

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

ABBY YAMMEL TORUMO CARRASQUEL,

Petitioner,

v.

ROBERT LYNCH, Detroit Field Office Director for U.S. Immigration and Customs Enforcement, in his official capacity; TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; and KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity,

Respondents.

Case No. 1:25-cv-1288

Hon.

**EXPEDITED CONSIDERATION
REQUESTED**

**PETITIONER'S EX PARTE EMERGENCY MOTION
FOR TEMPORARY RESTRAINING ORDER**

Pursuant to Fed. R. Civ. P. 65 and the Administrative Procedure Act, 5 U.S.C. § 705—and for the reasons stated in the accompanying brief, Verified Petition (ECF No. 1), and all pleadings filed—Petitioner respectfully moves this Court to issue a temporary restraining order:

- (i) requiring Respondents Lynch, Lyons, and Noem to provide Petitioner immediate access to specialized medical care by a nephrologist and/or urologist in the form of hospitalization for evaluation of his continuing, serious medical condition.

See Verified Petition, ECF No. 1, ¶¶ 6-8. Accordingly, Petitioner requests that the Court immediately enter a temporary restraining order. A proposed order is being submitted to the Court contemporaneously with this motion.

Petitioner also requests that this Court waive the requirement for bond or security. *See* Fed. R. Civ. P. 65(c).

Respectfully submitted,

Dated: October 24, 2025

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Respondents.

BRIEF IN SUPPORT OF
PETITIONERS' EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER

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ISSUE PRESENTED

1. Are Respondents likely violating Petitioners' Eighth Amendment rights against Cruel and Unusual Punishment by refusing appropriate, specialized medical care for a serious medical condition for which Petitioner has a diagnosed infection, has received a course of antibiotics that he is not being provided, has a medical device, has undergone multiple medical procedures, and has sought medical treatment by Respondent on five occasions?

INTRODUCTION

Since May 2025, when the Trump administration issued an order to Immigration and Customs Enforcement (“ICE”) to arrest 3,000 people per day, ICE has aggressively escalated its arrests and detentions of immigrants in the Chicago area. These arrests target immigrants who are cooperating with authorities through legal processes while living and working peaceably in their communities. As a result, ICE has detained hundreds of immigrants without an arrest warrant and subjected them to detention in facilities which lack the resources to provide necessary medical care and treatment. This inhumane and cruel treatment has led to the highest death toll for individuals in ICE custody in decades.

Since his detainment, Petitioner has been denied his necessary and emergent medical care to treat his ureteral obstruction and subsequent infection. Petitioner has indicated severe abdominal pain and tenderness on numerous occasions while detained, has a ureteral stent which is causing severe pain, has been refused his course of prescribed antibiotics, has not been provided any pain medication, and has not been provided urological or nephrological specialists to assess and treat his ongoing condition. Petitioner is at severe risk of pyelonephritis, a life-threatening kidney infection which can lead to sepsis, kidney failure, and death if left untreated.

Petitioner requests that the Court enter a Temporary Restraining Order requiring Respondents to provide the necessary and crucial medical treatment to Petitioner to ensure constitutionally adequate and humane conditions of confinement.

FACTUAL BACKGROUND

I. The Parties

Petitioner Abby Yammel Torumo Carrasquel entered the United States on May 15, 2024, accompanied by his wife, Carolina, and his three step-children, Alexer (age 15), Keiber (age 13),

and Sofia (age 7), whom he has raised as his own. Two days later, on May 17, 2024, the Petitioner and his family applied for asylum due to extortion and the attempted murder of Petitioner by the El Tren de Aragua criminal organization in Venezuela.

Since this time, Mr. Torumo has made his home in Chicago, Illinois, where he and his family have lived peacefully for over a year. He has no criminal record and has never had any encounters with law enforcement. Mr. Torumo is employed at a Crescent Foods poultry processing facility, which is generally considered a hazardous and taxing job due to the high risk of serious injuries and illnesses.

Over the past year, Mr. Torumo has faced serious medical challenges due to a ureteral obstruction. He has undergone two operations to treat this a ureteral obstruction, a condition which causes excruciating pain and poses serious health risks if left untreated. During his most recent procedure, a ureteral stent was placed to help drain urine from his kidneys. His third operation was postponed due to a subsequent infection, for which he was prescribed a course of antibiotics. At the time of his unlawful arrest, Mr. Torumo was undergoing the course of antibiotics in preparation for a third procedure.

Respondents are the Department of Homeland Security (“DHS”), the United States Immigration and Customs Enforcement (“ICE”), and the various federal officials responsible for administering and enforcing the federal immigration laws, overseeing detention and removal proceedings, and implementing ICE’s policies, practices, and procedures.

II. Conditions Of Detainment And Refusal Of Medical Care

On October 3, 2025, Mr. Torumo was arrested by ICE agents as he was leaving the Crescent Foods facility. He was subsequently transferred by the Respondents to the North Lake Processing Center in Baldwin, Michigan. At the time of his detention, upon information and belief, the

Petitioner had in his possession his required antibiotics and a copy of his medical records.

According to the Petitioner's medical records provided by the North Lake facility, the Petitioner has sought treatment on five separate occasions while in Respondents' possession. On October 6, 2025, medical records indicate that Petitioner notified Respondents of his recent kidney surgeries. On October 12, 2025, the Petitioner notified Respondents of kidney pain and blood in his urine. His medical records note that he was "irritable" and "depressed," but do not address his kidney issues, stent, or infection.

On October 14th, the Petitioner sought medical care for his stent answering that he is in severe pain - a 7/10 on the pain scale - in his right abdomen and flank. The infirmary noted right side tenderness of his abdomen. The assessment notes that "patient has chronic pain from his ureteral stent, he'll need urologic follow up." On October 17 & 18, Petitioner refused a prescription of Oxybutynin (Ditropan) 5mg tablet – a medication used to treat incontinence. At no point has the Petitioner been provided his course of antibiotics or pain medication. He has not received specialized medical care by a nephrologist or urologist to treat his current ureteral obstruction, to treat his infection, or to maintain care of his ureteral stent. See Exhibit 5.

Despite communicating the urgent nature of the need for Counsel for the Petitioner (retained on the evening of October 23, 2025) to speak with the Petitioner, the North Lake facility has advised that it cannot accommodate an attorney-client call prior to Monday, October 27, 2025. Petitioner's attorneys received Petitioner's North Lake medical records at 4:07 PM on Friday, October 24, 2025.

Venue is proper. Venue is proper in the Western District of Michigan under 28 U.S.C. § 1391(e), as the Petitioner is being detained and is currently located in the Western District of Michigan.

LEGAL STANDARD

Emergency injunctive relief, whether it is a temporary restraining order or a preliminary injunction, is warranted when a Petitioner demonstrates: (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm in the absence of preliminary relief; (3) that the equities balance in the Petitioner's favor; and (4) that preliminary injunctive relief would serve the public interest. *See Winter v. NRDC*, 555 U.S. 7, 20 (2008); *Obama for Am. v. Husted*, 697 F.3d 423, 428 (6th Cir. 2012); Fed. R. Civ. P. 65(b). To obtain preliminary injunctive relief, a complainant need show only a likelihood of success on the merits; they need not demonstrate actual success. *See Winter*, 555 U.S. at 32. As explained below, Petitioner is likely to succeed on the merits of his claims, he faces irreparable harm absent injunctive relief, the equities balance in his favor, and injunctive relief is in the public interest.

ARGUMENT

I. Petitioner Is Likely to Prevail on His Claims That the Failure to Provide Medical Treatment is Unlawful.

Respondents are violating Petitioner's due process rights under the Eighth Amendment by failing to provide necessary and adequate medical care. It is a fundamental principle that when the government takes an individual into custody, it must provide for the person's "basic human needs—e.g., food, clothing, shelter, medical care, and reasonable safety[.]" *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 199–200 (1989).

The Eighth Amendment "obligates prison authorities to provide medical care to incarcerated individuals, as a failure to provide such care would be inconsistent with contemporary standards of decency." *Ozier v. Berghuis*, No. 1:08-CV-1203, 2009 WL 1559786 at *2 (W.D. Mich. June 1, 2009) (citing *Estelle v. Gamble*, 429 U.S. 97, 103-04 (1976)). Specifically, an

individual's Eighth Amendment rights are violated when a detention official "is deliberately indifferent to the serious medical needs of a prisoner." *Id.*

In this instance, Respondents are deliberately indifferent to Petitioner's serious medical needs in violation of Petitioner's Eighth Amendment rights under the Cruel and Unusual Punishments Clause. The standard to make such a determination, as set out in this District, is as follows:

In *Estelle v. Gamble*, 429 U.S. 97, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976), the Supreme Court held that deliberate indifference to a prisoner's serious medical needs, manifested by prison staff's intentional interference with treatment or intentional denial or delay of access to medical care, amounts to the unnecessary and wanton infliction of pain proscribed by the Eighth Amendment. *Estelle*, 429 U.S. at 104–05. In judging the sufficiency of 'deliberate indifference' claims, the court must view the surrounding circumstances, including the extent of the injury, the realistic possibilities of treatment, and the possible consequences to the prisoner of failing to provide immediate medical attention. *Westlake v. Lucas*, 537 F.2d 857, 860 n. 4 (6th Cir.1976); see *Byrd v. Wilson*, 701 F.2d 592 (6th Cir.1983).

McMurry v. Caruso, No. 1:07-CV-905, 2009 WL 198519 at *7 (W.D. Mich. Jan. 27, 2009).

This standard was further clarified in *Wilson v. Seiter*, 501 U.S. 294, 111 S. Ct. 2321, 115 L.Ed.2d 271 (1991), in which the Supreme Court clarified that "a prisoner claiming cruel and unusual punishment must establish both that the deprivation was sufficiently serious to rise to constitutional levels (an objective component) and that the state official acted with a sufficiently culpable state of mind (a subjective component)." *McMurry v. Caruso*, at *7 (W.D. Mich. Jan 27, 2009).

Please note that, at the time of his arrest, the Petitioner had in his possession his antibiotic prescription and his medical records. Petitioner's family and attorneys have contacted his care provider at Sinai Chicago to obtain a release of his medical records, but are awaiting a disclosure form from the facility's medical records office and are not in possession of an extra copy of his records. North Lake Processing Center, where Petitioner is being held, has been informed that the

Petitioner's medical records were with him at the time of the arrest, but they have not yet provided or indicated they are willing to provide copies of those documents. The Defendants have provided a copy of his medical records from the North Lake Processing Center.

Plaintiff Suffers From a Serious Medical Condition. The objective component of this Eighth Amendment standard requires that a Petitioner be suffering from a serious medical condition. *Id.* It is true that "society does not expect that prisoners will have unqualified access to health care, deliberate indifference to medical needs amounts to an Eighth Amendment violation only if those needs are serious." *Hudson v. McMillian*, 503 U.S. 1, 9, 112 S.Ct. 995, 117 L.Ed.2d 156 (1992). "[D]elay or even denial of medical treatment for superficial, nonserious physical conditions does not constitute a constitutional violation." *Blackmore v. Kalamazoo County*, 390 F.3d 890, 897 (6th Cir.2005). "[A] medical need is objectively serious if it is one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor's attention." *Id.*

In this instance, based upon information and belief, the Petitioner has undergone two operations for a ureteral obstruction (a urinary blockage) and was unable to undergo the third, scheduled operation due to infection, for which he was prescribed and undergoing a treatment of antibiotics. A ureteral obstruction is a serious medical condition which, if left untreated, "can lead to kidney failure, sepsis, or death." See Exhibit 2.

At the time of detention and to this day, the Petitioner has a ureteral stent in order to help urine drain from his kidneys. Numerous studies published within the National Library of Medicine confirm that ureteral stents can and do increase the risk of urinary tract infection due to the formation of biofilm layers. Once these layers of biofilm are formed, they are "exceedingly difficult to remove" and, if left untreated, can lead to urosepsis – a condition with a mortality rate

of up to 50%. Specifically, the period of time a stent is placed and the presence of infection severely increase the risk of serious complications. See Exhibits 3 & 4.

Ten days ago, the Petitioner notified Defendant that he is in severe abdominal pain and is having complications with his ureteral stent, including blood in his urine. The Defendant notes abdominal tenderness and the need for urologic follow up. See Exhibit 5.

Therefore, the Petitioner is suffering from a severe medical condition. Namely, he is experiencing a ureteral obstruction which is being treated by a ureteral stent, which has led to infection requiring a course of antibiotics. The ureteral stent is at severe risk of causing life-threatening conditions due to the extended period of its placement and the underlying infection.

Respondents Have Shown a Deliberate Indifference to Petitioner's Medical Condition.

The second prong of *Estelle* requires "deliberate indifference" to the Petitioner's serious medical need. Under the Sixth Circuit guidance:

The subjective component, by contrast, requires a showing that the prison official possessed a sufficiently culpable state of mind in denying medical care. Deliberate indifference requires a degree of culpability greater than mere negligence, but less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result. The prison official's state of mind must evince deliberateness tantamount to intent to punish. Knowledge of the asserted serious needs or of circumstances clearly indicating the existence of such needs, is essential to a finding of deliberate indifference. Thus, an official's failure to alleviate a significant risk that he should have perceived but did not, while no cause for commendation, cannot under our cases be condemned as the infliction of punishment.

McMurry v. Caruso, No. 1:07-CV-905, 2009 WL 198519 at *8 (W.D. Mich. Jan. 27, 2009) (citing *Miller v. Calhoun County*, 408 F.3d 803 (6th Cir. 2005)).

The Respondents in this instance had clear knowledge of the Petitioner's medical circumstances, as: (1) Respondents are in possession of the Petitioner's antibiotic prescription, (2) Respondents are in possession of the Petitioner's medical records, which were in Petitioner's possession at the time of his arrest, (3) Petitioner currently has a urinary stent, which is a medical

device, inserted into his urinary tract and is necessary for his urination, (4) Petitioner has attempted to communicate with the facility the urgency and severity of his condition on five separate occasions, and (5) numerous medical providers within Respondent's facility have noted Petitioner's pain, tenderness, need for urological follow-up, blood in his urine, and stent issues.

In contrast to *McMurry v. Caruso* (W.D. Mich. Jan. 27, 2009), the Petitioner "presented [] medical records establishing" the medical condition upon his detention. The Petitioner was in possession of necessary antibiotic medication to address infection which delayed his third necessarily medical procedure. The Petitioner has not been provided with that prescription medication for more than twenty days. The Petitioner currently has a stent placed which, to the best of Petitioner's family and attorneys' knowledge, has not been evaluated for further infection or complications, even though he reported severe pain caused by the stent to the Respondent.

The Petitioner has been allowed access to the facility's infirmary, which has prescribed him with Ditropan – a medication meant to treat incontinence – upon his fourth visit. However, not only has this infirmary failed to provide Petitioner with necessary antibiotics or pain medication, they have also not provided Petitioner access to a qualified nephrologist or urologist. Respondents have purported to provide treatment in the form of Ditropan, but the pain experienced by Petitioner is a likely symptom of a much more serious, and potentially fatal, urinary condition and/or complication – likely pyelonephritis.

On October 6, 2025 medical records indicate that Petitioner notified Respondents of his recent kidney surgeries. On October 12, 2025, the Petitioner notified Respondents of kidney pain and blood in his urine. His medical records note that he was "irritable" and "depressed," but do not address his kidney issues, stent, or infection. On October 14th, the Petitioner sought medical care for his stent answering that he is in severe pain - a 7/10 on the pain scale - in his right abdomen

and flank. The infirmary noted right side tenderness of his abdomen. The assessment notes that “patient has chronic pain from his ureteral stent, he’ll need urologic follow up.” On October 17 & 18, Petitioner refused a prescription of Oxybutynin (Ditropan) 5mg tablet.

Notably, this is not an instance in which the Petitioner merely “disagree[s] with the course of treatment” provided by the Respondent’s infirmary. *Caldwell v. Caruso*, No. 1:09-CV-1093, 2010 WL 565309 at *2 (W.D. Mich. Feb. 12, 2010). At the time of Petitioner’s detention, Petitioner was seeking treatment from the Sinai Medical Group in Chicago. See Exhibit 1. A qualified nephrologist determined that the Petitioner has a ureteral obstruction, required numerous procedures, has/had an infection, required a medical device in the form or a ureteral stent, and will require further specialized medical care. The Petitioner has requested medical care on five separate occasions in twenty days. He has indicated severe abdominal pain, tenderness, and stent issues. A detention center’s prescription of Ditropan in such an instance is utterly deficient and amounts to deliberate indifference.

II. Petitioner Is Facing Irreparable Harm and Will Continue to Do So Absent Emergency Injunctive Relief.

Petitioner will suffer irreparable harm if Respondent fails to provide a qualified nephrologist or urologist and continuing medical treatment, as required for his condition. A failure to properly address the Petitioner’s ureteral obstruction, ureteral stent, and subsequent infection is likely to lead to an immediate, concrete, and irreparable harm, including and up to Petitioner’s death.

“Loss of life and unnecessary exposure to disease and illness . . . constitute irreparable harm under the Eighth Amendment case law.” *Hadix v. Caruso*, No. 4:92-CV-110, 2007 WL 710136 at *8 (W.D. Mich. Mar. 6, 2007). Further, this irreparable harm is not fully compensable by monetary damages and this claim is based upon the violation of Petitioner’s constitutional,

Eighth Amendment rights. *Overstreet v. Lexington-Fayette Urb. Cnty. Gov't*, 305 F.3d 566, 578 (6th Cir. 2002).

III. The Balance of Equities and Public Interest Strongly Favor Petitioner.

The requested emergency relief would allow Petitioner to obtain his urgent and necessary medical treatment for a life-threatening condition – one for which he was already undergoing a treatment plan and had received necessary prescriptions, procedures, and a medical device.

By contrast, Respondents have advanced no substantial interest in detaining an asylum applicant with a wife, children, gainful employment, no criminal history, and a serious medical condition. Respondents also cannot have a legitimate interest in enforcing their unconstitutional and unlawful action of denying adequate medical care. “When a constitutional violation is likely, . . . the public interest militates in favor of injunctive relief because it is always in the public interest to prevent violation of a party’s constitutional rights.” *Miller v. City of Cincinnati*, 622 F.3d 524, 540 (6th Cir. 2010).

Thus, the balance of equities and the public interest strongly favor a temporary restraining order.¹

CONCLUSION AND RELIEF REQUESTED

For the reasons stated above, this Court should issue a temporary restraining order, as requested in Petitioners’ motion in order to allow Petitioner to obtain the necessary and ongoing medical treatment he requires.

Respectfully submitted,

Dated: October 25, 2025

By: /s/ Adriana I.B. Klemish

Adriana I.B. Klemish (Michigan Bar No. P86742)

¹ Based on the equities and the public interest, the Court should also exercise its discretion not to require Petitioners to post a security bond under Fed. R. Civ. P. 65(c) in connection with the injunctive relief sought. *See Concerned Pastors for Social Action v. Khouri*, 220 F. Supp. 3d 823, 829 (E.D. Mich. 2016).

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