

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Adrian Conejo Arias,

*L.C.R., a minor child by and through his
parent and guardian Adrian Conejo Arias,*

Petitioner,

v.

TODD M. LYONS, Acting Director, U.S.
Immigration and Customs Enforcement, U.S.
Department of Homeland Security;
KRISTI NOEM, Secretary of U.S. Department of
Homeland Security;
PAMELA BONDI, Attorney General of the
United States;
Daren K. MARGOLIN, Director of the Executive
Office For Immigration Review;
JOHN DOE, in his official capacity as the
Warden of the Dilley Immigration Processing
Center, Dilley, Texas,

In their official capacities,

Respondents.

Case No.: 5:26-cv-00415

**PETITIONERS' MOTION FOR
ORDER TO SHOW CAUSE**

**PETITIONER'S EMERGENCY MOTION
FOR PRELIMINARY INJUNCTION
AND TEMPORARY RESTRAINING ORDER**

Pursuant to Fed. R. Civ. P. 65, Petitioners move this Court for a Preliminary Injunction and Temporary Restraining Order enjoining respondents from violating their rights under the Fourth and Fifth Amendments, the APA, and immigration laws and ordering Respondents to maintain the *status quo* during the pendency of this habeas petition. In support of this motion, Petitioners submit the following arguments. A proposed Order is attached.

INTRODUCTION

Petitioners, Adrian Conejo Arias and his five-year-old child, L.C.R., file this instant motion and respectfully move this Court to protect their Constitutional rights during the pendency of their Petition for Habeas Corpus. The purpose of a preliminary injunction is to preserve the relative positions of the parties until a trial on the merits can be held. *University of Texas v Camenisch*, 451 US 390, 395 (1981). To obtain such equitable relief, the burden is upon the Petitioners to make a sufficient showing of (i) a substantial likelihood of success on the merits, (ii) substantial threat of irreparable injury, (iii) the threatened injury outweighs any harm the order might cause to the defendant, and (iv) the injunction will not disserve the public interest. *City of El Cenizo, Texas v Texas*, 890 F3d 164, 176 (5th Cir 2018); *see also Winter v National Resource Defense Council, Inc*, 555 US 7, 20 (2008).

STATEMENT OF FACTS

Petitioners are a father and his 5-year-old child who entered the United States on or around December 14, 2024, through the CBP One application. *See* Ex. A. Following their appointment, they were served a Notice to Appear, placing them in Section 240 removal proceedings. *See* Ex. B.

Petitioners were paroled to the United States on December 14, 2024, through 8 U.S.C. § 1182(d)(5)(A). They both have an I-94 Arrival Record. *See* Ex. A.

Petitioner Conejo Arias filed an asylum application on or around November 12, 2025, in Immigration Court, listing Petitioner-child L.C.R. as one of the derivatives of this application. This application remains pending.

Until Respondents unlawfully arrested and detained Petitioner Conejo Arias, he worked as an independent contractor in Minnesota. Petitioner Conejo Arias has no criminal record. He is a husband and a father of two.

Until Respondents unlawfully arrested and detained Petitioner-child L.C.R., he attended pre-kindergarten in the Columbia Heights Public School district in Minnesota.

On January 20, 2026, ICE arrested and detained both Petitioners.

At around 2:10 p.m. on January 20, 2026, Petitioner-child L.C.R. was picked up from school by Petitioner Conejo Arias. When they arrived at their house, Petitioner Conejo Arias saw Respondents' officers outside. Petitioner Conejo Arias continued to drive a few houses ahead and stopped the car.

Petitioner Conejo Arias got out of the car and began shouting for help. Petitioner-child L.C.R. remained in the running car while his father, Petitioner Conejo Arias, was immediately outside the vehicle. Officers of Respondents approached Petitioner Conejo Arias, who did not run away or resist. Rather, Petitioner Conejo Arias stopped yelling and complied as the officers approached him.

Officers grabbed Petitioner Conejo Arias and put him in their vehicle. Petitioner Conejo Arias did not abandon Petitioner-child L.C.R. or run away from the vehicle where Petitioner-child L.C.R. was sitting—he was moved away from his child by Respondents' officers. Once inside Respondents' vehicle, the officers informed Petitioner Conejo Arias that they were looking for a different person, a female who they believed was the owner of the car he was driving. Officers advised that they were not looking for Petitioner-child L.C.R. or Petitioner Conejo Arias.

Petitioner Conejo Arias told the agents he was looking for someone to take Petitioner-child L.C.R. and that he did not want Petitioner-child L.C.R. to be taken by the officers.

Respondents' officers removed Petitioner-child L.C.R. from the vehicle in which he sat. Respondents' officers walked Petitioner-child L.C.R. to the front door of his house and attempted to use him to compel the individuals inside the house to open the door. Upon information and belief, the officers were attempting to use the open door to arrest and detain the occupants of the house. Upon information and belief, the individuals inside the house did not open the door out of fear of the officers' intentions and conduct.

Numerous community members and other individuals were present at the scene and offered to care for Petitioner-child L.C.R., including someone who lived with Petitioners' family.

Contrary to the express wishes of Petitioner Conejo Arias, and despite the presence of other adult community members known to Petitioners' family who could have assumed custody of Petitioner-child L.C.R., Respondents' officers placed Petitioner-child L.C.R. in the officers' vehicle:

The vehicle did not have a car seat. Petitioner-child L.C.R. was placed in the back seat with an adult seat belt.¹

¹ Because Petitioner-child L.C.R. is five years old and has not outgrown a forward-facing child passenger restraint system with an internal harness, he was required to be placed in a car seat under Minnesota law. Minn. Stat. § 169.685, subd. 4a. DHS does not qualify for the limited exception under Minnesota law for peace officers transporting a child in performance of official duties when a child restraint system is not available. Minn. Stat. § 169.685, subd. 6(a)(2).

For approximately one hour, Respondents' officers drove Petitioners around in the car, in the snow, with no car seat for Petitioner-child L.C.R. That day, the average temperature in the Twin Cities was 6 degrees Fahrenheit, with two inches of snow on the ground and wind speeds up to 13 miles per hour.² The distance from the location of the unlawful arrest to the Whipple Federal Building is approximately 17 miles, using a direct route. Upon information and belief, Respondents' officers drove to other locations before the Whipple Building.

Petitioners arrived at the Whipple Federal Building in Minneapolis at approximately 3:30 p.m. Respondents did not ask for any information other than their names and dates of birth and reviewed no documentation. Petitioner-child L.C.R. was the only child at Whipple, surrounded by adults.

Several hours later, Petitioners were placed in another vehicle and driven around to several locations, including a convenience store. Ultimately, they were taken to a hotel overnight where they were forced to share a hotel room with two ICE officers.

Early in the morning of January 21, agents of Respondent transported Petitioners to the MSP airport, where they were boarded onto an airplane.

The airplane carrying Petitioners then arrived in Texas. After being held for several hours, they were transported to Dilley Immigration Processing Center.

² National Weather Service, Preliminary Local Climatological Data, Twin Cities MN, <https://www.weather.gov/media/mpx/Climate/MSP/jan2026.pdf> (last accessed Jan. 24, 2026).

After Petitioners' detention, Respondents made several public statements claiming that Petitioner Conejo Arias ran away from officers or "abandoned" Petitioner-child L.C.R.³ Such statements are inaccurate. Petitioner Conejo Arias parked the car a few houses up and began shouting for help until he was taken by Respondents' officers. He did not attempt to flee from the officers or abandon his child. Respondents' officers removed Petitioner-child L.C.R. from the car, used him to try to get individuals inside his home to open their door, and ultimately placed him in their car with Petitioner Conejo Arias.

Months before Petitioners' arrest and detention, on July 2, 2025, ICE released Directive 11064.4: Detention and Removal of Alien Parents and Legal Guardians of Minor Children. *See* Ex. C. This Directive is clear: "ICE personnel **should not**, under **any circumstances**, take custody of or transport the minor child(ren)." *See* Ex. C, at 5 (emphasis added). "ICE should remain on the scene with the Covered Individual until the designated third party, or the local child welfare authority or law enforcement agency assumes physical custody of the minor child(ren)." *Id.* Respondents also publicly confirmed that their policy is to ask parents "if they want to be removed with their children, or ICE will place the children with a safe person the parent designates."

³ *See, e.g.*, Homeland Security, X, (Jan. 22, 2026 at 7:02 a.m.), <https://x.com/dhsgov/status/2014322865848406370?s=46&t=Su4BjUkyoA25AmRM4RlgOg> (last visited Jan. 24, 2026); Homeland Security, X, (Jan. 23, 2026 at 8:08 a.m.), <https://x.com/dhsgov/status/2014322865848406370?s=46&t=Su4BjUkyoA25AmRM4RlgOg> (last visited Jan. 24, 2026); U.S. Immigration and Customs Enforcement, X, (Jan. 23, 2026 at 8:32 a.m.), <https://x.com/ICEgov/status/2014707753412133169> (last visited Jan. 24, 2026).

Homeland Security (@DHSgov), X (Jan. 22, 2026 at 7:02 AM),

<https://x.com/dhsgov/status/2014322865848406370?s=46&t=Su4BjUkyoA25AmRM4RlgOg>

(last visited Jan. 24, 2026).⁴ Respondents did not follow these policies in connection with the detention of Petitioner-child L.C.R.

Since they arrested and detained Petitioners, Respondents have presented Petitioner Conejo Arias with a notice of voluntary departure and asked him to sign it. Such conduct has continued through the date of the filing of this petition, January 24, 2026. This, in and of itself, is a concession that Respondents do not have the legal authority to deport Petitioners because they have not been ordered removable by any immigration court. Petitioner Conejo Arias has described his child as “distressed” from the arrest and forcible separation from his home, school, and loved ones. Petitioner Conejo reports that his child no longer wants to eat.

ARGUMENT

Petitioners are entitled to a preliminary injunction preventing his transfer and removal, as well as ordering his immediate release from custody. If petitioners’ motion is not granted, they are certain to suffer irreparable harm both to their constitutional rights and their emotional health. Indeed, they have already suffered irreparable harm. Petitioners are also substantially likely to succeed on the merits of his Petition for Habeas Corpus: that the government violated their Constitutional rights by unlawfully detaining Mr. Conejo Arias and his 5-year-old child.

I. Legal standard for a Temporary Restraining Order and Preliminary Injunction

In determining whether to grant a Temporary Restraining Order, this Court must consider

⁴

four factors:

- (1) the probability that the moving party will succeed on the merits;
- (2) the threat of irreparable harm to the moving party;
- (3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and
- (4) whether the issuance of a TRO is in the public interest.

Canal Auth. of State of Fla. v. Callaway, 489 F.2d 567, 572 (5th Cir. 1974); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Here, all four factors weigh in favor of granting injunctive relief.

II. Petitioners are entitled to a Temporary Restraining Order and Preliminary Injunction ordering his immediate release from custody

A. Petitioners are likely to prevail on the merits of his habeas petition.

1. Petitioner needs to only establish a prima facie case because he is requesting a prohibitory injunction

An injunction “is a judicial order that ‘tells someone what to do or not to do.’” *Garland v. Aleman Gonzalez*, 596 U.S. 543, 549 (2022) (quoting *Nken v. Holder*, 556 U.S. 418, 428 (2009)).

A prohibitory injunction that is either temporary or preliminary in nature generally serves to maintain the *status quo*. *Heckler v. Lopez*, 463 U.S. 1328, 1333 (1983) (prohibitory injunction “freezes the positions of the parties until the court can hear the case on the merits”).

For a prohibitory injunction, “[t]o show a likelihood of success, [the movant] must present a prima facie case, but need not provide that [it is] entitled to summary judgment.” *Title Max of Texas, Inc v City of Dallas*, 142 F4th 322, 329 (5th Cir 2025), quoting *Daniels Health Sciences, LLC v Vascular Health Sciences, LLC*, 710 F3d 579, 582 (5th Cir 2013).

Here, Petitioner requests a *prohibitory* injunction because he seeks only to preserve the *status quo*, which is “the last peaceable uncontested status” existing between the parties before the dispute arose. *Canal Authority of Florida v Callaway*, 489 F2d 567, 576 (5th Cir 1974); See also *United States v FDIC*, 881 F2d 207, 210 (5th Cir 1989)(the district court has the equitable

power to return the parties to their last uncontested status.” (5th Cir 2025). The Fifth Circuit recognizes the last uncontested state of the parties’ relationship leading up to the suit as the status quo itself. *Lake Charles Diesel, Inc v General Motor Corp*, 328 F3d 192, 193–96 (5th Cir 2003). Petitioners’ “last peaceable uncontested status” was freedom from detention. They move for this *status quo* to be maintained, and therefore, they only need to meet the lower burden of proof: a *prima facie* case on his habeas petition.

Petitioners move for this Court to maintain the *status quo* by ordering their immediate release from custody during the pendency of this habeas petition. Since this was the *status quo* prior to the last “peaceable uncontested status” this is the correct remedy under Fifth Circuit law.

However, should this Court deem that a hearing should be required before releasing Petitioners, then they request that Respondents be enjoined from transferring them to another facility or deporting them from the country during the pendency of their Petition for Habeas Corpus. They have demonstrated a *prima facie* case by showing that ICE violated their rights by detaining them.

2. Petitioners’ rights have been violated

As outlined in their Petition for Habeas Corpus, Respondents have violated the rights of the Petitioners, including their due process rights and their rights under the Fourth and Fifth Amendments. Dkt. 1 at 10-26. Respondents have also violated their own policies and the Immigration and Nationality Act. *Id.* Perhaps the most concerning part of their arrest is that Mr. Conejo Arias wanted to leave his child, L.C.R., with trusted adults at the scene, but ICE refused to allow him to leave the child behind, in violation of their own policy directive. Dkt. 1-4.

Because of ICE’s unlawful arrest and detention of Petitioners, their emotional and physical well-being has been negatively impacted.

3. *Petitioners continue to be prejudiced by the government violating their due process rights*

In order to prevail on a claim asserting the deprivation of due process, a petitioner must also show “actual prejudice.” *Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010) (citation omitted). Actual prejudice occurs if “an alternate result may well have resulted without the violation.” *Id.* (citation omitted) (internal quotations omitted); *see also Lazaro v. Mukasey*, 527 F.3d 977, 981 (9th Cir. 2008) (explaining that prejudice is not necessary where agency action was *ultra vires*). “To show prejudice, [a petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate process were provided.” *Tamayo-Tamayo v. Holder*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal quotations omitted).

Petitioners are clearly prejudiced by their continued, unjustified detention. .

B. Petitioners will continue to face irreparable harm if emergency relief is not granted.

It is well established that deprivation of constitutional rights constitutes “irreparable injury” and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976); *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”). “[A]ny amount of actual jail time is significant and has exceptionally severe consequences for the incarcerated individual” (cleaned up) (internal quotation marks omitted) (citation omitted)). *Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018). Courts have also recognized that wrongful removal, family separation, deprivation of Constitutional rights through detention, and expulsion to places where the Petitioner will be persecuted or tortured may be irreparable harm in the immigration context. *See, e.g., A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) (removal without opportunity, at some time, to be heard); *Nat’l*

TPS All. v. Noem, 150 F.4th 1000, 1025-26 (9th Cir. 2025) (wrongful removal and family separation); *Doe #1 v. Trump*, 957 F.3d 1050, 1061 (9th Cir. 2020) (prolonged separation from family members); *Rodriguez v. Robbins*, 715 F.3d 1127, 1144-45 (9th Cir. 2013) (deprivation of constitutional rights through detention); *Huisha-Huisha v. Mayorkas*, 27 F.4th 718, 733 (D.C. Cir. 2022) (expulsion to places where migrants will be persecuted or tortured).

In the present case, Petitioners face irreparable harm through detention, potential transfers to a new facility, and potential wrongful removal from the United States. Mr. Conejo Arias states that his child, L.C.R., is suffering emotional distress and no longer wants to eat. L.C.R. is also missing school. ICE agents put L.C.R.'s physical safety at risk when they drove him around Minnesota for about an hour without a car seat, even though he is only five years old. ICE agents continue to harass Mr. Conejo Arias by trying to pressure him into signing his voluntary return. Being forcibly separated from his home and exposed to masked agents and subjected to incarceration has had a significant negative impact on L.C.R. Mr. Conejo Arias is left trying to console his child through this stressful situation, and as we all know, when a child suffers, the parent suffers.

The aforementioned issues establish irreparable harm and justify the prompt issuance of a Preliminary Injunction or Temporary Restraining Order in this matter.

C. Respondents will face no injury or harm if emergency relief is granted.

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221 (10th Cir. 2005).

Petitioners' harms, discussed above, are weighty; these harms are the direct result of Respondents' conduct in violating Petitioners' due process and Constitutional rights. In fact,

Petitioners' continued detention is actually a burden for Respondents in that his arbitrary detention is costly to the U.S. government.

Possible injuries to the government, should the restraining order be granted, are minimal. Petitioners are only seeking a return to the *status quo*, which is immediate release during the pendency of these habeas proceedings. Petitioners also move for this Court to not remove them or transfer them to a new facility during the pendency of these habeas proceedings.

For the aforementioned reasons, the irreparable harm to Petitioners that will occur should they not receive the requested relief outweighs any harm to the Respondents.

D. The issuance of a Preliminary Injunction or Temporary Restraining Order is in the public interest.

The public—and therefore the government—has an interest in protecting the rights of people in detention and ensuring the rule of law. See *Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”). “It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). Additionally, there is critical public interest in ensuring executive agencies act lawfully. Respondents “cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983).

The protection of individuals’ constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government’s power to skew, alter, or improperly affect legal proceedings related to an individual’s property or liberty interest(s). To

ensure the protection of Petitioners' constitutional rights, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from continuing to detain Petitioners.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country's legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

E. Petitioner has complied with the requirements of Rule 65.

Finally, as set forth *supra*, Petitioners ask this Court to find that they have complied with the requirements of Rule 65, Fed.R.Civ.P., for the purpose of granting a temporary restraining order. Respondents have been provided a copy of the instant motion and supporting documents and are on notice. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Under the circumstances of this case, however, Petitioners respectfully ask this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from transferring, removing, or continuing to detain Petitioners and/or to refrain from giving Respondents' unlawful actions legal effect, should not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. Of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

CONCLUSION

For all of the foregoing reasons, Petitioner asks this Court to grant his Motion for a Temporary Restraining Order and Preliminary Injunction to:

1. Declare that the actions of Respondents as set forth in Petitioners' Petition, and Motion violated the Fourth and Fifth Amendments of the United States Constitution, 28 U.S.C. § 2241, the APA, the INA, and ICE's own policy directives regarding the detention of children;
2. Enjoin Respondents from transferring Petitioners to a different facility during the pendency of these habeas proceedings;
3. Enjoin Respondents from removing Petitioners to any country during the pendency of this habeas proceeding;
4. If Petitioners have already been transferred, then order their immediate return to this District;
5. Maintain the *status quo* during the pendency of this habeas corpus petition by ordering Petitioners' immediate release from detention;
6. Grant Petitioner such other relief as the Court deems appropriate and just.

Respectfully submitted on this 24th day of January,

/s/ Jennifer Scarborough
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Verification Pursuant to 28 U.S.C. § 2242

The undersigned counsel submits this verification on behalf of the Petitioners. Undersigned counsel has discussed with Petitioners the events described in this Petition for Motion for Preliminary Injunction and Temporary Restraining Order and, on the basis of those discussions, verify that the statements in the Petition are true and correct to the best of her knowledge and belief.

Date: 24 January 2026

/s/ Jennifer Scarborough

