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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ALEJANDRO MAURICIO VALERIO-REYES,

Petitioner,

v.

Warden, Central Valley Annex;

Markwayne MULLIN, Secretary, U.S.

Department of Homeland Security;

Todd LYONS, Acting Director, U.S.

Immigration and Customs Enforcement;

Todd BLANCHE, Acting Attorney General of the

United States, U.S. Department of Justice.

Respondents

Case No.:



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

1 Petitioner Alejandro Mauricio Valerio-Reyes respectfully submits this Ex Parte
2 Application for a Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65.
3 Petitioner has simultaneously filed a Petition for Writ of Habeas Corpus challenging the legality
4 of his continued detention by Respondents.

5 As explained in the Petition, Respondents are unlawfully detaining Petitioner after
6 previously releasing him from immigration custody on his own recognizance and permitting him
7 to reside at liberty in the United States for approximately twenty months while his removal
8 proceedings remained pending. Following a positive credible fear determination, DHS served
9 Petitioner with a Notice to Appear and released him from immigration custody. On May 15,
10 2026, Petitioner appeared for a scheduled ICE check-in in Oklahoma City, Oklahoma, where
11 Respondents revoked Petitioner's previously granted liberty by taking him back into immigration
12 custody without identifying any changed circumstances and without first providing
13 constitutionally adequate pre-deprivation process. Having created and maintained that liberty
14 interest, the government cannot revoke it through re-detention without constitutionally adequate
15 process.

16 Petitioner is currently detained at the Central Valley Annex in McFarland, California.
17 Without immediate judicial intervention, Petitioner will continue to suffer irreparable harm from
18 unlawful detention and the deprivation of his physical liberty. Because Respondents have
19 provided no individualized justification for Petitioner's continued detention and no
20 constitutionally adequate process through which to challenge that detention, Petitioner has no
21 meaningful avenue to obtain prompt review of the legality of his confinement other than this
22 habeas proceeding. Petitioner therefore respectfully requests that this Court issue a temporary
23 restraining order directing Respondents to immediately release him from custody.

24 This application is submitted in conjunction with the Petition for Writ of Habeas Corpus,
25 the accompanying declaration of counsel, and the proposed order filed concurrently herewith.
26 Counsel for Respondents has been notified of Petitioner's intent to file this application. Counsel
27 certifies that reasonable efforts have been made to provide notice to Respondents, and that this

1 application is submitted on an ex parte basis due to the ongoing and immediate deprivation of
2 Petitioner's physical liberty.

3 **II. LEGAL STANDARD**

4 The requirements for granting a temporary restraining order are substantially identical to
5 those for granting a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*,
6 240 F.3d 832, 839 n.7 (9th Cir. 2001). A TRO may issue where the movant shows (1) a
7 likelihood of success on the merits, (2) a likelihood of suffering irreparable harm in the absence
8 of preliminary relief, (3) that the balance of equities tips in the movant's favor, and (4) that an
9 injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

10 In the Ninth Circuit, the Court may apply a sliding-scale approach under which "serious
11 questions going to the merits" and a balance of hardships that tips sharply toward the movant can
12 support injunctive relief, so long as the movant also shows a likelihood of irreparable harm and
13 that the injunction is in the public interest. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127,
14 1134–35 (9th Cir. 2011).

15 **III. ARGUMENT**

16 **A. Petitioner Is Likely to Succeed on the Merits**

17 Petitioner is likely to succeed on the merits because his re-detention violates both the Due
18 Process Clause and the Immigration and Nationality Act. After releasing Petitioner from
19 immigration custody on his own recognizance following a positive credible fear determination
20 and permitting him to reside at liberty in the United States for approximately twenty months
21 while his removal proceedings remained pending, Respondents created a protected liberty
22 interest in his continued freedom from physical restraint. Respondents subsequently revoked that
23 liberty by re-detaining Petitioner when he appeared for a scheduled ICE check-in in Oklahoma
24 City, Oklahoma, without identifying any changed circumstances and without first providing
25 constitutionally adequate pre-deprivation process. Having created and maintained that liberty
26 interest, the government cannot revoke it through re-detention without constitutionally adequate
27 process.

1 Petitioner was previously released from immigration custody and permitted to reside at
2 liberty for approximately twenty months without incident before being re-detained in the interior
3 of the United States. Throughout that period, Respondents never alleged that Petitioner posed a
4 danger to the community or a risk of flight, nor have they identified any changed circumstances
5 justifying his re-detention.

6 The inspection-stage detention framework of INA § 235(b) applies only to individuals
7 encountered at or near the time of entry. Once the government releases a noncitizen from
8 immigration custody and permits him to reside at liberty in the United States while removal
9 proceedings remain pending, that framework no longer governs continued detention following a
10 later arrest in the interior of the United States. Any subsequent detention must proceed, if at all,
11 under INA § 236(a), which requires an individualized custody determination before a neutral
12 decisionmaker.

13 Respondents have nevertheless continued to detain Petitioner under § 235(b), thereby
14 denying him access to any custody determination before a neutral decisionmaker. By revoking
15 Petitioner's previously granted liberty without constitutionally adequate pre-deprivation process
16 and by relying upon an improper statutory detention framework, Respondents have acted in
17 violation of both the Due Process Clause and the Immigration and Nationality Act. Petitioner has
18 therefore established a strong likelihood of success on the merits.

19 **B. Petitioner Will Suffer Irreparable Harm in the Absence of Immediate**
20 **Relief**

21 In the absence of immediate relief, Petitioner will continue to suffer the irreparable harm
22 of unlawful detention and the deprivation of his physical liberty. The Supreme Court has
23 recognized that “[f]reedom from imprisonment—from government custody, detention, or other
24 forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause.
25 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

26 Courts have repeatedly held that the loss of liberty resulting from unlawful detention
27 constitutes irreparable harm warranting injunctive relief. Because Respondents continue to detain
28

1 Petitioner without constitutionally adequate process and without lawful statutory authority, each
2 additional day of detention inflicts irreparable injury that cannot be remedied after the fact.

3 This harm is especially acute where, as here, Respondents previously released Petitioner
4 from immigration custody and permitted him to reside at liberty in the United States for
5 approximately twenty months while his removal proceedings remained pending, and then
6 revoked that previously granted liberty by re-detaining him when he appeared for a scheduled
7 ICE check-in, without first providing constitutionally adequate pre-deprivation process. Absent
8 immediate intervention by this Court, Petitioner will continue to suffer the ongoing deprivation
9 of his physical liberty in violation of the Due Process Clause.

10 **C. The Balance of Equities and the Public Interest Favor Relief**

11 The balance of equities and the public interest weigh strongly in favor of granting relief.
12 Petitioner faces the continuing loss of his physical liberty through detention that lacks statutory
13 authorization and was imposed without constitutionally adequate pre-deprivation process, while
14 Respondents suffer no cognizable harm from being required to comply with the Constitution, the
15 Immigration and Nationality Act, and governing law.

16 Because the government is a party, the balance of equities and public interest factors
17 merge. Courts have repeatedly recognized that the public interest is served by ensuring that
18 federal officials act in accordance with the Constitution and federal statutes. The public also has
19 a strong interest in preventing the unlawful deprivation of liberty, particularly where, as here,
20 Respondents previously released Petitioner from immigration custody and permitted him to
21 reside at liberty in the United States for approximately twenty months while his removal
22 proceedings remained pending, and then re-detained him when he appeared for a scheduled ICE
23 check-in without first providing constitutionally adequate pre-deprivation process or identifying
24 any changed circumstances justifying the revocation of that liberty. Accordingly, these factors
25 strongly favor the issuance of a temporary restraining order.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant his Application for a Temporary Restraining Order and order Respondents to immediately release Petitioner from custody.

Respectfully submitted,

/s/ Alejandro J. Monsalve, Esq. CA SBN 324958

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