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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DAVID BUCKINGHAM, *Petitioner*, v. JOHN TSOUKARIS, *et al.*, *Respondents*.	HON. ESTHER SALAS Civil Action No. 25-14601 (ES)

SUPPLEMENTAL ANSWER TO THE PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

On the Brief:

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PRELIMINARY STATEMENT

On September 29, 2025, Petitioner filed a reply to Respondents' amended answer. ECF 24. In his reply, Petitioner raises new arguments and grounds for relief. For this reason, on October 3, 2025, the Court requested the Respondents to submit a supplemental answer. Respondents respectfully submit this supplemental answer pursuant to the Court's order. In addition, Respondents respectfully request leave to respond to the arguments raised in Petitioner's application for a temporary restraining order ("TRO"), to which Respondents failed to timely respond. Respondents regret the oversight and set forth a response to the TRO below.

LEGAL ARGUMENT

I. The September 24, 2025 Form I-830

Contrary to Petitioner's contention, the Respondents have not demonstrated an intention to release the Petitioner. On September 24, 2025, ICE issued a Form I-830, Notice to EOIR: Alien Address for the sole purpose of notifying the immigration court that Petitioner is detained at the Adams County Detention Center in Natchez, Mississippi. *See* Declaration of Deportation Officer India Moss of ICE ERO Oakdale, Louisiana ("Moss Decl."), ¶ 8. On September 28, 2025, Officer Moss electronically uploaded the Form I-830 to the EOIR Court & Appeals System. *Id*. ¶ 9. Since uploading the Form I-830, ICE has not released Petitioner. *Id*. ¶ 10.

The Form I-830 notation, "HUMANITARIAN PAROLE" under the section titled, "Released from ICE custody on the following condition(s): Other" was done in error. *Id*. ¶ 11. This erroneous notation is not applicable to Petitioner. *Id*. Furthermore, the box before the section "Released from ICE custody on the following

condition(s): Other" is not checked and not applicable. *Id*. The Petitioner seizes on this administrative error, but the Respondents respectfully request the Court disregard this oversight.

II. Petitioner's Emergency Motion

The Court should deny Petitioner's emergency motion seeking a TRO. A TRO is an "extraordinary remedy, which should be granted only in limited circumstances." *Novartis Consumer Health, Inc. v. & Johnson–Merck Consumer Pharm. Co.*, 290 F.3d 578, 586 (3d Cir. 2002). To obtain this extraordinary remedy, Petitioner must demonstrate: (1) a likelihood of success on the merits; (2) that he or she will suffer irreparable harm by denial of the relief; (3) that granting preliminary relief will not result in even greater harm to the nonmoving party; and (4) that the public interest favors such relief. *Kos Pharm., Inc. v. Andrx Corp*., 369 F.3d 700, 708 (3d Cir. 2004). The first two factors are "are the most critical." *Relly v. City of Harrisburg*, 858 F.3d 173, 179 (3d Cir. 2017) (quotations omitted). Here, Petitioner's emergency motion seeks to (1) temporarily restrain and enjoin Respondents from transferring or removing Petitioner pending further order, (2) direct Respondents to return Petitioner to the District of New Jersey and maintain conditions that allow meaningful access to counsel and the Court, and (3) require Respondents to conduct an individualized parole determination within seven days. However, if granted, Petitioner's motion would only unnecessarily prolong his immigration proceedings.

And where, as here, a petitioner seeks mandatory injunctive relief disrupting the status quo, such as immediate release from custody, the petitioner must satisfy a "particularly heavy burden" and show a "substantial"—not just reasonable—

likelihood of success on the merits and an "indisputably clear" right to relief. *Hope v. Warden York Cnty. Prison*, 972 F.3d 310, 320 (3d Cir. 2020); *see also Kim v. Hanlon*, 99 F.4th 140, 155 (3d Cir. 2024) ("[O]ver and above the showing required to maintain the status quo . . . a plaintiff must show a substantial likelihood of success on the merits and that [one's] right to relief is indisputably clear[.]" (quotation omitted)). Petitioner does not satisfy this standard.

There is a significant public interest in the lawful and efficient enforcement of the immigration laws. *See Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized the public interest in enforcement of the immigration laws is significant." (collecting cases)); *cf. Nken v. Holder,* 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings IIRIRA established, and permit[s] and prolong[s] a continuing violation of United States law." (quotations omitted)). Here, Petitioner's detention pending removal proceedings is a valid exercise of authority under the INA, as discussed in Respondents' opening brief. *See* ECF 22, pp. 10-13. As a result, Petitioner cannot show a "substantial likelihood of success on the merits" or right to relief which is "indisputably clear." *Kim*, 99 F.4th at 155.

Nor would granting a TRO serve the public interest, as the relief requested would only delay Petitioner's removal proceedings. Indeed, Petitioner's detention has not prevented him from retaining multiple counsel, and proceeding appropriately and

timely with immigration proceedings. Indeed, on August 21, 2025, Jayson DiMaria, Esq., appeared at the Elizabeth Immigration Court, and bond was denied for lack of jurisdiction because Petitioner is an arriving alien. *See* Second Supplemental Declaration of Brooks E. Doyne ("Doyne Decl."), Exhibit A (Order of the Immigration Judge.) Moreover, Petitioner is scheduled for an individualized hearing in immigration court on November 3, 2025, in Jena, Louisiana. *See* Doyne Decl., Exhibit B (Notice of Internet-Based Hearing). Granting Petitioner's emergent motion would delay this scheduled hearing, which runs contrary to the public interest in the efficient enforcement of immigration laws. For the sake of proceeding efficiently, Petitioner's TRO motion should be denied.

III. Petitioner's Transfer Did Not Violate ICE Directive 11022.1

Petitioner's contention that his transfer violated ICE Directive 11022.1 is also mistaken, as it overlooks a key provision of the policy. On August 8, 2025, Petitioner was taken into custody and held at Elizabeth Contract Detention Facility ("ECDF"). *See* Declaration of Assistant Field Office Director Ian Patel of ICE Newark Field Office ("Patel Decl."), at ¶ 6. ECDF is equipped to house a maximum of 304 detainees. *Id*. On August 8, 2025, ECDF was over capacity and housing 331 detainees. *Id*. On August 13, 2025, ECDF was over capacity and was housing 348 detainees. *Id*. at ¶ 7. Due to overcrowding, Petitioner was transferred to an ICE detention facility with adequate bedspace. *Id*.

Petitioner fails to acknowledge that ICE Directive 11022.1 provides discretion for transfers the Petitioner when overcrowding occurs. ICE Directive 11022.1 dictates

that a transfer may be deemed necessary by a Field Office Director, or his or her designee, for any of the following reasons:

> (a) to provide appropriate medical or mental health care to the detainee, (b) to fulfill an approved transfer request by the detainee, (c) for the safety and security of the detainee, other detainees, detention personnel or any ICE employee, (d) at ICE's discretion, for the convenience of the agency when the venue of the EOIR proceedings is different than the venue in which the alien is detained, (e) to transfer to a more appropriate detention facility based on the detainee's individual circumstances and risk factors, (f) termination of facility use due to failure to meet ICE detention standards, lack of sufficient use of the facility by ICE, or emergent situations, and (g) to relieve or prevent facility overcrowding; in such cases, efforts should first be made to identify for transfer those detainees who do not meet any of the criteria listed in section 5.2(1).

Here, ECDF was experiencing overcrowding and Petitioner was transferred to help address conditions and to promote safety for all individuals houses at ECFD.

More still, as the Court has previously held, Congress "vested DHS with the discretion to set the place of detention" for immigration detainees, while simultaneously "limit[ing] federal district courts' jurisdiction to review decisions or actions made pursuant to the sound discretion of DHS officials under [8 U.S.C. §] 1231(g)(1)." *Jane v. Rodriguez*, No. CV 20-5922 (ES), 2020 WL 10140953, at *1 (D.N.J. May 22, 2020); *see also* 8 U.S.C. § 1231(g) ("The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal."); *Calla-Collado v. Attorney Gen.*, 663 F.3d 680, 685 (3d Cir. 2011) (recognizing "ICE necessarily has the authority to determine the location of detention of an alien in deportation proceedings … and therefore, to transfer aliens from one detention center to another." (quotations omitted)). As a result, the Court

lacks jurisdiction over the claim challenging the decision to transfer Petitioner from ECDF, which was consistent with ICE Directive 11022.1 and a lawful exercise of discretion under 8 U.S.C. § 1231(g)(1).

IV. Respondents Are Not Violating Parole Directive 11002.1

Finally, Petitioner misapplies Parole Directive 11002.1, which has no bearing on this matter. Parole Directive 11002.1 applies to arriving aliens found to have a credible fear of persecution or torture. *See* Doyne Decl., Exhibit C (Parole Directive 11002.1). That does not describe Petitioner here. On August 6, 2025, after a trip abroad, Petitioner arrived at Newark International Airport and was determined to be inadmissible pursuant to INA § 212(a)(2)(A)(i)(I), as an alien who has been convicted of a crime involving moral turpitude. The administrative record contains no evidence that Petitioner ever expressed a fear of removal to the United Kingdom, was provided a credible fear interview, or was found to have a credible fear of removal to the United Kingdom. Given such, Parole Directive 11002.1 is not applicable, and this Court should not entertain Petitioner's arguments.

CONCLUSION

For the foregoing reasons, the Court should deny the Amended Petition for Habeas Corpus.

Respectfully submitted,

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