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District Judge Tiffany M. Cartwright

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

M.M.

Petitioner,

v.

Cammilla WAMSLEY, et. al.

Respondents.

Case No.2:25-cv-02074-TMC

**EMERGENCY MOTION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION TO PREVENT
TRANSFER OF PETITIONER**

Proposed for Consideration on October
30, 2025

Petitioner, through undersigned counsel, respectfully moves this Honorable Court for an Emergency Temporary Restraining Order (“TRO”) and Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65 to enjoin Respondents from transferring Petitioner from his current place of detention during the pendency of this habeas corpus proceeding.

I. INTRODUCTION

This motion seeks to preserve this Court’s jurisdiction and to prevent irreparable harm to Petitioner by stopping the Department of Homeland Security (“DHS”) and U.S.

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2 Immigration and Customs Enforcement (“ICE”) from transferring him out of this judicial
3 district while his habeas corpus petition under 28 U.S.C. § 2241 remains pending.

4 ICE at the Northwest Immigration Processing Center (NWIPC) has been
5 transferring detainees to other detention facilities without warning. Such a transfer
6 would frustrate this Court’s jurisdiction, impede counsel’s ability to represent Petitioner
7 effectively, and risk mootness of the pending habeas petition.

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9 **II. FACTUAL BACKGROUND**

10 Petitioner is currently detained at NWIPC located within the jurisdiction of this
11 Court. Petitioner filed a habeas corpus petition challenging the legality of detention on
12 account of the denial of bond jurisdiction by the Immigration Judge.

13 Today counsel was informed by Mr. M.M that ICE has been unexpectedly
14 transferring detainees to other detention facilities, presumably outside this Court’s
15 jurisdiction. No reason for the transfers has been provided, and such a transfer would
16 remove Petitioner from this Court’s jurisdiction and deprive him of meaningful access to
17 counsel.

18 Petitioner has ongoing legal matters in this District, including this habeas action,
19 and the transfer would substantially impair his ability to consult with counsel and
20 participate in his case.

21 **III. ARGUMENT**

22 **1. A TRO Is Necessary to Preserve This Court’s Jurisdiction**

23 The Supreme Court has held that a district court retains jurisdiction over a habeas
24 petitioner detained within its territorial jurisdiction at the time the petition is filed.
Rumsfeld v. Padilla, 542 U.S. 426, 441 (2004). Courts may issue TROs to prevent

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2 agencies from defeating jurisdiction through transfer. See *Ex parte Endo*, 323 U.S. 283,
306 (1944); *Sanchez-Corea v. United States*, 510 F.2d 47, 48–49 (9th Cir. 1975)¹.

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4 Absent injunctive relief, Respondents could remove Petitioner from the reach of
5 this Court, effectively divesting it of jurisdiction and rendering the pending habeas
6 petition moot.

6 **2. Petitioner Satisfies the Four Factors for Injunctive Relief**

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1. Likelihood of Success on the Merits. Petitioner’s habeas petition raises substantial legal questions regarding the lawfulness of his detention and his right to due process. It is based on *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash.) where this court has already clarified the legality of detention under the respondent’s reading of the detention statutes in favor of Petitioner’s position.
 2. Irreparable Harm. Transfer will cause irreparable harm by severing attorney-client communication and depriving Petitioner of meaningful access to the court.
 3. Balance of Equities. The balance favors Petitioner. The government suffers no prejudice from maintaining Petitioner in his current facility, whereas Petitioner faces constitutional injury and potential mootness of his case.
 4. Public Interest. The public interest is served by ensuring lawful detention practices and preserving judicial review of immigration custody decisions.

18 **3. Access to Counsel**

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The Court has already ordered Respondents to show cause why the writ should not issue. At this stage, Petitioner’s ability to communicate freely and effectively with counsel is essential to the orderly adjudication of the habeas petition. Transferring Petitioner to a distant facility would unreasonably burden, if not outright impede, that access.

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¹ While no recent published Ninth Circuit decision has addressed a TRO enjoining transfer of an immigration detainee during pending § 2241 habeas proceedings, the law of this Circuit remains that transfer post-filing does *not* destroy jurisdiction; see *Lopez-Marroquin v. Barr*, 931 F.3d 1002 (9th Cir. 2020) (granting jurisdiction under § 2241) (quoting *Padilla*)

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2 Although immigration detainees do not have a Sixth Amendment right to
3 appointed counsel, they possess a statutory and constitutional right to meaningful access
4 to retained counsel and to the courts. See 8 U.S.C. § 1362. (granting the privilege of
5 representation by counsel in immigration matters) A transfer would sever Petitioner's
6 ability to consult with counsel located within this District—the same counsel handling the
7 pending habeas litigation before this Court. Experience shows that once a detainee is
8 moved to a facility in another state or circuit, communication becomes sporadic and
9 heavily restricted: telephone calls are limited, legal mail is delayed, and confidential
10 attorney visits may take weeks to schedule. Such restrictions would materially interfere
11 with counsel's ability to gather facts, prepare responsive filings, and communicate about
12 potential settlement or stipulation, thereby frustrating both Petitioner's due-process
13 rights and the Court's ability to manage the case efficiently.

14 The government has already been ordered to respond to the habeas petition. A
15 transfer now would prejudice Petitioner by obstructing communication with counsel
16 during the government's preparation of its return, impairing Petitioner's ability to assist
17 in factual and legal rebuttal. For these reasons, maintaining Petitioner within the current
18 facility is necessary to ensure meaningful access to counsel and preserve the integrity of
19 these ongoing proceedings. The Court should therefore enjoin Respondents from
20 transferring Petitioner until the habeas petition has been resolved or until further order
21 of this Court.

22 **IV. RELIEF REQUESTED**

23 Petitioner respectfully requests that this Court:

- 24 1. Issue an immediate Temporary Restraining Order prohibiting Respondents and
their agents from transferring Petitioner from NWIPC or removing him from this
District while his habeas corpus petition remains pending;

- 1
- 2 2. Order Respondents to provide at least 7 days' advance notice to the Court and
- 3 Petitioner's counsel of any planned transfer; and
- 4 3. Schedule a prompt hearing on a preliminary injunction to maintain the status
- 5 quo pending final disposition of the habeas petition.

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7 **DATED** this 30TH day of October 2025.

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9 Respectfully submitted,

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11 /s/NICOLÁS A. OLANO
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15 *I certify that this memorandum contains 1009 words, in*
16 *compliance with the Local Civil Rules.*

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