Murathan Oktar, Esq.
Tunc Law Firm P.C.
1750 East Golf Road.#1124
Schaumburg, IL 60173
Email: moktar@tunclawfirm.com
Phone: 312-224-8811

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

PHOENIX DIVISION

Bohdan Fedorenko *Petitioner* v. 1. Eric Rokosky, Warden, Eloy Federal Contract Facility; 2. Christopher McGregor, Field Office Director, Enforcement and Removal Operations, Immigration and Customs Enforcement, Phoenix Field Office; 3. Todd Lyons, Acting Director, U.S. Immigration and Customs Enforcement, *Respondents.*	**Docket No:**

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

INTRODUCTION

1. Petitioner Bohdan Fedorenko is a 24-year-old national of Ukraine who is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Eloy Federal Contract Facility. Mr. Fedorenko lawfully entered the United States pursuant to the Uniting for Ukraine program after receiving advance travel authorization and was subsequently paroled into the country. He later obtained Temporary Protected Status and has remained in compliance with all applicable immigration requirements. Despite his lawful entry, lack of any criminal history, and ongoing applications for immigration relief, Mr. Fedorenko is being detained without an individualized bond hearing and without the procedural safeguards required by federal law. His continued detention serves no legitimate governmental purpose and violates his due process rights.

2. On or about May 23, 2023, Petitioner entered the United States by air pursuant to the Uniting for Ukraine process after receiving advance travel authorization from the Department of Homeland Security. Upon arrival at a United States port of entry, he presented himself for inspection and was processed by U.S. Customs and Border Protection as a parolee. Petitioner was paroled into the United States pursuant to INA § 212(d)(5) (8 U.S.C. § 1182(d)(5)). He was subsequently issued a Form I-94 reflecting his parole, with a class of admission of UHP and authorization to remain in the United States through May 21, 2025. Petitioner has no known criminal history and has not been charged as removable on any criminal

or national security grounds. During this time, he obtained a valid Employment Authorization Document and a Commercial Driver's License ("CDL"), contributing to the community as a professional driver.

3. Despite his exemplary compliance and his Temporary Protected Status application (or re-registration) remains pending before USCIS, ICE abruptly arrested Mr. Fedorenko on March 30, 2026 by officers of U.S. Immigration and Customs Enforcement (ICE) while working in his capacity as a commercial truck driver in California.

4. Petitioner now seeks immediate relief from this Court. Concurrently with this motion, he is filing a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 challenging the legality of his detention. By this Emergency Motion for a Temporary Restraining Order ("TRO") and Preliminary Injunction, Petitioner requests that the Court order his immediate release or, in the alternative, order a prompt bond hearing. Given the urgent violation of Mr. Fedorenko's constitutional rights and the severe hardship he faces at the Eloy Federal Contract Facility, interim relief is necessary to prevent irreparable harm. Petitioner further requests that the Court enjoin Respondents from transferring him out of this Court's jurisdiction during the pendency of these proceedings to preserve the Court's ability to grant effective relief.

FACTS OF THE CASE

5. Petitioner is a national of Ukraine who lawfully traveled to the United States pursuant to the Uniting for Ukraine program after receiving advance travel authorization. He sought refuge in the United States in response to [redacted] and was granted parole upon arrival, allowing him to live and work lawfully in this country.

6. On May 23, 2023, Petitioner arrived at a United States port of entry at Los Angeles International Airport after traveling to the United States by air pursuant to the Uniting for Ukraine program. He presented himself for inspection to immigration officials and was processed as an arriving alien.

7. Upon arrival at a United States port of entry on May 23, 2023, Petitioner was inspected by the CBP after traveling to the United States pursuant to the Uniting for Ukraine program and was granted parole into the United States under INA § 212(d)(5).

8. Petitioner's Form I-94 (Exhibit 2) reflects a Class of Admission of "UHP," confirming that he was paroled into the United States pursuant to the Uniting for Ukraine process. This classification reflects a discretionary determination by the Department of Homeland Security that Petitioner should be permitted to enter and remain in the United States lawfully. His most recent Form I-94 further confirms that he was authorized to remain in the United States through May 21, 2025.

9. Following his arrival, Petitioner resided in California where he maintained stable housing and employment. During this time, he obtained a valid Employment

Authorization Document (EAD) (see Exhibit 5) and a Commercial Driver's License (CDL), which allowed him to maintain lawful employment (see Exhibit 6).

10. Petitioner has no criminal record and has never violated any terms of his parole.
11. Petitioner has significant family ties in the United States. He is legally married and has a sister residing in the United States. Petitioner has been the primary financial provider for his spouse and provides support to his sister see Exhibit 7, including Spouse's Passport, Spouse's Declaration, Sister's Declaration, and Sister's Passport).
12. Prior to his detention, Petitioner was the primary financial provider for his household. His continued detention has resulted in financial instability and emotional hardship for his wife.
13. Petitioner maintains a stable residential address in California, demonstrating community ties and lack of flight risk. *(See Exhibit 7,* Lease Agreement).
14. Petitioner timely filed for renewal of his Employment Authorization Document prior to its expiration and received a receipt notice extending his authorization to work while his Form I-765 remains pending *(See* Exhibit 5). He holds a valid Commercial Driver License (CDL) (See Exhibit 6) and has been continuously employed as a truck driver in the United States, through which he has supported his spouse. At all times, Petitioner has remained in full compliance with applicable immigration requirements.

15. Petitioner has consistently complied with his tax obligations in the United States. He filed an individual tax return for tax year 2023, followed by joint tax returns with his spouse beginning in 2024, and has reported income through Form 1099 for tax year 2025. These records further demonstrate his compliance with U.S. law and his financial stability *(See* Exhibit 6).

16. On March 30, 2026, during what should have been a routine interaction, ICE officers abruptly arrested Petitioner.

17. Critically, Respondents provided Petitioner with no notice of intent to revoke his parole, no explanation for the revocation, and no individualized hearing to justify why his liberty was being stripped away after more than two years of perfect compliance.

18. Petitioner was subsequently transferred to the Eloy Federal Contract Facility in Arizona, where he remains detained without a bond hearing or any meaningful review of his custody status.

LEGAL ARGUMENT

19. Petitioner seeks a temporary restraining order and preliminary injunction to secure his release during the pendency of his habeas petition. In order to obtain this relief, Petitioner must demonstrate the four factors set forth in *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008): (1) a substantial likelihood of success on the merits; (2) a substantial threat of immediate and irreparable harm; (3) that the

balance of equities tips in his favor; and (4) that the injunction is in the public interest. *See also Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011).

20. As shown below, Mr. Fedorenko meets all of these factors. His sudden re-detention after years of compliance, without notice or a hearing, violates both federal regulations and the United States Constitution.

a. **Substantial Likelihood of Success on the Merits**

Petitioner is highly likely to prevail because his current detention is *ultra vires* and violates the procedural due process requirements of the Fifth Amendment.

b. **Failure to Comply with Parole Revocation Regulations,8 C.F.R. § 212.5(e):** Respondents' authority to revoke a grant of parole is not absolute; it is governed by specific federal mandates. Under **8 C.F.R. § 212.5(e)**, once a noncitizen is granted parole (as evidenced by Petitioner's **"UHP" status on his I-94**), that parole may only be revoked when the purposes of the parole have been served or the public interest requires it. Generally, this necessitates **written notice** and an individualized determination.

In this case, ICE summarily arrested Mr. Fedorenko without any notice of intent to revoke his parole and without providing any justification for why his liberty was suddenly being stripped away after two years of perfect

compliance. By failing to follow their own regulatory procedures, Respondents' detention of Petitioner is unlawful as a matter of law.

c. **Violation of the Fifth Amendment Due Process Clause:** Freedom from bodily restraint lies at the core of the liberty interests protected by the Due Process Clause. Because Petitioner has established deep ties to the community, possessing a CDL, a valid EAD, and an exemplary record of reporting, the government cannot arbitrarily return him to mandatory detention under § 1225(b) without a meaningful opportunity to be heard. Given that Petitioner was already determined not to be a danger or flight risk when he was granted parole in 2023, his sudden detention without a change in circumstances is fundamentally unfair and unconstitutional.

d. **Unlawful Detention in Violation of the Temporary Protected Status Statute (8 U.S.C. § 1254a:** Petitioner is a national of Ukraine who has been granted Temporary Protected Status ("TPS") under Temporary Protected Status, which remains central to his lawful presence in the United States. Under 8 U.S.C. § 1254a, TPS beneficiaries are protected from removal and are authorized to remain in the United States for the duration of their designated status period and any properly filed renewal or re-registration application. Petitioner was previously granted TPS, and prior to the expiration of his status, he timely filed a re-registration application with U.S. Citizenship and Immigration Services. That application remains pending adjudication. Accordingly, Petitioner's TPS-based protection has

not been affirmatively terminated, and his eligibility for continued TPS consideration remains active under governing regulations.

e. Under the statutory framework of TPS, a noncitizen who is granted TPS is considered to be in a period of authorized stay and is eligible for employment authorization and protection from removal. See 8 U.S.C. § 1254a(a)(1), (f)(4). Importantly, the TPS statute expressly prohibits detention based solely on immigration status. 8 U.S.C. § 1254a(d)(4).

f. Here, Petitioner is not only a TPS beneficiary but has also timely complied with all renewal requirements, thereby maintaining his lawful procedural posture before the agency. The pendency of his TPS re-registration preserves his protected status and underscores that the government has not made any final determination revoking or terminating his TPS eligibility.

g.

21. Irreparable Injury in the Absence of Relief

The Petitioner is currently suffering, and will continue to suffer, irreparable harm absent immediate injunctive relief. Under Ninth Circuit precedent, an injury is irreparable when it cannot be adequately remedied by money damages or after-the-fact litigation. See Nelson v. NASA, 530 F.3d 1081, 1082 (9th Cir. 2008).

a. **Loss of Constitutional Freedom:** The loss of liberty for even minimal periods constitutes irreparable injury as a matter of law. Every hour Petitioner remains in unlawful mandatory detention is an hour of his life that cannot be restored, making the harm inherently irreparable.

b. **Physical and Religious Hardship:** Petitioner is a practicing Orthodox Christian. His detention has limited his ability to freely practice his faith, including engaging in regular prayer and participating in religious observances. These limitations have caused him emotional and spiritual hardship and further contribute to the overall burden of his continued detention.

c. **Impairment of Legal Claim:** Detention in a remote facility, far from Petitioner's residence and community in California, severely impairs his ability to pursue his pending applications for immigration relief, including his Temporary Protected Status and related benefits. By restricting his access to counsel, documentation, and other critical resources, Respondents are effectively undermining his ability to meaningfully present his case. If these obstacles persist, Petitioner risks substantial and irreparable prejudice to his legal claims.

22. Balance of Equities and Public Interest

The equities tip decisively in Petitioner's favor. He was successfully supervised in the community for over two years without incident. The government has no legitimate interest in the unlawful and costly detention of a non-dangerous,

compliant individual. Conversely, the public interest is served by upholding the rule of law and ensuring that the government adheres to the constitutional and statutory limits of its authority.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Bohdan Fedorenko respectfully requests that this Court grant the following relief:

23. **Grant** Petitioner's Emergency Motion for a Temporary Restraining Order and Preliminary Injunction;
24. **Order** Petitioner's immediate release from custody on such conditions as the Court deems appropriate;
25. **In the alternative**, order Respondents to provide Petitioner with an individualized bond hearing before a neutral adjudicator (such as an Immigration Judge) within seven (7) days, at which the government bears the burden of proving by **clear and convincing evidence** that Petitioner's continued detention is justified by either flight risk or danger to the community;
26. **Enjoin** Respondents and their agents from transferring Petitioner outside the District of Arizona during the pendency of these habeas corpus proceedings to preserve this Court's jurisdiction and Petitioner's access to counsel;
27. **Award** Petitioner reasonable attorney's fees and costs under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412; and
28. **Grant** such other and further relief as the Court deems just, proper, and equitable under the circumstances.

Dated: April 16, 2026

Respectfully submitted,

*_/s/_Murathan Oktar_*

Murathan Oktar, Esq.