

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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DISTRICT COURT  
OF MASS

CARLOS ENRIQUE AVILA SANDOVAL, the Consul  
of Guatemala, as NEXT FRIEND of THREE-HUNDRED  
AND FIFTY NEW BEDFORD IMMIGRANT WORKERS  
(a.k.a. JOHN/JANE DOE ## 1-350),

Petitioners,

v.

UNITED STATES IMMIGRATION AND CUSTOMS  
ENFORCEMENT DIVISION OF THE DEPARTMENT  
OF HOMELAND SECURITY; JULIE L. MYERS,  
Assistant Secretary of Homeland Security for Immigration  
and Customs Enforcement; BRUCE CHADBOURNE, Field  
Office Director for Detention and Removal, Boston Field  
Office, Immigration and Customs Enforcement; MICHAEL  
CHERTOFF, Secretary, Department of Homeland Security;  
and ALBERTO GONZALES, Attorney General of the  
United States,

Respondents.

No. \_\_\_\_\_

07 CA 10471 RGS

**MOTION FOR TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION AND EMERGENCY  
MOTION FOR EXPEDITED HEARING**

Petitioners in the above-captioned action, acting on their own and through their Next Friend, hereby move for Temporary Restraining Order and for a Preliminary Injunction enjoining Respondents, their agents, employees, servants, and/or attorneys from proceeding with the transportation of Petitioners out of Massachusetts before they have been afforded bond hearings as required by 8 U.S.C. § 1229 and 8 C.F.R. § 236, before they have had a reasonable opportunity to present evidence pursuant to 8 U.S.C. § 1231, and without the benefit of legal counsel or legal advice concerning their legal rights. In addition, due to the urgency of the

requested relief, Petitioners respectfully request that this Court order an immediate hearing on this Motion for Temporary Restraining Order and Preliminary Injunction.

As grounds for their motions, Petitioners state as follows:

1. Petitioners have filed herewith their Complaint on the 8<sup>th</sup> day of March, 2007. Subsequent to filing of said Complaint, Summons were issued and hand delivered to the office of Michael J. Sullivan, United States Attorney, Boston, Massachusetts, and additionally sent to process servers for service on all other Respondents. Service is further being affected by Certified Mail, Return Receipt Requested this date on all Respondents.
2. The Complaint sets forth that Petitioners have been detained by Respondents and that Respondents, acting under color of law, have violated and continue to violate the right of the detained Petitioners to be free from arbitrary prolonged and indefinite detention, in violation of the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States.
3. The Complaint further sets forth that to the extent that Petitioners' detention is without basis in law or fact and violates common law principles of due process and the Due Process Clause of the Fifth Amendment to the Constitution, Petitioners' detention is unlawful.
4. The Complaint further sets forth that on information and belief, Petitioners have been or will be transported out of this District to be charged administratively and placed in removal proceedings, which would deprive them of their right to, *inter alia*: (1) a bond hearings as required by 8 U.S.C. § 1229 and 8 C.F.R. § 236, (2) a reasonable opportunity to present evidence pursuant to 8 U.S.C. § 1231, and (3) the benefit of legal counsel or legal advice concerning their legal rights.

5. The Complaint further sets forth on information and belief that Petitioners' detention and contemplated transfer has left or will leave stranded without adequate parental care approximately 100 children of Petitioners.

6. Petitioners have no adequate remedy at law.

7. If Respondents are permitted to transfer Petitioners out of this District without a bond hearing, the opportunity to present evidence, or the opportunity to consult with legal counsel, they will be irreparably damaged and the transfer will be in violation of the statutory and constitutional rights of Petitioners.

8. If the Court grants this Restraining Order and Preliminary Injunction, the injury, if any, to Respondents, if final Judgment be in their favor, will be inconsiderable.

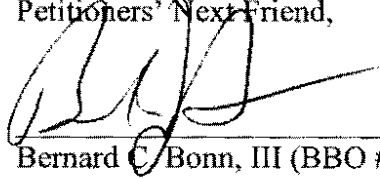
9. Petitioners' damages are continuing in nature.

WHEREFORE, Petitioners move the Court to enter a Temporary Restraining Order and a Preliminary Injunction:

- (a) Enjoining Respondents, their agents, employees, servants, and/or attorneys from proceeding with the transportation of Petitioners out of Massachusetts before they have been afforded bond hearings as required by 8 U.S.C. § 1229 and 8 C.F.R. § 236, before they have had a reasonable opportunity to present evidence pursuant to 8 U.S.C. § 1231, and without the benefit of legal counsel or legal advice concerning their legal rights;
- (b) Requiring Respondents to return to this District any Petitioners who have already been transferred from this District; and
- (c) Ordering that the Petitioners shall remain within the jurisdiction of this Court until further order from the Court.

Dated: March 8, 2007

Counsel for Petitioners and  
Petitioners' Next Friend,



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Address of Petitioners' Next Friend:

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**Certificate of Service**

I hereby certify that on this 8 day of March, 2007, a true and correct copy of the foregoing document is being forwarded to the following by certified mail, return receipt requested:

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