**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

SAUL JUAREZ SANCHEZ, Petitioner, v. VERNON LIGGINS, *et al.*[1] Respondents.	Case No. 1:26-cv-00742-LKG

OPPOSITION TO MODIFIED MOTION FOR TEMPORARY RESTRAINING ORDER OR EXPEDITED PRELIMINARY INJUNCTION

Respondents, by and through counsel, Kelly O. Hayes, United States Attorney for the District of Maryland, S. Nicole Nardone, Assistant United States Attorney for that district, hereby respond to the Petitioner's Modified Motion for Temporary Restraining Order or Expedited Preliminary Injunction ("Motion for TRO") filed by Petitioner on March 2, 2026, at ECF 14.

I. INTRODUCTION

Petitioner's Motion for TRO seeks an order requiring that Respondents transfer Petitioner within three days to a detention facility within a two-hour drive of Baltimore, Maryland, or, in the alternative, that Petitioner be ordered immediately released from his current detention facility in Louisiana. ECF 14 at 1. In order to grant his request for release, this Court would have to engage in a process which by statute falls under the exclusive authority of an immigration judge once removal proceedings have been initiated. Further, even if the Court were to decide based on the parties Joint Notice (ECF 13) that Petitioner is detained under 8 U.S.C. § 1226(a), Petitioner's

[1] Vernon Liggins was recently named Acting Field Office Director for Immigration and Customs Enforcement's Baltimore Field Office. Pursuant to Federal Rule of Civil Procedure 25(d), Madam Clerk shall substitute Vernon Liggins for as a Defendant in this action.

avenue for seeking release from detention under § 1226(a) is through a bond hearing with an immigration judge, as the vast majority of judges in this District have concluded. To the extent, Petitioner requests that he be relocated to particular ICE detention facility, his arguments are similarly flawed as the Attorney General is granted the discretion to determine "appropriate places of detention" during removal proceedings. Once Petitioner was placed in removal proceedings, only an immigration judge has the power to determine whether and under what circumstances Petitioner may be eligible for release during those removal proceedings and only USCIS has the discretion to determine his place of detention.

I. BACKGROUND

On February 13, 2024, Petitioner was encountered by the United States Border Patrol at or near Sasabe, Arizona, and was notified that he was being placed in removal proceedings under section 240 of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1229a, with the issuance of a "Notice to Appear" ("Form I-862"). *See attached Exh. A.* The Notice to Appear ("NTA") charged Petitioner with removability under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without admission or parole, or who arrived in the United States at any time or place other than as designated by the Attorney General. *Id.*

On February 19, 2026, ICE ERO Unit encountered Petitioner as part of a targeted operation to arrest several subjects illegally present in the United States in Salisbury, Maryland. Petitioner was arrested and issued an administrative warrant and was initially detained in the Baltimore holding facility. Soon thereafter, he was transferred to the Winn Correctional Center in Winnfield, Louisiana, where he is currently detained.

II. PROCEDURAL HISTORY

On February 23, 2026, Petitioner filed a Petition for Writ of Habeas Corpus (ECF 1), in which Petitioner alleged that 8 U.S.C. § 1226 should apply to his detention and, to the

extent Petitioner was being held in mandatory detention under 8 U.S.C. § 1225(b), his detention violated due process and the constitution. On February 24, 2026, the Court entered an Order directing the parties to meet and confer and file a joint status report on or before February 26, 2026. ECF 7. In response to this Court's Order, on February 25, 2026, Respondents sent Petitioner a draft joint notice. On February 25, 2026, Petitioner filed an Emergency Motion for Temporary Restraining Order to Prevent Petitioner's Removal from Maryland. ECF 9.

On February 25, 2026, the parties filed a Joint Notice indicating that Respondent would not submit briefing with regard to the question of whether someone who was detained was subject to mandatory or discretionary detention under 8 U.S.C. § 1225, or § 1226 as that issue had already been briefed many times by Respondents, and Respondents would rely on the briefing in its prior referenced cases. ECF 13 at 1-2. Petitioner provided that he understood Respondents' position regarding jurisdiction and statutory construction as previously articulated in Respondents' briefs and would submit a Reply as to those questions on the basis of those prior briefs, without requiring Respondents to submit a substantially duplicative brief. *Id.* at 2. The parties noted that they disagreed as to the appropriate remedy in this case. *Id.* at 2. Petitioner indicated that he is seeking: (1) his return to the State of Maryland; (2) his immediate release; or in the alternative, (3) a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days. *Id.* at 2-3. The parties also included a briefing schedule for Petitioner's modified TRO. Id. at 3.[2] Pursuant to the parties agreed upon briefing schedule, on March 2, 2026, Petitioner filed a Modified Motion for TRO or Expedited

[2] During the parties discussions, the government explained to Petitioner's counsel that Petitioner could not be returned Baltimore as the Baltimore Field Office is not a detention center and is equipped only for short-term holding. As this Court is aware, there are no ICE detention facilities in Maryland. Maryland State and Local facilities are prohibited from housing ICE detainees. Detention Not Dignity Act, H.B. 16, 2021 Leg., 443rd Sess. (Md. 2021) (prohibiting governmental entities from entering into agreements which would provide facilities to be used to house immigration-related detainees).

Preliminary Injunction (ECF 14) requesting that the Court transfer Petitioner to a detention facility within two hours' drive to Baltimore, Maryland, within three calendar days or order Petitioner's immediate release from the facility in Louisiana. ECF 14 at 1.

II. LEGAL STANDARDS

Before a court may rule on the merits of a claim, it must first determine if "it has the jurisdiction over the category of claim in suit (subject [] matter jurisdiction)." *Sinochem Int'l Co. Ltd. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422, 430-31 (2007) (citing *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 93-102 (1998)). The burden of proving subject matter jurisdiction rests with the plaintiff. *Evans v. B.F. Perkins Co.*, 166 F.3d 642, 647 (4th Cir. 1999). In determining whether subject matter jurisdiction exists "as a threshold matter," a court "may consider evidence outside the pleadings. *Evans*, 166 F.3d at 647; *see also Williams v. United States*, 50 F.3d 299, 304 (4th Cir. 1995)

Like a preliminary injunction, a TRO is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief' and may never be awarded 'as of right.'" *Mountain Valley Pipeline, LLC v. W. Pocahontas Properties Ltd. P'ship*, 918 F.3d 353, 366 (4th Cir. 2019) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22, 24 (2008)). "A party seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Roe v. Dep't of Def.*, 947 F.3d 207, 219 (4th Cir. 2020), *as amended* (Jan. 14, 2020) (citation omitted). Plaintiff fails to his establish entitlement to a TRO in this matter.

III. ARGUMENT

A. Petitioner is In Removal Proceedings and His Detention is Mandatory; This Court Lacks Jurisdiction to Address His Eligibility for Release.

Removal proceedings commence once the NTA has been issued, served upon an individual, and filed with the Immigration Court. *See* 8 U.S.C. § 1229(a). All three happened in this matter on February 13, 2024. *See* Exh A. The NTA cites the following section of the INA. Section 212(a)(6)(A)(i) at 8 U.S.C. § 1182 (a)(6)(A)(i), that provides that an alien who is present or arrives in the United States without being admitted or paroled is inadmissible; it known as the "unlawful presence" or "entry without inspection" provision. With respect to this provision, subject to exclusions not applicable here, detention by the immigration officer is *mandatory* under 8 U.S.C. § 1225(b)(1) (an alien found inadmissible under sections 1182(a)(6)(C) "shall be detained" for a removal proceeding under section 1229a).

Once the individual is in removal proceedings, under 8 U.S.C. § 1229a, a proceeding before an immigration judge "shall be the sole and exclusive procedure" for determining "whether an alien may be removed from the United States." That applies to the decision to place a responded in removal proceedings, and the custody decision. Under 8 U.S.C. § 1252(b)(9), the decision to detain the Petitioner here is not subject to judicial review: "questions of law and fact, including interpretation and application of constitutional and statutory provisions arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section." *See El Gamal v. Noem*, No. SA-25-CV-00664-OLG, 2025 WL 1857593, at *5 (W.D. Tex. July 2, 2025) (because Petitioners are challenging the decision to detain them in the first place, § 1252(b)(9) functions as a jurisdictional bar to judicial review) citing *Nielsen v. Preap*, 586 U.S. 392, 402 (2019); *Jennings v. Rodriguez*, 583 U.S. 281, 294-95 (2018); see also *Dep't of Homeland Sec. v. Thuraissigiam*, 591

U.S. 103, 108 (2020) ("If ... the alien is ordered removed, the alien can appeal the removal order to [BIA] and, if that appeal is unsuccessful, the alien is generally entitled to review in a federal court of appeals.").

Further, if the Court were to issue an order finding that Petitioner is detained pursuant to 8 U.S.C. § 1226(a), the proper remedy is for Petitioner to have a bond hearing before an immigration judge -- not immediate release. *See* 8 C.F.R. § 236.1(d)(1) ("After an initial custody determination by [DHS], including the setting of a bond, the [alien] may, at any time before an order under 8 CFR part 240 becomes final, request amelioration of the conditions under which he or she may be released." (emphasis added)). Although Petitioner urges this Court for his immediate release, the vast majority of Courts, including those in this District, have found that petitioners detained under 8 U.S.C. § 1226 are entitled to a bond hearing -- not immediate release. *See e.g. Garcia Vigil v. Noem*, Case No. 1:25-cv-03329-JRR (Nov. 4. 2025); *Machado-Meza v. Bondi*, Case No. 1:26-cv-00424-TDC (Feb. 18, 2026); *Ruiz v. Bondi*, Case No. 1:26-cv-00417-DLB (Feb. 18, 2026). Thus, the Court should not grant Petitioner's request for immediate release here.

B. ICE Has the Exclusive Discretion to Determine the Place of Detention During Removal Proceedings.

Petitioner alternatively requests that the Court order Petitioner's transfer within three calendar days to a detention facility that is within two hours' drive of Baltimore, Maryland. ECF 14 at 1. Petitioner argues that he will suffer irreparable harm unless he is transferred as his detention in Louisiana has impeded his communications with counsel and "is likely to create unnecessary delay in resolving the urgent proceeding before this Court." ECF 14 at 6. Petitioner also asserts that he will suffer "[a]dditional irreparable harms . . . including the loss of the opportunity to see his wife and child, who reside in Mayland." *Id.* at 7.

The location of Petitioner's detention is delegated to the Attorney who must "arrange for appropriate places of detention for aliens detained pending removal." 8 U.S.C. § 1231(g)(1)). The Attorney General's discretionary power to transfer aliens from one locale to another, as [he or] she deems appropriate, arises from this language." *Van Dinh v. Reno*, 197 F.3d 427, 433 (10th Cir. 1999) (holding that § 1252(f) forecloses jurisdiction over the Attorney General's power to transfer aliens to appropriate facilities, including attempts to do so through the request for relief in a Bivens action).

Other Courts have reached similar conclusions in actions seeking review of decisions made during removal proceedings. *See Calla-Collado v. Att'y Gen.*, 663 F.3d 680, 685 (3d Cir. 2011) (ICE "necessarily has the authority to determine the location of detention of an alien in deportation proceedings ... and therefore, to transfer aliens from one detention center to another"); *Gandarillas–Zambrana v. Bd. of Immigration Appeals*, 44 F.3d 1251, 1256 (4th Cir. 1995) (INS necessarily has the authority to determine the location of detention of an alien in deportation proceedings under 8 U.S.C. § 1252(c), and therefore, to transfer aliens from one detention center to another; "there is nothing inherently irregular, not to say unconstitutional, about the transfer from Virginia to Louisiana.")

Indeed, because the location of his detention is within sound discretion of Attorney General under 8 U.S.C. § 1252(c), Petitioner cannot establish a likelihood that his detention location challenge would succeed. Moreover, in *Maldonado v. Baker*, 1:25-cv-03084-TDC (Sept. 9, 2025), the Court found that Petitioner failed to make a sufficient showing as to the *Winter* factors to justify a TRO based on concerns similar to those raised by Petitioner here. The Court in *Maldonado* observed:

> Notably, the concerns he raises about the location of his detention and of his removal proceedings, including in relation to access to counsel, likely do not identify a violation of specific rights. *See Gandarillas-Zambrana v. Bd. of Immigr. Appeals*, 44 F.3d 1251, 1255-56 (4th Cir. 1995) (rejecting arguments that transferring immigration proceedings from Virginia to Louisiana violated procedural due process because of its impact on the petitioner's right to counsel and to present witnesses); *Reyna ex rel. JF.G. v. Holl*, 921 F.3d 204, 210 (4th Cir. 2019) (finding that although courts have jurisdiction to review transfer decisions relating to immigration detainees, the transfer of the plaintiffs from Virginia to Texas did not violate substantive or procedural due process based on the distance from family members).

Id. See also Sasso v. Milhollan, 735 F. Supp. 1045, 1048-49 (S.D. Fla. 1990) (denying TRO and concluding: (1) given the history of this legislation together with the broad grant of discretion afforded the Attorney General pursuant to 8 U.S.C. 1252(c), plaintiff did not establish likelihood of success on the merits, (2) irreparable harm cannot be shown since respondent would be afforded same right to present witnesses and be represented by counsel regardless of the location of his detention and the fact that testifying in El Paso may be less convenient the witnesses does not rise to the level of irreparable injury; (3) a deportation hearing in El Paso will accord Sasso all of the rights and privileges and thus poses no significant harm to the respondent, but such a ruling negatively impact the public interest by jeopardizing the orderly and efficient administration of this country's immigration laws, requiring the court to severely restrict the discretion of the Attorney General, and require that the court ignore specific statutes governing the detention of aliens).

For the reasons discussed above, the many factors that are considered by the Attorney General regarding the location or relocation of detainees should not be disturbed but this Court. Moreover, the concerns raised by Petitioner regarding communication with counsel are not

sufficient to constitute irreparable to warrant the extraordinary remedy of a TRO pursuant to the *Winter* factors.

IV. CONCLUSION

For all of the reasons set forth above, Petitioner is not likely to succeed on the merits of his demand for an order requiring that this Court order his release or relocate his detention facility. As a result, the Court should deny Petitioner's Emergency Motion for Temporary Restraining Order.

Dated: March 4, 2026

Respectfully submitted,

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By: */s/ S. Nicole Nardone*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of March 2026, a copy of the foregoing was served electronically on all parties and counsel receiving service via CM/ECF in this case.

/s/ S. Nicole Nardone
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Assistant United States Attorney