

DETAINED

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

TRA BI JEAN,

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-2487

**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-2487**

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1 **II. BASIS FOR MOTION**

2 2. This Motion is filed in conjunction with a Petition for Writ of Habeas Corpus filed with
3 the Court on December 5, 2025. The basis for this motion is explained more fully in that Petition.

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

8 4. Petitioner is scheduled for a bond hearing on December 10, 2025, and a master calendar
9 hearing on December 18, 2025.

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

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

18 7. Petitioner's transfer is imminent. He informed his wife that his commissary account had
19 been "closed" meaning that the money was removed. This is an indication that ICE is initiating a
20 transfer to another facility immediately.

21 8. The Due Process Clause of the Fifth Amendment guarantees to noncitizens the right to
22 counsel at their own expense for immigration hearings. *See, e.g., Tawadrus v. Ashcroft*, 364 F.3d
23

1 1099, 1103 (9th Cir. 2004) (“Although there is no Sixth Amendment right to counsel in an
2 immigration hearing, Congress has recognized it among the rights stemming from the Fifth
3 Amendment guarantee of due process that adhere to individuals that are the subject of removal
4 hearings.”); *Colindres-Aguilar v. INS*, 819 F.2d 259, 260 n.1 (9th Cir. 1987) (“Petitioner’s right
5 to counsel . . . is a right protected by the fifth amendment due process requirement of a full and
6 fair hearing.”). The Immigration and Nationality Act (INA) also guarantees this right. 8 U.S.C. §
7 1362; 8 U.S.C. § 1229a(b)(4)(A). If Petitioner is transferred to another ICE detention facility in
8 another part of the country, there is a real threat that he will be denied access to counsel of his
9 choosing.

11 III. ARGUMENT

12 A. *Standards for Temporary Restraining Order*

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

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

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

1 10. The traditional test, which remains viable in the Ninth Circuit, is known as the “sliding
2 scale” test and requires the plaintiff to prove “serious questions going to the merits” and “a
3 hardship balance that tips sharply toward the plaintiff.” *Alliance For The Wild Rockies v. Cottrell*,
4 632 F.3d 1127 (9th Cir. 2011). As under the *Winter* test, the plaintiff must also show a likelihood
5 of irreparable injury and that the injunction is in the public interest. “Under this approach, the
6 elements of the preliminary injunction test are balanced, so that a stronger showing of one element
7 may offset a weaker showing of another.” *Alliance For The Wild Rockies*, 632 F.3d at 1131.

8 11. Petitioner meets both of these tests.

9
10 ***B. Petitioner is likely to succeed on the merits and has raised serious legal questions.***

11 12. As the Petition sets out, Petitioner is unlawfully detained and will likely be denied release
12 on bond.

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

16 14. Further, On November 20, 2025, the district court granted partial summary judgment on
17 behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and
18 extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-
19 CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025)
20 (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista*
21 *v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D.
22 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners’ proposed nationwide Bond Eligible
23

1 Class, incorporating and extending declaratory judgment from Order Granting Petitioners'
2 Motion for Partial Summary Judgment). The declaratory judgment held that the Bond Denial
3 Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration
4 for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

5 15. Nonetheless, the Executive Office for Immigration Review and its subagency the
6 Immigration Court and the Department of Homeland Security (DHS) have blatantly refused to
7 abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the
8 opportunity to be released on bond.

9
10 **C. *Petitioner faces irreparable harm, and a hardship balance tips sharply toward him.***

11 16. Petitioner faces substantial hardships and irreparable harm if he is transferred to another
12 facility.

13 17. Petitioner has lived in the United States continuously for over twenty years. He has been
14 swept up in the current dragnet to detain and deport immigrants.

15 18. The probability of transfer to another detention facility is high, and Petitioner's transfer is
16 imminent. He informed his wife that his commissary account had been drained, indicating that he
17 is going to be transferred imminently. Hundreds of detainees have been transferred to other ICE
18 detention facilities in the middle of the night with little to no notice. They have been transferred
19 to facilities thousands of miles away, including facilities in Arizona, Texas, and Louisiana. Many
20 of these detainees had already had master calendar hearings and were represented by counsel.
21 And it takes days for ICE to update their location and process them into new facilities, severely
22 impeding their ability to communicate with counsel and their families.

1 19. If Petitioner 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, whose firm
3 he has had a relationship with for years. Any transfer will severely impair, if not cut, his ties
4 with his legal and social supports. And this in turn will limit his ability to succeed on the merits
5 of the litigation.

6
7 ***D. The balance of equities tips in favor of Petitioner, and an injunction is in the public
8 interest.***

9 20. The remaining two factors for an injunction are the same under both legal tests, and they
10 both favor Petitioner.

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

13 22. As to the public interest, it is in the public interest for the government to follow its word
14 and allow noncitizens to remain in one place during the pendency of their proceedings especially
15 if they have counsel. It is in the public's interest to allow litigants to remain in touch with their
16 lawyers, to allow prisoners to stay in touch with their families and their lawyers, and to have a
17 government that follows its own policies and regulations.

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