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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Adrian DE ALBA Castrejon

Petitioner,

v.

Julio HERNANDEZ, Seattle Field Office Director, Enforcement and Removal Operations, United States Immigration and Customs Enforcement (ICE); Brenda MCCLAIN, Field Office Director for Immigration and Customs Enforcement (ICE) Yakima Field Office, Markwayne MULLIN, Acting Secretary, United States Department of Homeland Security; Todd BLANCHE, Acting United States Attorney General; UNITED STATES DEPARTMENT OF HOMELAND SECURITY;

Respondents.

Case No. 1:26-cv-3103

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

AGENCY FILE NO: [redacted]

I. INTRODUCTION

Petitioner Adrian De Alba Castrejon ("Mr. De Alba") files this combined Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 and Emergency Motion for Temporary Restraining Order ("TRO") to prevent imminent detention and removal by U.S. Immigration and Customs Enforcement ("ICE") that would foreseeably and likely result in his death.

This case challenges the imminent detention and removal of Mr. Adrian De Alba. While Mr. De Alba is not currently in physical custody of Immigration and Customs Enforcement (ICE) he has been required to check in at the Yakima ICE Facility on a weekly basis since November of 2025 and has been told he must leave the United States by June 1st or turn himself in for detention and removal on June 2nd.

Mr. De Alba suffers from chronic, terminal lung disease requiring continuous supplemental oxygen and highly complex, continuous medical care. Exhibit B, C.

Treating physicians have determined that he is not medically stable for deportation, air travel, or prolonged ground transport under any circumstances, and that deportation would be expected to result in acute respiratory failure with a high likelihood of death. *Id.*

II. JURISDICTION

This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

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III. VENUE

Venue is proper because Mr. De Alba lives in the Eastern District of Washington and he is at risk of being detained and deported by the Yakima ICE Field Office where he checks in every week.

Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Eastern District of Washington.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (habeas corpus is "a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination").

V. PARTIES

1) Mr. Adrian De Alba Castrejon is a Mexican national who resides in Yakima, Washington.

2) Respondent Julio Hernandez is the Field Office Director for ICE's Seattle Field Office. The Seattle Field Office is responsible for local custody decisions relating to noncitizens charged with

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being removable from the United States. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington.

3) Respondent Brenda Mcclain is the Yakima ICE Field Office Director and is in charge of the field office where Mr. Alba checks in every week.

4) Markwayne Mullin is the acting Secretary of the Department of Homeland Security (DHS). He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's community custody and future detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

5) Respondent Todd Blanche is the acting Attorney General of the United States, and as such has authority over the Department of Justice. He is sued in his official capacity.

6) Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE.

VI. EXHAUSTION

Mr. De Alba has repeatedly sought discretionary stays of removal with ICE since his initial detention in 2012.

ICE denied his most recent stay request and is insisting he leave the country on June 1st or be taken into custody and physically removed the following day. Counsel for Mr. De Alba attempted to file a request for Deferred Action with ICE in Yakima, Washington and they refused to take the application.

To the extent exhaustion is argued, it should be excused because the threatened harm is imminent and irreparable, and further administrative pursuit would be futile given ICE's denial and insistence on immediate departure.

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VII. FACTUAL BACKGROUND

Mr. De Alba is a 46-year-old native of Mexico. He entered the United States without admission or inspection in 2002 and has lived here continuously ever since.

In 2012 Mr. De Alba was charged with having physical control of a vehicle while intoxicated. He was sleeping in his car. He pleaded guilty and was handed over to ICE who initiated removal proceedings.

Mr. De Alba's prior counsel did not file an application for relief and requested voluntary departure. Mr. De Alba later attempted to reopen those proceedings after suffering a debilitating workplace injury, but the motion was denied. Exhibit D.

Despite having a final order of removal Mr. De Alba has cooperated with ICE check-ins for many years without issue. On January 21, 2026, however, the Yakima ICE Field Office denied Mr. De Alba's stay request. *See*, Exhibit A. Mr. De Alba provided the local office with a letter from his doctor indicating that travel would be fatal, yet remarkably in their denial ICE found "The application and supporting documents do not establish an 'urgent humanitarian'…reason as the basis of this request for a stay…" *Id.*

Following the stay denial counsel attempted to hand deliver a request for "deferred action" with Yakima ICE but was told it would not be considered because supervising officers were closely monitoring the case and would not settle for anything less than removal.

Mr. De Alba has a chronic, terminal lung disease requiring highly complex, continuous medical care and continuous supplemental oxygen (2-8 liters per minute at rest and up to 15 liters per minute with exertion).

He is treated with a multi-drug immunosuppressive regimen requiring close monitoring, and interruption in therapy could be life-threatening. Exhibit B.

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The University of Washington Center for Interstitial Lung Disease has documented advanced interstitial lung disease due to antisynthetase syndrome (anti Jo-1 positive) with critically limited pulmonary reserve, severe exertional hypoxemia requiring up to 15 liters per minute of oxygen, and high risk of acute respiratory failure from minor stressors or interruption in oxygen delivery. Exhibit C.

His treating specialist has determined that he is not medically stable for deportation, air travel, or prolonged ground transport under any circumstances, and that deportation would be expected to result in acute respiratory failure with a high likelihood of death. Exhibit C.

MultiCare Pulmonology has likewise stated it is not medically safe for him to travel by airplane or undergo long-distance transportation by train or automobile without oxygen setup due to his substantial oxygen requirements and fragile health status. *See*, Exhibit B.

Mr. De Alba is chronically immunosuppressed (including mycophenolate, prednisone, and rituximab), placing him at increased risk for severe infection, particularly in congregate or detention settings. *Id.*

Mr. De Alba pays his medical bills out of pocket using his Washington Department of Labor & Industries pension income. He receives $2,146.94 per month from the Department of Labor & Industries pension, less a 15% attorney fee, leaving $1,824.90. Exhibit F.

Mr. De Alba has made good-faith efforts to plan for departure, but his medical condition makes travel planning extraordinarily difficult due to continuous oxygen needs and frequent tank changes. He has struggled to find locations to provide oxygen and medical care along the way and in Mexico. Exhibit D.

VIII. CLAIMS FOR RELIEF

A. <u>Ongoing custody or future detention would be a violation of the Due Process Clause of the Fifth Amendment</u>

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ICE's supervision and imminent threatened detention and removal impose severe restraints on Mr. De Alba's liberty sufficient to constitute custody for habeas purposes. The Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law.

Detaining and attempting to remove Mr. De Alba despite uncontroverted medical determinations that transportation or detention will likely cause acute respiratory failure and death would be arbitrary, conscience-shocking, and incompatible with due process.

Mr. De Alba seeks habeas relief preventing ICE from taking him into custody for removal and preventing removal while he is medically non-transportable.

B. Detaining and removing an individual who is *medically non-transportable* is ultra vires conduct

ICE's threatened detention and removal in the face Mr. De Alba's likely death exceeds the lawful bounds of the agency and constitutes arbitrary and capricious action. Mr. De Alba seeks injunctive relief preventing ICE from detaining or removing him while he remains unable.

C. Violation of the Eighth Amendment/Fifth Amendment standards applicable to civil detention (deliberate indifference to serious medical needs)

Civil immigration detention is subject at minimum to Fifth Amendment protections against deliberate indifference to serious medical needs.

ICE's threatened detention of a terminally-ill, oxygen-dependent, immunosuppressed individual creates a substantial risk of serious harm and death. Mr. De Alba seeks injunctive relief preventing detention under circumstances that will likely cause death.

IX. EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

a. Legal Standard

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Under FRCP 65 and 5 U.S.C. §705, the petitioner moves this Court for an Emergency Temporary Restraining Order and Stay of Removal, preventing his detention or removal from the United States.

The Court considers (1) likelihood of success on the merits; (2) likelihood of irreparable harm absent relief; (3) balance of equities; and (4) public interest. *Sherley v. Sibelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (alteration in original, quoting *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). "The same standard applies to both temporary restraining orders and to preliminary injunctions." *Sterling Commercial Credit-Michigan, LLC v. Phoenix Industries I, LLC*, 762 F. Supp. 2d 8, 12 (D.D.C. 2011) (quoting *Hall v. Johnson*, 599 F. Supp. 2d 1, 3 n.2 (D.D.C. 2009)).

The traditional test, which remains viable in the Ninth Circuit, is known as the "sliding scale" test and requires the petitioner to prove "serious questions going to the merits" and "a hardship balance that tips sharply toward the petitioner." *Alliance For The Wild Rockies v. Cottrell,* 632 F.3d 1127 (9th Cir. 2011). As under the *Winter* test, the petitioner must also show a likelihood of irreparable injury and that the injunction is in the public interest. "Under this approach, the elements of the preliminary injunction test are balanced, so that a stronger showing of one element may offset a weaker showing of another." *Alliance For The Wild Rockies,* 632 F.3d at 1131.

b. Argument

Mr. De Alba has a strong likelihood of success because removal and detention under these circumstances would violate due process and constitutional protections against deliberate indifference to life, and would constitute unlawful agency action.

Mr. De Alba would suffer irreparable harm if he is detained and removed as he is likely to die in such a scenario.

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The equities overwhelmingly favor preserving life and preventing irreparable harm. Furthermore it is in the public interest if government agencies are required to follow constitutional law and avoid foreseeable death in carrying out their actions.

c. Requested TRO Terms

Mr. De Alba requests that the Court immediately restrain Respondents, their officers, agents, servants, employees, attorneys and all persons in active concert with them from:

1.) Arresting or detaining Mr. De Alba;

2.) Removing, transporting, or attempting to remove Mr. De Alba from the United States;

3.) Transporting Mr. De Alba to any detention facility, staging facility, airport, or border location for removal.

X. REQUESTED RELIEF

Mr. De Alba respectfully requests that the Court:

1. Issue a writ of habeas corpus under 28 U.S.C. § 2241 prohibiting Respondents from taking Mr. De Alba into custody for removal and prohibiting removal while he is medically non-transportable.

2. Issue an immediate TRO under Rule 65 restraining Respondents from detaining or removing Mr. De Alba pending a preliminary injunction hearing.

3. Issue an Order to Show Cause and set an expedited hearing on a preliminary injunction.

4. Enter a preliminary injunction prohibiting detention and removal while Mr. De Alba remains medically non-transportable and at high risk of death from transport or detention.

5. Grant such other and further relief as the Court deems just and proper.

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VERIFICATION OF PETITIONER

On behalf of Mr. Adrian De Alba the petitioner, I verify the facts contained in the Petition for Writ of Habeas Corpus, upon information and belief, having reviewed the relevant records and pleadings. Mr. De Alba has reviewed all exhibits and agrees with their contents.

Dated: Saturday, May 30, 2026

s/ Stephen C. Robbins
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EXHIBITS

A. Stay of Removal Denial
B. Multicare Pulmonology Letter
C. University of Washington Medical Center Letter
D. Adrian De Alba Castrejon Declaration
E. Letters of Recommendation
F. Letter from L&I Attorney

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