

UNITED STATES DISTRICT
COURT MIDDLE DISTRICT OF GEORGIA

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MDGA-MAC

Rubiel Vasquez Berduo,
Proceeding Pro Se,
Petitioner,

v.

_____, Stewart Detention Center;
_____, Field Office Director, ICE Atlanta Field Office;
LECHRISTOPHER WILLIAMS, Acting Director, United
States Immigration and Customs Enforcement; Secretary of
Homeland Security;
PAMELA BONDI, United States Attorney General,
Respondents.

Civil Action No.: 4:26-cv-00890-CDL-ALS

**PETITIONER'S NOTICE TO THE
COURT OF FILING OF NOTICE OF
APPEAL WITH THE BOARD OF
IMMIGRATION APPEALS**

Petitioner, Rubiel Vasquez Berduo, proceeding *pro se*, respectfully notifies this Honorable Court of the following developments in his immigration proceedings:

1. On May 28, 2026, prior to the May 29, 2026 deadline, Petitioner timely filed a Notice of Appeal (Form EOIR-26) and a supporting brief with the Board of Immigration Appeals ("BIA").
2. This appeal challenges the final order of removal entered by the Immigration Judge on April 29, 2026.
3. The required filing fee of \$1,030.00 was paid to the Executive Office for Immigration Review (Payment Tracking ID: .
4. Pursuant to federal regulations, the timely filing of this appeal with the BIA automatically stays Petitioner's removal from the United States pending a final decision on the appeal. 8

C.F.R. § 1003.6(a) states: "Except as provided in... this section, the decision of the Immigration Judge is final. An order of deportation or removal... shall be stayed during the period allowed for the filing of an appeal and shall be further stayed during the pendency of an appeal to the Board."

5. This action informs the Court that Petitioner has perfected his right to administrative review and that an automatic stay of removal is now in effect by operation of law.

WHEREFORE, Petitioner respectfully requests that this Court:

(a) Take judicial notice of the fact that Petitioner has filed a timely appeal with the Board of Immigration Appeals and that an automatic stay of removal is in effect pursuant to 8 C.F.R. § 1003.6(a); and

(b) Continue to enjoin Respondents from taking any action to remove Petitioner from the United States pending the resolution of his BIA appeal and the final adjudication of the instant Petition for a Writ of Habeas Corpus.

Respectfully submitted, this 1st day of June, 2026.

/s/ Rubiel Vasquez Berduo.
Rubiel Vasquez Berduo, Pro Se

UNITED STATES DISTRICT
COURT MIDDLE DISTRICT OF GEORGIA

RUBIEL VASQUEZ BERDUO,
Proceeding Pro Se

Petitioner,

v.

_____, Warden, Stewart Detention Center;
_____, Field Office Director, ICE Atlanta Field
Office; TODD M. LYONS, Acting Director,
United States Immigration and Customs
Enforcement; MARKWAYNE MULLIN, Secretary
of Homeland Security; TODD BLANCHE, United
States Attorney General, in their official capacities,

Respondents.

Case No.:

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

NOTICE OF EX PARTE APPLICATION

NOTICE IS HEREBY GIVEN that Petitioner RUBIEL VASQUEZ BERDUO applies ex parte for a Temporary Restraining Order pursuant to Rule 65(b) of the Federal Rules of Civil Procedure.

Good cause exists to waive the advance notice requirements. The need for ex parte relief is extremely urgent and compelling. An Immigration Judge ordered Petitioner removed on April 29, 2026, and the deadline to appeal that decision to the Board of Immigration Appeals (BIA) expires in a matter of days, on **May 29, 2026**.

This imminent deadline creates a grave risk that Respondents will remove Petitioner from the United States before his right to appeal can be exercised and before this Court can rule on his accompanying Petition for a Writ of Habeas Corpus. Providing notice of this application to Respondents would likely prompt them to immediately deport Petitioner, thereby divesting this

1 Court of jurisdiction, rendering his petition moot, and irrevocably extinguishing his statutory
2 right to appeal. An immediate order is the only mechanism to prevent this irreparable harm.

3 4 I. INTRODUCTION

5 Petitioner Rubiel Vasquez Berduo is a 22-year-old asylum seeker from Guatemala who has
6 been detained by Immigration and Customs Enforcement (ICE) since February 16, 2026, based
7 on a minor criminal charge that was **summarily DISMISSED**. He is currently held at the
8 Stewart Detention Center. Despite having no criminal conviction, an Immigration Judge
9 ordered him removed on April 29, 2026. The statutory deadline to appeal this order expires
10 on **May 29, 2026**. Petitioner's continued detention violates the Due Process Clause of the Fifth
11 Amendment, which prohibits the detention of individuals not subject to mandatory detention
12 without an individualized bond hearing.

13
14 Petitioner now seeks an emergency ex parte Temporary Restraining Order (TRO) to prevent
15 Respondents from transferring him out of this district or, most critically, removing him from
16 the United States before his BIA appeal deadline and while his concurrently filed Petition for a
17 Writ of Habeas Corpus is pending. The need for this order is dire. Absent an immediate order
18 from this Court, there is an imminent and near-certain risk that Respondents will remove him
19 before May 29, 2026, which would irreparably harm him by forever stripping him of his right
20 to appeal and seek relief from removal. A TRO is necessary to preserve the status quo and
21 ensure this Court can provide meaningful review.
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24 25 II. STATEMENT OF FACTS

- 26 1. Petitioner Rubiel Vasquez Berduo, A-Number  is a native and citizen of
27 Guatemala who entered the United States on June 22, 2021, at the age of 17, as an
28 unaccompanied minor.

1 2. On February 16, 2026, he was arrested in Wayne County, North Carolina, for a single
2 misdemeanor charge of "Intoxicated and Disruptive."

3 3. On March 12, 2026, the District Attorney **DISMISSED** the charge. Petitioner has no criminal
4 convictions.

5 4. He is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

6 5. Despite the dismissal of the criminal charge, an Immigration Judge ordered Petitioner removed
7 on April 29, 2026.

8 6. The deadline to appeal this removal order to the Board of Immigration Appeals (BIA) is **May**
9 **29, 2026.**

10 7. Petitioner is the sole provider for his mother and siblings in Guatemala and has strong family
11 ties in the United States, including uncles who are U.S. citizens.

12 8. His detention and the imminent threat of removal have prevented him from meaningfully
13 preparing his appeal to the BIA.

14 9. Given the finality of the removal order and the approaching appeal deadline, Petitioner faces
15 an immediate and credible threat of being removed from the country before his habeas petition
16 can be heard and before he can exercise his statutory right to appeal.
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20 **III. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDER**

21 A temporary restraining order is an extraordinary remedy intended to preserve the status quo
22 and prevent irreparable harm. To obtain a TRO, a petitioner must show: (1) a likelihood of
23 success on the merits; (2) a likelihood of suffering irreparable harm in the absence of
24 preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is
25 in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).
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27 **A. Petitioner Is Likely to Succeed on the Merits.**

28 Petitioner has a strong likelihood of succeeding on the merits of his habeas petition. His

1 detention is governed by 8 U.S.C. § 1226. Because he has no criminal conviction, he is not
2 subject to mandatory detention under § 1226(c). Therefore, he is statutorily entitled to an
3 individualized bond hearing under the discretionary standard of § 1226(a). Respondents'
4 failure to provide a meaningful custody determination, particularly in light of the fact that the
5 sole criminal charge against him was dismissed, is a clear violation of the INA and the Due
6 Process Clause. Because his detention is arbitrary and unauthorized by statute, he is likely to
7 prevail.

8
9 **B. Petitioner Will Suffer Irreparable Harm Absent a TRO.**

10 Petitioner will suffer immediate and irreparable harm if a TRO is not issued. First, the
11 deprivation of constitutional rights—specifically, the fundamental right to liberty—
12 “unquestionably constitutes irreparable injury.” *Melendres v. Arpaio, 695 F.3d 990, 1002
13 (9th Cir. 2012). Every additional day of unlawful detention is a continuing irreparable harm.
14 Second, and most critically, without a TRO, Respondents will remove Petitioner before
15 his May 29, 2026, appeal deadline, thereby extinguishing his statutory right to appeal. The loss
16 of the right to seek judicial or administrative review is a classic form of irreparable harm.
17 Removal from the United States would permanently extinguish his claims and his ability to
18 seek protection.
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20 **C. The Balance of Equities and the Public Interest Favor Granting the TRO.**

21 The balance of equities tips sharply in Petitioner’s favor. The harm to Petitioner from
22 continued unlawful detention and the permanent loss of his appellate rights is immense and
23 irreversible. In contrast, the burden on the Government from a TRO is minimal—it merely
24 requires maintaining the status quo by keeping Petitioner in his current location pending a
25 judicial hearing and respecting the statutory appeal window. When the Government is a party,
26 the balance of equities and the public interest merge. *Drakes Bay Oyster Co. v. Jewell*, 747
27 F.3d 1073, 1092 (9th Cir. 2014). The public has a profound interest in ensuring that
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1 individuals, especially young people with no criminal record, are afforded due process and the
 2 right to appeal an adverse decision before being deported.

3 4 **IV. ARGUMENT**

5 Petitioner meets all the requirements for an *ex parte* TRO under Federal Rule of Civil
 6 Procedure 65(b) and *Winter*. As established above, his claim that he is being unlawfully
 7 detained without a meaningful bond hearing despite having no criminal convictions is strong
 8 and likely to succeed. The harm he faces—continued unconstitutional confinement and the
 9 imminent, irreversible loss of his right to appeal—is severe and irreparable. The balance of
 10 hardships and the public interest weigh decisively in favor of preserving this Court's
 11 jurisdiction and Petitioner's right to seek appellate review.

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 13 The *ex parte* nature of this request is justified by the extreme time sensitivity of the May 29,
 14 2026, appeal deadline. There is every reason to believe that providing notice would prompt
 15 Respondents to execute the removal order immediately to moot this case and foreclose any
 16 appeal. An emergency order is the only way to ensure Petitioner's rights are not irrevocably
 17 lost.
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19 20 **V. CONCLUSION**

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

23 WHEREFORE, Petitioner respectfully requests that this Court:

- 24 1. Issue an immediate Temporary Restraining Order enjoining Respondents, their agents, and
 25 their employees from: a. Transferring Petitioner Rubiel Vasquez Berduo, A-Number 
 26  from his current place of detention at the Stewart Detention Center; b. Removing or
 27 deporting Petitioner from the United States; and c. Taking any other action to facilitate his
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1 transfer or removal pending a hearing on this matter, and in no event before the BIA appeal
2 deadline of May 29, 2026, has passed.

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

10 I, Rubiel Vasquez Berduo, being the petitioner, hereby certify under penalty of perjury that the
11 statements set forth herein are true and correct to the best of my knowledge and belief.

12 Date: May 26, 2026.

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14 /s/ Rubiel Vasquez
15 Rubiel Vasquez Berduo
16 Pro Se
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