IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.1:26-cv-01306

Juan Hernandez Dubon

Petitioner

v.

Baltasar et al.,

Respondents

MOTION FOR TEMPORARY RESTRAINING ORDER

I. INTRODUCTION

Juan Hernandez Dubon (hereinafter "Petitioner") hereby requests that the Court grant him a Temporary Restraining Order (TRO) enjoining Respondents from (1) removing him from the United States; and (2) transferring him to a detention center outside of the jurisdiction of this Court. Petitioner has concurrently filed a *Petition for Writ of Habeas Corpus* with this Court wherein he is requesting release from detention on due process and Immigration and Nationality Act violation grounds.

II. STATEMENT OF FACTS

Petitioner hereby incorporates, by reference, all of the information and allegations contained in his concurrently filed petition. Of relevance here is that Petitioner has a prior order of removal but is currently in deferred action pending the approval of his application for a U visa. He was issued a Bona Fide Determination on his U visa application meaning that he will receive a U visa as soon as one becomes

available pursuant to the statutory cap of 10,000 U visas issued each year. Despite being a low priority for removal via deferred action, Petitioner was arrested by Immigration and Customs Enforcement (ICE) officers in March 2026 and is now being processed for imminent removal from the United States. Because his removal is imminent, he is requesting a TRO to prevent his removal or transfer out of this jurisdiction while he pursues his right to seek release from detention.

III. LEGAL ARGUMENT

To obtain temporary and preliminary injunctive relief, Petitioner must demonstrate that (1) he is likely to succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). When the government is a party, the balance of equities and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Under the circumstances presented herein, no security bond is required under Federal Rule of Civil Procedure 65(c).

A. Petitioner is Likely to Succeed on the Merits

For reasons enumerated in his concurrently filed *Petition for Writ of Habeas Corpus*, Petitioner's current detention is unlawful as it is in violation of the immigration statutes and policies around U visa processing (ECF 1 at 44-48), as well as his due process rights under the Fifth Amendment of the Constitution. (ECF 1 at 49-61). Petitioner is likely to succeed on the merits of these claims because he warrants release from detention based on the fact that he is in deferred action and is guaranteed to receive relief from removal (a U visa) as soon as it becomes statutorily available to him. Petitioner has a serious liberty interest in being released from detention, is at risk of

erroneous deprivation due to the circumstances of his arrest and detention by ICE, and was already adhering to Respondents' alternative means of monitoring him and his immigration case through regular ICE check-ins—and so his due process rights have thus been violated. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

B. Petitioner Has Suffered, and Will Continue to Suffer, Irreparable Harm Absent Emergency Injunctive Relief.

Parties seeking preliminary injunctive relief must also show they are "*likely* to suffer irreparable harm in the absence of preliminary relief." *Winter*, 555 U.S. at 20. Irreparable harm is harm for which there is "no adequate legal remedy, such as an award of damages." *Ariz. Dream Act. Coal. v. Brewer (Ariz. I)*, 757 F.3d 1053, 1068 (9th Cir. 2014); *see also Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013).

Petitioner will suffer irreparable harm absent injunctive relief because he is currently being processed for removal from the United States despite his grant of deferred action and his pending U visa application which is certain to be approved. Absent injunctive relief, Petitioner may be removed from the U.S. and could be moved to an ICE detention center outside of the jurisdiction of this Court. This action would strip the Court of the ability to adjudicate the concurrently filed petition and would implicate Petitioner, his family, and his counsel's ability to coordinate with him and ensure that he has access to his constitutional rights.

C. The Balance of Hardships and Public Interest Weigh Heavily in Petitioner's Favor.

The final two factors for injunctive relief—the balance of hardships and public interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S.

418, 435 (2009). Here, Petitioner faces weighty hardships because his removal would implicate his ability to receive a U visa and would further implicate his due process rights which have already been violated by his current detention. He also has a wife and two young children in the U.S. and so his removal would cause undue familial hardship.

Respondents, by contrast, face no hardship. Petitioner is not a flight risk or a danger to his community or public safety, and Respondents have never alleged anything to the contrary. Petitioner has no criminal history. In addition, temporarily preventing his removal through the instant motion would not implicate Respondents' ability to remove Petitioner in the future if he does not end up receiving a U visa. "[T]he balance of hardships tips decidedly in plaintiffs' favor" when "[f]aced with such a conflict between financial concerns and preventable human suffering." *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

Moreover, Respondents "cannot suffer harm from an injunction that merely ends an unlawful practice . . . ." *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). The public interest is served by the faithful execution of the immigration laws, and that interest includes respect for protections Congress has enacted and to which the United States has committed itself by treaty. *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005) (recognizing "the public interest in having the immigration laws applied correctly and evenhandedly"); *Leiva-Perez v. Holder*, 640 F.3d 962, 971 (9th Cir. 2011) (noting "the public's interest in ensuring that we do not deliver [noncitizens] into the hands of their persecutors"); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992)

(discussing "the public interest in Government observance of the Constitution and laws").

IV. CONCLUSION

For the foregoing reasons, Petitioner requests that the Court grant this temporary injunctive relief, enjoining Respondents from removing him from the U.S. or transferring him outside of the jurisdiction of this Court.

Respectfully submitted,

/s/Andrew Walker
Andrew Walker, Esq.
Counsel for Petitioner
Dated: March 27, 2026

CERTIFICATE OF SERVICE

I certify that on March 27, 2026, I filed the foregoing MOTION FOR TEMPORARY RESTRAINING ORDER using the CM/ECF system which will electronically send notification of such filing to opposing counsel.

s/ Andrew Walker
Andrew Walker
Counsel for Petitioner