UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

JUAN CARLOS FERNANDEZ,	)	
	)	Case No. _____
Petitioner,	)	
	)	
v.	)	
	)	
	)	
JASON STREEVAL, in his official capacity as Warden, Stewart Detention Center;	)	
SEAN GALLAGHER, in his official capacity as Field Office Director, ICE ERO Atlanta Field Office;	)	
DAVID VENTURELLA, Acting Director, U.S. Immigration and Customs Enforcement;	)	
MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security;	)	
TODD BLANCHE, Attorney General of the United States, in their official capacities,	)	
Respondents.	)	
_____	)	

MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION PURSUANT TO FED. R. CIV. P. 65

INTRODUCTION

Petitioner Juan Carlos Fernandez moves this Court for a Temporary Restraining Order (TRO) and Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65 restraining Respondents from: (1) removing Petitioner from the United States; and (2) transferring Petitioner outside the jurisdiction of this Court, pending resolution of the accompanying Petition for Writ of Habeas Corpus. Petitioner satisfies all four elements for emergency injunctive relief.

LEGAL STANDARD

A party seeking a TRO or preliminary injunction must demonstrate: (1) a substantial likelihood of success on the merits; (2) that irreparable injury will result absent the injunction; (3) that the threatened injury to the movant outweighs the harm an injunction would cause the

opposing party; and (4) that the injunction would not disserve the public interest. *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000).

In habeas proceedings involving immigration detention, the Eleventh Circuit has recognized that removal moots the petition and constitutes per se irreparable harm. *See Nken v. Holder*, 556 U.S. 418, 435 (2009); *Ali v. Mukasey*, 524 F.3d 145, 150 (2d Cir. 2008).

ARGUMENT

I. Petitioner Has a Substantial Likelihood of Success on the Merits

Petitioner's habeas petition presents a controlling legal question that has been decided in his favor by the United States Court of Appeals for the Eleventh Circuit. In *Hernandez Alvarez v. Warden*, Nos. 25-14065/14075 (11th Cir. May 6, 2026), the Eleventh Circuit held that unadmitted aliens arrested in the interior of the United States are governed by § 1226(a) and entitled to individualized bond hearings. The petitioners in that case — who had the same factual profile as Petitioner — were released on bond.

The likelihood of success is further demonstrated by the IJ's own order of June 11, 2026, in which IJ Brown acknowledged that *Hernandez Alvarez* established that "the Court has jurisdiction to redetermine bond in this case." The IJ's own findings confirm the legal basis for Petitioner's claim. The petition does not ask this Court to make a novel legal determination — it asks this Court to enforce what the Eleventh Circuit has already decided and what the IJ herself acknowledged.

The likelihood of success is not merely "substantial" — it is overwhelming. Controlling circuit precedent requires the bond hearing. The IJ found jurisdiction and denied it anyway. No reasonable application of *Hernandez Alvarez* supports Petitioner's continued detention without a bond hearing.

II. Petitioner Will Suffer Irreparable Harm Absent Injunctive Relief

Petitioner faces two irreversible harms absent injunctive relief. First, removal from the United States would moot his habeas petition and deprive this Court of the ability to grant effective relief. *Nken*, 556 U.S. at 435 ("[O]nce an alien is removed, the court can no longer grant relief even if there was error."). The Constitution's Suspension Clause requires that the writ of habeas corpus "provide a meaningful and effective remedy." *Boumediene v. Bush*, 553 U.S. 723, 779 (2008). Removal before resolution renders the petition a nullity.

Second, removal to Venezuela would expose Petitioner to the precise persecution he fled. [redacted] He has a pending Form I-589 asylum application, forensic medical evidence of persecution injuries, and documentary country conditions evidence. Removal to Venezuela before adjudication of his asylum claim would constitute irreparable harm of the highest order.

The loss of liberty itself constitutes irreparable harm in the context of detention without legal authority. *See Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) ("[L]oss of liberty

is irreparable harm."); *Zadvydas*, 533 U.S. at 701 (prolonged detention raises serious constitutional concerns).

III. The Balance of Harms Favors Petitioner

The balance of equities strongly favors Petitioner. On one side: a 61-year-old Venezuelan national with no criminal history, held for nearly two months without a legally authorized bond hearing, facing removal to a country where [redacted] with a pending asylum application that would be forfeited upon removal. On the other side: a brief delay in DHS's ability to remove a man who has lived in this country for five years under government supervision without incident, while his habeas petition — which presents a controlling legal question of significant national importance — is resolved.

The government's interest in enforcement does not justify removal of a person whose detention has been found by the IJ herself to be subject to § 1226(a) bond-hearing rights under *Hernandez Alvarez*. *See Leiva-Perez v. Holder*, 640 F.3d 962, 970 (9th Cir. 2011) ("The government has little interest in deporting an alien who is likely to succeed on the merits of a petition for review.")

IV. The Public Interest Favors Injunctive Relief

The public interest is served by ensuring that federal agencies comply with binding federal court precedent. *See Hernandez Alvarez* (published FOR PUBLICATION, binding on all courts in this Circuit). Compliance with the Eleventh Circuit's holding in *Hernandez Alvarez* is not merely in Petitioner's interest — it is in the public interest. Permitting DHS to remove aliens whose detentions violate controlling circuit court authority, before habeas petitions can be resolved, would undermine the rule of law and the integrity of the federal court system.

The public interest in the faithful execution of asylum law also weighs heavily here. Congress created the asylum system to protect individuals from persecution. Petitioner has a pending, non-frivolous asylum claim supported by documentary evidence of personal persecution by a named government military unit. The public interest is not served by removing an asylum seeker before adjudication of his claim, in violation of controlling law.

RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

1. **Issue a Temporary Restraining Order immediately**, without hearing, restraining and enjoining all Respondents, their officers, agents, servants, employees, and attorneys, and those in active concert or participation with them, from:

   a. Removing Petitioner Juan Carlos Fernandez, A# [redacted], from the United States; and

   b. Transferring Petitioner outside the jurisdiction of this Court or to any facility outside the Middle District of Georgia;

2. **Order Respondents to file a response** to this Motion and to the Petition for Writ of Habeas Corpus within seven (7) days;
3. **Schedule an expedited hearing** on the Petition and this Motion at the earliest practicable time; and
4. **Convert the TRO to a Preliminary Injunction** pending final resolution of the Petition, upon such hearing as the Court deems appropriate.

Petitioner requests that this Court issue the TRO ex parte and without notice to Respondents pursuant to Fed. R. Civ. P. 65(b)(1) because: (a) immediate and irreparable injury will result before Respondents can be heard, specifically Petitioner's potential removal from the United States, which would moot this entire proceeding; and (b) as set forth in the accompanying declaration of counsel, efforts to provide advance notice to the ICE Office of Chief Counsel in Lumpkin have been/will be made contemporaneously with the filing of this motion.

Respectfully submitted, this 15th day of June, 2026.

Michael Wallace, Esquire
Attorney for Petitioner
GA Bar No. 734183 | EOIR ID No. HN069065
2870 Peachtree Street, NW
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Atlanta, Georgia 30305
(404) 424-9887 | attywallace@hotmail.com

CERTIFICATE OF SERVICE

I, Michael Wallace, Esquire, counsel for Petitioner Juan Carlos Fernandez, hereby certify that on the 15th day of June, 2026, I caused true and correct copies of the following documents to be served upon all Respondents and their counsel of record via **FedEx Priority, Signature Waived**, by depositing same with a FedEx authorized shipping location, postage prepaid, addressed as set forth below:

DOCUMENTS SERVED

1. Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 with Emergency Request for Expedited Review;
2. Motion for Temporary Restraining Order and Preliminary Injunction Pursuant to Fed. R. Civ. P. 65;
3. Proposed Temporary Restraining Order;
4. Exhibits 1
5. Civil Cover Sheet (JS 44) and Summons.

SERVICE ON RESPONDENTS AND COUNSEL

Jason Streeval, Warden
Immediate Custodian of Petitioner / Respondent
Stewart Detention Center
146 CCA Road, P.O. Box 248
Lumpkin, Georgia 31815
Method: FedEx Priority, Signature Waived
FedEx Tracking No.: [redacted]

Sean Gallagher, Field Office Director
ICE Enforcement and Removal Operations, Atlanta Field Office / Respondent
180 Ted Turner Drive SW, Suite 522
Atlanta, Georgia 30303
Method: FedEx Priority, Signature Waived
FedEx Tracking No. [redacted]

Office of the Principal Legal Advisor — Erie-Gulf Region
Counsel for DHS/ICE at Stewart Immigration Court / Attn: Jason G. Jack, Counsel
146 CCA Road, P.O. Box 248
Lumpkin, Georgia 31815

Tel: (229) 838-1109
Method: FedEx Priority, Signature Waived
FedEx Tracking No.: [redacted]

Civil Process Clerk
United States Attorney's Office, Middle District of Georgia
300 Mulberry Street, Suite 400
Macon, Georgia 31201
Method: FedEx Priority, Signature Waived
FedEx Tracking No.: [redacted]

Civil Process Clerk
Office of the Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Method: FedEx Priority Overnight, Signature Waived
FedEx Tracking No.: [redacted]

Civil Process Clerk
Secretary, U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue, SE
Washington, D.C. 20528
Method: FedEx Priority Overnight, Signature Waived
FedEx Tracking No.: [redacted]

Civil Process Clerk
Acting Director, U.S. Immigration and Customs Enforcement
500 12th Street, SW
Washington, D.C. 20536
Method: FedEx Priority Overnight, Signature waived
FedEx Tracking No.: [redacted]

NOTICE OF EMERGENCY TRO REQUEST

Pursuant to Fed. R. Civ. P. 65(b)(1), counsel for Petitioner provided telephonic and written notice of the filing of this action and the emergency Motion for Temporary Restraining Order to the following personnel contemporaneously with filing:

ICE Office of Chief Counsel, Lumpkin: (229) 838-1109

ICE ERO Atlanta Field Office: (404) 893-1210

DHS Office of General Counsel: (202) 282-9822

Notice was provided at approximately 5:45 p.m. on June 15, 2026, 2026, by telephonic communication at the Office of the Principal Legal Advisor, Lumpkin, Georgia. Counsel for Petitioner informed the foregoing parties of the nature of the action, the relief sought, and the grounds therefore. A copy of the Petition, Motion, and accompanying documents was transmitted electronically to the same office at Jason.Jack@ice.dhs.gov.

ELECTRONIC FILING AND CM/ECF SERVICE

This action was filed electronically through the CM/ECF system for the United States District Court for the Middle District of Georgia on _June 15, 2026. Upon filing, electronic notice was generated and transmitted to all counsel registered with CM/ECF in this District. FedEx service is provided as supplemental service to ensure timely actual notice to all Respondents, including those who may not yet be registered in the CM/ECF system for this action.

NOTICE OF PARALLEL EOIR PROCEEDINGS

Petitioner hereby notifies this Court that the following parallel proceedings are pending and have been served with copies of this filing:

Immigration Court: Stewart Immigration Court, Lumpkin, Georgia

IJ: Hon. Bianca Brown

EOIR File No.: [redacted]

IJ Order at Issue: June 11, 2026 (Exhibit 1 to Petition)

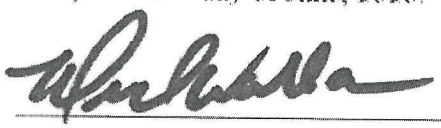
BIA Appeal Reserved: Appeal due July 13, 2026

DHS Counsel of Record: Jason G. Jack, Esq., Office of the Principal Legal Advisor

A copy of this Petition, the Motion for Temporary Restraining Order, and all exhibits has been served upon DHS counsel of record in the EOIR proceedings via FedEx Priority Overnight and via ECAS contemporaneously with filing in this Court.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Respectfully submitted, this 15th day of June, 2026.



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