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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

25 **YASMANY SUAREZ LOPEZ,**
26 Petitioner,

27 v.

28 **SIXTO MARRERO, et al.**

29 *Respondents.*

Case No. '26CV2077 JES VET

**EMERGENCY NOTICE AND
MOTION FOR TEMPORARY
RESTRAINING ORDER**

TO PREVENT IRREPARABLE
HARM AND PRESERVE THE
COURT'S HABEAS
JURISDICTION PENDING
ADJUDICATION OF PETITION
FOR WRIT OF HABEAS
CORPUS

1 1. Petitioner Yasmany Suarez Lopez, through counsel, respectfully
2 moves this Court pursuant to Federal Rule of Civil Procedure 65 for a temporary
3 restraining order providing narrowly tailored interim relief necessary to prevent
4 irreparable harm and to preserve this Court's ability to grant effective habeas
5 relief.
6

7 2. This Motion is supported by the accompanying Memorandum of
8 Points and Authorities, the Petition for Writ of Habeas Corpus, the exhibits, and
9 the record in this matter.

10 **I. INTRODUCTION**

11 3. This is an emergency motion arising from Petitioner's ongoing
12 unlawful civil immigration detention without any custody determination.
13

14 4. Petitioner has been detained since March 13, 2026 without a bond
15 hearing, without any individualized assessment of flight risk or danger, and
16 without any opportunity to challenge his confinement before a neutral
17 decisionmaker. As set forth in the Petition, Respondents are detaining Petitioner
18 under a statutory framework that does not apply to his circumstances and in a
19 manner that violates the Fifth Amendment.
20

21 5. This Motion seeks narrowly tailored interim relief to prevent
22 irreparable harm while this Court adjudicates the legality of that detention.
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1 6. Specifically, Petitioner requests that the Court grant narrowly tailored
2 interim relief necessary to prevent irreparable harm and preserve its jurisdiction,
3 including:

- 4 a. Enjoining Respondents from transferring Petitioner outside the
5 Southern District of California during the pendency of this action
6 absent prior notice to the Court and counsel;
7
8 b. Ordering expedited briefing and adjudication of the Petition;
9
10 c. In the alternative, ordering Respondents to provide a prompt,
11 constitutionally adequate custody hearing; and
12
13 d. Granting such further relief as the Court deems just and proper,
including release if warranted.

14 7. Absent such relief, Petitioner will continue to suffer ongoing
15 deprivation of liberty under an allegedly unlawful detention scheme, and
16 Respondents retain unilateral authority to transfer him in a manner that risks
17 frustrating this Court's habeas jurisdiction. This Court's immediate intervention is
18 therefore necessary to prevent ongoing unlawful detention and to ensure that
19 meaningful habeas review is not rendered illusory.
20

21 **II. PROCEDURAL POSTURE**

22 8. Petitioner has filed a Petition for Writ of Habeas Corpus under 28
23 U.S.C. § 2241 challenging the statutory and constitutional basis for his detention.
24

1 9. The Petition presents a discrete legal question:

2 10. Whether Petitioner's detention is governed by 8 U.S.C. § 1226(a),
3 which requires access to a bond hearing, or whether Respondents may lawfully
4 subject him to a mandatory detention framework that categorically denies such
5 process.
6

7 11. Petitioner is currently detained at the Imperial Regional Adult
8 Detention Facility within this District.

9 12. He has not received a bond hearing, has not received any custody
10 determination, and has not been afforded any meaningful process to challenge his
11 detention.
12

13 13. This Motion seeks temporary relief under Rule 65 to prevent
14 irreparable harm pending adjudication of the Petition.

15 **III. FACTUAL BACKGROUND**

16 14. Petitioner Yasmany Suarez Lopez is a native and citizen of Cuba who
17 has resided in the United States since August 2021. Upon his entry, he was
18 released by immigration authorities on his own recognizance pursuant to Form I-
19 220A.
20

21 15. Since his release, Petitioner has lived and worked openly in the United
22 States with government authorization. He has maintained lawful employment
23
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1 pursuant to a valid Employment Authorization Document and has filed federal
2 income taxes. He has no criminal history.

3 16. Petitioner resides with his partner and his United States citizen child,
4 born in January 2026. He is the sole financial provider for his household.

5 17. Petitioner has complied with all requirements imposed upon him
6 following his release. He has not missed any appointments, has not violated any
7 conditions of supervision, and has remained continuously present in the United
8 States.

9 18. On March 13, 2026, Petitioner was approached by federal
10 immigration officers, including agents of U.S. Customs and Border Protection
11 and/or U.S. Immigration and Customs Enforcement, at a public truck stop in
12 Indio, California while he was lawfully parked and resting during the course of his
13 employment.

14 19. Petitioner was taken into custody and has remained detained since that
15 date. He is currently detained at the Imperial Regional Adult Detention Facility
16 within the Southern District of California.

17 20. Since his detention, Petitioner has not been provided with any bond
18 hearing, custody determination, or opportunity to seek release before a neutral
19 decisionmaker.
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1 21. He remains detained without any individualized assessment of
2 whether his continued confinement is justified.

3 **IV. LEGAL STANDARD**

4 22. A temporary restraining order is governed by the same standard as a
5 preliminary injunction. *Winter v. Natural Resources Defense Council, Inc.*, 555
6 U.S. 7, 20 (2008). A movant must demonstrate: (1) a likelihood of success on the
7 merits; (2) a likelihood of irreparable harm absent relief; (3) that the balance of
8 equities tips in his favor; and (4) that an injunction is in the public interest. A
9 preliminary injunction is an extraordinary remedy requiring a clear showing on
10 each of these factors. *Id.* at 22.

11 23. In the habeas context, federal courts possess equitable authority to
12 issue orders necessary to preserve their jurisdiction and to ensure meaningful
13 review of detention. See 28 U.S.C. § 2243. This authority includes the power to
14 order interim relief where necessary to prevent ongoing unlawful detention and to
15 safeguard the effectiveness of the writ.

16 24. Where, as here, a petitioner challenges the legality of civil
17 immigration detention, the Court evaluates these factors in light of the
18 fundamental liberty interest at stake and the need to ensure that judicial review
19 remains meaningful.
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23 **V. ARGUMENT**
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1 **A. Petitioner Is Likely to Succeed on the Merits**

2 25. Petitioner is likely to succeed because Respondents are detaining him
3 under a statutory framework that does not apply to his circumstances.

4 26. Petitioner was arrested within the interior of the United States years
5 after his entry and release, while living and working openly under government
6 authorization. Under the Immigration and Nationality Act, as interpreted by
7 controlling authority, such individuals are governed, at most, by 8 U.S.C. §
8 1226(a), which requires access to an individualized custody determination.
9

10 27. Respondents have provided no such process.

11 28. Instead, Petitioner has been subjected to detention without bond,
12 without hearing, and without any opportunity for release.

13 29. That detention exceeds statutory authority.

14 30. Even if Respondents' statutory classification were correct, the
15 complete absence of any custody determination independently violates the Fifth
16 Amendment. Civil immigration detention must be accompanied by meaningful
17 procedural safeguards, including an opportunity to challenge confinement before a
18 neutral decisionmaker.
19

20 31. Petitioner has received none.

21 32. Because Respondents have deprived Petitioner of liberty without
22 statutory authority and without constitutionally required process, Petitioner is
23
24

1 likely to succeed on the merits of his habeas claims. This statutory and
2 constitutional defect presents a purely legal question that is well-suited for prompt
3 resolution on habeas review.

4 **B. Petitioner Faces Irreparable Harm**

5
6 33. Petitioner is currently detained at the Imperial Regional Adult
7 Detention Facility within the Southern District of California.

8 34. The ongoing deprivation of physical liberty constitutes irreparable
9 harm as a matter of law. Petitioner has been detained since March 13, 2026
10 without any custody determination, without any bond hearing, and without any
11 opportunity to seek release before a neutral decisionmaker. Each day of continued
12 detention imposes a concrete and irreparable injury that cannot be remedied after
13 the fact.
14

15 35. This harm is particularly acute where, as here, Petitioner challenges
16 the legal authority for his detention itself. The purpose of this action is to
17 determine whether Respondents may lawfully continue to detain him. Continued
18 detention under an allegedly unlawful statutory framework is itself irreparable.
19

20 36. In addition to the ongoing deprivation of liberty, Petitioner faces a
21 substantial risk of transfer during the pendency of this proceeding.
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1 37. Respondents retain discretionary authority to transfer immigration
2 detainees between facilities, including to locations outside this District. Such
3 transfers may occur without advance notice and can be implemented rapidly.

4 38. If Petitioner is transferred, counsel access would be materially
5 impaired, including disruption of established attorney-client communication,
6 increased logistical barriers to timely consultation, and reduced ability to
7 coordinate expedited filings in this time-sensitive detention challenge, thereby
8 risking delay in the Court's consideration of Petitioner's challenge to ongoing
9 detention.
10

11 39. The writ of habeas corpus operates upon the petitioner's immediate
12 custodian, and jurisdiction over a core habeas petition generally lies in the district
13 of confinement. *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004). Although
14 transfer after filing does not automatically divest jurisdiction, such transfer may
15 require substitution of custodial respondents and additional procedural steps,
16 creating delay in a time-sensitive challenge to the legality of detention. In a case
17 where Petitioner seeks immediate review of ongoing custody, any such delay
18 threatens the Court's ability to provide prompt and meaningful habeas relief.
19
20

21 40. Because this action challenges the legality of ongoing detention, any
22 delay caused by transfer would prolong an allegedly unlawful deprivation of
23 liberty and undermine the effectiveness of habeas review.
24

1 41. Accordingly, absent temporary relief, Petitioner faces both (1)
2 continued unlawful detention and (2) a substantial risk that Respondents will take
3 action that could frustrate this Court's jurisdiction and delay meaningful review.

4 42. Both forms of harm are irreparable and warrant immediate
5 intervention.
6

7 **C. The Balance of Equities Favors Relief**

8 43. The balance of equities weighs decisively in Petitioner's favor.
9 Petitioner seeks narrowly tailored relief to address ongoing unlawful detention and
10 to preserve this Court's ability to exercise meaningful habeas review. Absent
11 relief, Petitioner will remain detained without a lawful custody determination and
12 faces the risk of transfer that could delay or complicate adjudication of this action.
13

14 44. By contrast, the requested relief imposes minimal burden on
15 Respondents. Petitioner does not seek to interfere with removal proceedings or to
16 restrict the government's ultimate authority over detention. Rather, he seeks only
17 to ensure that his custody is governed by the correct statutory framework and that
18 this Court's jurisdiction is preserved during the pendency of this case. Requiring
19 Respondents to maintain Petitioner's current placement and to comply with
20 statutory and constitutional limits does not impose any significant administrative
21 burden.
22
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1 45. Where Petitioner faces the continued loss of physical liberty without
2 process, and Respondents are required only to maintain the status quo and adhere
3 to governing law, the equities weigh sharply and decisively in favor of temporary
4 relief.

5
6 **D. The Public Interest Supports Temporary Relief**

7 46. The public interest strongly favors ensuring that executive detention
8 remains within the bounds established by Congress and the Constitution. The writ
9 of habeas corpus is a fundamental safeguard against unlawful detention, and the
10 public has a compelling interest in preserving its effectiveness.

11 47. That interest is directly implicated here. The public has a strong stake
12 in preventing the arbitrary deprivation of liberty, ensuring meaningful judicial
13 review of detention, and maintaining the integrity of statutory limits on executive
14 authority. Where an individual is detained without a lawful custody determination,
15 these interests weigh heavily in favor of judicial intervention.

16
17 48. The requested relief is narrowly tailored and advances, rather than
18 undermines, the public interest. An order preserving this Court's jurisdiction and
19 ensuring that Petitioner's detention complies with governing law promotes respect
20 for constitutional guarantees and reinforces the rule of law. Accordingly, the
21 public interest strongly supports temporary relief.

22
23 **VI. SCOPE OF REQUESTED RELIEF**
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1 49. Petitioner respectfully requests that the Court enter a temporary
2 restraining order providing the following relief:

- 3 a. Enjoin Respondents from transferring Petitioner outside the Southern
4 District of California during the pendency of this action absent prior
5 notice to the Court and counsel;
6
7 b. Order Respondents to file a response to the Petition within five (5)
8 days;
9
10 c. Permit Petitioner to file a reply within two (2) days thereafter;
11
12 d. In the alternative, order Respondents to provide, within three (3)
13 calendar days, a constitutionally adequate custody hearing before a
14 neutral decisionmaker; and
15
16 e. Grant such other and further relief as the Court deems just and proper,
17 including release if warranted.

18 **VII. REQUEST FOR EXPEDITED CONSIDERATION**

19 50. Petitioner respectfully requests expedited consideration of this Motion
20 and the underlying Petition.

21 51. This case presents a discrete legal question regarding the statutory
22 authority for detention. The material facts are not in dispute, and no evidentiary
23 hearing is required.
24

1 52. Because Petitioner remains detained without process, prompt
2 adjudication is necessary to ensure meaningful judicial review.

3 53. Petitioner requests that the Court:

- 4 a. Order Respondents to file a response within five (5) days;
- 5 b. Permit Petitioner to file a reply within two (2) days thereafter; and
- 6 c. Resolve the Petition on an expedited basis.

7
8 **VIII. NOTICE UNDER FEDERAL RULE OF CIVIL PROCEDURE 65(b)**

9 54. Petitioner will promptly provide notice to Respondents of this Motion
10 pursuant to Federal Rule of Civil Procedure 65(b) by notification to the United
11 States Attorneys Office for the Southern District of California.

12
13 **IX. SECURITY UNDER FEDERAL RULE OF CIVIL PROCEDURE 65(c)**

14 55. No security should be required under Federal Rule of Civil Procedure
15 65(c). The Rule vests the Court with discretion to determine whether a bond is
16 necessary and, if so, in what amount. Courts routinely waive the bond requirement
17 in cases involving challenges to government action and the protection of
18 constitutional rights.

19
20 56. Petitioner seeks only narrowly tailored relief to preserve the status quo
21 and to ensure meaningful review of the legality of his detention. This motion does
22 not seek monetary relief and imposes no financial harm on Respondents.

23
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1 57. Under these circumstances, where Petitioner challenges the legality of
2 ongoing civil detention and seeks to vindicate fundamental liberty interests, the
3 Court should exercise its discretion to require no bond.

4 DATED: April 2, 2026

5
6 *s/Nicolette Glazer*

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