

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

ELICLESIO SOARES PEREIRA,

Petitioner,

v.

RAYMOND ADAMS — in his official capacity as Field Office Director, El Paso Field Office, U.S. Immigration & Customs Enforcement;

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; and

TODD LYONS, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement;

Respondents.

Civil Action No.: 3:26-cv-00114-LS

DHS# A#



**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER TO PRESERVE
THIS COURT'S JURISDICTION AND PREVENT IRREPARABLE HARM PENDING
RESOLUTION OF HABEAS PETITION**

Petitioner Eliclesio Soares Pereira, through undersigned counsel, respectfully moves this Court for a Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65 and the All Writs Act, 28 U.S.C. § 1651. This motion does not seek final habeas relief. Rather, Petitioner seeks narrowly tailored relief necessary to preserve this Court's jurisdiction, maintain the status quo, and ensure that this Court retains the ability to grant meaningful habeas relief.

LEGAL STANDARD

Federal courts possess broad authority to issue temporary restraining orders to preserve their jurisdiction and prevent irreparable harm pending resolution of the merits. Federal Rule of Civil Procedure 65 authorizes courts to grant injunctive relief where necessary to maintain the status quo and ensure the Court's ability to grant effective relief. See *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). The purpose of a temporary restraining order is to

preserve the Court's jurisdiction and prevent irreparable harm before a full adjudication on the merits can occur. See *University of Texas v. Camenisch*, 451 U.S. 390, 395 (1981). This authority is particularly critical where ongoing executive detention is challenged through habeas corpus, as the writ exists to provide a prompt and meaningful judicial remedy against unlawful custody. See *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (holding that habeas corpus must remain an effective and meaningful remedy capable of correcting unlawful executive detention).

In addition to Rule 65, federal courts possess independent authority under the All Writs Act to issue orders necessary to protect their jurisdiction and ensure the effectiveness of their judgments. 28 U.S.C. § 1651(a). The Supreme Court has long held that courts may issue injunctive relief to prevent actions that would impair their jurisdiction or ability to grant meaningful relief. See *FTC v. Dean Foods Co.*, 384 U.S. 597, 604 (1966). This authority applies fully in habeas proceedings, where courts must ensure that executive action does not defeat judicial review or render the writ ineffective. See *Ex parte Endo*, 323 U.S. 283, 306–07 (1944) (holding that habeas jurisdiction, once properly invoked, cannot be defeated by executive action); see also *Nken v. Holder*, 556 U.S. 418, 427 (2009) (recognizing courts' authority to issue injunctive relief to preserve their jurisdiction and ability to grant effective relief).

The Fifth Circuit has repeatedly recognized that temporary injunctive relief is appropriate where necessary to prevent irreparable injury and preserve judicial authority. See *Janvey v. Alguire*, 647 F.3d 585, 595 (5th Cir. 2011). Irreparable harm is established where a petitioner faces ongoing unlawful detention, as the loss of liberty constitutes one of the most fundamental injuries recognized by law. See *Elrod v. Burns*, 427 U.S. 347, 373 (1976). The Supreme Court has emphasized that civil immigration detention must be grounded in clear statutory authority and remain subject to judicial review through habeas corpus. See *Zadvydas v. Davis*, 533 U.S. 678,

690 (2001). Where substantial questions exist regarding the legality of detention and the Court's jurisdiction must be preserved to ensure meaningful relief, temporary restraining orders are necessary and appropriate.

Because habeas corpus protects against unlawful executive detention and ensures meaningful judicial review, courts must retain the ability to issue interim relief necessary to preserve their jurisdiction and prevent irreparable harm pending resolution of the petition. See *Boumediene*, 553 U.S. at 779; *Dean Foods*, 384 U.S. at 604. Temporary injunctive relief is therefore warranted where necessary to maintain the status quo and ensure that the Court's ultimate judgment remains meaningful and effective.

I. THIS COURT HAS CLEAR AUTHORITY UNDER THE HABEAS STATUTE, THE ALL WRITS ACT, AND CONTROLLING WESTERN DISTRICT OF TEXAS PRECEDENT TO ISSUE INTERIM RELIEF NECESSARY TO PRESERVE ITS JURISDICTION AND ABILITY TO GRANT EFFECTIVE HABEAS RELIEF

Federal courts possess both statutory and inherent authority to issue interim relief necessary to preserve their habeas jurisdiction and ensure the effectiveness of their judgments. Congress expressly authorized federal courts to grant habeas relief to individuals held "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Once habeas jurisdiction attaches, courts possess broad authority under the All Writs Act to issue orders necessary to protect that jurisdiction. 28 U.S.C. § 1651(a); *FTC v. Dean Foods Co.*, 384 U.S. 597, 604 (1966).

This authority is particularly well established in the Western District of Texas, El Paso Division, which has repeatedly exercised habeas jurisdiction to review immigration detention and grant relief where necessary to preserve constitutional protections and ensure meaningful judicial review.

Most notably, in *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB (W.D. Tex. Oct. 16, 2025), the United States District Court for the Western District of Texas, El Paso Division, exercised its habeas jurisdiction under 28 U.S.C. § 2241 to review immigration detention and reaffirmed that federal courts retain authority to ensure that executive detention complies with statutory and constitutional limits. The court recognized that federal courts possess authority under § 2241 and the All Writs Act to issue relief necessary to preserve jurisdiction and ensure meaningful habeas review.

Similarly, courts within this District have exercised habeas jurisdiction to review immigration detention and ensure compliance with statutory and constitutional limits. See, e.g., *Buenrostro-Mendez v. Bondi* (W.D. Tex.) reaffirming that federal courts retain jurisdiction to review detention authority and issue relief where detention exceeds statutory authorization or violates constitutional protections. These decisions confirm that courts within this District retain full authority to issue interim relief necessary to preserve jurisdiction and ensure the effectiveness of habeas review.

Courts within the Western District of Texas and the Fifth Circuit have consistently recognized that habeas jurisdiction cannot be defeated through custodial manipulation, transfer, or executive action that would impair judicial review. See *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB (W.D. Tex. Oct. 16, 2025); see also *Ex parte Endo*, 323 U.S. 283, 306–07 (1944). Critically, the Fifth Circuit has expressly held that once habeas jurisdiction attaches, it cannot be defeated by transfer of custody. See *Pierre v. United States*, 525 F.2d 933, 936 (5th Cir. 1976). This binding precedent confirms that federal courts possess authority to issue injunctive relief preventing transfer where necessary to preserve jurisdiction and ensure meaningful habeas review.

This authority is grounded in fundamental constitutional principles. The Supreme Court has made clear that habeas corpus must remain a “meaningful opportunity” to challenge unlawful detention. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008). Federal courts therefore possess authority under both § 2241 and the All Writs Act to issue interim relief necessary to prevent executive action that would undermine jurisdiction or render habeas relief ineffective. *Dean Foods*, 384 U.S. at 604; *Nken v. Holder*, 556 U.S. 418, 427 (2009).

Absent interim relief, Respondents retain unilateral authority to transfer Petitioner to another jurisdiction, including facilities outside this Court’s territorial jurisdiction, or otherwise alter custody in ways that would impair this Court’s ability to grant meaningful relief. Courts within this District have recognized that such risks justify injunctive relief to preserve jurisdiction and protect the integrity of habeas proceedings. *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB; See, e.g., *Buenrostro-Mendez v. Bondi* (W.D. Tex.) (exercising habeas jurisdiction to review immigration detention).

Accordingly, this Court possesses clear authority to issue a Temporary Restraining Order preserving its jurisdiction, maintaining the status quo, and ensuring that this Court retains the ability to grant meaningful habeas relief.

II. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS BECAUSE DHS LACKS STATUTORY AUTHORITY TO RE-DETAIN AN INDIVIDUAL PREVIOUSLY RELEASED UNDER INA § 236

Petitioner is likely to succeed on the merits because his detention exceeds DHS’s statutory authority. The Immigration and Nationality Act establishes distinct statutory frameworks governing detention. INA § 236 governs detention of noncitizens pending removal proceedings and expressly authorizes discretionary release on bond or recognizance. 8 U.S.C. § 1226(a). DHS

exercised that discretionary authority when it arrested Petitioner, processed him, and released him on Form I-220A.

Once DHS exercises discretionary release authority under § 236, its authority is governed by that statutory framework. DHS cannot retroactively reclassify a released individual under a separate statutory detention provision absent express statutory authorization or materially changed circumstances. Civil detention must be grounded in clear statutory authority, and detention beyond that authority violates federal law. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Government detention violates the Constitution unless authorized by statute.”).

The statutory scheme confirms this limitation. Section 236 governs detention of individuals already present in the United States and placed in removal proceedings. See *Jennings v. Rodriguez*, 583 U.S. 281, 296–97 (2018). DHS exercised its § 236 authority when it released Petitioner. Having done so, DHS cannot later invoke a different detention framework to justify re-detention absent statutory authorization. Courts have consistently recognized that civil detention authority must be grounded in specific statutory authorization and is subject to judicial review through habeas corpus. See *Demore v. Kim*, 538 U.S. 510, 517 (2003).

Petitioner was released under § 236 and complied with all reporting requirements for more than four years. DHS has not identified any statutory basis or changed circumstances justifying his re-detention. His current detention therefore exceeds DHS’s statutory authority and is unlawful.

At minimum, Petitioner has demonstrated substantial legal questions concerning DHS’s detention authority sufficient to establish a likelihood of success on the merits for purposes of temporary injunctive relief.

III. PETITIONER FACES IMMEDIATE AND IRREPARABLE HARM ABSENT INTERIM RELIEF, AND COURTS IN THIS DISTRICT HAVE RECOGNIZED THE SEVERE CONSTITUTIONAL HARM CAUSED BY UNLAWFUL IMMIGRATION DETENTION

Unlawful detention constitutes irreparable harm as a matter of law. *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Courts within the Western District of Texas have reaffirmed that habeas corpus serves as a critical safeguard protecting individuals from unlawful executive detention. See *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB (W.D. Tex. Oct. 16, 2025); see also *Buenrostro-Mendez v. Bondi* (W.D. Tex.).

The deprivation of physical liberty represents the most fundamental injury recognized by constitutional law. See *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). As recognized by federal courts within this District, habeas corpus exists precisely to remedy unlawful detention and ensure that executive detention remains subject to judicial review. *Vieira*, No. EP-25-CV-00432-DB.

Absent interim relief, Respondents retain authority to transfer Petitioner outside this Court's jurisdiction or otherwise impair this Court's ability to adjudicate the legality of Petitioner's detention. Courts within this District have recognized that such risks justify interim injunctive relief to preserve jurisdiction and ensure effective habeas review. See *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB (W.D. Tex. Oct. 16, 2025); see also *Buenrostro-Mendez v. Bondi* (W.D. Tex.).

IV. THE BALANCE OF EQUITIES AND PUBLIC INTEREST STRONGLY FAVOR PRESERVING THIS COURT'S JURISDICTION AND PREVENTING UNLAWFUL DETENTION

The balance of equities strongly favors Petitioner. Petitioner faces ongoing deprivation of his fundamental liberty interest, while Respondents suffer no harm from preserving the status quo pending judicial review.

Courts within the Western District of Texas have recognized that the public interest strongly favors preservation of habeas jurisdiction and protection of constitutional rights. See *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB (W.D. Tex. Oct. 16, 2025); see also *Buenrostro-Mendez v. Bondi* (W.D. Tex.).

Ensuring that federal courts retain the ability to exercise habeas jurisdiction serves the fundamental constitutional purpose of preventing unlawful executive detention. *Boumediene*, 553 U.S. at 743. Temporary injunctive relief is therefore necessary to preserve this Court's jurisdiction, protect Petitioner's constitutional rights, and ensure meaningful judicial review.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court issue a Temporary Restraining Order and grant the following relief to preserve this Court's jurisdiction and prevent irreparable harm pending resolution of the habeas petition:

1. Prohibit Respondents from transferring Petitioner outside the jurisdiction of this Court without prior authorization, so as to preserve this Court's jurisdiction and ensure its ability to grant meaningful habeas relief;
2. Prohibit Respondents from removing Petitioner from the United States while this habeas proceeding remains pending, in order to prevent mootness and preserve this Court's authority to adjudicate Petitioner's claims;
3. Order Respondents to maintain Petitioner's current custody classification and conditions, and prohibit any reclassification or custodial action that would interfere with this Court's jurisdiction or ability to grant effective relief;

4. Order Respondents to preserve this Court's habeas jurisdiction and refrain from taking any action that would frustrate or impair this Court's ability to adjudicate the legality of Petitioner's detention;
5. In the alternative, order Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge within a prompt and reasonable period, as necessary to preserve Petitioner's constitutional rights and ensure that his continued detention complies with the Due Process Clause of the Fifth Amendment;
6. Grant such other and further relief as this Court deems just, proper, and necessary to preserve its jurisdiction and protect Petitioner's constitutional rights pending final adjudication of the habeas petition.

Dated: February 18, 2026

Respectfully Submitted,

Eliclesio Soares Pereira
through counsel

/s/ Luana M. Biagini
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CERTIFICATE OF SERVICE

I hereby certify that on this date, February 18, 2026, I electronically filed the foregoing EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER TO PRESERVE THIS COURT'S JURISDICTION AND PREVENT IRREPARABLE HARM PENDING RESOLUTION OF HABEAS PETITION, with the Clerk of the Court using the CM/ECF system. Notice of this filing was served on all counsel of record, including the Office of the United States Attorney, via the Court's CM/ECF system.

Respectfully Submitted,

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CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(i), undersigned counsel certifies that on February 17, 2026, she conferred with counsel for Respondents via email regarding the relief requested in this Motion.

Respondents have indicated that they oppose the requested relief. Therefore, this matter is presented to the Court for determination.

**UNITED STATES DISTRICT COURT
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ELICLESIO SOARES PEREIRA,

Petitioner,

v.

RAYMOND ADAMS — in his official capacity as Field Office Director, El Paso Field Office, U.S. Immigration & Customs Enforcement;

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; and

TODD LYONS, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement;

Respondents.

Civil Action No.: 3:26-cv-00114-LS

DHS# A#220.545.439

PROPOSED ORDER GRANTING TEMPORARY RESTRAINING ORDER

Upon consideration of Petitioner's Emergency Motion for Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65 and the All Writs Act, 28 U.S.C. § 1651, the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, the supporting memorandum and record, and finding that interim relief is necessary to preserve this Court's jurisdiction and prevent irreparable harm pending adjudication of the habeas petition, the Court finds and orders as follows:

FINDINGS

The Court finds that:

1. This Court has jurisdiction over Petitioner's habeas petition pursuant to 28 U.S.C. § 2241.
2. Federal courts possess authority under Federal Rule of Civil Procedure 65 and the All Writs Act, 28 U.S.C. § 1651(a), to issue temporary injunctive relief necessary to preserve

their jurisdiction and ensure the effectiveness of their judgments. See *FTC v. Dean Foods Co.*, 384 U.S. 597, 604 (1966); *Nken v. Holder*, 556 U.S. 418, 427 (2009).

3. Petitioner has demonstrated a likelihood of success on the merits, or at minimum serious questions going to the merits, regarding the legality of his continued detention.
4. Petitioner faces immediate and irreparable harm absent interim relief. The loss of liberty resulting from unlawful detention constitutes irreparable injury. See *Elrod v. Burns*, 427 U.S. 347, 373 (1976).
5. Absent interim relief, Respondents retain authority to transfer Petitioner or otherwise alter custody in a manner that could impair this Court's jurisdiction and ability to grant meaningful habeas relief. Once habeas jurisdiction attaches, it cannot be defeated by transfer of custody. See *Pierre v. United States*, 525 F.2d 933, 936 (5th Cir. 1976); see also *Ex parte Endo*, 323 U.S. 283, 306–07 (1944).
6. The balance of equities and the public interest favor preserving the status quo and ensuring meaningful judicial review of executive detention.
7. Temporary injunctive relief is necessary to preserve this Court's jurisdiction and prevent irreparable harm pending adjudication of the habeas petition.

ORDER

IT IS HEREBY ORDERED that Petitioner's Emergency Motion for Temporary Restraining Order is GRANTED.

IT IS FURTHER ORDERED that Respondents, including their officers, agents, employees, contractors, and all persons acting in concert with them, are hereby:

1. PROHIBITED FROM TRANSFER

ENJOINED from transferring Petitioner outside the jurisdiction of this Court without prior authorization from this Court.

2. ADVANCE NOTICE REQUIREMENT

ORDERED to provide Petitioner's counsel and this Court with no less than seventy-two (72) hours advance written notice prior to any proposed transfer of Petitioner.

3. PROHIBITED FROM REMOVAL

ENJOINED from removing Petitioner from the United States while this habeas proceeding remains pending or until further Order of this Court.

4. REQUIRED TO PRESERVE STATUS QUO

ORDERED to maintain Petitioner's current custody status, classification, and conditions, and are prohibited from taking any action intended to interfere with or undermine this Court's jurisdiction or ability to grant effective habeas relief.

5. REQUIRED TO PRESERVE COURT'S JURISDICTION

ORDERED to refrain from taking any action that would moot this Court's jurisdiction or impair its ability to adjudicate the legality of Petitioner's detention.

6. COMPLIANCE REQUIREMENT

ORDERED that Respondents shall immediately notify all officers, agents, employees, contractors, and facilities having custody or control over Petitioner of this Order and shall take all steps necessary to ensure full compliance.

7. SERVICE AND NOTICE

This Temporary Restraining Order shall take effect immediately upon entry and shall remain in effect for fourteen (14) days unless extended by further order of this Court. See Fed. R. Civ. P. 65(b).

8. ORDER TO SHOW CAUSE DEADLINE

Respondents shall comply with this Court's existing Order to Show Cause and shall file their response to the Petition for Writ of Habeas Corpus on or before March 2, 2026, as previously ordered by this Court.

9. SECURITY

The Court finds that no security bond is required because Petitioner is indigent and because this Order is necessary to preserve constitutional rights and this Court's jurisdiction. See Fed. R. Civ. P. 65(c).

SO ORDERED.

DATED: _____