

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

IVAN LUIS FABREGAS COLINA

Petitioner

v.

Warden, GLADES COUNTY DETENTION
CENTER, et al.,

Respondents.

Case No. 2:26-cv-00084-KCD-NPM

**EMERGENCY MOTION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION TO PRESERVE
JURISDICTION**

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION TO ENJOIN FURTHER TRANSFERS AND REMOVAL**

EMERGENCY MOTION

Petitioner Ivan Luis Fabregas Colina, pursuant to Federal Rule of Civil Procedure 65, the Court's inherent habeas authority, and the All Writs Act, 28 U.S.C. § 1651, moves this Court for entry of a Temporary Restraining Order and Preliminary Injunction preserving this Court's jurisdiction during the pendency of his 28 U.S.C. § 2241 habeas petition, and in support states as follows:

1. This motion is time-sensitive because Petitioner has already been transferred out of the District after the Court's Order to Show Cause, and Respondents may effectuate further transfers or removal at any time, which would impair Petitioner's access to counsel and frustrate this Court's ability to adjudicate the pending habeas petition. Petitioner respectfully requests a ruling by January 30, 2026.
2. On January 20, 2026, Petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 while physically detained at Glades County Detention Center within the Middle District of Florida.
3. On the same date, this Court entered an Order directing Respondents to show cause by February 20, 2026, and directed service of the Petition and Order on the United States Attorney and the Attorney General.
4. After the Petition was filed and while it remains pending before this Court, Respondents transferred Petitioner on January 26, 2026 from Glades County Detention Center to Port Isabel Service Detention Center in Texas.
5. Absent injunctive relief, Respondents retain the unilateral ability to effectuate further

transfers or removal that would impair Petitioner's access to counsel, interfere with compliance with this Court's schedule, and risk frustrating or mooted meaningful habeas review.

6. The narrowly tailored relief requested herein is necessary to preserve this Court's jurisdiction and ensure the orderly adjudication of the pending habeas petition.
7. This emergency motion is supported by the embedded Memorandum of Law set forth below.

WHEREFORE, Petitioner respectfully requests that the Court enter a Temporary Restraining Order, followed by a Preliminary Injunction after notice and hearing, as more fully set forth in the Conclusion.

MEMORANDUM OF LAW

I. INTRODUCTION

This case concerns the Court's authority to adjudicate a properly filed habeas petition free from interference caused by post-filing custodial transfers. Petitioner is a noncitizen detained by the Department of Homeland Security. After this Court's habeas jurisdiction attached and the Court issued a show-cause order, Respondents transferred Petitioner outside the Middle District of Florida.

Petitioner does not seek release through this motion. He seeks only limited, interim relief to preserve the status quo, protect this Court's jurisdiction, and ensure meaningful access to counsel and the Court while his habeas petition is adjudicated.

II. LEGAL STANDARD

A temporary restraining order or preliminary injunction may issue where the movant demonstrates a substantial likelihood of success on the merits, that irreparable harm will occur absent injunctive relief, that the balance of equities favors the requested relief, and that an injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

When, as here, the Government is the opposing party, the balance of equities and the public interest considerations merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

III. ARGUMENT

A. The Requested Relief Preserves This Court's Jurisdiction and the Effectiveness of Habeas Review

Habeas jurisdiction attaches at the time a petition is filed. A post-filing custodial transfer does not divest a federal court of jurisdiction. *Goodman v. Keohane*, 663 F.2d 1044, 1047 (11th Cir. 1981). Federal courts possess inherent authority, as well as authority under the **All Writs Act**, to issue orders necessary to protect their jurisdiction and prevent conduct that would frustrate adjudication of a pending case. *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1099–1102 (11th Cir. 2004).

Here, the Court has already exercised jurisdiction by issuing a show-cause order and setting a response deadline. Further transfers or removal during this period would directly interfere with the Court's ability to adjudicate the Petition and risk rendering habeas review ineffective.

B. Petitioner Is Likely to Succeed on the Merits or Raises Serious Questions Warranting Injunctive Relief

Petitioner's pending habeas petition challenges the legality of his continued detention following his release pursuant to a judicial bond order and subsequent re-detention without new individualized findings or procedural safeguards. This Court has already determined that the Petition warrants a response by issuing a show-cause order, reflecting that Petitioner's claims are non-frivolous and appropriate for judicial review.

At a minimum, Petitioner has raised serious questions going to the merits of his detention

sufficient to warrant interim injunctive relief. Preservation of the status quo is necessary to ensure that this Court retains the ability to resolve those questions on a full record and to prevent executive action from frustrating meaningful habeas review while the merits of the Petition are adjudicated.

C. Petitioner Will Suffer Irreparable Harm Absent Injunctive Relief

Absent injunctive relief, Petitioner will suffer ongoing and irreparable harm. Following his post-filing transfer outside this District, Petitioner's ability to consult meaningfully with counsel of record—who are litigating this matter before this Court—is substantially impaired. The transfer also disrupts Petitioner's ability to prepare filings, gather evidence, and comply with this Court's active scheduling order, including the pending show-cause deadline. These harms are not speculative; they are occurring now and will continue absent judicial intervention.

Moreover, without injunctive relief, Respondents retain the unilateral ability to effectuate additional transfers or removal during the pendency of this action, which would frustrate or moot this Court's ability to provide effective habeas relief. The loss of meaningful habeas review and interference with a federal court's jurisdiction constitute paradigmatic forms of irreparable injury. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

D. The Balance of Equities and Public Interest Favor Relief

The relief requested is narrow and imposes minimal burden on Respondents, requiring only maintenance of the status quo during the pendency of this habeas action. Petitioner does not seek release through this motion, nor does he seek to interfere with the Government's ultimate enforcement authority. Rather, the requested relief preserves this Court's ability to adjudicate a properly filed habeas petition without disruption caused by post-filing transfers or removal.

By contrast, denial of injunctive relief risks nullifying this Court's jurisdiction and depriving

Petitioner of meaningful judicial review. The public interest is served by orderly judicial review and by ensuring that executive detention remains subject to meaningful court oversight and compliance with the rule of law. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992).

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court enter an order: (1) enjoining Respondents from transferring Petitioner to any other facility and from removing Petitioner from the United States during the pendency of this habeas action; (2) directing Respondents to ensure Petitioner's reasonable access to counsel and legal materials; and (3) granting such other relief as the Court deems just and proper. In the alternative, if the Court determines that return to this District is necessary to preserve jurisdiction or ensure meaningful access to counsel, Petitioner respectfully requests an order directing Respondents to return Petitioner to the Middle District of Florida for the duration of these proceedings.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 27, 2026, a true and correct copy of the foregoing EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION served via CM/ECF and/or electronic service upon counsel for Respondents.

/s/ Arno Lemus, Esq.

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