

UNITED STATES DISTRICT COURT FOR
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MIGUEL ROMERO GARCIA,

Petitioner,

v.

Bobby Thompson, Warden, South Texas
Detention Facility; Miguel Vergara, Field
Office Director of Immigration and Customs
Enforcement, Enforcement and Removal
Operations San Antonio Field Office, Kristi
Noem; Secretary of the U.S. Department of
Homeland Security; and Pamela Bondi,
Attorney General of the United States, in their
official capacities, U.S. Department of
Homeland Security, Executive Office of
Immigration Review

Respondents.

Civil Action No.: 5:26-cv-546

**PETITION FOR WRIT OF
HABEAS CORPUS**

**PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER OR, IN THE
ALTERNATIVE, FOR A PRELIMINARY INJUNCTION**

Petitioner, At  Miguel Romero Garcia (Petitioner) files this motion requesting the Court's request for a temporary restraining order (TRO) or, in the alternative, for a preliminary injunction preventing his removal pending a final decision in his petition for a writ of habeas corpus.

Petitioner is a Mexican national presently detained by Respondents at South Texas Detention Facility in Pearsall, Texas. Mr. Garcia has been in ICE custody since December 13, 2025. Petitioner has a merits hearing scheduled on March 5, 2026.

Petitioner's detention is unlawful because Respondents have refused to provide him with a bond hearing under 8 U.S.C. § 1226(a), despite his clear entitlement to such a hearing as a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). In that case, the district court issued a binding declaratory judgment holding that class members are detained under § 1226(a) and may not be denied consideration for release on bond under 8 U.S.C. § 1225(b)(2).

Respondents are parties to *Maldonado Bautista* and are bound by that judgment, which has the full force and effect of a final judgment under 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to detain Petitioner without a bond hearing and have asserted that even if this Court orders his release, she would be subject to re-arrest as an alien present without admission—an apparent reliance on § 1225(b)(2) that directly contravenes the declaratory judgment.

Absent immediate injunctive relief, Petitioner will continue to suffer irreparable harm in the form of unlawful detention and the ongoing threat of re-arrest in violation of federal law and a binding court order. Petitioner therefore seeks this Court's intervention to preserve the status quo, enforce compliance with federal law, and prevent further violations of his statutory and constitutional rights while his habeas petition is pending.

I. FACTUAL BACKGROUND

Petitioner, Miguel Romero Garcia, A [REDACTED], was born on [REDACTED] 1986, and is thirty-nine years old. He entered the United States in August 2007 and has resided continuously in this country since that time, establishing nearly two decades of residence.

Petitioner has a pending application for asylum, and his next Master Calendar Hearing is scheduled for March 3, 2026.

Petitioner is married and lives with his wife and their three children, all of whom are United States citizens, ages eighteen , fifteen , and four. One of Petitioner's children, his son  receives special education services and requires additional academic and caretaking support. Petitioner has consistently served as the head of household and primary financial provider, supporting his family through lawful employment and responsible conduct.

Throughout his residence in the United States, Petitioner has maintained steady employment, including work in construction and later as a mechanic operating from his home. He has faithfully filed and paid his taxes, demonstrating full compliance with financial and legal obligations. Prior to detention, Petitioner and his family rented housing for many years and consistently paid rent on time. More recently, the family purchased a home and land, further evidencing Petitioner's deep roots, stability, and long-term commitment to the United States.

Petitioner suffers from a history of chronic abdominal pain and sought medical care on numerous occasions prior to his detention. After repeated medical visits, Petitioner was referred to a specialist and scheduled to undergo an esophagogastroduodenoscopy (EGD) to diagnose and treat his condition. Petitioner was advised that, if the EGD did not resolve his symptoms, surgical intervention might be required. Petitioner was unable to attend this critical specialist appointment due solely to his detention, and his medical provider has since emphasized the importance of returning for follow-up care upon his release.

On December 13, 2025, Petitioner was taken into immigration custody and has remained detained since that date. As of the filing of this action, Petitioner has been detained for approximately forty-five days. His detention is civil in nature and has occurred despite his longstanding residence in the United States, stable employment, and strong family and property ties.

Petitioner's continued detention has caused severe and ongoing hardship to his family. His wife and children have been deprived of their primary source of financial support and daily parental care, creating emotional distress and financial instability within the household. These hardships are particularly acute given the needs of Petitioner's son  who requires special educational support and assistance that Petitioner regularly provided prior to detention.

Absent immediate judicial intervention, Petitioner faces continued detention despite his pending asylum application, compliance with all immigration proceedings, deep family and community ties, and significant unmet medical needs. Each additional day of detention exacerbates the harm to Petitioner and his U.S. citizen family and threatens his health, liberty, and ability to meaningfully participate in his ongoing immigration proceedings.

II. ARGUMENT

Petitioner's detention is governed by 8 U.S.C. § 1226(a) and the Due Process Clause of the Fifth Amendment, which prohibits the deprivation of liberty without lawful process. Petitioner does not have a final order of removal and is currently in pending removal proceedings under 8 U.S.C. § 1229a. As a member of the Bond Eligible Class certified in *Maldonado Bautista v.*

Santacruz, Petitioner is entitled to consideration for release on bond under § 1226(a) and may not be detained under 8 U.S.C. § 1225(b)(2). Respondents' continued detention of Petitioner without a bond hearing violates the Immigration and Nationality Act and a binding declaratory judgment that has the full force and effect of a final judgment under 28 U.S.C. § 2201(a).

Petitioner seeks this TRO to prevent transfer to another detention center during the pendency of his petition before this court, and 2) his removal from the United States while his Petition is before this Court. During their detention, detainees are frequently moved between detention centers to satisfy bed-space and other facility requirements. Frequently, they are transferred from units in Pearsall, Texas to units in Laredo, Encinal, Karnes City and Bastrop Texas. These transfers make maintaining communication between client and counsel virtually impossible. In addition, to not allow him to remain in the United States during his proceedings is a direct violation of his right to Due Process.

Respondents have expressed their intent to continue Petitioner's unlawful detention and to re-arrest him under 8 U.S.C. § 1225(b)(2) even if this Court orders his release, in violation of federal law and a binding declaratory judgment. Absent injunctive relief, Petitioner will suffer irreparable harm in the form of continued unlawful deprivation of liberty without due process. Respondents will suffer no harm from an order requiring them to comply with federal law and a binding court judgment. Granting a temporary restraining order or preliminary injunction serves the public interest by upholding the fundamental principle that federal officers are bound to follow the statutes and judicial decisions that govern their authority. Accordingly, this Court should enjoin Respondents from continuing to detain Petitioner without a bond hearing and from re-arresting him under 8 U.S.C. § 1225(b)(2) while this case is pending.

The Legal Standard for a Preliminary Injunction

A petitioner is entitled to a preliminary injunction to preserve the status quo and prevent irreparable harm until the parties' rights can be determined at trial on the merits. *City of Dallas v. Delta Air Lines, Inc.*, 847 F.3d 279, 285 (5th Cir. 2017). The "status quo" sought to be restored is "the last peaceable uncontested status existing between the parties before the disputed developed." Charles Alan Wright & Arthur R. Miller, 11A FEDERAL PRACTICE & PROCEDURE § 2948 (3d ed. 2013). Thus, the status quo in this case means preventing Respondents from continuing Petitioner's unlawful detention without a bond hearing and from re-arresting him under 8 U.S.C. § 1225(b)(2).

To obtain a preliminary injunction, a petitioner must show (1) a substantial likelihood of prevailing on the merits; (2) a substantial likelihood of irreparable injury if the injunction is not granted; (3) the threatened injury outweighs any harm that will result to the nonmovant if the injunction is not granted; and (4) the injunction will not disserve the public interest. *Winter v. Natural Resources Defense Council, Inc.*, 129 S.Ct. 365, 374 (2008). The first two factors, substantial likelihood of prevailing on the merits and of irreparable harm, are the most critical. *Nken v. Holder*, 556 U.S. 418, 434 (2009). In this circuit, the first factor, likelihood of success on the merits, is the most important. *Tesfamichael v. Gonzales*, 411 F.3d 169, 176 (5th Cir. 2005). Further, "where there is a serious legal question involved and the balance of the equities heavily favors [an injunction], the movant only needs to present a substantial case on the merits." *Lake Eugenie Land & Dev., Inc. v. BP Exploration & Prod. (In re Deepwater Horizon)*, 732 F.3d 326, 345 (5th Cir. 2013) (quoting *Weingarten Realty Investors v. Miller*, 661 F.3d 904, 910 (5th Cir. 2011)).

**A. Petitioner is entitled to a TRO and/or a Preliminary Injunction
Because Respondents' threatened action violates federal law**

**1. Petitioner has a substantial likelihood of prevailing on the merits
of his case.**

Petitioner's petition for writ of habeas only seeks to have him released from unlawful detention or, in the alternative, provided a bond hearing under 8 U.S.C. § 1226(a). He is currently in pending removal proceedings before the immigration court and does not have any future hearings. Furthermore, he has no fixed release date. Based on this argument and the arguments contained in his petition, Petitioner's case has a substantial likelihood of success on the merits.

**2. Petitioner will suffer irreparable harm if Respondents are allowed
to continue his unlawful detention or re-arrest him under 8 U.S.C. §
1225(b)(2)**

Petitioner will suffer immediate and irreparable harm if Respondents continue to detain him without a bond hearing or re-arrest him under 8 U.S.C. § 1225(b)(2) while this Court considers his habeas petition. As stated above, Petitioner has a pending petition before this Court, and his right to due process requires that he either be released or receive a bond hearing under § 1226(a) while his case is decided. To do otherwise would cause Petitioner irreparable harm. Additionally, Respondents' refusal to conduct a lawful bond hearing for a Bond Eligible Class member deprives him of due process under the Fifth Amendment. Constitutional violations—particularly those involving physical liberty—are presumed to be irreparable. The continuation of detention and the threat of an unlawful re-arrest together create a degree of irreparable harm that no later court ruling can cure.

"In general, a harm is irreparable where there is no adequate remedy at law, such as monetary damages." *Janvey v. Alguire*, 647 F.3d 585, 600 (5th Cir. 2000). No amount of money physically restores Petitioner's status in the United States. If denied preliminary relief, Petitioner

will suffer irreparable harm namely the continued unlawful detention, the deprivation of liberty, and the disruption to his daily life and ability to comply with immigration proceedings.

3. The Balance of Equities Tips Heavily in Favor of Petitioner and an Injunction is in the Public Interest

The threatened injury to Petitioner far outweighs any harm that will result to Respondents if the Court issues a TRO or an injunction. Further, the issuance of an injunction does not disserve the public interest but rather promotes it because it upholds the rule of law.

Petitioner is presently detained and Respondents have indicated they may continue his detention or re-arrest him under 8 U.S.C. § 1225(b)(2). He is entitled to a bond hearing as a Bond Eligible Class member, and continued detention without one violates federal law. Continuing to detain him in violation of federal law will result in irreparable harm by depriving him of liberty and due process. The resulting harms to the Defendants are nonexistent or at most minimal. They are simply held to the rule of law.

In addition, granting the injunction does not disserve the public interest but rather promotes it. It is in the public interest for government officials to comply with federal law. *MCR Oil Tools, L.L.C v. United States DOT*, 2024 U.S. App. LEXIS 14297 at *19 (5th Cir. June 12, 2024) (“There is a ‘substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.’”) (quoting *Texas v. United States*, 40 F.4th 205, 229 (5th Cir. 2022)). And in this case, the law is clear that Respondents have no authority to continue detaining Petitioner or to deny him a bond hearing in violation of 8 U.S.C. § 1226(a) and the declaratory judgment in Maldonado Bautista. Granting the injunction promotes the rule of law.

III. CONCLUSION

For the foregoing reasons, this Court should issue a restraining order or preliminary injunction and instruct Respondents to release Petitioner or, alternatively, provide him with a bond hearing under 8 U.S.C. § 1226(a) pending a final disposition of his habeas petition.

Dated: January 29, 2026

Respectfully submitted,

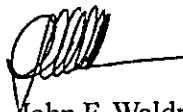


John F. Waldron, Attorney at Law
3201 Cherry Ridge, Suite A-109
San Antonio, Texas 78230
(210) 838-1704
(210) 521-5755 Fax
jwaldron@jfwlawfirm.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

On January 29, 2026 undersigned counsel served a copy of this motion on the U.S. Attorney for the Western District of Texas as required by serving one of his designated agents for service of process. In addition, undersigned counsel emailed this motion to Assistant U.S. Attorney Lacy McAndrew at to the following address: Lacy.McAndrew@usdoj.gov.

Respectfully submitted,



John F. Waldron, Attorney at Law
3201 Cherry Ridge, Suite A-109
San Antonio, Texas 78230
(210) 838-1704
(210) 521-5755 Fax
jwaldron@jfwlawfirm.com
Counsel for Petitioner

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Respondents.

ORDER

Pending before the Court is Petitioner's Motion for a Temporary Restraining Order or, in the Alternative, for a Preliminary Injunction. After having reviewed the motion and the evidence in support of the motion, the parties' arguments and the applicable law, the Court is of the opinion that the motion should be GRANTED.

The Court concludes that Petitioner has satisfied the factors necessary for issuance of a preliminary injunction. He is likely to succeed on the merits of his claim and he is likely to suffer irreparable harm. Further, the balance of equities tilts in his favor and an injunction

promotes the public interest by requiring federal officers to comply with regulations that bind them.

It is ORDERED that Defendants shall be prohibited from removing the Petitioner until his hearings have held and a final order has been issued regarding the merits of his Petition for a Writ of Habeas.

Signed this ____ day of February 2026.

UNITED STATES DISTRICT JUDGE