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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GUSTAVO RAMIREZ GARCIA,

Petitioner,

v.

Warden, Central Valley Annex;

Markwayne MULLIN, Secretary, U.S.
Department of Homeland Security;

Todd LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;

Todd BLANCHE, Acting Attorney General of the
United States, U.S. Department of Justice.

Respondents

Case No.:



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

1 Petitioner Gustavo Ramirez Garcia respectfully submits this Ex Parte Application for a
2 Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65 to prevent ongoing
3 and irreparable constitutional harm. Petitioner has simultaneously filed a Petition for Writ of
4 Habeas Corpus challenging the legality of his continued detention by Respondents.

5 As explained in the Petition, Respondents are unlawfully detaining Petitioner after
6 permitting him to reside at liberty in the United States for approximately eight years. During that
7 period, Petitioner established substantial family ties, including marriage to a United States citizen
8 and the birth of two United States citizen children. On November 24, 2025, USCIS approved the
9 Form I-130 immigrant petition filed on Petitioner's behalf, further confirming his pursuit of
10 lawful immigration status through the family-based immigration process. On or about June 5,
11 2026, after Petitioner posted the bond set in his Oklahoma criminal case, Respondents abruptly
12 placed him in immigration detention without prior notice, without identifying any changed
13 circumstances, and without providing any opportunity for individualized review. Having
14 permitted Petitioner to remain at liberty in the United States for approximately eight years,
15 Respondents may not abruptly invoke inspection-stage detention authority under INA § 235(b)
16 without constitutionally adequate process. Petitioner is likely to succeed on the merits of his
17 habeas claim because his detention is governed by INA § 236(a), not INA § 235(b), and because
18 Respondents have failed to provide the constitutionally required process before depriving
19 Petitioner of his physical liberty.

20 Petitioner is currently detained at the Central Valley Annex in McFarland, California.
21 Without immediate judicial intervention, Petitioner will continue to suffer irreparable harm, as
22 the loss of physical liberty, even for minimal periods of time, constitutes irreparable injury.
23 Because Respondents have provided no notice, no individualized justification, and no
24 opportunity for review of his detention, Petitioner has no meaningful avenue through which to
25 challenge the legality of his continued confinement other than this habeas proceeding. Petitioner
26 therefore respectfully requests that this Court issue a Temporary Restraining Order directing
27 Respondents to immediately release him from immigration custody.

This application is submitted in conjunction with the Petition for Writ of Habeas Corpus, the accompanying declaration of counsel, and the proposed order filed concurrently herewith. Respondents will receive notice of this application through the Court's CM/ECF system. Petitioner submits this application on an ex parte basis because immediate relief remains necessary to prevent ongoing constitutional injury.

II. LEGAL STANDARD

A temporary restraining order is an extraordinary remedy intended to prevent immediate and irreparable harm. A movant must demonstrate: (1) a likelihood of success on the merits; (2) a likelihood of suffering irreparable harm in the absence of relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008).

At the same time, where, as here, a petitioner challenges the legality of detention, habeas corpus provides the appropriate mechanism for relief. A federal court may grant a writ of habeas corpus where a petitioner is in custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3). The writ serves as the traditional means of securing release from unlawful custody. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Challenges to immigration detention are properly brought directly through habeas corpus. *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004).

III. ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits

Petitioner is likely to succeed on the merits because his detention violates the Due Process Clause and is not authorized by the governing statutory framework. After permitting Petitioner to reside at liberty in the United States for approximately eight years, Respondents abruptly placed him in immigration detention without prior notice, without identifying any changed circumstances, and without providing any opportunity to be heard before a neutral decisionmaker.

1 Petitioner entered the United States in approximately 2017 and remained at liberty for
2 approximately eight years. During that period, Petitioner established substantial family ties,
3 including marriage to a United States citizen and the birth of two United States citizen children.
4 On November 24, 2025, USCIS approved the Form I-130 immigrant petition filed on Petitioner's
5 behalf. Despite permitting Petitioner to openly reside in the United States for years and despite
6 that approval, Respondents abruptly detained Petitioner on June 5, 2026, after he posted the bond
7 set in his Oklahoma criminal case. Respondents identified no individualized basis demonstrating
8 that detention was necessary to ensure Petitioner's appearance or to protect the community.

9 The inspection-stage detention framework of INA § 235(b) applies to individuals seeking
10 admission at or near the time of entry. Once the government has permitted a noncitizen to remain
11 openly within the United States for years, that inspection-stage detention framework no longer
12 governs subsequent detention following a later arrest in the interior of the United States. Any
13 such detention must proceed, if at all, under INA § 236(a), which governs detention of
14 individuals already present in the United States and provides for an individualized custody
15 determination. Recent decisions from this District have likewise concluded that § 1226(a)—not §
16 1225(b)—governs detention under materially indistinguishable circumstances. See *Diaz v.*
17 *Warden, Central Valley Annex*, No. 1:26-cv-04309 (E.D. Cal. June 25, 2026) (Doc. No. 9 at 2–
18 3); *Perez Ramirez v. Warden, Golden State Annex*, No. 1:26-cv-03962 (E.D. Cal. June 24, 2026)
19 (Doc. No. 11 at 2–3).

20 Respondents have nevertheless detained Petitioner under § 235(b), thereby denying him
21 access to a custody hearing before an Immigration Judge. Because Respondents are detaining
22 Petitioner under an improper statutory framework and without lawful authority, Petitioner has
23 established a strong likelihood of success on the merits.

24
25 In addition, Respondents' decision to revoke Petitioner's longstanding liberty without
26 prior notice or any individualized determination independently violates the Due Process Clause.
27 Recent decisions from this District have recognized that detention under materially similar

1 circumstances violates due process and warrants habeas relief. See *Diaz*, No. 1:26-cv-04309,
2 Doc. No. 9 at 3–5 (applying the *Mathews v. Eldridge* factors and ordering release where the
3 petitioner had lived openly in the United States for decades, had an approved family-based
4 immigrant petition, and was detained without any individualized showing of flight risk or
5 danger); *Rojas-Castro v. Warden, Central Valley Annex*, No. 1:26-cv-04271-DAD-JDP (E.D.
6 Cal. June 9, 2026) (Doc. No. 9) (ordering release where petitioner had resided in the United
7 States for more than a decade before being re-detained without notice or a hearing).

8 *Diaz* is closely analogous. There, as here, the petitioner entered without inspection,
9 remained at liberty in the United States for years, had an approved family-based immigrant
10 petition, and was taken into ICE custody only after a local criminal arrest. The court rejected
11 Respondents' reliance on § 1225(b)(2), concluded that the government had failed to justify
12 continued detention through any individualized showing of flight risk or dangerousness, and
13 ordered Petitioner's immediate release while prohibiting re-detention absent constitutionally
14 adequate process. The same reasoning applies here. After permitting Petitioner to reside openly
15 in the United States for approximately eight years, Respondents may not abruptly revoke that
16 liberty through mandatory detention under § 235(b) without providing constitutionally adequate
17 process. Petitioner is therefore likely to succeed on the merits.

18 **B. Petitioner Will Suffer Irreparable Harm in the Absence of Immediate** 19 **Relief**

20 In the absence of immediate relief, Petitioner will continue to suffer the irreparable harm
21 of unlawful detention and the deprivation of his physical liberty. The Supreme Court has
22 recognized that "[f]reedom from imprisonment—from government custody, detention, or other
23 forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause.
24 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

25 Courts have repeatedly held that the loss of liberty resulting from unlawful detention
26 constitutes irreparable harm warranting injunctive relief. Where a petitioner is detained without
27
28

1 lawful statutory authority, each additional day of detention inflicts irreparable injury that cannot
2 be remedied after the fact.

3 This harm is particularly acute here. For approximately eight years, Respondents
4 permitted Petitioner to reside at liberty in the United States while he established substantial
5 family ties, including marriage to a United States citizen and the birth of two United States
6 citizen children. During that period, USCIS approved the Form I-130 immigrant petition filed on
7 Petitioner's behalf. Respondents nevertheless abruptly placed Petitioner in immigration detention
8 on June 5, 2026, without prior notice, without identifying any changed circumstances, and
9 without providing any procedural safeguards. The continued deprivation of Petitioner's liberty
10 under these circumstances constitutes ongoing and irreparable harm.

11 **C. The Balance of Equities and the Public Interest Favor Relief**

12 The balance of equities and the public interest weigh strongly in favor of granting relief.
13 Petitioner faces the ongoing loss of his physical liberty through detention that lacks statutory
14 authorization, while Respondents suffer no cognizable harm from being required to comply with
15 the Constitution and governing law.

16 Because the government is a party, the balance of equities and public interest factors
17 merge. Courts have consistently recognized that the public interest is served by ensuring that
18 federal officials act in accordance with the Constitution and federal statutes.

19 This is particularly true here. Respondents detained Petitioner after permitting him to
20 reside at liberty in the United States for approximately eight years. During that period, Petitioner
21 established substantial family ties, including marriage to a United States citizen and the birth of
22 two United States citizen children, and USCIS approved the Form I-130 immigrant petition filed
23 on his behalf. Respondents nevertheless placed Petitioner in immigration detention on June 5,
24 2026, without prior notice, without identifying any changed circumstances, and without
25 providing any constitutionally adequate process.

26 Accordingly, the balance of equities and the public interest strongly favor the issuance of
27 a temporary restraining order.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant his Application for a Temporary Restraining Order and order Respondents to immediately release Petitioner from immigration custody. In the alternative, should the Court determine that immediate release is not warranted, Petitioner respectfully requests that the Court order Respondents to provide a constitutionally adequate custody hearing consistent with the requirements of due process.

Respectfully submitted,

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