UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

MACEDONIO DE LOS SANTOS ZAVALA,	
Petitioner,	Case No. _____
v.	
WARDEN, STEWART DETENTION CENTER, et al.,	
Respondents.	

PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND IMMEDIATE RELEASE

Petitioner Macedonio De Los Santos Zavala, A# [redacted] proceeding pro se, respectfully applies for an emergency Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65 directing his immediate release from civil immigration detention subject to reasonable conditions of supervision.

This Motion is filed in conjunction with Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner does not request another bond hearing. Rather, Petitioner challenges the constitutionality of his continued physical confinement and requests immediate release because continued incarceration is excessive in relation to the Government's asserted regulatory interest and because less restrictive conditions can adequately ensure Petitioner's appearance.

I. INTRODUCTION

1. Petitioner has resided in the United States for approximately twenty-six years and has developed substantial family, economic, and community ties to this country.

2. Petitioner is the father of two United States citizen children, owns and operates [redacted] in Pompano Beach, Florida, has filed federal income tax returns, maintains an

established residence, and has a United States citizen sponsor prepared to provide housing, transportation, financial assistance, and support with all immigration reporting requirements.

3. Petitioner was taken into ICE custody on July 4, 2026. He is presently confined at Stewart Detention Center in Lumpkin, Georgia.

4. On August 3, 2026, Petitioner received a custody redetermination hearing before Immigration Judge George Ward. The Immigration Judge denied release solely because he determined that Petitioner was a "significant flight risk." The written order contains no finding that Petitioner poses a danger to the community.

5. Petitioner timely appealed that custody determination to the Board of Immigration Appeals on August 7, 2026. That administrative appeal remains pending.

6. Petitioner has therefore pursued the administrative remedy available to challenge the Immigration Judge's custody determination. This emergency motion presents a distinct constitutional question: whether Petitioner's continued physical incarceration remains constitutionally permissible when the Government's only identified regulatory concern is appearance and substantial less restrictive measures are available to mitigate that concern.

7. Petitioner has filed an Application for Cancellation of Removal pursuant to INA § 240A(b). At the custody hearing, the Immigration Judge characterized that potential relief as speculative in assessing flight risk. Petitioner does not ask this Court to determine the ultimate merits of that application. Rather, Petitioner's request for emergency relief rests independently upon his approximately twenty-six years of residence, United States citizen children, established business, tax history, fixed residence, United States citizen sponsor, willingness to post substantial financial security, and willingness to submit to stringent conditions of supervision.

8. Petitioner is willing to submit to ICE reporting, GPS or electronic monitoring, travel restrictions, home supervision, or any other reasonable condition necessary to ensure his appearance.

9. Petitioner was also willing to post a substantial monetary bond. Thus, this case presents multiple concrete alternatives capable of addressing the Government's asserted flight-risk concern without continued physical incarceration.

10. Each additional day of allegedly unconstitutional confinement constitutes an ongoing deprivation of Petitioner's physical liberty that cannot subsequently be restored.

11. Petitioner therefore respectfully requests immediate judicial intervention and an order directing his release subject to reasonable conditions of supervision.

II. MEMORANDUM OF LAW

A temporary restraining order requires Petitioner to establish a substantial likelihood of success on the merits, irreparable injury absent relief, that the threatened injury outweighs the harm the injunction would cause Respondents, and that the requested injunction would not be adverse to the public interest.

III. PETITIONER HAS A SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS.

Freedom from physical imprisonment lies at the core of the liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

The Supreme Court has likewise recognized the traditional role of habeas corpus in testing the legality of executive detention. The ordinary function of the writ is to remedy unlawful physical confinement.

Petitioner's claim does not depend upon this Court deciding that the Immigration Judge assigned insufficient weight to a particular *Matter of Guerra* factor. Petitioner does not ask this Court to function as an appellate immigration tribunal or substitute its discretionary judgment for that of the Immigration Judge.

Instead, Petitioner challenges the constitutionality of his continued physical incarceration under the particular circumstances presented here.

The Government's sole identified justification for Petitioner's detention is flight risk. The Immigration Judge made no finding that Petitioner presents a danger to the community.

Yet substantial mechanisms short of incarceration exist to protect the Government's appearance interest. At the custody hearing, the Immigration Judge characterized Petitioner's potential cancellation relief as speculative. Petitioner does not ask this Court to reconsider that discretionary assessment or determine whether cancellation will ultimately be granted. Even setting the EOIR-42B application entirely aside, Petitioner's ties and proposed safeguards are concrete rather than speculative. Petitioner has approximately twenty-six years of residence in the United States, United States citizen children, an established roofing business, a fixed

residence, a United States citizen sponsor, a documented tax history, and a willingness to post substantial financial security. Petitioner is also willing to report to ICE and submit to electronic monitoring, GPS supervision, travel restrictions, residence requirements, or any other lawful condition of supervision.

Petitioner does not contend that this Court may reverse the Immigration Judge merely because it disagrees with the weight assigned to Petitioner's EOIR-42B application. That issue is presently being pursued through Petitioner's timely August 7, 2026 administrative bond appeal. The distinct constitutional question presented here is whether continued physical incarceration is necessary when the Government's identified concern—Petitioner's appearance—can be addressed through concrete and substantially less restrictive conditions of supervision.

The Supreme Court has emphasized that because civil immigration detention is nonpunitive, a sufficiently strong regulatory justification must support the deprivation of physical liberty. *Zadvydas*, 533 U.S. at 690.

The recent August 4, 2026 decision in *Marvin Alexander Z.L.* further illustrates the continuing role of habeas corpus in reviewing the legality of immigration detention. There, the Eastern District of California reiterated that "the traditional function of the writ is to secure release from illegal custody" and ordered the petitioner's immediate release after concluding that his immigration detention violated federal law and the Fifth Amendment.

Petitioner recognizes that *Marvin Alexander Z.L.* arose in a materially different procedural posture because that petitioner had not received a bond hearing. Nevertheless, the decision reinforces the fundamental principles applicable here: immigration detention implicates a protected liberty interest; § 2241 remains available to challenge unconstitutional executive detention; and immediate release is an available habeas remedy when physical confinement itself is unlawful.

IV. PETITIONER IS SUFFERING IMMEDIATE AND IRREPARABLE HARM.

The harm is Petitioner's continuing loss of physical liberty.

Every additional day Petitioner remains incarcerated is time that cannot be restored if he ultimately prevails.

Petitioner's detention also prevents him from operating [redacted] earning income, financially supporting his children, and participating in his children's lives.

His BIA appeal does not eliminate this harm. Even if Petitioner ultimately prevails administratively, the physical liberty lost while that appeal remains pending cannot be returned.

Petitioner therefore faces an immediate and continuing injury for which retrospective relief is inadequate.

V. THE BALANCE OF HARMS FAVORS PETITIONER.

Petitioner faces the complete deprivation of his physical liberty, separation from his family, inability to operate his business, and inability to financially support his children.

The Government, by contrast, retains numerous mechanisms for ensuring Petitioner's appearance without incarceration

Petitioner is willing to comply with reporting requirements, electronic monitoring, GPS supervision, travel restrictions, residence requirements, and other appropriate conditions.

He has also demonstrated his commitment to the legal process by timely appealing the adverse custody determination to the BIA and continuing to litigate his pending removal proceedings through established legal procedures.

Accordingly, the Government's legitimate appearance interest can be protected without the extraordinary restraint of continued physical incarceration.

VI. THE PUBLIC INTEREST FAVORS CONSTITUTIONALLY LAWFUL DETENTION.

The public has a substantial interest in enforcement of the immigration laws.

The public has an equally substantial interest in ensuring that executive detention remains within constitutional boundaries.

Those interests are not incompatible. Petitioner's release under appropriate supervision would permit DHS to monitor Petitioner and ensure his appearance while preserving his physical liberty pending adjudication of his immigration proceedings.

VII. IMMEDIATE RELEASE IS THE APPROPRIATE EMERGENCY RELIEF.

Petitioner does not request another bond hearing.

He already received a custody redetermination hearing on August 3, 2026 and has timely invoked administrative review of that decision.

The constitutional injury alleged here is continued physical confinement itself. Accordingly, another substantially identical bond hearing would not provide the relief requested in this action.

The traditional purpose of habeas corpus is release from unlawful custody. The August 4, 2026 *Marvin Alexander Z.L.* order provides a recent example of a federal district court granting a § 2241 petition and ordering ICE to "IMMEDIATELY RELEASE" a detainee after determining that his immigration detention violated federal law and due process.

Petitioner therefore requests immediate release subject to reasonable conditions rather than another administrative custody hearing.

VIII. WHY EXPEDITED RELIEF IS NECESSARY

Petitioner proceeds pro se from immigration detention. His physical liberty is presently restrained, and the constitutional injury alleged in his Petition continues each day.

Petitioner therefore respectfully requests immediate consideration of this Motion.

If the Court determines that ex parte relief is inappropriate, Petitioner alternatively requests that Respondents be directed to respond on an expedited basis and that the Court conduct an emergency hearing at the earliest practicable time.

IX. CONCLUSION AND PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Grant this Emergency Motion for Temporary Restraining Order;

B. Order Respondents to immediately release Petitioner from physical immigration custody within twenty-four hours under reasonable conditions of supervision;

C. Order Respondents to return Petitioner's identification documents and personal belongings upon release;

D. Order Respondents to notify Petitioner or his designated family member of the location and anticipated time of release;

E. Enjoin Respondents from re-detaining Petitioner during the pendency of this action absent materially changed circumstances or new particularized evidence sufficient to establish a lawful basis for renewed detention;

F. Require Respondents to file a notice confirming compliance with the Court's release order;

G. Alternatively, if the Court determines that immediate ex parte release is inappropriate, order an expedited response and emergency hearing on Petitioner's Motion, and

H. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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Executed on August 7, 2026, in Lumpkin, Georgia.

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