

SCOTT KEITH WILSON, Interim Federal Public Defender (#7347)
BENJAMIN C. McMURRAY, Assistant Federal Public Defender (#9926)
Utah Federal Public Defender Office
Attorneys for Defendant
46 West Broadway, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010
Fax: (801) 524-4060

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

JOHAN ANDRES VELASQUEZ
MONTILLO,
Petitioner,

Petitioner,

v.

NATE BROOKSBY, Washington County
Sherrif, RUBEN LEYVA, Acting Field
Office Director, Salt Lake City Enforcement
and Removal Operations, U.S. Immigration
and Customs Enforcement (ICE/ERO);
BRIAN HENKE Field Office Director for
Las Vegas/Salt Lake City;
KRISTI NOEM, Secretary United States
Department of Homeland Security;
PAMELA BONDI, U.S. Attorney General,

Respondents.

**EMERGENCY MOTION TO
STAY TRANSFER
DURING PENDENCY OF PETITION**

Case No. 4:26-cv-18

Petitioner Johan Velasquez moves this court to order Respondents not to transfer him 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).

The basis for his petition is that Respondents have unlawfully detained him in violation of federal law and the Constitution after releasing him from ICE custody in 2023 under 8 U.S.C. § 1226 and an Order of Release on Recognizance (ORR).

If ICE moves him out of state, his ability to confer with counsel will be curtailed, thus prolonging his unlawful detention. His immigration case was litigated in Utah, and his immigration attorneys are also in Utah, so witnesses and evidence that may need to be produced at a hearing are all in Utah. Allowing Respondents to transfer him out of state will unnecessarily prolong his detention and cause irreparable harm.

Courts around the country are granting such orders to protect their jurisdiction and the right to counsel. “[T]ransfer 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). And this court has “inherent power to preserve its ability to hear the case.” *Alves v. U.S. Dep’t of Just.*, 2025 WL 2629763, at *5 (W.D. Tex. Sept. 12, 2025) (same). These orders are hardly uncommon. *See, e.g., M.M. v. Wamsley*, 2025 WL 3053023, at *1 (W.D. Wash. Oct. 31, 2025) (same); *Bustos v. Raycraft*, 2025 WL 3022294, at *2 (E.D. Mich. Oct. 29, 2025); *Ferro v. Hyde*, No. 2025 WL 3003708, at *1 (D. Me. Oct. 27, 2025) (order issued same day petition was filed); *Lopez Pop v. Noem*, 2025 WL 3050095, at *7 (C.D. Cal. Oct. 3, 2025); *Singh v. Delaney Hall*, 2025 WL 2772644, at *1 (D.N.J. Sept. 29, 2025); *Hom v. Ceja*, 2025 WL 2801449, at *2 (D. Colo. Sept. 17, 2025).

In order to preserve this court’s jurisdiction over the pending petition and to ensure Mr. Velasquez has adequate access to counsel, Mr. Velasquez requests that he not be transferred out of this jurisdiction while his petition is pending. If the court is unwilling to prohibit a transfer

during the pendency of the petition without hearing first from Respondents, it should at least prevent the transfer pending a response and reply to this motion.

DATED this 15th day of February 2026.

/s/ Benjamin C. McMurray
BENJAMIN C. McMURRAY
Assistant Federal Public Defender