

CARLO BROOKS
carlo@carlobrooks.com
THE BROOKS LAW FIRM, APC
3826 Grand View Blvd., Suite 661472
Los Angeles, CA 90066
Telephone: (310) 691-9373

Attorneys for Petitioner

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

JUNIOR RODRIGUEZ
GONZALES,
Petitioner

v.

U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT;
KRISTI NOEM, Secretary, U.S.
Department of Homeland Security;
TODD LYONS, Acting Director,
U.S. Immigration and Customs
Enforcement; CHRISTOPHER
CHESTNUT, Warden, California
City Detention Facility,
Respondents,

Respondents

Case No.: 1:25-at-1350

**NOTICE OF MOTION AND
MOTION FOR EMERGENCY
TEMPORARY RESTRAINING
ORDER**

**(Filed concurrently with
Emergency Petition For Writ Of
Habeas Corpus Pursuant To 28
U.S.C. § 2241)**

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TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that as soon as the matter may be heard, Petitioner Junior Rodriguez, by and through undersigned counsel, will and hereby does move this Court for an Emergency Temporary Restraining Order (“TRO”) enjoining Respondents from removing Petitioner from the United States and ordering his immediate release, or, in the alternative, requiring Respondents to provide Petitioner with a prompt bond hearing before a neutral decisionmaker. This motion is based on the accompanying memorandum of points and authorities, the declarations submitted herewith, all pleadings and papers on file in this action, and any oral argument the Court may permit.

EXIGENT CIRCUMSTANCES

- Absent **immediate injunctive relief**, Mr. Rodriguez faces **imminent removal** to Guatemala, where he will be deprived of any meaningful opportunity to reopen his removal proceedings and seek termination based on the vacatur of his conviction.
- The Ninth Circuit has denied Petitioner’s motion to stay the mandate, and **the mandate is set to issue on Monday, December 22, 2025**, creating grave exigency as Petitioner faces imminent removal despite the vacatur of his conviction.
- Petitioner has retained counsel to file a motion to reopen his removal

1 proceedings, but will be unable to do so if removed when the mandate issues,
2
3 on Monday December 19, 2025. This irreparable harm is compounded by the
4 inhumane conditions of his continued detention at the California City
5 Detention Facility.
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioner Junior Rodriguez is currently detained by ICE at the California City Detention Facility, facing imminent removal based solely on a conviction that has now been vacated. The government's continued detention and threatened removal of Mr. Rodriguez, despite the elimination of the sole ground for his removability, violates his constitutional rights and threatens to irreparably deprive him of the opportunity to reopen and terminate his removal proceedings.

Immediate injunctive relief is necessary to prevent irreparable harm and to preserve the Court's jurisdiction to adjudicate his claims.

II. FACTUAL BACKGROUND

Mr. Rodriguez is a 40-year-old native and citizen of Guatemala, detained at the California City Detention Facility, a repurposed state prison in the Mojave Desert known for inhumane conditions. (See **Exhibit 1**, true and correct copies of filings and orders in *Rodriguez Gonzales v. Bondi*, Case No. 24-4794; *supra*, Dkt. No 62 "TEXT CLERK ORDER. Petitioner's motion to stay the mandate (DE 61), is denied.")

He has been in ICE custody throughout his removal proceedings, following completion of a 16-month sentence for attempted second-degree robbery under

1 California Penal Code § 211. *Id.*; Declaration of Junior Rodriguez Gonzales.

2
3 His removal order was premised solely on this January 9, 2023 conviction,
4 which was treated as an aggravated felony “theft” attempt. On November 6, 2025,
5 the Los Angeles County Superior Court vacated this conviction under Penal Code
6 section 1473.7. As a result, Mr. Rodriguez is no longer “convicted of an aggravated
7 felony,” eliminating the only ground of removability in this case. *Id.*

8
9 Despite this dispositive development, **Mr. Rodriguez faces imminent**
10 **removal.** The Ninth Circuit has denied his motion to stay the mandate, and **the**
11 **mandate is set to issue on Monday December 22, 2025 – one business day from**
12 **the date of this filing.** If removed, Mr. Rodriguez will be deprived of any
13
14 meaningful opportunity to file a motion to reopen and seek termination of his
15 removal proceedings based on the vacatur of his conviction.

16
17 Mr. Rodriguez has retained counsel to file a motion to reopen, but the
18 government’s actions threaten to render that remedy illusory. He seeks an
19 **emergency** TRO to stay his removal and to secure his release from prolonged
20 detention, or, in the alternative, a prompt bond hearing before a neutral
21 decisionmaker.

22 **III. LEGAL STANDARD**

23
24 The standard for issuing a temporary restraining order is “substantially
25 identical” to that governing the issuance of a preliminary injunction. *Washington v.*
26
27
28

1 *Trump*, 847 F.3d 1151, 1159 n.3 (9th Cir. 2017). Thus, Petitioner is entitled to a
2
3 temporary restraining order if he shows that (1) he is “likely to succeed on the
4 merits”; (2) he is “likely to suffer irreparable harm in the absence of preliminary
5 relief”; (3) the “balance of equities tips in [his] favor”; and (4) “an injunction is in
6 the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).
7

8 Under the Ninth Circuit’s sliding-scale approach, Petitioner is also entitled to
9 a temporary restraining order if he has raised “serious questions going to the
10 merits,” the “balance of hardships tips sharply in [his] favor,” and the other two
11 *Winter* factors are satisfied. *All for the Wild Rockies v. Cottrell*, 632 F.3d 1127,
12 1131, 1135 (9th Cir. 2011).
13
14

15 A writ of habeas corpus is available to individuals detained within the *United*
16 *States*. *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). The writ’s traditional
17 function is to secure release from illegal custody. *Preiser v. Rodriguez*, 411 U.S.
18 475, 484 (1973). A court may grant a writ of habeas corpus to a petitioner who
19 demonstrates that he is in custody in violation of the Constitution or federal law. 28
20 U.S.C. § 2241(c)(3).
21
22

23 Challenges to immigration-related detention are within the purview of a
24 district court’s habeas jurisdiction. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001);
25 *Demore v. Kim*, 538 U.S. 510, 517 (2003). The Due Process Clause of the Fifth
26 Amendment entitles noncitizens to due process of law in deportation proceedings.
27
28

1 *Demore v. Kim*, 538 U.S. at 523 (quoting *Reno v. Flores*, 507 U.S. 292, 306
2
3 (1993)).

4 Due process requires “adequate procedural protections” to ensure that the
5 government’s asserted justification for physical confinement outweighs the
6 individual’s constitutionally protected interest in avoiding physical restraint.
7
8 *Zadvydas*, 533 U.S. at 690. In the immigration context, the Supreme Court has
9 recognized only two valid purposes for civil detention—to mitigate the risks of
10 danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

12 **IV. ARGUMENT**

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

14 **1. The Sole Ground for Petitioner’s Removal Has Been** 15 16 **Eliminated**

17 Mr. Rodriguez’s removal order rests entirely on his now-vacated conviction.
18
19 Exhibit 1, *supra*. The vacatur eliminates the only ground of removability. The
20 government’s continued detention and threatened removal of Mr. Rodriguez,
21 despite the elimination of any legal basis for removal, is unlawful and violates due
22 process.
23

24 **2. Prolonged Detention Without a Bond Hearing Violates Due** 25 26 **Process**

27 Mr. Rodriguez has been detained for a prolonged period without a bond
28

1 hearing before a neutral decisionmaker. Due process requires that the government
2 provide bond hearings to noncitizens facing prolonged detention. *Zadvydas*, 533
3 U.S. at 690; *Demore*, 538 U.S. at 528. The government must establish, at an
4 individualized hearing, that continued detention is justified by clear and convincing
5 evidence of flight risk or danger, taking into account alternatives to detention. See
6 *Zadvydas*, 533 U.S. at 697.

7
8
9 **B. Petitioner Faces Irreparable Harm Absent a TRO**

10 Absent immediate injunctive relief, Mr. Rodriguez faces imminent removal
11 to Guatemala, where he will be deprived of any meaningful opportunity to reopen
12 his removal proceedings and seek termination based on the vacatur of his
13 conviction.
14

15 His removal order was premised solely on this January 9, 2023 conviction,
16 which was treated as an aggravated felony “theft” attempt. On November 6, 2025,
17 the Los Angeles County Superior Court vacated this conviction under Penal Code
18 section 1473.7. Exhibit 1. As a result, Mr. Rodriguez is no longer “convicted of an
19 aggravated felony,” eliminating the only ground of removability in this case. *Id.*

20 Despite this dispositive development, Mr. Rodriguez faces imminent
21 removal. The Ninth Circuit has denied his motion to stay the mandate, and the
22 mandate is set to issue on Monday December 22, 2025 – one business day from
23 the date of this filing. If removed, Mr. Rodriguez will be deprived of any
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1 meaningful opportunity to file a motion to reopen and seek termination of his
2 removal proceedings based on the vacatur of his conviction.
3

4 This irreparable harm is compounded by the inhumane conditions of his
5 continued detention at the California City Detention Facility.
6

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

8 The balance of hardships tips sharply in Mr. Rodriguez's favor. The
9 government cannot claim any legally cognizable harm from being enjoined from
10 removing an individual whose removal order is no longer supported by law. The
11 public interest is always served by upholding constitutional rights and preventing
12 unlawful detention and removal.
13
14

15 **V. CONCLUSION**

16 Petitioner respectfully prays that the Court **IMMEDIATELY** enter a
17 temporary restraining order to prevent irreparable harm to Petitioner's
18 constitutional rights A [Proposed] Temporary Restraining Order is attached to this
19 Motion.
20
21

22 Dated: December 19, 2025

Respectfully submitted,

23 THE BROOKS LAW FIRM, APC

24 By: /s/ Carlo Brooks

25 Carlo Brooks

26 3826 Grand View Blvd., Suite 661472

27 Los Angeles, CA 90066

(310) 691-9373

28 carlo@carlobrooks.com

Attorneys for Petitioner

STATEMENT OF RELATED CASES

Pursuant to the Local Rules, there are no known interested parties other than those participating in this case.

DATED: December 19, 2025

Respectfully submitted,

/s/ Carlo Brooks
CARLO BROOKS

CERTIFICATE OF SERVICE

I certify that I served a copy of this document and its attachments on the Court and all parties by filing this document with the Clerk of the Court through the CM/ECF system, which will provide electronic notice and an electronic link to this document to all counsel of record.

DATED: December 19, 2025

Respectfully submitted,

/s/ Carlo Brooks
CARLO BROOKS