UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No.: 1:25-cv-24442-KMW

PIOTR SIEKIERKO	)
Petitioner,	)
v.	)
GARRETT RIPA, *et al.,*	)
Respondents.	)

PETITIONER'S AMENDED REQUEST FOR TEMPORARY RESTRAINING ORDER

Petitioner, Piotr Siekierko, by and through undersigned counsel, respectfully moves this Court, pursuant to Federal Rule of Civil Procedure 65, for a Temporary Restraining Order ("TRO") providing interim relief in his pending habeas action. Specifically, Petitioner seeks an order directing his release consistent with the Immigration Judge's April 22, 2025, bond determination, and enjoining Respondents from transferring him outside this Court's jurisdiction or removing him from the United States while the habeas petition remains pending.

INTRODUCTION

Petitioner, Piotr Siekierko filed and has pending before this Honorable District Court a Writ of Habeas Corpus based on his unlawful arrest and detention by Respondents in violation of his Fifth Amendment Rights, an Immigration Judge (IJ) bond order, and of their own policy and regulations. On September 26, 2025, this Honorable Court issued an Order to Show Cause, directing Respondents not to transfer or remove Petitioner pending further proceedings. While that order preserves the status quo, it does not address Petitioner's unlawful re-detention in defiance of an IJ's

bond order. Petitioner therefore seeks a TRO directing his release pursuant to the April 22, 2025, bond determination.

Although Petitioner is not designating this motion as an "emergency" under Local Rule 7.1(d), he respectfully requests that the Court treat it with expediency. Petitioner remains confined in the deportation staging area at Krome Detention Center, where detainees are held for imminent removal flights. Respondents' unlawful arrest and continued detention of Petitioner in violation of an order releasing him from custody on bond inflicts ongoing irreparable harm to the most fundamental of all rights: his liberty.

LEGAL STANDARD

A TRO may issue where the movant demonstrates: (1) likelihood of success on the merits, (2) irreparable harm absent relief, (3) that the balance of equities tips in the movant's favor, and (4) that an injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). When removal is imminent, courts may issue TROs to preserve their jurisdiction and prevent irreparable harm. *Ortega v. Kaiser*, No. 2:25-cv-00076 (W.D. Wash. Mar. 5, 2025), slip op. at 8–9; *Galindo Arzate v. Dedos*, No. 1:25-cv-00021, 2025 WL 2230521, at *8 (S.D. Tex. May 2, 2025). Petitioner is currently held at the Krome Detention Center in Miami, in an area where detainees are staged immediately prior to deportation. Co-counsel confirmed this placement during a visit on September 24, 2025. Removal from this area could occur imminently, extinguishing this Court's jurisdiction before it can adjudicate the pending habeas petition.

LEGAL ARGUMENT

Petitioner incorporates by reference the factual background and legal arguments set forth in his concurrently filed Petition for Writ of Habeas Corpus (Dkt. 1). Those arguments are more fully developed there, and Petitioner respectfully refers the Court to them. The present motion highlights

only the urgency of the circumstances and the need for immediate interim relief to preserve this Court's jurisdiction.

I. Petitioner Is Likely to Succeed on the Merits that: Respondents unlawfully arrested and detained him following a IJ bond order, no change in circumstances, and with no final order of removal.

On April 22, 2025, an IJ ordered Petitioner's release on a $5,000 bond, finding him neither a flight risk nor a danger to the community. Petitioner posted bond, fully complied with its conditions, and remained on the non-detained docket with his next hearing scheduled for January 8, 2027. Nevertheless, on September 17, 2025, ICE arrested him at the Miramar facility and transferred him to Krome, disregarding the IJ's binding bond order.

i. By statute and regulations, there is a set process for custody and release.

Federal law provides a specific procedure for revisiting custody, including a process for appeal and even two types of stay where ICE does not agree with an immigration judge's order. *See Matter of Joseph*, 22 I&N Dec. 660, 663 (BIA 1999). While 8 U.S.C. § 1226(b) authorizes revocation of bond or parole, this subsection must be read in context and harmony with other statutory provisions and the regulatory scheme. "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997); *see also Beecham v. United States*, 511 U.S. 368, 372 (1994) ("The plain meaning that we seek to discern is the plain meaning of the whole statute, not of isolated sentences."). The BIA has adopted this approach. *See Matter of C-T-L-*, 25 I&N Dec. 341, 345 (BIA 2010). So, who is the "Attorney General" referenced at Part 236? The statute must be read in context, not just Part 236, but the INA as a whole.

ii. Under 8 U.S.C. § 1226(b), revocation of an IJ bond during proceedings may only be accomplished by the immigration judge.

The term "Attorney General" means the Attorney General of the United States. 8 U.S.C. § 101. And although she lacks a definition, the Secretary of Homeland Security has certain obligations under the Act. 8 U.S.C. § 1103(a). Relevant to our case, 8 USC § 1226(a), (b) and (c) reference only the "Attorney General," even though present-day context tells us logically that some of the duties described are those of the Secretary, not just the Attorney General. But nothing, no law or case, dictates that reference to the "Attorney General" means only the Secretary. Rather, the title "Attorney General" refers to the shared authority of both the Secretary of DHS and the Attorney General vis a vis the immigration judges.[1]

So, in non-mandatory detention cases, where an individual was lawfully admitted (as was our Petitioner) and has no criminal convictions (our Petitioner does not), the Attorney General, acting through her immigration judges (8 CFR § 1001.1(l) has jurisdiction over custody determinations: that is, after ICE takes someone into custody and makes the initial custody determination, sole authority over redetermination transfers to the immigration judge. 8 U.S.C. § 1226(a)(1); 8 CFR § 1003.19 *et. seq.*; 8 CFR § 1236.1(d). These include noncitizens, like Petitioner, who were lawfully admitted and do not have a serious conviction triggering mandatory detention under 8 U.S.C. § 1226(c). The supporting regulations make clear that where an immigration judge has jurisdiction over the custody determination, it is the province of the Immigration Court to make

[1] On March 1, 2003, the authority of the Immigration and Naturalization Service (former "INS") was transferred to the newly created Department of Homeland Security. *See* Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135, 2178. The Immigration Courts, under the Executive Office for Immigration Review, remain in the Department of Justice and fall under the auspices of the Attorney General. In regards to jurisdiction over custody and the overall detention-and-release scheme, the agency has ruled: The Attorney General's authority to detain, or authorize bond for aliens under 8 USC § 1226 is one of the authorities (he or she) retains pursuant to this provision, although this authority is shared with the Secretary of Homeland Security because officials of that department make the initial determination whether an alien will remain in custody during removal proceedings. *Matter of D-J-*, 23 I&N Dec. 572, n. 3 (BIA 2003); 8 U.S.C. § 1103 *et. seq.* 1103(g), *as amended*; 8 C.F.R. §§ 236.1(c), (d), 287.3(d) (2002).

a redetermination of custody, and then only upon a showing of materially changed circumstances.

8 C.F.R. §§ 1003.19(e), 1236.1(d).

iii. The Laken Riley Act supports the shared authority of the Secretary and the AG at Part 236.

As further support that the authority at 8 U.S.C. § 1226(a), (b) and (c) is shared (as laid out by regulation) between the Attorney General and the Secretary of DHS, the Court will consider provisions of the Laken Riley Act, Pub. L. 119-1, 139 Stat. 3 (2025) wherein Congress amended certain parole and detention provisions of the INA. In Laken Riley,[2] Congress crossed out reference to the "Attorney General" at 8 U.S.C. § 1182(d), and inserted the "Secretary of Homeland Security." Likewise at 8 USC § 1225(b), referring to inspection and detention of certain aliens, Congress crossed out "Attorney General" and inserted "Secretary of Homeland Security." In contrast, at 8 U.S.C. § 1226(a)(b) and (c)(1), Congress did not touch the term "Attorney General," even though the legislation added a category of criminal aliens subject to mandatory detention. At 8 U.S.C. § 1226(c)(3), a new subsection, Congress specified the "Secretary of Homeland Security" in reference to detainers.

In interpreting statutes, jurists assume Congress knew what they were doing by the particular inclusion and exclusion of terms and choices. *See Patel v. United States A.G.*, 971 F.3d 1258, 1292 (11th Cir. 2020); *United States v. Santos,* Case No.: 1:15-cr-20865-LENARD at p. 20 (S.D. Fla. July 26, 2016) (in a denaturalization matter, courts cannot read into a statute a materiality element where it does not exist in one provision, but does in another). *citing Russello v. United States,* 464 U.S. 16, 23 (1983) ("where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion"). As recently as January 2025,

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[2] See *Redlined Version of Laken Riley Act* attached hereto as Exhibit "A."

Congress could have deleted "Attorney General" from 8 U.S.C. § 1226(b) and inserted "the Secretary." It did not do so. This fact supports the proposition that revocation of parole may rest with the Secretary, but once the immigration judge (i.e., Attorney General) has exercised jurisdiction over a bond determination for the pendency of proceedings (pre-order stage), revocation of bond is accomplished by the immigration court.

***iv.* Noncitizens have a strong Fifth Amendment liberty interest in liberty during the pendency of immigration court proceedings.**

It bears emphasis: Petitioner was lawfully admitted, has adjustment of status to permanent residency pending, is married to an American citizen, and is not under any statutory provision dictating mandatory detention. Petitioner did not violate the conditions of the IJ bond. He did nothing wrong. Hence Petitioner has a real concern that he hopes this Court shares. It shocks the conscience that one can go through all the bells and whistles of a bond hearing before an independent arbiter, wherein the parties are governed by a panoply of regulations on motions to reopen, reconsider, appeal, and even two forms of stay-- only to realize that ICE can trump it all in one swoop by unilaterally deciding something -- anything (who knows?)-- justifies revocation of bond and re-arrest.

The courts have long recognized that once released, a noncitizen pre-deportation order acquires a substantial liberty interest that cannot be withdrawn arbitrarily, especially where the individual (like our Petitioner) is in the pre-deportation order stage. *Id.*; *Doherty v. Thornburgh*, 943 F.2d 204, 209 (2d Cir. 1991) (in the context of pre-deportation detention, alien has substantive and procedural due process rights); *Matter of Sujay,* 17 I&N Dec. 637 (BIA 1981) (pre-deportation order, without a material change in circumstances, unilateral revocation of bond not authorized). In previous litigation, Respondents have advocated that the Fifth Amendment right to procedural

and substantive due process is stronger pre-deportation order (as opposed to post order). *Al Najjar v. Ashcroft*, 186 F. Supp 2d 1235, 1237 (S.D. Fla 2002).

The asserted basis for re-detention — a vague allegation of a Polish warrant — appears false. Certified records from the Polish Ministry of Justice (Exs. H & I, Dkt. 1) confirm that the warrant was withdrawn on July 31, 2025, and that Petitioner has no criminal record or active warrant in Poland. Even if prosecuted, the allegations involve gambling and slot-machine activity, which do not constitute crimes involving moral turpitude or aggravated felonies under U.S. immigration law. See *Matter of Silva-Trevino*, 26 I. & N. Dec. 826 (BIA 2016); INA § 101(a)(43), 8 U.S.C. § 1101(a)(43).

Given ICE's disregard of an IJ bond order, its reliance on withdrawn foreign allegations, and the absence of any valid removability grounds, Petitioner is overwhelmingly likely to succeed on the merits of his habeas petition.

II. Petitioner Faces Immediate and Irreparable Harm

Unlawful re-detention itself constitutes irreparable injury, as the Supreme Court has recognized that freedom from physical restraint "lies at the heart of the liberty" protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The danger here is even more acute because Petitioner is confined at the Krome Detention Center in Miami, in the area reserved for detainees with final removal orders awaiting imminent deportation flights. In today's immigration enforcement environment, ICE has been known to remove persons before the conclusion of their removal proceedings, and being ordered to issue their return. See *Argueta-Perez v. Field Office Director*, No. 25-21419-CIV-ALTONAGA/Reid (S.D. Fla. May 27, 2025) (Order of Dismissal Pursuant to Joint Stipulation) attached hereto as Exhibit "B."

Petitioner's immigration attorney, Ilaria Alk, confirmed Petitioner's mistaken placement during her visit on September 24, 2025. Petitioner has no final order of removal and remains on the non-detained docket with a hearing scheduled for January 8, 2027. Yet ICE has placed him alongside individuals set to be deported, creating a serious and imminent risk that he will be unlawfully removed without judicial review either out of the district or even out of the country. Absent relief, ICE can—and likely will—transfer or remove Petitioner before this Honorable Court even has the opportunity to decide his habeas petition. That irreparable injury to both Petitioner and the Court cannot be undone

III. The Balance of Equities Favors Petitioner

Petitioner complied with all bond conditions after his release, was proceeding with his case on the non-detained docket, and no material changes have occurred that would affect the conditions of his bond. As aforementioned, Petitioner has no criminal record, as confirmed by official certificates from the Polish Ministry of Justice (Exs. H & I, Dkt. 1). By contrast, ICE gains nothing legitimate from overriding an IJ's bond order and detaining Petitioner based on a withdrawn foreign warrant.

When weighed against the harm to Petitioner's liberty and to this Court's jurisdiction, the government's asserted interest in detention carries no weight, whereas the Petitioner's liberty carries a immense weight. The equities therefore strongly favor granting a TRO to restore the lawful status quo.

IV. The Public Interest Supports Granting a TRO.

It is in the public interest to ensure that the government complies with the Constitution, statutory limits, and its own regulations. Courts have recognized that preserving judicial review in

the face of imminent removal serves not only the litigants but also the integrity of the judicial process. See *Galindo Arzate v. Dedos*, 2025 WL 2230521, at 8 (S.D. Tex. May 2, 2025).

Here, ICE has disregarded both the governing regulations and the Immigration Judge's binding bond order. Federal law creates a clear and orderly process: if the government believes circumstances have materially changed, it may file a motion for bond redetermination before the Immigration Court. See 8 C.F.R. § 1003.19(e). This process ensures that liberty is not withdrawn arbitrarily and that a neutral adjudicator weighs the evidence. By re-arresting Petitioner without judicial authorization, ICE has not only violated its own regulations but also stripped the Immigration Court of its statutory authority. Allowing such conduct to stand would create a dangerous precedent where executive officers can nullify judicial orders at will, undermining separation of powers and eroding confidence in the rule of law.

Granting a TRO here reaffirms that immigration enforcement must operate within statutory and constitutional boundaries, preserves the integrity of judicial review, and ensures that executive agencies remain accountable to the rule of law.

RELIEF REQUESTED

Wherefore, Petitioner respectfully requests this Court to grant the following:

a. Immediately enter a temporary order preserving the status quo and prohibiting Respondents from transferring or removing Petitioner until the Court can rule on this motion;

b. Thereafter, issue a Temporary Restraining Order enjoining Respondents from transferring or removing Petitioner from the jurisdiction of this Court during the pendency of his habeas petition;

c. Order Petitioner's immediate release from custody pursuant to the Immigration Judge's April 22, 2025 bond order;

d. Set this matter for an expedited hearing on a preliminary injunction at the earliest practicable time; and

e. Grant any further relief this Court deems just and proper.

CERTIFICATION PURSUANT TO FED. R. CIV. P. 65(b)(1)(B)

Undersigned counsel for Petitioner certifies that on September 26, 2025, at 12:43 p.m. EDT, I conferred by electronic mail with the office of Assistant United States Attorney for the Southern District of Florida, regarding Petitioner's Emergency Motion for Temporary Restraining Order. A follow-up communication was made on September 27, 2025, at 10:18 a.m. As of the time of filing this motion, undersigned counsel has not received a response. This certification is made in compliance with Rule 65(b)(1)(B). An affidavit outlining the immediate and irreparable, injury, loss or damage will result to the movant before the adverse party can be heard is attached to this motion as Exhibit "C."

Respectfully submitted on this day 28th of September, 2025.

PIOTR SIEKIERKO

By his attorneys,

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