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FEB 06 2026

United States District Court Western
District of Texas Austin Division
501 W. 5th Street, Suite 1100
Austin, TX 78701

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY ck DEPUTY

WUILLIANS ARCANGEL RAMIREZ CEDENO

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THROUGH AND BY HER "NEXT FRIEND" ESPOSA
Yeraldin Josefina Mavares Díaz
Petitioner

1:26 CV 00307 ADA

United States Attorney's Office – Western District of Texas.
Director of the Detention Center, T. Don Hutto Residential Center
Warden / ICE Officer in charge.
ICE- San Antonio Field Office
U.S. Immigration and Customs Enforcement. (ICE).
U.S. Department of Homeland Security. (DHS).
U.S. Immigration and Customs Enforcement. (ICE).
Secretary of Homeland Security U.S.
Department of Homeland Security
U.S. Immigration and Customs Enforcement. (ICE).
Respondents.

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Now comes petitioner WUILLIANS ARCANGEL RAMIREZ CEDENO, through his wife YERALDIN JOSEFINA MAVARES DÍAZ acting as "next friend", and respectfully presents this Emergency Motion for Temporary Restraining Order and Preliminary Injunction, requesting that this Court order the immediate release of the petitioner from unconstitutional detention, and in support states the following:

This is a humanitarian and constitutional emergency requiring immediate judicial intervention. The petitioner has been unlawfully detained by ICE since December 12, 2025, in flagrant violation of the Fourth, Fifth, First, and Fourteenth Amendments to the United States Constitution. Each additional day of this unconstitutional detention causes multiple and aggravating irreparable harm to an innocent family. Four minor children are suffering severe psychological trauma from the sudden separation from their father during the holiday season. The petitioner's wife, left alone with four children, faces imminent eviction without the family's sole breadwinner. The children lack adequate food, and the family cannot afford basic services. The petitioner is experiencing significant deterioration in his physical and psychological health in detention, including severe anxiety disorder, persistent insomnia, and dyspnea, exacerbated by delays in medication administration. His deteriorating mental state prevents him from effectively participating in his own legal defense, violating his right of access to the courts. The petitioner has a pending asylum application before the Immigration Court where his life is literally at stake, and since his detention, it has been impossible for him to gather critical evidence, effectively consult with attorneys, contact witnesses, or obtain necessary documentation. Each day of detention increases the likelihood that he will lose his

asylum case due to his inability to adequately prepare his defense. The petitioner poses no danger to the community, has no criminal record in his three years and ten months in the United States, and is not a flight risk given his exceptional family ties as a husband and father of four, having voluntarily re-registered for Temporary Protected Status (TPS) and maintaining a pending asylum application. His detention serves no legitimate governmental purpose and is purely arbitrary.

The petitioner fully satisfies all the requirements for a Temporary Restraining Order and Preliminary Injunction established in *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). First, the petitioner has an extremely high probability of success on the merits of his habeas corpus claim. The detention clearly violates the Fourth Amendment because it was effected without a warrant and without articulable reasonable suspicion, as required by *United States v. Brignoni-Ponce*, 422 U.S. 873, 881-82 (1975) and *United States v. Cortez*, 449 U.S. 411, 417-18 (1981). The ICE agents failed to present a warrant, articulate any probable cause of criminal activity, or identify any specific facts that would constitute reasonable suspicion that the petitioner posed a danger or flight risk. At the time of his arrest, the petitioner had a pending asylum application providing him with explicit legal grounds to remain in the United States, had filed a TPS re-registration demonstrating his intent to comply with legal requirements, had no criminal record eliminating any argument of dangerousness, had resided continuously for three years and ten months establishing substantial ties to the country, and was the sole breadwinner for his wife and four children, providing powerful incentives to comply with procedures. As the Supreme Court established in *Kansas v. Glover*, 140 S. Ct. 1183, 1188 (2020), officers must articulate specific facts justifying each individual arrest, not simply point to a lapse in immigration documentation. ICE agents failed to conduct any individualized analysis of the petitioner's situation, did not consider his pending asylum application or TPS re-registration, and did not assess whether he posed any actual danger or flight risk. An arrest based on the mechanical application of general policies, without consideration of individual circumstances, does not meet the Fourth Amendment's standard of reasonableness.

The detention also violates the Fifth Amendment because it is arbitrary and lacks substantive justification, thus violating due process. As established in *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001), the Fifth Amendment grants aliens the right to due process of law in deportation proceedings, and this protection extends to all persons in the United States regardless of their citizenship or immigration status. The only legitimate governmental purposes that justify immigration detention are preventing danger to the community and preventing flight risk, according to *Demore v. Kim*, 538 U.S. 510, 528 (2003). The petitioner poses no danger to the community, has no criminal record during his nearly four years in the United States, no evidence of violence, disorderly conduct, or dangerous behavior, and is a productive member of society, working to support his family. Detaining a person without any evidence of dangerousness serves no legitimate governmental purpose related to public safety and is arbitrary under due process principles. The petitioner also does not pose a reasonable flight risk, having demonstrated extraordinary community ties during nearly four years of continuous residence, being the sole breadwinner for his wife and four children, providing him with powerful familial and financial incentives to remain and comply with legal proceedings, having maintained stable employment, and having actively participated in immigration proceedings, including his pending asylum application. Crucially, the petitioner voluntarily filed his TPS re-registration on September 11, 2025, after the expiration of his

previous TPS, an affirmative action that is direct and powerful evidence that he is not attempting to disappear or evade immigration authorities, since a person attempting to evade the legal system does not voluntarily file applications that reveal their identity, current address, and immigration status to government authorities. As the Supreme Court established in *Zadvydas*, 533 U.S. 103, 119, "liberty is the norm, and detention before or without trial is the carefully limited exception," and when the government cannot articulate a valid reason related to dangerousness or flight risk for a detention, that detention is unconstitutional.

The detention also violated due process because it occurred without any procedure allowing for an individualized determination of whether the detention was necessary or appropriate. As required by *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976), due process requires the government to provide some procedure to determine whether deprivation of liberty is justified. The ICE agents who detained the petitioner did not conduct any individualized assessment of his circumstances, did not consider his pending asylum application, his TPS re-registration, his lack of a criminal record, his family ties with a wife and four dependent children, or his record of compliance for nearly four years. They did not give him any opportunity to present evidence of these factors before detaining him and did not articulate any specific reason why he, unlike thousands of other asylum seekers in similar circumstances, required immediate detention. This lack of individualized process renders the detention arbitrary and a violation of due process. Furthermore, since his arrest, the petitioner has not received a timely bond hearing where he can present evidence that he does not pose a danger or flight risk and argue for his release. Case law establishes that prolonged immigration detentions without bond hearings violate due process, as recognized in *Rodriguez v. Robbins*, 804 F.3d 1060, 1089 (9th Cir. 2015) (en banc), and each additional day of detention without proper process constitutes a continuing violation of his due process rights.

The detention violates the First Amendment because it materially impedes the petitioner's effective access to the courts. As established by the Supreme Court in *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972), the right of access to the courts is an aspect of the right to petition protected by the First Amendment, and this right requires meaningful and effective access to judicial proceedings, as established in *Bounds v. Smith*, 430 U.S. 817, 822 (1977). In the context of asylum proceedings where life-or-death consequences are at stake, including deportation to countries where the petitioner may face persecution, torture, or death, the right of effective access to the courts takes on critical constitutional importance. The petitioner has a pending asylum claim, and to have any chance of success, he must be able to consult extensively with an immigration attorney, gather evidence about conditions in Venezuela, obtain witness statements, obtain psychological evaluations, compile documentation of his background, and obtain letters of support from his community. From his detention at a remote facility in Taylor, Texas, it is impossible to carry out these essential activities. He cannot effectively consult with an attorney due to limited visits, lack of privacy, and lack of resources. He cannot hire an attorney because he has no income since he is unable to work. He cannot travel to gather evidence or contact witnesses. He cannot access the internet to investigate conditions in Venezuela. He cannot undergo necessary psychological evaluations that require multiple sessions. He cannot access his personal documents at home. His deteriorating mental health prevents him from concentrating and effectively participating in his own defense. The

difference between detention and freedom is literally the difference between having a meaningful opportunity to present his asylum case and being effectively deprived of that constitutional right. When the government interferes with access to the courts, it violates the First Amendment unless justified by compelling governmental interests under *NAACP v. Button*, 371 U.S. 415, 438 (1963), and as has been shown, no such interests exist since the petitioner poses no danger or flight risk.

The detention violates the Fourteenth Amendment by unconstitutionally interfering with fundamental family relationships without compelling justification. The Fourteenth Amendment protects the fundamental right of parents to raise children and maintain family relationships, as established by the Supreme Court in *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923), recognizing that "the liberty protected by due process includes the right of the individual to establish a home and raise children," and in *M.L.B. v. S.L.J.*, 519 U.S. 102, 116 (1996), declaring that "family relationships, which involve the most intimate and personal choices that a person can make in his or her life, choices central to dignity and personal autonomy, are fundamental to liberty." Government interference with family relationships must satisfy strict scrutiny, requiring the government to demonstrate that its action is closely aligned with serving a compelling government interest, as established in *Troxel v. Granville*, 530 U.S. 57, 66-67 (2000). The government has forcibly separated the petitioner from his four children and wife without any compelling interest. The petitioner poses no danger because he has no criminal record, he is not a flight risk given his exceptional ties to the community, and therefore there is no justification for destroying this family. The children are suffering documented trauma caused by the sudden separation from their father. Time lost with children during formative years can never be recovered. This interference with the fundamental father-child relationship violates the Fourteenth Amendment. The absence of objective standards for the detention decision, combined with public evidence of disproportionate application of detentions against Venezuelans, also raises a serious issue of discrimination based on national origin in violation of Equal Protection under the Fourteenth Amendment according to *Yick Wood v. Hopkins*, 118 U.S. 356 (1886).

Second, the petitioner will suffer irreparable harm without immediate relief. The irreparable harm standard requires harm that cannot be adequately compensated with money and that is of such a nature that it cannot be remedied after the fact, according to *Winter*, 555 U.S. § 22. In this case, the irreparable harm is multiple, severe, and worsens daily. The petitioner's four children are experiencing sudden separation from their father without any understandable explanation, severe anxiety about why their father was taken, fear that he will never return, confusion about what they did wrong, and a loss of emotional stability and security. This detention occurred during the holiday season, turning what should be a family celebration into a traumatic nightmare. Scientific research is conclusive that the sudden separation from a parent causes toxic stress in children with long-term developmental effects, as documented by Ajay Chaudry et al., Urban Institute, in *Facing Our Future: Children in the Aftermath of Immigration Enforcement* (2010). This study shows that children separated from detained parents experience depression, anxiety, post-traumatic stress disorder, behavioral problems, academic difficulties, and physical health issues—effects that persist for years and into adulthood. Every day of separation during childhood is a day that can never be recovered. The children are growing up without their father, missing everyday moments that form the father-child bond and being deprived of paternal guidance during critical formative years. Money cannot compensate for this literally irreparable loss. The

family faces a devastating economic and humanitarian crisis. Without the sole income, the family cannot pay rent, with December's rent unpaid and January's due soon, resulting in imminent eviction that will leave the wife and four children homeless. The children lack adequate food, there is no money for medical expenses if any of them become ill, and unpaid utilities threaten to leave them without heating in the winter. The children are losing the home they have lived in, losing their educational stability, and losing their network of friends and community support. This family destruction is irreparable and cannot be adequately compensated with money after the fact. The petitioner's asylum case is being irreparably damaged. The petitioner has a pending asylum hearing, and every day in detention means lost opportunities to gather critical evidence, contact witnesses, and properly prepare their case. From detention, it is impossible to effectively consult with a lawyer, gather evidence of persecution in Venezuela, obtain psychological evaluations, obtain witness statements, and compile necessary documentation. If they lose their asylum case due to their inability to prepare adequately, they will be deported to Venezuela, where they may face persecution, torture, or death, resulting in permanent separation from their spouse and children—an utterly irreparable loss. The petitioner is experiencing significant deterioration in his physical and psychological health, including severe anxiety disorder, persistent insomnia, dyspnea, and marked emotional distress, exacerbated by delays in medication. This deterioration in his mental health causes unnecessary human suffering, impedes effective participation in legal defense, may have permanent mental health effects, and cannot be compensated with money. Each day of unconstitutional detention is irreparable harm per se, as established by the Supreme Court in *Zadvydas*, 533 U.S. in 690, declaring that "liberty is the norm" and recognizing that deprivation of liberty is "one of the most severe deprivations the government can impose, second only to the death penalty." The irreparable harm here is not speculative or future but is occurring now, every hour of every day, with children suffering trauma, a family facing eviction, an asylum case deteriorating, the petitioner's health worsening, and fundamental liberty being unconstitutionally denied. Without immediate intervention by this Court, the harm will become even more irreversible.

Third, the balance of fairness strongly favors the petitioner. The balance of fairness requires weighing the harm to the petitioner if relief is denied against the harm to the responders if it is granted. If relief is denied, the petitioner suffers massive harm, with four innocent children continuing to suffer trauma, a family facing eviction and removal from office, an asylum case becoming impossible to prepare, health continuing to deteriorate, and freedom continuing to be unconstitutionally denied. Conversely, if relief is granted, the responders suffer minimal or no harm. There is no harm to public safety because the petitioner poses no danger, has no criminal record, and no evidence of violence or dangerous conduct, so their release does not threaten anyone. There is no harm to flight risk because the petitioner has exceptional family ties, every incentive to remain and comply, voluntarily filed for TPS re-registration, and can be released with conditions such as electronic monitoring, check-ins, and bond. There is no significant administrative harm because the government can monitor compliance with alternatives to detention that are less costly and highly effective in ensuring presence at proceedings. The only alleged harm would be that release makes it more difficult to eventually deport the petitioner if he loses his case, but this is not a legitimate interest that can justify unconstitutional detention. It presupposes that he will lose his asylum case—something not yet determined—his strong family ties make flight extremely unlikely, and the interest in administrative efficiency cannot supersede fundamental constitutional

rights, as the Supreme Court rejected in *Stanley v. Illinois*, 405 U.S. 645, 656 (1972). On one side of the scale are multiple and serious constitutional violations, trauma to four innocent children, family destruction, a humanitarian crisis, loss of an asylum case, and deteriorating health; on the other side are no real danger to the community, no significant risk of flight, and a purely administrative interest in detention efficiency. The balance overwhelmingly favors the petitioner.

Fourth, the public interest favors granting relief. The public interest is not merely what the government wants to do, but what is best for society as a whole. As established in *Rodriguez v. Robbins*, 804 F.3d in 1089, "there is no public interest in the perpetuation of unlawful and unconstitutional detentions." The public interest always favors protecting constitutional rights under the Fourth Amendment against arbitrary arrest, the Fifth Amendment due process, the First Amendment access to courts, and the Fourteenth Amendment protection of families. Allowing the government to violate these fundamental rights does not serve the public interest but harms it. Society has a strong public interest in protecting children from unnecessary trauma. Four children are suffering severe psychological trauma, hunger and deprivation, imminent loss of home, and loss of a father, and there is no public interest in causing this suffering to innocent children when it serves no legitimate purpose. The family is the fundamental unit of society, according to *Meyer v. Nebraska*, 262 U.S. in 399 and *Troxel v. Granville*, 530 U.S. at 65, and the public interest favors preserving families, not arbitrarily destroying them. Society has an interest in parents being able to raise their children, families remaining together, and children growing up with both parents. Separating families without compelling justification harms the public interest. Society has an interest in the asylum system functioning fairly, requiring that asylum seekers have a meaningful opportunity to present their cases. If detention makes it impossible to adequately prepare an asylum case, the system is unfair, damaging the integrity of the legal system, the United States' international reputation, and the United States' commitment to protecting refugees. Detention is costly to taxpayers, while alternatives to detention are far less expensive, equally effective in ensuring presence at proceedings, and allow individuals to work and contribute to the economy; therefore, the public interest favors using effective and less costly alternatives. The rule of law requires the government to comply with the Constitution, and permitting flagrant constitutional violations undermines the rule of law. As Justice Brandeis stated in *Olmstead v. United States*, 277 U.S. 438, 485 (1928), "in a government of laws, the existence of the government will be jeopardized if it fails to observe the law scrupulously; crime is contagious, and if the government becomes a lawbreaker, it breeds contempt for the law." The public interest strongly favors the protection of constitutional rights, the protection of innocent children, the preservation of families, and the rule of law. There is no legitimate public interest in maintaining an unconstitutional detention that serves no public safety purpose.

There is an emergency requiring a Temporary Restraining Order before a hearing. Federal Rule of Civil Procedure 65(b) permits a Temporary Restraining Order when circumstances justify issuance without notice and irreparable harm will occur before a hearing can be held. Both of these elements are present here, as there is a humanitarian emergency with a family crisis worsening daily. The family faces imminent eviction that could occur within days, the children lack adequate food, and utilities could be cut off at any time. There is critical health deterioration, as the petitioner's mental health is deteriorating now. Each day without adequate medication worsens their condition, and the deterioration could become

permanent. The window for preparing for asylum is closing, as the petitioner has an asylum hearing date. Each day, they lose an opportunity to gather evidence, witnesses in Venezuela may become impossible to contact, and documentation may be lost. Irreparable harm is occurring daily, with children suffering trauma, the family lacking adequate food, the asylum case deteriorating, health worsening, and liberty being unconstitutionally denied. Each day of delay causes further harm that cannot be reversed. Although a TRO generally requires prior notice, the humanitarian emergency here justifies immediate issuance because the constitutional violations are not a close legal question but flagrant violations of the Fourth, Fifth, First, and Fourteenth Amendments. There is no danger of immediate issuance because the petitioner poses no danger, is not a flight risk, and can be released conditionally. The hearing can proceed promptly with a TRO for fourteen days pursuant to Fed. R. Civ. P. 65(b)(2), and a preliminary injunction hearing occurring within that period, giving the government a full opportunity to respond at that hearing.

For the reasons stated, the petitioner fully satisfies all the requirements for a Temporary Restraint Order and Preliminary Injunction. The petitioner has demonstrated an extremely high probability of success with clear violations of the Fourth, Fifth, First, and Fourteenth Amendments; severe and multiple irreparable harm, including trauma to children, family destruction, loss of asylum case, deterioration of health, and deprivation of liberty; a balance of fairness that strongly favors the petitioner, with massive harm to the petitioner versus no legitimate harm to the government; and a public interest that favors granting relief through protection of constitutional rights, protection of children, preservation of families, and the rule of law. An emergency exists that requires immediate action because irreparable harm is occurring now, and each day of delay causes further harm. The petitioner's detention is unconstitutional, serves no legitimate purpose, and is destroying an innocent family; it must end now. This Court has the power and the obligation to intervene immediately by ordering the release of the petitioner under reasonable conditions that ensure his presence in future proceedings while protecting his fundamental constitutional rights and stopping the devastating harm to his family.

Therefore, the petitioner respectfully requests that this Court order that within twenty-four hours of the issuance of this Order, the Respondents release petitioner Wuillians Arcangel Ramirez Cedeno from ICE custody at the T. Don Hutto Detention Center, that the release be subject to reasonable conditions including supervision by electronic monitoring with a GPS ankle device, weekly check-ins with the ICE San Antonio Field Office, travel restrictions limiting the petitioner to remain within the Western District of Texas except with prior permission, mandatory notification to ICE of any change of address within twenty-four hours, surrender of any travel documents to ICE, bond in an amount that the Court determines is reasonable and that the petitioner can pay given the circumstances or waiver of bond given the family's financial crisis, mandatory appearance at all scheduled immigration hearings, and any other conditions that the Court determines are appropriate to ensure the petitioner's presence at future proceedings. The petitioner requests that the Respondents refrain from re-arresting the petitioner except with a court order signed by a judge or magistrate, or with specific articulation of probable cause or reasonable suspicion based on new facts, or if the petitioner violates the conditions of release established by this Court. The petitioner requests that the Respondents provide the petitioner with documentation of his release and current status for employment purposes, that this Order remain in effect for fourteen days or until the Court holds a preliminary injunction hearing, whichever occurs first, that the Court order a

hearing within fourteen days on the motion for preliminary injunction, and after such hearing issue a preliminary injunction with the same terms as the TRO, remaining in effect until the final resolution of the habeas corpus case. The petitioner requests that the Court order an expedited schedule for resolution of the habeas corpus on the merits given the urgency of the constitutional issues raised, and grant such other relief as this Court determines to be just and appropriate. The Court should waive bail or set it at a nominal amount because the family is in financial crisis, having had no income since December 12th, unable to pay rent, lacking money for food, and unable to afford a substantial bail. There is no risk of harm to Respondents because release would not cause any financial harm to the government, there is no risk of danger or flight, and no harm that needs to be secured by bail. Case law supports this waiver, as courts routinely waive bail in civil and constitutional rights cases, particularly when the petitioner lacks resources, according to *Dougherty County, Ga. Bd. of Educ. v. White*, 439 U.S. 32 (1978).

This Motion complies with Fed. R. Civ. P. 65(b)(1) by being submitted under oath through the Affidavit of Yeraldin Josefina Mavares Diaz attached as Exhibit A, establishing the facts under penalty of perjury. Given the extreme emergency, the petitioner requests that the TRO be issued ex parte without prior notice to the Respondents because prior notice would cause delay resulting in irreparable harm, with the family potentially facing eviction during the delay, the petitioner's health potentially deteriorating further, and opportunities to prepare an asylum case being lost. The Respondents will have a full opportunity to respond since the TRO is only for fourteen days, the preliminary injunction hearing will occur within that period, and the government may present a full opposition at that hearing. However, if the Court requires it, the petitioner is prepared to notify the Respondents immediately and request an emergency hearing within twenty-four to forty-eight hours. Given the pro se nature of this filing and the extreme emergency, it has not been possible to contact Respondents' attorneys before filing this motion, therefore the petitioner respectfully requests that the Court issue an ex parte TRO given the emergency, or alternatively order immediate notification and an emergency hearing within twenty-four to forty-eight hours.

This is a constitutional and humanitarian crisis requiring immediate judicial intervention. All the factors for TRO and preliminary injunction are amply satisfied. The petitioner's detention is unconstitutional, serves no legitimate purpose, and is destroying an innocent family; it must end now. This Court has the power and the constitutional obligation to intervene immediately to stop this ongoing violation of fundamental rights by ordering the petitioner's release under reasonable conditions that ensure his presence at future proceedings while protecting his fundamental constitutional rights and halting the devastating harm to his family. Every hour of delay causes further irreparable harm to an innocent family.

For the reasons stated, the petitioner respectfully requests that this Court grant this Motion and order the immediate release of the petitioner under reasonable conditions.

YERALDIN JOSEFINA MAVARES DIAZ
On behalf of WUILLIANS ARCANGEL RAMIREZ CEDENO

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Date: 02/04/2026