

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

**CHRISTIAN AZAEL
ALVAREZ GARCIA**

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-00165

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
TO PREVENT PETITIONER'S TRANSFER OUT OF THE
WESTERN DISTRICT OF OKLAHOMA**

Petitioner **Christian Azael Alvarez Garcia** respectfully moves this Court for issuance of 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.

Petitioner has been informed that ICE intends to transfer him imminently—possibly within the next 24 hours—to an out-of-state detention facility, including the Bluebonnet facility in Texas. Emergency relief is therefore necessary.

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) and the binding declaratory judgment in *Maldonado Bautista v. Santacruz*.

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

Respondents possess unilateral authority to transfer Petitioner at any time, including outside this Court's jurisdiction.

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 formal notice would heighten the risk that ICE will transfer Petitioner out of this District before the Court may act, thereby frustrating jurisdiction and the availability of effective relief.

Rule 65(b)(1) authorizes issuance of a TRO without notice where:

- (a) specific facts clearly show that immediate and irreparable injury will result before the adverse party can be heard; and
- (b) counsel certifies efforts made to provide notice and reasons notice 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 the United States Attorney's Office for the Western District of Oklahoma, thereby satisfying the certification requirement of Rule 65(b)(1)(B).

IV. STATEMENT OF FACTS

Petitioner incorporates by reference all factual allegations, declarations, and exhibits filed in support of his Petition for Writ of Habeas Corpus as if fully set forth herein.

1. Petitioner **Christian Azael Alvarez Garcia** is a native and citizen of Mexico who has lived continuously in the United States since approximately **2003**.
2. Petitioner has resided in Oklahoma City since approximately **2008**, has strong community ties, and is the father of **five United States citizen children**.
3. Petitioner has no known criminal history and poses no danger to the community.
4. Petitioner was detained following a minor traffic stop involving a broken tail light. He was not suspected of any criminal activity, was not charged with any offense, and no criminal basis for detention existed.

Imminent and Threatened Transfer

On January 31, 2026 while detained in Guthrie, Oklahoma, Petitioner informed his family that ICE officers told him he had approximately **48 hours** before he would be moved out of state.

On February 1, 2026 Petitioner advised ICE personnel that he had retained counsel and that his attorney would be filing an action in federal court to challenge his continued detention and denial of bond jurisdiction.

This morning, at approximately 9:00 AM, Petitioner called his family from an ICE office near SW15th Street and Meridian Avenue in Oklahoma City, stating that he was being moved imminently and that ICE intended to transfer him to the **Bluebonnet Detention Facility in Texas**.

Petitioner's transfer outside this District is therefore not speculative, it is immediate and impending, requiring emergency judicial intervention.

V. ARGUMENT

To obtain a TRO, Petitioner must establish that:

1. he is substantially likely to succeed on the merits;
2. he will suffer irreparable harm without relief;
3. the balance of equities favors relief; and
4. an injunction serves the public interest.

Winter, 555 U.S. at 20.

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

Petitioner's habeas petition presents a discrete and purely 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.

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

B. Petitioner Will Suffer Irreparable Harm Absent a TRO

Petitioner faces immediate irreparable harm if transferred out of the Western District of Oklahoma.

Transfer would:

- separate Petitioner from retained counsel;
- obstruct litigation of his bond-hearing claim; and
- prevent this Court from granting effective relief in the pending habeas action.

These harms cannot be remedied after the fact, because once Petitioner is transferred outside this District, his access to counsel will be severely disrupted, this Court's jurisdiction may be undermined, and meaningful judicial review of his unlawful detention claim may be effectively lost, thereby warranting immediate emergency injunctive relief.

C. The Balance of Equities and Public Interest Favor Relief

Maintaining Petitioner within this District imposes minimal burden on Respondents. By contrast, denial of relief would permit Respondents to moot or frustrate judicial review through transfer. The public interest strongly favors ensuring that individuals in civil immigration detention have meaningful access to counsel and that federal courts can adjudicate pending habeas petitions without disruption.

I. 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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Dated: 2/2/2026

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CERTIFICATE OF SERVICE

I hereby certify that on **February 1, 2026** a true and correct copy of the foregoing **Emergency Motion for Temporary Restraining Order** was served through e-mail to the United States Attorney's Office for the Western District of Oklahoma, as well as to the Department of Homeland Security through their e-service webpage.

I further certify that the Motion was filed electronically using the Court's CM/ECF system.

s/Melissa M. Henry

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