

RICARDO DE LEON TREJO,
Petitioner,

V.

SCOTT LADWIG, Acting Director of the New
Orleans Field Office of ICE, in his official
capacity; TOM SPANGLER, Sheriff of Knox
County, Tennessee, in his official capacity,

Respondents.

Case No.: 3:26-cv-00047

Agency Case No.: A [REDACTED]

28 U.S.C. § 2241

Judge Charles E. Atchley, Jr.

DEMAND FOR IMMEDIATE
RELEASE AND/OR STAY OF
TRANSFER

Petitioner Ricardo De Leon Trejo respectfully requests that this Court deny Respondents' Motion for Relief [Doc. 7] and maintain its Temporary Restraining Order [Doc. 4]. Respondents' motion is a post-hoc attempt to sanitize a "race to the border" executed while an emergency motion was pending. This conduct was facilitated by Respondents' lack of candor during the meet-and-confer process and followed by an unprecedented acceleration of administrative proceedings intended to moot this Court's authority.

On February 2, 2026, counsel for Petitioner conferred with AUSA Robert McConkey regarding a voluntary stay of transfer. Mr. McConkey represented that he would "consult with [his] client agency and get back to [counsel]." ECF Doc. 5, Exh. 1. Petitioner relied on this professional representation to his detriment.

Had Respondents been transparent that a transfer was already in motion or that they intended to advance Petitioner's administrative hearing by thirteen days to February 5, Petitioner would have requested an immediate emergency telephonic conference with this Court on February 2. Instead, Respondents laid in the weeds, allowing the transport to proceed while Petitioner's counsel waited for a response that never came. Respondents should not be permitted to benefit from an exigency of their own making.

II. THE TRANSFER DOES NOT RENDER THE COURT'S ORDER NUGATORY

Respondents argue that because Petitioner was booked into an Alabama facility at 8:33 AM EST, prior to the 11:48 AM EST docketing of the Order, the Court should lift its injunction. This argument is legally and equitably flawed:

- 1. Jurisdiction is Fixed at Filing:** Under the *Ex Parte Endo* doctrine, 323 U.S. 283 (1944), jurisdiction over a habeas petition is not defeated by the physical removal of the petitioner from the district after the petition has been filed. This Court maintains jurisdiction over the custodian and the inherent authority to order the Petitioner's return.
- 2. Duty to Halt:** The Court's Order [Doc. 4] is clear. Once served, Respondents had an immediate duty to halt any ongoing transfer. The fact that the "booking" occurred shortly before the Order was docketed does not excuse the refusal to return the Petitioner once the Court's command was known.

III. THE MANUFACTURED EXIGENCY OF THE FEBRUARY 5 HEARING

Respondents now reveal that Petitioner is scheduled for an initial hearing tomorrow morning, February 5, 2026. As of yesterday, that hearing was set for February 18, 2026. The abrupt advancement of this hearing by nearly two weeks—occurring only *after* this federal action was filed—is a transparent attempt to secure a removal order while Petitioner is isolated from his

counsel. This "backdoor" scheduling creates the very "irreparable harm" the TRO sought to prevent: the total severance of Petitioner's right to meaningful consultation with his Nashville-based counsel. *See, e.g., Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003).

IV. LOGISTICAL INCONVENIENCE IS NO DEFENSE TO A FEDERAL INJUNCTION

Respondents claim they lack "long term" facilities in this District. This is a self-inflicted administrative hurdle that cannot override a Federal Court Order. *See Mukhiguli v. Ladwig*, No. 2:24-cv-02750 (W.D. Tenn. 2024) (logistical preferences do not frustrate habeas jurisdiction).

This Court has already determined that Petitioner is likely to succeed on the merits of his claim that his detention is unlawful under 8 U.S.C. § 1226(a). ECF Doc. 4, Order, *citing Patino v. Ladwig*, No. 3:25-cv-00569 (E.D. Tenn. 2025). If Respondents truly cannot house Petitioner in Knoxville without violating this Court's injunction, the law provides a clear alternative: immediate release on recognizance. Respondents cannot use their lack of local beds as a license to ignore an injunction and "fast-track" a resident away from his three U.S. citizen children and his legal team.

V. EXTRAORDINARY IRREPARABLE HARM TO PETITIONER'S FAMILY UNITY

Respondents' unilateral decision to remove Petitioner from this District inflicts a specific and profound irreparable harm on Petitioner's family that cannot be remedied by a "form E-28" or a remote hearing. Petitioner is the father of three (3) U.S. citizen children who reside in Knoxville, less than 25 minutes from the facility where Petitioner was being held.

- 1. Severance of Vital Family Ties:** By moving Petitioner to Alabama, Respondents have transformed a 20-minute local trip for a distraught family into a multi-state journey. This effectively severs the physical bond between a father and his children during the pendency of a case where this Court has already found the father is likely being detained illegally.

2. **The "No Local Facilities" Fallacy:** As previously stated, ICE's choice not to maintain a long-term facility in Knoxville is not a license to relocate residents away from their families in violation of a court order. If the Government's logistical choices prevent them from keeping a father near his children in compliance with an injunction, the equitable remedy is not to "lift the order" to suit the Government's convenience—it is to release the Petitioner so that the *status quo* of the family unit is preserved while the legal questions are briefed, (see *G&V Lounge, Inc. v. Mich. Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994) (holding that it is always in the public interest to prevent the violation of constitutional rights), which includes the fundamental liberty interest in familial association.

VI. CONCLUSION

Respondents seek to profit from their own defiance. Petitioner respectfully requests that the Court **DENY** Respondents' Motion [Doc. 7], maintain the TRO, and **ORDER** Respondents to return Petitioner to the District immediately or, in the alternative, release him pending the outcome of these proceedings.

Respectfully submitted, this February 4, 2026

/ s / Aaron Dendy, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of February, 2026, a copy of the foregoing **PETITIONER'S RESPONSE IN OPPOSITION TO RESPONDENTS' EMERGENCY MOTION FOR RELIEF FROM ORDER [DOC. 7]** was filed electronically via ECF and as such, a copy will be served upon Respondents' counsel.

Respectfully submitted, this February 4, 2026

/s/ Seamus Kelly
Seamus Kelly