

THE HONORABLE MICHELLE L. PETERSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAVEIN JUMEL COKE,

Petitioner,

v.

PAMELA BONDI, Attorney General of
the United States, *et al.*,

Respondents.

) No. CV26-0071 MLP

) EMERGENCY MOTION FOR ORDER
) PREVENTING TRANSFER DURING
) PENDENCY OF PETITION

) Note on Motion Calendar:
) January 14, 2026

Petitioner Javein Coke formally reiterates his request that he not be transferred out of this jurisdiction while the petition is pending “[b]ecause transfer of Petitioner to another district could interfere with his access to counsel and ability to participate in the proceedings,” *Tran v. Bondi, et al.*, No. CV25-1897-JLR-BAT, Dkt. 6 at 3 (W.D. Wash. Oct. 7, 2025) (sua sponte issuing such an order in a § 2241 case involving an ICE detainee). *See* Petition, Dkt. 1 at 1–2; *see also* Temporary Order Preventing Transfer, *Todd v. Bondi*, Dkt. 12, CV25-02519-JHC.

On January 7, 2026, Petitioner filed a § 2241 habeas petition. The Court quickly ordered that he be given 48 hours’ notice before any transfer. Dkt. 6. ICE is forbidden from sending Petitioner Coke to Jamaica pursuant to a United States Immigration Judge’s order of deferral of removal. On January 13, 2026, the U.S. Attorney’s Office emailed undersigned counsel that “Pursuant to the Court’s order, Federal Respondents are providing a 48-hour notice concerning your client’s removal to Mexico.” *See* Exh. 1 (Emails from Jennifer Wong). Undersigned counsel quickly asked Respondents to

1 provide any travel documents for Mr. Coke to Mexico, along with what facility he
2 might be transferred to in the United States to facilitate this removal. *Id.* AUSA Wong
3 responded that “a travel document is not necessary for individuals to be removed by
4 land to Mexico” and that Mr. Coke would “likely be transferred to Florence Service
5 Processing Center in Arizona before being taken to Mexico.” *Id.* Several hours later on
6 January 13, 2026, Respondents filed a cursory notice that ICE “intends to remove
7 Petitioner to Mexico” and “that it may be necessary to first transfer Petitioner to another
8 facility outside this jurisdiction in order to facilitate the removal process.” Dkt. 9. At
9 this time, the U.S. Attorney’s Office has not provided a copy of any travel documents
10 for Mr. Coke, which it claims they do not need, or any other proof that Mexico had
11 accepted him.

12 Mr. Coke has informed undersigned counsel that on January 13, 2026, at 9:03
13 A.M., he was given a “notice of removal” document that states ICE intends to remove
14 him to Mexico. He would not sign anything without talking to his lawyer.

15 In order to facilitate this Court’s jurisdiction over the pending petition and to
16 allow Mr. Coke opportunity to speak to the Mexican consulate and ensure that the U.S.
17 Attorney’s Office’s assertions are correct, Petitioner requests that he not be transferred
18 out of this jurisdiction while his petition is pending.

19 To comport with the requirements of due process, the government must provide
20 notice of the third-country removal and an opportunity to respond. Due process requires
21 “written notice of the country being designated” and “the statutory basis for the
22 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409
23 F.Supp.3d 998, 1019 (W.D. Wash. 2019); *see also D.V.D. v. U.S. Dep’t of Homeland*
24 *Sec.*, No. CV25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (“All
25 removals to third countries, *i.e.*, removal to a country other than the country or
26 countries designated during immigration proceedings as the country of removal on the

1 non-citizen's order of removal, must be preceded by written notice to both the non-
2 citizen and the non-citizen's counsel in a language the non-citizen can understand."
3 (citation omitted)); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (due process
4 requires notice to the noncitizen of the right to apply for asylum and withholding to the
5 country where they will be removed). The government must be able to show evidence
6 that the third country will accept the individual into that country. *See Himri v. Ashcroft*,
7 378 F.3d 932, 939 (9th Cir. 2004), *amended sub nom. El Himri v. Ashcroft*, No. 03-
8 71152, 2004 WL 1879255 (9th Cir. Aug. 24, 2004) ("at the time the government
9 proposes a country of removal pursuant to § 1231(b)(2)(E)(vii), the government must
10 be able to show that the proposed country *will* accept the [individual]").

11 Due process also demands that the government "ask the noncitizen whether he or
12 she fears persecution or harm upon removal to the designated country and memorialize
13 in writing the noncitizen's response. This requirement ensures DHS will obtain the
14 necessary information from the noncitizen to comply with § (b)(3) and avoids [a dispute
15 about what the officer and noncitizen said]." *Aden*, 409 F.Supp.3d at 1019; *cf. D.V.D.*,
16 2025 WL 1453640, at *1 ("Following notice, the individual must be given a meaningful
17 opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection
18 prior to removal.") (emphasis omitted).

19 If the noncitizen claims fear, measures must be taken to ensure that the
20 noncitizen can seek asylum, withholding, and relief under CAT before an immigration
21 judge in reopened removal proceedings. *Cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring
22 the government to move to reopen the noncitizen's immigration proceedings if the
23 individual demonstrates "reasonable fear" and to provide "a meaningful opportunity,
24 and a minimum of fifteen days, for the non-citizen to seek reopening of their
25 immigration proceedings" if the noncitizen is found to not have demonstrated
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1 “reasonable fear”); *Aden*, 409 F.Supp.3d at 1019 (requiring notice and time for a
2 respondent to file a motion to reopen and seek relief).

3 Finally, notice of the country to which the noncitizen will be removed must not
4 be “last minute” because that would deprive an individual of a meaningful opportunity
5 to apply for fear-based protection from removal. *Andriasian*, 180 F.3d at 1041. They
6 must have time to prepare and present relevant arguments and evidence and to seek
7 reopening of their removal case.

8 In a case in the Southern District of California, an ICE officer submitted a
9 declaration explaining that Mexico does not accept people who express unwillingness
10 to go there. *See* Ex. 2. Attorney Zandra Lopez at the Federal Defenders of San Diego,
11 Inc., explains in the attached declaration (Ex. 3) that ICE officers have filed these
12 declarations in at least two of her cases (including the one filed by ICE officer Parsons).
13 In her declaration, Attorney Lopez discusses several other clients in habeas proceedings
14 who have filed declarations. These declarations are attached as Exhibits 4, 5, and 6. Mr.
15 Coke’s *Zadvyd* and third-party removal claims will not be mooted by this effort; it
16 will merely be more difficult for this Court to enforce its jurisdiction and for
17 undersigned counsel to communicate with him.

18 As discussed above, undersigned counsel contacted the U.S. Attorney’s Office
19 seeing additional information about travel documents. The U.S. Attorney’s Office
20 represented that no travel documents are necessary for ground transportation of a
21 detainee to Mexico. *See* Ex. 1. This strongly implies that Mexico has not given advance
22 acceptance of Mr. Coke and the entire exercise of transporting him via ground
23 transportation, only to have him returned when he expresses unwillingness, will be
24 fruitless.

1 In order to facilitate this Court's jurisdiction over the pending petition and to
2 prevent the pointless transfer of Mr. Coke, Petitioner requests that he not be transferred
3 out of this jurisdiction while his petition is pending.

4 The Office of the Federal Public Defender has contacted the U.S. Attorney's
5 Office about the motion asking that he not be transferred. Respondents oppose the
6 emergency motion.

7 DATED this 14th day of January, 2026.

8 Respectfully submitted,

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10 *s/ Elizabeth Sher*
11 Assistant Federal Public Defender
Attorney for Javein Coke

12 I certify this motion contains 1,196 words in compliance with the Local Civil Rules.
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