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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

J.D.R.P.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 4:26-cv-164-CDL-CHW
	)	28 U.S.C. § 2241
WARDEN, STEWART DETENTION	)	
CENTER, <i>et al.</i>,	)	
	)	
Respondent.	)	

**EMERGENCY MOTION FOR PRELIMINARY INJUNCTION AND TEMPORARY
RESTRAINING ORDER AND IMMEDIATE RELEASE PENDING HABEAS**

Petitioner Juan David Ramos Perez, by and through undersigned counsel, moves for an emergency temporary restraining order ("TRO") under Fed. R. Civ. P. 65(b) restraining Respondents from continuing their efforts, which they began on February 6, 2027, to remove Petitioner from the United States when he has deferred action. Because Petitioner is presently suffering an immediate and irreparable injury before the adverse parties can be heard in opposition, immediate interim relief is necessary. Petitioner's attorney certifies here her efforts made to give prior notice and the reasons why notice should not be required.

I. FACTUAL BACKGROUND

Petitioner hereby incorporates by reference all factual allegations set forth in his verified Petition for Writ of Habeas Corpus, filed with this Court pursuant to 28 U.S.C. § 2241, as if fully set forth herein. Doc 1. Petitioner is a 19-year-old citizen of Guatemala. Doc 1-3. Petitioner entered the United States without admission and inspection in 2022. *Id.* On January 24, 2024, Petitioner was granted Special Immigration Juvenile Status (“SIJS”) under 8 U.S.C. § 1101(a)(27)(J) based on his parents’ abandonment and has deferred action until January 23, 2028. Doc 1-5. Deferred action prevents his removal from the United States. When the priority date of Petitioner’s approved Form I-360 for SIJS is current, Petitioner will be eligible to apply for permanent residency through adjustment of status. Petitioner was arrested for driving under the influence of alcohol in September of 2025 in Ball Ground, Georgia, and again in November of 2025 in Canton, Georgia. Petitioner was granted a bond in both cases, and the charges are currently pending. Petitioner has no criminal convictions.

Petitioner was detained by U.S. Immigration and Customs Enforcement (“ICE”) on approximately November 30, 2025, and sent to the Stewart Detention Center. Doc. 1-8. On January 26, 2026, Petitioner was ordered removed by the Immigration Judge. Doc 1-10. Neither Petitioner nor counsel for DHS reserved the right to appeal, so that order of removal is final. *Id.* At Respondent’s last hearing on January 26, 2026, the Immigration Judge warned counsel for the Department of Homeland Security (“DHS”) that now that Petitioner’s removal proceedings were complete, Petitioner’s continued detention could be in violation of Petitioner’s due process rights.

On January 28, 2026, Counsel filed a Petition for Habeas Corpus with this Court. Respondents have not filed their Responses which are due on February 19, 2026. On February 5, 2026, Petitioner was taken into a room with other individuals who have a final order of removal and told by the ICE officers that their removal process had begun. They told Petitioner that he

would first be transferred to a detention center in Louisiana and then deported to Guatemala. Petitioner told Counsel that the ICE officers did not seem aware that Petitioner has deferred action. Also on February 5, 2026, Counsel confirmed with Petitioner's family that they have received no correspondence from Respondents regarding a notice to revoke his deferred action.

On February 6, 2026, Counsel emailed the ICE Enforcement and Removal Operations ("ERO") supervisors at the Stewart Detention Center and Petitioner's assigned ICE deportation officer that Petitioner was told he would be removed. Counsel reminded them that Petitioner has deferred action and cannot be legally removed from the United States. Counsel received no response from them. At 5:11 pm on February 6, 2026, the Detention Facility Appointment Scheduler (DFAS) emailed Counsel that her upcoming virtual visit with Petitioner on February 10, 2026, was cancelled "due to detainee being transferred to a new facility on 2026-02-06 17:11:33."¹ At 5:12 pm on February 6, 2026, the ERO eFile system emailed Counsel that Petitioner had been transferred to the Jackson Parrish Correctional Facility.²

II. LEGAL STANDARD

To obtain temporary and preliminary injunctive relief, Petitioner must demonstrate that (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). When the government is a party, the balance of equities and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Under the circumstances presented herein, no security bond is required under Federal Rule of Civil

¹ DFAS notification February 6, 2026, "auto-cancelling" Counsel's appointment on February 10, 2026, due to Petitioner's transfer.

² DFAS transfer notice to the Jackson Parrish Correctional Facility.

Procedure 65(c). Federal courts may issue interim relief under 28 U.S.C. § 2241 and the All Writs Act, 28 U.S.C. § 1651(a) to preserve jurisdiction and prevent irreparable injury.

III. ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits

Petitioner is likely to succeed on the merits because he is not in removal proceedings, and he cannot be deported because he has deferred action. *See Guerra Leon v. Noem*, No. 25-01495 (W.D. La. Oct. 30. 2025). There is no legal basis for his continued detention. Petitioner has been detained by Respondents since approximately November 30, 2025, but DHS has not taken any steps, not even initial steps, to revoke Petitioner's deferred action. In addition, even if they did attempt to revoke his deferred action, the basis to do so is weak at best. Petitioner has no criminal convictions. He does have two pending charges for driving under the influence, but he is presumed innocent until proven guilty.

B. Petitioner Has Suffered and Will Continue to Suffer Irreparable Harm Absent Emergency Injunctive Relief

Petitioner is presently enduring an ongoing constitutional injury that constitutes irreparable harm as a matter of law. The continued deprivation of physical liberty without lawful statutory authority is not speculative or abstract. It is immediate, concrete, and incapable of being remedied after the fact. Courts have consistently recognized that loss of liberty for even a short period of time constitutes irreparable harm. *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Every additional day Petitioner remains confined compounds the injury. Time spent in custody cannot be returned, and no subsequent ruling can restore the days, weeks, or months of freedom wrongfully taken from him. In addition, Petitioner is separated from his family and could lose his employment due to his detention, both of which have been recognized as irreparable harms. *Nat'l TPS All. v. Noem*, 150 F.4th 1000, 1025-26 (9th Cir. 2025).

Not only is Petitioner's detention a loss of liberty, but also his unlawful deportation would make him ineligible to apply for adjustment of status when the priority date of his I-360 Petition for SIJS is current. In order to be eligible for adjustment of status, an individual must be physically present in the United States. 8 U.S.C. § 1225(a). Individuals abroad can apply for an immigrant visa which results in permanent residency when the individual travels to the United States on the immigrant visa; however, there is no immigrant visa classification for individuals with SIJS. *See* 9 FAM 502.1 (showing Juvenile Court Dependents as a visa classification for adjustment of status only). If Petitioner is removed from the United States, he will be ineligible for permanent residency. That harm is irreparable because Petitioner will not have any way of getting back into the United States, even with a temporary visa, because the moment he departs the United States he will be inadmissible under 8 U.S.C. 1182(a)(9)(A)(ii) (aliens ordered removed), 8 U.S.C. 1182(a)(9)(B)(i)(II) (aliens who have departed from the United States after being unlawfully present for one year or more).

C. Balance of Hardships and Public Interest Weigh Heavily in Petitioner's Favor

The final two factors for injunctive relief—the balance of hardships and public interest—“merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). The balance of equities overwhelmingly favors Petitioner. Petitioner faces weighty hardships, namely the deprivation of his liberty, separation from his family, loss of employment, and loss of the opportunity to apply for permanent residency. Respondents, by contrast, face minimal hardship. Petitioner is not a flight risk as he has deferred action and will be eligible to apply for permanent residency in a few years. He does not present a danger to the community as evidenced by two different judges giving Petitioner a bond after his arrests.

Moreover, Respondents “cannot suffer harm from an injunction that merely ends an unlawful practice.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). The public interest is served by the faithful execution of the immigration laws, and that interest includes respect for protections Congress has enacted and to which the United States has committed itself by treaty. *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005) (recognizing “the public interest in having the immigration laws applied correctly and evenhandedly”); *Leiva-Perez v. Holder*, 640 F.3d 962, 971 (9th Cir. 2011) (noting “the public’s interest in ensuring that we do not deliver [noncitizens] into the hands of their persecutors”); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992) (discussing “the public interest in Government observance of the Constitution and laws”).

D. Efforts to Give Respondents Notice and Why Notice Should Not Be Required

Counsel emailed three ICE ERO supervisors at the Stewart Detention Center and Petitioner’s assigned deportation officer before Petitioner was moved to the Jackson Parrish Detention Center that Petitioner cannot legally be removed. Those emails went unanswered. Counsel has communicated with Petitioner’s deportation officer previously and received a response, so Counsel is confident that the email address is correct. ICE ERO does not have a public telephone number at the Stewart Detention Center. Given Counsel’s efforts and the lack of contact information available to Counsel, notice to Respondents of this TRO should not be required.

IV. CONCLUSION

Petitioner is presently incarcerated without legal authority and in the process of being removed when his deferred action legally prevents his removal. That deprivation is ongoing and irreparable. Habeas corpus exists to stop precisely this kind of unlawful detention and removal. Every additional day Petitioner remains confined brings him closer to removal and compounds the constitutional injury and undermines the Court’s ability to provide meaningful relief. Because

Petitioner has demonstrated a substantial likelihood of success on the merits, irreparable harm, that the balance of equities weighs decisively in his favor, that relief serves the public interest, and Counsel's efforts to inform Respondents, the Court should grant emergency relief and restore Petitioner to the lawful liberty he enjoyed before his detention.

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

1. Enjoin Respondents from transferring Petitioner outside the Middle District of Georgia while this habeas action is pending;
2. Grant an emergency temporary restraining order ordering Petitioner's immediate release from ICE custody pending adjudication of the Petition for Writ of Habeas Corpus; and,
3. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted February 7, 2026,

/s/ Anna Erwin

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CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2026, I electronically filed the foregoing Emergency Motion for Preliminary Injunction and Temporary Restraining Order with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all counsel of record.

Respectfully submitted February 7, 2026,

/s/ Anna Erwin

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