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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
MINNEAPOLIS DIVISION

Petitioner, **Jose Jobell Reyes Diaz**	Case No. 0:26-cv-2839
v.	**TEMPORARY RESTRAINING `` ORDER REQUEST**
Jail Administrator, Kandiyohi Jail ; **Peter Berg,** Director of St. Paul Field Office, U.S. Immigration and Customs Enforcement; **Markwayne Mullin,** Secretary of the U.S. Department of Homeland Security; and **Todd Blanche** Attorney General of the United States, in their official capacities,	
Respondents.	

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EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

INTRODUCTION

Petitioner, Jose Jobell Reyes Diaz , is a citizen and national of Honduras. resides in Minnesota and was unlawfully detained when he was apprehended and arrested by federal agents, on May May 14, 2026. Under current DHS and EOIR policy, Petitioner challenges the legality of his mandatory

detention and requests a Temporary Restraining Order for his release from ICE custody, and prohibits his transfer outside of Minnesota.

FACTS OF THE CASE

Mr. Reyes Diaz, a national of Honduras of Ecuador who resides in Minnesota with his family. He initially entered the United States in June 2014 and has remained in the country since then. On or about October 31, 2019 , Petitioner's Legal Permanent Resident Nora Bautista Portillo, filed a Form I-130, Petition for Alien Relative, on Petitioner's behalf.

USCIS approved the I-130 petition on September 26, 2026. A copy of the approval notice is attached as Exhibit A.

Upon information and belief, he is now being held at the Kandiyohi Detention Center in Willmar, MN in ICE custody.

LEGAL ARGUMENT

Mr. Reyes Diaz does not have a removal order. He is challenging the constitutionality of the statutory framework by which the Respondents are detaining him.

I. Motion for Temporary Restraining Order and Preliminary Injunctive Relief.

To obtain a temporary restraining order, a petitioner-plaintiff "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Piedmont Heights Civic Club, Inc. v. Moreland,* 637 F.2d 430 (5th Cir. 1981)). Under similar circumstances, courts within this Circuit have granted petitions for a Writ of Habeas Corpus pursuant 28 U.S.C. § 2241 where, as here, the petitioner has been present in the United States for almost three years, was unlawfully detained in the interior by the Department of Homeland Security under § 1225, and sought immediate release.

In a similar case where the petitioner had been present in the United States for a lengthy period, this Court found that detaining her under 8 U.S.C. § 1225(b)(2) was unlawful and inapplicable - holding that § 1225(b)(2) did not authorize her interior arrest and detention. *See Rivera Zumba v. Bondi*, Civ. No. 25-cv-14626 (KSH), D.N.J. (Sept. 26, 2025) (Hayden, U.S.D.J.). Another recent decision by this Court held that detention under 1225(b)(2)(A) amounts to detention in violation of the laws of the U.S. *Mugliza Castillo v. Lyons*, No. 2:25-cv-16219 (D.N.J. filed Oct. 3, 2025) (Farbiarz, J.).

Mr. **Reyes Diaz** is likely to succeed on the merits. His detention is a textbook violation of his Due Process rights.

II. Mr. Reyes Diaz will *likely succeed on the merits.*

Because the I-130 and I-601 are approved, Petitioner is prima facie eligible to pursue lawful permanent resident status, but DHS has continued detention and has treated Petitioner as if he has no viable immigration relief and no basis for lawful status.

III. *A TRO Is Required To Preserve And Protect Petitioner's Fifth Amendment Rights.*

A Temporary Restraining Order is necessary to prevent ICE from violating Petitioner's due process rights during the pendency of this habeas action. The Fifth Amendment guarantees that no person may be deprived of liberty without fundamentally fair procedures. Procedural due process requires, at minimum, (1) notice, (2) a meaningful opportunity to be heard, and (3) a fair chance to present evidence and consult with counsel. Transfer or removal would impede access to counsel, prevent meaningful participation in the proceedings, and effectively moot the habeas petition before the Court can adjudicate the constitutional and statutory claims. Due process requires a real and fair opportunity to challenge unlawful detention.

IV. Mr. Reyes Diaz Will Suffer Irreparable Harm

The harm that flows from the violation of Mr. Reyes Diaz's constitutional rights is

unquestionably irreparable. *See K.A. ex rel. Ayers v. Pocono Mountain Sch. Dist.*, 710 F.3d 99, 113 (3d Cir. 2013). The deprivation of an alien's liberty is, in and of itself, irreparable harm. *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Irreparable harm is virtually presumed in cases like this one where an individual is detained without due process. *Torres-Jurado v. Biden*, No. 19 CIV. 3595 (AT), 2023 WL 7130898, at *4 (S.D.N.Y. Oct. 29, 2023). ("[B]efore the Government unilaterally takes away that which is sacred; it must provide a meaningful process.").

IV. Balance of the Equities and Public Interest

The "public interest is best served by ensuring the constitutional rights of persons within the United States are upheld." *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). As discussed above, the abrupt detention without bond of Mr. Reyes Diaz likely violated federal law and his due process. "There is generally no public interest in the perpetuation of unlawful agency action," and "there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations." *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (cleaned up). Here, his continued detention without bond is in violation of his Fifth Amendment rights and far outweighs any burden the Respondents would suffer. It would cause irreparable harm to the family to not her husband home. His family is dependent on him. These are harms that cannot be remedied after the fact. By contrast, the government asserts only generalized interests in enforcement and administrative efficiency, which do not outweigh the concrete, individualized harms at stake, especially as here where the challenged action appears unlawful. The public interest is served by ensuring constitutional compliance, preventing wrongful removal, and maintaining family unity. Courts have repeatedly held that protecting individuals from unlawful or procedurally defective immigration actions aligns squarely with the public interest.

V. The Court Has Authority to Grant Mr. Reyes Diaz's Immediate Release Pending the Adjudication of His Habeas Petition.

As a general matter, writs of habeas corpus are used to request release from custody. *Wilkinson v. Dotson*, 544 U.S. 74, 78 (2005). A habeas court has "the power to order the conditional release of an individual unlawfully detained—though release need not be the exclusive remedy and is not the appropriate one in every case in which the writ is granted." *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (noting that at "common-law habeas corpus was, above all, an adaptable remedy").

The Petitioner has been detained since May 14, 2026. His family is waiting for his return home. Therefore, Petitioner argues that release from detention is the appropriate relief in this case. Alternatively, Petitioner respectfully asks that this Court **prevent his transfer** or **removal** while the instant Habeas pends.

B. CONCLUSION

For the foregoing reasons, the Court should grant the instant Writ and order his immediate release from ICE custody.

Respectfully submitted,
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