

Not for Publication

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DAVID MEJIA AMAYA,

Petitioner,

v.

**JOHN TSOUKARIS, in his official capacity
as Field Office Director for U.S.
Immigration and Customs Enforcement, et
al.,**

Respondents.

Civil Action No.: 25-16042 (ES)

ORDER

SALAS, DISTRICT JUDGE

It appearing that:

1. Petitioner David Mejia Amaya (“Petitioner”) has submitted a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (D.E. No. 1 (“Petition” or “Pet.”)), an application to proceed *in forma pauperis* (“IFP”) (D.E. No. 1-1 (“IFP Application”)), an exhibit submitted under seal (D.E. No. 3), and a motion for a temporary restraining order (“TRO”) (D.E. No. 4 (“TRO Motion” or “TRO Mot.”)). Petitioner names as respondents Eric Rokosky, Facility Administrator of the Elizabeth Contract Detention Facility in Elizabeth, New Jersey; John Tsoukaris, Newark Field Office Director for U.S. Immigration and Customs Enforcement, (“ICE”); Kristi Noem, Secretary, U.S. Department of Homeland Security (“DHS”); Todd Lyons, Director, ICE; DHS; and ICE (“Respondents”). (Pet. ¶¶ 13–19). Petitioner is currently confined as an immigration detainee at the Elizabeth Contract Detention Facility. (*See id.* ¶ 13).

2. In his Petition, Petitioner challenges his immigration detention on the grounds that it violates his rights under the First, Fourth, and Fifth Amendments, the Immigration and Nationality Act, the Administrative Procedure Act, the Rehabilitation Act, and federal regulations. (*See generally* Pet.). He seeks his immediate release because, inter alia, the “presumed basis for detaining Petitioner is unknown;” he has not been provided a hearing to determine whether his detention is warranted based on the danger to the public or the risk of flight; since he was detained, immigration officers have only spoken with him twice (the first time to threaten him into signing documents he did not understand, which he now believes was a voluntary departure order, and, on the second occasion, to inform him that he would be transferred to another detention facility); and he has not been given information or access to the phone (and thereby lacks access to counsel). (*See id.* ¶¶ 3–5, 33, 75, 87).

3. Petitioner’s TRO Motion “moves the Court for a [TRO] pending adjudication of his Complaint and Verified Petition for Writ of Habeas Corpus.” (TRO Mot. at 2). The proposed order accompanying the motion states that, “[p]ending consideration, Respondents are hereby restrained” from attempting to remove Petitioner from the United States and, unless seventy-two (72) hours prior written notice is provided to Petitioner, moving Petitioner. (D.E. No. 3-1 at 2 (emphasis omitted); *see also* Pet. at 16 (requesting an order that Petitioner may not be transferred outside the District of New Jersey except to be released)).

4. Habeas petitioners have no automatic right to the appointment of counsel. *See Morris v. Baker*, No. 14-6785, 2015 WL 5455651, at *1 (D.N.J. Sept. 15, 2015); *see also Reese v. Fulcomer*, 946 F.2d 247, 263 (3d Cir. 1991), *superseded on other grounds by statute*, 28 U.S.C. § 2254(d). Pursuant to the Criminal Justice Act (“CJA”), 18 U.S.C. § 3006(a)(2)(B), however, a district court may appoint counsel to an indigent petitioner where “the interests of justice so

require.” In making that determination, “the district court must first decide if the petitioner has presented a nonfrivolous claim and if the appointment of counsel will benefit the petitioner and the court.” *Reese*, 946 F.2d at 263. The courts look to three factors in making that determination: the likelihood of success on the merits, the complexity of the issues involved in the petitioner’s case, and the ability of the petitioner to investigate and present his case. *See Shelton v. Hollingsworth*, No. 15-1249, 2015 WL 5116851, at *2 (D.N.J. Aug. 31, 2015).

5. Having reviewed Petitioners submissions and considered these factors, the Court finds that the appointment of counsel pursuant to 18 U.S.C. § 3006A(a)(2)(B), is appropriate at this time: Petitioner has presented a nonfrivolous claim and, given the complexity of the issues and the ability of Petitioner to investigate and present his case, the appointment of counsel will benefit both him and the Court. *See Reese*, 2946 F.2d at 263.

6. In light of the appointment of counsel, the Court denies the TRO Motion without prejudice; however, pursuant to the All Writs Act, *see* 28 U.S.C. § 1651(a) (empowering the federal courts to “issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law”), and to assist communications between Petitioner and appointed counsel, the Court orders that Petitioner shall not be transferred from the District of New Jersey, or removed from the United States, pending further order of this Court.

For the foregoing reasons, and for good cause shown,

IT IS on this 2nd day of October 2025,

ORDERED that Petitioner’s IFP Application (D.E. No. 1-1) is **GRANTED**; and it is further

ORDERED that Petitioner **SHALL NOT** be **TRANSFERRED** from the District of New Jersey or **REMOVED** from the United States pending further order of this Court; and it is further

ORDERED that, pursuant to the CJA, *see* 18 U.S.C. § 3006A(a)(2)(B), the Court will appoint counsel to represent Petitioner in this matter; the Clerk of Court must identify and appoint an appropriate attorney from the CJA Panel; and it is further

ORDERED that appointed CJA counsel shall enter an appearance within ten (10) days of appointment; with this entry of appearance, CJA counsel shall notify the Court whether he or she intends to submit an amended habeas petition; if CJA counsel does intend to submit an amended habeas petition, the amended petition shall be submitted within ten (10) days of the entry of appearance; and it is further

ORDERED that Petitioner's TRO Motion (D.E. No. 3) is **DENIED** *without prejudice*; and it is further

ORDERED that the Clerk of Court shall serve a copy of this Order upon Petitioner by regular U.S. Mail.

s/Esther Salas
Esther Salas, U.S.D.J.