

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

**DAVID BUCKINGHAM**

*Petitioner,*

v.

John TSOUKARIS, in his official capacity as Field Office Director of Newark, New Jersey, Immigration and Customs Enforcement; Todd M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary of the United States Department of Homeland Security; and Pamela BONDI, Attorney General, U.S. Department of Justice, et al.

Respondents.

Case No.: 25-14601

**PETITION FOR  
WRIT OF HABEAS CORPUS**

**INTRODUCTION**

Petitioner, lawful permanent resident David Buckingham, is currently detained at the Elizabeth detention center facing imminent transfer and separation from the attorney he has retained to defend him against deportation. The federal government announced plans to transfer the Petitioner. Despite opening a new detention facility in Delany Hall, Newark, New Jersey, the Defendants refused to commit to transferring the Petitioner to a nearby facility accessible to counsel and are instead transferring detainees as far away as New Mexico, Louisiana, or Mississippi.

Transfers effected without advance notice—frequently in the middle of the night—disrupt representation by cutting off communication and relocating clients to unknown facilities. The resulting breakdown in attorney-client consultation and delay is especially prejudicial here, where Petitioner’s wife and young children live in New Jersey, he has already secured counsel in New Jersey and is scheduled for a hearing before the Elizabeth Immigration Court next week.

The Third Circuit has unequivocally recognized that an immigrant’s right to counsel of her choice is enshrined in the Due Process Clause of the U.S. Constitution and in the Immigration and Nationality Act (“INA”). *Leslie v. Att’y Gen.*, 611 F.3d 171, 181 (3d Cir. 2010); *see also* 8 U.S.C. §§ 1229a(b)(4)(A), 1362. Like other courts, the Third Circuit has repeatedly emphasized the centrality of this right. *See Leslie*, 611 F.3d at 181 (“Like the Court of Appeals for the Ninth Circuit, we ‘warn[] the [government] not to treat [that right] casually.’” (quoting *Orantes-Hernandez v. Thornburg*, 919 F.2d 549, 554 (9th Cir. 1990))).

The right to counsel necessarily includes the right to consult with counsel. *Arroyo v. U.S. Dep’t of Homeland Sec.*, No. SACV 19-815 JGB(SHKx), 2019 WL 2912848, at \*17 (C.D. Cal. June 20, 2019) (citing *Orantes-Hernandez*, 919 F.2d at 564); *Cobb v. Aytch*, 643 F.2d 946, 951, 957 (3d Cir. 1981) (noting with approval “the trial court’s extensive findings on the effect of the transfer on pretrial detainees’ access to legal representation, and the consequent infringement on their exercise of their right to counsel”); *cf. Miranda v. Arizona*, 384 U.S. 436, 470 (1966) (“[T]he need for counsel to protect the Fifth Amendment privilege comprehends . . . a right to consult with counsel.”). Thus, the Third Circuit has found violations of an immigrant’s statutory and due process right to counsel where the government’s actions, including detaining the individual in Florida, interfered with his relationship with retained counsel in New Jersey. *Chlomos v. INS*, 516 F.2d 310, 313–14 (3d Cir. 1975). Likewise, multiple courts in this district have enjoined immigrants’ transfers in order to prevent separation from counsel and interference with an established attorney-client relationship pending proceedings. *See, e.g., Wilmer R.R. v. Cirillo*, No.

21-435-MCA, ECF No. 13 (D.N.J. June 28, 2021) (Att. A) (enjoining transfer of petitioner at ECCF outside of New Jersey in light of impending transfers at issue here); *Olisa U. v. Edwards*, No. 19-21282 (MCA), ECF No. 32 at 1 (D.N.J. Aug. 11, 2020) (Att. B) (enjoining transfer of petitioner outside facility during pendency of the habeas proceeding); *Maynor Armando C.G. v. Tsoukaris*, No. 20-5652-MCA, ECF No. 25 at 1 (D.N.J. June 5, 2020) (Att. C) (same); *Thakker v. Doll*, No. 20-480JEJ-MCC, ECF No. 205 at 3 (M.D. Pa. July 22, 2020) (Att. D) (enjoining transfers out of facilities in Pennsylvania without prior notice to counsel and opportunity to object).<sup>1</sup>

Because transfers to detention centers that are not accessible to their attorneys would violate their right to counsel under both the Due Process Clause and the Immigration and Nationality Act (“INA”), the Petitioner is likely to prevail on the merits to satisfy the first criterion for a temporary restraining order (“TRO”). The Petitioner also meets the remaining criteria for a TRO. Absent relief from this Court, the Petitioner will suffer irreparable harm because he will be transferred thousands of miles away from his lawyer and face possible deportation as a result of being denied critically needed assistance. The balance of equities and public interest are also in the Petitioner’s favor, as the temporary relief requested will simply require Respondents to maintain the status quo and comply with the law. *See Arroyo*, 2019 WL 2912848, at\*24. For these reasons, the Court should enjoin Defendants from transferring the Petitioner out of a 100-mile radius of the Elizabeth Detention Center.

## PARTIES

1. Petitioner David Buckingham is a lawful permanent resident who lives and resides in

---

<sup>1</sup> See also, e.g., *A.D.R.S. v. Stirrup*, No. 1:20-cv-03685-JMF, ECF No. 5 at 2–3 (S.D.N.Y. May 13, 2020); *Antonio de Jesus M. v. Nielsen*, No. 18-cv-10963-MCA, ECF No. 6 at 1 (D.N.J. June 22, 2018); *Davis v. Hendricks*, 2012 WL 6004216, at \*1 (D.N.J. Nov. 3, 2012); *Burns v. Weber*, 2010 WL 276229, at \*5–6 (D.N.J. Jan. 19, 2010); *Burns v. Cicchi*, 702 F. Supp. 2d 281, 294 (D.N.J. 2010); *Hyung Woo Park v. Hendricks*, 2009 WL 3818084, at \*6 (D.N.J. Nov. 12, 2009).

New Jersey. When returning from a brief trip abroad on August 6, 2025, Customs and Border Protection arrested him at Newark International Airport, and transferred him into ICE custody, holding him at the Elizabeth Contract Detention Facility at 625 Evans Street, Elizabeth, New Jersey, 07201.

2. Respondent John Tsoukaris is named in his official capacity as the Field Office Director for U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations (ICE ERO) Newark Field Office, which covers the State of New Jersey. In this capacity, he is responsible for enforcement of the immigration laws within his jurisdiction, including detention, transfer, and removal decisions. He is a custodian of Petitioner. Respondent John Tsoukaris' address is 970 Broad Street, 11<sup>th</sup> Floor, Newark, NJ 07102.
3. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in the Seventh Judicial District Court, County of Torrance, State of New Mexico; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a custodian of the Petitioner. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.
4. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Seventh Judicial District Court, County of Torrance, State of New Mexico; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-

0485.

5. Respondent Pamela Bondi is Attorney General of the United States. In this capacity, she routinely transacts business in the the Seventh Judicial District Court, County of Torrance, State of New Mexico; is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(g)(2007); and as such is a custodian of the Petitioner. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530- 0001.

#### **JURISDICTION & VENUE**

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 2241, Article 1, § 9 cl. 2 (the Suspension Clause) and Article III of the U.S. Constitution, the Administrative Procedure Act, 5 U.S.C. § 701 et.seq.: and 28 U.S.C. § 2201 (Declaratory Judgment).
7. An actual and justiciable controversy exists between the parties under 28 U.S.C. § 2201, and this Court has the authority to grant declaratory and injunctive relief. *Id.* §§2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. §1651.
8. Venue is proper in the District of New Jersey, under 28 U.S.C. §2241 and 28 U.S.C. §1391. At the time of this petition, all ICE records show that he is detained at the Elizabeth Contract Detention Facility at 625 Evans Street, Elizabeth, NJ 07201.

#### **BACKGROUND**

9. Mr. Buckingham is a lawful permanent resident. He returned from a brief trip abroad, with his U.S. citizen eight-year-old daughter, on or about August 6, 2025, at Newark Liberty International Airport. He was stopped by Customs and Border Protection (CBP).
10. On August 6, 2025. Immigration officers from the Department of Homeland Security (DHS) arrested the Petitioner, issued a Notice to Appear (NTA) ordering him to appear at the Elizabeth, New Jersey immigration court on August 26, 2025.

11. The charges on the NTA allege that the Petitioner is a native and citizen of the United Kingdom, was accorded lawful permanent residence on April 3, 2019, and that on October 4, 2022, he was convicted of wire fraud, in violation of 18 U.S.C. §1343. *See* Exh. 1.
12. The Petitioner hired counsel on August 8, 2025, who instantly filed a bond re-determination request with the Immigration Judge.
13. The custody case is set to be heard at the Elizabeth Immigration Court on August 21, 2025, at 1:30 PM. *See* Exh. 3.
14. Petitioner's counsel also filed his Notice of Appearance on the removal proceedings.
15. The removal case is scheduled hearing for August 26, 2025, at 9:00 AM. *See* Exh. 4.
16. The Petitioner is married to a U.S. citizen and has two U.S. citizen children who all reside in New Jersey.
17. On or about August 12, 2025, the Petitioner phoned his wife to tell her that he found his name on a list to be transferred. He believed that he would be transferred to Mississippi.
18. The Respondent is eligible for relief from removal pursuant to the Immigration and Nationality Act ("INA").

By transferring Mr. Buckingham thousands of miles way from his attorney and family, ICE's actions violate his rights under the Fifth Amendment of the U.S. Constitution, the INA, the Administrative Procedures Act, and its own federal regulations. Accordingly, this Court should prevent ICE from transferring the Petitioner to Mississippi, coordinate his transfer back to New Jersey, and order his immediate release.

## ARGUMENT

### **I. A TRANSFER OUTSIDE OF NEW JERSEY UNLAWFULLY BURDENS PETITIONER'S CONSTITUTIONAL AND STATUTORY RIGHT TO COUNSEL OF CHOICE.**

Section 2241 authorizes relief where a person is “in custody in violation of the Constitution or laws... of the United States.” 28 U.S.C. § 2241(c)(3). This petition challenges the manner of custody—specifically, ICE’s planned transfer of Mr. Buckingham from the Elizabeth Detention Center (“EDC”) to Mississippi. Such a transfer would unlawfully impair his Fifth Amendment and INA right to counsel of choice and his ability to meaningfully consult that counsel for imminent immigration court proceeding proceedings in Elizabeth, New Jersey.

The Third Circuit recognizes habeas as a proper vehicle to address unconstitutional conditions of immigration detention when necessary to vindicate constitutional rights and ensure meaningful judicial review. See *Hope v. Warden York Cnty. Prison*, 972 F.3d 310, 323–26 (3d Cir. 2020) (permitting § 2241 challenges to immigration detention where constitutional violations are alleged).

Mr. Buckingham retained New Jersey counsel on Aug. 8, 2025. His bond re-determination is calendared at the Elizabeth Immigration Court on Aug. 21, 2025, and his removal case is set for Aug. 26, 2025, also at the Elizabeth Immigration Court. See Exhs. 3–4. On or about Aug. 12, 2025, he learned his name was on a transfer list to Mississippi. See Exh.5. Transferring him thousands of miles away on the eve of these hearings would sever his access to retained New Jersey counsel of choice, destroy confidential preparation, and derail imminent litigation, rendering his custody unlawful as executed under § 2241.

## **II. FIFTH AMENDMENT AND THE INA GUARANTEE A MEANINGFUL RIGHT TO COUNSEL OF CHOICE, INCLUDING THE ABILITY TO CONSULT WITH THAT COUNSEL**

The Fifth Amendment “indisputably affords [a noncitizen] the right to counsel of his or her own choice at his or her own expense,” and the INA codifies that right. *Leslie v. Att’y Gen.*, 611 F.3d 171, 181–82 (3d Cir. 2010) (citing 8 U.S.C. §§ 1229a(b)(4)(A), 1362; 8 C.F.R. §§ 1003.16(b), 1240.3). That right must be respected in substance as well as in name—it necessarily

protects the ability to confer with counsel so representation is effective. *Orantes-Hernandez v. Meese*, 919 F.2d 549, 554 (9th Cir. 1990) (cleaned up); see *Calderon-Rosas v. Att'y Gen.*, 957 F.3d 378, 384–85 (3d Cir. 2020) (recognizing due-process right to effective assistance in removal proceedings).

Government action that unduly curtails an existing attorney-client relationship violates due process. The Third Circuit has long enjoined or set aside government conduct that interferes with access to retained counsel. See *Cobb v. Aytch*, 643 F.2d 946, 957–63 (3d Cir. 1981) (transfers significantly interfered with access to counsel); *Chlomos v. INS*, 516 F.2d 310, 313–14 (3d Cir. 1975) (vacating order where location/agency choices prevented communication with counsel). And because the right to counsel is “too important and fundamental” to be diminished by a harmless-error rule, a separate showing of prejudice is not required to remedy its violation. *Leslie*, 611 F.3d at 182 & n.6.

Courts have specifically enjoined ICE transfers that would sever established attorney-client relationships. See *Arroyo v. DHS*, No. 8:19-cv-815, 2019 WL 2912848, at 17–25 (C.D. Cal. June 20, 2019) (preliminarily enjoining transfer of represented detainees outside local AOR because transfers interfered with counsel access).

Here, the Respondent quickly retained counsel shortly after his apprehension at Newark International Airport after a brief visit abroad. His counsel has already submitted a custody re-determination request and entered his appearance for the removal proceedings. See Exhs. 2, 3.

#### **PRAYER FOR RELIEF**

Under 28 U.S.C. § 2243, the Court shall “dispose of the matter as law and justice require.” To cure the constitutional violation here, the Petitioner respectfully requests that this Court order relief that restores meaningful access to counsel of choice for the pending Elizabeth proceedings:

1. Issue the writ and order Petitioner’s immediate release on appropriate conditions; or

2. In the alternative, order that Petitioner remain within 100 miles of EDC (or, if already moved, be returned forthwith to this District) so that he can consult with his retained New Jersey counsel and appear for his scheduled bond and removal hearings; and
3. Direct Respondents to provide confidential, prompt legal access (private legal calls and timely contact visits) sufficient to maintain the attorney-client relationship while proceedings are pending.

These remedies flow from § 2243 and are consistent with courts' longstanding practice of tailoring habeas relief to prevent constitutional injury and to preserve meaningful judicial review. See *Hope*, 972 F.3d at 325–26; *Leslie*, 611 F.3d at 182 & n.6; *Cobb*, 643 F.2d at 962–65.

Dated: August 13, 2025

Respectfully submitted,  
  
Veronica Cardenas  
New Jersey Bar ID # 022052010  
Law Office of Cardenas Immigration Law  
2 Arnot St., Ste 6  
Unit 122  
Lodi, NJ 07644  
Email: [veronica.cardenas@cardenasimmigrationlaw.com](mailto:veronica.cardenas@cardenasimmigrationlaw.com)

**TABLE OF CONTENTS**

1. Notice to Appear Dated August 6, 2025 .....	12
2. ICE Locator Print Out with Detention in New Jersey .....	16
3. Elizabeth Immigration Court's Hearing Notice for August 26, 2025 .....	18
4. Elizabeth Immigration Court's Bond Hearing Notice for August 26, 2025.....	20
5. Affidavit from Petitioner's Wife.....	23
6. Counsel, Mr. Jayson DiMaria's Notice of Appearance in the Removal Case.....	26