

**UNITED STATE DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
JOHNSTOWN DIVISION**

AKNAZAR MIRLANOV,

Petitioner,

-against-

TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement (ICE); MARCOS CHARLES, in his official capacity as Acting Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; ALEJANDRO N. MAYORKAS, Secretary, U.S. Department of Homeland Security; KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; and PAM BONDI, in her official capacity as Attorney General of the United States, and and WARDEN, MOSHANNON VALLEY PROCESSING CENTER, in their official capacity as custodian of petitioner,

Case No.: 3:26-CV-00018

Respondents.

**PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF THE ORDER TO SHOW
CAUSE SEEKING TEMPORARY RESTRAINING ORDER**

Respectfully submitted,


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Petitioner AKNAZAR MIRLANOV (“Petitioner”) respectfully submits this Memorandum of Law seeking a temporary restraining order and preliminary injunctive relief pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining all Respondents from transferring Petitioner to any detention facility outside this judicial district or outside the United States, including effectuating his removal, and directing that Petitioner remain in his current place of detention pending this Court’s determination of the Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2241.

PRELIMINARY STATEMENT/STATEMENT OF FACTS

As is stated in the accompanying habeas corpus petition, Petitioner is a citizen of Kyrgyzstan who entered the United States at or near the Calexico, California port of entry on or about August 10, 2024, using the CBP One application. He timely applied for asylum within the one-year statutory period and has continuously remained in the United States since his entry. Following his asylum application, Petitioner was released from the custody of the Department of Homeland Security (“DHS”) and complied with all requirements imposed upon him. For more than a year, Petitioner lived openly in the United States, established residence, and posed no flight risk or danger to the community. He has no criminal history and no record of noncompliance with immigration authorities.

On or about December 16, 2025, more than one year after his entry and release, Petitioner was suddenly and without explanation apprehended by officers of U.S. Immigration and Customs Enforcement (“ICE”) in Philadelphia, Pennsylvania. The arrest was unjustified, unlawful, and unaccompanied by notice of any alleged violation, custody determination, or

individualized assessment of risk. Following his arrest, Petitioner was transported and transferred to Moshannon Valley Processing Center (the “Detention Facility”), where he remains detained in ICE custody as of the date of this filing. ICE has not provided Petitioner with notice of the grounds for his re-detention, nor has it afforded him an individualized custody determination or access to a neutral adjudicator to assess whether detention is warranted.

Petitioner’s detention took place while his asylum claim remains pending and before any final determination of removability. He is detained pursuant to 8 U.S.C. § 1226, which authorizes discretionary civil detention subject to statutory and constitutional safeguards, including individualized determinations of flight risk and dangerousness. Those safeguards were not provided here.

Because Petitioner is in ICE custody and subject to transfer at any time, there exists a substantial and imminent risk that ICE may transfer him to another detention facility outside this judicial district, or even effectuate his removal from the United States, before this Court has an opportunity to adjudicate his Petition for Writ of Habeas Corpus, which is filed concomitantly with this application. Such transfer or removal would severely impair Petitioner’s access to counsel, disrupt the litigation of Petitioner’s habeas corpus claims, and, in principle, risk mooted this action/proceedings by depriving the Court of the ability to grant effective relief/divesting this Court of jurisdiction.

Accordingly, Petitioner seeks a temporary restraining order preserving the status quo by enjoining Respondents from transferring or removing him pending the Court’s determination of his habeas petition. This limited interim relief is necessary to prevent irreparable harm and to

ensure that this Court is not divested of jurisdiction before it can rule on the lawfulness of Petitioner's detention.

LEGAL STANDARD/ARGUMENT

As a threshold matter, a party seeking a temporary restraining order must establish the following elements: 1) a likelihood of success on the merits, 2) the probability of irreparable harm if the relief is not granted, 3) that granting injunctive relief will not result in even greater harm to the other party and 4) that granting relief will be in the public interest. Frank's GMC Truck Center, Inc. v. G.M.C., 847 F.2d 100, 102 (3rd Cir. 1988); Ecri v. McGraw-Hill, Inc., 809 F.2d 223, 226 (3rd Cir. 1987). "Where [*4] the Government is the opposing party, the final two factors in the temporary restraining order analysis - the balance of the equities and the public interest - merge." Hernandez Aguilar v. Decker, 482 F. Supp. 3d 139, 150 (S.D.N.Y. 2020). It is respectfully submitted that each of these factors/prongs weigh decisively in favor of granting temporary injunctive relief, as will be discussed further below.

A. Likelihood of Success on the Merits.

Petitioner has demonstrated a strong likelihood of success on the merits of his habeas petition challenging the lawfulness of his detention under the Fifth Amendment and the INA. As is stated in the Petition and above, Petitioner lawfully entered the United States in August 2024, timely applied for asylum, and was released from DHS custody. For more than a year, he lived openly in the United States, complied with all conditions imposed by immigration authorities, and accumulated no criminal history. Despite this record of compliance, ICE apprehended Petitioner without prior notice, warrant, or explanation in December 2025 and re-detained him without an individualized custody determination. Because Petitioner is detained under 8 U.S.C. §

1226(a), ICE is required to conduct an individualized assessment of whether he poses a danger to the community or a flight risk. ICE did not do so. Nor did it provide notice of the grounds for re-detention or an opportunity to be heard before a neutral decisionmaker. The Fifth Amendment forbids precisely this type of arbitrary deprivation of physical liberty, see Zadvydas v. Davis, 533 U.S. 678, 690 (2001). Noncitizens, regardless of status, are entitled to due process protections, including notice and a meaningful opportunity to be heard, see Velasco Lopez v. Decker, 978 F.3d 842, 850 (2d Cir. 2020). Where detention occurs without individualized procedures/hearings, courts have consistently granted habeas relief and ordered bond hearings. See, e.g., Ramos v. Noem, 2025 U.S. Dist. LEXIS 262450 (W.D. Pa. Dec. 19, 2025); M.P.L. v. Arteta, No. 25-CV-5307 (VSB)(SDA), 2025 U.S. Dist. LEXIS 204541; *see also* Montoya v. Bondi, No. 25-CV-06363 (JMA), 2025 U.S. Dist. LEXIS 265314. Given the absence of any individualized determination, the lack of notice or hearing, and given the fact that Petitioner is neither danger to the community, nor a flight risk, Petitioner has clearly established success on the merits.

B. Petitioner Will Suffer Irreparable Harm Absent Immediate Injunctive Relief.

Next, it is respectfully submitted that irreparable harm is not only likely under the circumstances of this case, it is in fact imminent. Petitioner remains in ICE custody and is subject to transfer or removal at any time. Transfer to a facility outside this judicial district or removal from the United States would severely impair Petitioner's ability to consult with counsel, participate in these proceedings, and pursue his habeas corpus claims. In fact, transfer or removal of the Petitioner would risk mooted the habeas corpus petition by divesting this Court of its jurisdiction. Where, as here, the petitioner has asserted a constitutional violation, a presumption of irreparable harm attaches. Jolly v. Coughlin, 76 F.3d 468, 482 (2d Cir. 1996); *see also*

Connecticut Dep't of Env't Prot. v. O.S.H.A., 356 F.3d 226, 231 (2d Cir. 2004) (holding that "violations [*6] of constitutional rights are presumed irreparable."). "The deprivation of an alien's liberty is, in and of itself, irreparable harm." CANDIDA RAMIREZ LOPEZ, 25-CV-04826 (JAV), 2025 WL 3274224, at *8. In light of the fact that Petitioner seeks only to preserve the status quo pending adjudication of his habeas corpus petition, and because the threatened harm cannot be remedied after the fact of his likely transfer/removal, the irreparable-harm prong is satisfied.

C. Public Interest and Balance of Equities.

Finally, the balance of equities favors Petitioner. The issuance of a TRO until this Court is able to conduct a hearing/determination on Petitioner's habeas corpus petition would not significantly impede Respondents or public interest because the requested relief is temporary, narrowly tailored, and will only last pending the instant application/habeas corpus proceedings. Absent a temporary restraining order, Petitioner faces potential transfer, and possible removal from the United States, all before this Court has an opportunity to determine whether his detention is lawful and whether he qualifies for the relief request in his habeas corpus petition. By contrast, Respondents face no cognizable harm from maintaining the status quo for the limited duration necessary for this Court to adjudicate the habeas corpus petition. Importantly, the requested relief does not require Petitioner's immediate release, does not interfere with removal proceedings, and does not prevent ICE from, in principle, enforcing immigration laws. It merely requires Respondents to refrain from transferring or removing Petitioner until this Court makes a determination in Petitioner's habeas corpus proceedings. In addition, it goes without saying that "public interest is best served by ensuring the constitutional rights of persons

within the United States are upheld." Coronel v. Decker, 449 F. Supp. 3d 274, 287 (S.D.N.Y. 2020).

Accordingly, public interest and balance of equities strongly weight in Petitioner's favor.

CONCLUSION

Because Petitioner has demonstrated a likelihood of success on the merits, irreparable harm absent relief, that the balance of equities favors injunctive relief, and that a temporary restraining order serves the public interest, the Court should grant Petitioner's instant application for a temporary restraining order, preserving the status quo pending adjudication of the Petition for Writ of Habeas Corpus by this Court, and grant Petitioner such other and further relief as the Court deems just and proper.

Dated: December 30, 2025
Port Washington, New York

Respectfully submitted,



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