

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION
TO STAY REMOVAL AND PROHIBIT TRANSFER PENDING RESOLUTION OF
HABEAS CORPUS PETITION
(PRO SE)

Petitioner Elvis Xavier Rodriguez-Palencia, A  Stewart Detention Center

Elvis Xavier Rodriguez-Palencia,
Petitioner,

v.

Todd Blanche, Acting Attorney General of
the
United States; Todd Lyons, Acting
Director, U.S. Immigration and Customs
Enforcement; Markwayne Mullin,
Secretary
of Homeland Security; Warden, Stewart
Detention Center,

Case No. 4:26-cv-833

Respondents.

INTRODUCTION

Petitioner Elvis Xavier Rodriguez-Palencia moves this Court on an emergency basis, pursuant to Federal Rule of Civil Procedure 65 and 28 U.S.C. § 2241, for a Temporary Restraining Order ("TRO") and Preliminary Injunction (1) staying any removal or deportation of Petitioner pending resolution of the accompanying Petition for Writ of Habeas Corpus, and (2) prohibiting Respondents from transferring Petitioner outside the Middle District of Georgia pending such resolution. Petitioner has been detained at Stewart Detention Center since May 6, 2026, after

over two years and five months of full and continuous compliance with the Form I-220A Order of Release on Recognizance issued to him by U.S. Customs and Border Protection on December 1, 2023. Petitioner has a pending affirmative asylum claim before USCIS and holds a USCIS-issued Employment Authorization Document under Category C08, valid through January 12, 2030. To date, **no bond hearing has been held**, and the EOIR ACIS portal reflects "*There are no future hearings for this case.*" Petitioner's wife is also a lawfully-present asylum applicant. Removal during the pendency of this Petition — or transfer to another district — would moot the constitutional questions presented and cause irreparable injury. Emergency intervention is required.

LEGAL STANDARD

To obtain a TRO or preliminary injunction, the movant must show: (1) a substantial likelihood of success on the merits; (2) a substantial threat of irreparable harm in the absence of preliminary relief; (3) that the threatened injury outweighs whatever damage the proposed injunction may cause the opposing party; and (4) that the injunction, if issued, would not be adverse to the public interest. *Winter v. Natural Resources Defense 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).

ARGUMENT

I. PETITIONER IS SUBSTANTIALLY LIKELY TO SUCCEED ON THE MERITS.

Petitioner presents compelling constitutional claims, fully developed in the accompanying Petition for Writ of Habeas Corpus. He was detained on May 6, 2026, after over two years and five months of perfect compliance with the conditions of a CBP-issued I-220A Order of Release on Recognizance. He holds a valid USCIS-issued EAD (C08) supporting his pending affirmative asylum claim. He has no convictions. He is detained under 8 U.S.C. § 1226(a) (discretionary detention) — not § 1226(c) (mandatory detention) — because none of the three pending Spalding County misdemeanor charges against him is a *conviction*. Despite this, no bond hearing has been held, and EOIR ACIS reflects no future hearings scheduled. His detention is therefore prolonged in fact and indefinite in projection, with no individualized determination of flight risk or danger. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), and *Zadvydas v. Davis*, 533 U.S. 678 (2001), this violates the Fifth Amendment Due Process Clause. *Cf. Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1214–18 (11th Cir. 2016). Petitioner is substantially likely to prevail on his Due Process claim.

II. PETITIONER FACES IRREPARABLE HARM ABSENT EMERGENCY RELIEF.

Petitioner faces irreparable harm on multiple independent grounds:

A. Removal during the pendency of this Petition would moot the constitutional questions presented and would prevent Petitioner from prosecuting his pending affirmative asylum claim before USCIS. Petitioner has a USCIS-issued EAD under Category C08 — an official agency determination that he has a colorable asylum claim sufficient to authorize lawful employment. Removal would permanently destroy that claim.

B. Removal would permanently sever Petitioner's relationship with his wife, Laurimar Fabiola Ferrer Rincón, who is herself an asylum applicant lawfully present in the United States and resides at [REDACTED] Family unity is a substantial liberty interest that, once destroyed, cannot be restored.

C. Transfer to another district during the pendency of this Petition would defeat this Court's habeas jurisdiction. Stewart Detention Center is a known transfer hub. ICE may, at any time and without notice, move Petitioner to another facility outside the Middle District of Georgia. Such a transfer would force Petitioner — pro se and without counsel — to refile in a new district while detained, causing months of additional unconstitutional confinement.

D. No adequate remedy at law exists. Once Petitioner is removed or transferred, no order of this Court can fully restore the rights, family relationships, or asylum claim that would be permanently lost.

III. THE BALANCE OF EQUITIES FAVORS PETITIONER.

A stay of removal and a no-transfer order impose minimal burden on the Government — they merely maintain the status quo while this Court considers serious constitutional questions. By contrast, removal or transfer would inflict permanent and irreversible harm on Petitioner: destruction of his pending USCIS asylum claim, severance of his relationships with his wife and

Georgia community, and defeat of this Court's habeas jurisdiction. The equities overwhelmingly favor issuance of the requested relief.

IV. THE PUBLIC INTEREST FAVORS EMERGENCY RELIEF.

The public interest is served by ensuring that federal courts can exercise their statutory and constitutional jurisdiction before irreparable harm occurs. The public has a strong interest in due process, in the meaningful review of prolonged civil detention, in the protection of family unity for individuals with pending immigration proceedings, and in the orderly adjudication of asylum claims. Permitting removal or out-of-district transfer of a Petitioner with a pending § 2241 challenge — while no bond hearing has ever been held — would undermine the integrity of the immigration system and this Court's jurisdiction.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court issue an emergency TRO and Preliminary Injunction (1) staying any removal of Petitioner pending resolution of the Habeas Corpus Petition; (2) prohibiting Respondents from transferring Petitioner outside the Middle District of Georgia pending such resolution; and (3) ordering Respondents to provide this Court with prior written notice of any scheduled removal or transfer.

Respectfully submitted on May 9, 2026.

Elvis R.

Elvis Xavier Rodriguez-Palencia

Pro Se 

Stewart Detention Center

146 CCA Road

Lumpkin, Georgia 31815

**DECLARATION OF ELVIS XAVIER RODRIGUEZ-PALENCIA IN SUPPORT OF
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER**

I, Elvis Xavier Rodriguez-Palencia, declare under penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am the Petitioner in the above-captioned action. I am a native and citizen of Venezuela, born on [REDACTED] I am currently detained at the Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815.
2. I entered the United States on or about November 30, 2023, near Brownsville, Texas, after presenting myself to U.S. Border Patrol. I cooperated fully with all Border Patrol agents during processing in Donna, Texas. On December 1, 2023, I was released by CBP under Form I-220A Order of Release on Recognizance, with conditions that included reporting for hearings, surrendering for removal if so ordered, and not violating any local, state, or federal laws.
3. I am a Venezuelan national. My USCIS-issued Employment Authorization Document, Card# [REDACTED], USCIS# [REDACTED] Category C08, was issued by U.S. Citizenship and Immigration Services in connection with my pending asylum application. The card lists my country of birth as Venezuela and is valid from January 13, 2025, through January 12, 2030.
4. From December 1, 2023, through May 6, 2026 — over two years and five months — I fully and continuously complied with every condition of my I-220A. I attended every required check-in. I maintained a stable address at [REDACTED]

 I had no arrests, no convictions, no failures to appear, and no violations of any condition of my release.

5. During that period, I was continuously employed at 
 I paid federal and state income taxes. I built a life in Griffin, Georgia, with my wife.

6. My wife, Laurimar Fabiola Ferrer Rincón, is also an asylum applicant lawfully present in the United States. She lives at our shared address, 
. She has committed to providing me with housing and to ensuring my appearance at all immigration proceedings if I am released.

7. On May 2, 2026, I was stopped by Spalding County, Georgia, law enforcement. I was charged with three first-offense state misdemeanors: (a) DUI – Alcohol (Less Safe), (b) Driving While License Suspended/Revoked, and (c) Speeding. I have not been convicted of any of these charges. They remain pending. I am presumed innocent. I disclose them here voluntarily because I want this Court to have a complete and honest picture of my situation.

8. On or about May 6, 2026, ICE took me into custody from the Spalding County jail and transferred me to Stewart Detention Center. To this day, I have not had any bond hearing before an Immigration Judge. No Immigration Judge has weighed my two-year-and-five-month record of I-220A compliance, my marriage, my employment, my taxes, my USCIS-issued EAD, my

pending asylum claim, or any alternative to detention. No final bond determination — adequate or otherwise — has ever been made.

9. The EOIR ACIS public portal currently shows my case as pending with no future hearings scheduled. I do not know when, or whether, my next immigration court hearing will be held.

10. I am not a flight risk. I demonstrated this through over two years and five months of perfect I-220A compliance. My wife is here. My job is here. My pending asylum case is here. I have every reason to remain in the United States and fight my asylum claim.

11. I cannot afford an attorney. I am filing this Petition pro se from inside the detention facility. I respectfully request that this Court construe my filings liberally.

12. I have not previously filed a habeas corpus petition in this or any other federal court regarding the detention challenged here.

Executed on the 9th day of May, 2026, at Stewart Detention Center, Lumpkin, Georgia 31815.

Elvis R.

Elvis Xavier Rodriguez-Palencia

Pro Se 
Stewart Detention Center
146 CCA Road
Lumpkin, Georgia 31815

CERTIFICATE OF SERVICE

I, Elvis Xavier Rodriguez-Palencia, hereby certify that on the 9th day of May, 2026, I caused a true and correct copy of the Emergency Motion for Temporary Restraining Order and Declaration to be served upon the following parties by depositing the same in the United States mail, first-class postage prepaid, and by certified mail, return receipt requested, addressed as follows:

1. Civil Process Clerk, United States Attorney's Office, Middle District of Georgia, 300 Mulberry Street, Suite 400, Macon, Georgia 31201.
2. Todd Blanche, Acting Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.
3. Markwayne Mullin, Secretary of Homeland Security, 2707 Martin Luther King Jr. Avenue, SE, Washington, DC 20528.
4. Todd Lyons, Acting Director, U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Washington, DC 20536.
5. Warden, Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 9th day of May, 2026, at Stewart Detention Center, Lumpkin, Georgia 31815.

Elvis R.

Elvis Xavier Rodriguez-Palencia

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