

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CRISTIAN ROSALES GRANDEZ,
Petitioner,

v.

ALEXANDER CABEZAS, Acting Field Office Director, Newark ICE;
KRISTI NOEM, Secretary of Homeland Security;
PAM BONDI, Attorney General of the United States; and
LUIS SOTO, Warden, Delaney Hall Detention Facility,
Respondents.

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND STAY OF ACA REMOVAL/TRANSFER

Petitioner CRISTIAN ROSALES GRANDEZ, through counsel, respectfully moves this Court for an EMERGENCY TEMPORARY RESTRAINING ORDER (“TRO”) enjoining Respondents from removing or transferring him to Honduras pursuant to the Asylum Cooperative Agreement (“ACA”) and from transferring him outside the jurisdiction of this Court while his habeas petition under 28 U.S.C. § 2241 remains pending. Petitioner also requests an immediate administrative stay pending this Court’s review.

In support thereof, Petitioner states as follows:

I. INTRODUCTION

Petitioner is a Peruvian asylum seeker, detained at Delaney Hall Detention Facility. He has no criminal history, has complied perfectly with three years of ICE supervision under 8 U.S.C. § 1226(a), and has a meritorious pending asylum case with an Individual Hearing scheduled for December 4, 2025.

AMENDED HABEAS CRISTIAN ROSALES

He was detained at a routine ICE check-in after being told that “everyone like him” was being detained — a blanket, categorical enforcement action lacking any individualized assessment.

Now, DHS intends to remove or transfer Petitioner to Honduras under the ACA, a country with which he has no connection, and where he faces actual risk due to his political-opinion persecution claim.

Such a transfer would:

- destroy this Court's jurisdiction
- moot the pending habeas
- irreparably harm him by forcing him into a country that cannot adjudicate his asylum claim fairly or safely

This Court has ample authority under 28 U.S.C. § 2241, the All Writs Act (28 U.S.C. § 1651), and its inherent equitable powers to preserve jurisdiction by issuing a TRO.

II. LEGAL STANDARD FOR TRO

A TRO is warranted where the movant shows:

1. Irreparable harm absent relief
2. Likelihood of success or serious questions going to the merits
3. Balance of hardships favoring the movant
4. Public interest supporting relief

These factors overwhelmingly support the issuance of a TRO.

III. ARGUMENT

A. Petitioner Will Suffer Immediate and Irreparable Harm if Transferred to Honduras

These harms are not speculative — they are certain once DHS executes the ACA transfer.

Federal courts repeatedly hold that removal or transfer that moots a habeas petition constitutes irreparable harm.

See *Nken v. Holder*, 556 U.S. 418 (2009); *Devitri v. Cronen*, 289 F. Supp. 3d 287 (D. Mass. 2018).

Because habeas jurisdiction depends on the petitioner's presence within the Court's territorial reach, the Court must preserve its jurisdiction by halting transfer.

B. Petitioner is Likely to Succeed on the Merits — or at Minimum Raises Substantial Constitutional Questions

Petitioner's habeas raises weighty constitutional and statutory claims, including:

- unlawful detention under 8 U.S.C. § 1226(a)
- violation of the Fifth Amendment's Due Process Clause
- violation of the Fourth Amendment prohibition on unreasonable seizures
- arbitrary and capricious agency action under the APA
- violations of individualized custody-assessment requirements

Petitioner had been at liberty for approximately three years under ICE supervision, has zero criminal history, and has never missed a check-in.

AMENDED HABEAS CRISTIAN ROSALES

ICE's sudden re-detention without any individualized review is plainly unlawful.

These claims easily satisfy the "serious questions going to the merits" standard.

C. The Balance of Equities Strongly Favors Petitioner

If a TRO is denied, Petitioner:

- will be transferred to Honduras
- loses access to U.S. counsel
- loses access to this Court

If Respondents are temporarily enjoined, the only effect is that DHS must maintain the status quo during litigation.

There is no harm to the government in delaying a transfer that is constitutionally suspect.

D. The Public Interest Overwhelmingly Favors Granting a TRO

The public interest is served by:

- ensuring access to federal courts
- preventing DHS from mooted cases and avoiding judicial review
- ensuring lawful, individualized detention decisions
- preserving the integrity of asylum adjudications
- protecting constitutional rights

Federal courts have repeatedly emphasized the public interest in preserving meaningful review of immigration detention and removal.

A TRO preserves that review.

IV. REQUEST FOR RELIEF

Petitioner respectfully requests that the Court:

1. Issue an immediate administrative stay of Petitioner's removal or transfer;
2. Grant a Temporary Restraining Order enjoining Respondents from removing or transferring Petitioner to Honduras pursuant to the ACA;

3. Prohibit Respondents from transferring Petitioner out of the District of New Jersey;
 4. Maintain Petitioner in U.S. ICE custody within DNJ jurisdiction pending resolution of the habeas petition;
 5. Schedule expedited briefing and/or a hearing for a preliminary injunction; and
 6. Grant any other relief the Court deems appropriate.
-

Respectfully submitted,

Lina Stillman, Esq
/s/ Lina Stillman
Stillman Legal P.C.
Attorney for Petitioner
