

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NASEER AHMED,

Petitioner,

v.

25-CV-0662-EAW

TODD LYONS, Acting Director U.S. Immigrations and
Customs Enforcement, et al.,

Respondents.

**RESPONDENTS' OPPOSITION TO THE MOTION FOR A TEMPORARY
RESTRAINING ORDER (ECF NO. 9)**

Petitioner Naseer Ahmed has moved for a temporary restraining order (“TRO”) requiring the Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”) to give 72 hours’ notice prior to transferring Ahmed outside of the Western District of New York. As this Court has previously held, district courts lack jurisdiction to consider requests to enjoin ICE from transferring aliens outside of a judicial district. *See Adejola v. Barr*, 408 F. Supp. 3d 284, 287 (W.D.N.Y. 2019). It stands to reason, then, that because district courts lack jurisdiction to enjoin the transfer itself, they likewise lack jurisdiction to otherwise effect the transfer, such as by requiring prior notice. Indeed, the ostensible reason for requiring such notice would be in order to then move to enjoin the transfer itself, which this Court has already held to be outside of its jurisdiction. Thus, there is no reason to require ICE to issue notice prior to transferring Ahmed.

Additionally, pursuant to the Immigration and Nationality Act, ICE has the authority to arrange for places of detention of aliens. 8 U.S.C. § 1231(g)(1). Indeed, Justice Sotomayor has noted that the government regularly transfers detainees between facilities,

sometimes multiple times, and did not find there to be any constitutional violation by such transfer. *Garland v. Aleman Gonzalez*, 596 U.S. 543, 570 (2022) (Sotomayor, J., concurring in the judgment in part and dissenting in part). Similarly, Justice Souter has noted that in the ordinary course of immigration detention, aliens may be transferred away from lawyers, witnesses, and evidence, without discussing that such transfers raise constitutional concerns. *Demore v. Kim*, 538 U.S. 510, 554 (2003) ((Souter, J., concurring in part and dissenting in part). Although a transfer may inconvenience Ahmed, this is not reason enough to strip ICE of its legislatively authorized ability to house detainees where it sees fit. Additionally, because jurisdiction has already vested upon the filing of the Petition there is no reason in this case for this Court to interfere with that authority. *See, e.g., Walker v. Searls*, No. 23-CV-140-LJV, 2024 WL 1735213, at *7 (W.D.N.Y. Apr. 23, 2024) (“In other words, regardless of where Walker is housed, this Court retains jurisdiction over his habeas petition. So there is no need to interfere with DHS's authority to “arrange for appropriate places of detention” under 8 U.S.C. § 1231(g)(1), and Walker's motion to prevent his transfer is denied.”); *Shaikh v. Barr*, No. 20-CV-6300 CJS, 2020 WL 7021443, at *3 (W.D.N.Y. Nov. 30, 2020) (same)).

Thus, for the foregoing reasons, the motion for a TRO should be denied in its entirety.

Respectfully submitted,

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