

FILED

JUL 01 2026

UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF CALIFORNIA

GILBERTO VELASCO BALTAZAR,

Proceeding Pro Se

Petitioner,

v.

_____, Warden, California City Correctional
Center;

_____, Field Office Director, ICE Los Angeles

Field Office; TODD M. LYONS, Acting Director,

United States Immigration and Customs

Enforcement; MARKWAYNE MULLIN, Secretary

of Homeland Security; MERRICK GARLAND,

United States Attorney General, in their official
capacities,

Respondents.

Case No.:

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

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

1:26CV 5062 DJC AC (HC)

NOTICE OF EX PARTE APPLICATION

NOTICE IS HEREBY GIVEN that Petitioner GILBERTO VELASCO BALTAZAR 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 urgent and compelling. It is a common and well-documented practice for Immigration and Customs Enforcement (ICE) to transfer detainees between facilities without notice, often in retaliation for filing legal challenges or simply for administrative convenience. Any such transfer would move Petitioner outside this Court's jurisdiction and render his meritorious Petition for a Writ of Habeas Corpus moot. Providing notice of this application to Respondents would likely prompt them to immediately transfer or even deport Petitioner, thereby divesting this Court of jurisdiction and evading judicial review. An immediate order is the only mechanism to prevent this irreparable harm and preserve the Court's ability to adjudicate this matter.

I. INTRODUCTION

Petitioner Gilberto Velasco Baltazar is the father of two minor children who has been detained

1 by Immigration and Customs Enforcement (ICE) since March 10, 2026—for more than 112
2 days. He is currently held at the California City Immigration Processing Center. Respondents
3 arrested Petitioner after he voluntarily complied with the legal system by appearing for a
4 scheduled appointment in his misdemeanor DUI case. His detention without a bond hearing
5 violates the Immigration and Nationality Act and the Due Process Clause of the Fifth
6 Amendment.

7 Petitioner now seeks an emergency *ex parte* Temporary Restraining Order (TRO) to prevent
8 Respondents from transferring him out of this district or removing him from the United States
9 while his concurrently filed Petition for a Writ of Habeas Corpus is pending. The need for this
10 order is critical. Absent an immediate order from this Court, there is an imminent risk that
11 Respondents will transfer or remove him, which would irreparably harm him by mooted his
12 habeas petition and denying him any chance at release to support his family and prepare for his
13 immigration case. A TRO is necessary to preserve the status quo and ensure this Court can
14 provide meaningful relief.
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18 **II. STATEMENT OF FACTS**

- 19 1. Petitioner Gilberto Velasco Baltazar, A-Number  is a native and citizen of
20 Mexico who has been detained by ICE since March 10, 2026.
- 21 2. His arrest occurred after he voluntarily appeared for a required appointment in Gooding County,
22 Idaho, related to a misdemeanor DUI case from November 2025. He had retained counsel and
23 was complying with court proceedings.
- 24 3. Petitioner has only one criminal conviction: the aforementioned misdemeanor DUI (Case No.
25 )
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27 4. He is currently detained at the California City Immigration Processing Center in California City,
28 California, which is located within this judicial district.

- 1 5. Petitioner is the father of two children, ages 8 and 10, and the primary provider for them and his
2 elderly parents.
- 3 6. His immigration case is pending before the Adelanto Immigration Court, with a Master Hearing
4 scheduled for July 6, 2026. He does not have a final order of removal.
- 5 7. His detention and potential transfer have caused his family severe financial hardship and
6 emotional distress and impede his ability to prepare for his upcoming immigration hearing.
- 7 8. Given Respondents' known practice of transferring detainees without warning, Petitioner faces
8 an immediate and credible threat of being transferred out of this jurisdiction or removed from
9 the country before his habeas petition can be heard.
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11 12 **III. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDER**

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

20 Petitioner has a strong likelihood of succeeding on the merits of his habeas petition. His
21 detention is governed by 8 U.S.C. § 1226(a). A single misdemeanor DUI is not a crime that
22 subjects an individual to mandatory detention under § 1226(c). Therefore, he is statutorily
23 entitled to an individualized bond hearing. *See, e.g., Avilez v. Barr*, No. 19-CV-07599, 2020 WL
24 1812513 (N.D. Cal. Apr. 8, 2020) (holding § 1226(a) requires an individualized hearing).
25 Respondents' failure to provide a meaningful custody determination after more than three
26 months of detention is a clear violation of the INA and the Due Process Clause. *See Rodriguez*
27 *v. Robbins*, 804 F.3d 1060 (9th Cir. 2015) (holding that prolonged detention without a bond
28

1 hearing is unconstitutional). Because his detention is arbitrary and unauthorized by statute, he is
2 likely to prevail.

3 **B. Petitioner Will Suffer Irreparable Harm Absent a TRO.**

4 Petitioner will suffer immediate and irreparable harm if a TRO is not issued. First, the
5 deprivation of constitutional rights—specifically, the fundamental right to liberty—
6 “unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th
7 Cir. 2012). Every additional day of unlawful detention is a continuing irreparable harm. Second,
8 without a TRO, Respondents are free to transfer or remove Petitioner at any moment. Transfer
9 would divest this Court of jurisdiction and prejudice his ability to pursue his case. Removal from
10 the United States would permanently extinguish his claims and his ability to care for his children.
11 This harm is, by definition, irreparable.
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13 **C. The Balance of Equities and the Public Interest Favor Granting the TRO.**

14 The balance of equities tips sharply in Petitioner’s favor. The harm to Petitioner from continued
15 unlawful detention and the potential for transfer or removal is immense. In contrast, the burden
16 on the Government from a TRO is minimal—it merely requires maintaining the status quo by
17 keeping Petitioner in his current location pending a judicial hearing. When the Government is a
18 party, the balance of equities and the public interest merge. *Drakes Bay Oyster Co. v. Jewell*,
19 747 F.3d 1073, 1092 (9th Cir. 2014). The public has a profound interest in ensuring that the
20 government does not unlawfully deprive individuals of their liberty, in preserving the integrity
21 of the judicial process, and in preventing the unnecessary separation of families.
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25 **IV. ARGUMENT**

26 Petitioner meets all the requirements for an *ex parte* TRO under Federal Rule of Civil Procedure
27 65(b) and *Winter*. As established above, his claim that he is being unlawfully detained without
28 a meaningful bond hearing is strong and likely to succeed. The harm he faces—continued

1 unconstitutional confinement, the imminent threat of transfer or permanent removal from the
2 country, and the ongoing hardship to his dependent children—is severe and irreparable. The
3 balance of hardships and the public interest weigh decisively in favor of preserving this Court's
4 jurisdiction and ability to adjudicate his habeas petition.

5 The *ex parte* nature of this request is justified by Respondents' well-known practice of
6 transferring detainees to moot legal challenges. There is every reason to believe that providing
7 notice would prompt them to take immediate action to remove Petitioner from this district,
8 thereby evading judicial review. An emergency order is the only way to ensure Petitioner's rights
9 are not irrevocably lost.
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12 **V. CONCLUSION**

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

15 WHEREFORE, Petitioner respectfully requests that this Court:
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- 17 1. Issue an immediate Temporary Restraining Order enjoining Respondents, their agents, and their
18 employees from: a. Transferring Petitioner Gilberto Velasco Baltazar, A-Number 
19  from his current place of detention at the California City Immigration Processing Center;
20 b. Removing or deporting Petitioner from the United States; and c. Taking any other action to
21 facilitate his transfer or removal pending a hearing on this matter.
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23 2. Order Respondents to show cause why a preliminary injunction should not issue.
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25 3. Set a hearing on the concurrently filed Petition for a Writ of Habeas Corpus within five (5) days,
26 as required by 28 U.S.C. § 2243.
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28 4. Grant such other and further relief as this Court deems just and proper.

VERIFICATION

1 I, Gilberto Velasco Baltazar, being the petitioner, hereby certify under penalty of perjury that
2 the statements set forth herein are true and correct to the best of my knowledge and belief.

3 Date: June 30, 2026
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5 /s/ Gilberto Velasco Baltazar
6 Gilberto Velasco Baltazar
7 Petitioner, Pro Se
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