of the United States, at USATXS.CivilNotice@usdoj.gov.

/S/Matthew Mendez
Matthew Mendez
Attorney for Petitioner

12/26/25
Date