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**UNITED STATES DISTRICT COURT
FOR THE EASTER DISTRICT OF PENNSYLVANIA**

HAMI CAN KAYAS, Agency No. 

Petitioner,

v.

JL JAMISON, WARDEN.

Federal Detention Center

Respondent.

Civil Action No. _____

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
ORDER TO SHOW CAUSE**

Immigration Habeas Case

INTRODUCTION

Petitioner, by and through undersigned counsel, respectfully moves this Court pursuant to Fed. R. Civ. P. 65(b), 28 U.S.C. § 2241, and Local Civil Rule 65.1 for an Emergency Temporary Restraining Order to prevent imminent and irreparable harm arising from Petitioner's unlawful detention and/or removal while the accompanying Petition for Writ of Habeas Corpus is pending.

FACTUAL BACKGROUND

1. Petitioner is a citizen and a national of Turkey, currently detained at the Philadelphia Federal Detention Center located at 700 Arch Street, within the jurisdiction of this Court.
2. Petitioner has a properly filed application for asylum presently pending before the Immigration Court. (Exhibit A).
3. Petitioner timely filed his asylum application in August of 2023, and it is pending before the Philadelphia Immigration Court who has yet to schedule a hearing after venue was recently changed from Newark, NJ Immigration Court. (Exhibit "B").
4. Petitioner should be given the opportunity to present the asylum claim to the Immigration Court so that he is not forced to return to my country which he fears returning and from which he is trying to flee.

5. Since he entered the U.S. on or about February 17, 2023, and to this day, petitioner has not committed any crimes.
6. As a result of his application for asylum he has been issued a card authorizing him to work in the U.S. and he has been legally employed.
7. ICE apprehended the petitioner at a routine check-in appointment that was part of his condition of release and intends to remove him despite the existence and the pendency of a properly filed asylum case currently pending before the Immigration Court.
8. Removal before adjudication of the habeas petition will cause irreparable harm, including the possibility/probability of being subjected to violence, loss of legal rights, and potential persecution.

LEGAL STANDARD

Under **Fed. R. Civ. P. 65(b)** and **E.D. Pa. Local Civil Rule 65.1**, a TRO may issue without notice to the adverse party if specific facts in an affidavit or verified complaint clearly show that immediate and irreparable injury will result before the adverse party can be heard.

The Third Circuit applies the four-factor test:

- (1) likelihood of success on the merits.
- (2) irreparable harm absent relief.
- (3) balance of equities; and
- (4) public interest. *See Kos Pharm., Inc. v. Andrx Corp.*, 369 F.3d 700 (3d Cir. 2004).

ARGUMENT

1. **Likelihood of Success** – Petitioner’s detention/removal violates statutory and constitutional protections, including due process under the Fifth. and the Fourteenth amendments
2. **Irreparable Harm** – Deportation before judicial review would permanently deprive Petitioner of the ability to pursue lawful relief.
3. **Balance of Equities** – The harm to Petitioner outweighs any administrative burden on Respondents.
4. **Public Interest** – Upholding constitutional rights and ensuring lawful process serves the public interest.

REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. Issue a Temporary Restraining Order Enjoining Respondents from removing Petitioner from the United States until final resolution of the Habeas petition.
2. Order Respondents to show cause why a preliminary injunction should not be issued; and
3. Grant such other relief as the Court deems just and proper

PROPOSED ORDER

AND NOW, this ___ day of _____, 2026, upon consideration of Petitioner's Emergency Motion for Temporary Restraining Order, it is hereby ORDERED that:

1. Respondents, and all persons acting on their behalf, are temporarily restrained from removing Petitioner from the United States pending further order of this Court;
2. Respondents shall appear before this Court on the ___ day of _____, 2026, at : __. m., to show cause why a preliminary injunction should not issue; and
3. This Order shall remain in effect until further order of the Court.

Respectfully submitted,

/s/Renee Hykel Cuddy

Renee Hykel Cuddy

Attorney for Petitioner, Hami Can KAYAS

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Dated: 1/28/2026