

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

In the Matter of

Jose Antonio Flores
Petitioner,

v.

MICHAEL BRECKON, Warden, Folkston ICE Processing Center; SEAN GALLAGHER, Field Office Director, Enforcement and Removal Operations, Atlanta Field Office, U.S. ICE; PAM BONDI, Attorney General of the United States; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, Todd LYONS, Director of Immigration Customs Enforcement;

Respondents

Civil Action No. _____

EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER

Petitioner JOSE ANTONIO FLORES, by and through undersigned counsel, respectfully moves this Court for the entry of a Temporary Restraining Order (“TRO”) pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining Respondents from transferring Petitioner from the ICE Processing Center in Folkston, Georgia, or otherwise removing him from the jurisdiction of this Court, and from continuing to detain him without providing a bond hearing under 8 U.S.C. § 1226(a). In support of this motion, Petitioner states as follows:

I. INTRODUCTION

Petitioner Jose Antonio Flores is a long-time resident of the United States who has been detained by U.S. Immigration and Customs Enforcement (“ICE”) since December 8, 2025, without ever receiving a bond hearing. He is currently detained at the D Ray James ICE Processing Center in Folkston, Georgia, under the custody of Respondent Warden Michael Breckon. Petitioner has filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, challenging his unlawful detention under 8 U.S.C. § 1225(b)(2)(A) and asserting his statutory and constitutional right to a bond hearing under 8 U.S.C. § 1226(a).

Petitioner now respectfully moves this Court for an Emergency Temporary Restraining Order to prevent irreparable harm that would result from his continued detention without a bond hearing and to preserve this Court’s jurisdiction by preventing his transfer outside the Southern District of Georgia or removal from the United States while his habeas petition remains pending. Immediate injunctive relief is necessary to maintain the status quo and ensure that Mr. Flores remains within the reach of this Court’s authority to adjudicate his claims and grant effective relief.

II. LEGAL STANDARD

To obtain a TRO, a petitioner must demonstrate: (1) a substantial likelihood of success on the merits; (2) that they will suffer irreparable harm unless the injunction issues; (3) that the threatened injury outweighs any harm the injunction might cause the opposing party; and (4) that the injunction would not be adverse to the public interest. See *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225–26 (11th Cir. 2005) (per curiam). These factors are applied flexibly, and no single factor is dispositive. In the immigration detention context, courts have recognized that the risk of transfer or removal during the pendency of a habeas petition constitutes irreparable harm and may deprive the court of jurisdiction to grant effective relief. See *Devitri v. Cronen*, 289 F. Supp. 3d 287, 294 (D. Mass. 2018); *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007).

Federal courts in Georgia have recently applied these standards in the context of immigration detention. In *J.A.M. v. Streeval*, No. 4:25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), the court granted habeas relief to a long-term resident detained without a bond hearing, holding that detention under 8 U.S.C. § 1225(b)(2)(A) was improper and that the petitioner was entitled to a bond hearing under § 1226(a). Similarly, in *Villa v. Normand*, No. 5:25-cv-89 (S.D. Ga. Nov. 4, 2025), the court rejected the government’s reliance on *Matter of Yajure Hurtado* and ordered the petitioner’s release, finding that the petitioner’s detention under § 1225(b) was unlawful and that continued detention without a bond hearing would cause irreparable harm. In both cases, the courts emphasized that the denial of a bond hearing to long-term residents apprehended in the interior of the United States raised serious statutory and constitutional concerns, and that immediate judicial intervention was warranted to prevent further unlawful detention.

These decisions underscore the principle that when a petitioner presents a credible claim of unlawful detention and faces imminent transfer or removal, a temporary restraining order is appropriate to preserve the court's jurisdiction and prevent irreparable harm. In light of this authority, and given the substantial likelihood that Mr. Flores will prevail on the merits of his habeas petition, the issuance of a temporary restraining order is both legally justified and necessary to prevent the erosion of his constitutional and statutory rights.


III. ARGUMENT


A. Petitioner Is Likely to Succeed on the Merits

Petitioner Jose Antonio Flores has demonstrated a strong likelihood of success on the merits of his habeas petition. He challenges his continued detention by U.S. Immigration and Customs Enforcement ("ICE") without a bond hearing, asserting that he is detained under 8 U.S.C. § 1226(a), not § 1225(b), and is therefore entitled to an individualized bond hearing before an immigration judge. This position is supported by a growing body of federal case law, including multiple decisions from district courts in Georgia, which have consistently held that long-term residents apprehended in the interior of the United States and placed in removal proceedings under INA § 240 are detained under § 1226(a) and must be afforded bond hearings.

In *J.A.M. v. Streeval*, No. 4:25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), the court rejected the government's reliance on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and held that a long-term resident who entered without inspection and was apprehended in the interior was not subject to mandatory detention under § 1225(b)(2)(A). The court concluded that such individuals are not "applicants for admission" as contemplated by the statute and are instead eligible for bond under § 1226(a). Similarly, in *Villa v. Normand*, No. 5:25-cv-89 (S.D. Ga. Nov. 4, 2025), the court granted habeas relief to a petitioner in materially identical circumstances,

ordering his release after finding that the government's application of § 1225(b) was legally erroneous and constitutionally suspect.

Mr. Flores's case is factually indistinguishable from these precedents. He has resided in the United States for nearly 28 years, was apprehended in the interior, and is currently in removal proceedings under INA § 240. He has no disqualifying criminal history and presents compelling equities, including deep family and community ties, ownership of two small businesses, and 

 These facts further support his eligibility for release under § 1226(a) and underscore the unreasonableness of his continued detention without a bond hearing.

Moreover, Mr. Flores is a member of the nationwide class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal. 2025), which held that noncitizens who entered without inspection and were denied bond hearings under *Matter of M-S-* and *Yajure Hurtado* are detained under § 1226(a) and must be afforded bond hearings. The final judgment in that case vacated the government's no-bond policy and extended declaratory relief to all class members nationwide. Mr. Flores's continued detention without a bond hearing directly contravenes that judgment.

In light of this overwhelming legal authority, including binding and persuasive precedent from within this District and Circuit, Petitioner has established a substantial likelihood of success on the merits of his habeas claim.

B. Petitioner Faces Irreparable Harm Absent Immediate Relief

Absent a temporary restraining order, Petitioner faces immediate and irreparable harm. Mr. Flores has been detained for over a month without any opportunity to seek release, and the government has already demonstrated a willingness to transfer him between facilities with little notice—having moved him from Irwin County Detention Center to the Folkston D Ray James ICE Processing Center less than 24 hours before a scheduled bond hearing. This abrupt transfer not only deprived

him of his day in court but also reflects a pattern of conduct that places him at imminent risk of further transfers or even removal, which would effectively moot his habeas petition and deprive this Court of jurisdiction to adjudicate his claims. See *Devitri v. Cronen*, 289 F. Supp. 3d 287, 294 (D. Mass. 2018) (“[T]ransfer or removal of petitioners during the pendency of their claims would effectively eliminate their ability to pursue those claims.”); see also *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007).

Federal courts in Georgia have recognized that prolonged detention without a bond hearing constitutes a serious deprivation of liberty and may warrant immediate judicial intervention. In *Villa v. Normand*, No. 5:25-cv-89 (S.D. Ga. Nov. 4, 2025), the court found that continued detention without a bond hearing, particularly where the petitioner had already been granted bond by an immigration judge, constituted irreparable harm justifying habeas relief. Similarly, in *J.A.M. v. Streeval*, No. 4:25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), the court emphasized that the denial of a bond hearing to a long-term resident with deep community ties and no criminal history raised serious due process concerns and warranted immediate relief.

Mr. Flores’s circumstances are even more compelling. He has lived in the United States for nearly three decades, is the sole provider for his U.S. citizen family, and has no disqualifying criminal history. [REDACTED]

[REDACTED] His continued detention without a bond hearing not only inflicts ongoing harm on him and his family but also undermines the public interest in ensuring due process and the fair administration of immigration laws. Without immediate injunctive relief, Mr. Flores may be transferred or removed before this Court can rule on the merits of his habeas petition, resulting in irreparable harm that cannot be remedied after the fact.

C. The Balance of Equities and Public Interest Favors Petitioner

The balance of equities and the public interest both weigh heavily in favor of granting a temporary restraining order. On one side of the scale is Mr. Flores's fundamental liberty interest in freedom from prolonged civil detention without due process. He has been detained for over a month without a bond hearing, despite being a long-term resident of the United States with deep family and community ties, no disqualifying criminal history, and a demonstrated record of cooperation with law enforcement. Continued detention without an opportunity to be heard imposes significant emotional, financial, and psychological harm on Mr. Flores and his U.S. citizen family, including a minor child who has required therapy due to his absence.

On the other side, the government cannot credibly claim that a temporary restraining order would cause it any meaningful harm. The requested relief merely seeks to preserve the status quo by preventing Mr. Flores's transfer or removal while this Court considers the merits of his habeas petition. Courts have routinely held that the government suffers no cognizable harm from being required to comply with constitutional and statutory mandates. See *Nken v. Holder*, 556 U.S. 418, 436 (2009) (“[T]here is a public interest in preventing aliens from being wrongfully removed, particularly to countries where they are likely to face substantial harm.”); see also *Devitri v. Cronen*, 289 F. Supp. 3d 287, 296 (D. Mass. 2018) (finding that the government's interest in expeditious removal does not outweigh the petitioner's interest in avoiding wrongful removal and preserving judicial review).

Moreover, the public interest is best served by ensuring that immigration enforcement is carried out in a manner consistent with the rule of law and constitutional protections. Granting a temporary restraining order in this case would reinforce the principle that individuals in civil immigration detention are entitled to due process and judicial review before being deprived of their liberty. It

would also promote judicial efficiency by ensuring that this Court retains jurisdiction to resolve the important legal questions raised in Mr. Flores's habeas petition.

Accordingly, both the balance of equities and the public interest weigh decisively in favor of issuing a temporary restraining order to prevent irreparable harm and to safeguard this Court's jurisdiction to afford meaningful relief. The public has a compelling interest in ensuring that the government adheres to its statutory and constitutional obligations—particularly where an individual's liberty is at stake. Granting a TRO in this context reinforces the rule of law, upholds fundamental due process protections, and prevents the arbitrary and potentially unlawful deprivation of liberty.

IV. CONCLUSION

Petitioner respectfully requests that this Court grant his Emergency Motion for a Temporary Restraining Order and enjoin Respondents from transferring him outside the jurisdiction of this Court or removing him from the United States during the pendency of his Petition for Writ of Habeas Corpus. Such relief is necessary to prevent irreparable harm, preserve the Court's jurisdiction, and ensure that Petitioner's statutory and constitutional rights are meaningfully protected.

Accordingly, Petitioner respectfully requests that this Court:

1. Issue a Temporary Restraining Order enjoining Respondents from transferring Petitioner from the ICE Processing Center in Folkston, Georgia, or otherwise removing him from the jurisdiction of this Court during the pendency of this action;
2. Enjoin Respondents from continuing to detain Petitioner without providing him a bond hearing under 8 U.S.C. § 1226(a);

3. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this ___ day of January, 2026.



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