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DETAINED

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

RICARDO TELLEZ GOMEZ,

Petitioner,

vs.

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;
CAMMILLA WAMSLEY, Seattle Field Office
Director, Immigration and Customs
Enforcement;
BRUCE SCOTT, Warden, Northwest ICE
Processing Center;

Respondents.

Case No.: 2:25-cv-2248

**MOTION FOR TEMPORARY
RESTRAINING ORDER**

MOTION FOR TEMPORARY RESTRAINING ORDER

I. MOTION

1. Under FRCP 65, Petitioner moves this Court for a Temporary Restraining Order preventing his transfer to another detention facility while these proceedings are pending.

**Emergency Motion for Temporary
Restraining Order - 1
Case No: 2:25-cv-2248**

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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 11, 2025. The basis for this motion is explained more fully in that Petition.

3. Petitioner is detained at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington. The Northwest ICE Processing Center is a privately-owned and operated immigration detention center run by the GEO Group, a private contractor for Immigration and Customs Enforcement.

4. Petitioner was given an alternative bond order at his custody redetermination hearing on November 10, 2025.

5. Additional procedural history is contained in the Declaration of Hilary Smith, filed with the habeas petition and this motion.

6. Petitioner is filing this motion to prevent his transfer to another ICE detention facility during these proceedings. Over the past few weeks and months, ICE has transferred hundreds of detainees to detention facilities that are outside of this district. Some detainees had already attended master calendar hearings, had individual hearings scheduled, had custody redetermination hearings where alternative bond orders were issued, and some were represented by counsel.

7. The Due Process Clause of the Fifth Amendment guarantees to noncitizens the right to counsel at their own expense for immigration hearings. *See, e.g., Tawadrus v. Ashcroft*, 364 F.3d 1099, 1103 (9th Cir. 2004) (“Although there is no Sixth Amendment right to counsel in an immigration hearing, Congress has recognized it among the rights stemming from the Fifth

Amendment guarantee of due process that adhere to individuals that are the subject of removal hearings.”); *Colindres-Aguilar v. INS*, 819 F.2d 259, 260 n.1 (9th Cir. 1987) (“Petitioner’s right to counsel . . . is a right protected by the fifth amendment due process requirement of a full and fair hearing.”). The Immigration and Nationality Act (INA) also guarantees this right. 8 U.S.C. § 1362; 8 U.S.C. § 1229a(b)(4)(A). If Petitioner is transferred to another ICE detention facility in another part of the country, there is a real threat that he will be denied access to counsel of his choosing.

III. ARGUMENT

A. *Standards for Temporary Restraining Order*

8. 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)).

9. 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

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

6 10. Petitioner meets both of these tests.

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

9 11. As the Petition sets out, Petitioner is unlawfully detained and being denied release on
10 bond.

11 12. Because the application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
12 detention and violates the INA, he is likely to succeed on the merits as *Winter* requires, and he
13 has raised serious legal questions, as the sliding scale test requires.

14 13. Further, Respondents are bound by the judgment in *Rodriguez Vazquez*, as it has the full
15 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue
16 to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful
17 detention.

18
19 ***C. Petitioner faces irreparable harm, and a hardship balance tips sharply toward him.***

20 14. Petitioner faces substantial hardships and irreparable harm if he is transferred to another
21 facility.

22 15. Petitioner has lived in the United States continuously for over 15 years. He has been swept
23 up in the current dragnet to detain and deport immigrants.

1 16. The probability of transfer to another detention facility is high. Although Petitioner has
2 not yet been told that his transfer is imminent, hundreds of detainees have been transferred to
3 other ICE detention facilities in the middle of the night with little to no notice. They have been
4 transferred to facilities thousands of miles away, including facilities in Arizona, Texas, and
5 Louisiana. Many of these detainees had already had master calendar hearings and were
6 represented by counsel. And it takes days for ICE to update their location and process them into
7 new facilities, severely impeding their ability to communicate with counsel and their families.

8 17. If Petitioner transferred to another detention facility during the pendency of these
9 proceedings, he will lose contact not only with his family, but also with his attorney. Already he
10 has been placed about 150 miles from his home. Any further transfer will severely impair, if not
11 cut, his ties with his legal and social supports. And this in turn will limit his ability to succeed
12 on the merits of the litigation.

13
14 ***D. The balance of equities tips in favor of Petitioner, and an injunction is in the public***
15 ***interest.***

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

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

20 20. As to the public interest, it is in the public interest for the government to follow its word
21 and allow noncitizens to remain in one place during the pendency of their proceedings especially
22 if they have counsel. It is in the public's interest to allow litigants to remain in touch with their
23

1 lawyers, to allow to prisoners to stay in touch with their families and their lawyers, and to have a
2 government that follows its own policies and regulations.

3 21. Further, this administration is developing a pattern of transferring individuals from a
4 facility near their home and creating even more of a delay and backlog in removal proceedings.
5 Petitioner asks that he remain detained in Tacoma at the NWIPC during the pendency of his
6 habeas litigation and his removal proceedings.

7
8 **WHEREFORE**, for the reasons set forth in his Petition for Writ of Habeas Corpus and in
9 this Motion, the Petitioner respectfully requests this Court:

10 A. Grant this Emergency Motion for Temporary Restraining Order today, November
11 11, 2025;

12 B. Enter the Proposed Order Granting Petitioner's Motion for Temporary Restraining
13 Order today, granting the following relief:

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

19 2. Grant such other and further relief as justice may require.
20

21 Respectfully submitted this 11th day of November,
22
23

/s/ Hilary Smith

Hilary Smith
Attorney for Petitioner

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**Emergency Motion for Temporary
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