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

ADRIAN GONZALEZ VILLASANA,

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 Adrian Gonzalez Villasana respectfully submits this Ex Parte Application for a
2 Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65 to prevent ongoing
3 and irreparable constitutional harm. Petitioner has simultaneously filed a Petition for Writ of
4 Habeas Corpus challenging the legality 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 and permitting him to reside at liberty in the
7 United States for approximately three and one-half years. During that period, Petitioner complied
8 with all conditions imposed by DHS, including reporting as directed to ICE in Dallas, Texas. On
9 or about April 29, 2026, while appearing for a routine ICE reporting appointment scheduled by
10 DHS, Respondents abruptly revoked Petitioner's liberty and placed him back into immigration
11 detention without prior notice, without identifying any changed circumstances, and without
12 providing any opportunity for individualized review. Having afforded Petitioner that liberty
13 through its prior release decision, the government cannot revoke it through re-detention without
14 constitutionally adequate process. Petitioner is likely to succeed on the merits of his habeas claim
15 because his detention is governed by INA § 236(a), not INA § 235(b), and because Respondents
16 have failed to provide the constitutionally required process before depriving Petitioner of his
17 physical liberty.

18 Petitioner is currently detained at the Central Valley Annex in McFarland, California.
19 Without immediate judicial intervention, Petitioner will continue to suffer irreparable harm, as
20 the loss of physical liberty, even for minimal periods of time, constitutes irreparable injury.
21 Because Respondents have provided no notice, no individualized justification, and no
22 opportunity for review of his detention, Petitioner has no meaningful avenue through which to
23 challenge the legality of his continued confinement other than this habeas proceeding. Petitioner
24 therefore respectfully requests that this Court issue a Temporary Restraining Order directing
25 Respondents to immediately release him under the same conditions that existed prior to his re-
26 detention.

1 This application is submitted in conjunction with the Petition for Writ of Habeas Corpus,
2 the accompanying declaration of counsel, and the proposed order filed concurrently herewith.
3 Respondents will receive notice of this application through the Court's CM/ECF system.
4 Petitioner submits this application on an ex parte basis because immediate relief remains
5 necessary to prevent ongoing constitutional injury.

6 **II. LEGAL STANDARD**

7 A temporary restraining order is an extraordinary remedy intended to prevent immediate
8 and irreparable harm. A movant must demonstrate: (1) a likelihood of success on the merits; (2)
9 a likelihood of suffering irreparable harm in the absence of relief; (3) that the balance of equities
10 tips in his favor; and (4) that an injunction is in the public interest. *Winter v. Natural Resources*
11 *Defense Council, Inc.*, 555 U.S. 7, 20 (2008).

12 At the same time, where, as here, a petitioner challenges the legality of detention, habeas
13 corpus provides the appropriate mechanism for relief. A federal court may grant a writ of habeas
14 corpus where a petitioner is in custody in violation of the Constitution or laws of the United
15 States. 28 U.S.C. § 2241(c)(3). The writ serves as the traditional means of securing release from
16 unlawful custody. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Challenges to civil
17 immigration detention are properly brought through habeas corpus under 28 U.S.C. § 2241. *INS*
18 *v. St. Cyr*, 533 U.S. 289, 305–08 (2001).

19 In this context, the central inquiry is whether Petitioner's detention is authorized by the
20 governing statutory framework and comports with due process. Where detention is not
21 authorized by statute or is imposed without constitutionally adequate process, habeas relief is
22 warranted.

23 **III. ARGUMENT**

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

25 Petitioner is likely to succeed on the merits because his re-detention violates the Due
26 Process Clause and is not authorized by the governing statutory framework. After releasing
27 Petitioner from custody and permitting him to reside at liberty in the United States for
28

1 approximately three and one-half years, Respondents created a protected liberty interest in his
2 continued freedom from physical restraint. Respondents subsequently revoked that liberty
3 through re-detention during a routine ICE reporting appointment, without prior notice, without
4 identifying any changed circumstances, and without providing any opportunity to be heard
5 before a neutral decisionmaker. Courts in this District have repeatedly held that such re-detention
6 without constitutionally adequate process is unlawful.

7 Petitioner was previously released from custody on October 25, 2022, pursuant to a Form
8 I-220A and permitted to reside at liberty in the United States for approximately three and one-
9 half years without incident before being re-detained during a routine ICE reporting appointment
10 in Dallas, Texas. Throughout that period, Petitioner complied with the conditions of his release,
11 including reporting as directed to ICE. By releasing Petitioner and allowing him to remain at
12 liberty for years while continuing to supervise him through periodic reporting requirements,
13 Respondents necessarily determined that detention was not required to ensure Petitioner's
14 appearance or protect the community.

15 The inspection-stage detention framework of INA § 235(b) applies to individuals seeking
16 admission at or near the time of entry. Once the government releases a noncitizen from custody
17 and permits him to reside at liberty in the United States, that framework no longer applies. Any
18 subsequent detention must proceed, if at all, under INA § 236(a), which governs detention of
19 individuals already present in the United States and provides for an individualized custody
20 determination. Courts in this District have consistently held that § 1226(a)—not § 1225(b)—
21 governs detention under materially indistinguishable circumstances.

22 Respondents have nevertheless detained Petitioner under § 235(b), thereby denying him
23 access to a custody hearing before an Immigration Judge. Because Respondents are detaining
24 Petitioner under an improper statutory framework and without lawful authority, Petitioner has
25 established a strong likelihood of success on the merits.

26 In addition, Respondents' decision to revoke Petitioner's longstanding liberty without
27 prior notice or any individualized determination independently violates the Due Process Clause.

1 Recent decisions from this District have recognized that detention under materially similar
2 circumstances violates due process and warrants habeas relief. See *Diaz v. Warden, Central*
3 *Valley Annex*, No. 1:26-cv-04309 (E.D. Cal. June 25, 2026) (Doc. No. 9 at 3–5) (applying the
4 *Mathews v. Eldridge* factors and ordering release where the petitioner had previously been
5 permitted to reside at liberty in the United States and was detained without any individualized
6 showing of flight risk or danger); *Rojas-Castro v. Warden, Central Valley Annex*, No. 1:26-cv-
7 04271-DAD-JDP (E.D. Cal. June 9, 2026) (Doc. No. 9) (ordering release where petitioner had
8 previously been released and later re-detained without constitutionally adequate process).

9 Like the petitioners in those cases, Petitioner was released from immigration custody
10 pursuant to a Form I-220A, remained at liberty in the United States for approximately three and
11 one-half years while complying with DHS's reporting requirements, and was abruptly re-
12 detained during a routine ICE reporting appointment without prior notice, any individualized
13 determination, or any identified change in circumstances. The same constitutional principles
14 apply here. After permitting Petitioner to remain at liberty for years, Respondents could not
15 revoke that liberty through mandatory detention under § 235(b) without constitutionally adequate
16 process. Petitioner is therefore likely to succeed on the merits.

17 **B. Petitioner Will Suffer Irreparable Harm in the Absence of Immediate** 18 **Relief**

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

24 Courts have repeatedly held that the loss of liberty resulting from unlawful detention
25 constitutes irreparable harm warranting injunctive relief. Where a petitioner is detained without
26 lawful statutory authority, each additional day of detention inflicts irreparable injury that cannot
27 be remedied after the fact.

1 This harm is particularly acute here. Petitioner was previously released from immigration
2 custody and permitted to reside at liberty in the United States for approximately three and one-
3 half years. During that period, Petitioner complied with all conditions imposed by DHS,
4 including reporting as directed to ICE in Dallas, Texas. Respondents nevertheless abruptly
5 revoked Petitioner's liberty during a routine ICE reporting appointment, without prior notice,
6 without identifying any changed circumstances, and without providing any procedural
7 safeguards. The continued deprivation of Petitioner's liberty under these circumstances
8 constitutes ongoing and irreparable harm.

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

10 The balance of equities and the public interest weigh strongly in favor of granting relief.
11 Petitioner faces the ongoing loss of his physical liberty through detention that lacks statutory
12 authorization, while Respondents suffer no cognizable harm from being required to comply with
13 the Constitution and governing law.

14 Because the government is a party, the balance of equities and public interest factors
15 merge. Courts have consistently recognized that the public interest is served by ensuring that
16 federal officials act in accordance with the Constitution and federal statutes.

17 This is particularly true here. Respondents re-detained Petitioner after permitting him to
18 reside at liberty in the United States for approximately three and one-half years. During that
19 period, Petitioner complied with all conditions imposed by DHS, including reporting as directed
20 to ICE in Dallas, Texas. Respondents nevertheless revoked Petitioner's liberty during a routine
21 ICE reporting appointment without prior notice, without identifying any changed circumstances,
22 and without providing any constitutionally adequate process.

23 Accordingly, the balance of equities and the public interest strongly favor the issuance of
24 a temporary restraining order.

25 **IV. CONCLUSION**

26 For the foregoing reasons, Petitioner respectfully requests that this Court grant his
27 Application for a Temporary Restraining Order and order Respondents to immediately release
28

1 Petitioner from custody, restoring him to the status quo ante under the same conditions that
2 existed prior to his re-detention. In the alternative, should the Court determine that immediate
3 release is not warranted, Petitioner respectfully requests that the Court order Respondents to
4 provide a constitutionally adequate custody hearing consistent with the requirements of due
5 process.

6 Respectfully submitted,

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

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