Oscar Armando Escobar-Alvarez
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Pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

Oscar Armando Escobar-Alvarez
A-Number: 205660665
Proceeding Pro Se,
Petitioner,
v.
_____, WARDEN/FACILITY ADMINISTRATOR,
ERO El Paso Camp East Montana;
_____, FIELD OFFICE DIRECTOR, U.S. Immigration and Customs Enforcement, El Paso Field Office; DAVID J. VENTURELLA, Acting Director, United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, Department of Homeland Security; TODD BLANCHE, Acting Attorney General, United States,
Respondents.

Case No.: **EP-26-CV-02204**

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

I. NOTICE OF PRO SE FILING

Petitioner Oscar Armando Escobar Alvarez files this Application *pro se*. He respectfully requests that the Court construe his pleadings liberally. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972).

II. INTRODUCTION

Petitioner seeks an *ex parte* temporary restraining order ("TRO") pursuant to Federal Rule of Civil Procedure 65(b) to prevent irreparable harm while the Court considers his accompanying Petition for Writ of Habeas Corpus. Specifically, Petitioner seeks: (1) an order prohibiting Respondents from transferring him outside the Western District of Texas or removing him from the United States while the habeas Petition is pending; and (2) an order requiring Respondents to restore Petitioner to the noncustodial status that existed before his August 12, 2026 redetention—specifically, his

liberty in the community where he resided, worked, and supported his family for nearly fourteen years after being formally released by the Office of Refugee Resettlement ("ORR") as an unaccompanied alien child.

III. LEGAL STANDARD

The standard for a TRO is the same as for a preliminary injunction. Under *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008), a plaintiff must show: (1) likelihood of success on the merits; (2) likelihood of irreparable harm absent preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest.

Under Fed. R. Civ. P. 65(b)(1)(A), the court may issue a TRO without notice if "specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition."

IV. FACTUAL BACKGROUND

The facts supporting this Application are set forth in Petitioner's contemporaneously filed verified Petition for Writ of Habeas Corpus and his verified Declaration, which are incorporated herein by reference. In summary:

- Petitioner, a native and citizen of El Salvador born on December 6, 1996, entered the United States on September 24, 2012, at or near Laredo, Texas, as an unaccompanied alien child at the age of fifteen.
- The Government's own Form I-200, dated October 2, 2012, expressly authorized Petitioner's custody under "section 236 of the Immigration and Nationality Act"—8 U.S.C. § 1226.
- Petitioner was transferred to the Office of Refugee Resettlement ("ORR") as an unaccompanied alien child. ORR formally approved his release to his uncle and sponsor, Bonifacio Benitez, in Sanford, North Carolina, on November 20, 2012. Petitioner signed the Verification of Release Form on November 28, 2012, agreeing to appear at all future

proceedings and comply with all DHS/ICE and EOIR requirements.

- From November 2012 until August 12, 2026—a period of approximately thirteen years and eight months—Petitioner lived at liberty in the community. He established residence in Crownsville, Maryland, obtained a Maryland driver's license (valid through 2029), registered a vehicle, and worked in home remodeling.
- On January 7, 2014, the Immigration Judge administratively closed Petitioner's removal proceedings upon joint request of both parties. No appeal was filed. As of August 18, 2026, EOIR confirms that the case remains pending, that no future hearings are scheduled, and that no appeal has been received by the BIA. There is no final order of removal.
- Petitioner has no criminal record. The I-213 from 2012 also recorded "Criminal Record: None Known."
- Petitioner's mother depends on him for financial support.
- On August 12, 2026, Petitioner was redetained in Baltimore, Maryland, while driving to work. Two vehicles intercepted him. He was not provided with a warrant, a Notice of Custody Determination, or any document identifying the statutory authority for his new detention.
- Following his arrest, Petitioner was transferred from Maryland to Texas. He is now detained at ERO El Paso Camp East Montana in El Paso, Texas, far from his family, home, and community in Maryland.

V. ARGUMENT

A. Petitioner Has Shown a Likelihood of Success on the Merits

Petitioner has raised serious questions going to the merits of his habeas claims. The Government formally released him from ORR custody in November 2012 under the TVPRA, 8 U.S.C. § 1232(c)(2)(A), creating a protected liberty interest. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). He was redetained after nearly fourteen years

of community life, without notice, a hearing, or any identified changed circumstance, in violation of the Fifth Amendment. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). The Government's own Form I-200 from 2012 expressly invoked INA § 236 (8 U.S.C. § 1226) as the authority for Petitioner's custody. While the Fifth Circuit in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), held that non-admitted persons who entered without inspection may be subject to § 1225(b)(2)(A), Petitioner's case is distinguishable because he was apprehended as a minor, formally processed under § 236 by the Government's own warrant, transferred to ORR, and formally released through a structured governmental process under the TVPRA. The Ninth Circuit has recognized that re-arresting a person previously released by ORR without a showing of changed circumstances violates due process. *See Saravia ex rel. A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). While *Saravia* is not binding in this Circuit, its reasoning is persuasive. Furthermore, there is no final order of removal—administrative closure does not result in a final order. *See Matter of Gutierrez*, 21 I. & N. Dec. 479 (BIA 1996); *Matter of Avetisyan*, 25 I. & N. Dec. 688 (BIA 2012). Section 1231 does not apply. Finally, the jurisdiction of this Court to review the legality of Petitioner's detention through habeas corpus is firmly established. *See INS v. St. Cyr*, 533 U.S. 289 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

B. Petitioner Will Suffer Irreparable Harm Absent a TRO

Petitioner is suffering ongoing deprivation of physical liberty—the most fundamental form of irreparable harm. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Petitioner also faces other immediate and severe irreparable harms. He was already transferred from Maryland to Texas without notice and faces an imminent risk that Respondents may transfer him again to another facility outside this District or attempt to remove him before the Government can be heard, mooting his Petition and causing irreversible harm. His detention has severed his ability to provide emotional and economic support to his dependent mother, who is struggling without his income

and presence. Finally, he is now detained thousands of miles from his home in Maryland, his family, and his community, severely impeding his ability to litigate this *pro se* Petition and to access evidence and witnesses.

C. The Balance of Equities Tips Sharply in Petitioner's Favor

The balance of equities tips sharply in Petitioner's favor. He has no criminal history, a documented history of nearly fourteen years of stable community life, employment, and compliance with immigration proceedings. The Government previously determined he was suitable for release as an unaccompanied minor. The Government's interest in his continued detention is minimal, especially given that there is no final order of removal and his case has been administratively closed since 2014. In contrast, Petitioner faces ongoing unlawful confinement and the risk that his access to the court will be cut off by a transfer. The administrative burden of restoring him to his prior noncustodial status is negligible compared to the profound and ongoing deprivation of his liberty.

D. The Public Interest Favors a TRO

The public has a strong interest in preventing unlawful and arbitrary executive detention and ensuring that government agencies adhere to constitutional requirements. The public interest is served when the Government provides due process and does not detain persons without a lawful basis, particularly those with no criminal history, strong community ties, and no final removal order. The Government cannot suffer harm from being enjoined from an unconstitutional practice.

E. Ex Parte Relief Is Necessary and Appropriate

Ex parte relief is necessary to prevent immediate and irreparable harm. Petitioner has already been transferred from Maryland to Texas without notice. There is an imminent risk that Respondents may transfer him again to another facility outside this District or attempt to remove him before the Government can be heard in opposition. Such a transfer would moot his Petition and cause irreversible harm to his ability to seek judicial review. Each day of continued unlawful detention constitutes an ongoing and severe injury.

F. The TRO Preserves the Status Quo Ante

This application does not seek to alter the status quo; it seeks to restore and preserve the *status quo ante*—Petitioner's noncustodial liberty that existed before his unlawful redetention on August 12, 2026. For nearly fourteen years, Petitioner lived and worked in the community after the Government formally released him from ORR custody. Restoring Petitioner to his prior liberty is consistent with the purpose of a TRO to maintain the existing state of affairs pending a hearing on the merits.

G. Security Should Not Be Required

Pursuant to Federal Rule of Civil Procedure 65(c), the Court may waive the requirement of a security bond. Petitioner is a detained individual proceeding *pro se* with no income or assets. There is no demonstrable economic harm to the Government from restoring Petitioner to his prior noncustodial status. The public interest in protecting constitutional rights outweighs any need for a bond. Petitioner respectfully requests that the Court waive the security requirement.

VI. RELIEF REQUESTED

Petitioner respectfully requests that the Court issue an *ex parte* Temporary Restraining Order:

A. Prohibiting Respondents from transferring Petitioner outside the Western District of Texas or removing him from the United States while the habeas Petition remains pending;

B. Requiring Respondents to release Petitioner immediately from physical custody and restore him to the noncustodial status that existed before his August 12, 2026 redetention;

C. Alternatively, if the Court declines to order immediate release, requiring Respondents to maintain Petitioner at ERO El Paso Camp East Montana and to show cause within seven (7) days why the writ should not issue;

D. Requiring Respondents to file a response to this Application and the underlying Petition within seven (7) days;

E. Setting an expedited hearing date on the Petition for Writ of Habeas Corpus;

F. Waiving any security bond requirement under Rule 65(c); and

G. Granting such other relief as the Court deems just and proper.

VII. CONCLUSION

The balance of equities and the severity of irreparable harm—particularly the ongoing deprivation of liberty, the acute risk of transfer, and the separation of Petitioner from his dependent family—justify *ex parte* relief. Petitioner has raised serious questions about the lawfulness of his redetention, and each day of continued custody causes harm that cannot be undone.

Dated: August 18, 2026

Respectfully submitted,

Oscar Escobar

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