UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

ESTHER NGOY TEKELE,

Petitioner,

-against-

DONALD J. TRUMP, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE UNITED STATES; PATRICIA HYDE, IN HER OFFICIAL CAPACITY AS ACTING BOSTON FIELD OFFICE DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; VERMONT SUB-OFFICE DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; TODD M. LYONS, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; PETE R. FLORES, IN HIS OFFICIAL CAPACITY AS ACTING COMMISSIONER FOR U.S. CUSTOMS AND BORDER PROTECTIONS; KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY; MARCO RUBIO, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE; AND PAMELA BONDI, IN HER OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL; THERESA MESSIER, SUPERINTENDENT, CHITTENDEN REGIONAL CORRECTION FACILITY – SOUTH BURLINGTON,

Respondents.

Case No. 2:25-cv-637

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

INTRODUCTION

As discussed in the Petition in this matter, Petitioner Esther Ngoy Tekele is a Legal Permanent Resident ("LPR") of the United States on the pathway to naturalization and a resident of Burlington, Vermont. She has held a green card for nearly four years and has a two-year-old son who is a US Citizen and lives in Burlington. Ms. Tekele is also the primary caregiver for her elderly and ailing mother here in Burlington. On Sunday, July 6, 2025, Ms. Tekele was admitted

to the United States at the U.S./Canada Border at Highgate Springs. She was then immediately arrested, detained, and stripped of her possessions including her Legal Permanent Resident card.

Because the government has demonstrated a pattern and practice of removing detainees from Vermont, Petitioner moves for an immediate Temporary Restraining Order ("TRO") ordering that the government not move Petitioner out of this District pending further order of the Court. Even if the Court does not believe such an order is necessary on the grounds of preserving jurisdiction, Petitioner still moves for an immediate TRO ordering that the Government not move him out of this District based on the inherent equitable powers of this Court, and the breadth of the All-Writs Act. 28 U.S.C. § 1651.

Petitioner being kept in this District will assist her in consulting with his attorneys, allow her to appear in Court, and allow her to visit with her two-year-old child. The requested TRO is consistent with both principles of judicial efficiency and the principles of any court entertaining a petition for writ of habeas corpus. 28 U.S. Code § 2243 ("Unless the application for the writ and the return present only issues of law the person to whom the writ is directed **shall be required to produce at the hearing the body of the person detained**..." (emphasis added)). The requested TRO will not prejudice the government and the Court should grant this request for the following reasons.

FACTUAL BACKGROUND

Ms. Esther Ngoy Tekele was born and raised Congo and has lived in Vermont as an LPR for almost four years. She has a two-year-old son who is a US Citizen and she cares for her elderly and ailing mother who also lives here in Burlington. Ms. Tekele is a contributing and law-abiding member of this community as evidenced by the attached letters of support from; (1) her employer, Cathedral Square; (2) her son's Pediatric Nurse at Essex pediatrics; (3) her mother's Medical

Doctor at UVM Health; (4) the Director of ONE Arts Community School; (5) a Teacher at her son's school. *See Exhibit 1.*

On July 6, 2025, Ms. Tekele was returning from a routine trip she had from Canada. Despite the fact that she has regularly crossed the border at Highgate Springs multiple times without issue, on this trip home, Ms. Tekele was detained, arrested and taken into ICE custody. The agent's actions, lacked lawful justification, and was directly in violation of Petitioner's constitutional rights.

Petitioner is now in immigration custody and faces imminent removal and continued detention. She has not been afforded meaningful due process. She is at risk of being transferred out of this District at any moment – without warning to herself , counsel, family members like her two-year old child, and community members unless this Court grants immediate injunctive relief.

ARGUMENT

Ms. Tekele is a long-time Legal Permanent Resident of the United States. And, yet, at this moment she is indefinitely detained at the Chittenden Regional Correction Facility on the orders of the federal authorities. It appears the government attempted to put her in removal proceedings by serving an inaccurate Notice to Appear ("NTA") but did not file it with the Immigration Court. Therefore, it is not even clear whether the government has any intention of removing her from the United States. As the U.S. Supreme Court has consistently made clear returning permanent resident aliens possess due process rights, in part, because of their ties to this country. *Landon v. Plasencia,* 459 U.S. 21, 32 (1982). In fact, courts recently faced with habeas petitions by individuals detained by immigration authorities based on allegation of due process violations have ordered that the petitioners not be removed from the United States unless and until the court issues a contrary order. *See, e.g., Ozturk v. Trump*, ___ F. Supp.3d ___, Case

No. 25-cv-10695-DJC, 2025 WL 1009445, at *2 (D. Mass. April 4, 2025); *Suri v. Trump*, Case No. 1:25-cv-480, 2025 WL 914757, at *1 (E.D. Va. March 20, 2025). This has been particularly important in cases such as this one, where the Petitioner is a Legal Permanent Resident on a pathway to Citizenship. *See Mahdawi v. Trump*, Case No. 2:25-cv-00389, Order Extending Temporary Restraining Order, p. 2-3, ECF No. 34 (D.Vt. Apr. 24, 2025).

This Court has also recently issued orders prohibiting the transfer of petitioners in similar proceedings or ordering the government to transfer petitioners back to the District, citing the need for petitioners to consult with their attorneys, to appear in court to provide testimony, lack of prejudice to the government, and promote judicial efficiency. *See Mahdawi v. Trump*, Case No. 2:25-cv-00389, Order Extending Temporary Restraining Order, p. 2-3, ECF No. 34 (D.Vt. Apr. 24, 2025); *see also Ozturk v. Trump*,___ F.Supp.3d ___, Case No. 2:25-cv-374, 2025 WL 1145250 (2025 D.Vt.)(citing the All Writs Act, 28 U.S.C. § 1651(a), empowering courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law").

Indeed, under the inherent equitable powers of the Court and the breadth of All Writs Act, the Court has the power and should exercise it in ordering the requested relief. The relief is appropriate in the aid of the court's jurisdiction over this case. Also, the administration is not prejudiced by a stay order—Petitioner will remain detained in a place certain within the District. Should this Court or Respondents need to produce Ms. Tekele to provide testimony or any other reason, it will be significantly less costly if she's held within the District of Vermont.

Further, if Ms. Tekele is transferred out of the District, it is likely to cause delays in the proceedings due to lack of access to counsel as well as increase costs and time constraints at any necessary hearings. Ms. Tekele cannot be ensured a meaningful opportunity to have her claims

heard, have meaningful access to counsel, or be provided meaningful relief if she is transferred out of this District.

Accordingly, Petitioner moves that this Court, to preserve its jurisdiction over the petition pursuant to the equitable powers of the Court and the All Writs Act, 28 U.S.C. § 1651 (*see F.T.C. v. Dean Foods Co.*, 384 U.S. 597, 603 (1966)), and immediately order that Ms. Ngoy not be removed from the United States, or moved outside of the territory of the District of Vermont, pending further order of this Court.

As set forth in the Petition, the Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 2241, Article I, §9, cl. 2 (the Suspension Clause), 28 U.S.C. § 2201 (Declaratory Judgement), the All-Writs Act, 28 U.S.C. § 1651. It is appropriate for the Court to preserve such jurisdiction by ordering that the Petitioner remain in this district pending further action by the Court.

Respectfully submitted,

/s/Jared K. Carter

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Pro Bono Counsel for Petitioner

Dated: July 10, 2025

*Motion for admission pro hac vice forthcoming