

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Case No. 0:26-cv-03566-KMM-LIB

JOSE ALBERTO CHIMAN DIAZ,

Petitioner,

v.

Todd Blanche, *et al.*,

Respondents.

**PETITIONER'S EMERGENCY
MOTION FOR TEMPORARY
RESTRAINING ORDER
UNDER FRCP 65(b) AND
PRELIMINARY INJUNCTION
UNDER FRCP 65(a)**

**EXPEDITED HANDLING
REQUESTED**

**PETITIONER'S EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION
WITH
EXPEDITED HANDLING**

Petitioner Jose Alberto Chiman Diaz ("Mr. Chiman Diaz") moves for an emergency Temporary Restraining Order and Preliminary Injunction enjoining Respondents, and all persons acting on Respondents' behalf, from continuing to infringe on Petitioner's constitutional rights by subjecting him to imminent removal, or taking any other related enforcement action against Petitioner, including transferring Petitioner away from the jurisdiction of this District pending these proceedings and continuing to detain Petitioner during the pendency of his underlying Petition for Writ of Habeas Corpus proceedings, pursuant to 28 U.S.C. § 2241, the Fifth Amendment of the United States Constitution, 8 U.S.C. §§ 1101 *et seq.* ("the INA"), 5 U.S.C. §§ 701 *et seq.* (the "APA"),

and Rule 65(a) and (b) of the Federal Rules of Civil Procedure. The moving party does not intend at this time to present witness testimony at an evidentiary hearing. In support of this Motion, Petitioner states:

1. This Motion is supported by the accompanying Brief in Support of Petitioner's Motion for a Temporary Restraining Order and Preliminary Injunction, Verified Petition for a Writ of Habeas Corpus, exhibits, and any other material the Court may consider at any hearing on this Motion.

2. As is more fully set out in Petitioner's Verified Writ of Habeas Corpus, Petitioner's Reply, and Brief in Support of Motion for Temporary Restraining Order and Preliminary Injunction, Mr. Chiman Diaz has been granted deferred action. That deferred action has not been terminated, therefore, Petitioner is not removable from the United States and his continued detention is unlawful and any action taken to carry out his removal would also be unlawful.

3. Additionally, Petitioner has been issued a U-Visa Bona Fide determination and is likely to be issued a U-Visa precipitously. Mr. Chiman Diaz and his family are suffering and will continue to suffer irreparable harm if he is removed from the United States before a decision has been issued on the Petition. Because the balance of equities and the public interest weigh heavily in favor of granting the injunction and allowing Mr. Chiman Diaz to await a decision on the Petition, this motion should be granted. *See Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. 1981) (en banc) (identifying factors for consideration of a preliminary injunction).

4. Petitioner asks this court to enter a Temporary Restraining Order without

notice under Federal Rule of Civil Procedure 65(b)(1). Fed. R. Civ. P. 65(a). Petitioner has submitted a Verified Petition for a Writ of Habeas Corpus, ECF No. 1, attesting to specific facts showing “immediate and irreparable injury, loss, or damage.” Fed. R. Civ. P. 65(b)(1)(A). Petitioner gave notice to Respondents of this motion by email on August 27, 2026.

5. Petitioner requests that the Court waive the requirement of bond in Federal Rule of Civil Procedure 65(c). *Richard/Wilkin Joint Powers Auth. v. U.S. Army Corps of Eng’rs*, 826 F.3d 1030, 1043 (8th Cir. 2017) (whether to require bond is within district court’s discretion). Public interest litigation is a recognized exception to the bond requirement, especially where, as here, requiring a bond would sustain an unlawful federal practice and the relief sought would not pose a hardship to government Respondents. *See id.*

6. Accordingly, Petitioner prays that this Court grant his request for a temporary restraining order enjoining Respondents from removing Petitioner from the United States pending these proceedings, transferring Petitioner away from the jurisdiction of this District pending these proceedings or continuing to detain Petitioner pending these proceedings. The only mechanism to ensure that Petitioner does not continue to be unlawfully detained, transferred, or removed in further violation of his due process rights is an ex-parte temporary restraining order from this Court.

Date: August 27, 2026

Respectfully submitted,
ZHANAY LAW LLC

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CERTIFICATE OF SERVICE

I certify that on August 27, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to counsel for Defendants. I also provided a copy of this pleading to the U.S. Attorney's Office by electronic mail.

/s/ Edwin Zhanay
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Attorney for Petitioner