

IN THE UNITED STATES DISTRICT COURT
FOR GEORGIA'S MIDDLE DISTRICT
COLUMBUS DIVISION

NAHU ARELLANO APOLINAR,

Petitioner, Pro Se

A-Number: 

v.

**WARDEN, Stewart ICE Detention Center;
DIRECTOR, Immigration and Customs Enforcement (ICE);
SECRETARY, Department of Homeland Security (DHS);
ATTORNEY GENERAL of the United States;**

Defendants.

Civil Action Number: _____

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER (TRO)
UNDER FED. R. CIV. P. 65(b)
— URGENT PRECAUTIONARY REMEDY —

Petitioner NAHU ARELLANO APOLINAR, pro se, currently detained at the ICE Stewart Detention Center, Lumpkin, Georgia, respectfully requests this Court to **IMMEDIATELY** issue a Temporary Restraining Order (TRO) prohibiting Defendants from deporting, transferring, or executing any order of removal pending resolution of the Habeas Corpus Petition concurrently filed with this Court.

The Petitioner **does not repeat here the facts and arguments of the habeas corpus**, which are incorporated in their entirety by reference. The sole purpose of this motion is to obtain an

emergency injunctive remedy that preserves the jurisdiction of this Court and prevents irreparable harm while the habeas is resolved.

I. JURISDICTION AND LEGAL BASIS

This Court has the authority to issue this TRO pursuant to:

- (1) **28 U.S.C. § 2241** — which grants jurisdiction over the Petitioner's detention and authorizes all auxiliary remedies necessary to give effect to habeas corpus;
- (2) **Fed. R. Civ. P. 65(b)** — authorizing temporary restraining orders without notice when there is an imminent risk of irreparable harm; and
- (3) **28 U.S.C. § 1651 (All Writs Act)** — which empowers this Court to issue all necessary remedies in aid of its jurisdiction.

The authority of federal courts to issue a TRO staying deportation during review of a habeas corpus is firmly established. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *Andrieu v. Ashcroft*, 253 F.3d 477 (9th Cir. 2001). Without this TRO, the Tribunal would lose the practical ability to grant any effective remedy.

II. CRITERIA FOR GRANTING THE TRO — WINTER TEST

Pursuant to *Winter v. Natural Resources Defense Council*, 555 U.S. 7 (2008), and *Siegel v. LePore*, 234 F.3d 1163 (11th Cir. 2000), the Petitioner must demonstrate four elements. The four of them concur here:

A. Substantial Probability of Merit Success

The Petition for Habeas Corpus presents multiple independent and strong legal grounds: pretextual arrest in violation of the Fourth Amendment (*Wong Sun v. United States*, 371 U.S. 471 (1963)); Voluntary Departure order imposed without the Petitioner's consent, void pursuant to INA § 240B(a)(1) (*Dada v. Mukasey*, 554 U.S. 1 (2008)); prolonged detention without adequate bond hearing in violation of due process (*Zadvydas v. Davis*, 533 U.S. 678 (2001)); and serious ineffectiveness of the lawyer hired (*Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988)). These arguments, developed in the accompanying habeas, establish a substantial likelihood of success.

B. Imminent Irreparable Harm

Deportation prior to the resolution of the habeas would cause harm that no subsequent order can remedy: (a) this Court will lose effective jurisdiction over the case; (b) the Petitioner will be permanently separated from his wife, who suffers from a serious medical condition with progressive loss of vision in one eye, and their three minor children who depend on him as their sole provider; and (c) their constitutional rights to judicial review will be irreversibly extinguished. *Nken v. Holder*, 556 U.S. at 435. The damage is certain, imminent and irreversible.

C. Damage Assessment

The balance is manifestly in favor of the Petitioner. A temporary delay in the execution of an order that is itself null and void does not cause any recognizable harm to the government. In contrast, immediate deportation would cause the irreversible destruction of a family, the loss

of constitutional rights, and the deprivation of the jurisdiction of this Court. The balance is overwhelmingly in favour of granting the TRO.

D. Public Interest

The public interest demands that federal courts be able to exercise their constitutional jurisdiction without being frustrated by executive action prior to judicial review. Ensuring that constitutional rights are respected and that immigration proceedings are conducted with fundamental impartiality is always in the public interest. *Plyler v. Doe*, 457 U.S. 202 (1982).

III. NATURE OF THE EMERGENCY — NOTIFICATION WITHOUT A PRIOR HEARING

Pursuant to Fed. R. Civ. P. 65(b)(1), the Petitioner certifies that the TRO must be issued without a prior hearing because:

- (1) The Petitioner faces imminent deportation under a null and void order and any delay in the injunctive relief could result in his irreversible removal before the Defendants can be notified and heard;
- (2) Once the deportation is executed, no subsequent court order shall reverse the harm caused or restore the jurisdiction of this Court; y
- (3) Each day of continued unlawful detention compounds the irreparable harm to the Petitioner and his family.

IV. REMEDY REQUESTED

FOR ALL OF THE FOREGOING, the Petitioner respectfully requests that this Honorable Tribunal:

FIRST: Immediately issue a Temporary Restraining Order prohibiting Defendants, their agents, employees, officers, contractors, and all persons acting on or with their behalf or with:

(a) Remove, deport, or execute any departure order upon Petitioner NAHU ARELLANO APOLINAR, A 

(b) Transfer or relocate the Petitioner to any other detention facility, facility, or jurisdiction; y

(c) Take any action to enforce the Voluntary Departure Order while the Habeas Corpus Petition is pending;

SECOND: Schedule an emergency hearing within seventy-two (72) hours to determine whether a Preliminary Injunction should be issued that keeps the TRO restrictions in effect for the entirety of habeas corpus proceedings;

THIRD: Order the Defendants to immediately notify this Court and the Petitioner of any attempted deportation, removal, or removal; and

FOURTH: Grant any other remedy that this Honorable Tribunal deems just and necessary.

V. VERIFICATION — 28 U.S.C. § 1746

I, NAHU ARELLANO APOLINAR, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the contents of this Motion are true and correct to the best of my knowledge and belief, and that the facts herein set forth are true.

Executed this 05 day of 11, 2026, in Lumpkin, Georgia.

Respectfully submitted,

NAHU ARELLANO APOLINAR

Petitioner, Pro Se

Stewart ICE Processing Center

146 CCA Road, Lumpkin, Georgia 31815

A-Number: 