

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

FERNANDO LOPEZ VASQUEZ

Petitioner

v.

ROBERT CERNA, Acting Field Office
Director of Dallas Field Office, U.S.
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security; and
PAMELA BONDI, Attorney General of the
United States, in their official capacities

Respondents.

Case No. 5:26-cv-00147

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Petitioner Fernando Lopez Vasquez respectfully moves for a Temporary Restraining Order maintaining the status quo and **enjoining Respondents from transferring Petitioner outside the Western District of Oklahoma** pending resolution of his Petition for Writ of Habeas Corpus seeking access to a bond hearing. **Mr. Lopez Vasquez has been informed that he may be transferred to a detention facility in Texas within the next 24 hours, necessitating emergency relief.**

I. INTRODUCTION

Petitioner has filed a Petition for Writ of Habeas Corpus challenging Respondents' continued refusal to provide him access to a bond hearing under **8 U.S.C. § 1226(a)**.

Petitioner is currently detained within the Western District of Oklahoma and is represented by undersigned counsel located in this District.

Respondents possess the unilateral ability to transfer Petitioner to another state or ICE Field Office at any time.

Immediate injunctive relief is necessary solely to **preserve Petitioner's access to counsel and this Court's ability to adjudicate the pending habeas petition.**

II. LEGAL STANDARD

A temporary restraining order is appropriate where:

- the movant demonstrates a likelihood of success on the merits;
- irreparable harm will occur absent relief;
- the balance of equities favors relief; and
- an injunction serves the public interest.

Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008)

III. NOTICE

Pursuant to Federal Rule of Civil Procedure 65(b), notice should not be required because Petitioner continues to suffer ongoing and irreparable harm through unlawful civil detention without an individualized custody determination. Any delay caused by providing notice would prolong that harm.

Moreover, Respondents are already on notice of the legal issues through Petitioner's pending habeas petition, and this motion seeks only narrow, interim relief to preserve the status quo pending adjudication.

Rule 65(b)(1) authorizes courts to issue a TRO without notice to the non-movant(s) if: (a) "specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result . . . before the adverse party can be heard in opposition;" and (b)

the movant's counsel certifies, in writing, the "efforts made to give notice and the reasons why it should not be required."

In an abundance of caution, undersigned counsel has also provided notice by emailing a copy of this Emergency Motion for Temporary Restraining Order to ICE Field Office and uploading it to DHS's e-service.

IV. STATEMENT OF FACTS

Petitioner incorporates by reference all factual allegations, declarations, and exhibits filed in support of her Petition for Writ of Habeas Corpus as if fully set forth herein. Those materials establish Petitioner's immigration history, family ties, lack of criminal history.

Petitioner Fernando Lopez Vasquez is 36 years old and a native of Mexico but has lived in the United States since he was 15 years old. He entered the United States without inspection, as a minor.

Petitioner was detained when he was stranded on the side of the road in snow. Witnesses called emergency services to assist him however when Oklahoma Highway Patrol arrived, they detained him, for no reason other than his immigration status.

Petitioner did not commit any crimes and was honest about his immigration status. Petitioner was in a position where he needed assistance, but instead was detained and transferred to ICE today, January 28, 2026. ICE now plans to move him to Texas.

V. ARGUMENT

To be entitled to a TRO or preliminary injunction, a petitioner must establish that: (1) she is substantially likely to succeed on the merits of her claim; (2) she is likely to suffer irreparable harm in the absence of preliminary relief; (3) the threatened injury to the petitioner if preliminary relief is denied outweighs any threatened injury to the opposing party if it is granted; and, (4) the

preliminary relief is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Free the Nipple-Fort Collins v. City of Fort Collins*, Colo., 916 F.3d 792, 797 (10th Cir. 2019); *Planned Parenthood Ass’n of Utah v. Herbert*, 828 F.3d 1245, 1252 (10th Cir. 2016). “The likelihood-of-success and irreparable-harm factors are ‘the most critical.’” *People’s Trust Fed. Credit Union v. Nat’l Credit Union Admin. Bd.*, 350 F. Supp. 3d 1129, 1139 (D.N.M. 2018) (Browning, J.) (quoting *Nken v. Holder*, 556 U.S. 418, 434 (2009)).

A. Maintaining Custody Within This District Is Necessary to Protect Judicial Review

Petitioner’s habeas petition presents a discrete legal issue: whether Respondents must provide Petitioner access to a bond hearing pursuant to § 1226(a) and the binding judgment in *Maldonado Bautista v. Santacruz*.

Transfer outside this District would:

- substantially interfere with Petitioner’s access to counsel;
- disrupt the orderly adjudication of the pending habeas petition; and
- risk frustrating this Court’s jurisdiction and ability to grant effective relief.

Courts routinely preserve the status quo to ensure meaningful review of habeas petitions challenging immigration detention procedures.

B. Petitioner Will Suffer Irreparable Harm Absent a TRO

Transfer would impose immediate and irreparable harm by separating Petitioner from counsel and impeding preparation and litigation of his bond-hearing claim. These harms cannot be remedied after the fact and warrant temporary injunctive relief.

C. The Balance of Equities and Public Interest Favor Relief

Maintaining Petitioner within the Western District of Oklahoma imposes minimal burden on Respondents.

The public interest favors ensuring that individuals in immigration custody have meaningful access to counsel and that federal courts can adjudicate pending habeas petitions without disruption.

VI. REQUESTED RELIEF

Petitioner respectfully requests that the Court:

1. **Issue a Temporary Restraining Order** enjoining Respondents from transferring Petitioner outside the Western District of Oklahoma pending resolution of the Petition for Writ of Habeas Corpus; and
2. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

s/Melissa M. Henry
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