

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

REBECCA SANCHEZ-DIAZ,

Petitioner,

v.

MARY DE ANDA-YBARRA, Field Office
Director of Enforcement and Removal
Operations, El Paso Field Office, Immigration
and Customs Enforcement;

Kristi NOEM, Secretary, U.S. Department of
Homeland Security; U.S. Department of
Homeland Security;

Pamela BONDI, U.S. Attorney General;
Executive Office for Immigration Review;
Warden of the El Paso Processing Center;

Respondents.

Case No. 3:26-cv-351

**MOTION FOR TEMPORARY
RESTRAINING ORDER**

MOTION FOR TEMPORARY RESTRAINING ORDER

1. Petitioner Rebecca Sanchez-Diaz, through undersigned counsel, respectfully moves this Court pursuant to Federal Rule of Civil Procedure 65 for a Temporary Restraining Order enjoining Respondents from continuing to detain Petitioner without constitutionally adequate process, in violation of the Fifth Amendment.

I. INTRODUCTION

2. Petitioner has been held in civil immigration detention for over seven months without an individualized custody hearing, despite having no criminal convictions and substantial

equities. She is married to an honorably discharged United States Army veteran and is pursuing lawful status through pending Military Parole in Place, Form I-130, and T visa applications.

3. The Immigration Judge has declined to conduct a bond hearing while these applications remain pending. Under *Matter of Guerra*, such pending forms of relief are legally recognized alternatives to removal and must be considered in evaluating flight risk. Continued detention without meaningful consideration of these factors violates due process.

II. FACTUAL BACKGROUND

4. Entry and Prior Release. Petitioner entered the United States on February 1, 2022, fleeing Mexico. DHS initially released her into the interior.
5. Family Ties and Pending Relief. Petitioner married Andrew James Brashear, an honorably discharged Army veteran. She has pending applications for Military Parole in Place, Form I-130, and a T visa. These applications represent recognized forms of immigration relief and provide substantial incentive to comply with proceedings.
6. Dismissed Criminal Charge. A June 2025 criminal charge was dismissed in the interest of justice. Petitioner has no criminal convictions.
7. Continued Detention and Delayed Adjudication. Despite dismissal of the charge and prior release, Respondents continue to detain Petitioner. She has been unable to complete required biometrics, delaying adjudication of her pending applications. The Immigration

Judge acknowledged her class membership but declined to conduct a bond hearing, resulting in prolonged detention without an individualized custody determination.

III. LEGAL STANDARD

8. A Temporary Restraining Order is appropriate when the movant shows a likelihood of success on the merits, demonstrates that irreparable harm will occur without relief, establishes that the balance of equities favors granting the order, and proves that the injunction serves the public interest. Federal courts have the authority to provide interim relief to prevent ongoing unconstitutional detention and to preserve habeas jurisdiction.

IV. ARGUMENT

A. Likelihood of Success on the Merits

9. Due Process Requires an Individualized Custody Determination. The Fifth Amendment prohibits arbitrary civil detention. Petitioner has not been found dangerous or a flight risk following an individualized hearing. Prolonged detention without such process violates constitutional principles.
10. Failure to Consider Pending Relief. Under *Matter of Guerra*, adjudicators must consider alternatives to removal when assessing flight risk. Petitioner's pending applications for Military Parole in Place and T visa relief provide meaningful incentive to appear for

proceedings. Failure to consider these factors undermines the reliability of any flight risk determination.

11. Delay in Adjudication Prolongs Detention. Petitioner's inability to complete biometrics has delayed adjudication of her applications and extended detention. Continued confinement while relief remains pending weighs in favor of immediate judicial intervention.

B. Irreparable Harm

12. The loss of liberty constitutes irreparable harm. Each additional day of detention without adequate process compounds the constitutional injury and prolongs separation from Petitioner's spouse.

C. Balance of Equities and Public Interest

13. Petitioner has strong equities, including lack of criminal history, prior compliance with release conditions, and significant family ties. The government's interest in detention is reduced where constitutionally sufficient process has not been provided. The public interest is served by ensuring adherence to constitutional safeguards.

V. PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Issue a Temporary Restraining Order directing Respondents to immediately release Petitioner from ICE custody, or in the alternative, order a constitutionally adequate bond hearing within 48 hours;

2. Enjoin Respondents from re-detaining Petitioner absent constitutionally sufficient process;
3. Waive any security requirement under Rule 65(c); and
4. Grant such other relief as the Court deems just and proper.

VI. CONCLUSION

Petitioner's prolonged civil detention without an individualized custody determination violates due process and continues to inflict irreparable harm. Immediate injunctive relief is warranted.

Dated: February 27, 2026,

Respectfully submitted,

s/Gracilene Brooks
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Local Counsel

RULE 65(b)(1)(B) CERTIFICATION OF COUNSEL

Pursuant to Federal Rule of Civil Procedure 65(b)(1)(B), undersigned counsel certifies that on February 25, 2026, she provided notice to the United States Attorney's Office for the Western District of Texas of Petitioner's intent to seek a Temporary Restraining Order by email to Assistant United States Attorneys Counsel: Mary F. Kruger at mary.kruger@usdoj.gov; Lacy L. McAndrew at lacy.mcandrew@usdoj.gov, and on February 27th, to Deborah Lane Fisher at Deborah.fisher@usdoj.gov at informed the government of the relief requested and the grounds for the motion.

As of the time of filing, the government has [not responded / indicated it opposes / indicated it does not oppose] the requested relief.

Respectfully submitted,

02/27/2026

s/ Gracilene Brooks
Gracilene Brooks

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of February 2026, a copy of the foregoing was filed electronically with the Court. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Respectfully Submitted

s/Gracilene Brooks

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