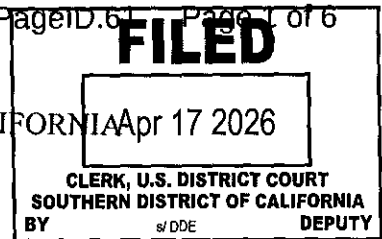


UNITED STATES DISTRICT

COURT SOUTHERN DISTRICT OF CALIFORNIA



1  
2  
3  
4 RAFAEL JOSE ECHEVERRIA HERNANDEZ,  
5 Proceeding Pro Se

6 *Petitioner,*

7 v.

8 \_\_\_\_\_, WARDEN, Imperial Regional Detention  
9 Facility;

10 \_\_\_\_\_, FIELD OFFICE DIRECTOR, ICE San  
11 Diego Field Office; TODD M. LYONS, Acting  
12 Director, United States Immigration and Customs  
13 Enforcement; KRISTI NOEM, Secretary of  
14 Homeland Security; MERRICK GARLAND,  
15 United States Attorney General, in their official  
16 capacities,

17 *Respondents.*

Case No.: '26CV2451 CAB DDL

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

**NOTICE OF EX PARTE APPLICATION**

18 NOTICE IS HEREBY GIVEN that Petitioner JOSE RAFAEL ECHEVERRIA

19 HERNANDEZ applies ex parte for a Temporary Restraining Order pursuant to Rule 65(b) of  
20 the Federal Rules of Civil Procedure.

21 Good cause exists to waive the advance notice requirements. The need for ex parte relief is  
22 driven by an acute and unfolding humanitarian crisis. Petitioner is the sole provider for his  
23 family, which includes a two-year-old baby and a child with a severe intellectual disability  
24 who is dependent on his father's presence and support. Since his arrest on April 1, 2026, his  
25 partner has fallen into a severe depression, and Petitioner's own health has begun to  
26 deteriorate in custody.

27 Providing notice of this application to Respondents would likely prompt them to immediately  
28 transfer Petitioner, a common tactic used to evade judicial review. Such a transfer would

2 family, making visitation impossible, and exacerbating the existing family crisis. An  
3 emergency order is the only means to preserve the status quo and prevent the imminent and  
4 irreversible destruction of this family unit.


5  
6 **I. INTRODUCTION**

7 Petitioner Jose Rafael Echeverria Hernandez, a long-term California resident with absolutely  
8 no criminal record, has been detained by Immigration and Customs Enforcement (ICE) since  
9 April 1, 2026. He is currently held at the Imperial Regional Detention Facility.


10 Critically, his detention is arbitrary. He was arrested without clear cause while driving home  
11 from his job of two years, where he is a valued employee and taxpayer. His detention has  
12 plunged his family into crisis. He is the sole provider for his partner, who is now suffering  
13 from severe depression, a two-year-old baby, and a child with an intellectual disability who  
14 requires his father's unique support.

15  
16  
17 Petitioner now seeks an emergency ex parte Temporary Restraining Order (TRO) to prevent  
18 Respondents from transferring him out of this district or removing him from the United States  
19 while his concurrently filed Petition for a Writ of Habeas Corpus is pending. The need for this  
20 order is critical. Absent an immediate order from this Court, there is an imminent risk that  
21 Respondents will transfer him, severing him from his vulnerable children and mooting his  
22 meritorious habeas claim. Such action would irreparably harm him and his family. A TRO is  
23 necessary to preserve the status quo and ensure this Court can provide meaningful relief.  
24

25  
26 **II. STATEMENT OF FACTS**

- 27 1. Petitioner Jose Rafael Echeverria Hernandez, A-Number  is a native and citizen  
28 of El Salvador who has resided in the United States since 2007. He has a pending application

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2. On April 1, 2026, he was arrested on Freeway I-10 in Indio, California. He was driving home from his job when law enforcement officers followed and then detained him without any apparent traffic or criminal violation. He was subsequently transferred to ICE custody.
3. Petitioner has no criminal history whatsoever.
4. He is currently detained at the Imperial Regional Detention Facility in Calexico, California.
5. Since his arrest, his health has declined. He is suffering from a severe cough and flu-like symptoms due to the conditions of his confinement.
6. Petitioner is the sole financial and emotional provider for his family, including his partner and three children. His family includes a **two-year-old baby** and a **child with an intellectual disability** who is profoundly dependent on his father's care and support.
7. His detention has caused extreme hardship. His partner is now suffering from severe depression, and the family's stability is in jeopardy.
8. Petitioner is a productive member of his community with deep ties to Salinas, California, including stable employment of two years at , a history of paying taxes, and a signed lease for his family's home.
9. Given the humanitarian crisis facing his family and his deteriorating health, there is an immediate and credible threat that any transfer will cause irreparable harm and sever him from his support system before his habeas petition can be heard.

### III. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDER

A temporary restraining order is an extraordinary remedy intended to preserve the status quo and prevent irreparable harm. To obtain a TRO, a petitioner must show: (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 his favor; and (4) that an injunction is

2 **A. Petitioner Is Likely to Succeed on the Merits.**

3 Petitioner has a strong likelihood of succeeding on the merits of his habeas petition. His  
4 detention is arbitrary and serves no legitimate purpose. He has **no criminal history**, strong  
5 family and community ties, a pending asylum application, and a stable work history. He is  
6 neither a flight risk nor a danger to the community. His detention, stemming from an arrest  
7 without apparent cause, is not authorized under 8 U.S.C. § 1226(a), which governs  
8 discretionary detention. Detaining him under these circumstances is a clear violation of the  
9 INA and the Due Process Clause.  
10

11 **B. Petitioner Will Suffer Irreparable Harm Absent a TRO.**

12 Petitioner and his family will suffer immediate and irreparable harm if a TRO is not issued.  
13 First, the deprivation of constitutional rights—specifically, the fundamental right to liberty—  
14 “unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th  
15 Cir. 2012). Second, the separation from his family constitutes its own irreparable harm,  
16 particularly for his child with a disability and his two-year-old baby. The Ninth Circuit  
17 recognizes the “fundamental liberty interest of natural parents in the care, custody, and  
18 management of their child.” *Santosky v. Kramer*, 455 U.S. 745, 753 (1982). Third, his  
19 deteriorating health in custody presents a direct physical harm. Finally, any transfer would  
20 permanently sever his connection to his vulnerable family and his ability to litigate his case.  
21 See *La Union del Pueblo Entero v. McAleenan*, 440 F. Supp. 3d 1073, 1092 (N.D. Cal. 2019).  
22

23 **C. The Balance of Equities and the Public Interest Favor Granting the TRO.**

24 The balance of equities tips sharply in Petitioner’s favor. The harm to Petitioner from  
25 continued unlawful detention—and the catastrophic harm to his family—is immense. In  
26 contrast, the burden on the Government from a TRO is minimal—it merely requires  
27 maintaining the status quo by keeping Petitioner in his current location pending a judicial  
28

1  
2 merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014).

3 The public has a profound interest in protecting the family unit, ensuring due process, and  
4 preventing the arbitrary detention of non-dangerous, productive members of the community.

5  
6 **IV. ARGUMENT**


7 Petitioner meets all the requirements for an ex parte TRO under Federal Rule of Civil  
8 Procedure 65(b) and *Winter*. As established above, his claim that he is being unlawfully and  
9 arbitrarily detained is strong and highly likely to succeed. The harm he faces—continued  
10 unconstitutional confinement, the destruction of his family’s well-being, and the imminent  
11 threat of transfer—is severe and irreparable. The balance of hardships and the public interest  
12 weigh decisively in favor of preserving this Court’s jurisdiction and ability to adjudicate his  
13 habeas petition.  
14

15 The ex parte nature of this request is justified by the acute humanitarian crisis. Providing  
16 notice risks a sudden transfer that would sever a disabled child from his father and plunge a  
17 family deeper into crisis. An emergency order is the only way to ensure Petitioner’s rights and  
18 his family’s integrity are not irrevocably lost.  
19

20  
21 **V. CONCLUSION**

22 For the foregoing reasons, Petitioner respectfully requests that this Court grant this ex parte  
23 application and issue a Temporary Restraining Order.  
24

25 WHEREFORE, Petitioner respectfully requests that this Court:

- 26 1. Issue an immediate Temporary Restraining Order enjoining Respondents, their agents, and  
27 their employees from: a. Transferring Petitioner Jose Rafael Echeverria Hernandez, A-  
28 Number  from his current place of detention at the Imperial Regional Detention

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

action to facilitate his transfer or removal pending a hearing on this matter.

2. Order Respondents to show cause why a preliminary injunction should not issue.
3. Set a hearing on the concurrently filed Petition for a Writ of Habeas Corpus within five (5) days, as required by 28 U.S.C. § 2243.
4. Grant such other and further relief as this Court deems just and proper.

**VERIFICATION**

I, Jose Rafael Echeverria Hernandez, 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: April 13, 2026

/s/ Jose Rafael Echeverria Hernandez  
Jose Rafael Echeverria Hernandez  
Pro Se