

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

SULENNIS WILSON- DEL POZO,

Petitioner,

v.

Rose Thompson, Warden of Karnes County
Immigration Processing Center; Miguel
Vergara, Field Office Director of Enforcement
and Removal Operations, San Antonio Field
Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
Pamela BONDI, U.S. Attorney General;
EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW; DEPARTMENT OF HOMELAND
SECURITY

Respondents

Civil Action No.: 5:26-cv-547

**PETITION FOR WRIT OF
HABEAS CORPUS**

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

Petitioner, A# , Sulennis Wilson-Del Pozo (Petitioner) files this motion requesting the Court's request for a temporary restraining order (TRO) or, in the alternative, for a preliminary injunction preventing her removal pending a final decision in her petition for a writ of habeas corpus.

Petitioner is a Cuban national presently detained by Respondents in Karnes County Immigration Processing Center at Karnes City, Texas. Ms. Wilson Del-Pozo has been in ICE

custody since November 13, 2025. Petitioner does not have a final order of removal. She is presently in removal proceedings pursuant to 8 U.S.C. § 1229a, with a master hearing scheduled for February 5th, 2026.

Petitioner's detention is unlawful because Respondents have refused to provide her with a bond hearing under 8 U.S.C. § 1226(a), despite her 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 her 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 her statutory and constitutional rights while her habeas petition is pending.

I. FACTUAL BACKGROUND

Sulennis Wilson-Del Pozo is a 40-year-old native and citizen of Cuba who entered the United States on or about July 2022, together with her husband. She has remained in the United States continuously since that date. Petitioner has no criminal record and no prior immigration

violations. Her record reflects that she poses no danger to the community and has consistently complied with all immigration requirements. On November 21, 2022, Petitioner and her husband timely submitted an application for asylum with U.S. Citizenship and Immigration Services, which remains pending. In addition, she also filed an I-914, Application for a T Non-immigrant Status, in December 16, 2024, that is currently pending. She was subsequently issued a Form I-797C Notice of Action valid through 2029 and was also issued a Social Security card, further evidencing her compliance with the immigration process and intent to pursue lawful relief.

Petitioner submitted a T Visa application in December 16th, 2024 along with her husband due to their employer not paying them for their labor. This demonstrates Petitioner's courage in standing up against exploitation, her commitment to seeking lawful protection, and her diligence in pursuing legal remedies to protect herself and her family.

Petitioner is currently detained at the Karnes County Immigration Processing Center in Karnes County, Texas, where she remains in the custody of the Department of Homeland Security. She was detained on November 13, 2025, while appearing for a scheduled ICE appointment. As of January 22, 2026, Petitioner has been detained for approximately 70 days without a bond hearing, despite her eligibility for release under 8 U.S.C. § 1226(a).

Prior to her detention, Petitioner worked as a carpenter for two years, contributing to her family's financial stability. Petitioner works diligently to support her child in Cuba, sending money on a weekly basis to ensure his stability and proper care. Her 16-year-old child relies on her for financial stability, further demonstrating Petitioner's sense of responsibility, commitment to her family, and ongoing hardship caused by her detention.

In addition to supporting her minor children, Petitioner's husband depends on her financially, as they rent a residence together and both of their incomes are needed to cover household bills. Petitioner and her husband also send money to their child in Cuba to provide for his basic needs. Petitioner has consistently met her financial and legal obligations, further demonstrating her reliability, responsibility, and compliance with the law.

During her detention, Petitioner has suffered from various medical conditions due to neglect and the lack of proper medical care. No medical staff has provided comprehensive treatment, and when she has received medications, they have been selective and insufficient, failing to specifically address the affected areas due to their lack of proper attention and resources. Prior to her detention, Petitioner was undergoing dental treatment for an infected tooth, which was expected to last approximately two months. Since being detained, she has been forced to self-treat, resulting in swelling of her jaw and gums. In addition, Petitioner has developed a kidney infection, causing her legs to swell and severe, painful jabs in her abdomen.

Petitioner's ongoing detention has caused significant hardship and uncertainty for her and her family and continues despite her lack of criminal history, her demonstrated compliance with immigration proceedings, her pending asylum application and T-Visa application, and her eligibility for a bond hearing under 8 U.S.C. § 1226(a). Releasing Petitioner on bond would allow her to obtain necessary prenatal medical care, care for her minor children, continue pursuing lawful immigration relief, and ensure her appearance at all future immigration proceedings.

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 her petition before this court, and 2) her removal from the United States while her 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 the unit in Dilley, 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 her to remain in the United States during her proceedings is a direct violation of her right to Due Process.

Respondents have expressed their intent to continue Petitioner's unlawful detention and to re-arrest her under 8 U.S.C. § 1225(b)(2) even if this Court orders her 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 her 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 her 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 her case.**

Petitioner's petition for writ of habeas only seeks to have her released from unlawful detention or, in the alternative, provided a bond hearing under 8 U.S.C. § 1226(a). She is currently in pending removal proceedings before the immigration court and does not have a final order of removal. Furthermore, she has no fixed release date. Based on this argument and the arguments contained in her 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 her unlawful detention or re-arrest her under 8 U.S.C. §
1225(b)(2)**

Petitioner will suffer immediate and irreparable harm if Respondents continue to detain her without a bond hearing or re-arrest her under 8 U.S.C. § 1225(b)(2) while this Court considers her habeas petition. As stated above, Petitioner has a pending petition before this Court, and her right to due process requires that she either be released or receive a bond hearing under § 1226(a) while her 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 her 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 her 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 her detention or re-arrest her under 8 U.S.C. § 1225(b)(2). She is entitled to a bond hearing as a Bond Eligible Class member, and continued detention without one violates federal law. Continuing to detain her in violation of federal law will result in irreparable harm by depriving her 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 her 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.

CONCLUSION

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

Dated: January 29, 2026

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'J. Waldron', with a long horizontal line extending to the right.

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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,

A handwritten signature in black ink, appearing to read 'John F. Waldron', with a horizontal line extending to the right.

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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. She is likely to succeed on the merits of her claim and she is likely to suffer irreparable harm. Further, the balance of equities tilts in her 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 her hearings have held and a final order has been issued regarding the merits of her Petition for a Writ of Habeas.

Signed this ____ day of February 2026.

UNITED STATES DISTRICT JUDGE