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

DAILIX HERNANDEZ MENDEZ,

Petitioner,

v.

Rose Thompson, Warden, Karnes County Immigration Processing Center; **Miguel Vergara**, Field Office Director of Immigration & Customs Enforcement, Enforcement and Removal Operations San Antonio Field Office, **Kristi Noem**; Secretary of the U.S. Department of Homeland Security; and **Pamela Bondi**, Attorney General of the United States, in their official capacities, **Department of Homeland Security, Executive Office of Immigration Review**

Respondents.

Civil Action No.: 5:26-cv-543

PETITION FOR WRIT OF HABEAS CORPUS

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

Petitioner Dailix Hernandez Mendez (Petitioner) files this motion requesting the Court's request for a temporary restraining order (TRO) or, in the alternative, for a preliminary injunction preventing her removal pending a final decision in her petition for a writ of habeas corpus.

Petitioner is ap Cuban national presently detained by Respondents in Karnes County Immigration Processing Center in Karnes City, Texas. Ms. Hernandez-Mendez has been in ICE

custody since October 12, 2025. On December 9, 2025, an Immigration Judge denied Ms. Hernandez-Mendez's request for bond. She remains in ICE custody while her asylum application remains pending and despite having previously been authorized to work lawfully in the United States.

Ms. Hernandez-Mendez is detained pursuant to 8 U.S.C. § 1226, which governs the detention of noncitizens pending the resolution of their removal proceedings. Ms. Hernandez-Mendez is a Cuban national who has an application for asylum currently pending before the immigration court. Prior to her detention, she held valid employment authorization issued by the Department of Homeland Security, reflecting the government's prior determination that she was eligible to remain and work lawfully in the United States while her immigration case was adjudicated.

On December 9, 2025, an Immigration Judge denied Ms. Hernandez-Mendez's request for bond, resulting in her continued detention. That denial has caused her to remain confined without a final order of removal and without an individualized finding that her ongoing detention is necessary to serve a legitimate governmental interest. Her detention has become prolonged and punitive in nature, exceeding what is constitutionally permissible under the Due Process Clause of the Fifth Amendment.

Ms. Hernandez-Mendez's continued detention is not justified by any showing that she poses a danger to the community or a flight risk. She has substantial ties to the United States, including her marriage to her spouse of two years, with whom she has maintained a committed relationship for approximately ten years. Her spouse is also engaged in ongoing immigration proceedings. Absent immediate judicial intervention, Ms. Hernandez-Mendez will continue to

suffer irreparable harm through unlawful confinement despite her pending asylum claim and prior authorization to live and work in the United States.

Respondents' continued detention of Petitioner without a meaningful opportunity for release violates federal statutory and constitutional law. Petitioner therefore seeks this Court's intervention through habeas relief and temporary injunctive relief to remedy her unlawful detention.

I. FACTUAL BACKGROUND

Petitioner came to the United States in 2023, She timely filed an application for asylum on May 31,2024, which remains pending before the Immigration Court. Petitioner has not received a final order of removal and remains in ongoing removal proceedings.

ICE officers took Petitioner into custody on October 12, 2025 and she is currently detained at Karnes County Immigration Processing Center in Karnes City, Texas. On December 9, 2025, an Immigration Judge denied Petitioner's request for bond, resulting in her continued detention pursuant to 8 U.S.C. § 1226(a). Petitioner has a merits hearing currently scheduled for January 27, 2026.

Despite the absence of a final order of removal and the pendency of her asylum application, Petitioner remains detained without a lawful or individualized justification for continued confinement. Her detention has become prolonged and punitive in nature, exceeding what is reasonably necessary to serve any legitimate governmental purpose.

Petitioner's continued detention has caused significant physical and emotional hardship, disrupted her family life with her spouse, and deprived her of her liberty without due process of law. Petitioner, through counsel, intends to file a Petition for Writ of Habeas Corpus challenging her unlawful detention and seeks interim injunctive relief to preserve her liberty interests

pending adjudication of that petition.

II. ARGUMENT

Petitioner's detention is governed by federal law, including 8 U.S.C. § 1226(a), and by the Constitution's Fifth Amendment, which guarantees that no person shall be deprived of liberty without due process of law. Under § 1226(a), noncitizens detained pending removal proceedings are entitled to an individualized bond determination, and prolonged detention without a lawful basis or an individualized finding of necessity violates due process.

In this case, Petitioner's request for bond was denied on December 9, 2025. She remains detained despite the absence of a final order of removal, the pendency of her asylum application, and the lack of any showing that she poses a flight risk or danger to the community. Her continued detention is therefore prolonged, punitive, and constitutionally excessive.

Petitioner seeks this TRO to prevent her removal from the United States while her Petition is before this Court. To not allow her to remain in the United States during her proceedings is a direct violation of her right to Due Process.

Respondents have expressed their intent to remove Petitioner in violation of federal law. If removed, Petitioner will suffer irreparable harm if her removal is not enjoined. Respondents will suffer no harm since an order from this Court will simply instruct them to comply with federal law. Lastly, granting a TRO or preliminary injunction is in the public interest because it upholds the important principle that federal officers are bound to comply with the regulations that bind them. Accordingly, this Court should enter an order enjoining Respondents from executing Petitioner's removal order prior to her hearings and a final disposition in the case.

A. 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. 20217). The "status quo" is the last peaceable, uncontested condition existing between the parties prior to the dispute. Charles Alan Wright & Arthur R. Miller, 11A *Federal Practice & Procedure* § 2948 (3d ed. 2013). Here, the relevant status quo is Petitioner's continued presence in the United States while her bond and removal proceedings are pending, which can only be preserved by preventing Respondents from continuing her detention or executing any removal.

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)).

B. Petitioner is entitled to a TRO and/or a Preliminary Injunction Because Respondents' Detention violates federal law

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

Petitioner's petition for writ of habeas seeks only to secure Petitioner's release pending adjudication of her removal proceedings. Because her detention lacks statutory or constitutional justification and violates the Fifth Amendment's due process protections, she has a substantial likelihood of prevailing on the merits of her habeas petition.

2. Petitioner will suffer irreparable harm is Respondents Continue Her Detention

Petitioner will suffer immediate and irreparable harm if Respondents continue her detention. She has a constitutional right to due process and individualized review under § 1226(a), and continued detention without justification infringes on her liberty. Constitutional violations, particularly those involving physical liberty, are presumptively irreparable. *Janvey v. Alguire*, 647 F.3d 585, 600 (5th Cir. 2011).

Continued detention also disrupts Petitioner's family life, deprives her of the ability to work lawfully, and prevents her from fully participating in her asylum proceedings. There is no adequate remedy at law that can redress the deprivation of her physical liberty. Monetary damages or post hoc relief cannot restore the harm caused by unlawful confinement.

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 potential harm to Respondents. An injunction would not impose any undue burden on the government; it would simply require Respondents to comply with federal law by not continuing detention absent lawful justification.

Granting a TRO or preliminary injunction also serves the public interest, as it reinforces the rule of law and ensures that federal officers are bound by the legal limits of their authority. *MCR Oil Tools, L.L.C. v. United States DOT*, 2024 U.S. App. LEXIS 14297, at *19 (5th Cir. June 12, 2024) (quoting *Texas v. United States*, 40 F.4th 205, 229 (5th Cir. 2022)) ("There is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.").

Here, continued detention in violation of statutory and constitutional law would result in irreparable harm to Petitioner, while the government suffers no cognizable injury. Therefore, the balance of equities and public interest weigh decisively in favor of granting a TRO or preliminary injunction.

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant a temporary restraining order or preliminary injunction, directing Respondents to refrain from executing her removal order pending further proceedings in this case.

Dated: January 29, 2026

Respectfully submitted,

John F. Waldron, Attorney at Law
3201 Cherry Ridge, Suite A-109
San Antonio, Texas 78230
(210) 838-1704
(210) 521-5755 Fax
jwaldron@jfwlawfirm.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

On January 29, 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,



John F. Waldron, Attorney at Law
3201 Cherry Ridge, Suite A-109
San Antonio, Texas 78230
(210) 838-1704
(210) 521-5755 Fax
jwaldron@jfwlawfirm.com
Counsel for Petitioner

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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. She is likely to succeed on the merits of her claim and she is likely to suffer irreparable harm. Further, the balance of equities tilts in her 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 her hearings have held and a final order has been issued regarding the merits of her Petition for a Writ of Habeas.

Signed this ___ day of February, 2026.

_____
UNITED STATES DISTRICT JUDGE