

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Enrique Aquileo Contreras Martinez,

Petitioner,

v.

Kristi Noem
Secretary, U.S. Department of
Homeland Security et al.

Respondents.

Cause No. 4:25-cv-03806

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
AND REQUEST FOR ORDER TO SHOW CAUSE PURSUANT TO 28
U.S.C. § 2243

TO THE HONORABLE JUDGE OF THE COURT:

Petitioner, by and through undersigned counsel, respectfully moves this Court for a Temporary Restraining Order (TRO) pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and for an Order to Show Cause under 28 U.S.C. § 2243, and in support thereof states:

I. BACKGROUND

The Petitioner was taken into immigration custody on or about July 10,

2025. On July 22, 2025, an Immigration Judge ordered Petitioner released on a bond of \$8,000, finding Petitioner was not a flight risk or danger to the community. (*Dkt 1 Ex 1*) On July 22, 2025, after the hearing, DHS immediately filed a Notice of Intent to Appeal Custody Redetermination on EOIR Form 43. (*Dkt 1 Ex 2*) Filing of the notice created an automatic stay of the bond grant for 10 days. Per statute, DHS has 10 days to file their formal appeal with the Board of Immigration Appeal. On July 30, 2025, DHS filed an appeal on the bond grant; however, it was rejected by the Board of Immigration Appeals as improperly filed. (*Dkt 1 Ex 3*) No corrected appeal was filed. DHS's failure to file an appeal to the Immigration Judge's bond order to the Board of Immigration Appeals within the regulatory timeframe resulted in the order becoming final and enforceable. The Petitioner's mother and attorney attempted to pay his bond numerous times online ICE bond portal however the portal would not accept the payment. (*Dkt 1 Ex 4*) On August 8, 2025, Petitioner's mother went to the local ICE office at 126 Northpoint and attempted to post his bond with certified funds. After waiting for over two hours, she was told by ICE that her son was not eligible for bond and that they would not accept the certified funds. (*Dkt 1 Ex 5*) This was despite bringing the bond order by the immigration judge. Despite numerous attempts by Petitioner's family and counsel to post bond, ICE has refused to process the bond payment or effectuate release.

II. LEGAL STANDARD

The purpose of a TRO is to preserve the status quo and prevent irreparable harm until the court makes a final decision on injunctive relief. *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loe. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974). To obtain a TRO, an applicant must satisfy the following four elements: (1) substantial likelihood of success on the merits; (2) substantial threat of irreparable injury; (3) the threatened injury outweighs any harm the order might cause to the defendant; and (4) the injunction will not disserve the public interest. *Enrique Bernat F., S.A. v. Guadalajara, Inc.*, 210 F.3d 439,442 (5th Cir. 2000). "[H]arm is irreparable where there is no adequate remedy at law, such monetary damages." *Janvey v. Alguire*, 647 F.3d 585,600 (5th Cir. 2011). In general, a TRO is not appealable. TROs are "usually effective for only very brief periods of time, far less than the time required for an appeal . . . and are then generally supplanted by appealable temporary or permanent injunctions." *Board of Governors of the Fed. Reserve Sys. v. DLG Fin. Corp.*, 29 F.3d 993, 1000 (5th Cir. 1994).

III. ARGUMENT

A. Likelihood of Success on the Merits

ICE has no lawful authority to detain Petitioner after the lapse of the stay period without a valid appeal. Continued custody violates federal regulation, the INA, and due process.

B. Irreparable Harm

Continued unlawful detention violates Petitioner's liberty interest and causes daily harm. Courts routinely find detention itself to constitute irreparable injury. Petitioner is in his final semester at the University of Houston and is scheduled to graduate with a Bachelor of Science in Construction Management. If he is not released from custody he will be forced to drop out of school one semester short of his degree. (*See Ex 1 Affidavits*)

C. Balance of Equities and Public Interest

The balance of equities favors the Plaintiff in granting a TRO as it would serve in public interest to uphold due process and prevent family separation.

IV. REQUEST FOR ORDER TO SHOW CAUSE UNDER 28 U.S.C. § 2243

Under 28 U.S.C. § 2243, the Court must grant the writ or issue an order to show cause "forthwith" unless it plainly appears the petitioner is not entitled to relief. "The person to whom the writ or order is directed shall make a return certifying the true cause of the detention...within three days unless for good cause additional time, not exceeding twenty days, is allowed."

Accordingly, Petitioner respectfully requests the Court issue an Order to Show Cause requiring Respondents to appear and justify Petitioner's continued detention and failure to comply with the IJ's final bond order.

V. PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

- 1) Issue a Temporary Restraining Order compelling Respondents to immediately accept payment and process the bond for release;
- 2) Issue an Order to Show Cause directing Respondents to file a return within 3 days explaining the legal basis for continued detention;
- 3) Schedule an expedited hearing as soon as practicable;
- 4) Award such other and further relief as the Court deems just and proper.

VII. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests the Court to grant this Emergency Motion for a Temporary Restraining Order and

schedule a show cause hearing as soon as possible.

/s/Javier Rivera

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CERTIFICATE OF SERVICE

I certify that on August 14, 2025, the foregoing document was filed with the Court through the Court CM/ECF system on all parties and counsel registered with the Court CM/ECF.

Dated this 14th day of August, 2025.

/s/ Javier Rivera
Javier Rivera