ALISHER DURDYYEV,
A-Number [redacted]

Petitioner,

v.

WARDEN, Elizabeth Contract Detention Facility; JOHN TSOUKARIS, Field Office Director, ICE ERO Newark Field Office; TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of Homeland Security; and TODD BLANCHE, Acting Attorney General of the United States, each in his or her official capacity,

Respondents.

Civil Action No. 1:26-cv-04139-RMB

PETITIONER'S EMERGENCY MOTION TO ENFORCE THE COURT'S APRIL 19, 2026 RELEASE ORDER (ECF NO. 4) AND TO ORDER PETITIONER'S RETURN TO THE DISTRICT OF NEW JERSEY

Petitioner Alisher Durdyyev, by and through undersigned counsel, respectfully moves this Court, on an emergency basis, for the relief set forth above. The grounds are briefly stated here and elaborated in the accompanying Memorandum of Law in Support and the Declaration of Robert Bond, Esq.

First, on April 19, 2026 at 2:40:55 p.m. EDT, this Court entered a substantive text Order (ECF No. 4) holding that Petitioner's detention violates the statute and due process under Rivera Zumba v. Bondi, No. 25-14626 (KSH), 2025 WL 2753496 (D.N.J. Sept. 26, 2025), Rivas Rodriguez v. Rokosky, No. 25-17419 (CPO), 2025 WL 3485628 (D.N.J. Dec. 3, 2025), and other recent decisions in this District, and ordering that Respondents either (a) file an expedited answer within three (3) days or (b) release Petitioner within three (3) days of entry. That three-day release deadline falls on April 22, 2026.

Second, at 1:59:02 p.m. EDT on the same day — forty-one minutes before ECF No. 4 — the Court entered a text order (ECF No. 3) enjoining Respondents from transferring Petitioner from the District of New Jersey pending further order of the Court. Respondents subsequently disclosed (by letter dated April 19, 2026, ECF No. 5) that ICE had transported Petitioner out of the Elizabeth Contract Detention Facility at approximately 9:00 a.m. and flown him from Newark, New Jersey at approximately 12:40 p.m. to the Winn Correctional Center in Winnfield, Louisiana. Respondents' position is that the transfer preceded the Court's text orders.

Third, the transfer does not defeat this Court's jurisdiction. Jurisdiction in a habeas action is fixed at the time of filing; it is not unwound by a post-filing transfer, whether that transfer is executed before or after a subsequent injunction issues. Ex parte Endo, 323 U.S. 283, 306 (1944); Rumsfeld v. Padilla, 542 U.S. 426, 441 (2004). Petitioner's legal custodian — the ICE ERO Newark Field Office Director, a named Respondent — remains within this District. ICE's own Online Detainee Locator System lists the "NEWARK, NJ, DOCKET CONTROL OFFICE" as the managing ERO office for Petitioner today. And this Court has already exercised its jurisdiction: it entered a release order (ECF No. 4) at 2:40 p.m., after the transfer.

Fourth, every act of illegality alleged in the Petition occurred in this District: the warrantless seizure of Petitioner on April 14, 2026 at the USCIS Newark Asylum Office in Lyndhurst, New Jersey; his detention at the Elizabeth Contract Detention Facility in Elizabeth, New Jersey; the failure — continuing through the date of transfer — to serve any Notice to Appear, in violation of 8 C.F.R. § 287.3(d); the failure to place Petitioner in removal proceedings; and the failure to issue a Form I-286 Notice of Custody Determination. The injury occurred here. It was inflicted, and is still being directed, by the Newark Field Office.

Fifth, the remedy for a same-day, forum-defeating transfer, coupled with a court order that has not been complied with, is a return order. This Court has authority to grant that relief under 28 U.S.C. § 2241, the All Writs Act, 28 U.S.C. § 1651(a), and its inherent equitable authority. A release ordered by a New Jersey federal court, to a [redacted] whose counsel, family, and asylum adjudication forum are all in the Northeast, should be effectuated in the District of New Jersey, not from a Louisiana private prison 1,400 miles away.

Petitioner respectfully requests that the Court grant the Motion.

Respectfully submitted,

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