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6 **UNITED STATES DISTRICT COURT**
7 **SOUTHERN DISTRICT OF CALIFORNIA**

8 JUAREZ GONZALEZ, Jaime
9 Salvador

Case No.: **3:26-cv-03852-JO-JAC**

10 Petitioner,

11 vs.

12 **EX PARTE APPLICATION FOR**
13 **TEMPORARY RESTRAINING**
14 **ORDER AND REQUEST FOR**
15 **IMMEDIATE RELIEF**

13 Daniel BRIGHTMAN, Field Office
Director of Enforcement and
14 Removal Operations, San Diego Field
Office, Immigration and Customs
15 Enforcement; Markwayne MULLIN,
16 Secretary, U.S. Department of
Homeland Security; U.S.
17 DEPARTMENT OF HOMELAND
SECURITY; Todd BLANCHE, U.S.
18 Attorney General; EXECUTIVE
OFFICE FOR IMMIGRATION
20 REVIEW; Christopher J. LAROSE,
21 Senior Warden of Otay Mesa
Detention Center,

22 Respondents.
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24 PLEASE TAKE NOTICE that Petitioner hereby moves this Court for an ex
25 parte Temporary Restraining Order ordering his immediate release from ICE
26 custody. A hearing on this Application will take place at a date and time to be set
27 before the Judge assigned to this case. Petitioner supports his Application with the
28 attached Memorandum of Points and Authorities and exhibits.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2
3 **INTRODUCTION**

4 Petitioner faces serious imminent health risks while in custody at Otay Mesa
5 Detention Center. Petitioner seeks a Temporary Restraining Order (TRO) ordering
6 his immediate release.

7 Petitioner is a diabetic who requires daily insulin administration. Despite
8 informing arresting officers and facility staff of his condition, OMDC has
9 consistently failed to provide Petitioner with his required morning insulin since his
10 detention began. This ongoing deprivation has resulted in acute physical harm,
11 including the onset of vision loss. Respondents have demonstrated an inability or
12 unwillingness to provide the basic medical care necessary to sustain his life while
13 in their custody.

14 Accordingly, Petitioner seeks a TRO enjoining Respondents from continuing
15 his detention and ordering his immediate release from ICE custody. Absent
16 immediate intervention, Petitioner faces the imminent risk of permanent blindness
17 or other irreversible medical complications before this Court can adjudicate his
18 petition for Writ of Habeas Corpus. Dkt. 1.

19 **STATEMENT OF FACTS**

20 Petitioner is a 53-year-old Mexican national. He entered the United States in
21 or about September 15, 2009, without lawful entry documents and has since
22 resided in San Diego, California, with his partner and U.S. Citizen children.
23 Petitioner is a diabetic who requires daily insulin administration to manage his
24 condition and prevent life-threatening complications. Petitioner has had three toes
25 amputated as a result of his diabetes.

26 Petitioner was detained on or about Saturday, June 27, 2026. At the time of
27 his arrest, he explicitly informed the arresting ICE officers of his diabetes and his
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1 immediate need for insulin. He was not immediately provided his medication, but
2 was assured that he would receive his medication upon transfer to the Otay Mesa
3 Detention Center ("OMDC").

4 Since his arrival at OMDC, Mr. Juarez Gonzalez has not been administered
5 a single dose of his required morning insulin. Despite being awake and present
6 during the facility's 4:00 AM daily medication distribution, and despite specifically
7 requesting his shots, OMDC staff has repeatedly informed him that he was "not on
8 the list" and refused to provide the medication.

9 On July 6, 2026, Mr. Juarez Gonzalez informed counsel that his vision had
10 begun to suffer significantly due to the prolonged lack of insulin. Undersigned
11 counsel ("Counsel") immediately notified OMDC staff of this acute medical crisis.
12 Between July 2 and July 9, 2026, counsel made exhaustive efforts to resolve this
13 matter administratively, including, but not limited to, the following:

- 14 ○ **July 2, 2026:** Counsel spoke with OMDC staff regarding the missing
15 doses. OMDC staff ensured Counsel that insulin administration is
16 taken very seriously, and so long as he is awake for the morning
17 insulin administration, he will received his shots. Subsequent
18 conversations between Petitioner and Counsel reveal that Petitioner
19 has in fact been present for the morning routine administration of
20 insulin, but has been denied his shots.
- 21 ○ **July 7, 2026:** Counsel filed an urgent medical grievance via email to
22 OMDC staff and ICE Outreach, specifically citing the client's vision
23 loss.
- 24 ○ **July 8, 2026:** Counsel made 12 calls to the facility around 12:00pm,
25 all or most of which answered by an officer "Ramos," encountering
26 repeated transfer loops, dead-end transfers, and further administrative
27 roadblocks.
- 28 ○ **July 8, 2026 (Evening):** Counsel called OMDC. An officer "Rios"

1 confirmed that he would investigate the situation and call Counsel
 2 back personally. Upon a follow-up phone-call from Counsel, officer
 3 Ramos confirmed that Petitioner had seen medical staff, and provided
 4 Petitioner with a form to fill out and begin receiving his insulin.

- 5 ○ Subsequently, Petitioner called Counsel to confirm that he had been
 6 seen by medical staff. Petitioner was told by staff that his medical
 7 record indeed reflected Petitioner's need for insulin, but could not
 8 explain the staff's failure to provide it. Thus, the facility doctor
 9 acknowledged the error, and informed Petitioner that insulin
 10 administration would begin the following morning, July 9, 2026.
- 11 ○ **July 9, 2026:** Petitioner contacted counsel and confirmed that, despite
 12 the previous evening's promises from medical staff, **he was again**
 13 **denied his morning insulin dose.** As of the filing of this application,
 14 Mr. Juarez Gonzalez remains in a state of medical emergency,
 15 suffering from active vision loss and the ongoing denial of life-
 16 sustaining medication by Defendants.

17 18 STANDARD OF REVIEW

19 A Temporary Restraining Order ("TRO") may be issued upon a showing
 20 "that immediate and irreparable injury, loss, or damage will result to the movant
 21 before the adverse party can be heard in opposition." Fed. R. Civ. P. 65(b)(1)(A).
 22 A trial court may grant a TRO or a preliminary injunction to "preserve the status
 23 quo and the rights of the parties" until a decision can be made in the case. *U.S.*
 24 *Philips Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1094 (9th Cir. 2010). The status
 25 quo in this context "refers not simply to any situation before the filing of a lawsuit,
 26 but instead to 'the last uncontested status which preceded the pending
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1 controversy[.]” *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir.
2 2000) (quoting *Tanner Motor Livery, Ltd. v. Avis, Inc.*, 316 F.2d 804, 809 (9th Cir.
3 1963)). The analysis for a TRO and a preliminary injunction is the same. *Frontline*
4 *Med. Assoc., Inc. v. Coventry Healthcare Workers Compensation, Inc.*, 620 F.
5 Supp. 2d 1109, 1110 (C.D. Cal. 2009).

6 Additionally, in the Ninth Circuit, courts may “employ an alternative
7 ‘serious questions’ standard, also known as the ‘sliding scale’ variant of the *Winter*
8 standard.” *Fraihat v. ICE*, 16 F.4th 613, 635 (9th Cir. 2021) (cleaned up). Under
9 that test, Plaintiffs must show “serious questions going to the merits and a balance
10 of hardships that tips sharply toward the plaintiff[s]” along with “a likelihood of
11 irreparable injury and that the injunction is in the public interest” *Id.* (internal
12 citations omitted).

13 ARGUMENT

14 **I. Petitioner Is Likely to Succeed on the Merits of His Claims**

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16 Petitioner asserts that he is likely to succeed on the merits of his
17 underlying Petition for Writ of Habeas Corpus because his current detention is
18 both legally unauthorized and constitutionally infirm. Petitioner, who entered the
19 U.S. without inspection over 16 years ago, is not subject to mandatory detention
20 statutes and must be classified as detained under 8 U.S.C. § 1226(a) rather than §
21 1225(b)(2). Respondents are, however, misclassifying Petitioner as an “arriving
22 alien” and subjecting him to mandatory detention without the possibility of bond.

23 The combination of Respondents’ overbroad application of 8 U.S.C. §
24 1225(b)(2) and their failure to provide basic medical care creates a compelling case
25 for habeas relief. Petitioner is not only being held under a flawed legal theory but
26 is also suffering physical degradation that the government is unable or unwilling to
27 mitigate. Consequently, Petitioner is highly likely to prevail on his claim that his
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1 immediate release is the only remedy sufficient to vindicate his statutory and
2 constitutional rights.

3 4 **II. Petitioner Continues to Suffer Irreparable Harm**

5 “It is well established that the deprivation of constitutional rights
6 ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d
7 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The
8 Ninth Circuit has specifically recognized irreparable harm resulting from
9 unconstitutional immigration detention. *Hernandez v. Sessions*, 872 F.3d 976, 994
10 (9th Cir. 2017). This is sufficient to justify emergency relief. *See Warsoldier v.*
11 *Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (“When an alleged deprivation
12 of a constitutional right is involved, most courts hold that no further showing of
13 irreparable injury is necessary.”).

14 Petitioner is suffering irreparable harm through his detention, deprivation
15 of liberty and separation from his family. In this case, the irreparable harm is not
16 merely legal but physical and life-threatening. Since his arrival at the Otay Mesa
17 Detention Center, Defendants have failed to administer Petitioner’s required
18 morning insulin, despite his repeated requests and the facility’s knowledge of his
19 diabetic condition. As a direct result of this deprivation, Petitioner is currently
20 suffering from loss of vision—a severe and potentially permanent medical
21 complication.

22 The Ninth Circuit’s standard is clear: the ongoing violation of Mr. Juarez
23 Gonzalez’s constitutional right to adequate medical care while in immigration
24 detention constitutes irreparable harm per se. Without immediate intervention to
25 mandate the administration of his life-sustaining medication, Mr. Juarez Gonzalez
26 faces the imminent risk of permanent blindness or death. This severe physical
27 degradation, coupled with the underlying constitutional violation, more than meets
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1 the threshold for emergency relief.

2 3 **III. The Balance of the Equities Favors Relief**

4 The balance of the equities favors relief for Petitioner. “[A party] cannot
5 reasonably assert that it is harmed in any legally cognizable sense by being
6 enjoined from constitutional violations.” *Zepeda v. INS*, 753 F.2d 719, 727 (9th
7 Cir. 1983); *see also Hernandez*, 872 F.3d at 996 (“The public interest benefits
8 from an injunction that ensures that individuals are not deprived of their liberty
9 and held in immigration detention because of bonds established by a likely
10 unconstitutional process.”).

11 Any enforcement interests that the Department of Homeland Security may
12 assert do not outweigh Petitioner’s liberty interests and the government’s failure to
13 provide Petitioner with his appropriate medication. At a minimum, such interests
14 should not apply unless and until the government provides a lawful and reasoned
15 basis for overriding those protections.

16 In this case, a TRO would require Respondents restore Petitioner to the
17 status quo prior to the legal violation of his unlawful detention, strongly favoring
18 relief.

19 20 **IV. Ex Parte Application and Certification Pursuant to Rule 65(b)**

21 This application is made on an ex parte basis because Petitioner faces
22 imminent health risks. Petitioner is diabetic and requires a daily administration of
23 insulin, of which he’s been deprived since his initial detention or about June 27,
24 2026. As of July 6, 2026, Petitioner has been suffering from vision loss,
25 attributable to his lack of insulin administration. Further deprivation of his
26 medication could result in permanent health repercussions before Respondents can
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1 be heard on his scheduled July 30, 2026 hearing date. Absent immediate release,
2 the Court will be unable to grant effective relief. Counsel has made reasonable
3 efforts to provide notice to Respondents of this application.

4 Pursuant to Federal Rule of Civil Procedure 65(b), counsel certifies that
5 notice of this application will be provided contemporaneously to the United States
6 Attorney's Office immediately upon filing via email at Efile.dkt.civ@usdoj.gov,
7 erin.dimbleby@usdoj.gov, and jacob.metzger@usdoj.gov. Given the urgency of
8 Petitioner's imminent life-threatening circumstances, further notice is not
9 practicable prior to the Court's consideration of this application.

10
11 **CONCLUSION**

12 Petitioner respectfully requests that this Court grant his application for a
13 Temporary Restraining Order ordering his immediate release from ICE custody.

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15 Dated: July 9, 2026

Respectfully submitted,

16
17 /s/ Victor E. Hernandez

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21 COUNSEL FOR PETITIONER
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CERTIFICATE OF ELECTRONIC SERVICE

I, VICTOR E. HERNANDEZ, CONFIRM THAT ON JULY 9 2026, I UPLOADED
THE ATTACHED PETITION FOR WRIT OF HABEAS CORPUS INTO THE PACER
SYSTEM, AND THAT NO SEPARATE SERVICE IS REQUIRED AS ALL PARTIES ARE
PARTICIPATING IN THE SYSTEM.



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