

Name: Gabriel Arturo Perez Moreno

A Number: 

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611 Frontage road
Mc Farland, CA 93250

FILED

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CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY
DEPUTY CLERK

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Gabriel Arturo
Perez Moreno

A# 

Petitioner,

v.

Warden of the Golden
State Annex

Attorney General of the
United States;

Secretary, United States
Department of Homeland
Security;

Acting Director,
Immigration and Custom
Enforcement

Respondents,

Case No. 1:26CV05093-TLN-SCR

**PETITION FOR TEMPORARY
RESTRAINING ORDER**

I, Gabriel Arturo Perez Moreno, make the following statements under oath and subject

to the penalty of perjury:

I. LEGAL DISCUSSION

TRO must be entered before the Respondent have an adequate opportunity to respond. Dragodas U. S. A. Inc. v. Oldcastle Infrastructure, Inc. no. 20-cv-20601 2020 U. S. Dist LEXIS 25054 2020 WL 733037 at *2 (D. D. Fla. Feb 13, 2020). To obtain a Temporary Restraining order I establish that:

(1) The likelihood of success on the Merits is high.

(a) I have a substantial private interest in my own liberty that is unquestionably affected by Respondent's action detaining me unlawfully. The amount of time I spent at liberty underscore the gravity of its loss. I have significant private interest that has been affected by this wrongful detention.

(b) the risk of erroneous deprivation of my liberty interest is considerable, because civil immigration detention is "non punitive in purpose and effect." A special justification must outweigh my protected liberty interest for my detention to comport with Due Process.

(c) The government interest in detaining me without a judicial notice or a pre deprivation hearing is low. The effort and cost required to provide me with procedural safeguard is minimal.

(2) TRO is necessary to prevent Irreparable injury.

TRO may be ordered because of the likelihood of Irreparable harm in the absence of the preliminary relief.

(3) that the threatened injury outweighs the harm TRO would cause the other litigant.

The balance of equities tips heavily in my favor, because my case is not distinguished from many others that this court already granted a TRO. Although I notice that to be awarded a TRO is a memorable mercy from this court and all are not eligible for the extraordinary remedy for relief, however I must petition for TRO to seek immediate release.

(3) That an injunction is in the public interest.

It is in public interest that my rights are not violated day after day and the TRO would not be adverse to the public.

JURISDICTION

1. 28 U. S. C. §2241 federal courts' authority to hear habeas claims by non citizen challenging immigration law. This action arises under the Due Process Clause of the Fifth Amendment of the U. S. Constitution. Jurisdictions proper under 28.U.S.C §§1331 (federal question), 2241(habeas corpus); U.S. Const. Art. 1,§ 2; (suspension Clause); and 5 U. S. C §702 (Administrative Procedure Act). This court may grant relief under the habeas corpus statutes, 28 U. S. C. §2241 et seq., the Declaratory Judgment Act, 28 U. S. C §2201 et seq., and the All Writs Act, 28 U. S. C. §1651.
2. congress has preserved judicial review of challenges to prolonged immigration detention. See Jennings v. Rodriguez, 138 S. Ct. 830, 839-841 (2018) (holding that 8 U. S. C. §§1226 (e), 1252(b)(9) do not bar review of challenges to prolonged immigration detention); see also id. At 876(Breyer, J., dissenting). ("8 U. S. C. §1252(b)(9)... by its terms applies only with respect of an order or removal")

(internal quotation marks and brackets omitted).

3. Federal Rule of Civil Procedure 65(b)- Authority to issue Temporary Restraining Order (TRO)
4. All Writs Act, 28 U. S. C. § 1651(a) empowers federal court to issue all writs necessary or appropriate in aid of their respective jurisdiction.
- 5 8 U. S. C. §1231 (a)(6) and Fifth Amendment's Due Process Clause - Basis for petitioner's challenge to his continued detention.

VENUE

Venue is proper in this District because this is the district in which petitioner confined.

See Doe v. Garland, 109 F. 4th 1188, 1197-99 (9th cir. 2024)

PARTIES

1. I am a non citizen currently detained at Golden State Annex by Respondents pending ongoing removal proceedings.
2. Respondent warden of Golden States Annex detention center is petitioner's immediate custodian at the facility where petitioner is detained. See Doe 108 F. 4th at 1194-97.
3. Respondent Acting or Current Attorney General of the United States is the most senior official in the U. S. Department of Justice("DOJ"). They have the authority to interpret the immigration laws and adjudicate removal cases. They delegate this responsibility to the Executive office for Immigration Review ("EOIR"), which administrates the immigration courts and the Board of Immigration Appeals ("BIA"). They are named in their official capacity.
4. Respondent Secretary of the U. S. department of Homeland Security ("DHS"), an agency of the United States, is responsible for the administration of the immigration laws. 8 U. S. C. §1103 (a).

They are the legal custodian of petitioner. They are named in their official capacity.

5. Respondent Acting or Current Field Office Director of ICE with Administrative jurisdiction over petitioner's case. They are a legal custodian of petitioner and are named in their official capacity.

II. ARGUMENT

A. I am likely to succeed on the Merits.

Through the Habeas petition I petitioned I show I am likely to prevail and succeed on the merits of my petition because the balance of equities tips toward my favor and it's in public interest that the court shall grant the petition for Temporary Restraining order or at least preliminary Injunction.

As I already claimed in my habeas corpus petition, my wrongful detention is impermissible under Zadvydas v. Davis, 533 U. S. 678 (2001). In addition, my detention is impermissible because

Respondents have failed to comply with regulations governing detention of persons subject to removal procedure governing the agency, the Constitution, and INA.

1. I Will Likely Succeed On my Claim that Current Detention Violates Zadvydas.

Sied v. Nielsen, 2018 WL 1876907, at *6 (N. D. Cal. Oct. 21, 2025) (citing authorities; Siguenza v. Moniz, 2025 WL 2734704, at*3 (D. Mass. Sept. 25, 2025) ("Most courts to consider the issue have concluded that the Zadvydas period is cumulative, motivated, in part, by a concern that the federal government could otherwise detain non citizens indefinitely. Therefore my petition to Hebeas Corpus is valid because ICE violated my Due- Process protection in the Fifth amendment.

First for the deprivation of substantive due-process detention in violation of the Fifth amendment and second for the deprivation of procedural due-process detention in violation of the Fifth amendment.

2. I will Likely Succeed On His Claim That Respondents Violated Governing Regulations

As to my claim that ICE violated its own regulations in detaining/ re- detaining me in without a

written warrant and pre-detention hearing Respondents failed to show a clear provision to detain me.

ICE failed to comply its own laws and regulation by violating my right not to have bond in a bond hearing in front of neutral decision maker and by not following the rules and regulation set by ICE.

So I have shown that ICE's unlawful detention violated the law because ICE did not comply with its own regulations under section 241.13(i)(2); Hoac, 2025 WL 199771, at*4;

See also Bui v. Warden Otay Mesa Detention Center Facility, et al., 2025 WL 2988356, at*5 (S. D. Cal. Oct. 23, 2025) (granting petition and ordering release where respondent failed to follow its own regulations in revoking release); Constantinovici v. Bondi, F. Supp. 3d , 2025 WL 2898985 (S. D. Cal. Oct. 10, 2025)(Same); Sun v. Noem, 2025 WL 2800037 (S. D. Cal. Sept. 30, 2025) (granting TRO for release where respondent failed to follow its own regulations in revoking release);

B. I suffer Irreparable Harm Everyday I am *Illegally Detained*.

The Ninth Circuit has recognized "the irreparable harms imposed on anyone subject to immigration detention." Rodriguez V. Bostock, 799 F. Supp. 3d 1239, 1253 (W. D. Wash. 2025) (citing Hernandez v. Sessions, 872 F. 3d 976, 995(9th Cir. 2017)).

The Court concludes that ICE's failure to follow its own regulations resulted in irreparable harm. Government agencies are required to follow their own regulations. United States v. Ramos, 623 F. 3d 672, 683 (9th Cir. 2010) ("it is a well known maxim that agencies must comply with their own regulations.") (citations and quotation marks omitted).

"Both §241.4 and 241.13 were intended to provide due process protections to [non citizens] following the removal period as they are considered for continued detention." McSweeney, 2025 WL 2998376, at *7 (internal citation and quotation marks omitted). ICE and DHS deprived me of these due process protections when failed to provide me with sufficient notice or a prompt interview to respond to the reasons for wrongfully detain me. "it is well established that the deprivation of constitutional rights

unquestionably constitutes irreparable injury.” Melendres v. Arpaio, 695 F. 3 d 990, 1002 (9th Cir 2012); see also Hernandez v. Sessions, 872 F. 3d 976, 995, 1000 (9th Cir 2017) (holding that “[u]nlawful detention” by immigration officials constituted “irreparable harm”).

Under the Second Winter factor, the Court may consider whether I am “likely to suffer irreparable harm in the absence of [injunctive] relief.” Winter, 555 U. S. at 20. I would like to argue that I am experiencing unlawful detention, which is a clear irreparable harm. Given the Court’s finding that I will remain in detention seemingly indefinitely, I am likely to succeed on at least one of my claims, I have established an irreparable harm in the form of unlawful detention. Therefore, the Second Winter factor favors me.

C. The Balance of Equities and the Public’s Interests Favor Grant of the Petition

The consideration of the balance of equities and the public interest in an injunction merge when the government is a party. Yang v. Kaiser, No. 2:25 – CV – DAD – AC (HC), 2025 WL 2791778, at*10 (E. D. Cal. Aug. 20, 2025) (citing Drakes Bay Oyster Co. v. Jewell, 747 F. 3 d 1073, 1092 (9th Cir. 2014) (citing Nken v. Holder, 556 U. S. 418, 435 (2009))).

“It is always in the public interest to prevent the violation of a party’s constitutional rights.” Melendres v. Arpaio, 695 F. 3 d 990, 1002 (9th Cir 2012). furthermore, “[j]ust as the public has an interest in the orderly and efficient administration of this country’s immigration laws, the public has a strong interest in upholding procedural protections against unlawful detention.” Hoac, 2025 WL 1993771, at*6 (internal quotation marks omitted). Here, the central issue is whether my detention is governed by 8 U. S. C. §1225 or 8 U. S. C. §1226, and where the current unlawful detention violates my constitutional right to due process. The balance of equities favor issuance of a TRO. I have established not only that my threatened injuries outweigh the harms that a TRO would cause Respondents but also that a TRO would serve the public interest: ensuring due process maintains an

appropriate balance of interests. See Zadvydas, 533 U. S. at 690; Mejia v. Noem no. 2:25-cv-981-SPC-NPM, 2025 U. S. Dist LEXIS 217352, at *7, 2025 WL 3078656, at *3 (M. D. Fla. Nov 4, 20205) (citing Tesfamichael v. Gonzales, 411 F 3d 169, 178 (5th Cir 2005), and Rodriguez v. Robbins 715.F 3d 1127, 1145 (9th Cir 2013))

Moreover, when “the impact of an injunction reaches beyond the parties, carrying with it a potential for public consequences, the public interest will be relevant to whether the district court grant preliminary injunction.” Hernandez, 872 F. 3d at 996. the Ninth Circuit has recognized that “neither equity nor public’s interest are furthered by allowing violations of federal law to continue.” Galvez v. Jaddou, 52 f. 4th 821, 832 (9th Cir 2022)(holding that the district court did not abuse in discretion in finding the balance of hardships weighed in favor of plaintiffs who credibly alleged that the government was violating the INA). The public interest has a strong interest in upholding procedural protections against unlawful detention.

The harm to Respondent here is minimal. Nothing prevents the Government from re-detaining me if the Government satisfies the procedural requirements and shows the lawful detention is required, warranted. Moreover, a party “cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations.” Zepeda v. U. S. Immigr. & Nat. Serv. 753 F. 2 d 719, 727 (9th Cir, 2023).

D. Security

Finally, Federal rule of Civil Procedure 65(c) specifies that the court “ may issue a ... Temporary Restraining Order only if the movant gives security in an amount that the court consider proper to pay the cost and damages sustained by any party found to have been wrongfully enjoined or restrained. Fed R. Civ P. 65(c). Security is typically required, but” the amount ...is a matter within the discretion of the

trial court, and the court may elect to require no security at all". BellSouth Telecommunications, Inc. v. MCIMetro Access Transmission Serv. LLC, 425 F 3d 964, 971 (11th Cir 2005). Having considered the matter, the court will exercise its discretion not to require security at this time. See Saint Remy v. Bondi No. 3:26-cv-28-MMH-SJH, 2026 U. S. Dist LEXIS 53322, at*3 (M.D. Fla. Jan 12, 2026). That said, this issue may be revisited at any time, and a monetary security may be imposed should an application be made in the interest of justice.

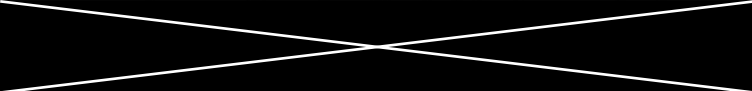
III. CONCLUSION

For the foregoing reasons and the reasons set forth in my petitions, this court should grant me the petition for TRO, or at the very least grant a preliminary injunction, providing that

1. Respondents **SHALL IMMEDIATELY RELEASE** me under appropriate conditions of supervision set forth in 8 C. F. R. §241.5;
2. Respondents are **ENJOINED AND RESTRAINED** from re-detaining me.

Respectfully submitted,

Name: Gabriel Arturo Perez Moreno

Signature: 

Date: 6-29-2026