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MD-01

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

DANIEL MONDRAGON ANDINO,)

A# )

Petitioner,)

) Case No.: _____

v.)

WARDEN, STEWART DETENTION CENTER,)

et al.,)

Respondents.)

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

AND PRELIMINARY INJUNCTION TO PREVENT REMOVAL AND

TRANSFER PENDING RESOLUTION OF HABEAS PETITION

I, Daniel Mondragon Andino, proceeding pro se, respectfully move this Honorable Court, pursuant to Rule 65 of the Federal Rules of Civil Procedure and the Court's inherent authority to preserve its jurisdiction, for a Temporary Restraining Order and Preliminary Injunction enjoining Respondents from:

- (a) removing, transferring, or otherwise physically transporting me outside the territorial jurisdiction of the Middle District of Georgia;
- (b) executing any order of removal or deportation against me; and

(c) taking any action that would deprive this Court of habeas jurisdiction over my person, pending final adjudication of my contemporaneously filed Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. In support of this Motion, I state as follows:

I. INTRODUCTION

1. I am a civil immigration detainee held at the Stewart Detention Center in Lumpkin, Georgia. I have been detained, without an individualized bond hearing, since January 19, 2026. I have no criminal convictions, a pending asylum application, a U.S. citizen daughter, and an I-130 petition filed on my behalf by my lawful permanent resident mother, Fanny Andino Muñoz (A# [REDACTED])

2. I file this Motion together with my Petition for Writ of Habeas Corpus. The purpose of this Motion is narrow and prophylactic: to preserve this Court's habeas jurisdiction by enjoining Respondents from physically removing me from the United States, from transferring me outside this District, or from otherwise mootting this action during the pendency of habeas review.

3. Absent the requested injunctive relief, Respondents retain the unilateral ability to deport me or transfer me to a facility outside this District at any moment — potentially rendering his habeas petition moot and depriving him of the very relief this Court is asked to grant. *See Padilla v. Hanft*, 389 F. Supp. 2d 786, 787 (D.S.C. 2005) (enjoining transfer to preserve habeas jurisdiction); *Devitri v. Cronen*, 289 F. Supp. 3d 287, 297 (D. Mass. 2018) (granting TRO staying removal pending habeas review).

II. FACTUAL BACKGROUND

4. I incorporate by reference the Statement of Facts set forth in paragraphs 9 through 26 of my Petition for Writ of Habeas Corpus, filed contemporaneously with this Motion.

5. In brief: I am a 32-year-old Honduran national who entered the United States on or about July 22, 2021, with two of my minor children — my daughter A [REDACTED] (A# [REDACTED]) and my son M [REDACTED] (A# [REDACTED]). My U.S. citizen daughter, J [REDACTED], was born in Chesterfield County, Virginia, on [REDACTED]. My lawful permanent resident mother, Fanny Andino Muñoz (A# [REDACTED]), filed a

Form I-130 on my behalf on May 22, 2023, which USCIS receipted under Receipt No. [REDACTED] (F2B preference). I filed a Form I-589 application for asylum, withholding of removal, and Convention Against Torture protection with the Charlotte Immigration Court on April 7, 2025.

6. I have no criminal convictions. The only criminal charge ever filed against me — a misdemeanor shoplifting allegation in West Greenville Summary Court, Case No. [REDACTED] — was judicially dismissed on March 26, 2026.

7. I have been in ICE custody at the Stewart Detention Center since January 19, 2026. My next immigration-court hearing is a preliminary master-calendar hearing set for May 12, 2026, before Immigration Judge Jerrica A. Harness. No merits adjudication of my asylum claim has been scheduled.

III. LEGAL STANDARD

8. Under Rule 65 of the Federal Rules of Civil Procedure, a court may issue a temporary restraining order or preliminary injunction where the movant demonstrates: (1) a substantial likelihood of success on the merits; (2) that he will suffer irreparable injury absent the injunction; (3) that the threatened injury outweighs whatever damage the proposed injunction may cause the opposing party; and (4) that the injunction is not adverse to the public interest. *See Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1225–26 (11th Cir. 2005); *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc).

9. The same four factors apply to requests to stay a removal pending habeas review. *Nken v. Holder*, 556 U.S. 418, 434 (2009). The first two factors are "the most critical." *Id.* at 434.

10. A federal district court has inherent authority to issue injunctive relief necessary to preserve its own jurisdiction over a habeas petition. *See FTC v. Dean Foods Co.*, 384 U.S. 597, 603–04 (1966) ("[A] court has a duty to protect its own jurisdiction."); 28 U.S.C. § 1651 (All Writs Act).

IV. ARGUMENT

A. I Am Substantially Likely to Succeed on the Merits of My Habeas Petition.

11. My habeas petition raises two claims on which I am substantially likely to succeed:

12. **First**, if Respondents purport to detain me under 8 U.S.C. § 1226(c)'s mandatory-detention provision, they lack statutory authority to do so. Section 1226(c) requires a qualifying criminal **conviction**. 8 U.S.C. § 1226(c)(1); 8 U.S.C. § 1101(a)(48)(A). I have no convictions. My only criminal charge — the South Carolina shoplifting matter — was **judicially dismissed** on March 26, 2026. A dismissal is not a conviction. *See Matter of Cota-Vargas*, 23 I. & N. Dec. 849, 852 (BIA 2005). Any detention under § 1226(c) is therefore ultra vires.

13. **Second**, even if I am properly detained under 8 U.S.C. § 1226(a), my continued detention without an individualized bond hearing — where the Government bears the burden of justifying confinement by clear and convincing evidence — violates the Fifth Amendment's Due Process Clause. *See Jennings v. Rodriguez*, 583 U.S. 281, 313–14 (2018) (preserving as-applied due-process challenges to prolonged detention); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring).

14. I have been detained for more than three months with no bond hearing, no merits hearing scheduled, and a preliminary hearing not set until May 12, 2026. Applying the multi-factor reasonableness test, every factor favors me. *See Reid v. Donelan*, 17 F.4th 1, 7–9 (1st Cir. 2021); *Ly v. Hansen*, 351 F.3d 263, 268–72 (6th Cir. 2003); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28–41 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020).

15. I have therefore made the required showing of a substantial likelihood of success on the merits. At this preliminary-relief stage, however, the Court need not definitively resolve the merits. It need only determine that "serious questions going to the merits" are presented — a standard I plainly meet.

B. I Will Suffer Irreparable Harm Absent the Requested Injunction.

16. Without injunctive relief, Respondents may at any time (i) deport me to Honduras, thereby moot my habeas petition and depriving me permanently of my pending asylum,

withholding, CAT, and I-130-based relief; or (ii) transfer me to a detention facility outside this District, potentially disrupting habeas jurisdiction. *See Padilla v. Hanft*, 389 F. Supp. 2d at 787; *Devitri*, 289 F. Supp. 3d at 297–98.

17. Deportation is the paradigmatic form of irreparable harm in immigration cases. *Nken*, 556 U.S. at 436 ("[T]he stakes for the individual are indisputably high"); *Leiva-Perez v. Holder*, 640 F.3d 962, 969 (9th Cir. 2011) ("[T]he irreparable harm inquiry in the deportation context is unique because removal is likely to be followed by long-term separation from the noncitizen's family, home, and community in the United States.").

18. My irreparable harms are numerous and concrete:

- **Permanent Separation from U.S. Citizen Child:** Deportation would separate me from my U.S. citizen daughter, Jazlyne (age 3), who resides in the United States. The Supreme Court has recognized that "the integrity of the family unit" is protected by the Constitution. *Moore v. City of E. Cleveland*, 431 U.S. 494, 503–04 (1977).
- **Loss of Pending Asylum, Withholding, and CAT Claims:** My pending I-589 is the mechanism through which I seek protection from persecution and torture in Honduras. Deportation would extinguish these claims.
- **Loss of I-130 Prospective Relief:** The pending I-130 petition filed by my LPR mother, Fanny Andino Muñoz (A# [REDACTED]), opens a path to my eventual adjustment of status. Deportation would significantly complicate and potentially extinguish that path.
- **Mooting of Habeas Jurisdiction:** Transfer outside the District, or removal, would threaten this Court's habeas jurisdiction and the ability to grant the very relief I seek.

C. The Balance of Equities Strongly Favors Me.

19. The balance of equities tips decisively in my favor. I have everything to lose — my liberty, my ability to pursue lawful relief, my relationship with my U.S. citizen child. By contrast, the Government suffers no cognizable harm from a brief injunction preserving the status quo pending judicial review of the legality of my detention. I am not asking to be released during this Motion's pendency; I am asking only that Respondents be enjoined from taking action that would moot my Petition before it can be heard.

20. The Government has no legitimate interest in executing removal or effecting a jurisdictional transfer while the lawfulness of the underlying detention is pending judicial review. *See Nken*, 556 U.S. at 436 (the public interest is not served by removing an individual with a strong claim to remain pending judicial review).

D. The Public Interest Favors the Requested Injunction.

21. The public has a substantial interest in the faithful enforcement of constitutional protections and in the accurate application of the immigration laws. *See G&V Lounge, Inc. v. Mich. Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994) ("[I]t is always in the public interest to prevent the violation of a party's constitutional rights."). The public also has a strong interest in the integrity of judicial review: if Respondents are free to extinguish habeas jurisdiction through unilateral removal decisions, the writ would be a hollow remedy.

22. The public interest in family unity further supports the injunction. I am the father of a U.S. citizen child. Preventing the needless separation of a U.S. citizen child from her father during the pendency of a meritorious habeas petition is squarely within the public interest.

V. SCOPE OF REQUESTED RELIEF AND SECURITY

23. I seek only narrow, preservative relief. I do not request release through this Motion. I request only that Respondents be enjoined, pending adjudication of the habeas petition, from (a) physically removing me from the United States, (b) transferring me outside the Middle District of Georgia, and (c) otherwise rendering this Court's habeas jurisdiction moot.

24. I respectfully request that the Court waive any security requirement under Federal Rule of Civil Procedure 65(c). I am indigent — I am detained and have no source of income — and the Government will suffer no pecuniary loss from the requested injunction. *See BellSouth Telecomms., Inc. v. MCIMetro Access Transmission Servs., LLC*, 425 F.3d 964, 971 (11th Cir. 2005) (district court has discretion to set bond, including at zero, where security is not needed).

VI. NOTICE TO RESPONDENTS

25. I have caused a copy of this Motion and the accompanying Petition to be served upon Respondents by U.S. Mail, as set forth in the accompanying Certificate of Service. Given my

incarceration and pro se status, this constitutes the best practicable notice available under the circumstances. I respectfully request that the Court direct Respondents to file any response to this Motion on an expedited basis.

VII. CONCLUSION

For the foregoing reasons, I, Daniel Mondragon Andino, Petitioner, respectfully request that this Court:

- A. Grant a Temporary Restraining Order, forthwith and without delay, enjoining Respondents from removing me from the United States or transferring me outside the Middle District of Georgia;
- B. Set an expedited briefing schedule and hearing on my request for a Preliminary Injunction;
- C. Following such hearing, enter a Preliminary Injunction extending the foregoing relief through the final adjudication of the Petition for Writ of Habeas Corpus; and
- D. Grant such additional relief as is just and proper.

Respectfully submitted this 24th day of April, 2026.

x 

DANIEL MONDRAGON ANDINO

Petitioner, Pro Se

At 

Stewart Detention Center

146 CCA Road

Lumpkin, Georgia 31815