

Eduardo (Ed) Perez
(California Bar ID: 354544)
(Arizona Bar ID: 031187)
Law Offices of Ed Perez, P.C.
1079 Third Ave., Unit D
Chula Vista, California 91911
Telephone/Fax: (619) 913-7003
ed@edperezlaw.com
Attorney for Petitioner L.J. in Pro Bono

January 26, 2026

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

L.J.¹,
Petitioner,

vs.

Christopher J. LAROSE, in his official capacity
as Warden of Otay Mesa Detention Center;
Daniel A. BRIGHTMAN, in his official
capacity as San Diego Field Office Director
(FOD), Immigration & Customs Enforcement
(ICE) Enforcement and Removal Operations
(ERO); Todd LYONS, in his official capacity as
Acting Director of ICE; and Kristi NOEM, in
her official capacity as Secretary of Homeland
Security, Pamela BONDI, U.S. Attorney
General; ICE; DEPARTMENT OF
HOMELAND SECURITY,
Respondents.

) File No. 26CV0463 AGS KSC

)
) Agency No: 

)
) **MOTION FOR TEMPORARY
RESTRAINING ORDER AND
SUPPORTING MEMORANDUM**

) **Expedited review requested**

¹ Petitioner will move this Court for leave to proceed under a pseudonym (the initials L.J.).
MOTION AND MEMORANDUM FOR TEMPORARY RESTRAINING ORDER
Page 1 of 6

MOTION

Petitioner moves the court for the following relief by way of a temporary restraining order (“TRO”):

- a) Issuance of an immediate order barring the respondents from removing petitioner from the Southern District of California without notice to the court and approval by the court;
- b) Issuance of an order to show cause why this petition should not be granted within three (3) days.

SUPPORTING MEMORANDUM

I. LEGAL STANDARDS.

The standard for a TRO is the same as for preliminary injunction. See *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977). A TRO is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008).

For preliminary relief, a party must show (a) likelihood of succeed on the merits, (b) likely irreparable harm without preliminary relief, (c) the balance of equities tips in party, and (d) an injunction is in the public interest. *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing *Winter*, 555 U.S. at 20).

As alternative test is if “serious questions going to the merits were raised and the balance of the hardships tips sharply in the plaintiff’s favor,” thereby allowing preservation of the status quo when complex legal questions require further inspection or deliberation.

Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1134- 35 (9th Cir. 2011).

II. ARGUMENT.

A. Petitioner Will Likely Suffer Irreparable Harm.

Without a TRO, petitioner may be imminently transferred out of the Southern District of California. This will transfer petitioner away from his lawyers and his family, possibly seeking to undermine this court's jurisdiction.

Petitioner here is represented in Pro Bono by Counsel via a Program managed by the San Diego County Office of Assigned Counsel. Counsel's continued representation here is limited to matters within San Diego County, California. If Petitioner is removed from this county, Counsel would have to withdraw from representing him.

Such impacts constitute irreparable harm. See e.g., *Leiva-Perez v. Holder*, 640 F.3d 962, 969-70 (9th Cir. 2011) (describing "separation from family members" and the mental damage concomitant with such separation as irreparable harm) (quotation marks omitted); see also *Ching v. Mayorkas*, 725 F.3d 1149, 1157 (9th Cir. 2013) ("The right to live with and not be separated from one's immediate family is 'a right that ranks high among the interests of the individual' and that cannot be taken away without procedural due process.") (quoting *Landon v. Plasencia*, 459 U.S. 21, 34-35 (1982)).

B. Likely To Succeed On The Merits.

Due process requires government action not be irrational and arbitrary. See *United States v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). Government records show DHS

previously released L.J. on Parole because he had no criminal history, no prior immigration violations, and no indications he would abscond. Given that during his entire time out of custody he remained law abiding and did not violate any terms of his release. Thus, his subsequent arrest months later serves no legitimate purpose.

While the government has discretion to detain individuals this discretion is not “unlimited” and must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698. Moreover, 8 CFR §§241.4 and 241.13 address re-detention of longtime supervisees.

A noncitizen “who has been released under an order of supervision or other conditions of release” who then “violates the conditions of release may be returned to custody.” 8 C.F.R. § 241.4(l)(1) and 241.13 (h)(4)(i). Under this provision, “[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release,” after which “[t]he alien will be afforded an initial informal interview promptly after his or her return to [ICE] custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” Here, Respondents never stated reasons for revoking Petitioner’s release, and Petitioner was never given an opportunity to respond, in violation of 8 C.F.R. § 241.4(l)(1) 241.13 and 241.13 (h)(4)(i).

Thus, continued confinement bears no reasonable, non-punitive relationship to any legitimate aim and is unconstitutionally arbitrary and capricious.

C. Balance of Equities and Public Interest Tips Sharply In Favor of TRO.

The balance of hardships tips substantially favors petitioner. “[I]n addition to the potential hardships facing Plaintiffs in the absence of the injunction, the court ‘may

consider . . . the indirect hardship to their friends and family members.” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017), quoting *Golden Gate Rest. Ass'n v. City & Cty. of San Francisco*, 512 F.3d 1112, 1126 (9th Cir. 2008).

Here L.J. was been away from his family for 10 months. He leaves behind a wife, two children, and a newborn baby with no family or support network. Moreover, during L.J.’s arrest, DHS took possession on his wife’s Employment Authorization Card and has failed to return it despite Counsel’s request. All this has caused the family mental suffering due to harassment and abuse L.J. has endured in detention, and the family’s inability to work despite having work authorization given that there is only one adult in the home and the children cannot be left unattended.

The merits of the petition weight the public interest toward a TRO. “Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the Constitution.” *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005); see also *Zepeda v. U.S. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) (“INS cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations”). “The public interest also benefits from a preliminary injunction that ensures that federal statutes are construed and implemented in a manner that avoids serious constitutional questions.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1146 (9th Cir. 2013).

///

///

III. CONCLUSION

For the above reasons, a TRO should be granted.

Respectfully submitted January 26, 2026.

/s/Eduardo (Ed) Perez
Law Offices of Ed Perez
1079 Third Ave., Unit D
Chula Vista, CA 91911
CA Bar # 354544
Attorney for Petitioner in Pro Bono