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**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

MAMADOU LAMINE BARRY)	
)	Case No.
Petitioner,)	
)	
v.)	
)	
DAVID HARDEN, Warden of the)	
Glades County Detention Center;)	
JUAN AGUDELO,)	
Acting/Director of Miami, FL Field Office,)	
U.S. Immigration and Customs Enforcement;)	
KRISTI NOEM, Secretary of the U.S.)	
Department of Homeland Security; and)	
PAMELA BONDI, Attorney General of the)	
United States,)	
in their official capacities,)	
)	
Respondents.)	
_____)	

PETITIONER’S MOTION FOR TEMPORARY RESTRAINING ORDER

NOW COMES, Petitioner, MAMADOU LAMINE BARRY, through counsel, pursuant to Fed. R. Civ. P. 65, and files this Motion for Temporary Restraining Order. In support thereof, Petitioner states as follows:

FACTS

1. Petitioner is a citizen and national of Guinea. He entered the United States on or about September 11, 2023.
2. Department of Homeland Security placed the Petitioner in removal proceedings under § 240 of the Immigration Nationality Act (INA).

3. On December 1, 2025, Respondents arrested and detained the Petitioner without an opportunity to demonstrate that he merits bond or release pursuant to 8 U.S.C. § 1226(a).
4. On January 12, 2026, an Immigration Judge (IJ) denied Petitioner's request for release under 8 U.S.C. § 1226(a) because the court lacked jurisdiction based on the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
5. Petitioner challenges his detention under 28 U.S.C. § 2241 through a Writ of Habeas Corpus.
6. To date, Petitioner remains in immigration custody without a meaningful opportunity for release.

LEGAL STANDARD

The Court has authority to issue a temporary restraining order ("TRO") under Federal Rule of Civil Procedure 65. To obtain a TRO, a party must demonstrate: (1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that the entry of the relief would serve the public interest. *Schiavo ex. rel Schindler v. Schiavo*, 403 F. 3d 1223, 1225-26 (11th Cir. 2005).

ARGUMENT

I. PETITIONER WILL LIKELY SUCCEED ON HIS CLAIM THAT DETENTION VIOLATES DUE PROCESS

The Due Process Clause of the Fifth Amendment to the United States Constitution forbids the government from depriving a person of life, liberty, or property without due process of law. The protection applies to "all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

Mr. Barry is in continued confinement in ICE civil detention despite district court ruling in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861. In *Maldonado*, the district court granted partial summary judgment on behalf of individual

plaintiffs and on November 25, 2025 certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

Given that Petitioner is a member of the Bond Eligible Class, Mr. Barry is likely to succeed on the merits.

II. BARRY WILL SUFFER IRREPARABLE HARM ABSENT EMERGENCY RELIEF

The harm to Mr. Barry is highly likely, grievous and irreparable. For example, in *Hernandez v. Sessions*, 872 F.3d 976, 994–95 (9th Cir. 2017) the circuit court found that a preliminary injunction is for the benefit of detained individuals, requiring as a matter of due process that IJs when making bond determinations consider financial ability and alternative conditions of release. *See also Gomez-Alcina v. Noem*, 2025 U.S. Dist. LEXIS 262743, *5 (holding that petitioner has demonstrated irreparable injury because “[i]t is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury.” (quoting *Gayle v. Meade*, 614 F. Supp. 3d 1175, 1205 (S.D. Fla. 2020))). Without interim relief to maintain the status quo, petitioner could be deported or removed from this Court's jurisdiction, effectively foreclosing any recourse. *Id.*

III. THE BALANCE OF HARMS AND PUBLIC INTEREST WEIGH HEAVILY IN FAVOR OF EMERGENCY RELIEF

The balance of harms and public interest weigh strongly in favor of granting emergency relief. The balance of equities is substantially more favorable to Mr. Barry, who has a strong asylum and withholding of removal claim, and should not be detained pending his removal proceedings.

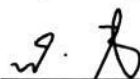
In *Gomez-Alcina v. Noem*, 2025 U.S. Dist. LEXIS 262743, *5, the court noted that because petitioner is potentially detained unlawfully, neither equity nor the public's interest is furthered by holding him without due process (citing *Nken v. Holder*, 556 U.S. 418, 436, 129 S. Ct. 1749, 173 L. Ed. 2d 550 (2009)). Rather the court found that "there is a public interest in preventing aliens from being wrongfully removed." *Id.*

CONCLUSION

WHEREFORE, for the reasons set forth, Petitioner respectfully requests this Court to grant the Temporary Restraining Order to

1. Enjoin Respondents from transferring Petitioner outside the jurisdiction of the Middle District of Florida during the pendency of this action;
2. Order Respondents to show cause why a preliminary injunction should not issue, and set a deadline for Respondents response within the timeframe deemed appropriate by the Court;
3. Maintain jurisdiction over this matter and schedule expedited briefing and or a hearing as necessary; and
4. Grant any further relief that the Court deems just, equitable, or proper.

Respectfully Submitted



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[PROPOSED] TEMPORARY RESTRAINING ORDER

THIS CAUSE came before the Court upon Petitioner’s Emergency Motion for a Temporary Restraining Order (“TRO”) and related relief. The Court, having reviewed the motion, the record, and being otherwise duly advised, finds that temporary relief is warranted to preserve the Court’s jurisdiction and prevent irreparable harm. Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Respondents, their agents, employees, contractors, and all persons acting in concert with them, are hereby ENJOINED from removing, transferring, transporting, or otherwise facilitating the removal or transfer of Petitioner outside the Southern District of Florida pending further order of this Court.
2. Petitioner shall immediately serve a copy of this Order, the Emergency Motion, and all related filings on Respondents by the fastest available means and shall file a Certificate of Service confirming same.
3. This Temporary Restraining Order shall remain in effect until further order of the Court.

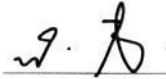
DONE AND ORDERED in Chambers at [City], Florida, this ___ day of _____, 2026.

United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that, this 14th day of January, 2026, I filed a copy of the foregoing Motion for Temporary Restraining Order electronically through the CM/ECF system, which gave service to all counsel of record.

Respectfully Submitted



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