

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

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)
GISELA MIREYA CALDERON CAMPOS,)

)
A.Y. CAMPOS CALDERON, *a minor, by*)
and through her next friend Gisela Mireya)
Calderon Campos,)

)
S.I. CAMPOS CALDERON, *a minor, by*)
and through his next friend Gisela Mireya)
Calderon Campos,)

)
Petitioners,)

)
v.)

)
KRISTI NOEM, Secretary of Homeland)
Security,)

)
PAMELA BONDI, Attorney General,)

)
RUSSELL HOTT, Field Office Director,)
Immigration and Customs Enforcement,)
Washington Field Office,)

)
PATRICK DIVVER, Deputy Field)
Office Director, Immigration and Customs)
Enforcement, Washington Field Office,)

)
Respondents.)
_____)

Civ. No. 1:25-cv-309

EMERGENCY EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER

Petitioners, by counsel, pursuant to Fed. R. Civ. P. 65(b)(1), hereby move this Court for an emergency *ex parte* temporary restraining order, enjoining their removal from the United States for a brief period of time while the parties can brief a preliminary injunction motion. In support of this motion, Petitioners respectfully represent as follows:

1. This action was filed at 8:18pm on Tuesday, February 18, 2024, one week after

Petitioners were first detained by Respondents.

2. Petitioner A.Y. is one year and nine months old. See Dkt. No. 1-1. He is a citizen of the United States pursuant to 8 U.S.C. § 1401(g). See Dkt. No. 1 at ¶ 10 and exhibits cited therein.

3. Respondents may not deport a U.S. citizen pursuant to an order of expedited removal. See 8 U.S.C. § 1225(b) (allowing expedited removal of “an alien”); 8 U.S.C. § 1231(a) (providing that “when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days[.]”).

4. Immediately after filing this action, undersigned counsel e-mailed Rebecca Levenson, Alexandria General Litigation Unit Chief, U.S. Attorney’s Office for the Eastern District of Virginia. The e-mail provided a copy of all filings in this case to date, and requested that ICE temporarily stay the removal of Petitioners for a brief period of time so that this Court could entertain a preliminary injunction motion. See Ex. A hereto (e-mail chain between Simon Sandoval-Moshenberg and Rebecca Levenson).

5. By return e-mail at 10:42pm, Ms. Levenson responded: “At this point, I have not been able to obtain ICE’s agreement to stay the removal. The agency has informed me that the removal flight is scheduled for early tomorrow morning.” *Id.*

6. ICE is now on notice that Petitioner A.Y. is a U.S. citizen, yet intends to remove her nonetheless. ICE removal flights generally take place very early in the morning, as early as 5:00am.

7. One day after her detention, on February 3, 2025, Petitioner Calderon Campos signed a form electing to have her children removed from the United States with her. Upon information and belief, she signed this form without full knowledge of her legal rights and

options, and those of A.Y.

8. Subsequent to signing the form, Petitioner Calderon Campos instructed her husband José to retain undersigned counsel to prevent her removal *and the removal of her children* from the United States. By this, undersigned counsel understands that Petitioner Calderon Campos does not presently consent to the removal of A.Y. from the United States. Undersigned counsel has not been able to speak with Petitioner Calderon Campos directly, because she is not being held in a standard ICE facility with regular access to attorney-client telephone calls.

9. Petitioners are indigent and lack financial means to pay a TRO bond.

10. Counsel will file a Proposed Order forthwith.

11. WHEREFORE, Petitioners, by counsel, respectfully request that this Court temporarily enjoin the removal of Petitioners, for such time until a preliminary injunction motion can be briefed and decided by this Court.

Respectfully submitted,

Date: February 18, 2025

//s// Simon Sandoval-Moshenberg
Simon Y. Sandoval-Moshenberg, Esq.
VSB No.: 77110
Counsel for Plaintiff
Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, VA 22030
Telephone: (703) 352-2399
Facsimile: (703) 763-2304
ssandoval@murrayosorio.com

Certificate of Service

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Civil Process Clerk
U.S. Attorney's Office for the Eastern District of Virginia
2100 Jamieson Ave
Alexandria, VA 22314

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0485
Washington, DC 20528-0485

Pamela Bondi, Attorney General of the United States
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Office of the Principal Legal Advisor, Washington
U.S. Immigration and Customs Enforcement
500 12th Street SW, Mail Stop 5902
Washington, DC 20536-5902

In addition, I e-mailed a copy to:

Rebecca Levenson, Alexandria General Litigation Unit Chief
U.S. Attorney's Office for the Eastern District of Virginia
rebecca.s.levenson@usdoj.gov

Respectfully submitted,

Date: February 18, 2025

//s// Simon Sandoval-Moshenberg
Simon Y. Sandoval-Moshenberg, Esq.
VSB No.: 77110
Counsel for Plaintiff
Murray Osorio PLLC
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Fairfax, VA 22030
Telephone: (703) 352-2399
Facsimile: (703) 763-2304
ssandoval@murrayosorio.com

Simon Sandoval-Moshenberg

From: Levenson, Rebecca S (USAVAE) <Rebecca.S.Levenson@usdoj.gov>
Sent: Tuesday, February 18, 2025 10:42 PM
To: Simon Sandoval-Moshenberg
Cc: Rossana Rolon Grau; Nikita Leus-Oliva
Subject: [External] RE: Emergency TRO: imminent removal of US citizen child under two years old

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Simon,

Thank you for your email. At this point, I have not been able to obtain ICE's agreement to stay the removal. The agency has informed me that the removal flight is scheduled for early tomorrow morning.

Best,

Rebecca

From: Simon Sandoval-Moshenberg <ssandoval@murrayosorio.com>
Sent: Tuesday, February 18, 2025 8:25 PM
To: Levenson, Rebecca S (USAVAE) <RLevenson@usa.doj.gov>
Cc: Rossana Rolon Grau <rossana@rgimmigrationlaw.com>; Nikita Leus-Oliva <nleus@murrayosorio.com>
Subject: [EXTERNAL] Emergency TRO: imminent removal of US citizen child under two years old
Importance: High

Rebecca,

Good evening. I'm writing to advise you of the filing of a Petition for Writ of Habeas Corpus and Complaint for Injunctive Relief in the matter of *Calderon Campos et al. v. Noem et al.*, Civ. No. 1:25-cv-309 (E.D. Va., Alexandria Div., filed Feb. 18, 2025). Attached please find PDFs of the complaint and all exhibits thereto.

As you can see from the complaint, **ICE is threatening to imminently remove a U.S. citizen child under two years of age**. They claim that they have the consent of the mother to do so. To be clear, they do not: the mother does not consent to the child's removal.

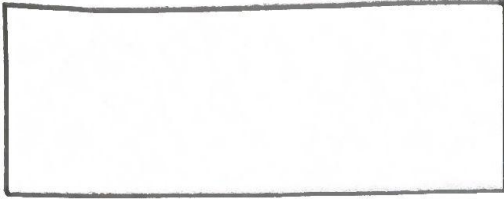
I intend to file a TRO motion seeking an order preventing the removal of all three petitioners. Prior to doing so, I am emailing you to see if Respondents will consent to this relief, at least on an interim basis so that a preliminary injunction motion can be briefed and decided by the court.

Please respond as soon as possible to advise whether ICE will agree to stay the removal of all three petitioners for a brief period of time, in an amount to be discussed by the parties, so that a P.I. motion can be briefed and decided.

If you have any questions about this request, please call me on my cell phone, (434) 218-9376.

Thank you.

Best,



**Simon Sandoval-Moshenberg, Esq. |
Partner**

Murray Osorio PLLC: Full-Service Immigration Law

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