

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
DENVER DIVISION

HUMBERTO ROMERU-PEREZ,)	
)	
)	Case No. 1:25-cv-3307-RMR
)	
<i>Petitioner</i>)	
)	
v.)	MEMORANDUM IN SUPPORT OF
)	EMERGENCY MOTION FOR
WARDEN, ¹)	TEMPORARY RESTRAINING ORDER
)	
<i>Respondent</i>)	
)	
)	
)	
)	
)	

On October 20, 2025, Petitioner Humberto Romeu-Perez (“Mr. Romeu”) filed a petition for a writ of habeas corpus, seeking release from immigration detention. See ECF No. 1. Upon information and belief, the Department of Homeland Security is seeking to remove Mr. Romeu to Mexico this evening, despite, upon information and belief, there being no evidence that they have complied with the statute in designating a third country of removal or the requirement to conduct a reasonable fear interview. Mr. Romeu therefore seeks a temporary restraining order precluding his removal pending this Court’s consideration of the claims raised in his habeas petition, or, at a minimum, to allow counsel to speak to Mr. Romeu to ascertain whether the required statute and regulatory protections have occurred.

¹ Undersigned intends to amend the petition, which was filed pro se. In the amended petition, undersigned will add additional Respondents, including the Acting Director for Immigration and Customs Enforcement, Todd M. Lyons.

RELEVANT FACTS

Mr. Romeu is a native and citizen of Cuba who was ordered removed to that country by an immigration judge on June 15, 2009. Immigration and Customs Enforcement (ICE) has not removed him in the years since that time. In June 2025, he was placed in immigration detention, where he has remained. Upon information and belief, the Department of Homeland Security (DHS) has not attempted to remove him to Cuba, pursuant to the removal order. Instead, ICE has indicated an intent to remove Mr. Romeu to Mexico. Upon information and belief, he was told today, December 11, 2025, that such removal will take place **tonight**.

Upon information and belief, Mr. Romeu has not been given a reasonable fear interview to ascertain whether there is a reasonable possibility that he will be persecuted or tortured in Mexico. This is particularly important because Mr. Romeu has a criminal history that he fears may subject him to detention or mistreatment in Mexico, and he has, through counsel, requested a reasonable fear interview this evening. DHS must evaluate that articulated fear before they can remove him.

ARGUMENT

Mr. Romeu seeks an emergency temporary restraining order pursuant to Federal Rule of Civil Procedure 65 and the All Writs Act precluding ICE from transferring him pending resolution of his habeas petition, or, at a minimum precluding any such action prior to ascertaining whether DHS has complied with the applicable regulations and constitutional protections. As a threshold matter, this Court has the authority to issue this injunction under the All Writs Act, 28 U.S.C. § 1651(a). The All Writs Act empowers 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.” *Id.* Courts in this district have recently invoked the All Writs Act to prevent the transfer of individuals detained within the judicial district unless and until the Court issues a contrary order, while reviewing a pending habeas determination. *Arostegui-Maldonado v. Baltazar*, -- F. Supp. 3d --, 2025 WL 2280357, *14-15 (D. Colo. Aug. 8, 2025) (citing *Batooie v. Ceja*, 2025 WL 1836695, at *2 (D. Colo. July 3, 2025)); *D.B.U. v. Trump*, 2025 WL 11065556 (D. Colo. Apr. 14, 2025); *Vizguerra-Ramirez v. Choate*, No. 1:25-cv-881 (D. Colo. Mar. 21, 2025). An order under the All Writs act is appropriate here to maintain the status quo and the Court’s jurisdiction while it evaluates the constitutional and legal claims presented in the petition.

Mr. Romeu meets the requisite standard for a temporary restraining order. Specifically, the moving party must demonstrate: (1) a substantial likelihood of success on the merits of the case; (2) that they are likely to suffer irreparable harm in the absence of the requested relief; (3) that the harm outweighs a harm to the opposing party; and (4) that the injunction would not adversely affect the public interest. *Rocky Mountain Gun Owners v. Polis*, 121 F.4th 96, 112 (10th Cir. 2024); *Arostegui-Maldonado*, -- F. Supp. 3d --, 2025 WL 2280357, *4. This Court has jurisdiction pursuant to 28 U.S.C. § 2243. See also *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004); *Ex Parte Endo*, 323 U.S. 283, 306 (1944) (recognizing that once a court properly acquires habeas jurisdiction, it does not lose it upon the subsequent transfer of the petition).

First, Respondents’ detention of Mr. Romeu violates the Immigration and Nationality Act (INA) and his due process rights. Mr. Romeu has been detained beyond

the statutory removal period and also beyond the presumptively constitutional six-month period discussed in *Zadvydas v. Davis*, 533 U.S. 678 (2001). See *Pena-Gil v. Lyons*, 2025 WL 3268333, *2 (D. Colo. Nov. 24, 2025).

Additionally, ICE was unable to remove Mr. Romeu when the immigration judge issued a removal order, and there is no indication that ICE has tried to remove him to his native Cuba since that time. See *Siguenza v. Moniz*, 2025 WL 2734704, at *3 (D. Mass. Sept. 25, 2025) (holding that the government's assertion that they were "in the process of working" with potential countries for removal and that "there was a chance that Petitioner would be removed to one of these countries, but that they could not provide a specific timeframe for his removal" failed to establish a significant likelihood of removal in the reasonably foreseeable future). Critically, the statute requires that ICE first seek to remove Mr. Romeu to the designated country of removal (Cuba) before it can proceed to identify an alternative country. 8 U.S.C. § 1231(b)(2)(A), (C); *Jama v. Immigration and Customs Enforcement*, 543 U.S. 335, 340-41 (2005); *Fadwa v. Lyons*, 2025 WL 2525026 (D. Colo. Dec. 9, 2025). The Supreme Court has described the statute as including "four consecutive removal commands," looking first to the chosen and designated country of removal. *Jama*, 543 U.S. at 341 (citing 8 U.S.C. § 1231(b)(2)(A), (C)). If removal to that country is not possible, the government shall designate removal to the country of which the noncitizen is a citizen. *Id.* (citing 8 U.S.C. § 1231(b)(2)(D)). If there is no available country at that step, the government shall remove the noncitizen to a country "with which he has a lesser connection" as described in 8 U.S.C. § 1231(b)(2)(E)(i)-(vi). *Id.* And, finally, only if those options are "impracticable, inadvisable, or impossible," may the government designate "another country whose government will accept the alien into that

country.” *Id.* (citing 8 U.S.C. § 1231(b)(2)(E)(vii)). Under the statute, DHS can only identify an alternative country of removal once it is clear that the designated country is not an option. 8 U.S.C. § 1231(b)(2)(C)-(E); *Jama*, 543 U.S. at 341, 344-45. And the identified country can only be designated as a removal country if DHS follows the specific, statutory analysis regarding the connections to particular countries. *Jama*, 543 U.S. at 341. There is no indication that has happened here. Thus DHS must be precluded from attempting to remove Mr. Romeu to Mexico absent that process. Finally, and relatedly, while Mr. Romeu told his wife that he will be removed to Mexico **today**, there is no indication that ICE has complied with constitutional notice requirements. Thus, in addition to violating the statute, Respondents are violating Mr. Romeu’s constitutional rights.

Second, Mr. Romeu is likely to suffer irreparable injury absent an injunction precluding his removal to Mexico prior to this Court addressing the arguments raised in his petition. ICE has already transferred Mr. Romeu to various facilities around the country, and if the government removes Mr. Romeu to Mexico it will moot this habeas and the claims raised therein.

Third, there is no harm to Respondents in temporarily staying Mr. Romeu’s removal. While the government has discretion where to detain individuals and the authority to execute removal orders, it cannot do so in violation of the law and the Constitution, and it must comply with both prior to effectuating a removal order. *Abrego Garcia v. Noem*, 777 F. Supp. 3d 501, 514 (D. Md. 2025); *see also Abrego Garcia v. Noem*, 2025 WL 1021113, at *1, 2 (4th Cir. Apr. 7, 2025) (order denying stay) (Thacker, C.J, concurring) (noting that it is “unconscionable” for the government to argue that federal courts are powerless to intervene in an unlawful removal that violates due

process, and that “§ 1252(g) strips the federal courts of jurisdiction only to review the Attorney General’s exercise of **lawful** discretion to commence removal proceedings, adjudicate those cases, and execute orders of removal.”).

Finally, the public interest would not be adversely impacted. Indeed, the public interest supports ensuring that the government is properly complying with the statute and the Constitution prior to removing noncitizens to third countries. Accordingly, in balancing the factors, the Court should conclude that a preliminary injunction is warranted and issue an order precluding Respondents from removing Mr. Romeu to a third country pending completion of these proceedings.

NO BOND IS WARRANTED UNDER RULE 65(c)

Finally, the Court should not require Mr. Romeu to provide security prior to issuing an injunction. Federal Rule of Civil Procedure 65(c) provides that “[t]he court may issue a preliminary injunction or temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” As in *Arosegui-Maldonado*, Respondents will not be harmed by this order nor would they suffer harm if the order was overturned. 2025 WL 2280357, *16. “[G]iven the important constitutional rights at issue in this case,” no bond should be required.

CONCLUSION

For the foregoing reasons, Mr. Romeu requests the Court issue an order precluding Respondents from removing him pending resolution of this case.

Dated: December 11, 2025

Respectfully submitted,

/s/ Kevin Hirst
KEVIN HIRST
Blessinger Legal, PLLC
7389 Route 29, Suite 320
Falls Church, VA 22042
(703) 738-4248
khirst@blessingerlegal.com