

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Mohamed El Moctar Taleb Maazouz,

Petitioner,

v.

**Judith Almodovar, *Acting ICE Field Office
Director; et al.***

Respondents.

Civil Action No.: 25-cv-9338

Emergency Motion for Temporary Restraining Order

I. Introduction

Petitioner Mohamed El Moctar Taleb Maazouz hereby moves ex parte for an Emergency Temporary Restraining Order to prevent Respondents from transferring him out of this Court's jurisdiction during the pendency of his habeas corpus case. Petitioner, a 19-year-old asylum seeker and former unaccompanied minor, is currently detained by U.S. Immigration and Customs Enforcement (ICE) at 26 Federal Plaza in New York City. He has filed a Verified Petition for Writ of Habeas Corpus challenging the legality of his prolonged detention and the cruel conditions of his confinement. In order to preserve the status quo and maintain this Court's jurisdiction to adjudicate his claims, Petitioner seeks a TRO prohibiting Respondents from moving him outside the Southern District of New York, or otherwise removing him from this Court's territorial jurisdiction, while this case is pending.

This emergency relief is necessary to prevent irreparable harm. If ICE were to transfer Petitioner to a distant facility, Petitioner's ability to pursue his habeas claims would be severely prejudiced or even nullified. Such a transfer could strip this Court of personal jurisdiction over Petitioner's immediate custodian and undermine the Court's power to grant effective relief. The

Court's intervention is needed now, before Respondents have been formally served or given notice, because any advance notice of this lawsuit could prompt ICE to relocate Petitioner imminently — a harm that cannot be undone after the fact. Petitioner respectfully requests that the Court issue a TRO ex parte, without prior notice to Respondents, to preserve the Court's jurisdiction and prevent irreparable injury pending a hearing on the merits..

As set forth below, Petitioner easily meets the criteria for temporary injunctive relief. He is likely to succeed on the merits of his claims that ICE is violating a binding federal statute and his Fifth Amendment due process rights. He will suffer irreparable harm absent a TRO (through the loss of jurisdiction over his habeas petition and further infringement of his rights). The balance of equities tips decidedly in his favor, and the public interest supports ensuring that the Government adheres to the law and does not evade judicial review by moving detainees. Petitioner seeks only a limited, temporary order maintaining the status quo — i.e., keeping him in his current location within this District — while the Court considers his case. This modest relief will not prejudice Respondents, but is vital to safeguarding Petitioner's rights and this Court's authority to decide the case.

II. Factual Background

Petitioner incorporates by reference the detailed facts set forth in his Verified Petition, and summarizes the most pertinent points here. Petitioner is a citizen of Mauritania who entered the United States as a 17-year-old unaccompanied minor in April 2024. He was initially in the custody of the Office of Refugee Resettlement (ORR) as a "Unaccompanied Alien Child" (UAC). On April 26, 2024, when Petitioner turned 18, ORR custody ended and ICE assumed custody of Petitioner as an "age-out." ICE issued a "Post-18 Plan" governing Petitioner's release. Before detain the Petitioner, federal law unequivocally required ICE at that point to consider placing Petitioner in the least restrictive setting available, rather than defaulting to jail-like

detention. Specifically, 8 U.S.C. § 1232(c)(2)(B) provides that when a former unaccompanied child turns 18 and is transferred to DHS custody, “the Secretary shall consider placement in the least restrictive setting available” after taking into account the individual’s danger to self, danger to the community, and flight risk. Such individuals “shall be eligible to participate in alternative to detention programs”, including placement with individual or organizational sponsors or in supervised group homes.

In Petitioner’s case, ICE failed to follow this mandate entirely. There is no evidence that any individualized custody assessment or “least restrictive setting” analysis was conducted when detained the Petitioner on November 10, 2025. No documentation was provided to Petitioner or his counsel to show that ICE considered alternatives to detention. Instead, ICE automatically placed Petitioner in adult detention as if it were the default. Petitioner has no criminal conviction and posed no danger; he had an unaccompanied child asylum application pending, filed July 10, 2024, and strong community ties, indicating a minimal flight risk. Yet ICE did not weigh these factors or consider releasing him to a willing sponsor. This is not an isolated mistake: evidence suggests ICE has systematically failed to comply with the § 1232(c)(2)(B) requirement for unaccompanied minors.

III. Legal Standard

To obtain a TRO or preliminary injunctive relief, a petitioner must generally demonstrate: (1) a likelihood of success on the merits (or at least serious questions going to the merits); (2) a likelihood of irreparable harm absent relief; (3) that the balance of equities tips in the petitioner’s favor; and (4) that the requested injunction is in the public interest. When the Government is the opposing party, the last two factors merge. Here, each of these factors strongly supports granting a TRO.

Additionally, a TRO may issue *ex parte* if specific facts show that immediate and irreparable injury will result before the adverse party can be heard in opposition, and the movant's attorney certifies why notice should not be required. Fed. R. Civ. P. 65(b)(1). Petitioner satisfies this standard as well. A TRO maintaining the Court's jurisdiction and the status quo is appropriate here.

III. Argument

A. Likelihood of Success on the Merits

Petitioner is highly likely to succeed on the merits of his claims that his ongoing detention is unlawful. The habeas petition raises two principal legal violations, both of which are amply supported by the facts,

1. Violation of a federal statute, 8 U.S.C. § 1232(c)(2)(B)

Congress mandated that when an unaccompanied minor turns 18 and is transferred to DHS/ICE custody, "the Secretary shall consider placement in the least restrictive setting available" after assessing danger and flight risk. *See* 8 U.S.C. § 1232(c)(2)(B). The statute further specifies that such youth "shall be eligible to participate in alternative to detention programs," including release to a sponsor or placement in a supervised group home as appropriate. *Id.* This provision (part of the Trafficking Victims Protection Reauthorization Act) is unequivocal and binding on ICE – it creates an obligation to individually evaluate the young person's circumstances and not default to jail. In Petitioner's case, ICE wholly failed to comply with this requirement before detaining Petitioner. Petitioner was detained as an adult without any record that ICE officers considered alternatives or the statutory factors. He effectively went from ORR care to ICE lockup by automatic operation, contrary to the intent of the law. This clear-cut statutory violation renders his detention "not in accordance with law" and in excess of ICE's authority, supporting relief under both habeas and the Administrative Procedure Act (APA).

B. Irreparable Harm Absent a TRO

Petitioner will suffer irreparable harm if a temporary restraining order is not issued. The harm in question is two-fold.

1. Loss of the Court's Jurisdiction and Petitioner's Habeas Rights

Without a TRO, Respondents could transfer Petitioner out of this District (and even out of New York) at any moment, thereby potentially stripping this Court of jurisdiction over the habeas petition. In immigration habeas cases, the proper respondent is typically the local ICE field office director holding the petitioner in custody. If ICE moves Petitioner to a facility outside the Southern District of New York (for example, to a detention center in another state), Respondents are likely to argue that the SDNY court no longer has jurisdiction over the immediate custodian. At a minimum, such a transfer would spawn contentious jurisdictional disputes or require Petitioner to restart his case in a new venue — causing substantial delay and prejudice. The very act of transfer would thus irreparably deprive Petitioner of the ability to obtain timely judicial review of his claims. Courts have recognized that interfering with a litigant's chosen forum or mooting a pending habeas petition constitutes irreparable harm, because the constitutional right to seek habeas relief and the court's power to grant effective relief would be undermined. Here, Petitioner has no alternative remedy if this case is derailed; he cannot recover damages later for an unlawful transfer, and no subsequent court order can meaningfully restore lost time or lost jurisdiction. Once transferred, the harm is done. This is the quintessential irreparable injury that TROs are designed to prevent.

Crucially, the risk of transfer is not speculative or distant — it is imminent and real. ICE routinely moves detainees between facilities and given the recent scrutiny of the 26 Federal Plaza site, ICE has every incentive to reduce the population there or shift detainees to avoid oversight. Petitioner's counsel has learned that ICE has been transferring some detainees from 26 Federal

Plaza to other jails in Louisiana, Georgia, and Texas after a short period. The time to act is now, before ICE can execute any transfer. If notice is given to Respondents without a TRO in place, irreversible jurisdictional harm could occur in the interim.

2. Additional Personal Hardship and Due Process Injury

Apart from jurisdictional issues, moving Petitioner out of the area would inflict other irreparable injuries. Petitioner would be separated from his current legal counsel and the New York City community support that is aiding him. His pro bono counsel are based in New York; if he were sent to, say, a detention center in Louisiana or Texas (a practice ICE has followed in some cases), his access to counsel could effectively be severed or severely curtailed. Even if transferred to a closer facility, any relocation would disrupt counsel's ability to communicate promptly and to gather evidence (such as declarations about 26 Federal Plaza conditions) for his case. Petitioner's personal well-being is also at stake. While the conditions at 26 Federal Plaza are atrocious, at least Petitioner is in proximity to his lawyers and to a court that is now monitoring those conditions. If shipped elsewhere, Petitioner could face similarly poor conditions or worse, without the spotlight currently on 26 Federal Plaza. The trauma of being suddenly uprooted and sent to an unfamiliar jail would compound the mental distress he already suffers from his prolonged detention. These are harms that cannot be remedied after the fact. Every additional day of unjust detention and suffering is irretrievable.

Furthermore, no monetary damages or legal relief in the future can compensate Petitioner for the violation of his rights that a transfer would entail. The right at issue — to pursue his liberty via habeas corpus in a court with jurisdiction — is inherently time-sensitive and cannot be recompensed later. Thus, Petitioner satisfies the irreparable harm requirement. As one court observed in granting a TRO in an analogous context, a TRO is warranted to prevent irreparable

harm and to ensure that this Court is not permanently deprived of jurisdiction” over the matter. Exactly such relief is needed here to avoid permanent, irreparable injury to Petitioner’s rights.

C. Balance of Equities and Public Interest

Both the balance of equities and the public interest strongly favor granting the requested TRO. On Petitioner’s side of the scale is the weighty interest in preventing unlawful detention and preserving constitutional rights. Petitioner faces grave harm (as described above) if no TRO is issued. On Respondents’ side, by contrast, the burden imposed by a TRO is minimal. The TRO would simply require ICE to keep Petitioner in his current location (or at least within this District) for the time being, rather than transferring him elsewhere. Maintaining the status quo detention location is not a significant hardship for the Government. If Respondents have security or logistical concerns about Petitioner’s confinement, those can be addressed within the District or by a controlled transfer to another facility within the SDNY if necessary, with Court approval. What the TRO prevents is an out-of-district transfer that would affect jurisdiction. That is a reasonable and narrowly tailored measure.

The public interest is served by upholding the rule of law and ensuring that federal agencies comply with their legal obligations. Congress’s intent in § 1232(c)(2)(B) was to protect vulnerable youths from unnecessary incarceration; granting a TRO furthers that intent by allowing the Court to fully consider Petitioner’s claims on the merits rather than have them mooted by a transfer. Additionally, the public has a strong interest in the transparent and fair administration of justice. It would undermine public trust if government officials could effectively avoid court scrutiny by moving a detainee away whenever a habeas petition is filed. Granting the TRO signals that this Court will not permit such gamesmanship and will ensure its orders cannot be evaded. Moreover, the public interest always lies in preventing potential constitutional violations. Here, an injunction

would safeguard Petitioner's Fifth Amendment rights (both substantive and procedural) until the Court can definitively resolve the merits. This poses no harm to the public; if anything, it benefits the public by affirming that fundamental rights are respected even in the immigration context.

D. *Ex Parte* Relief is Justified

Petitioner seeks this TRO *ex parte* due to the urgency of the situation and the risk that giving notice to Respondents would itself trigger the very harm we seek to prevent. Under Rule 65(b), the Court may grant an *ex parte* TRO if immediate irreparable injury occurs before the adverse party can be heard and the movant's attorney describes why notice should not be required. Here, notice to ICE of this motion would likely prompt Petitioner's immediate transfer out of the District before the Court could rule, thereby nullifying the Court's jurisdiction. Petitioner's counsel is aware of instances where ICE, upon learning of pending litigation, swiftly transported detainees to other jurisdictions to impede legal proceedings. Given that possibility, providing notice would essentially hand Respondents the very opportunity we are asking the Court to restrain. Petitioners will of course serve the Petition and all papers on the Government as expeditiously as possible after securing this limited TRO. But advance notice at this juncture presents an unacceptable risk. Counsel's certification of these facts and efforts to notify (if any) is submitted herewith, in compliance with Rule 65(b)(1)(B).

It bears emphasis that this motion is narrowly tailored to maintain the status quo for a brief period. Petitioner is not seeking *ex parte* a full release or any ultimate relief, only a short-term prohibition on transfer. Once the TRO is in place and Respondents are served, Respondents will have the opportunity to be heard and to oppose any further injunctive relief at a subsequent hearing. The *ex parte* TRO will simply ensure that such a hearing can take place without the case being mooted in the interim. Courts have routinely issued no-transfer orders *ex parte* in

immigration habeas cases on similar showings of potential jurisdictional divestment. This Court should do the same to protect its ability to decide the case on the merits.

IV. Conclusion

For the foregoing reasons, Petitioner respectfully requests that the Court GRANT this Emergency Motion and issue a Temporary Restraining Order as follows:

- (1) Respondents (and their officers, agents, and assigns) shall be immediately enjoined and restrained from transferring Petitioner Mohamed El Moctar Taleb Maazouz out of the Southern District of New York, and from removing him from this Court's jurisdiction, for the duration of this litigation or until further order of the Court. This includes refraining from moving Petitioner to any detention facility outside of this District. Petitioner must remain in his current facility at 26 Federal Plaza (or another suitable facility within this District) pending resolution of his habeas petition.

This relief is narrowly crafted to preserve the status quo and the Court's jurisdiction. Petitioner also requests that the Court set this matter for a prompt further hearing (such as a preliminary injunction hearing or an order to show cause) at the Court's earliest convenience, to determine whether the TRO should be extended or converted into a preliminary injunction during the pendency of the case. Petitioner stands ready to brief and argue the merits on an expedited schedule. In the meantime, entry of the requested TRO will ensure that Petitioner remains under this Court's protection and that justice is not undermined by a unilateral transfer.

Accordingly, Petitioner prays that the Court issue the TRO forthwith. A proposed order is submitted herewith for the Court's consideration. Petitioner thanks the Court for its prompt attention to this urgent matter.

Respectfully submitted,
/s/ Rafael Urena
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CERTIFICATE OF SERVICE

On November 10, 2025, I, Rafael Urena, caused the attached documents to be filed through the Court's electronic filing system. Rafael Urena has emailed a copy of the attached documents the attorneys at the United States Attorney's Office for the Southern District of New York.

Dated: November 10, 2025

/s/ Rafael Urena

Rafael Urena