

THE HONORABLE DISTRICT JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WILFREDO CASTILLO RIVAS,

Petitioner,

v.

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

Respondents.

No. 2:26-cv-134

EMERGENCY MOTION FOR ORDER
PREVENTING TRANSFER DURING
PENDENCY OF PETITION

Note on Motion Calendar:
January 14, 2025

Petitioner Wilfredo Castillo Rivas 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; *see also* Temporary Order Preventing Transfer, *Todd v. Bondi*, Dkt. 12, CV25-02519-JHC.

On January 14, Petitioner filed a § 2241 habeas petition. Prior to this, Mr. Castillo Rivas alleged fear of going to Mexico and was given a credible fear hearing on January 5, 2026. *See* Decl. Cook, Ex. 1 at ¶ 2–5. On the morning of January 14, 2026, Mr. Castillo Rivas’ commissary account showed it had no money in it. *Id.* at ¶ 6. Later the same day, Mr. Castillo Rivas was given a notice that ICE intends to remove him at 3 am and that he cannot appeal the apparent denial of his credible fear hearing.

1 contrary to his statutory rights. *Id.* at ¶ 3. ICE has not obtained travel documents for
2 Mr. Castillo Rivas. Instead, it appears to be following the procedure outlined by the
3 United States Attorney’s Office in which detainees are transported via land to Mexico
4 without travel documents. *See* Wong email, Ex. 1.

5 However, this effort to remove Mr. Castillo Rivas without travel documents is
6 likely to be fruitless and will not moot his *Zadvydas* claim. As ICE deportation officers
7 in other cases have described, Mexico refuses to accept any detainee who is not willing
8 to be removed there. *See* Parsons Decl., Ex. 3 at ¶ 11 (“On October 1, 2025, ICE drove
9 Petitioner to the Mexican border to effectuate his third country resettlement, but
10 Petitioner refused to willingly go to Mexico. Petitioner did not express a fear of
11 removal to Mexico. The Mexican government was ready to accept Petitioner only if he
12 would willingly go to Mexico.”); Ruiz Decl., Ex. 7 at ¶ 7 (“On September 29, 2025,
13 Petitioner was transported to the San Ysidro, California port of entry for removal to
14 Mexico, but refused to be removed. The Mexican consulate informed ICE ERO that
15 Mexico would not accept Petitioner for removal against his will.”). Petitioners in other
16 cases have experienced being transported to Mexico without removal being
17 accomplished, sometimes multiple times. *See, e.g.,* Izquierdo Decl., Ex. 5 at ¶ 8 (“... I
18 was put in a van and was told I was going to Mexico. There were several people in the
19 van from different countries. They took us to the border. I felt intimidated but I said I
20 did not want to go to Mexico. I was placed back in the van and sent back to Otay
21 Detention Center.”); Tan-Gutiérrez Decl., Ex. 6 at ¶¶ 6–7 (“One day in Texas, they took
22 us to the border with Mexico. The Mexican officials told us that they were only
23 accepting people that wanted to voluntarily go to Mexico. We told them that we were
24 told we did not have a choice and that we did not want to go to Mexico. The Mexican
25 officials took our pictures and information and told the ICE officials that they would
26 not take us. ICE then took us back to the detention center . . . I have friends that are

1 living horrible lives in Mexico. They don't have papers to live in Mexico and they are
2 basically stateless and they fear for their lives."); Arteaga Decl., Ex. 8 at ¶¶ 5-12.

3 All of these examples have led an attorney in the Southern District of California
4 to conclude that "Based on these experiences, it has become clear to me that Mexico
5 has agreed to only accept non-Mexican deportees that enter their country voluntarily."
6 Lopez Decl., Ex. 4 at ¶ 5. Because Mr. Castillo Rivas has already expressed fear of
7 going to Mexico, it is clear to ICE that he is not willing to go to Mexico. See Castillo
8 Rivas Decl., Ex. 9 at ¶ 3.

9 In order to facilitate this Court's jurisdiction over the pending petition and to
10 prevent the sham removal of Mr. Castillo Rivas to a country that will refuse him at the
11 border, Petitioner requests that he not be transferred out of this jurisdiction while his
12 petition is pending.

13 The Office of the Federal Public Defender has contacted the U.S. Attorney's
14 Office about the motion asking that he not be transferred. Respondents have not
15 responded.

16 DATED this 14th day of January 2026.

17 Respectfully submitted,

18 *s/ Ann K. Wagner*
19 Assistant Federal Public Defender
20 Attorney for Mr. Castillo Rivas

21 I certify this motion contains 762 words in compliance with the Local Civil Rules.
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