

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

ANDREA PEDRO-FRANCISCO,

Petitioner,

v.

Civil Action No. 3:26-cv-00450-LS

PAMELA BONDI, ATTORNEY GENERAL,

KRISTI NOEM, SECRETARY, U.S.
DEPARTMENT OF HOMELAND SECURITY,

TODD M. LYONS, ACTING DIRECTOR OF
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

MARISA FLORES, DIRECTOR, EL PASO
FIELD OFFICE IMMIGRATION AND
CUSTOMS ENFORCEMENT, AND

CURTIS TAYLOR, MAJOR GENERAL, U.S.
ARMY AT CAMP BLISS.

Respondents.

**PETITIONER ANDREA PEDRO-FRANCISCO’S APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION**

Petitioner Andrea Pedro-Francisco applies for a temporary restraining order (“TRO”) and a preliminary injunction under Federal Rule of Civil Procedure 65 against Respondents and respectfully requests that the Court set a hearing as soon as the Court’s schedule permits but no later than 14 days from the date of this application.

INTRODUCTION

Ms. Pedro-Francisco seeks (i) access to prescribed medication, (ii) evaluation by a physician, (iii) access to condition-appropriate medical care, and (iv) continuing access to such medical care to prevent complications and further deterioration of her health.

Accordingly, Ms. Pedro-Francisco seeks: (1) an immediate TRO directing Respondents to (i) facilitate her evaluation by an independent physician at a hospital, (ii) regular and unfettered access to previously prescribed medication, and (iii) prompt access to condition-appropriate medical care, including surgery if deemed medically necessary, pending consideration of her request for a preliminary injunction; (2) a preliminary injunction hearing set for no later than 14 days from the date of this application; and (3) entry of a preliminary injunction enjoining Respondents from (i) denying or limiting Ms. Pedro-Francisco's prompt access to condition-appropriate and prescribed medical care, and (ii) requiring Respondents to preserve the status quo by facilitating her access to physician-directed treatment.

SUMMARY OF RELEVANT FACTS

I. MS. PEDRO-FRANCISCO IS DIAGNOSED WITH AN OVARIAN CYST FOR WHICH SURGERY WAS ALREADY SCHEDULED PRIOR TO HER ARREST BY ICE AND DETENTION.

Ms. Pedro-Francisco suffers from a large ovarian cyst, which is accompanied by symptoms of extreme abdominal pain and risk to her reproductive health. Her condition requires surgery, and she was scheduled for a pre-op appointment on February 8, 2026 and for surgery to remove the cyst on February 11, 2026 at Fairview Hospital Minneapolis, Minnesota.

A biopsy is necessary to determine whether the cyst is cancerous. When she was last examined, the cyst was 5.6 centimeters, raising concerns of torsion and rupture.

Concerningly, she is experiencing pain in her abdominal area and lower back that could be any number of issues, including serious infection or an abscess. Her treating physician's intent was

to examine the cause of these symptoms during her scheduled surgery. Ms. Pedro-Francisco's pain was serious enough that her treating physician prescribed Oxycodone for pain management.

II. ICE DETAINS MS. PEDRO-FRANCISCO, PREVENTING HER FROM SCHEDULED SURGERY

Ms. Pedro-Francisco was arrested by ICE on Thursday, February 5, 2026, in or around Minneapolis, Minnesota, and was soon transferred to the ERO El Paso Camp East Montana detention facility ("ERO East Montana") in El Paso, Texas.

She was very ill when she arrived at the detention facility and required hospitalization. Respondents transported Ms. Pedro-Francisco to the emergency room of a hospital in the El Paso area. The physician who treated her said surgery is necessary but that he would not perform the surgery because she is detained. The same physician prescribed medication for her use in detention to address her symptoms.

Ms. Pedro-Francisco reports that she has not received the medication the El Paso emergency room physician prescribed while at ERO East Montana.

III. ICE DENIES MS. PEDRO-FRANCISCO ACCESS TO PHYSICIAN-DIRECTED TREATMENT, CAUSING DETERIORATION OF HER CONDITION.

Respondents know that Ms. Pedro-Francisco has at least one ovarian cyst.

In detention, the pain on the right side of Ms. Pedro-Francisco's abdomen has grown increasingly intense, has expanded toward her back, and is so painful it prevents her from sleeping. She is experiencing hot flashes, shivers, and waves of faintness that are so extreme she fears falling.

She is experiencing vaginal bleeding on days when she is not otherwise menstruating. Her most recent menstrual period was irregular, and she has been experiencing immense pain since.

Ms. Pedro-Francisco received only acetaminophen and ibuprofen at ERO East Montana. She last received acetaminophen or ibuprofen five days ago. ERO East Montana medical personnel

told her that continuing to use ibuprofen is not good for her, despite the severe and debilitating pain she is experiencing. The same medical personnel have not dispensed two other medications prescribed by her physician.

Ms. Pedro-Francisco authorized Respondents to disclose information about her medical treatment in Respondents' custody. Respondents, employing the excuse of patient privacy, have been dilatory in providing the information Ms. Pedro-Francisco authorized. To date, the only information about Ms. Pedro-Francisco's treatment Respondents have provided counsel is boilerplate.

From: Subia, Daniel <Daniel.Subia@ice.dhs.gov>
Sent: Wednesday, March 4, 2026 10:59 AM
To: Jamie Whitney (ZaffLaw) <jamie@zafflaw.com>; Asra Syed <asra@bccaustin.com>; Jennifer Colimon <jennifer@bccaustin.com>; Adam Goodrum <adam@bccaustin.com>
Cc: Garite, Angel C. <Angel.C.Garite@ice.dhs.gov>; Marin, Ernie <Ernie.Marin@ice.dhs.gov>
Subject: RE: Urgent medical help needed for person detained at Camp East Montana

CAUTION EXTERNAL EMAIL: This email originated from an external email address. Do not click links, open attachments, or share information unless you recognize the sender and know the content is safe.

Good morning,
 We can confirm that Ms. Pedro-Francisco has received ongoing medical attention since her arrival. Medical care is being provided locally at Camp East Montana in accordance with National Detention Standards (NDS). If her medical needs cannot be met at the facility, she will be referred to local healthcare resources for further evaluation and treatment. We are monitoring her condition and will ensure she continues to receive appropriate medical care. Please let us know if you have additional information or concerns.

Thank you,

Daniel Subia
 Assistant Field Office Director
 El Paso Field Office – Camp East Montana (TDY)
 Enforcement and Removal Operations
 U.S. Immigration Customs Enforcement
 Cell: [210-880-7541](tel:210-880-7541)

With the assistance of a member of Congress, counsel has received additional but negligible information about Ms. Pedro-Francisco's medical treatment in Respondents' custody. Respondent ICE reported to congressional staff that Ms. Pedro Francisco is receiving four medications. That is inaccurate. Ms. Pedro-Francisco has received only acetaminophen and ibuprofen, and she has not received either in days.

Inaccurate medical records are a known issue at ERO East Montana. Lack of adequate medical care and failure to follow mandatory procedures at ERO East Montana is well documented, including by Respondent ICE. An investigative unit within Respondent ICE found dozens of violations of federal detention standards for immigrant detainees, including failures to properly document treatment or identify medical conditions. Douglas MacMillan, *ICE taking steps to close detention center at Fort Bliss, document shows*, WASH. POST, Mar. 5, 2026, at A1 (“Some medical charts were never filled out and some intake screenings were never conducted, meaning, the inspectors wrote, that the medical team could not ‘identify emergent or past chronic medical conditions, mental illness issues such as suicidal/homicidal ideation or intent that could lead to detainee life-safety issue.’”).

The last time a physician examined Ms. Pedro-Francisco is unknown.

Ms. Pedro-Francisco may experience lifelong health consequences, including but not limited to infertility, if her symptoms remain untreated, or are improperly or insufficiently treated.

Ms. Pedro-Francisco’s treating physicians determined an appropriate medical course of care. But she cannot manage her symptoms much less follow her doctors’ orders in her conditions of confinement.

IV. PROCEDURAL HISTORY

Ms. Pedro-Francisco filed her Petition for a Writ of Habeas Corpus on February 13, 2026. ECF No. 1.

On February 17, 2026, this Court ordered Respondents to show cause by March 9, 2026, as to why the Court should not grant the relief Ms. Pedro-Francisco seeks in her petition for a writ of habeas corpus and complaint for declaratory and injunctive relief. ECF No. 2.

Due to her rapidly worsening health condition, on February 23, 2026, Ms. Pedro-Francisco, by and through the undersigned attorney, filed a motion for an order shortening the time for Respondents to show cause, *i.e.*, from March 9, 2026 to February 27, 2026. ECF No. 3.

ARGUMENT AND AUTHORITY

“The function of preliminary injunctive relief is to preserve the status quo pending a determination of the action on the merits.” *Cont’l Serv. Grp., Inc. v. United States*, 722 F. App’x 986, 994 (Fed. Cir. 2018) (quoting *Litton Sys., Inc. v. Sundstrand Corp.*, 750 F.2d 952, 961 (Fed. Cir. 1984)). At least one court in the El Paso Division of the Western District of Texas has concluded that preliminary injunctive relief is appropriate to preserve the status quo in the immigration habeas context. *Pablo Pablo v. Lyons*, No. EP-25-CV-00566-DCG, 2025 WL 3684305, at *4 (W.D. Tex. Dec. 5, 2025) (ordering petitioner returned to the United States to facilitate adjudication of his habeas claims and stating, “the [c]ourt finds that preliminary relief is necessary to restore the status quo and to preserve [petitioner’s] access to due process in accordance with the Constitution and relevant immigration statutes”).

Injunctive relief is available, whether via a TRO or preliminary injunction, when the movant establishes: (1) a substantial likelihood of success on the merits; (2) a substantial threat of irreparable injury if the injunction is not issued; (3) that the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted; and (4) that the grant of a TRO or preliminary injunction will not disserve the public interest. *See Google, Inc. v. Hood*, 822 F.3d 212, 220 (5th Cir. 2016). The Fifth Circuit applies a “sliding scale” to the four factors, “tak[ing] into account the intensity of each [factor] in a given calculus.” *Texas v. Seatrain Int’l, S.A.*, 518 F.2d 175, 180 (5th Cir. 1975).

In attempting to establish eligibility for an injunction a party may rely on developments that postdate the pleadings and pretrial motions. *Farmer v. Brennan*, 511 U.S. 825, 846 (1994).

The proper remedy for unconstitutional conditions of confinement is equitable—to enjoin the unlawful practices that make the conditions intolerable. *See Cook v. Hanberry*, 596 F.2d 658, 660 (5th Cir. 1979). Civil detainees are “entitled to more considerate treatment than a criminal detainee, whose conditions of confinement are designed to punish.” *Youngberg v. Romeo*, 457 U.S. 307, 322 (1982).

Here, the analysis of each of the four factors favors the requested relief. And because the factors weigh so drastically in favor of Ms. Pedro-Francisco, the Fifth Circuit’s “sliding scale” approach leaves no doubt that the application for a TRO and preliminary injunction should be granted.

I. MS. PEDRO-FRANCISCO IS LIKELY TO SUCCEED ON THE MERITS

Ms. Pedro-Francisco is likely to prevail on the merits of her claims relating to conditions of confinement as were stated in her Petition. To show a likelihood of success, the plaintiff must present a *prima facie* case but need not prove that it is entitled to summary judgment. *Daniels Health Scis. v. Vascular Health Scis.*, 710 F.3d 579, 582 (5th Cir. 2013).

A. Ms. Pedro-Francisco is likely to succeed on a conditions of confinement claim

While an immigrant detainee awaits removal proceedings, her constitutional rights equate to those of a pretrial detainee and stem from the due process protections of the Fifth and Fourteenth Amendments. *Edwards v. Johnson*, 209 F.3d 772, 778 (5th Cir. 2000). Both detainees have the right to basic human needs such as reasonable safety and medical care. *Hare v. City of Corinth*, 74 F.3d 633, 643 (5th Cir. 1996). Officials “must provide humane conditions of confinement . . . and must take reasonable measures to guarantee the safety of inmates.” *Farmer v. Brennan*, 511 U.S. 825, 832 (1994).

A detainee may prove a constitutional violation either by demonstrating an unconstitutional condition of confinement or by demonstrating an unconstitutional episodic act

or omission. *Cadena v. El Paso Cnty.*, 946 F.3d 717, 727 (5th Cir. 2020). A conditions of confinement claim has two components, one objective and one subjective. *Farmer*, 511 U.S. at 846. To satisfy the objective requirement, the plaintiff must show “an objectively intolerable risk of harm.” *Valentine v. Collier*, 956 F.3d 797, 801 (5th Cir. 2020), *denying motion to vacate stay*, 2020 WL 2497541 (May 14, 2020). The plaintiff must show that defendants acted with deliberate indifference or its functional equivalent. *See Hare*, 74 F.3d at 636; *and see Duvall v. Dallas Cty., Tex.*, 631 F.3d 203, 207 (5th Cir. 2011). The mere delay of medical care can constitute a violation “if there has been deliberate indifference [that] results in substantial harm.” *Easter v. Powell*, 467 F.3d 459, 463 (5th Cir. 2006).

1. Ms. Pedro-Francisco’s medical needs are objectively intolerable risks of harm

“A serious medical need is one for which treatment has been recommended or for which the need is so apparent that even laymen would recognize that care is required.” *Gobert v. Caldwell*, 463 F.3d 339, n.12 (5th Cir. 2006); *accord Carlucci v. Chapa*, 884 F.3d 534, 538 (5th Cir. 2018). Requiring medication to manage pain, rating pain as a nine or ten on a ten-point scale, and conditions warranting surgery constitute serious medical needs. *Thomas v. Carter*, 593 F. App’x 338, 343 (5th Cir. 2014). “Since at least 2006, it has been clearly established in the Fifth Circuit that any additional pain attributable to delayed medical treatment constitutes ‘substantial harm.’” *Lavergne v. Lavespere*, No. 24-30317, 2025 WL 1088831, at *5 (5th Cir. Apr. 11, 2025) (Dennis, J. concurring in part and dissenting in part) (collecting cases). Suffering additional pain due to delay or denial of medical treatment constitutes substantial harm. *Petzold v. Rostollan*, 946 F.3d 242, 249 (5th Cir. 2019).

Ms. Pedro-Francisco’s medical conditions involve objectively intolerable risks of harm. Physicians determined her ovarian cyst warranted surgery. Physicians have prescribed her medication. Thus, she has medical needs. Furthermore, the day she arrived in Texas, Respondents

transported her to an El Paso-area hospital where she was admitted for several hours. Laymen or not, Respondents recognized that she required medical care beyond what was available at ERO East Montana. Treatment for Ms. Pedro-Francisco's ovarian cyst is delayed indefinitely; she is experiencing abdominal pain and pain in her lower back due to an unknown cause, which could be due to infection, sepsis, and abscess or a twisted or ruptured ovarian cyst. Accordingly, the first prong is easily satisfied.

2. Respondents are deliberately indifferent to her serious medical needs

In the context of medical care, a prison official violates the Eighth Amendment when he acts with deliberate indifference to a prisoner's serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 105–06 (1976). “A plaintiff can show deliberate indifference by showing that an official refused to treat him, ignored his complaints, intentionally treated him incorrectly, or engaged in any similar conduct that would clearly evince a wanton disregard for any serious medical needs.” *Id.* at, *606–07 (cleaned up); accord *Ford v. Anderson Cnty., Texas*, 102 F.4th 292, 307 (5th Cir. 2024) (per curiam). “Deliberate indifference can also be shown where a jail official knows that a detainee faces ‘a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it.’” *Ford*, 102 F.4th at 307 (quoting *Farmer*, 511 U.S. at 847).

Despite recognizing the severity of her medical condition and transporting Ms. Pedro-Francisco to the emergency room, Respondents refuse to administer her prescribed medication. Despite transporting her to the emergency room, where a physician confirmed Ms. Pedro-Francisco requires surgery, Respondents stopped providing her medication for pain days ago. Her not receiving medications aligns with the well-documented medical treatment issues and deficient recordkeeping at ERO East Montana. Respondents' decision to stop providing even over-the-counter medication to Ms. Pedro-Francisco confirms what Respondents' own investigation

revealed: medical staff cannot identify emergent or other medical conditions. Ms. Pedro-Francisco’s conditions of confinement satisfy the second—deliberate indifference—prong.

B. Ms. Pedro-Francisco’s Petition is also likely to succeed on the merits

Ms. Pedro-Francisco Petition for a Writ of Habeas Corpus is likely to succeed. Her Petition is currently pending before the Court. ECF No. 2. She claims, *inter alia*, violation of her Fifth Amendment rights. ECF No. 1 at 8–10. Courts in the Western District of Texas, including the El Paso Division, have concluded consistently and, to the undersigned’s understanding, uniformly that Respondents’ detention practices and policies violate detainees’ due process rights under the Fifth Amendment. *See Rodriguez v. Bondi*, No. EP-26-CV-00292-DB, 2026 WL 523055, at *1 (W.D. Tex. Feb. 25, 2026) (“Petitioner’s case, as alleged, is materially indistinguishable from other cases in which this Court has found procedural due process violations.”) (collecting cases); *and see Oscar Acosta Espana, Petitioner, v. Ortega, et al., Respondents*, No. 1:26-CV-00300-DAE, 2026 WL 594362, at *5 (W.D. Tex. Mar. 2, 2026) (collecting cases).

Release is the appropriate relief for a successful habeas petition. “[I]n habeas cases where the [c]ourt finds an ongoing detention unlawful, ‘the typical remedy for such detention is, of course, release.’” *Ochoa v. Vergara*, No. 1:26-CV-266-RP, 2026 WL 482211, at *4 (W.D. Tex. Feb. 20, 2026) (quoting *Munaf v. Geren*, 553 U.S. 674, 693 (2008)). “[B]ond hearings are ‘no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause.’” *Longoria Mendoza v. Noem et al.*, No. 5:26-cv-728-JKP, at 17 (Feb. 26, 2026) (quoting *Cruz-Reyes v. Bondi*, No. 5:26-CV-60, 2026 WL 332315, at *5 (S.D. Tex. Feb. 3, 2026)). Indeed, courts in the Western District of Texas have “upon further consideration . . . join[ed] other district courts across the country in finding that the significant violation of

[p]etitioner’s due process rights and other prudential concerns weigh in favor of ordering [p]etitioner’s immediate release.” *Id.* at 16 (quoting *Cruz-Reyes*, 2026 WL 332315, at *5).

It is likely that Ms. Pedro-Francisco’s petition will be granted and she will be released, at which time she will be able to obtain the medical care she needs outside of detention. However, as detailed herein, respondents have prevented her from securing appropriate and necessary medical care during detention.

II. INJUNCTIVE RELIEF IS NECESSARY TO PREVENT IMMEDIATE AND IRREPARABLE HARM TO MS. PEDRO-FRANCISCO

An injury is irreparable if the injured party cannot be adequately compensated in damages or if the damages cannot be measured. *Heil Trailer Int’l Co. v. Kula*, 542 F. App’x 329, 335 (5th Cir. 2013). “A harm need not be inevitable or have already happened in order for it to be irreparable; rather, imminent harm is also cognizable harm to merit an injunction.” *Valentine v. Collier*, 455 F. Supp. 3d 308, 327 (S.D. Tex. 2020); accord *Helling v. McKinney*, 509 U.S. 25, 33, (1993) (“It would be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had happened to them . . . [A] remedy for unsafe conditions need not await a tragic event.”)).

“‘[T]he loss of constitutional freedoms,’ such as the right to equal protection of the law . . . ‘for even minimal periods of time unquestionably constitutes irreparable injury.’” *League of United Latin Am. Citizens v. Abbott*, No. EP-21-CV-00259-DCG-JES-JVB, 2025 WL 3215715, at *59 (W.D. Tex. Nov. 18, 2025) (quoting *BST Holdings, L.L.C. v. Occupational Safety & Health Admin., United States Dep’t of Lab.*, 17 F.4th 604, 618 (5th Cir. 2021)).

Because Ms. Pedro-Francisco has been deprived of her Fifth Amendment due process rights the conditions of her confinement violate her Fifth and Fourteenth Amendment rights, she has “unquestionably” suffered “irreparable injury.” *See id.*

III. THE BALANCE OF HARDSHIPS AND THE PUBLIC INTEREST WEIGHT DECIDEDLY IN FAVOR OF INJUNCTIVE RELIEF

The third factor requires the moving party to establish that its threatened injury outweighs the threatened harm that a TRO or preliminary injunction would cause the opposing party. *Intel Corp.*, 2019 U.S. Dist. LEXIS 4932, at *3.

The equities favor Ms. Pedro-Francisco. The injunctive relief Ms. Pedro-Francisco seeks is merely what Respondents are required to do by the Constitution: “provide humane conditions of confinement . . . and [] take reasonable measures to guarantee the safety of inmates.” *Farmer*, 511 U.S. at 832. Furthermore, she is likely to succeed on her constitutional due process claims. Because the “balance of equities favors a preliminary injunction” where fundamental rights, such as those contained in the Bill of Rights are at issue, *Mi Familia Vota v. Abbott*, 497 F. Supp. 3d 195, 220 (W.D. Tex. 2020), the third factor weighs in her favor.

As to the fourth factor, put simply, the public interest is not served when its government is permitted to continue violating a resident’s constitutional rights. “Injunctions preventing the violation of constitutional rights are ‘always in the public interest.’” *United States v. Texas*, 794 F. Supp. 3d 427, 454 (W.D. Tex. 2025) (quoting *Ingebretsen on behalf of Ingebretsen v. Jackson Public Sch. Dist.*, 88 F.3d 274, 280 (5th Cir. 1996)). Because Ms. Pedro-Francisco seeks an injunction to protect her Fifth and Fourteenth Amendment rights, the injunction is necessarily in the public interest.

CONCLUSION

For the foregoing reasons, Ms. Pedro-Francisco respectfully requests that the Court (1) issue the requested TRO (2) set a preliminary injunction hearing for no later than 14 days from the date of this application; and (3) issue a preliminary injunction extending the TRO while the claims asserted in her Petition for a Writ of Habeas Corpus are resolved.

Date: March 6, 2026

/s/ Asra Syed
Asra Syed
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**Verification by Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed the factual assertions in this motion with Petitioner. I hereby verify that the statements made in the attached Application for Temporary Restraining Order and a Preliminary Injunction are true and correct to the best of my knowledge.

Date: March 6, 2026

/s/ Asra Syed
Attorney for Petitioner

Certificate of Service

I hereby certify that on March 6, 2026, a true and correct copy of this document was served on all counsel of record who have appeared in this case using the Court's CM/ECF system as a Filing User.

/s/ Asra Syed
Asra Syed

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
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ARMY AT CAMP BLISS.

Respondents.

Civil Action No. 3:26-cv-00450-LS

**ORDER GRANTING MOTION FOR TEMPORARY RESTRAINING ORDER
AND SETTING PRELIMINARY INJUNCTION HEARING**

Before the Court is Petitioner's Application for Temporary Restraining Order and a Preliminary Injunction. After due consideration, the Court **GRANTS** the Motion.

Respondents shall immediately:

- (i) facilitate Petitioner's evaluation by an independent physician at a hospital;
- (ii) provide Petitioner regular and unfettered access to previously prescribed medication; and

- (iii) provide prompt access to condition-appropriate medical care, including surgery if deemed medically necessary, pending consideration of Petitioner's request for a preliminary injunction

Pursuant to Federal Rule of Civil Procedure 65, the Court sets a preliminary injunction hearing for: _____ at _____.

It is so **ORDERED**.

SIGNED _____.

LEON SCHYDLOWER
UNITED STATES DISTRICT JUDGE