

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Nora MENDOZA AGUILAR, and her minor
children E.B.M. and M.B.M.,

Petitioners,

v.

Julio HERNANDEZ, Seattle Field Office
Director, Enforcement and Removal
Operations, United States Immigration and
Customs Enforcement (ICE); Kristi NOEM,
Secretary, United States Department of
Homeland Security; Pamela BONDI, U.S.
Attorney General; UNITED STATES
DEPARTMENT OF HOMELAND
SECURITY,

Respondents.

Case No. _____

**EMERGENCY MOTION FOR
TEMPORARY RESTRAINING
ORDER**

Note on Motion Calendar:

March 5, 2026

INTRODUCTION

Petitioner Nora Mendoza Aguilar and her minor children seek an emergency temporary
restraining order (TRO) enjoining Respondents from removing them, re-detaining them without
a pre-deprivation hearing, transferring them from this district, and imposing new, arbitrary

1 conditions of release when this Court has already ordered this relief for Ms. Mendoza's
2 husband's case. *See Bonilla v. Hermosillo*, 2:25-cv-02916-TMC, Dkt. 19 (W.D. Wash.,
3 November 26, 2025), Exh. C. Indeed, this Court issued a TRO already addressing the substantive
4 issue here in Mr. Bonilla's case, which is analogous given that the entire family is in removal
5 proceedings together. *Id.* Dkt. 13. Unfortunately, this petition is necessary because Respondents'
6 violated the order in Mr. Bonilla's case and will not agree to apply the order in his case to his
7 wife and children. The matter is time sensitive as ICE has required Ms. Mendoza to report in
8 *tomorrow*, March 6, in the morning. Counsel is providing an electronic copy of this filing to the
9 AUSA's office immediately on filing.

11 On February 27, 2026, Respondents unlawfully detained Mr. Bonilla, and Petitioner's
12 wife and children, in plain violation of this Court's order in his case, with the intent to transfer
13 them that same day to Louisiana and then effect their unlawful deportation to Honduras. *See* Exh.
14 A at 1 (Mendoza Decl.). NWIRP counsel had provided a cover letter and copy of the order to
15 ICE prior to the ICE appointment. *See* Exh. B. ICE kicked NWIRP counsel out of the room after
16 deciding it would not follow the Court's order. Exh. A at 1. After counsel was removed, when
17 Mr. Bonilla tried to argue that he could not be removed. When he again showed ICE officers this
18 Court's order, they laughed. *Id.* When undersigned counsel arrived and personally showed ICE
19 staff this Court's order and explained how their action was unlawful, ICE representatives
20 responded that their decision was final. It was only because counsel was able to promptly enlist
21 the assistance of the AUSA on the case that ICE released Mr. Bonilla and his family, after hours
22 of detention.

25 On release last Friday, ICE also imposed a new, arbitrary, and oppressive check-in
26 schedule, requiring Mr. Bonilla and Ms. Mendoza to personally go to ICE offices every Friday
27 morning, leaving their two children – ages 5 and 7 – to wonder every week if their parents will

1 return home. Exh. A at 1. While Mr. Bonilla's order is based on precisely the same facts and law
2 as applied to Petitioners his wife and children, Respondents have indicated that they do not feel
3 bound by this Court's decision in Petitioners' case. Accordingly, Petitioners are forced to seek
4 immediate injunctive to relief to prevent their unlawful detention and deportation.

5 6 STATEMENT OF FACTS

7 Petitioners entered the United States with Mr. Bonilla on or about March 29, 2024, and
8 they were apprehended by U.S. Customs and Border Patrol (CBP). The family was released from
9 ICE custody with a Notice to Appear in the Seattle Immigration Court on June 11, 2024. *See*
10 *generally* Dkt. 1 (Compl.) (outlining factual allegations below).

11 Petitioners and Mr. Bonilla were enrolled in the Intensive Supervision Appearance
12 Program ("ISAP"). Ms. Mendoza was required to check-in with ISAP bi-weekly, with ISAP
13 coming to her house or her going to their offices. To their knowledge, Petitioners have complied
14 with all ISAP appointments, both by telephone and in person. Petitioners were not required to
15 check-in at ICE in Tukwila as part of their supervision.
16

17 Petitioners submitted I-589 applications for asylum and related relief on October 3, 2024.
18 Petitioners appeared for all required initial hearings before the Immigration Judge.

19 On June 16, 2025, Petitioners were scheduled for their individual, merits hearing on their
20 applications for asylum, withholding of removal, and relief under the Convention Against
21 Torture, at the Seattle Immigration Court. However, due to a number of exceptional
22 circumstances, including the illness of one of their children the night before, unexpected lack of
23 childcare, heavy traffic due to the influx of tourists for the FIFA Club World Cup held that week
24 in Seattle, and the presence of community protesters outside the Seattle Immigration Court, the
25 family arrived late to their scheduled hearing. The family asserts that they arrived 12 minutes late
26
27

1 to the courtroom – after delays in passing through security – to find the door to the Court closed.
2 When they sought out and talked to the Clerk, they were told they were “too late” and were
3 instructed to file a motion to reopen. The Immigration Judge asserts that he started the *in*
4 *absentia* hearing 16 minutes after the scheduled time and ordered the family removed.

5 On July 18, 2025, Petitioners timely filed a motion to reopen citing the exceptional
6 circumstances that caused their tardiness and arguing that their brief tardiness should not be
7 considered a failure to appear. On July 29, 2025, the IJ denied the motion to reopen. Petitioners
8 filed a timely appeal, received by the Board of Immigration Appeals on August 20, 2025, which
9 remains pending as of the date of this petition.
10

11 On November 3, 2025, Mr. Bonilla presented himself at the ISAP office at 14220
12 Interurban Ave S, Tukwila, WA 98168 and was taken into ICE custody. Mr. Bonilla’s two minor
13 children, E.B.M. and M.B.M., now ages 5 and 7, were with him at the time of his arrest.

14 On November 4, 2025, Mr. Bonilla’s immigration counsel learned from ICE that Mr.
15 Bonilla was detained at the NWIPC. In response to counsel’s inquiry about whether Mr.
16 Bonilla’s removal was imminent, a deportation officer responded that there are three flights that
17 leave regularly every week from the NWIPC, and that any legal work needed to be done as soon
18 as possible.
19

20 Mr. Bonilla filed a petition for writ of habeas corpus and motion for a temporary
21 restraining order in this Court on November 4, 2025, *Bonilla v. Hermosillo*, Case 2:25-cv-02916-
22 TMC. On November 26, 2025, Judge Cartwright issued an order concluding that Mr. Bonilla’s
23 removal order was not final and: (1) directing ICE to release him subject to the terms of his most
24 recent order of supervision; and (2) enjoining ICE from re-detaining him during the pendency of
25 removal proceedings absent notice and a pre-deprivation hearing. *Id.* Case 2:25-cv-02916-TMC,
26 Dkt. 19. Respondents did not appeal the Court’s decision.
27

1 ICE directed Petitioners and Mr. Bonilla to report to the ICE Tukwila Field Office, 12500
2 Tukwila Int'l Blvd., on February 27, 2026. Before the meeting, NWIRP Counsel for Mr. Bonilla
3 and Petitioners corresponded with ICE, informing them of and providing a copy of the Court
4 order, and seeking to cancel the appointment. *See* Exh. B. Instead, ICE violated this Court's
5 order by re-detaining Mr. Bonilla. *See* Exh. A. ICE also detained Petitioners, informing them that
6 they would be flown to Louisiana that night and then deported to Honduras. *Id.* Prior to re-
7 detaining the Petitioners, Respondents did not provide any written notice explaining the basis for
8 the revocation of their release. *See* Dkt. 1 (Compl.). Likewise, Respondents did not assess
9 whether Petitioners presented a flight risk or danger to the community prior to the re-arrest. *Id.*
10 Nor did Respondents provide a hearing before a neutral decisionmaker, where ICE was required
11 to justify the basis for re-detention or to explain why Petitioners were a flight risk or danger to
12 the community. *Id.* But for prompt intervention by counsel and the AUSA case, Petitioners would
13 be in detention and in Louisiana or even Honduras. *Id.*

14 ARGUMENT

15
16 On a motion for a TRO, the movant "must establish that he is likely to succeed on the
17 merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the
18 balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat.*
19 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*,
20 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and TRO standards are
21 "substantially identical"). A TRO may issue where "serious questions going to the merits [are]
22 raised and the balance of hardships tips sharply in [plaintiff's] favor." *All. for the Wild Rockies v.*
23 *Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (citation modified). To succeed under the "serious
24 question" test, Petitioners must also show that they are likely to suffer irreparable injury and that
25 an injunction is in the public's interest. *Id.* at 1132.

As this Court has already found in the TRO that Mr. Bonilla was required to file in his case, *see* 2:25-cv-02196-TMC, Dkt. 13, the Federal District Court has jurisdiction over these claims because Petitioners are not contesting the validity of an order of removal, but rather the agency's intent to remove them before the removal order is final. *See* Dkt. 13 at 6, *citing Arce v. United States*, 899 F.3d 796 (9th Cir. 2018); *Ibarra-Perez v. United States*, 154 F.4th 989, 1000 (9th Cir. 2025). Federal courts may stay the status quo until the court has had adequate opportunity to assess circumstances at issue. *See United States v. United Mine Workers of Am.*, 330 U.S. 258, 290 (1947). These principles have been applied in the immigration context. *See Chhoeun v. Marin*, 306 F. Supp. 3d 1147, 1157 (C.D. Cal. 2018); *Nken v. Holder*, 556 U.S. 418, 434 (2009).

I. Petitioners are likely to succeed on the merits of their petition.

This Court has already held that Respondents' intent to remove an individual – in this case Ms. Mendoza's husband in their consolidated immigration case – before the BIA rules on their appeal of an IJ denial of a motion to rescind reopen is unlawful. *See Bonilla v. Hermosillo*, Dkt. 19 at 5-6. It is axiomatic that a person may not be removed while a stay is in place and until his or her removal order is administratively final. 8 U.S.C. § 1231(a)(1)(B) ("The removal period begins on the latest of the following: ... (i) The date the order of removal becomes administratively final."); *see also* 8 C.F.R. § 208.5 (no removal pending asylum adjudication). While the agency has long treated an *in absentia* order as a final order of removal when issued by the IJ, with an administrative stay only available when a motion to rescind is pending before an IJ, the Ninth Circuit in 2021 rejected the agency's finality reasoning in a precedent decision, *Cui v. Garland*, 13 F.4th 991, 996 (9th Cir. 2021). *Cui* held that an *in absentia* removal order does not become final until the 180 day period to file a motion to reopen runs or until the Board issues a final order. Accordingly, this Court concluded that Ms. Mendoza's husband could not be

1 removed with his BIA pending. *Bonilla v. Hermosillo*, Dkt. 19. Notably, Respondents did not
2 appeal this Court's decision in *Bonilla v. Hermosillo*.

3 Petitioners are also extremely likely to prevail on a re-detention claim, just as Mr. Bonilla
4 and numerous other petitioners have. *See Bonilla v. Hermosillo*, Dkt. 19. *See also* E.A. T.-B. v.
5 Wamsley, --- F. Supp. 3d --- No. C25-1192-KKE, 2025 WL 2402130, at *2–6 (W.D. Wash. Aug.
6 19, 2025); *Ramirez Tesara v. Wamsley*, --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP-TLF, 2025
7 WL 2637663, at *2–4 (W.D. Wash. Sept. 12, 2025); *Ledesma Gonzalez v. Bostock*, No. 2:25-CV-
8 01404-JNW-GJL, 2025 WL 2841574, at *7–9 (W.D. Wash. Oct. 7, 2025); *Kumar v. Wamsley*,
9 No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2–4 (W.D. Wash. Sept. 17, 2025).

11 Similarly, Petitioners are also likely to prevail on the claim that Respondents may not
12 arbitrarily change reporting requirements, and institute new requirements that are likely to lead to
13 an erroneous deprivation of liberty. Previously, Ms. Mendoza had bi-weekly ISAP check-ins,
14 alternating between her home and in office, and through her phone. Exh. A. Only after
15 Respondents sought to detain and deport Mr. Bonilla and Petitioners, and were stopped by the
16 intervention of the AUSA, did ICE impose the requirement that both Mr. Bonilla and Ms.
17 Mendoza personally report to ICE every Friday morning. *Id.* Given that their appeal is pending,
18 and no underlying facts have changed, it is arbitrary and capricious for ICE to require parents of
19 a 5 and 7 year old to wonder each week if their parents will return home after school drop-off. It
20 is an abuse of discretion to impose additional trauma to their young children – where ICE
21 literally laughed in one child's face when he was crying and concerned about his pet being left
22 behind – apparently just to punish the family for seeking to protect their ability to seek asylum.
23 *See* Exh. A ¶ 15. In Mr. Bonilla's case, such a requirement is a violation of this Court's order
24 directing he be released under the same conditions as before, and undersigned counsel hopes to
25 address this without filing a motion to enforce. *See* Dkt. 19 at 10(2) (custody "subject to the

terms of his most recent order of supervision”). Courts have ordered that ICE may not unilaterally impose additional custody requirements after an order of release, particularly if there are no changed circumstances. *See Batz Barreno v. Baltasar*, No. 25-CV-03017-GPG-TPO, 2026 WL 120253, at *3 (D. Colo. Jan. 15, 2026) (ordering “removal of the ankle monitor and release from any conditions not specifically and explicitly imposed in writing by the IJ”); *Garcia Lanza v. Noem*, No. 26-0029 (GRB), 2026 WL 585130, at *11 (E.D.N.Y. Mar. 3, 2026).

As this Court explained in *E.A. T.-B.*, the three-factor test established in *Mathews v. Eldridge*, 424 U.S. 319 (1976), is the controlling framework for determining what process Petitioner is due. *E.A. T.-B.*, 2025 WL 2402130, at *3. *Mathews* requires the Court to evaluate (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguard” and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” 424 U.S. at 335; *see also Ramirez Tesara*, 2025 WL 2637663, at *2–4 (applying *Mathews* factors to assess right to pre-deprivation hearing); *Morrissey v. Brewer*, 408 U.S. 471, 482–84 (1972) (assessing parolee’s liberty interests and the state’s interests to determine what process is due a parolee). Here, those factors strongly favor Petitioners.

A. Petitioners have a Weighty Private Interest.

Petitioners have exceptionally strong interests in remaining in the U.S. with their father and husband. They have a strong interest in their right to remain in the U.S. pending adjudication of their asylum claim, and in the right to reside here until there is a final order of removal. They also have a liberty interest in the full and fair consideration of their claim for asylum. They have a strong interest in being at liberty.

1 B. The Risk of Erroneous Deprivation Is High.

2 The risk of an erroneous deprivation is high, and in this case has already occurred. If
3 denied a TRO, Petitioners face unlawful re-detention and unlawful removal to the very country
4 from which they sought asylum, in this case without *any* hearing on the danger they face in that
5 country. They will be separated from their husband and father, solely because he was able to
6 obtain access to the courts in an earlier case. Weekly reporting to ICE also risks another
7 erroneous deprivation of liberty, should an individual officer again not understand the meaning
8 of a court order. It is appropriate to preserve the status quo ante reporting requirements while this
9 case is pending.
10

11 C. The Government's Interest Is Minimal.

12 Finally, the government's interest is minimal. First, the government has no legitimate
13 interest in violating the statute by removing individuals before their removal is final. Second, the
14 government's interest in the potential timing of removal is minimal. Should Petitioners
15 ultimately be denied asylum or have their motion to rescind denied, the government may
16 lawfully remove them at that point. The government has a minimal interest in changing reporting
17 requirements when Petitioners have complied and are otherwise tracked by ISAP.
18

19 In sum, Petitioners are able to demonstrate that they have a protected interest in
20 remaining in the U.S. to pursue their asylum case, from being detained without a notice and pre-
21 deprivation hearing, and from new arbitrary and capricious reporting requirements that may lead
22 to an erroneous separation of the family.
23

24 **II. Petitioners will suffer irreparable harm absent an injunction.**

25 Petitioners must also show they are "likely to suffer irreparable harm in the absence of
26 preliminary relief." *Winter*, 555 U.S. at 20. Irreparable harm is the type of harm for which there
27

1 is “no adequate legal remedy, such as an award of damages.” *Ariz. Dream Act Coal. v. Brewer*,
 2 757 F.3d 1053, 1068 (9th Cir. 2014).

3 Here, Petitioners unlawful removal is an irreparable injury. If removed, they would be
 4 effectively denied the opportunity to apply for asylum – having been removed to the very
 5 country from which they sought protection. Detention and removal also inflicts substantial harm
 6 by separating the family. Such separation from family members is an important irreparable harm
 7 factor. *See Washington v. Trump*, 847 F.3d 1151, 1169 (9th Cir. 2017) (per curiam) (finding
 8 “separated families” to be a “substantial injur[y] and even irreparable harm[.]”).
 9

10 In sum, the threat of unlawful deprivation of liberty to which Petitioners are subject
 11 causes them direct and immediate irreparable harm that warrant a TRO.

12 **III. The balance of hardships and public interest weigh heavily in Petitioners’ favor.**

13 The final two factors for a TRO—the balance of hardships and public interest—“merge
 14 when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here,
 15 Petitioners face weighty hardships: loss of liberty, deprivation of the right to remain in the U.S.
 16 pending an asylum application, deprivation of the right to apply for asylum, detention, and
 17 separation from family. The government, by contrast, faces no hardship as to Petitioners, as all it
 18 must do is permit Petitioners to continue to pursue their asylum applications pending a decision
 19 by the BIA. What is more, “the public interest benefits from an injunction that ensures that
 20 individuals are not deprived of their liberty and held in immigration detention because of . . . a
 21 likely [illegal] process.” *Id.* Indeed, “in cases involving a constitutional claim, a likelihood of
 22 success on the merits . . . strongly tips the balance of equities and public interest in favor of
 23 granting a preliminary injunction.” *Baird v. Bonta*, 81 F.4th 1036, 1048 (9th Cir. 2023).
 24
 25

26 Accordingly, the balance of hardships and the public interest favor a temporary
 27 restraining order to ensure that Respondents refrain from removing Petitioners from the U.S.,

1 detaining them without notice and a pre-deprivation hearing, arbitrarily subjecting them to new
2 and onerous reporting requirements, or transferring them outside of this jurisdiction.

3 Finally, this is a case where ICE has already violated a District Court order by re-
4 detaining Mr. Bonilla and nearly deporting him. Courts around the country are facing the issue of
5 ICE not complying with Court orders. One court has outlined a narrowly tailored process for
6 ensuring that Court orders are followed:

7
8 Going forward, in all of its immigration-habeas cases, the undersigned's no-transfer
9 injunctions will include an order that two declarations must be promptly executed under
penalty of perjury and publicly filed on the Court's docket.

10 First, a declaration from the United States Attorney's Office indicating that it has (i)
11 received the injunction in question and conveyed it to the appropriate personnel at ICE;
12 and (ii) provided ICE with written legal advice on the subject of ICE's obligation to
comply with that particular injunction.

13 And second, a declaration from ICE confirming that it has (i) received the particular
14 injunction in question; and (ii) received written legal advice from the United States
Attorney's Office on the subject of its obligation to comply with the injunction.²¹

15 The first declaration will be executed by the leader of the Civil Division, or by the Chief
16 of the Civil Division.

17 The second declaration will be executed by the Newark ICE Field Office Director or by
the Newark ICE Field Office Deputy Director.

18 *Kumar v. Soto*, No. 26-CV-00777 (MEF), 2026 WL 585187, at *10 (D.N.J. Mar. 2, 2026). The
19 facts in *Kumar* are arguably less egregious than the facts here, where ICE had personal
20 knowledge of the District Court order and intentionally defied it. For these reasons, in their
21 proposed order, Petitioners also request that Respondents identify a responsible supervisory ICE
22 agent to certify that ICE is aware of any order issued and its obligation to comply.
23

24 CONCLUSION

25 For the foregoing reasons, Petitioners respectfully request the Court grant their motion
26 for a temporary restraining order.
27

1 Respectfully submitted this 5th day of March, 2026.

2
3 s/ Christopher Strawn

4 Christopher Strawn

5 WSBA No. 32243

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11 *I certify that this memorandum contains 3,426 words, in compliance with the Local Civil Rules.*