UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.: 26-cv-01176

CESAR QUEZADA PACHECO,

Petitioner,

v.

JUAN BALTAZAR, Acting Warden, Aurora ICE Processing Center,
GEORGE VALDEZ, Acting Field Office Director, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security,
KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in their official capacities,

Respondents.

MOTION FOR TEMPORARY RESTRAINING ORDER

Cesar Quezada Pacheco, a 47-year-old Mexican man, was detained by the Department of Homeland Security four months ago for the presumed purposes of removing him from the country. Seven years prior, in October 2018, an Immigration Judge, having concluded that Mr. Quezada would be tortured or killed in Mexico by a transnational drug cartel with the acquiescence of Mexican officials, granted him protection under the Convention Against Torture ("CAT"). The Department of Homeland Security ("DHS") did not appeal that ruling. DHS also elected not to detain Mr. Quezada during a 90-day removal period following the Immigration Judge's order, necessarily finding that there was no significant likelihood of removal to a country other than Mexico in the reasonably foreseeable future.

Mr. Quezada was never detained following the Immigration Judge's order until his detention in December 2025. During those seven years of liberty, he never violated any terms and conditions imposed on him by DHS. He had no criminal issues and maintained steady employment. He did nothing to support a finding that he had become a danger to his community or a flight risk.

Mr. Quezada remains protected from deportation to Mexico. It is presumed that DHS intends to deport Mr. Quezada to a country other than Mexico, although the agency has yet to identify such country or otherwise inform Mr. Quezada of the reasons for his recent detention, other than telling him that he is "illegal."

Mr. Quezada has petitioned this Court for a writ of habeas corpus to remedy his unlawful detention. He now moves the Court for a temporary restraining order, barring the Respondents from removing him from the country and from the jurisdiction of this Court during the pendency of his habeas petition.

LEGAL STANDARD

Federal Rule of Civil Procedure 65 requires a movant for a temporary restraining order to show that: (i) they will suffer irreparable harm unless the injunction is issued; (ii) they have a substantial likelihood of prevailing on the merits; (iii) the threatened injury outweighs any harm that the preliminary injunction may cause the opposing party; and (iv) the injunction will not adversely affect the public interest. *Dine Citizens Against Ruining Our Env't v. Jewell*, 839 F.3d 1276, 1281 (10th Cir. 2016).

Where a restraining order alters the status quo, movants must "make a strong showing both with regard to the likelihood of success on the merits and with regard to the balance of harms." *Free the Nipple-Fort Collins v. City of Fort Collins, Colorado*, 237

F. Supp. 3d 1126, 1130 (D. Colo. 2017), *aff'd*, 916 F.3d 792 (10th Cir. 2019) (quotation omitted); *see Essien v. Barr*, 457 F. Supp. 3d 1008, 1012–13 (D. Colo. 2020) (dismissing the "mandatory versus prohibitory" distinction and agreeing that a "strong showing" must be made for a detained immigrant to win a preliminary injunction). Courts cannot require that the factors weigh "heavily and compellingly" in a movant's favor; the Tenth Circuit "jettisoned the heavily-and-compellingly requirement over a decade ago." *Free the Nipple-Fort Collins*, 916 F.3d at 797 (citations and brackets omitted). Instead, a movant in this posture must merely make a "strong showing." *Id*.

The Court likewise has independent authority under habeas corpus, 28 U.S.C. § 2241, to order the immediate release of detained persons from unconstitutional confinement.

DISCUSSION

I. Mr. Quezada is likely to suffer irreparable harm in the absence of preliminary relief.

Mr. Quezada fears removal to any country where he could come into contact with the transnational drug cartel that threatened to kill him in Mexico and where state authorities would turn a blind eye to any retaliation by the cartel. His fear of torture at the hands of that cartel formed the basis of his successful claim for CAT protection seven years ago. Absent an injunction, Mr. Quezada faces removal to a country where he might be tortured or killed by that same cartel.

II. Mr. [redacted] has a strong likelihood of success on the merits.

Mr. Quezada's habeas petition is meritorious and likely to succeed. As detailed in that petition, he has shown that Respondents acted unlawfully when they revoked his liberty without notice, failing to conduct an individualized assessment of the propriety of

re-detention, conducted by the requisite official, in violation of the Due Process clause and the Immigration and Nationality Act and its implementing regulations.

To the extent that Respondents intend to deport Mr. Quezada to a third country, they have actued unlawfully by depriving him of a chance to seek protection from removal to that unidentified, alternate country, based on his fear of being tortured due to his refusal to cooperate with the cartel. The government's deprivation of Mr. Quezada's right to seek protection from future tortue at the hands of the cartel violates his due process rights.

Finally, with the record devoid of any indication that DHS Security has taken steps to remove Mr. Quezada to an alternate country, where he would not be tortured by the cartel, there is no significant likelihood of Respondents executing his removal in the reasonably foreseeable future, making his detention constitutionally infirm.

III. The equities tip strongly in Mr. [redacted] favor.

Where, as here, the government is a party to a case, the final two injunction factors—i.e., the balance of equities and the public interest—merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). When assessing whether a preliminary injunction is warranted, the Court "must balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief." *Winter v. Nat. Res. Def. Council, Inc.*, 129 S. Ct. 365, 376 (2008).

As noted, for Mr. Quezada, the possible injuries if he is removed from the U.S. include potential torture at the hands of a drug cartel, in addition to unwaivable separation from his family in the U.S., including two adult U.S. citizen children.

For the Respondents, should they choose to continue Mr. Quezada's detention during the pendency of the habeas claim, their injury would consist primarily of the de minimis financial cost of those added days of confinement, and their inability to use that bed space for another non-citizen apprehended by the Department.

Since being granted CAT protection, Mr. Quezada has no criminal history and presents no indicia of any manner of threat to the community or the security of the United States. He has been in full compliance with the terms of his prior liberty. There is no indication that he is a flight risk or that Respondents would not otherwise be able to ensure his compliance through electronic monitoring, if necessary.

CONCLUSION

For the foregoing reasons, the Court should grant Mr. Akbari-Esfahani's application for a temporary restraining order and enjoin Respondents from removing him from the United States or from the jurisdiction of this Court (other than a transfer to the ICE Processing Center in Aurora, Colorado, near his family) during the pendency of his habeas petition.

RESPECTFULLY SUBMITTED this 23rd day of March 2026

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