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

MAIRELIS FLORES MOLINA, *Petitioner,* v. Rose Thompson, Warden of Karnes County Immigration Processing Center; 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-00631 **PETITION FOR WRIT OF HABEAS CORPUS**

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

Petitioner, A# [redacted], Mairelis Flores Molina (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 a Cuban national presently detained by Respondents in Karnes County Immigration Processing Center at Karnes County, Texas. Ms. Flores Molina has been in ICE

custody since December 16, 2025. Petitioner does not have a final order of removal. She is presently in removal proceedings pursuant to 8 U.S.C. § 1229a, with a master hearing scheduled for February 13th, 2026.

Petitioner's detention is unlawful because Respondents have refused to provide her with a bond hearing under 8 U.S.C. § 1226(a), despite her 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 her release, she 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 her statutory and constitutional rights while her habeas petition is pending.

I. FACTUAL BACKGROUND

Mairelis Flores Molina is a 35-year-old native and citizen of Cuba who entered the United States on or about September 24th, 2023 by herself. She has remained in the United States continuously since that date. Petitioner has no criminal record and no prior immigration

violations. Her record reflects that she poses no danger to the community and has consistently complied with all immigration requirements. Petitioner previously filed a Form I-485 under the Cuban Adjustment Act in order to regularize her immigration status. She was issued a valid Employment Authorization Document and Social Security number. Petitioner consistently complied with all immigration requirements, including attending her scheduled immigration court hearings and ICE check-in appointments. At all times, she acted in good faith and followed the immigration process as required.

Petitioner is currently detained at the Karnes County Immigration Processing Center in Karnes County, Texas, where she remains in the custody of the Department of Homeland Security. She was detained on December 16, 2025, while appearing for her scheduled immigration court hearing. As of February 2, 2026, Petitioner has been detained for approximately 46 days without a bond hearing, despite her eligibility for release under 8 U.S.C. § 1226(a).

Petitioner has been diagnosed with diabetes and requires daily medication to regulate her blood sugar levels. Since being detained, she has missed multiple medical appointments related to her medication and ongoing treatment. As a result, she has experienced pain and significant discomfort due to the lack of consistent medication and adequate medical attention from detention staff. Petitioner has also previously requested medical care for a painful urinary tract infection, but she has not received treatment.

Petitioner's ongoing detention has caused significant hardship and uncertainty for her and her minor children and continues despite her lack of criminal history, her demonstrated compliance with immigration proceedings, her pending Cuban Adjustment of Status application, and her eligibility for a bond hearing under 8 U.S.C. § 1226(a). Releasing Petitioner on bond would

allow her to obtain necessary medical care, care for her minor children, continue pursuing lawful immigration relief, and ensure her appearance at all future immigration proceedings.

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 her petition before this court, and 2) her removal from the United States while her 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, Encino, Karnes City and Bastrop Texas. These transfers make maintaining communication between client and counsel virtually impossible. In addition, 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 continue Petitioner's unlawful detention and to re-arrest her under 8 U.S.C. § 1225(b)(2) even if this Court orders her 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 her under 8 U.S.C. § 1225(b)(2) while this case is pending.

The Legal Standard for a Preliminary Injunction

A plaintiff 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 her under 8 U.S.C. § 1225(b)(2).

To obtain a preliminary injunction, a plaintiff 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 her case.

Petitioner's petition for writ of habeas only seeks to have her released from unlawful detention or, in the alternative, provided a bond hearing under 8 U.S.C. § 1226(a). She is currently in pending removal proceedings before the immigration court and does not have a final order of removal. Furthermore, she has no fixed release date. Based on this argument and the arguments contained in her 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 her unlawful detention or re-arrest her under 8 U.S.C§ 1225(b)(2)

Petitioner will suffer immediate and irreparable harm if Respondents continue to detain her without a bond hearing or re-arrest her under 8 U.S.C. § 1225(b)(2) while this Court considers her habeas petition. As stated above, Petitioner has a pending petition before this Court, and her right to due process requires that she either be released or receive a bond hearing under § 1226(a) while her 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 her 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 her 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 her detention or re-arrest her under 8 U.S.C. § 1225(b)(2). She is entitled to a bond hearing as a Bond Eligible Class member, and continued detention without one violates federal law. Continuing to detain her in violation of federal law will result in irreparable harm by depriving her 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 her 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 her with a bond hearing under 8 U.S.C. § 1226(a) pending a final disposition of her habeas petition.

Dated: February 2, 2026

Respectfully submitted,

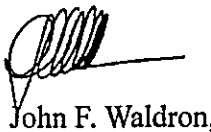


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CERTIFICATE OF SERVICE

On February 2, 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 Plaintiff'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 Plaintiff 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 Plaintiff 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