

1 Emily L. Robinson Esq. (SBN: 285343)
2 Law Office of Emily L. Robinson
3 5012 Eagle Rock Blvd.
4 Los Angeles, CA 90041
5 emily@lawofficeemilyrobinson.com
6 (323) 524-7611
7 (323) 524-4001

8 Counsel for Petitioners

9 UNITED STATES DISTRICT COURT FOR THE
10 SOUTHERN DISTRICT OF CALIFORNIA

11 JUAN CARLOS CORTES
12 HERNANDEZ,

13 Petitioners,
14 vs.

Case No. **'25CV3167 JO MMP**

15 Kristi NOEM, Secretary, U.S.
16 Department of Homeland Security;
17 Pamela BONDI, U.S. Attorney General;
18 Todd LYONS, Acting Director,
19 Immigration and Customs Enforcement;
20 Gregory J. ARCHAMBEAULT,
21 Director, San Diego Field Office,
Immigration and Customs Enforcement,
Enforcement and Removal Operations;
Jeremy CASEY, Warden, Imperial
Regional Detention Facility; Christopher
J. LAROSE, Warden, Otay Mesa
Detention Center; EXECUTIVE
OFFICE FOR IMMIGRATION
REVIEW; IMMIGRATION AND
CUSTOMS ENFORCEMENT; and
DEPARTMENT OF HOMELAND
SECURITY,

Respondents

PETITIONER'S EX PARTE
APPLICATION FOR A
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE

Petitioner, by and through undersigned counsel, hereby files this motion for a temporary
restraining order pursuant to Fed. R. Civ. P. 65(d). Petitioner was granted relief from removal
pursuant to the Convention Against Torture. During his time in those proceedings, he was
released from custody and identified by DHS and EOIR as having severe mental health issues

1 that required additional procedural safeguards. He is now suffering in detention due to inadequate
2 treatment. These issues are well documented and known to Respondents. Consistent with the
3 accompanying Petition for Writ of Habeas Corpus and Memorandum of Points and Authorities,
4 Petitioner seeks relief under the Fifth Amendment, the Immigration and Nationality Act, FARRA
5 and the Convention Against Torture, and the government's statutory obligation under 8 U.S.C. §
6 1231(b)(1)(F) to assess and provide "personal care" when removing a person with serious mental
7 illness.

8 **DHS has indicated its immediate intent to remove Petitioner** to an unknown third
9 country without meaningful notice or an opportunity to be heard. Other third countries are more
10 likely than not to pose severe harm to Petitioner given broad human rights abuses of disabled
11 individuals and limited access to required medications. Under Respondents' policies governing
12 third-country removals, Petitioner faces removal to an unknown third country at any moment, and
13 there is no guarantee he will be afforded proper legal protections to challenge that removal.
14 Under Respondents' current policy, they may effectuate third-country removal without even
15 asking him if he fears removal, let alone informing him of the process of applying for protection.
16 Even where Respondents do provide notice of removal to a third country, and where a person
17 does express fear, their policy provides that an interview will occur within 24 hours, without
18 notice to counsel and without any meaningful opportunity to prepare. No further review by an
19 immigration judge, much less from a federal court, is available. Petitioner requests exceptional
20 relief in the form of a Temporary Restraining Order because, given his serious mental illness and
21 recent psychotic decompensation in ICE custody, he may not have the capacity to timely
communicate with counsel regarding any notice to remove him to a third country such that he

1 could assert any fear claim at all. Further, his continued detention is perilous to his mental health
2 and cannot continue.

3 Petitioner seeks an order preserving the status quo by facilitating his immediate release
4 from custody and preventing his removal. He seeks this emergency relief because he will
5 otherwise be removed to a third country without adequate process or consideration of his mental-
6 health-related needs. DHS has indicated its immediate intent to remove Petitioner to an unknown
7 third country without notice or an opportunity to be heard. Petitioner also seeks a temporary
8 restraining order to prevent his relocation outside of the Southern District of California pending
9 final resolution of this case and moves for the issuance of an order to show cause as to why a
preliminary injunction should not issue.

10 The TRO sought by Petitioner is an order:

11 (1) requiring Respondents to immediately release Petitioner and enjoining them from re-detaining
12 Petitioner absent further order of this Court;

13 (2) in the alternative, ordering Petitioner's immediate release from Respondents' custody and
14 enjoining Respondents from re-detaining them unless they demonstrate at a pre-deprivation bond
15 hearing, by clear and convincing evidence, that they are a flight risk or danger to the community,
such that physical custody is required.

16 and

17 (3) restraining Respondents from removing Petitioner from the United States, and from
18 transferring him outside the Southern District of California, pending further order of this Court.
19 Petitioner also requests the Court schedule oral argument as soon as the Court's calendar allows
20 and the parties are available, should it be necessary to resolve this motion.

21 Respondents have given no position on this TRO application.

1 WHEREFORE, for the reasons set forth in the accompanying memorandum of points and
2 authorities, Petitioner respectfully requests this Court to grant the Temporary Restraining Order
3 and set the case for further briefing.
4

5 **RESPECTFULLY SUBMITTED this 14th day of NOVEMBER, 2025**

6 **/s/ Emily L. Robinson**
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8 5012 Eagle Rock Blvd.
9 Los Angeles, CA 90041
10 (O) (323) 524-7611
11 Emily@lawofficeemilyrobinson.com
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CivLR 83.3(g)(2) DECLARATION OF COUNSEL

Pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure and CivLR 83.3(g)(2), I hereby certify that on Monday November 11, 2025, at approximately 2:25 PM, I emailed Ms. Janet Cabral, Chief, Civil Division, U.S. Attorney's Office, Southern District of California. A colleague had previously informed me that due to the lapses in federal funding, the additional AUSA contact would be Glen Dorgan at Glen.Dorgan@usdoj.gov. Both Mr. Dorgan and Mary Wiggins, Civil Docketing Clerk, U.S. Attorney's Office for the Southern District of California were cc'd on this email. I informed them that I intended to file on November 11, 2025, and received no reply. Today Petitioner was directly threatened with imminent third country removal. I will alert them again upon filing this petition and I will provide a copy of the Application for a Temporary Restraining Order, Memorandum of Points and Authorities, Supporting Exhibits, and Petition for Writ of Habeas Corpus to Ms. Cabral, Mr. Dorgan, and Mary Wiggins, Civil Docketing Clerk, U.S. Attorney's Office for the Southern District of California by email immediately after the pleadings are filed via ECF.

RESPECTFULLY SUBMITTED this 14th day of NOVEMBER, 2025

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