

**DETAINED**

Judge John H. Chun

Kelly Vomacka  
GIBBS HOUSTON PAUW  
1000 Second Avenue, Suite 1600  
Seattle, WA 98104  
(206) 682-1080  
kelly.vomacka@ghp-law.net

*Attorney for Petitioner*

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BINYAMIN TZAFIR,

*Petitioner,*

v.

PAMELA BONDI, *et al.*;

*Respondents.*

CASE NO.: 2:25-cv-02126-JHC

MOTION FOR PRELIMINARY  
INJUNCTION AND STAY OF REMOVAL

NOTED FOR CONSIDERATION:  
December 15, 2025

**MOTION FOR PRELIMINARY INJUNCTION AND STAY OF REMOVAL**

**I. MOTION**

Under FRCP 65 and 5 U.S.C. §705, the petitioner moves this Court for a Preliminary Injunction and Stay of Removal, preventing his removal from the United States and his transfer to another detention facility while these proceedings are pending.

MOTION FOR PRELIMINARY  
INJUNCTION AND STAY OF  
REMOVAL

(CASE NO. 2:25-cv-02126-JHC)

Page 1

GIBBS HOUSTON PAUW  
1000 Second Avenue, Suite 1600  
Seattle, WA 98104  
(206) 682-1080

1 **II. BASIS FOR MOTION**

2 The petitioner, Mr. Binyamin Tzafir, is a 57-year-old non-citizen who is currently being  
3 held in detention at the Northwest ICE Processing Center (NWIPC) by U.S. Immigration and  
4 Citizenship Enforcement (ICE). He has been detained since October 19, 2025.

5 He filed a petition for a writ of habeas corpus on October 29, 2025. He seeks release  
6 because he is stateless and there is no significant likelihood of removal in the reasonably  
7 foreseeable future. The government has designated no third country to which they might  
8 attempt removal, although counsel is aware that they do not always take this step before  
9 effectuating third-country removal.

10 Mr. Tzafir's wife, Marina Tzafir, and daughter, Sigal Tzafir, are also detained and have  
11 also filed habeas petitions. 2:25-cv-02067-JHC-SKV (Marina); 2:25-cv-02070-JHC-GJL  
12 (Sigal). In the early hours of October 31, 2025, ICE began to transfer the petitioner out of the  
13 jurisdiction, and the Court granted an emergency TRO preventing his transfer and removal.  
14 Dkt. 3. Later that day, both Marina and Sigal moved for TROs, which the Court provisionally  
15 granted. 2:25-cv-02067-JHC-SKV, Dkt. 4 (Marina); 2:25-cv-02070-JHC-GJL, Dkt. 5 (Sigal).  
16 In the days that followed, the parties briefed all three TROs, and the Court granted all three.  
17 Dkt. 9 (Binyamin); 2:25-cv-02067-JHC-SKV, Dkt. 8 (Marina); 2:25-cv-02070-JHC-GJL, Dkt.  
18 9 (Sigal). The Court granted Binyamin's Tzafir's TRO on November 10, 2025, and the parties  
19 agreed that "the TRO currently in effect will remain in force until the court rules on the  
20 motion for preliminary injunction." Dkt. 8. He now seeks a preliminary injunction to preserve  
21 the status quo until his habeas petition is decided on the merits.

MOTION FOR PRELIMINARY  
INJUNCTION AND STAY OF  
REMOVAL

Page 2

GIBBS HOUSTON PAUW  
1000 Second Avenue, Suite 1600  
Seattle, WA 98104  
(206) 682-1080

(CASE NO. 2:25-cv-02126-JHC)

1  
2 **III. ARGUMENT**

3 **A. Standards for Preliminary Injunction**

4 “[T]he basic function of a preliminary injunction is to preserve the status quo ante litem  
5 pending a determination of the action on the merits.” *Los Angeles Memorial Coliseum Com. v.*  
6 *National Football League*, 634 F.2d 1197, 1200 (9th Cir. 1980). “[T]he legal standards  
7 applicable to TROs and preliminary injunctions are ‘substantially identical.’” *Washington v.*  
8 *Trump*, 847 F.3d 1151, 1159 (9th Cir. 2017) (quoting, *Stuhlberg Int’l Sales Co., Inc. v. John*  
9 *D. Brush & Co., Inc.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)). The legal standard requires the  
10 petitioner to show “(1) that he is likely to succeed on the merits, (2) that he is likely to suffer  
11 irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his  
12 favor, and (4) that an injunction is in the public interest.” *Stormans, Inc. v. Selecky*, 586 F.3d  
13 1109, 1127 (9th Cir. 2009) (citing, *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20  
14 (2008)). In the Ninth Circuit, the court also “employs an alternative ‘serious questions’  
15 standard, also known as the ‘sliding scale’ variant of the *Winter* standard.” *Fraihat v. United*  
16 *States Immigration & Customs Enf’t*, 16 F.4th 613, 635 (9th Cir. 2021). Under that standard,  
17 “‘serious questions going to the merits’ and a balance of hardships that tips sharply towards  
18 the plaintiff[s] can support issuance of a preliminary injunction, so long as the plaintiff[s] also  
19 show[] that there is a likelihood of irreparable injury and that the injunction is in the public  
20 interest.” *Id.* (quoting, *All. for the Wild Rockies*, 632 F.3d 1127, 1135 (9th Cir. 2011)).

21 Mr. Tzafir meets both of these tests.

MOTION FOR PRELIMINARY  
INJUNCTION AND STAY OF  
REMOVAL

Page 3

GIBBS HOUSTON PAUW  
1000 Second Avenue, Suite 1600  
Seattle, WA 98104  
(206) 682-1080

(CASE NO. 2:25-cv-02126-JHC)

1  
2 **B. Mr. Tzafir is likely to succeed on the merits and has raised serious legal questions.**

3 As the Petition sets out, Mr. Tzafir seeks release because he is stateless and there is no  
4 significant likelihood of removal in the reasonably foreseeable future. The government has  
5 designated no third country to which they might attempt removal, although counsel is aware  
6 that they do not always take this step before effectuating third-country removal. In addition to  
7 other claims in the Petition, there is no significant likelihood of removal in the reasonably  
8 foreseeable future, so the detention has no purpose and must end. *Zadyvdas v. Davis*, 533 U.S.  
9 678, 690 (2001). In granting the TRO, the Court said, “Petitioner here raises serious questions  
10 about whether she will be stuck in a ‘removable-but-unremovable limbo,’ much like the  
11 *Zadyvydas* petitioners.” Dkt. 9, at 4. Mr. Tzafir is likely to succeed on the merits as *Winter*  
12 requires, and he has raised serious legal questions, as the sliding scale test requires.

13  
14 **C. Mr. Tzafir faces irreparable harm, and a hardship balance tips sharply toward him.**

15 Mr. Tzafir faces substantial hardships and irreparable harm if he is transferred to  
16 another detention facility or if he is removed from the United States.

17 Mr. Tzafir, who is 57 years old, has lived in the United States for more than 25 years.  
18 He has nowhere else to go, as evidenced when he was ordered removed and was unable to  
19 obtain travel documents to his most recent country of residence, Israel. The country of his  
20 birth, the Georgian Soviet Socialist Republic, no longer exists, and he has never been a citizen  
21 of Georgia.

1 The irreparable harm of removal is not only that Mr. Tzafir would be separated from  
2 his family and his home of 25 years, although that is sufficient harm to justify a preliminary  
3 injunction. The harm is also that removal would necessarily be to an as-yet-undesignated third  
4 country. The government has secured agreements to remove people to various countries in  
5 Africa and Central America,<sup>1</sup> and Mr. Tzafir has no connection to any of those countries. If he  
6 is removed without any chance to challenge the country of removal, he will not be able to  
7 return to the United States and might not see his family again.

8 Mr. Tzafir also suffers from several medical conditions. He has been disabled and  
9 unable to work since 2016. He cannot receive Social Security Disability Insurance (SSDI)  
10 because he is not a citizen. He told ICE the details of his medical conditions, but he prefers to  
11 not detail them here for privacy reasons. They are substantial and involve more than one body  
12 system. If he is transferred or removed, he risks receiving inadequate medical care.

13 In addition, transfer to another detention facility would separate Mr. Tzafir from  
14 his attorneys, his family, and his support system. Separation from his attorneys would  
15 deprive him of his right to counsel of his choosing under the Immigration and  
16  
17

---

18 <sup>1</sup> See, The Guardian, 11-17-2025, “Eswatini confirms receiving over \$5m from US to accept  
19 deportees” ([https://www.theguardian.com/world/2025/nov/17/eswatini-5-m-dollars-us-](https://www.theguardian.com/world/2025/nov/17/eswatini-5-m-dollars-us-deportees)  
20 [deportees](https://www.theguardian.com/world/2025/nov/17/eswatini-5-m-dollars-us-deportees)); Agreement Between the Government of the United States of America and the  
21 Government of the Republic of Honduras for Cooperation in the Examination of Protection  
Requests, 90 Fed. Reg. 30076 (July 8, 2025); Council on Foreign Relations, 9-3-2025, “What  
Are Third-Country Deportations, and Why Is Trump Using Them?”  
(<https://www.cfr.org/article/what-are-third-country-deportations-and-why-trump-using-them>).

1 Nationality Act (INA). 8 U.S.C. § 1362; 8 U.S.C. § 1229a(b)(4)(A). By contrast, a  
2 temporary limitation on transfer would not burden the government.

3  
4 ***D. The balance of equities tips in favor of Mr. Tzafir, and an injunction is in the public  
5 interest.***

6 The remaining two factors for an injunction are the same under both legal tests, they  
7 merge when the government is the a party, *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073,  
8 1092 (9th Cir. 2014), and they favor Mr. Tzafir.

9 As to the balance of equities, as discussed above, Mr. Tzafir will suffer great harm if he  
10 is removed or transferred. The respondents will suffer no harm if he stays where he is.

11 As to the public interest, it is in the public interest for the government to follow its own  
12 laws and, as the Court said in the TRO, “to ensure that the Constitutional rights of citizens and  
13 noncitizens are vigilantly protected.” Dkt. 9, at 6. Removal to an undesignated third country,  
14 with no opportunity to challenge the removal to that country, would violate the government’s  
15 own laws and regulations, and it would blatantly violate Due Process.

16 Further, this administration has developed a pattern of deporting individuals from the  
17 United States without providing proper process and without allowing them access to federal  
18 review. That is exactly what the respondents will accomplish if they are permitted to remove  
19 Mr. Tzafir. Mr. Tzafir seeks the opportunity to access the laws that were passed by Congress  
20 and the regulations that were promulgated by the very agencies that now seek to overstep.

**IV. CONCLUSION**

Under FRCP 65, the petitioner moves this Court to issue a Preliminary Injunction and Stay of Removal:

1. Enjoining and restraining the respondents and all of their respective officers, agents, servants, employees, attorneys and persons acting on their behalf in concert or in participation with them from:
  - a. Removing or deporting Mr. Tzafir from the United States while his Petition for Writ of Habeas Corpus is pending;
  - b. Transferring Mr. Tzafir from the Northwest ICE Processing Center to any other detention facility during the pendency of these proceedings.

WHEREFORE, for the reasons set forth in his Petition for Writ of Habeas Corpus, and in this motion, the petitioner respectfully requests this Court:

1. Grant a Preliminary Injunction and Stay of Removal;
2. Grant such other and further relief as justice may require.

I certify that this memorandum contains 1,542 words, in compliance with the Local Civil Rules.

Dated this 17th day of November, 2025.

/s/ Kelly Vomacka  
 Kelly Vomacka, WSBA 20090  
 GIBBS HOUSTON PAUW  
 1000 Second Avenue, Suite 1600  
 Seattle, WA 98104  
 (206) 682-1080

MOTION FOR PRELIMINARY  
INJUNCTION AND STAY OF  
REMOVAL

(CASE NO. 2:25-cv-02126-JHC)

Page 7

GIBBS HOUSTON PAUW  
 1000 Second Avenue, Suite 1600  
 Seattle, WA 98104  
 (206) 682-1080

kelly.vomacka@ghp-law.net

*Attorney for Petitioner*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

MOTION FOR PRELIMINARY  
INJUNCTION AND STAY OF  
REMOVAL

(CASE NO. 2:25-cv-02126-JHC)

Page 8

GIBBS HOUSTON PAUW  
1000 Second Avenue, Suite 1600  
Seattle, WA 98104  
(206) 682-1080