

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

Case No. 6:26-cv-00181

FRANCISCO DELGADO GARCIA,
Petitioner,

v.

LOUIS A. QUINONES, JR.,
in his official capacity as Warden of the Orange County Jail;
IMMIGRATION AND CUSTOMS ENFORCEMENT;
ICE FIELD OFFICE DIRECTOR, ORLANDO FIELD OFFICE;
UNITED STATES DEPARTMENT OF HOMELAND SECURITY,
Respondents.

**AMENDED VERIFIED EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Petitioner, Francisco Delgado Garcia, by and through undersigned counsel, pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2241 and 2243, respectfully moves this Court for entry of an Emergency Temporary Restraining Order and Preliminary Injunction prohibiting Respondents from transferring Petitioner from the Orange County Jail or otherwise continuing his unlawful detention pending adjudication of his habeas petition, and states:

I. INTRODUCTION

1. This is an emergency request to halt an ongoing and unconstitutional deprivation of liberty.
2. Petitioner is currently detained at the Orange County Jail:
 - a. without criminal charges;
 - b. without a judicial warrant; and
 - c. solely pursuant to an ICE detainer, which is a non-binding administrative request that confers no detention authority.
3. Respondents have indicated an intent to transfer Petitioner to ICE custody at any time.

4. Such a transfer would:
 - a. irreparably harm Petitioner;
 - b. alter the status quo; and
 - c. risk mooted or frustrating this Court's habeas jurisdiction.
5. Immediate injunctive relief is necessary to preserve this Court's authority and prevent continued unlawful detention.

II. JURISDICTION

6. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 2241, and 2243.
7. This Court possesses inherent authority to issue injunctive relief necessary to protect its jurisdiction and prevent constitutional violations.

III. FACTUAL BACKGROUND (VERIFIED)

8. On January 23, 2026, Petitioner was arrested by the Orange County Sheriff's Office solely based on an allegation regarding immigration status.
9. No criminal charges were filed.
10. No probable cause affidavit exists.
11. No judicial warrant was issued.
12. Petitioner remains confined solely because ICE lodged an immigration detainer pursuant to 8 C.F.R. § 287.7.
13. Petitioner is lawfully present in the United States and possesses:
 - a. a valid Florida driver license;
 - b. a Social Security number;
 - c. employment authorization;
 - d. a pending asylum application; and
 - e. lawful entry via a B-2 tourist visa.
14. Respondents have communicated an intent to transfer Petitioner to ICE custody before this Court can adjudicate the legality of his detention.

IV. LEGAL STANDARD

15. A temporary restraining order and preliminary injunction are warranted where the movant establishes:
 - a. a substantial likelihood of success on the merits;
 - b. irreparable injury absent relief;

- c. that the balance of harms favors the movant; and
- d. that the injunction serves the public interest.

V. ARGUMENT

A. Substantial Likelihood of Success on the Merits

- 16. ICE detainers are requests, not warrants, and do not authorize detention absent independent legal authority.
- 17. Detention based solely on an ICE detainer violates:
 - a. the Fourth Amendment;
 - b. procedural due process; and
 - c. the constitutional limits on state enforcement of civil immigration law.
- 18. Federal courts nationwide have rejected detention under materially identical circumstances.
- 19. The Middle District of Florida has relied on this authority to grant TRO relief in factually indistinguishable habeas cases involving asylum-pending detainees.
- 20. Petitioner's continued detention without charges, warrant, or bond hearing is therefore unlawful.

B. Irreparable Harm

- 21. The loss of physical liberty constitutes irreparable harm as a matter of law.
- 22. Each additional day of unlawful detention compounds that harm.
- 23. Transfer to ICE custody would irreversibly alter Petitioner's custodial status and frustrate this Court's jurisdiction.

C. Balance of Equities

- 24. Enjoining Respondents from transferring Petitioner merely preserves the status quo.
- 25. Respondents suffer no cognizable harm from being required to comply with constitutional limits.
- 26. Petitioner, by contrast, faces continued unlawful confinement.

D. Public Interest

- 27. The public has a compelling interest in:
 - a. preventing unconstitutional detention;

- b. ensuring government actors act within lawful authority; and
- c. preserving judicial review.

VI. RULE 65(b) CERTIFICATION REGARDING NOTICE

28. Pursuant to Rule 65(b)(1)(B), undersigned counsel certifies:
29. Immediate and irreparable injury will occur before Respondents can be heard, as Respondents may transfer Petitioner to another jurisdiction thereby risking this Court's jurisdiction over the matter.
30. On January 26, 2026, undersigned counsel provided notice of this action and requested relief via electronic mail to:
- Orange County Jail (ccd@ocfl.net; OCCDRecords@ocfl.net; michele.carpentiere@ocfl.net); and
- ICE Orlando Field Office (Miami.Outreach@ice.dhs.gov; Orlando.DutyAtty@ice.dhs.gov).
31. Requiring additional notice and a hearing before issuance of a TRO would create a substantial risk that Petitioner will be transferred, defeating the purpose of emergency relief and impairing this Court's habeas jurisdiction.
32. For these reasons, issuance of a Temporary Restraining Order without further notice is necessary.

VII. VERIFICATION

I, Phillip Arroyo, Esq, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the factual statements contained in this Motion are true and correct to the best of my knowledge and as provided to me by petitioner.

VIII. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

- a.) Enter an Emergency Temporary Restraining Order prohibiting Respondents from transferring Petitioner from the Orange County Jail;
- b.) Enter a Preliminary Injunction maintaining the status quo pending final adjudication of the habeas petition;
- c.) Order expedited proceedings pursuant to 28 U.S.C. § 2243; and

d.) d. Grant such other relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I hereby certify that on 26th day of January of 2026, I electronically served a copy of the foregoing on the Warden, Orange County Jail, 3723 Vision Blvd., Orlando, FL 32839 at ccd@ocfl.net, OCCDRecords@ocfl.net, michele.carpentiere@ocfl.net and ICE-Orlando Field Office Miami.Outreach@ice.dhs.gov , Orlando.DutyAtty@ice.dhs.gov .

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