FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
MAR 30 2026
JEFFREY P. COLWELL
CLERK

UNITED STATES DISTRICT COURT

DISTRICT OF COLORADO

ROBERTO HERNANDEZ PLAZA

Prceeding Pro Se

Petitioner,

v.

DAVID JENNINGS, Warden, Denver Contract Detention Facility; ENFORCEMENT AND REMOVAL OPERATIONS FIELD OFFICE DIRECTOR, Denver Field Office, United States Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary, United States Department of Homeland Security; PAMELA JO BONDI, Attorney General of the United States.,

Respondents.

Case No.: 26-cv-01194-RTG

PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER

Petitioner Roberto Hernandez Plaza, proceeding pro se, respectfully submits this Ex Parte Application for a Temporary Restraining Order ("TRO") and an Order to Show Cause Why a Preliminary Injunction Should Not Issue. This application is filed concurrently with Petitioner's Verified Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

Petitioner seeks immediate, emergency relief from his unconstitutional detention by Respondents. He has been detained since March 2, 2026—over twelve days—without an individualized bond hearing to determine if his confinement is necessary. This ongoing deprivation of liberty, in violation of the Due Process Clause of the Fifth Amendment, constitutes irreparable harm for which there is no adequate remedy at law.

Petitioner requests that this Court issue an ex parte TRO ordering Respondents to: (1) immediately release Petitioner from custody pending a hearing on his habeas petition; or, in the

alternative, (2) provide Petitioner with a bond hearing before a neutral Immigration Judge within 72 hours of the Court's order; and (3) stay any pending removal or transfer of Petitioner from this judicial district.

GROUNDS FOR EX PARTE RELIEF

Emergency ex parte relief is warranted under Federal Rule of Civil Procedure 65(b). Specific facts in the accompanying habeas petition and this application show that immediate and irreparable injury will result to Petitioner before Respondents can be heard in opposition. Every additional day of unlawful detention is a new and irreparable constitutional injury. Furthermore, providing notice is impracticable because of the significant risk that Respondents could transfer Petitioner to a remote detention facility outside this Court's jurisdiction or remove him from the United States, thereby frustrating this Court's ability to adjudicate the merits of his habeas petition and rendering his claims moot. Such actions would permanently deprive Petitioner of the very relief he seeks.

LEGAL STANDARD FOR A TEMPORARY RESTRAINING ORDER

A party seeking a temporary restraining order must establish four factors: (1) a likelihood of success on the merits; (2) a likelihood of suffering irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in their favor; and (4) that an injunction is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (cited in *Zuniga Cuidad v. Lezama Reyes*, No. 1:23-CV-872 (LMB/JFA), 2023 WL 4707018, at *2 (E.D. Va. July 24, 2023). Courts in habeas proceedings may construe a motion for a TRO as a request for a preliminary injunction and have the authority to grant such relief. *See Mejia Rosales v. Decker*, No. CV 20-5840 (CCC), 2020 WL 4341852, at *2 (D.N.J. July 28, 2020) . Petitioner meets all four requirements for this extraordinary relief.

ARGUMENT

I. Petitioner Is Likely to Succeed on the Merits of His Habeas Petition.

Petitioner has a strong likelihood of success on the merits of his habeas claim that his detention without a bond hearing violates the Fifth Amendment's Due Process Clause. As detailed in his contemporaneously filed habeas petition, Petitioner has no criminal history. Therefore, his detention is properly governed by the discretionary standard of 8 U.S.C. § 1226(a), which requires an individualized assessment of whether he poses a flight risk or a danger to the community.

The government cannot justify continued detention without affording him a prompt bond hearing. The Constitution forbids civil detention that becomes punitive or arbitrary. Petitioner is the sole financial provider for his wife and U.S. citizen child, giving him overwhelming incentive to appear for all future proceedings. He is not a danger to the community. The government has no legitimate basis to deny him a bond hearing and bears the burden of justifying his continued confinement by clear and convincing evidence, a burden it cannot meet.

II. Petitioner Will Suffer Immediate and Irreparable Harm Absent a TRO.

Petitioner is currently suffering, and will continue to suffer, severe and irreparable harm for each day he remains unlawfully detained.

First, the loss of liberty is a quintessential form of irreparable harm. *Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."). This principle applies with equal force to the fundamental right to be free from unconstitutional physical confinement.

Second, Petitioner's detention inflicts irreparable emotional, psychological, and financial harm on his family. As the sole provider, his absence has deprived his wife and U.S. citizen child of their only source of support, creating severe instability. This forced separation from a parent

causes lasting trauma to a child, a harm that cannot be undone or compensated with money damages.

Third, detention itself causes psychological and emotional distress. The longer Petitioner remains confined without process, the greater this harm becomes. These injuries are immediate, ongoing, and cannot be remedied after the fact.

III. The Balance of Hardships Tips Sharply in Petitioner's Favor.

The balance of equities weighs overwhelmingly in favor of granting the TRO. The harm to Petitioner—the ongoing loss of his fundamental right to liberty and separation from his family—is severe and irreparable.

In contrast, the harm to Respondents is minimal to non-existent. Granting relief would merely require Respondents to comply with their constitutional obligation to either release Petitioner or provide a prompt bond hearing. The government's interest in ensuring Petitioner's appearance at future proceedings can be met through reasonable and less restrictive means, such as release on recognizance, posting a bond, or complying with supervision conditions like an ankle monitor or regular reporting. Petitioner has explicitly stated his willingness to comply with any such conditions. The negligible risk to the government is far outweighed by the profound and certain harm Petitioner and his family endure daily.

IV. Granting the TRO Serves the Public Interest.

The public has a profound interest in upholding the Constitution and ensuring that government power is exercised in accordance with the rule of law. Granting the TRO serves this interest by preventing the violation of an individual's due process rights. The public interest is not served by the arbitrary and punitive detention of a non-dangerous individual with no criminal history who is the sole provider for a U.S. citizen child. While the government has an interest in

enforcing immigration laws, that interest does not extend to unconstitutional methods of enforcement. The public interest is best served by an immigration system that is fair, humane, and respects the fundamental rights guaranteed by the Constitution.

REQUEST FOR EXPEDITED HEARING

Pursuant to Fed. R. Civ. P. 65(b)(3), Petitioner respectfully requests that the Court set a hearing on a preliminary injunction at the earliest possible time.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court issue an ex parte Temporary Restraining Order:

A. Directing Respondents to immediately release Petitioner from custody on his own recognizance or on reasonable conditions of supervision pending a hearing on this matter;

B. In the alternative, directing Respondents to provide Petitioner with a constitutionally adequate bond hearing before an Immigration Judge within 72 hours of this Court's Order, at which the government must prove by clear and convincing evidence that his continued detention is necessary;

C. Enjoining and restraining Respondents from transferring Petitioner out of the District of Colorado or removing him from the United States pending further order of this Court; and

D. Issuing an Order to Show Cause why a preliminary injunction should not be granted, and for such other and further relief as the Court deems just and proper.

Dated: March 25, 2026

Respectfully submitted,

_____

Roberto Hernandez Plaza
Petitioner, Pro Se
[redacted] Petitioner,
Pro Se c/o Denver Contract Detention Facility
3130 N. Oakland St. Aurora, CO 80010

CERTIFICATE OF EMERGENCY

I, Roberto Hernandez Plaza, hereby certify under penalty of perjury that the foregoing is a genuine emergency. I am currently being unlawfully detained in violation of my constitutional rights. Without immediate ex parte relief, I will continue to suffer the irreparable harm of unconstitutional confinement and separation from my family. I further certify that I fear that if prior notice of this application is given to Respondents, they may transfer me to another detention center outside this Court's jurisdiction or effectuate my removal from the United States before this Court has an opportunity to rule on the merits of my claims, thereby causing this action to become moot. For these reasons, ex parte relief is necessary to prevent immediate and irreparable injury.

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Roberto Hernandez Plaza
Petitioner, Pro Se