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

ORLANDO GABRIEL MIRANDA SEVILLA,

Petitioner,

v.

Bobby Thompson, Warden of South Texas Detention Facility; Miguel Vergara, Field Office Director of Enforcement and Removal Operations, San Antonio Field Office, Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; DEPARTMENT OF HOMELAND SECURITY

Respondents

Civil Action No.: 5:26-cv-514

PETITION FOR WRIT OF HABEAS CORPUS

PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER OR, IN THE ALTERNATIVE, FOR A PRELIMINARY INJUNCTION

Orlando Gabriel Miranda-Sevilla (Petitioner) files this motion requesting the Court's request for a temporary restraining order (TRO) or, in the alternative, for a preliminary injunction preventing his removal pending a final decision in his petition for a writ of habeas corpus.

Petitioner is a Nicaraguan national presently detained by Respondents in South Texas Detention Facility in Pearsall, Texas. Mr. Miranda-Sevilla has been in ICE custody since

November 15, 2025 Petitioner does not have a final order of removal. He is presently in removal proceedings pursuant to 8 U.S.C. § 1229a, with a master hearing scheduled for January 27,2026.

Petitioner's detention is unlawful because Respondents have refused to provide him with a bond hearing under 8 U.S.C. § 1226(a), despite his clear entitlement to such a hearing as a member of the Bond Eligible Class certified in Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). In that case, the district court issued a binding declaratory judgment holding that class members are detained under § 1226(a) and may not be denied consideration for release on bond under 8 U.S.C. § 1225(b)(2).

Respondents are parties to Maldonado Bautista and are bound by that judgment, which has the full force and effect of a final judgment under 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to detain Petitioner without a bond hearing and have asserted that even if this Court orders his release, he would be subject to re-arrest as an alien present without admission—an apparent reliance on § 1225(b)(2) that directly contravenes the declaratory judgment.

Absent immediate injunctive relief, Petitioner will continue to suffer irreparable harm in the form of unlawful detention and the ongoing threat of re-arrest in violation of federal law and a binding court order. Petitioner therefore seeks this Court's intervention to preserve the status quo, enforce compliance with federal law, and prevent further violations of his statutory and constitutional rights while his habeas petition is pending.

I. FACTUAL BACKGROUND

Orlando Gabriel Miranda Sevilla is a 33-year-old native and citizen of Nicaragua, born on [redacted], 1992. He entered the United States on or about October 25, 2022, and has remained in the country continuously since that date. He has no criminal record and no prior immigration violations. Orlando has a pending application for asylum with U.S. Citizenship and Immigration

Services, which remains under review. Based on this application, he was lawfully issued an Employment Authorization Document, a Social Security card, and a Texas driver's license, demonstrating his compliance with immigration law and intent to pursue lawful relief.

Orlando is the father of a seven-year-old daughter who resides in the United States and is herself under immigration proceedings. Although he is no longer in a relationship with the child's mother, they maintain open communication, and Orlando exercised frequent weekend visitation with his daughter prior to his detention. His daughter has a strong emotional bond with him and depends on his care and support, all of which have been disrupted by his prolonged detention.

Orlando was detained on November 15, 2025, while on his way to work, and has now been detained for approximately sixty-six days. During his detention, ICE confiscated his passport, driver's license, and work permit, severely limiting his ability to manage personal matters and pursue his asylum case. While in detention, he has suffered from serious medical conditions, including stomach ulcers, significant weight loss, and a stomach virus caused by the facility's limited and unsuitable food. These conditions have required medical attention within the facility.

Orlando's detention has caused substantial hardship to himself and his minor daughter, despite his lack of criminal history, long-standing compliance with immigration requirements, pending asylum application, and strong family and community ties. Releasing him on bond would allow him to address his medical needs, care for his daughter, continue lawful employment, and pursue his asylum application, while ensuring his appearance at all future immigration proceedings.

Petitioner's ongoing detention has caused significant hardship and uncertainty for him and his family and continues despite his lack of criminal history, his demonstrated compliance with immigration proceedings, his pending asylum application, and his eligibility for a bond hearing under 8 U.S.C. § 1226(a). Releasing Petitioner on bond would allow him to obtain necessary prenatal medical care, care for his minor child, continue pursuing lawful immigration relief.

ARGUMENT

Petitioner's detention is governed by 8 U.S.C. § 1226(a) and the Due Process Clause of the Fifth Amendment, which prohibits the deprivation of liberty without lawful process. Petitioner does not have a final order of removal and is currently in pending removal proceedings under 8 U.S.C. § 1229a. As a member of the Bond Eligible Class certified in Maldonado Bautista v. Santacruz, Petitioner is entitled to consideration for release on bond under § 1226(a) and may not be detained under 8 U.S.C. § 1225(b)(2). Respondents' continued detention of Petitioner without a bond hearing violates the Immigration and Nationality Act and a binding declaratory judgment that has the full force and effect of a final judgment under 28 U.S.C. § 2201(a).

Petitioner seeks this TRO to prevent transfer to another detention center during the pendency of his petition before this court, and his removal from the United States while his Petition is before this Court. During their detention, detainees are frequently moved between detention centers to satisfy bed-space and other facility requirements. Frequently, they are transferred from the unit in Dilley, Texas to units in Laredo, Encinal, Karnes City and Bastrop Texas. These transfers make maintaining communication between client and counsel virtually impossible. In addition, to not allow him to remain in the United States during his proceedings is a direct violation of his right to Due Process.

Respondents have expressed their intent to continue Petitioner's unlawful detention and to re-arrest him under 8 U.S.C. § 1225(b)(2) even if this Court orders his release, in violation of federal law and a binding declaratory judgment. Absent injunctive relief, Petitioner will suffer irreparable harm in the form of continued unlawful deprivation of liberty without due process. Respondents will suffer no harm from an order requiring them to comply with federal law and a binding court judgment. Granting a temporary restraining order or preliminary injunction serves the public interest by upholding the fundamental principle that federal officers are bound to follow the statutes and judicial decisions that govern their authority. Accordingly, this Court should enjoin Respondents from continuing to detain Petitioner without a bond hearing and from re-arresting him under 8 U.S.C. § 1225(b)(2) while this case is pending.

The Legal Standard for a Preliminary Injunction

A petitioner is entitled to a preliminary injunction to preserve the status quo and prevent irreparable harm until the parties' rights can be determined at trial on the merits. *City of Dallas v. Delta Air Lines, Inc.*, 847 F.3d 279, 285 (5th Cir. 2017). The "status quo" sought to be restored is "the last peaceable uncontested status existing between the parties before the disputed developed." Charles Alan Wright & Arthur R. Miller, 11A FEDERAL PRACTICE & PROCEDURE § 2948 (3d ed. 2013). Thus, the status quo in this case means preventing Respondents from continuing Petitioner's unlawful detention without a bond hearing and from re-arresting him under 8 U.S.C. § 1225(b)(2).

To obtain a preliminary injunction, a petitioner must show (1) a substantial likelihood of prevailing on the merits; (2) a substantial likelihood of irreparable injury if the injunction is not granted; (3) the threatened injury outweighs any harm that will result to the nonmovant if the injunction is not granted; and (4) the injunction will not disserve the public interest. *Winter v.*

Natural Resources Defense Council, Inc., 129 S.Ct. 365, 374 (2008). The first two factors, substantial likelihood of prevailing on the merits and of irreparable harm, are the most critical. *Nken v. Holder*, 556 U.S. 418, 434 (2009). In this circuit, the first factor, likelihood of success on the merits, is the most important. *Tesfamichael v. Gonzales*, 411 F.3d 169, 176 (5th Cir. 2005). Further, "where there is a serious legal question involved and the balance of the equities heavily favors [an injunction], the movant only needs to present a substantial case on the merits." *Lake Eugenie Land & Dev., Inc. v. BP Exploration & Prod. (In re Deepwater Horizon)*, 732 F.3d 326, 345 (5th Cir. 2013) (quoting *Weingarten Realty Investors v. Miller*, 661 F.3d 904, 910 (5th Cir. 2011)).

A. Petitioner is entitled to a TRO and/or a Preliminary Injunction Because Respondents' threatened action violates federal law

1. Petitioner has a substantial likelihood of prevailing on the merits of his case.

Petitioner's petition for writ of habeas only seeks to have his released from unlawful detention or, in the alternative, provided a bond hearing under 8 U.S.C. § 1226(a). He is currently in pending removal proceedings before the immigration court and does not have a final order of removal. Furthermore, he has no fixed release date. Based on this argument and the arguments contained in his petition, Petitioner's case has a substantial likelihood of success on the merits..

2. Petitioner will suffer irreparable harm is Respondents are allowed to continue his unlawful detention or re-arrest him under 8 U.S.C§ 1225(b)(2)

Petitioner will suffer immediate and irreparable harm if Respondents continue to detain him without a bond hearing or re-arrest him under 8 U.S.C. § 1225(b)(2) while this Court considers his habeas petition. As stated above, Petitioner has a pending petition before this Court, and his right to due process requires that he either be released or receive a bond hearing under § 1226(a)

while his case is decided. To do otherwise would cause Petitioner irreparable harm. Additionally, Respondents' refusal to conduct a lawful bond hearing for a Bond Eligible Class member deprives him of due process under the Fifth Amendment. Constitutional violations—particularly those involving physical liberty—are presumed to be irreparable. The continuation of detention and the threat of an unlawful re-arrest together create a degree of irreparable harm that no later court ruling can cure.

"In general, a harm is irreparable where there is no adequate remedy at law, such as monetary damages." *Janvey v. Alguire*, 647 F.3d 585, 600 (5th Cir. 2000). No amount of money physically restores Petitioner's status in the United States. If denied preliminary relief, Petitioner will suffer irreparable harm namely the continued unlawful detention, the deprivation of liberty, and the disruption to his daily life and ability to comply with immigration proceedings.

3. The Balance of Equities Tips Heavily in Favor of Petitioner and an Injunction is in the Public Interest

The threatened injury to Petitioner far outweighs any harm that will result to Respondents if the Court issues a TRO or an injunction. Further, the issuance of an injunction does not disserve the public interest but rather promotes it because it upholds the rule of law.

Petitioner is presently detained and Respondents have indicated they may continue his detention or re-arrest him under 8 U.S.C. § 1225(b)(2). He is entitled to a bond hearing as a Bond Eligible Class member, and continued detention without one violates federal law. Continuing to detain him in violation of federal law will result in irreparable harm by depriving him of liberty and due process. The resulting harms to the Defendants are nonexistent or at most minimal. They are simply held to the rule of law.

In addition, granting the injunction does not disserve the public interest but rather promotes it. It is in the public interest for government officials to comply with federal law. *MCR Oil Tools,*

L.L.C v. United States DOT, 2024 U.S. App. LEXIS 14297 at *19 (5th Cir. June 12, 2024) ("There is a 'substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.'") (quoting *Texas v. United States*, 40 F.4th 205, 229 (5th Cir. 2022)). And in this case, the law is clear that Respondents have no authority to continue detaining Petitioner or to deny him a bond hearing in violation of 8 U.S.C. § 1226(a) and the declaratory judgment in Maldonado Bautista. Granting the injunction promotes the rule of law.

CONCLUSION

For the foregoing reasons, this Court should issue a restraining order or preliminary injunction and instruct Respondents to release Petitioner or, alternatively, provide him with a bond hearing under 8 U.S.C. § 1226(a) pending a final disposition of his habeas petition.

Dated: January 28, 2026

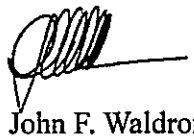
Respectfully submitted,

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CERTIFICATE OF SERVICE

On January 28, 2026 undersigned counsel served a copy of this motion on the U.S. Attorney for the Western District of Texas as required by serving one of his designated agents for service of process. In addition, undersigned counsel emailed this motion to Assistant U.S. Attorney Lacy McAndrew at to the following address: Lacy.McAndrew@usdoj.gov.

Respectfully submitted,



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ORDER

Pending before the Court is Petitioner's Motion for a Temporary Restraining Order or, in the Alternative, for a Preliminary Injunction. After having reviewed the motion and the evidence in support of the motion, the parties' arguments and the applicable law, the Court is of the opinion that the motion should be GRANTED.

The Court concludes that Petitioner has satisfied the factors necessary for issuance of a preliminary injunction. He is likely to succeed on the merits of her claim and he is likely to suffer irreparable harm. Further, the balance of equities tilts in his favor and an injunction promotes the public interest by requiring federal officers to comply with regulations that bind them.

It is ORDERED that Defendants shall be prohibited from removing the Petitioner until his hearings have held and a final order has been issued regarding the merits of his Petition for a Writ of Habeas.

Signed this ___ day of January 2026.

UNITED STATES DISTRICT JUDGE