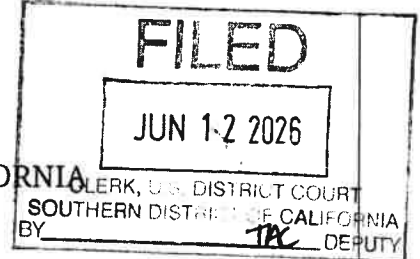


1 UNITED STATES DISTRICT
2 COURT SOUTHERN DISTRICT OF CALIFORNIA



3
4 HENRY ALBERTO GONZALEZ COLOCHO,
5 Preceding Pro Se
6 *Petitioner,*

7 v.

8 _____, Warden, Otay Mesa Detention Center;
9 _____, Field Office Director, ERO San Diego
10 Field Office; TODD M. LYONS, Acting
11 Director, United States Immigration and
12 Customs Enforcement; MARKWAYNE
13 MULLIN, Secretary of Homeland Security;
14 PAM BONDI, United States Attorney
15 General,
16 *Respondents.*

Case No.:

**PETITIONER'S *EX PARTE*
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

13
14 **NOTICE OF EX PARTE APPLICATION**

15 NOTICE IS HEREBY GIVEN that Petitioner HENRY ALBERTO GONZALEZ
16 COLOCHO applies ex parte for a Temporary Restraining Order pursuant to Rule 65(b) of
17 the Federal Rules of Civil Procedure.

18 Good cause exists to waive the advance notice requirements. The need for ex parte relief is
19 urgent and compelling. Since his arrest on February 10, 2026, Petitioner has already been
20 transferred without notice across the entire country—from a facility in New York to his
21 current detention in California.

22 This established pattern demonstrates that Respondents are highly likely to transfer
23 Petitioner again or remove him from the United States before this Court can rule on the
24 merits of his accompanying Petition for a Writ of Habeas Corpus, and while his appeal to
25 the Board of Immigration Appeals is still pending. Providing notice of this application to
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27
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1 Respondents would likely prompt them to immediately transfer or deport Petitioner, thereby
2 divesting this Court of jurisdiction and rendering his petition moot. An immediate order is
3 the only mechanism to prevent this irreparable harm.

4 **I. INTRODUCTION**

5
6 Petitioner Henry Alberto Gonzalez Colacho is an asylum-seeker and the father of two
7 children in the United States who depend on him. His removal order is not final, as he has
8 a timely appeal pending before the Board of Immigration Appeals (BIA). Despite this, his
9 ability to pursue his case has been severely compromised by Respondents' punitive actions.
10 After arresting him in New York, Respondents transferred him thousands of miles across
11 the country to California, isolating him from his prior legal counsel and his established
12 community ties.
13

14 Petitioner now seeks an emergency ex parte Temporary Restraining Order (TRO) to prevent
15 Respondents from transferring him out of this district or removing him from the United
16 States while his concurrently filed Petition for a Writ of Habeas Corpus is pending. The
17 need for this order is critical. Respondents have already demonstrated their willingness to
18 transfer Petitioner thousands of miles without notice. Absent an immediate order from this
19 Court, there is an imminent risk that Respondents will once again transfer him or remove
20 him entirely, which would irreparably harm him by destroying his ability to meaningfully
21 pursue his BIA appeal and his right to due process. A TRO is necessary to preserve the
22 status quo and ensure this Court can provide meaningful relief.
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II. STATEMENT OF FACTS

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2 1. Petitioner Henry Alberto Gonzalez Colocho, A-Number [REDACTED] is a native
3 and citizen of Guatemala who entered the United States on or about August 3, 2023, to seek
4 asylum.

5
6 2. On February 10, 2026, he was arrested by ICE in Buffalo, New York. At the time of
7 his arrest, he was lawfully employed with a work permit and Social Security Number.

8 3. Petitioner has no criminal history in the United States or Guatemala.

9 4. He is currently detained at the Otay Mesa Detention Center in San Diego, California.

10
11 5. Since his appeal was filed, Petitioner has been subjected to an unannounced interstate
12 transfer. He was moved from the Buffalo Service Processing Center in Batavia, New York,
13 across the country to his current location in California, thousands of miles from his prior
14 legal counsel and community.

15
16 6. Petitioner is the father of two children, ages 14 and 17, who reside in the United
17 States and depend on him entirely for financial support.

18 7. The stress of his detention and cross-country transfer have caused Petitioner to suffer
19 from depression and anxiety.

20
21 8. Petitioner's immigration case is pending before the Board of Immigration Appeals.
22 His appeal of an April 21, 2026 removal order was received by the BIA on April 29, 2026.
23 He does not have a final order of removal.

24 9. The cross-country transfer has severely prejudiced his ability to prepare his BIA
25 appeal, as he is now isolated from his prior attorney in Baltimore, Maryland.

26
27 10. Given Respondents' demonstrated practice of transferring Petitioner without
28 warning, he faces an immediate and credible threat of being transferred out of this

1 jurisdiction or removed from the country before his habeas petition can be heard and his
2 BIA appeal is decided.

3 4 **III. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDER**

5 A temporary restraining order is an extraordinary remedy intended to preserve the status
6 quo and prevent irreparable harm. To obtain a TRO, a petitioner must show: (1) a likelihood
7 of success on the merits; (2) a likelihood of suffering irreparable harm in the absence of
8 preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction
9 is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).
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12 13 **A. Petitioner Is Likely to Succeed on the Merits.**

14 Petitioner has a strong likelihood of succeeding on the merits of his habeas petition. His
15 continued detention is arbitrary and punitive, especially as his removal order is not final due
16 to a pending BIA appeal. Detaining a non-criminal asylum-seeker with significant family
17 ties, a history of lawful employment, and a pending administrative appeal, without an
18 opportunity for bond, violates the INA and the Due Process Clause. The punitive, cross-
19 country transfer further demonstrates that his detention is not for any legitimate civil
20 purpose but to obstruct his case. Because his detention is arbitrary, he is likely to prevail.
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23 24 **B. Petitioner Will Suffer Irreparable Harm Absent a TRO.**

25 Petitioner will suffer immediate and irreparable harm if a TRO is not issued. First, the
26 deprivation of constitutional rights—specifically, the fundamental right to liberty and to
27 pursue his legal claims—“unquestionably constitutes irreparable injury.” *Melendres v.*
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1 *Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Every additional day of unlawful detention is
2 a continuing irreparable harm. Second, without a TRO, Respondents are free to transfer or
3 remove Petitioner at any moment. Transfer would further obstruct his BIA appeal. Removal
4 would permanently extinguish his claims and his ability to be a father to his children, a
5 harm that can never be undone. See *La Union del Pueblo Entero v. McAleenan*, 440 F.
6 Supp. 3d 1073, 1092 (N.D. Cal. 2019) (finding removal from the country is irreparable
7 harm).
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11 **C. The Balance of Equities and the Public Interest Favor Granting the TRO.**

12 The balance of equities tips sharply in Petitioner's favor. The harm to Petitioner from
13 continued unlawful detention and the potential for transfer or removal is immense,
14 particularly the destruction of his ability to meaningfully pursue his pending BIA appeal.
15 In contrast, the burden on the Government from a TRO is minimal—it merely requires
16 maintaining the status quo by keeping Petitioner in his current location pending a judicial
17 hearing. When the Government is a party, the balance of equities and the public interest
18 merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). The public
19 has a profound interest in ensuring the government does not unlawfully deprive individuals
20 of their liberty and their right to a full and fair hearing on their legal claims.
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24 **IV. ARGUMENT**

25 Petitioner meets all the requirements for an ex parte TRO under Federal Rule of Civil
26 Procedure 65(b) and *Winter*. As established above, his claim that he is being unlawfully
27 detained while his BIA appeal is pending is strong and likely to succeed. The harm he
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1 faces—continued unconstitutional confinement, the imminent threat of transfer or
2 premature removal, and the destruction of his right to pursue his appeal—is severe and
3 irreparable. The balance of hardships and the public interest weigh decisively in favor of
4 preserving this Court's jurisdiction and ability to adjudicate his habeas petition.

5 The ex parte nature of this request is justified by Respondents' past conduct. Having already
6 transferred Petitioner across the country from New York to California without notice, there
7 is every reason to believe that providing notice would prompt them to take immediate action
8 to moot this case. An emergency order is the only way to ensure Petitioner's rights are not
9 irrevocably lost.
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12 13 **V. CONCLUSION**

14 For the foregoing reasons, Petitioner respectfully requests that this Court grant this ex parte
15 application and issue a Temporary Restraining Order.

16 WHEREFORE, Petitioner respectfully requests that this Court:

- 17 1. Issue an immediate Temporary Restraining Order enjoining Respondents, their
18 agents, and their employees from: a. Transferring Petitioner Henry Alberto Gonzalez
19 Colucho, A-Number  from his current place of detention at the Otay Mesa
20 Detention Center; b. Removing or deporting Petitioner from the United States; and c.
21 Taking any other action to facilitate his transfer or removal pending a hearing on this matter.
22
- 23 2. Order Respondents to show cause why a preliminary injunction should not issue.
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- 25 3. Set a hearing on the concurrently filed Petition for a Writ of Habeas Corpus within
26 five (5) days, as required by 28 U.S.C. § 2243.
27
- 28 4. Grant such other and further relief as this Court deems just and proper.

1 **VERIFICATION**

2 I, Henry Alberto Gonzalez Colocho, being the petitioner, hereby certify under penalty of
3 perjury that the statements set forth herein are true and correct to the best of my knowledge
4 and belief.

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6 Date: June 9, 2026.

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8
9 /s/ Henry Alberto Gonzalez Colocho

10 **Henry Alberto Gonzalez Colocho**
11 **Pro Se**
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