


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

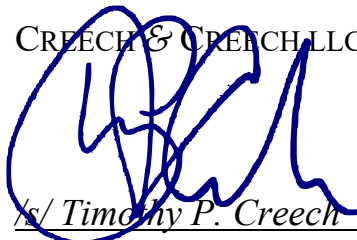
IBRAHIMA MBODJ	:	
A#: 	:	
	:	
Petitioner,	:	
	:	C.A. No.: <u>2:26-cv-00263</u>
v.	:	
	:	
WARDEN OF THE FEDERAL DETENTION	:	
CENTER PHILADELPHIA; <i>et al.</i>	:	
	:	
	:	
Respondents.	:	
	:	

EMERGENCY MOTION FOR PRELIMINARY INJUNCTION

Petitioner Ibrahima Mbodj, by and through undersigned counsel, respectfully moves this Court for a Preliminary Injunction pursuant to Fed.R.Civ.P. 65. This motion is filed in support of Petitioner’s Verified Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. The reasons and authorities for this Motion are set forth in the attached Memorandum of Law. The Status Reports of Petitioner, with Exhibits, are incorporated herein by reference (filed 02/12/2026 and 02/16/2026). A proposed Order in compliance with Fed.R.Civ.P.65 is attached.

Respectfully submitted,

CREECH & CREECH LLC



/s/ Timothy P. Creech

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DATED: February 19, 2026

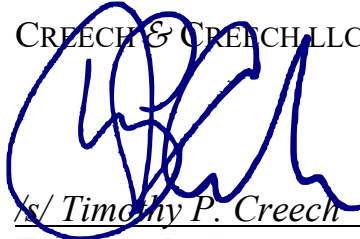
CERTIFICATE OF SERVICE

I certify a true and correct copy of the foregoing was sent *via* ECF Notification to the following

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CREECH & CREECH LLC




/s/ Timothy P. Creech

TIMOTHY P. CREECH

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	:	

**PETITIONER’S BRIEF IN SUPPORT OF EMERGENCY
MOTION FOR PRELIMINARY INJUNCTION**

Petitioner Ibrahim Mbodj, by and through undersigned counsel, states as follows in support of his Motion for Preliminary Injunction pursuant to Fed.R.Civ.P. 65:

This Court is familiar with the matter and has issued an Opinion on February 10, 2026. In the Opinion, this Court found there was a facially reasonable basis for denial of bond, following an individualized hearing. It denied preliminary relief, but did not rule on the Habeas petition. This Court retains jurisdiction over the matter.

In response to that Opinion, Petitioner has filed the “02/10/2026 Status Report” and the “02/16/2026 Status Report,” which are incorporated herein by reference.

In the 02/12/2026 Status Report, Petitioner cited evidence that supports a “strong showing” that the denial of bond was pretextual. In the 02/16/2026 Status Report, Petitioner submitted an affidavit from a recently retired Immigration Judge, Lawrence O. Burman, supporting this contention.

In addition, Petitioner urges this Court to consider the conditions of confinement. Petitioner is prepared to testify to the difficulty of these conditions.

II. ARGUMENT

This Court “has the freedom to fashion preliminary equitable relief so long as they do so by ‘exercising their sound discretion.’” *Reilly v. City of Harrisburg*, 858 F.3d 173, 178-79 (3rd Cir. 2017) quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24, (2008). The factors for the Court to consider are as follows (*Reilly* at 176 (*citations, omitted, cleaned up*):

(1) a reasonable probability of eventual success in the litigation, and (2) that it will be irreparably injured if relief is not granted, In addition, the district court, in considering whether to grant a preliminary injunction, should take into account, when they are relevant, (3) the possibility of harm to other interested persons from the grant or denial of the injunction, and (4) the public interest.

In this matter:

1. The Third Circuit holds that due process demands more than “a mere presumption that the alien will flee or pose a danger.” *German Santos v. Warden, Pike County C.F.*, 965 F.3d 203 (3rd Cir. 2020).
2. Petitioner cites *Dept. of Commerce v. New York*, 588 U.S. 752 (2019): “On a strong showing of bad faith or improper behavior, such an inquiry may be warranted and may justify extra-record discovery.” *Id.* at 781
3. Petitioner makes that “strong showing” by submitting evidence from the Chief Executive, evincing motive to nullify the asylum protections created by Congress; and not to enforce the law in accordance with the statutory requirements for bond.
4. Petitioner submitted an affidavit from a retired immigration judge, showing the asylum bond process is not being applied in accordance with the purpose of the law.
 - a. Berman served as IJ for 27 years and retired at the end of 2025. He regularly adjudicated bond hearings in asylum cases.

- b. When bonds were required (before the policy shift in 2025), the IJ considered ability to pay and set bonds at levels that assured their appearance. They rarely exceeded \$15,000. (*Id.* ¶¶11-14).
 - c. Judge Berman personally observed an alarming shift – abrupt removals of IJs; rising denials; perceived institutional pressure and an erosion of judicial independence. (*Id.* ¶¶18-21).
5. Petitioner has a sponsor who would post bond. His employer stated a willingness to do so. Respondents simply denied bond; it did not consider any lesser measure to reduce the alleged “flight risk[.]”
 6. “Finally, we cannot ignore the conditions of confinement.” *German Santos*, 965 F.3d at 212 (*citation, quotation marks omitted.*) Petitioner is prepared to testify about the deplorable state of his detention. Petitioner respectfully submits the conditions of confinement are efforts to induce him to abandon his claims, not because of “flight risk[.]”
 7. The unlawful detention of an immigrant “is a sufficient irreparable injury.” *Arias Gudino v. Lowe*, 785 F. Supp. 3d 27, 46-47 (M.D. Pa. 2025) (collecting cases).¹
 8. As to this element, the Third Circuit held in *Am. Tel. & Tel. Co. v. Winback & Conserve Program, Inc.*, 42 F.3d 1421, 1427 (3d Cir. 1994):

As a practical matter, if a plaintiff demonstrates both a likelihood of success on the merits and irreparable injury, it almost always will be the case that the public interest will favor the plaintiff. Nonetheless, district courts should award preliminary injunctive relief only upon weighing all four factors.

¹ These first two factors are the “most critical” or “gateway” factors; if met, the “court then considers the remaining two factors and determines in its sound discretion of all four factors, taken together, balance in favor of granting the requested preliminary relief.” *Reilly* at 179. This has been described as a ‘sliding scale’ approach under which a plaintiff who shows great harm has leeway to show less success on the merits, or a plaintiff who shows less harm must show a high likelihood of success on the merits to warrant a preliminary injunction.” *Arias Gudino, supra* at, 46 (M.D. Pa. 2025) (*citations omitted*).

In this matter, Petitioner lived in the community for years prior to re-detention, complied with all reporting requirements, maintained steady employment as a mechanic, and filed tax returns. There is no indication that his release pending adjudication of the habeas petition would pose any risk to public safety or impair the government's ability to pursue removal proceedings in the ordinary course.

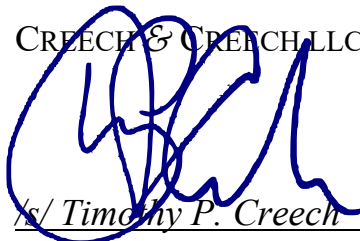
9. The public interest is not served by the continued detention of individuals who are not accused or suspected of any crime, who were living openly in their communities, and who have pending asylum claims after fleeing persecution in their home countries. It is served, however, when courts stand as a safeguard for individual liberty and ensure that government power is exercised within the limits imposed by law. This is particularly true here, where a person has been imprisoned for unlawful reasons.

III. CONCLUSION

For all the above reasons and authorities, Petitioner's Motion for Preliminary Injunction should be GRANTED and this Court should grant such other relief as it deems just and proper.

Respectfully submitted,

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physical liberty, separation from family, community and employment, and deprivation of Constitutional rights, for which there is no adequate remedy at law.

5. Petitioner is likely to succeed on the merits of that Petition. There is good cause for extra-record discovery as to whether the denial of bond is pretextual.

Accordingly, it is hereby ORDERED as follows:

1. Respondents, their officers, agents, servants, employees, and all persons acting in concert or participation with them, are ENJOINED from detaining Petitioner until the final adjudication of the Petition for Writ of Habeas Corpus.
2. Respondents shall IMMEDIATELY RELEASE Petitioner from custody;
3. No bond shall be required pursuant to Federal Rule of Civil Procedure 65(c).

SO ORDERED,

, J.