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Counsel for Petitioner

Artak Ovsepien

UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

Artak Ovsepien, Alien # 

Petitioner,

v.

PAMELA BONDI, in her official capacity as
Attorney General,

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security,

U.S. DEPARTMENT OF HOMELAND
SECURITY,

F. SEMAIA, in his official capacity as Warden of
Adelanto Detention Facility,

ERNESTO SANTACRUZ, JR., in his official
capacity as Acting ICE Field Office Director,
Respondents.

Case No. 5:25-cv-01937-

MEMF-DFM

REPLY IN SUPPORT OF
MOTION FOR
TEMPORARY
RESTRAINING ORDER

1
2 **I. INTRODUCTION**

3 On July 28, 2025, Artak Ovsepien (Petitioner), filed a petition for a writ of
4 habeas corpus challenging the unlawful revocation of his release on an order of
5 supervision (OSUP) and his continued detention without belief that his removal
6 from the United States is reasonably foreseeable. On July 29, 2025, Petitioner filed
7 a motion for a temporary restraining order. On July 30, 2025, Respondents filed an
8 opposition to that motion, arguing that the Court does not have jurisdiction to order
9 Respondents not to transfer a detainee between jurisdictions (or to return him to a
10 particular jurisdiction); that Petitioner has failed to establish irreparable harm
11 because he is not suffering a constitutional injury and he failed to show he will be
12 unable to access counsel at another detention center; and that Petitioner's request
13 for an injunction barring his removal to a third country without notice and an
14 opportunity to express a fear is speculative because there is no evidence that the
15 government will try to deport him to a third country.

16 **II. ARGUMENT**

17 **A. Petitioner Has Shown He is Likely to Succeed on the Merits of his Claim.**

18 Respondents do not even attempt to grapple with the merits of Petitioner's
19 claims that his ongoing detention violates the Fifth Amendment because his
20 removal is not reasonably foreseeable or that his detention violates Section 504 of
21 the Rehabilitation Act. Rather, Respondents simply assert that this Court does not

1 have jurisdiction to grant the relief requested under 8 U.S.C. § 1252(a)(2)(B)(ii)
2 and 1252(g). ECF 8, pp. 3-4.

3 Section 1252(a)(2)(B)(ii) states that no court shall have jurisdiction to review
4 “any other decision or action of the Attorney General or the Secretary of Homeland
5 Security the authority for which is specified under this subchapter to be in the
6 discretion of the Attorney General or the Secretary of Homeland Security.” None
7 of the cases cited by Respondents support their assertion that 8 U.S.C.
8 § 1252(a)(2)(B)(ii) strips this Court’s jurisdiction to order Respondents not to
9 transfer a detained non-citizen out of a judicial district or to require them to return a
10 non-citizen to a specific judicial district.

11 In *Liu v. INS*, 293 F.3d 36, 41 (2nd Cir. 2002), the Court found that the
12 petitioner could bring a habeas challenge to the legality of the Board of
13 Immigration Appeals’ decision dismissing her asylum claim and ordering her
14 removed. *Id.* In *Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 598-99 (9th Cir.
15 2002), the court did not address 8 U.S.C. § 1252(a)(2)(B)(ii) at all, but rather found
16 that 8 U.S.C. § 1252(g) barred the petitioner’s claim that the former Immigration
17 and Naturalization Service should have begun deportation proceedings against her
18 immediately upon becoming aware of her unlawful presence in the country. The
19 court in *Tercero v. Holder*, 510 Fed. App’x 761, 766 (10th Cir. Feb. 12, 2013)
20 (unpub), determined that a petitioner could not challenge which immigration court
21

1 his removal proceedings should be held in through a habeas petition. Thus, none of
2 these cases support Respondents' contentions about the Court's jurisdiction to
3 block Petitioner's transfer from the district or to order his return.

4 As for 8 U.S.C. § 1252(g), the Supreme Court has interpreted this as a
5 narrow provision, applying "only to three discrete actions," namely, whether to
6 commence proceedings, how to adjudicate cases, and whether to execute removal.
7 *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999).
8 As Petitioner's request to be returned to the Central District of California does not
9 interfere with the Secretary of Homeland Security's authority to commence or
10 adjudicate his removal case (which ended last year) or to execute a removal order, 8
11 U.S.C. § 1252(g) does not bar the relief sought.

12 **B. Petitioner will Suffer Irreparable Harm Absent Issuance of a Temporary**
13 **Restraining Order.**

14 Respondents dismiss Petitioner's irreparable harm argument by disputing
15 whether he has suffered a constitutional injury. ECF 8, p. 5. But once again,
16 Respondents do not grapple with any of Petitioner's arguments about why his
17 detention is unlawful, and thus, his "loss of liberty" is not, as Respondents assert,
18 "common" to all detainees. *Cf.* ECF 8, p. 5. Rather, Petitioner is being unlawfully
19 detained when his removal from the United States is not reasonably foreseeable
20 because Respondents have not secured any travel documents for him.

Moreover, Respondents' assertion that Mr. Ovsepien will continue to have access to counsel at the Staging Facility does not bear out. "The Alexandria Staging Facility sits on the tarmac of a small regional airport between a golf course and a gated neighborhood." USA Today, "This rural airport (with a jail on the tarmac) is Trump's deportation hub," (July 26, 2025), *available at* <https://www.usatoday.com/story/news/nation/2025/07/26/alexandria-staging-facility-louisiana-trump-deportation-hub/85322642007/> (accessed on July 30, 2025). Detainees are only supposed to be held for up to 16 hours at staging facilities, which generally do not include sleeping areas or shower facilities. *See* TRAC Immigration, *available at* <https://tracreports.org/immigration/reports/222/> (accessed on July 30, 2025). The fact that Respondents have moved Mr. Ovsepien to a temporary facility, but still have no concrete plan for deporting him, indicates a likelihood that he will be transferred again shortly, once again interfering with his access to counsel.

C. Petitioner's Request for an Order Barring Removal to a Third Country is not Speculative.

Respondents construe Petitioner's request for an order barring his removal to a third country without notice and an opportunity to be heard as a request to order "the government to follow the law." ECF 8, p. 6. "Reiterating existing law as an injunction or TRO," Respondents argue, is not the proper function of such relief.

1 *Id.* at p. 7. Thus, Respondents appear to concede that removal to a third country
2 without notice or the opportunity to be heard is, in fact, unlawful, but argue that
3 injunctive relief is inappropriate because Petitioner has not demonstrated that the
4 government is intending to take such unlawful action against him. “Petitioner’s
5 argument further assumes that the government will act in an unlawful manner in the
6 future and so the Petitioner will suffer a constitutional injury at some point in the
7 future. This is too hypothetical to warrant the extraordinary relief of an injunction.”

8 *Id.*

9 Since the filing of the motion yesterday, Mr. Ovsepien has arrived at the
10 Alexandria Staging Facility in Louisiana and contacted his family. *See* Exhibit G
11 (Second Declaration of Sabrina Damast). He has informed them that the ICE
12 officials at the staging facility have conceded that they do not have travel
13 documents from Armenia and intend to attempt to deport him to a third country,
14 though they did not identify which country. *Id.*

15 The statements by ICE officials make two things clear. First, Mr. Ovsepien’s
16 removal is not reasonably foreseeable, and Officer Langill was either misinformed
17 or dishonest when he informed undersigned counsel yesterday that Mr. Ovsepien
18 was being transferred to Texas to facilitate his removal to Armenia. ICE clearly
19 had no ability to deport him to Armenia yesterday, as it had not secured travel
20 documents, and the transfer of Mr. Ovsepien out of district seems to have served no
21

1 actual purpose for effectuating removal, but more likely, was a punitive response to
2 his filing of a habeas petition one day earlier. Second, the threat that Respondents
3 will deport Petitioner to a third country is now anything but speculative, as they
4 have admitted that they do not have the ability to deport him to Armenia, and yet
5 have moved him to a staging facility, with the express purpose of trying to deport
6 him to a third country

7 **III. CONCLUSION**

8 For the foregoing reasons, as well those articulated in his initial moving
9 papers, Petitioner respectfully request that this Court grant his motion for a
10 temporary restraining order.

11 **RESPECTFULLY SUBMITTED this 30th day of July, 2025**

12 **/s/ Sabrina Damast**

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19 **TABLE OF EXHIBITS**

20 **Exhibit G:** Second Declaration of Sabrina Damast