IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Miguel Gustavo GONZALEZ BARRETO	§	
	§	
Petitioner,	§	
	§	
v.	§	
	§	
KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE U.S. DEPARTMENT OF HOMELAND SECURITY,	§	**Case No. 5:26-cv-513**
	§	
PAMELA BONDI, IN HER OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL,	§	
	§	
TODD LYONS, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT,	§	
	§	
MIGUEL VERGARA, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE ICE SAN ANTONIO FIELD OFFICE, and	§	
	§	
WARDEN OF THE KARNES COUNTY IMMIGRATION PROCESSING CENTER, IN HIS OFFICIAL CAPACITY.	§	
Respondents.	§	

PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65, Petitioner moves this Court for a Temporary Restraining Order and Preliminary Injunction enjoining Respondents from violating his rights under Fifth Amendment, and immigration laws by determining that he is subject to mandatory detention and ordering his immediate release. This request is supported by the concurrently filed Memorandum of Points and Authorities in Support of Request for Temporary Restraining Order. In support of this motion, Petitioner states the following:

I. FACTUAL BACKGROUND

1. Petitioner Miguel Gustavo Gonzalez Barreto is in the physical custody of Respondents at the Karnes County Immigration Processing Center, in Karnes City, Texas. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Department of Justice (DOJ) have concluded Petitioner is subject to mandatory detention.

2. Petitioner is a 25-year-old citizen of Venezuela who, according to Respondents' allegations, entered the United States without inspection on or about February 6, 2023. Since that date, Petitioner has continuously resided in the United States for more than two years.

3. During this period, Petitioner lived openly in the interior of the United States with the authorization of the Department of Homeland Security following the grant of parole. He also applied for Temporary Protected Status ("TPS"), where eligible, and timely filed an I-589 application for asylum and/or withholding of removal.

4. On or about September 30, 2025, Petitioner was traveling as a passenger in a vehicle in Abilene, Texas, when the driver was stopped by local law enforcement for speeding. Petitioner was seated in the passenger seat and presented a valid Real ID issued by the State of North Carolina. Nevertheless, after inquiring into the occupants' immigration status, the sheriff contacted Immigration and Customs Enforcement ("ICE"). As a result, Petitioner was apprehended by ICE. Despite having a pending asylum application, Petitioner was taken into custody.

5. Following Petitioner's arrest and transfer to the Karnes County Immigration Processing Center, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions. The Petitioner remains in detention. Absent relief from this Court, he faces prolonged immigration detention while litigating his claims for asylum and withholding of removal in removal proceedings.

6. As a result of Respondents' unlawful actions, Petitioner cannot request a bond hearing because the Immigration Judge does not have jurisdiction. Petitioner is now subject to ongoing detention in violation of her Constitutional rights. Petitioner suffers irreparable harm by being detained without the opportunity to request release before a neutral arbiter, due to the deprivation of liberty without due process and the emotional harm the petitioner currently suffers while detained. Petitioner therefore brings this motion for a preliminary injunction and temporary restraining order preventing further detention without a bond hearing.

7. On November 25, 2025, the court in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.,* Case No. 5:25-cv-01873, (C.D. Cal.), granted the Plaintiffs' motion for class certification, creating a nationwide bond eligible class of noncitizens who entered without inspection, were later detained, and are now subject to mandatory detention statutes. The Court found that all class members are entitled to bond hearings under 8 U.S.C. § 1226(a) rather than being treated as mandatory detainees under 8 U.S.C. § 1225(b)(2)(A). ***See Exhibit A.***

II. PETITIONER SATISFIES THE STANDARD FOR A TEMPORARY RESTRAINING ORDER

8. Petitioner is entitled to a preliminary injunction preventing continued detention. If Petitioner's motion is not granted, he is certain to suffer irreparable harm both to his constitutional rights and to his health. He is also substantially likely to succeed on the merits of his claim: that the government may not detain him without a bond hearing before a neutral arbiter, as required by law. Further, no public interest is served by the government's indefinite, mandatory detention of an individual who entered the United States nearly three years ago.

9. To obtain a temporary restraining order, Petitioner must demonstrate: (1) a substantial likelihood of success on the merits; (2) irreparable harm absent immediate relief; (3) that the balance of hardships tips in Petitioner's favor; and (4) that the injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

10. Petitioner meets all four requirements, as set forth in detail in the accompanying Memorandum of Points and Authorities.

A. LIKELIHOOD OF SUCCESS ON THE MERITS

11. Petitioner has a substantial likelihood of success on the habeas petition on multiple independent grounds.

12. First, Petitioner's detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A). The BIA's interpretation in *Matter of Yajure Hurtado* conflicts with the statutory text and with nearly 100 federal district court decisions that have rejected it.

13. Second, Petitioner's prolonged detention without an individualized hearing violates procedural due process under the Fifth Amendment. *Mathews v. Eldridge*, 424 U. S. 319 (1976), requires balancing Petitioner's fundamental liberty interest against the government's interest, and that balance tips decisively in favor of a bond hearing.

14. Third, because the Petitioner has no disqualifying criminal convictions, he possesses a constitutionally protected liberty interest that may not be infringed absent due process of law.

B. IRREPERABLE HARM

15. Petitioner suffers irreparable harm from continued unlawful detention for over three months. The deprivation of liberty itself constitutes irreparable injury that cannot be remedied by monetary damages.

C. BALANCE OF HARDSHIP AND PUBLIC INTEREST

16. The balance of hardships tips sharply in Petitioner's favor. Petitioner's fundamental liberty interest and the concrete harms from detention far outweigh any government interest in continued detention.

17. The government has presented no evidence that Petitioner poses a flight risk or danger to the community.

18. The public interest favors protecting constitutional rights and preventing unlawful detention.

III. CONCLUSION AND RELIEF REQUESTED

19. For the foregoing reasons and those set forth in the accompanying Memorandum of Points and Authorities, Petitioner respectfully requests that this Court issue a temporary restraining order requiring Respondents to release Petitioner from immigration detention immediately, subject to reasonable conditions including:

a) Appearing for all scheduled immigration court hearings;

b) Maintaining current address information; and

c) Any other condition this Court deems appropriate.

DATED this 28th day of January 2026.

Respectfully submitted,

/s/ Felix L. Galvez

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/s/ Felix L. Galvez
Felix L. Galvez

CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2026, I electronically filed the foregoing on the Court's CM/ECF system, that all participants in the case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/s/ Felix L. Galvez
Felix L. Galvez