

FILEDUNITED STATES DISTRICT
COURT EASTERN DISTRICT OF CALIFORNIA

JUL 01 2026

SATUJ BENITO MARCO-TULIO,
Proceeding Pro Se
Petitioner,

v.

_____, Warden, California City Correctional
Center;_____, Field Office Director, San Diego Field
Office, United States Immigration and Customs
Enforcement;TODD M. LYONS, Acting Director, United States
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of Homeland Security;
PAMELA JO BONDI, United States Attorney
General, in their official capacities,
*Respondents.*CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

Case No.:

1:26CV5063 TLN (SK)(HC)
**PETITIONER'S EX PARTE
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER****I. NOTICE OF EX PARTE APPLICATION**

NOTICE IS HEREBY GIVEN that Petitioner Marco Tulio Sutuj Benito, also listed by ICE as Satuj Benito Marco-Tulio  applies ex parte for a Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65(b).

Good cause exists to waive the advance notice requirements of Rule 65(b) because providing notice would defeat the purpose of this emergency relief. ICE routinely expedites transfers and removals without warning when detainees seek judicial intervention. If Respondents receive advance notice, they will likely transfer Petitioner to a facility outside this District or remove him from the United States immediately, thereby rendering this Court unable to grant effective relief and mooted Petitioner's constitutional claims. The threat of immediate transfer and removal is ongoing and imminent.

II. INTRODUCTION

Petitioner respectfully submits this ex parte application for a Temporary Restraining Order ("TRO") concurrently with his Second Amended Petition for a Writ of Habeas Corpus. The narrow and sole purpose of this application is to preserve the Court's jurisdiction and prevent

1 the irreparable harm that would result if Respondents transfer Petitioner out of this judicial
2 district or remove him from the United States before this Court can adjudicate his habeas
3 petition. A TRO is necessary to maintain the status quo and ensure Petitioner's constitutional
4 claims are not rendered moot. This application does not seek Petitioner's immediate release.

5 **III. STATEMENT OF FACTS**

- 6
- 7 1. Petitioner is a citizen of Guatemala who has resided continuously in the United States since
8 August 1996—for nearly thirty years. He has no criminal record.
- 9 2. On February 2, 2026, Immigration and Customs Enforcement (“ICE”) officers arrested
10 Petitioner during an interior enforcement action. He has been continuously detained since
11 that date, for a period of nearly five months.
- 12 3. Petitioner filed his first Petition for a Writ of Habeas Corpus in this Court on March 12,
13 2026. On March 26, 2026, this Court granted the petition and the case, No. 2:26-cv-00849-
14 JLT-SKO, was formally CLOSED.
- 15 4. Pursuant to this Court’s order, a bond hearing was held on April 1, 2026. The Government
16 failed to meet its court-ordered burden of proving by clear and convincing evidence that
17 Petitioner’s detention was necessary. Nonetheless, the Immigration Judge denied bond and
18 ordered Petitioner’s continued detention.
- 19 5. On April 17, 2026, Petitioner filed a timely appeal of the Immigration Judge’s decision with
20 the Board of Immigration Appeals (“BIA”), where it remains pending.
- 21 6. Petitioner is not subject to a final order of removal. His immigration proceedings remain
22 pending, with a Master Calendar Hearing scheduled for June 26, 2026.
- 23 7. Petitioner now seeks relief from his ongoing unconstitutional detention in this separate and
24 independent second habeas action.
- 25 8. Petitioner faces a significant and immediate risk of being transferred to a detention facility
26 outside the jurisdiction of this Court or being removed from the United States without
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1 advance notice. Such an action by Respondents would moot his pending habeas petition and
2 divest this Court of jurisdiction.

3 **IV. CERTIFICATION PURSUANT TO FED. R. CIV. P. 65(b)(1)**

4 Petitioner, proceeding pro se from detention, certifies that this application should be heard on
5 an ex parte basis because providing advance notice to Respondents would likely cause them to
6 take immediate steps to transfer Petitioner to a different detention facility outside of this district
7 or to remove him from the country altogether. Such an action would frustrate the purpose of
8 this TRO and result in immediate and irreparable injury to Petitioner by extinguishing his right
9 to seek and obtain judicial review in this Court.
10

11 **V. LEGAL STANDARD**

12 A temporary restraining order is an extraordinary remedy intended to preserve the status quo
13 and prevent irreparable harm. A party seeking a TRO must establish (1) a likelihood of success
14 on the merits; (2) a likelihood of suffering irreparable harm in the absence of preliminary relief;
15 (3) that the balance of equities tips in their favor; and (4) that an injunction is in the public
16 interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The court may issue a
17 TRO without notice if the applicant provides specific facts showing that immediate and
18 irreparable injury will result before the adverse party can be heard in opposition. Fed. R. Civ.
19 P. 65(b)(1).
20

21 **VI. ARGUMENT**

22 **A. Likelihood of Success on the Merits**

23 Petitioner is likely to succeed on the merits of his Second Amended Habeas Petition. This Court
24 has already determined in Petitioner's prior case that his detention required a constitutionally
25 adequate bond hearing where the Government bore the burden of proving danger or flight risk
26 by clear and convincing evidence. The Government failed to meet that burden at the April 1,
27 2026 hearing, yet Petitioner remains detained. A constitutionally defective hearing cannot cure
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1 an ongoing due process violation. Courts in this district have consistently granted habeas relief
2 under these circumstances.

3 **B. Petitioner Will Suffer Irreparable Harm Without a TRO**

4 Without a TRO, Petitioner faces the irreparable harm of having his habeas petition rendered
5 moot. If Respondents transfer him out of this district or remove him from the country, this Court
6 will lose jurisdiction, and he will be permanently deprived of his right to have his constitutional
7 claims heard. The Ninth Circuit has recognized that the potential mooted of an immigration
8 habeas petition constitutes irreparable harm. *See Hernandez v. Sessions*, 872 F.3d 976, 995 (9th
9 Cir. 2017). The ongoing deprivation of liberty itself also constitutes irreparable harm.
10 Additionally, Petitioner suffers from high blood pressure, and any transfer or removal would
11 disrupt his medical care and his ability to access the courts.
12

13 **C. The Balance of Equities and Public Interest Favor a TRO**

14 The balance of equities tips sharply in Petitioner's favor. He faces the loss of his liberty and his
15 right to judicial review. In contrast, a TRO imposes a minimal burden on Respondents, merely
16 requiring them to maintain the status quo while this Court reviews the pending petition. The
17 Government has no legitimate interest in avoiding judicial review of its actions. The public
18 interest is served by ensuring that constitutional rights are protected and that federal courts can
19 provide meaningful review of habeas petitions without the risk of executive action rendering
20 them moot.
21

22 **VII. PRAYER FOR RELIEF**

23 WHEREFORE, Petitioner respectfully requests that this Court issue an immediate Temporary
24 Restraining Order that:
25

- 26 1. Temporarily enjoins and restrains Respondents, their agents, and their employees from
27 transferring Petitioner from the California City Immigration Processing Center to any
28 facility outside of the Eastern District of California;

2. Temporarily enjoins and restrains Respondents, their agents, and their employees from removing or deporting Petitioner from the United States;
3. Orders Respondents not to change Petitioner's custody status or location without providing advance notice to this Court and to Petitioner;
4. Sets an expedited hearing on an Order to Show Cause why a preliminary injunction should not issue; and
5. Orders Respondents to file a response to this application and to the underlying Second Amended Petition for a Writ of Habeas Corpus within seven (7) days, or on a schedule otherwise set by the Court.

VIII. VERIFICATION

I, Marco Tulio Satuj Benito, declare under penalty of perjury under the laws of the United States of America that I am the Petitioner in this action, that I have read the foregoing Ex Parte Application for a Temporary Restraining Order, and that the factual statements contained therein are true and correct to the best of my knowledge and belief.

Dated: June 29, 2026

Respectfully submitted,

S/ Satuj Benito Marco Tulio
Satuj Benito Marco Tulio
Petitioner, Pro Se