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DETAINED

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON**

TOMAS ANTONIO TOMAS LOPEZ,

Petitioner,

vs.

Case No.: 2:25-cv-2229

PAMELA BONDI, United States Attorney
General;
KRISTI NOEM, Secretary of U.S. Department
of Homeland Security;
TODD LYONS, Acting Director, U.S.
Immigration and Customs Enforcements;
LAURA HERMOSILLO, Acting Seattle Field
Office Director, Immigration and Customs
Enforcement;
BRUCE SCOTT, Warden, Northwest ICE
Processing Center;

Respondents.

**EMERGENCY MOTION FOR
TEMPORARY RESTRAINING
ORDER AND STAY OF
REMOVAL**

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
STAY OF REMOVAL**

I. Motion

1. Under FRCP 65, the petitioner moves this Court for an Emergency Temporary Restraining Order ordering his immediate release, and a Stay of Removal, preventing his transfer to another detention facility while these proceedings are pending.

**Emergency Motion for Temporary
Restraining Order - 1
Case No: 2:25-cv-2229**

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II. Basis for Motion

2. This Motion is filed in conjunction with a Petition for Writ of Habeas Corpus filed with the Court on November 7, 2025. The basis for this motion is explained more fully in that Petition.

3. Petitioner, Mr. TOMAS ANTONIO TOMAS LOPEZ, a native and citizen of Guatemala, is currently detained in the Northwest ICE Processing Center in Tacoma, Washington. This is a privately-owned and operated immigration detention center run by the GEO Group, a private contractor for Immigration and Customs Enforcement ("ICE"). Petitioner has concurrently filed a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241; the Suspension Clause, U.S. Const. art I, § 9, cl. 2; and other constitutional provisions challenging the procedures that have led to his prolonged detention.

4. When the government seeks to revoke release on parole, the regulations require that notice be served on the noncitizen detailing the reasons for revocation of parole. *See* 8 C.F.R. § 212.5(e)(2). And at no time prior to his arrest did Respondents provide Petitioner a hearing, let alone a hearing before a neutral decisionmaker at which ICE was required to justify his re-detention and show that he now poses a flight risk or danger to the community.

5. Petitioner's counsel was informed that his commissary account has been emptied, which usually means that a detainee is either going to be released from detention or transferred to another facility. Petitioner has no reason to believe that he is going to be released.

6. Petitioner now moves this Court to issue an order to prevent Respondents from transferring him to another detention facility while this litigation is pending.

7. Petitioner is seeking a TRO to maintain the status quo and to prevent irreparable harm.

8. Further, Petitioner's counsel is aware that ICE is transferring many people to other facilities without little to no notice and wants to prevent the same from happening to Petitioner.

9. As stated in the Petition, there is a likelihood of irreparable harm and restriction of liberty to Petitioner if this order is not issued and there is no adequate alternative remedy at law available to him. The balance of harm clearly favors him while these proceedings are pending.

Argument

A. Standards for Temporary Restraining Order

10. To grant a Temporary Restraining Order, the plaintiff must meet one of two tests. The more recent test, known as the *Winter* test, requires the plaintiff to prove as follows:

- [1] that he is likely to succeed on the merits,
[2] that he is likely to suffer irreparable harm in the absence of preliminary relief,
[3] that the balance of equities tips in his favor, and
[4] that an injunction is in the public interest.

Sherley v. Sibelius, 644 F.3d 388, 392 (D.C. Cir. 2011) (alteration in original, quoting *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). “The same standard applies to both temporary restraining orders and to preliminary injunctions.” *Sterling Commercial Credit-Michigan, LLC v. Phoenix Industries I, LLC*, 762 F. Supp. 2d 8, 12 (D.D.C. 2011) (quoting *Hall v. Johnson*, 599 F. Supp. 2d 1, 3 n.2 (D.D.C. 2009)).

11. The traditional test, which remains viable in the Ninth Circuit, is known as the “sliding scale” test and requires the plaintiff to prove “serious questions going to the merits” and “a hardship balance that tips sharply toward the plaintiff.” *Alliance For The Wild Rockies v.*

1 *Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As under the *Winter* test, the plaintiff must also show a
2 likelihood of irreparable injury and that the injunction is in the public interest. “Under this
3 approach, the elements of the preliminary injunction test are balanced, so that a stronger
4 showing of one element may offset a weaker showing of another.” *Alliance For The Wild*
5 *Rockies*, 632 F.3d at 1131.

6 12. Petitioner meets both of these tests.

7
8 ***B. Petitioner is likely to succeed on the merits and has raised serious legal questions.***

9
10 13. As the Petition sets out, there are serious questions going to the merits of Petitioner’s
11 claim.

12 14. First, there are serious questions about Petitioner’s likelihood of success on his claim that
13 ICE violated procedures it was bound to follow when revoking his release on parole.

14 15. The Due Process Clause protects against deprivation of liberty without proper process,
15 and this protection extends to deportation proceedings. U.S. Const. amend. V. (“No person shall
16 be . . . deprived of life, liberty, or property, without due process of law[.]”); *Trump v. J.G.G.*, 145
17 S. Ct. 1003, 1006, 221 L. Ed. 2d 529 (2025) (“It is well established that the Fifth
18 Amendment entitles aliens to due process of law’ in the context of removal proceedings.”
19 (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993)). “When ICE
20 revokes supervised release, regulations appear to require an individualized determination about
21 the likelihood of removal based on changed circumstances, followed by notice and an opportunity
22 to respond.” *Phetsadakone v. Scott*, No. 2:25-cv-01678-JNW, 2025 U.S. Dist. LEXIS 173785, at
23 *8 (W.D. Wash. Sept. 5, 2025) (citing 8 C.F.R. § 241.13(f), (i)).

1 16. Petitioner has plausibly alleged that the government failed to follow these regulations in
2 revoking his parole.

3 17. He is likely to succeed on the merits, as *Winter* requires, and he has raised serious legal
4 questions, as the sliding scale test requires, and justifies temporary relief.

5
6 **C. Petitioner faces irreparable harm, and a hardship balance tips sharply toward him.**

7 18. Petitioner faces substantial hardships and irreparable harm if he is not immediately
8 released, if he is removed from the United States, or if he is transferred to another facility.

9 19. "It is well established that the deprivation of constitutional rights 'unquestionably
10 constitutes irreparable injury.'" *Nguyen v. Scott*, No. 25-cv-1398, 2025 U.S. Dist. LEXIS 142875,
11 2025 WL 2097979, at *2 (W.D. Wash. July 25, 2025) (quoting *Melendres v. Arpaio*, 695 F.3d
12 990, 1002 (9th Cir. 2012)).

13 20. "When an alleged deprivation of a constitutional right is involved, most courts hold that
14 no further showing of irreparable injury is necessary." *Id.* (quoting *Warsoldier v. Woodford*, 418
15 F.3d 989, 1001-02 (9th Cir. 2005)).

16 21. Petitioner has already been separated from his family, his friends, and his community that
17 he has built over the last ten years. Respondents have already detained him when USCIS has sole
18 jurisdiction over his pending application for relief. Imminent threat of transfer to another facility
19 where he would then be separated from his legal counsel requires immediate intervention.

20 22. The probability of transfer to another detention center is high. Petitioner's counsel was
21 informed by his sister that his commissary account was emptied, which usually indicates that a
22 detainee is going to be transferred or removed.

1 23. If Petitioner is transferred to another detention facility during the pendency of these
2 proceedings, he will lose contact not only with his family, but also with his attorney in
3 Washington. Any transfer will severely impair, if not cut, his ties with his legal and social
4 supports. And this in turn will limit his ability to succeed on the merits of the litigation.

5 24. The Due Process Clause of the Fifth Amendment guarantees to noncitizens the right to
6 counsel at their own expense for immigration hearings. *See, e.g., Tawadrus v. Ashcroft*, 364 F.3d
7 1099, 1103 (9th Cir. 2004) (“Although there is no Sixth Amendment right to counsel in an
8 immigration hearing, Congress has recognized it among the rights stemming from the Fifth
9 Amendment guarantee of due process that adhere to individuals that are the subject of removal
10 hearings.”); *Colindres-Aguilar v. INS*, 819 F.2d 259, 260 n.1 (9th Cir. 1987) (“Petitioner’s right
11 to counsel . . . is a right protected by the fifth amendment due process requirement of a full and
12 fair hearing.”).

13 25. Furthermore, under 28 U.S.C. § 1651(a), district courts “may issue all writs necessary or
14 appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of
15 law.” A court “has the inherent authority and responsibility to protect the integrity of its
16 proceedings which [are] undoubtedly impacted” when a habeas petitioner is transferred to a
17 detention facility outside of the district. *Ozturk v. Trump*, 779 F. Supp. 3d 462, 496 (D. Vt. 2025),
18 *aff’d in relevant part sub nom. Ozturk v. Hyde*, 136 F.4th 382, 394 (2d Cir. 2025). Under this
19 inherent authority, a court may order injunctive relief prohibiting the government from
20 transferring a petitioner out of the district while habeas corpus proceedings are ongoing. *Oliveros*
21 *v. Kaiser*, No. 25-CV-07117-BLF, 2025 WL 2677125, at *8–9 (N.D. Cal. Sept. 18, 2025) (“Here,
22 the Court finds that equities strongly favor Petitioner remaining in this District pending the
23

1 resolution of this matter because this will expedite resolution of this matter, provide Petitioner
2 ready access to medical and legal services, and address concerns about the conditions of her
3 detention.”); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at *6–7
4 (N.D. Cal. Aug. 21, 2025) (same). Section 1231(g) does not trump courts’ inherent authority. *See*
5 *Hyde*, 136 F.4th at 395–96 (finding that the government was unlikely to succeed on its argument
6 that judicial review was precluded because the decision regarding where to detain a noncitizen
7 pending removal proceedings is committed to the discretion of the Secretary of Homeland
8 Security); *see also Reyna as next friend of J.F.G. v. Hott*, 921 F.3d 204, 209 (4th Cir. 2019) (“§
9 1231(g) does not address transfers [of noncitizen detainees] at all,” and it does not “explicitly
10 grant the Attorney General or the Secretary of Homeland Security discretion with respect to
11 transfers”).

12 26. By potentially depriving Petitioner of adequate communication to his counsel without
13 proper notice, he will suffer irreparable harm.

14
15 ***D. The balance of equities tips in favor of Petitioner, and an injunction is in the public***
16 ***interest.***

17 27. The remaining two factors for an injunction are the same under both legal tests, and they
18 both favor Petitioner.

19 28. As to the balance of equities, although Petitioner will suffer great harm if he is transferred,
20 the Defendants will suffer no harm if he is not transferred.

21 29. The public interest includes allowing noncitizens access to counsel of their choosing at
22 their own expense.

1 30. Further, this administration is developing a pattern of transferring individuals from a
2 facility near their home, where they have already been scheduled for hearing and applied for
3 relief. Petitioner asks that he remain detained in Tacoma at the NWIPC during the pendency of
4 his habeas litigation and his removal proceedings.

5 31. What is more, “the public interest benefits from an injunction that ensures that individuals
6 are not deprived of their liberty and held in immigration detention because of . . . a likely [illegal]
7 process.” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017). Indeed, “in cases involving
8 a constitutional claim, a likelihood of success on the merits . . . strongly tips the balance of equities
9 and public interest in favor of granting a preliminary injunction.” *Baird v. Bonta*, 81 F.4th 1036,
10 1048 (9th Cir. 2023).

11
12 WHEREFORE, for the reasons set forth in his Petition for Writ of Habeas Corpus and in
13 this Motion, the Petitioner respectfully requests this Court:

14 A. Grant this Emergency Motion for Temporary Restraining Order today, November
15 7, 2025;

16 B. Enter the Proposed Order Granting Petitioner’s Emergency Motion for Temporary
17 Restraining Order today, granting the following relief:

18 1) Enjoining and restraining the Respondents and all of their respective officers,
19 agents, servants, employees, attorneys and persons acting on their behalf in concert or in
20 participation with them from transferring Petitioner from the Northwest ICE Processing Center
21 in Tacoma, Washington, to any other facility during the pendency of these proceedings;

22 C. Grant such other and further relief as justice may require.
23

Respectfully submitted this 7th day of November , 2025.

/s/ Hilary Smith

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