

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

MAR 02 2026

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY UW DEPUTY

CRISTIAN JOSE MOLINA-MUNOZ,
Petitioner,

v.

_____, Warden, Imperial Regional Adult Detention
Facility;

_____, Field Office Director, San Diego Field Office,
United States Immigration and Customs Enforcement;

TODD M. LYONS, Acting Director, United States
Immigration and Customs Enforcement;

KRISTI NOEM, Secretary of Homeland Security;

PAMELA JO BONDI, United States Attorney General,

in their official capacities,

Respondents.

Case No.: '26CV1345 BJC BJW

**PLAINTIFF'S *EX PARTE*
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO
SHOW CAUSE RE:
PRILIMINARY INJUNCTION**

INTRODUCTION

Petitioner Cristian Jose Molina-Munoz ("Petitioner") respectfully moves this Honorable Court for a Temporary Restraining Order and Order to Show Cause Re: Preliminary Injunction to prevent Respondents, their agents, officers, and employees, from transferring Petitioner outside the jurisdiction of this Court or removing him from the United States while his Petition for Writ of Habeas Corpus is pending.

Petitioner is currently detained at the Imperial Regional Adult Detention Facility in Calexico, California, under the direct custody and control of Respondents. His continued detention is unlawful, arbitrary, and unconstitutional, and he seeks immediate judicial review through his habeas corpus petition.

Absent immediate intervention by this Court, Petitioner faces the imminent risk of being transferred to another detention facility or removed from the United States without meaningful judicial review

1 of his constitutional claims. Such actions would irreparably harm Petitioner by depriving this Court
2 of jurisdiction and rendering his habeas corpus petition moot before the Court can adjudicate the
3 legality of his detention.

4 Petitioner has no criminal record, poses no danger to the community, and does not present a flight
5 risk. His continued detention and the threat of transfer or removal serve no legitimate governmental
6 purpose and violate his rights under the Due Process Clause of the Fifth Amendment.

7 A Temporary Restraining Order is necessary to preserve the status quo, protect this Court's
8 jurisdiction, and prevent irreparable harm while this Court reviews Petitioner's habeas corpus
9 petition.
10

11 **STATEMENT OF FACTS**

- 12 1. Petitioner Cristian Jose Molina-Munoz is a native and citizen of Venezuela.
- 13 2. Petitioner is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at
14 the Imperial Regional Adult Detention Facility, located at 1572 Gateway Road, Calexico,
15 California 92231.
16
- 17 3. Petitioner is under the direct physical custody and control of Respondents.
- 18 4. Petitioner has no criminal record. He has never been convicted of any criminal offense and
19 does not pose a danger to the community.
- 20 5. Petitioner's detention is civil in nature and not punitive. However, his continued detention
21 has become excessive, arbitrary, and unconstitutional.
- 22 6. Petitioner is currently pursuing his legal remedies, including his Petition for Writ of Habeas
23 Corpus, to challenge the legality of his detention.
24
- 25 7. Respondents have the authority and discretion to transfer Petitioner to another detention
26 facility at any time, including facilities located outside the jurisdiction of this Court.
- 27 8. Respondents also have the authority to remove Petitioner from the United States without
28 prior notice, which would prevent this Court from exercising jurisdiction over his habeas

1 corpus petition.

2 9. If Petitioner is transferred outside this Court's jurisdiction or removed from the United
3 States, he will suffer immediate and irreparable harm.

4 10. Such transfer or removal would effectively deny Petitioner meaningful access to judicial
5 review and would undermine his constitutional rights.

6 11. Petitioner's continued detention has caused him significant emotional distress, anxiety, and
7 psychological harm.

8 12. Petitioner does not have full access to legal resources or documents necessary to adequately
9 protect his legal rights while detained.

10 13. The threat of transfer or removal is real, immediate, and ongoing.

11 14. Absent intervention by this Court, Respondents may transfer or remove Petitioner at any
12 time, rendering his habeas corpus petition ineffective.

13 15. Petitioner has no adequate remedy at law other than immediate injunctive relief from this
14 Court.

15 16. The balance of equities weighs strongly in favor of Petitioner, as the harm to his
16 constitutional rights outweighs any administrative burden on Respondents.

17 17. The public interest strongly favors protecting constitutional rights and ensuring meaningful
18 judicial review of unlawful detention.

19 18. A Temporary Restraining Order is necessary to preserve this Court's jurisdiction and
20 prevent irreparable harm.

21
22
23
24 STANDARD OF REVIEW

25 An ex-parte temporary restraining order may be issued when the movant shows that "immediate
26 and irreparable injury, loss, or damage will result ... before the adverse party can be heard in
27 opposition." Fed. R. Civ. P. 65(b)(1)(A). The legal standards for a TRO are the same as for a
28

1 preliminary injunction. *Babaria v. Blinken*, 87 F.4th 963, 976 (9th Cir. 2023). The movant must
2 demonstrate:

- 3 1. Likelihood of success on the merits;
- 4 2. Likelihood of irreparable harm absent relief;
- 5 3. The balance of equities tips in the movant's favor; and
- 6 4. The injunction is in the public interest.

7
8 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The first factor is the most important;
9 where the government is a party, the third and fourth factors merge. *Nken v. Holder*, 556 U.S. 418,
10 435 (2009).

11
12 ARGUMENT

13 1. Likelihood of Success on the Merits

14 Petitioner has a strong likelihood of success on both his statutory and constitutional claims.

15
16 *Statutory claim.* 8 U.S.C. § 1226(a)(6)(A)(i) makes an alien inadmissible for being present in the
17 United States without admission or parole. However, detention pursuant to this provision is subject
18 to the procedural safeguards required by the Fifth Amendment (see the supporting record).
19 Moreover, 8 C.F.R. § 236.1(a) authorizes the Attorney General (and, by delegation, an Immigration
20 Judge) to release an alien on bond “as soon as practicable,” and 8 C.F.R. § 1003.19 requires a
21 prompt custody-redetermination hearing. The Board of Immigration Appeals has long held that a
22 bond hearing is required where the alien poses no danger or flight risk: *Matter of Velasquez*,
23 19 I&N Dec. 377 (BIA 1988); *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004).

24
25 *Constitutional claim.* The Fifth Amendment Due Process Clause protects “any person” within the
26 United States from deprivation of liberty without due process. *Zadvydas v. Davis*, 533 U.S. 678,
27 693 (2001); *Hernandez v. Session*, 872 F.3d 976, 990 (9th Cir. 2017). Petitioner’s detention lacks
28 any material change, any violation of release conditions, and any criminal conduct, and

1 therefore fails to satisfy the procedural due-process requirements.

2 Protected liberty interest. Once ICE released Petitioner, a protected liberty interest arose. *Morrissey*
3 *v. Brewer*, 408 U.S. 471, 482 (1972); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025).

4 The Ninth Circuit recognizes that a non-citizen who has been released “has a protected liberty
5 interest in remaining free.” *Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at *6
6 (N.D. Cal. Sept. 12, 2025); *R.D.T.M. v. Wofford*, 2025 WL 2617255, at *3
7 (E.D. Cal. Sept. 9, 2025). Because Respondents have re-detained Petitioner without notice, a
8 hearing, or individualized findings, the detention violates due process.
9

10
11 Given these authorities, Petitioner is very likely to succeed on the merits of his habeas petition.²

12 Irreparable Harm

13 Petitioner will suffer irreparable harm if the TRO is not granted. The Ninth Circuit has repeatedly
14 held that immigration detention imposes severe economic, familial, and liberty harms that are
15 irreparable. *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). Moreover, the deprivation of
16 constitutional rights “unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*,
17 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Petitioner’s
18 continued confinement without a bond hearing therefore satisfies the irreparable-harm prong.
19

20 3. Balance of Equities and Public Interest

21 When the government is a party, the analysis of the balance of the hardships and the public interest
22 merge. *Nat’l Urban League v. Ross*, 484 F. Supp. 3d 802, 807 (N.D. Cal. 2020). The balance of
23 equities tips decisively in Petitioner’s favor because Respondents receive no legitimate benefit
24 from detaining a non-dangerous, non-flight-risk individual, while Petitioner suffers ongoing
25 deprivation of liberty. The public interest is served by enforcing constitutional limits on
26 immigration detention and preserving the rule of law. *Melendres*, 695 F.3d at 1002; *Diaz v. Kaiser*,
27 No. 3:25-CV-05071, 2025 WL 1676854, at 3 (N.D. Cal. June 14, 2025) (recognizing the staggering
28

costs of detention).

All four *Winter* factors therefore favor granting the TRO.

I. PRAYER FOR RELIEF

For the foregoing reasons, the Court should grant the temporary restraining order and enjoin Respondents from any further detention of Cristian Jose Molina-Munoz absent compliance with constitutional due-process requirements.

/s/ Cristian Jose Molina-Munoz
Cristian Jose Molina-Munoz

VERIFICATION

I, Cristian Jose Molina-Munoz, being the petitioner, hereby certify under penalty of perjury that the statements set forth herein are true and correct to the best of my knowledge and belief.

Date: February 26, 2026

/s/ Cristian Jose Molina-Munoz
Cristian Jose Molina-Munoz