

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY

Hamza Oiskhine,
Petitioner;

V.

David Rivas, Warden of the San Luis Detention Center,

Gregory J. Archambeault, San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations,

Todd Lyons, Acting Director of Immigration and Customs Enforcement,

Kristi Noem, Secretary of the Department of Homeland Security,

Pamela Bondi, United States Attorney General
Respondents.

Case No. **CV25-04600-PHX-SHD--ASB**

**MOTION TO STAY REMOVAL AND TO PROHIBIT TRANSFER
OUTSIDE THE DISTRICT OF ARIZONA**

Petitioner Hamza Oiskhine respectfully moves this Court for an Order:

1. Staying his removal from the United States; and
2. Prohibiting Respondents from transferring him outside the State of Arizona (and thus outside this District) for the duration of these habeas proceedings.

This motion seeks **narrow, jurisdiction-preserving relief** so that the Court can adjudicate Petitioner's constitutional and statutory claims without interference from strategic transfers or removal.

I. INTRODUCTION

Petitioner is detained at **San Luis Regional Detention Center** in Arizona and has filed a § 2241 habeas petition challenging:

- His warrantless, deceptive arrest based on an anonymous tip;
- His detention under 8 U.S.C. § 1226(a) without a warrant and without a proper initial custody determination;
- The submission of false information by ICE to the immigration court; and
- Ongoing medical neglect of his severe Crohn's disease.

After Petitioner initially obtained legal representation while detained at **Otay Mesa Detention Center in San Diego**, ICE transferred him to San Luis, Arizona, **shortly before his immigration hearing**, effectively severing that attorney-client relationship and undermining his ability to pursue his case.

Petitioner now seeks an Order preventing ICE from:

- Removing him from the United States; or
- Transferring him to a facility outside Arizona

while this Court considers his habeas petition and related motions.

II. LEGAL STANDARD

Federal courts have authority under **28 U.S.C. § 2241**, the **All Writs Act**, 28 U.S.C. § 1651, and the **Suspension Clause** to issue orders necessary to protect their jurisdiction over habeas cases, including stays of removal and orders restricting transfer.

- The Supreme Court has long recognized that the government cannot defeat habeas jurisdiction by moving a prisoner outside the court's immediate reach. *Ex parte Mitsuye Endo*, 323 U.S. 283, 306 (1944).
- Numerous district courts have held that they retain jurisdiction to stay removal and to enjoin transfers in immigration habeas actions notwithstanding 8 U.S.C. § 1252(g). See, e.g., *Devitri v. Cronen*, 290 F. Supp. 3d 86 (D. Mass. 2017) (holding that district court had authority to temporarily halt deportations to ensure meaningful review).
- Courts have also noted a **pattern** of ICE transferring or attempting to remove habeas petitioners after they file, and have granted injunctions to prevent such jurisdiction-stripping tactics. See *Sied v. Nielsen*, 2018 WL 1142202 (N.D. Cal. Mar. 2, 2018) (rejecting argument that transfer mooted habeas and affirming jurisdiction); related commentary collects cases where courts enter stays to preserve habeas review.

Jurisdiction over a § 2241 petition generally lies where the petitioner is detained at the time of filing. *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004). While some courts hold that jurisdiction persists after transfer, ICE often uses transfers to **argue lack of jurisdiction or wrong respondent**, forcing new filings and delays. Courts have equitable power to prevent such interference with the habeas process.

III. ARGUMENT

A. An Order Preventing Transfer Is Necessary to Preserve This Court's Jurisdiction and Effective Relief

Petitioner filed his habeas petition while detained in **Arizona**. This Court therefore is the proper forum to adjudicate his claims and issue relief under § 2241.

If ICE transfers Petitioner to another state—especially after he has filed this habeas—Respondents may argue that:

- The proper respondent is now a different warden outside this Court's territorial jurisdiction;
- Venue is improper and the case should be dismissed or moved; or
- The Court should abstain in favor of another district.

While some decisions hold that jurisdiction survives transfer, courts have recognized that transfers can undermine **practical access to counsel**, delay proceedings, and create confusion about jurisdiction. An order prohibiting transfer ensures that this case remains stable while the Court resolves the merits.

B. Past Conduct Shows a Risk of Transfers Based on Litigation Strategy, Not Legitimate Needs

ICE has already transferred Petitioner in a way that appears calculated to undermine his defense:

- While detained at **Otay Mesa Detention Center (San Diego)**, Petitioner was appointed or connected with legal representation;
- Just before his scheduled immigration court appearance, ICE transferred him to **San Luis, Arizona**, two hours before his hearing, resulting in:
 - Effective severance of his attorney-client relationship; and
 - A significant blow to his ability to contest removal or detention.

Petitioner alleges that this transfer had no legitimate operational justification and was undertaken in bad faith to **separate him from counsel** and weaken his case.

More broadly, immigration practitioners and courts have observed that ICE sometimes **transfers detainees after they file habeas petitions or seek judicial review**, and then raises jurisdictional arguments based on those transfers. District courts in cases like *Devitri* and *Sied* have responded by issuing stays of removal and transfer to preserve their jurisdiction.

Given this history and the prior transfer away from counsel, there is a credible risk that ICE may again transfer Petitioner—potentially far from Arizona—once it becomes aware of his habeas and TRO filings.

C. A Limited Stay of Removal and Transfer Causes Minimal Prejudice to Respondents

The relief sought is **narrow and temporary**:

- Petitioner does not ask the Court to decide his habeas claims now; he simply asks that Respondents not remove him or transfer him out of Arizona while this Court considers the legality of his detention and the TRO.

- Respondents retain full authority to:
 - Continue removal proceedings in immigration court;
 - Oppose the habeas petition and TRO on the merits; and
 - Supervise Petitioner within Arizona if he is released.

By contrast, if Respondents remove Petitioner or transfer him out of state during these proceedings:

- His habeas claims may become effectively **unreviewable** or substantially burdened;
- His access to the Court and to any potential counsel will be dramatically reduced; and
- The Court's ability to fashion meaningful relief—especially regarding medical care—will be severely constrained.

The balance of equities therefore heavily favors granting a stay.

IV. CONCLUSION

For the reasons stated above, Petitioner respectfully requests that the Court:

1. **Stay Petitioner's removal** from the United States for the duration of these habeas proceedings and any appeals;
2. **Enjoin Respondents from transferring Petitioner** outside the State of Arizona (and thus outside the District of Arizona) while his § 2241 petition, Emergency TRO Motion, and related motions are pending; and
3. Grant any further relief the Court deems just and proper to protect its jurisdiction and ensure effective judicial review.

DATED: November 24th, 2025

Respectfully submitted,

/s/ Hamza Oiskhine
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