

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS**

JOAQUIN HERRERA-HERRERA,

Petitioner-Plaintiff,

v.

MICHAEL DOWNEY, in his individual capacity and official capacity as Sheriff of Kankakee County; CHAD KOLITWENZEW, Chief of Corrections of the Jerome Combs Detention Center; ROBERT GUADIAN, Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; MATTHEW ALBENCE, Acting Director, U.S. Immigration and Customs Enforcement; and CHAD WOLF, Acting Secretary, U.S. Department of Homeland Security,

Respondents-Defendants.

Case No. _____

**PETITIONER’S MOTION FOR A
TEMPORARY RESTRAINING
ORDER AND/OR PRELIMINARY
INJUNCTION**

1. Pursuant to 28 U.S.C. § 2241 and Federal Rule of Civil Procedure 65(a)-(b), Petitioner- Plaintiff Joaquin Herrera-Herrera (“Petitioner”) hereby moves this Court for a temporary restraining order and/or preliminary injunction that bars Respondents-Defendants Michael Downey, Chad Kolitwenzew, Robert Guadian, Matthew Albence, and Chad Wolf (“Respondents”) from continuing to detain Petitioner. In support of this motion, Petitioner states as follows:

2. As set forth in Petitioners’ Emergency Petition for a Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief (Dkt. 1) (“Emergency Petition”), Respondents

detain Petitioner in conditions that violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

3. Petitioner brings this Motion for a Temporary Restraining Order and/or Preliminary Injunction (“TRO Motion”) to enforce Claim One of the Emergency Petition, which challenges Respondents’ detention of Petitioner, who is a civil immigration detainee, in conditions that pose an objectively unreasonable risk to Petitioner’s health and life, and thereby constitute unlawful punishment and cruel treatment in violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

4. As set forth in the Memorandum of Law in Support of Petitioner’s Emergency Petition and Motion for a Temporary Restraining Order and/or Preliminary Injunction (“MOL”), Petitioner has satisfied the four-part test for the issuance of a temporary restraining order and preliminary injunction. Petitioner is likely to succeed on the merits of his constitutional claim and will suffer irreparable harm in the form of a high likelihood of serious illness or death from COVID-19 unless the requested injunctive relief is granted. Respondents have no legally cognizable interest in detaining Petitioner in clear violation of their constitutional rights, and granting the requested injunctive relief will not result in any foreseeable, serious harm to Respondents or the public. To the contrary, it is in the public interest for Respondents to respect constitutional rights to due process and to avoid the rampant spread of COVID-19 in the Jerome Combs Detention Center, which threatens detainees, jail staff and their families, and the public at large.

5. Through the undersigned counsel, Petitioners gave notice to Assistant U.S. Attorneys Hilary W. Frooman and John David Hoelzer and Kankakee County State’s Attorneys Jim Rowe and Nancy Ann Nicholson of the filing of this action, the Emergency Petition and attached declarations, this motion for a temporary restraining order and/or preliminary injunction, and the memorandum of law in support of this motion. All documents filed with this Court, including those accompanying this

motion, are being served electronically on Attorneys Frooman, Hoelzer, Rowe, and Nicholson, within moments of filing.

6. Petitioner requests that the Court immediately schedule a hearing and issue a temporary restraining order and/or preliminary injunction that bars Respondents from continuing to detain Plaintiff in violation of his constitutional rights.

WHEREFORE, Petitioner respectfully requests that this Court enter a temporary restraining order and/or preliminary injunction to enjoin Respondents from continuing to detain Petitioner in violation of his constitutional rights.

Dated: May 14, 2020

Respectfully Submitted,

/s/ Rebecca K. Glenberg
Counsel for Petitioner-Plaintiff.

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Counsel for Petitioner-Plaintiff
** Admission pending.*

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that on May 14, 2020, she caused a copy of the above and foregoing PETITIONER'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION to be served on the following:

By Summons Process Service:

Michael Downey, Sheriff
Sheriff of Kankakee County
3000 Justice Way
Kankakee, IL 60901

Chad Kolitwenzew
Chief of Corrections of the Jerome Combs Detention Center
3050 Justice Way
Kankakee, IL 60901

By US Certified Mail:

Robert Guadian
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
101 W Ida B Walls Drive, Suite 4000
Chicago, IL 60605

Matthew Albence
Deputy Director and Senior Official Performing the Duties of the Director
of U.S. Immigration and Customs Enforcement
500 12th St., SW
Washington, DC 20536

Chad Wolf
Acting Secretary of Homeland Security
Office of Executive Secretary, MS 0525
2707 Martin Luther King Jr. Ave SE
Washington, DC 20528

Attorney General of the United States
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Washington, DC 20530-0001

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Secretary to the United States Attorney
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By Email:

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/s/ Rebecca K. Glenberg_____