

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

Moboalji Olufunmilayo AOKO *

Petitioner *

v. *

Kristi Noem, et. al *

Case Number: 8:25-cv-03901

Respondent *


**PETITIONER'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND
MEMORANDUM IN SUPPORT THEREOF**

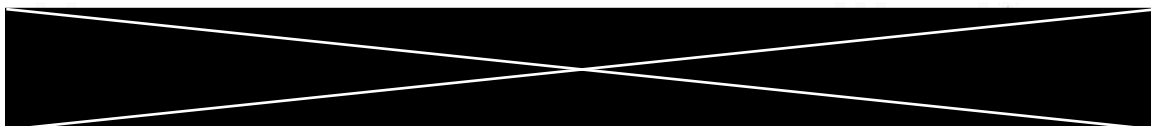
MOTION AND MEMORANDUM OF LAW


Petitioner AOKO respectfully moves this Honorable Court for an emergency order preventing her continued detention, transfer, and removal in violation of her Constitutional, inter alia, rights.

I. INTRODUCTION

Petitioner Mobolaji Olufunmilayo AOKO is a sixty-year-old native and citizen of Nigeria who has resided in the United States for over three decades. Petitioner lawfully entered the United States on May 1, 1991, with a valid B-2 visitor visa. Although she was later placed into removal proceedings and ordered deported in 2010, Petitioner remained in the United States and built deep family, community, and professional ties, including raising U.S. citizen children, marrying a lawful permanent resident husband, and dedicating her career to nursing and community service.

On November 25, 2025, Petitioner hand-filed a Motion to Reopen and Motion for a Stay of Removal with the Board of Immigration Appeals (“BIA”), based on materially changed circumstances and country conditions in Nigeria, including 



 and alternatively sought reopening based on changes in law, including *Niz-Chavez v. Garland*, eligibility for Cancellation of Removal, Adjustment of Status, and the BIA’s sua sponte authority. (Petitioner’s Motion to Reopen and Motion for Stay of Removal are attached hereto and made a part hereof as Exhibit 1).

Despite having pending, properly filed motions before the BIA, and despite reporting to ICE with counsel and full documentation, Petitioner was arbitrarily arrested without a warrant and detained by U.S. Immigration and Customs Enforcement (“ICE”) on November 26, 2025. She now

faces imminent transfer out of this District and removal from the United States before the BIA can adjudicate her pending motions.

Petitioner seeks emergency relief from this Court to halt her unlawful detention, prevent her transfer out of the District, and stay her removal pending adjudication of her motions. Absent judicial intervention, Petitioner faces irreparable harm, including removal to Nigeria, where she faces a substantial risk of persecution, torture, and death, as well as the deprivation of critical medical care and separation from her U.S. citizen children and lawful permanent resident spouse.

II. FACTUAL BACKGROUND

A. Petitioner AOKO's background and case posture

Petitioner Mobolaji Olufunmilayo AOKO is a sixty-year-old native and citizen of Nigeria who lawfully entered the United States on May 1, 1991, with a valid B-2 visitor's visa. She was later placed in removal proceedings for remaining in the United States beyond the authorized period of her visa. On August 9, 2010, an Immigration Judge ordered her deported, and the Board of Immigration Appeals dismissed her appeal on May 2, 2012.

Since her arrival in the United States, Petitioner has lived continuously in Maryland and has established exceptionally strong family and community ties. She is married to a lawful permanent resident, is the mother of two U.S. citizen children, and has long worked as a Registered Nurse, providing essential medical care and support to vulnerable members of the community. Petitioner has no criminal record in the United States or anywhere in the world. (See Petitioner's husband's LPR card, birth certificates of her U.S. citizen children, her nursing license, and her records showing no criminal record, Ex. 1)

On November 25, 2025, Petitioner hand-filed a Motion to Reopen with the Board of Immigration Appeals, along with a Motion for a Stay of Removal. The Motion to Reopen is based

primarily on changed circumstances and country conditions in Nigeria, including Petitioner's

[REDACTED]

(See Petitioner's Ordination Certificate, attached as part of Exhibit 1).

[REDACTED]

[REDACTED] In the alternative, Petitioner sought reopening based on changes in law, including eligibility for Cancellation of Removal under *Niz-Chavez v. Garland*, eligibility for Adjustment of Status, and the Board's sua sponte authority. (See Exhibit 1).

Today, November 26, 2025, Petitioner appeared with counsel at ICE, as directed, and provided ICE officers with copies of her filed Motion to Reopen and Motion for a Stay of Removal. Despite this, Petitioner was arrested without a warrant, without cause, and arbitrarily detained. She is currently being held at the ICE Baltimore Field Office, 31 Hopkins Plaza, Suite 630, Baltimore, Maryland 21201, in deplorable conditions.

Petitioner also suffers from lumbar spinal stenosis and underwent spinal surgery within the last year. She experiences constant and severe pain and requires daily medication, which she does not have access to while detained. Her continued detention places her health at serious risk and deprives her of necessary medical care. (See Petitioner's medical records, Ex. 1).

Petitioner now faces the imminent risk of transfer to another state and/or removal from the United States before the BIA can adjudicate her pending motions. As a result, Petitioner petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, and seeks emergency injunctive relief to remedy her unlawful detention and prevent irreparable harm.

B. Executive Orders and Respondents' Blanket Policy

On January 20, 2025, President Donald Trump signed several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order ("EO") setting out a series of interior immigration enforcement actions. This EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures "that protect the public safety and national security interests of the American people, including by ensuring the successful enforcement of final orders of removal."

These actions have resulted in Respondents adopting a blanket policy, where ICE is currently arresting, detaining, and removing people like Petitioner, who have strong eligibility for reopening of their proceedings, without an individualized consideration of their cases. Under these new policies, ICE/ERO has detained and is attempting to transfer/remove Petitioner to Nigeria.

C. LEGAL STANDARDS

The standard for issuing a TRO is the same as the standard for issuing a preliminary injunction. *See New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977). A TRO is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). The proper legal standard for preliminary injunctive relief requires a party to demonstrate (1) that she 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. *Dewhurst v. Century Aluminum Co.*, 649 F.3d 287, 290 (4th Cir. 2011).

As an alternative to this test, a preliminary injunction is appropriate if "serious questions going to the merits were raised and the balance of the hardships tips sharply in the plaintiff's

favor,” thereby allowing preservation of the status quo when complex legal questions require further inspection or deliberation. *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 813 (4th Cir. 1991).

III. ARGUMENT

Petitioner’s Amended Motion for a Temporary Restraining Order should be granted because she is likely to suffer irreparable harm in the absence of preliminary relief, she is likely to succeed on the merits, and the balance of the equities and public interest weigh in favor of emergency relief.

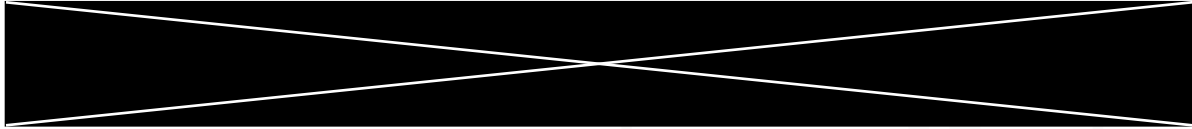
A. Petitioner will likely suffer irreparable harm if not granted preliminary relief

If this Court does not grant a temporary restraining order, Petitioner faces imminent transfer out of this District and imminent removal from the United States before the Board of Immigration Appeals has an opportunity to adjudicate her properly filed Motion to Reopen and Motion for a Stay of Removal. ICE arrested Petitioner without a warrant *despite full notice* of the pending motions and has demonstrated its willingness to effectuate removal notwithstanding ongoing judicial and administrative proceedings.

Respondents’ actions already are causing, and will continue to cause, irreparable harm by unlawfully detaining Petitioner, separating her from her lawful permanent resident husband, her two U.S. citizen children, her medical providers, her employment, and her established community in Maryland. Removal or transfer would sever Petitioner from the only home she has known for over thirty years and irreparably disrupt her family unit, including prolonged separation from her children and spouse.

If forcibly removed to Nigeria, Petitioner faces grave danger, including persecution, torture, and possibly death. [REDACTED]

[REDACTED]



inadequately addressed by the government. These risks constitute classic and irreversible forms of irreparable harm.

Petitioner also suffers from lumbar spinal stenosis and underwent spinal surgery within the past year. She remains in constant pain and requires regular medication and medical monitoring, which she currently lacks while detained. Continued detention, transfer, or removal would exacerbate her medical condition, deprive her of necessary treatment, and place her health at serious risk, harm that cannot be remedied after the fact.

These circumstances constitute irreparable harm. *See e.g., Int'l Refugee Assistance Project v. Trump*, 883 F.3d 233, 320 (4th Cir. 2018), *vacated on other grounds*, 138 S. Ct. 2710, 201 L. Ed. 2d 1094 (2018) (stating that "[p]rolonged and indefinite separation of parents, children, siblings, and partners create not only temporary feelings of anxiety but also lasting strains on the most basic human relationships" and therefore constitutes irreparable harm); *Leiva-Perez v. Holder*, 640 F.3d 962, 969-70 (9th Cir. 2011) (stating that "separation from family members, medical needs, and potential economic hardship" are important factors when assessing irreparable harm).

Moreover, transferring Petitioner out of this District would deprive her of access to her local counsel, impair her ability to meaningfully participate in these ongoing habeas and injunctive proceedings, and fundamentally undermine her right to be heard. *See Arroyo v. United States Dep't of Homeland Sec.*, 2019 WL 2912848, at *17 (C.D. Cal. June 20, 2019) (observing that ("a significant burden on the attorney-client relationship, without a showing of underlying prejudice to the removal proceedings, may be sufficient to establish a legal injury sufficient to justify injunctive relief"), citing *Comm. of Cent. Am. Refugees v. I.N.S.*, 795 F.2d 1434, 1439 (9th Cir.),


amended on other grounds, 807 F.2d 769 (9th Cir. 1986); *see also Escobar-Grijalva v. I.N.S.*, 206 F.3d 1331, 1335 (9th Cir.), amended on other grounds, 213 F.3d 1221 (9th Cir. 2000) (“Deprivation of the statutory right to counsel deprives [a noncitizen] asylum-seeker of the one hope she has to thread a labyrinth almost as impenetrable as the Internal Revenue Code.”).

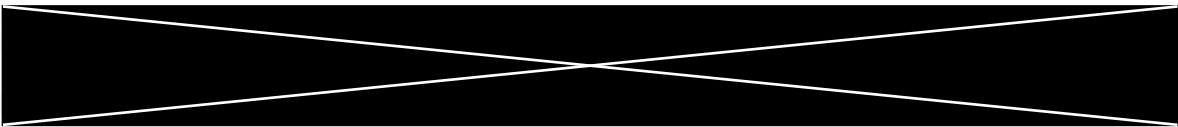
Finally, as alleged in Petitioner’s habeas petition, Respondents’ actions violate Petitioner’s constitutional right to due process by detaining her without a warrant, ignoring pending administrative remedies, and threatening removal before meaningful review can occur. It is well established “that a deprivation of a constitutional right, ‘for even minimal periods of time, unquestionably constitutes irreparable injury.’” *Miranda v. Garland*, 34 F.4th 338, 365 (4th Cir. 2022), quoting *Elrod v. Burns*, 427 U.S. 347, 373, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976).

B. Petitioner is likely to succeed on the merits of her habeas petition

Petitioner requests habeas relief from this Court on the grounds that Respondents’ decision to continue to detain, transfer, and remove her under a blanket enforcement policy is (1) arbitrary and capricious and in violation of Respondents’ own governing regulations and policies, (2) a violation of her Fourth and Fifth amendment rights, and (3) her detention conditions constitute cruel and unusual punishment.

Further, Petitioner is likely to succeed on the merits of her claim under the Administrative Procedure Act (“APA”). Under the APA, a court shall “hold unlawful and set aside agency action” that is arbitrary and capricious. 5 U.S.C. § 706(2)(A). An agency action is arbitrary and capricious if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

Here, ICE's decision to arrest, detain, and threaten removal of Petitioner immediately after she hand-filed a Motion to Reopen and Motion for Stay of Removal with the Board of Immigration Appeals is arbitrary and capricious. Respondents acted despite full knowledge that Petitioner had invoked lawful administrative remedies based on 


Respondents failed to articulate any change in factual circumstances, legal authority, or individualized enforcement rationale sufficient to justify Petitioner's sudden detention. This unexplained reversal, after decades of residence, medical issues, consistent compliance, lawful employment as a Registered Nurse, deep family ties, and a complete lack of criminal history, represents precisely the type of irrational agency action the APA forbids. Such conduct lacks any "satisfactory explanation" or "rational connection between the facts found and the choice made." *DOC v. New York*, 588 U.S. 752, 752 (2019).

Moreover, ICE's conduct contravenes its own detention and supervision framework under 8 C.F.R. §§ 241.4–241.5, which require individualized custody determinations and consideration of factors such as danger to the community and flight risk before taking a noncitizen into custody. Petitioner has no criminal record, has many family and community ties, has local employment, poses no threat to public safety, and has been in compliance with ICE reporting obligations. The failure to consider these mandatory factors renders Respondents' actions arbitrary and capricious under, *inter alia*, *State Farm*, 463 U.S. at 43.

Petitioner is also likely to succeed on her due process claim. The Fifth Amendment's Due Process Clause protects noncitizens from arbitrary government action. *See Romero v. Bondi*, 150 F.4th 332, 340 (4th Cir. 2025). Due process requires that detention and removal decisions be

rational, individualized, and consistent with the law. By detaining and threatening to remove Petitioner to Nigeria, who has a pending motion to reopen and motion for stay of removal, Respondents have deprived her of liberty without lawful justification. Because there has been no change in her circumstances, the decision to detain and remove her now is irrational and arbitrary, violating her right to due process.

Furthermore, a statute or policy permitting indefinite detention or removal to a country where a person faces grave danger raises serious constitutional concerns. As the Supreme Court has made clear, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Fifth Amendment, therefore, prohibits the government from depriving an individual of liberty through indefinite detention.

Here, Petitioner AOKO now has a pending motion to reopen and a motion for a stay of removal. If Petitioner remains detained while awaiting a decision on these motions, as well as a potential decision on her meritorious claims for relief (if her removal proceedings are reopened), she will be subject to the exact unconstitutional and indefinite detention the U.S. Supreme Court advised against in *Zadvydas, supra*.

Respondents’ conduct also deprives Petitioner of the procedural safeguards required before removal may occur. The Fifth Amendment requires notice and a meaningful opportunity to be heard before the government may deprive an individual of liberty. By detaining Petitioner and threatening removal without reopening proceedings and without allowing adjudication of her pending motions, Respondents have denied her constitutionally required process.

Petitioner is also likely to succeed on the merits of her Fourth Amendment claim. The Fourth Amendment protects individuals, including noncitizens, from unreasonable seizures. U.S. Const.

amend. IV. Civil immigration arrests must be supported by lawful authority and cannot be arbitrary or unreasonable.

Here, Petitioner was arrested without a warrant when she appeared at ICE with counsel, complied with reporting requirements, and voluntarily presented proof of her pending Motion to Reopen and Motion for a Stay of Removal. Respondents did not possess a judicial warrant and have articulated no exigent circumstances, probable cause, or individualized justification for her arrest.

The warrantless seizure of Petitioner under these circumstances was unreasonable. Petitioner was not fleeing, posed no risk to public safety, and fully complied with all ICE directives. Arresting her *after* she voluntarily reported to ICE and disclosed her protected procedural posture constitutes an arbitrary seizure in violation of the Fourth Amendment.

Further, the continued detention flowing from this unlawful arrest compounds the constitutional violation. A seizure that begins unlawfully cannot be justified retroactively by post-hoc enforcement rationales. Where, as here, Respondents lacked lawful authority to arrest Petitioner in the first instance, her continued detention remains constitutionally infirm.

For the above-noted reasons, Petitioner is likely to succeed on the merits of her habeas corpus petition and/or TRO.

C. The balance of the equities and public interest factors tip sharply in favor of preliminary relief.

Petitioner AOKO has established that “the balance of the equities tip in [her] favor and that an injunction is in the public interest” because she has a pending motion to reopen, she is not a flight risk, and she is not a danger to the community. *See Winter*, 555 U.S. at 20. When the federal

government is a party, the balance of the equities and public interest factors merge. *See Nken v. Holder*, 556 U.S. 418, 435 (2009).

The balance of hardships tips substantially in favor of Petitioner. “[I]n addition to the potential hardships facing [Petitioner] in the absence of the injunction, the court ‘may consider . . . the indirect hardship to their friends and family members.’” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017), quoting *Golden Gate Rest. Ass’n v. City & Cty. of San Francisco*, 512 F.3d 1112, 1126 (9th Cir. 2008).

Petitioner AOKO’s detention and threatened removal would harm not only her, but also her ill lawful permanent resident husband and her two U.S. citizen children, who depend on her for emotional, financial, and daily support. Petitioner has resided in Maryland for decades, maintains stable employment, and is an integral part of her family unit and local community.

Removal would also deprive Petitioner of her lawful employment and professional role as a Registered Nurse, eliminating a critical source of financial support for her household and severing longstanding community ties. These harms are not speculative; they are immediate, concrete, and irreversible. The forced separation of a family with deep roots in the United States and no viable alternative caregiver structure constitutes precisely the type of hardship warranting this Court’s emergency intervention.

There is also a strong public interest in maintaining Petitioner’s presence in her local community. Petitioner has long provided essential healthcare services as a nurse, contributing positively to the community and to an already strained healthcare system. Allowing her continued detention and potential removal serves no legitimate public purpose and undermines the community’s interest in stability, family unity, and public health.

The merits of the due process violations that Petitioner has raised in her habeas petition

and/or TRO motion further weigh the public interest toward emergency relief. Moreover, “it is well-established that the public interest favors protecting constitutional rights.” *Leaders of a Beautiful Struggle v. Balt. Police Dep’t*, 2 F.4th 330, 346 (4th Cir. 2021). In addition, “the public interest also benefits from a preliminary injunction that ensures that federal statutes are construed and implemented in a manner that avoids serious constitutional questions.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1146 (9th Cir. 2013).

Even when considered from a fiscal perspective, the public interest in the efficient allocation of the government’s fiscal resources weighs in favor of emergency relief here. As the Ninth Circuit has explained, “The costs to the public of immigration detention are “staggering”: \$158 each day per detainee, amounting to a total daily cost of \$6.5 million. Supervised release programs cost much less by comparison: between 17 cents and 17 dollars each day per person.” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017). The interests of the general public will not be served by Petitioner’s continued detention, where she has a pending motion to reopen, was complying with ICE’s supervised release, and is neither a flight risk nor a danger to the community.

By contrast, any governmental interest in Petitioner’s immediate detention, transfer, or removal is weak or nonexistent. Respondents have articulated no legitimate concern related to public safety or national security. Petitioner has complied with all ICE reporting requirements, voluntarily appeared with counsel, and poses no risk of flight. Any abstract interest in removal enforcement is far outweighed by Petitioner AOKO’s extraordinary equities, including her decades-long residence, family unity, community contributions, medical vulnerability, and the serious constitutional concerns raised by Respondents’ actions.

IV. CONCLUSION

For the foregoing reasons, Petitioner AOKO respectfully requests that this Honorable

Court grant her motion for a temporary restraining order to release her from detention, block her transfer outside the district of Maryland, and stay her removal from the United States.

Dated: November 26, 2025

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