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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

MOTION FOR PRELIMINARY INJUNCTION

AGENCY FILE NO: [redacted]

I. INTRODUCTION

Petitioner Adrian De Alba Castrejon ("Mr. De Alba") respectfully moves this Court for a preliminary injunction prohibiting the Respondents from detaining, transporting, or removing him from the United States while he remains medically non-transportable. This motion is supported by the accompanying Petition for Writ of Habeas Corpus and the medical evidence demonstrating that any attempt to detain or remove Mr. De Alba would likely result in acute respiratory failure and death.

Mr. De Alba suffers from 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 supplemental oxygen, and chronic immunosuppression. Exhibit C at 2. His treating physicians at the University of Washington Center for Interstitial Lung Disease and MultiCare Pulmonology have provided formal medical determinations 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.*

Despite these uncontroverted medical findings, ICE has denied Mr. De Alba's stay of removal request while refusing to accept a request for deferred action, and instructed him to depart the United States by June 1, 2026, or report for detention and removal on June 2, 2026.[1] Exhibit A. This Court has already granted a temporary restraining order preventing Mr. De Alba's detention and removal, finding a strong likelihood of success on the merits because "his doctors warn that his transport, detainment, or removal would result in acute respiratory failure and death, which means any agency action taken against Petitioner would constitute a deliberate indifference to medical needs." Order Granting TRO and Stay of Removal, *Alba Castrejon v. Hernandez,* 1:26-cv-03103 (E.D. Washington). Mr. De Alba now seeks a preliminary injunction maintaining this protection pending final resolution

[1] Mr. De Alba checked in with Yakima ICE on June 2 following the issuance of the temporary restraining order in this case. He was told the check in again in December, 2026.

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of his habeas petition. He satisfies all four elements required for preliminary injunctive relief under controlling Ninth Circuit law *Washington v. Trump*, 487 F. Supp. 3d 976 (E.D. Wash. 2020), *Roman v. Wolf*, 977 F.3d 935 (9th Cir. 2020).

II. STATEMENT OF THE FACTS

Mr. De Alba is a 46-year-old native of Mexico who entered the United States without inspection in 2002 and has lived here continuously ever since. In 2012, he was arrested and placed in removal proceedings after being charged with physical control of a vehicle while intoxicated. His attorney at that time filed no application for relief and requested voluntary departure. Mr. De Alba later attempted to reopen those proceedings after suffering a debilitating workplace injury, but his motion was denied.

In 2017, Mr. De Alba's health deteriorated significantly when he developed heart and lung issues. Exhibit D at 3. He was hospitalized for seven days, struggling to breathe, and did not start to recover until treated with steroids. He has since been diagnosed with advanced interstitial lung disease. *Id.*

Mr. De Alba is an established patient at MultiCare Pulmonology and the University of Washington Center for Interstitial Lung Disease. Exhibit B, C. He has been diagnosed with chronic, terminal lung disease requiring highly complex, continuous medical care. *Id.* He requires continuous supplemental oxygen to maintain safe blood oxygen levels—specifically, 2-8 liters per minute at rest and up to 15 liters per minute with exertion. Exhibit B.

On February 9, 2026, Dr. Ahmad Khan of MultiCare Pulmonology provided a letter stating that Mr. De Alba "has a chronic, terminal lung disease and requires highly complex, continuous medical care" and is treated with a multi-drug immunosuppressive regimen requiring close and ongoing monitoring, as "any interruption in therapy could be life-threatening." Exhibit B. Dr. Khan further stated that "interruption of his oxygen therapy would also pose an immediate risk to his life" and that "it is not medically safe for Mr. De Alba-Castrejon to travel by airplane or to undergo long-distance transportation by train or automobile (without having setup for oxygen)." *Id.*

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On April 1, 2026, Dr. Suha Kadura of the University of Washington Center for Interstitial Lung Disease provided a comprehensive medical determination regarding Mr. De Alba's ability to undergo deportation or long-distance travel. Exhibit C. Dr. Kadura documented severe pulmonary impairment with the following objective findings: forced vital capacity 0.89 L (17% predicted), diffusion capacity 20% predicted, chronic oxygen dependence requiring 1 to 2 liters per minute at rest and at least 4 liters per minute with minimal activity, and severe exertional hypoxemia requiring up to 15 liters per minute of supplemental oxygen. These findings reflect critically limited pulmonary reserve. Dr. Kadura explained that with this degree of disease, "even minor physiological stressors, including exertion, reduced ambient oxygen, infection, or interruption in oxygen delivery, can precipitate acute respiratory failure." *Id.*

She stated that commercial air travel poses a particularly high risk because aircraft cabins are pressurized to the equivalent of 6000 to 8000 feet above sea level, which significantly lowers available oxygen. *Id.* In this setting, Mr. De Alba "is expected to develop severe hypoxemia" and his "oxygen requirements exceed what can be reliably delivered during flight, and any interruption or inadequacy of oxygen delivery could result in loss of consciousness, respiratory failure, or death."

Dr. Kadura further explained that ground transport and detention conditions similarly pose substantial risk due to prolonged transport, limited mobility, inconsistent access to oxygen, and delayed access to medical care, creating "a high likelihood of acute respiratory decompensation." *Id.*

Because Mr. De Alba is chronically immunosuppressed with mycophenolate, prednisone, and rituximab, he is "at increased risk for severe infection, particularly in congregate or detention settings." Dr. Kadura concluded with a formal medical determination: "Based on his clinical status and objective testing, he is not medically stable for deportation, air travel, or prolonged ground transport under any circumstances. Deportation would be expected to result in acute respiratory failure and carries a high likelihood of death. This is not a temporary limitation. His disease is severe, chronic, and progressive." *Id.*

Mr. De Alba has repeatedly sought discretionary stays of removal with ICE since his initial detention in 2012. On January 21, 2026, the Yakima ICE Field Office denied Mr. De Alba's most

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recent stay request. Exhibit A. In the denial letter, ICE acknowledged reviewing Mr. De Alba's administrative file and all submitted supporting documents, including the medical evidence. Nevertheless, ICE found that "the application and supporting documents do not establish an 'urgent humanitarian' or 'significant public benefit' reason as the basis of this request for a stay as required in accordance with 8 CFR §241.6."

Counsel for Mr. De Alba attempted to file a request for Deferred Action with ICE in Yakima, Washington, but ICE refused to accept the application. Local ICE officials stated they would not settle for anything less than removal. Mr. De Alba was informed that he must depart the United States by June 1, 2026, or turn himself in for detention and removal on June 2, 2026.

Mr. De Alba has made good faith efforts to arrange for his own departure from the United States, however, he has struggled to find volunteers to help drive him from Washington State to Mexico. He is currently working with a social worker to try and map out a route to Mexico that would allow him to make regular stops for oxygen or medical care.

On June 1, 2026, this Court granted Mr. De Alba's Emergency Motion for Temporary Restraining Order and Stay of Removal. The Court found that a TRO was appropriate under the applicable case law, stating: "Petitioner has a strong likelihood of success because his doctors warn that his transport, detainment, or removal would result in acute respiratory failure and death, which means any agency action taken against Petitioner would constitute a deliberate indifference to medical needs. Such agency action would be unconstitutional and demonstrates the irreparable harm Petitioner is facing absent preliminary relief by this Court." Order Granting TRO and Stay of Removal, *Alba Castrejon v. Hernandez*, 1:26-cv-03103 (E.D. Washington). The Court further found that "the equities of this matter also weigh in favor of Petitioner because his very life is at stake in this matter" and that "the public interest weighs in favor of preventing foreseeable death, particularly where Petitioner contends that he is trying to leave the country voluntarily but has encountered challenges in making travel arrangements that account for his medical needs." *Id.* The Court's TRO enjoins and restrains Respondents from: (1) arresting or detaining Petitioner; (2) removing, transporting, or attempting to

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remove Petitioner from the United States; and (3) transporting Petitioner to any detention facility, staging facility, airport, or border location for removal. *Id.*

III. LAW

A Petitioner seeking a preliminary injunction must establish four elements: (1) likelihood of success on the merits; (2) likelihood of irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in the plaintiff's favor; and (4) that an injunction is in the public interest *Washington v. Trump*, 487 F. Supp. 3d 976 (E.D. Wash. 2020). "A preliminary injunction is a matter of equitable discretion and is 'an extraordinary remedy that may only be awarded upon a clear showing that a plaintiff is entitled to such relief.'" *Id.* at 981-982. The Ninth Circuit uses a "sliding scale" approach in which the elements are "balanced so that a stronger showing of one element may offset a weaker showing of another." *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir.2011) Under this alternative formulation, "'serious questions going to the merits' and a balance of hardships that tips sharply towards the plaintiff can support issuance of a preliminary injunction, so long as the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest." *Farris v. Seabrook*, 677 F.3d 858, 864 (9th Cir. 2012), *Roman v. Wolf*, 977 F.3d 935 (9th Cir. 2020).

IV. ARGUMENT

a. Mr. De Alba is Likely to Succeed on the Merits of His Constitutional Claim

Mr. De Alba has demonstrated a strong likelihood of success on the merits of his claim that ICE's threatened detention and removal violate the Fifth Amendment's Due Process Clause and constitute ultra vires agency action.

First, detaining or removing Mr. De Alba under circumstances likely to cause his death constitutes deliberate indifference to serious medical needs in violation of the Fifth Amendment. In the Ninth Circuit, civil immigration detainee's claims for inadequate medical care are rooted in the

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Due Process Clause of the Fifth Amendment. *Sukumaran v. United States DHS/ICE-El Centro*, 2014 U.S. Dist. LEXIS 121494 (2014), *Garrido v. Mullin*, 2026 U.S. Dist. LEXIS 98279 (2026).

To establish a violation of the Fifth Amendment right to protection against deliberate indifference to serious medical needs, an immigration detainee must satisfy the following four elements:

i. The respondent made an intentional decision with respect to the conditions under which the plantiff was confined;

ii. Those conditions put the petitioner at substantial risk of serious harm;

iii. The respondent did not take reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved—making the consequences of respondent's conduct obvious, and;

iv. By not taking such measures, the defendant caused petitioner's injuries. *Garrido v. Mullin*, 2026 U.S. Dist. LEXIS 98279 (2026).

Here, Mr. De Alba unquestionably has a serious medical need. He suffers from chronic, terminal lung disease with critically limited pulmonary reserve, severe exertional hypoxemia, and chronic immunosuppression requiring continuous supplemental oxygen and complex medication regimens. Two board-certified pulmonologists have provided formal medical determinations that any attempt to detain or transport Mr. De Alba would create a high likelihood of acute respiratory failure and death. ICE has made an intentional decision to pursue Mr. De Alba's detention and removal despite being informed of these medical findings. The conditions ICE seeks to impose—detention in a congregate facility, transport by air or ground, and removal to Mexico—put Mr. De Alba at substantial risk of suffering serious harm, specifically acute respiratory failure and death. ICE has not taken reasonable available measures to abate this risk. The reasonable available measure is to grant Mr.

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De Alba's stay of removal while he remains medically non-transportable and to provide additional time for him to try and plan for his own removal. Instead, ICE denied the stay request, finding that the medical evidence does not establish an "urgent humanitarian" reason for a stay. Any reasonable official in these circumstances would have appreciated the high degree of risk involved. Indeed, this Court has already found that "any agency action taken against Petitioner would constitute a deliberate indifference to medical needs" and "would be unconstitutional". Mr. De Alba is therefore likely to succeed on his Fifth Amendment claim.

b. ICE's Threatened Detention and Removal Constitute Ultra Vires Agency Action Exceeding the Lawful Bounds of the Agency

ICE's threatened detention and removal of Mr. De Alba in the face of uncontroverted medical evidence that such action will likely cause his death exceeds the lawful bounds of the agency and constitutes arbitrary and capricious action. Federal agencies may only act within the scope of their statutory authority. Even when an agency has general statutory authority to detain and remove aliens, that authority must be exercised consistent with constitutional constraints and cannot be used to effectuate actions that would cause foreseeable death. The statute authorizing stays of removal permits ICE to grant a stay "as a matter of discretion" when "urgent humanitarian reasons" or reasons of "significant public benefit" are present. ICE's regulations define these terms narrowly to include "serious medical conditions" and circumstances where "continued detention is not in the public interest" or "the removal of the alien is not practical or proper."

Here, the uncontroverted medical evidence establishes that Mr. De Alba has a serious medical condition rendering him medically non-transportable. His removal is neither practical nor proper when it would foreseeably result in his death. ICE's denial of the stay request in the face of this evidence represents an arbitrary and unreasonable interpretation of the agency's own regulations. Moreover, ICE's insistence on immediate removal when Mr. De Alba is attempting to make voluntary departure arrangements that account for his medical needs demonstrates arbitrary agency action. Mr. De Alba has cooperated with ICE check-ins for many years and poses neither a security risk nor a risk

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to public safety. Mr. De Alba is therefore likely to succeed in establishing that ICE's threatened action constitutes ultra vires conduct exceeding the agency's lawful authority.

c. Mr. De Alba Will Suffer Irreparable Harm Absent a Preliminary Injunction

"A plaintiff seeking injunctive relief must 'demonstrate that irreparable injury is likely in the absence of an injunction'" *Washington v. DeVos*, 466 F. Supp. 3d 1151, 1169 (E.D. Wash. 2020). "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Id.*

Here, the irreparable harm is Mr. De Alba's likely death if he is detained, transported, or removed. Dr. Kadura's formal medical determination states unequivocally: "Deportation would be expected to result in acute respiratory failure and carries a high likelihood of death." Dr. Khan similarly warned that "interruption of his oxygen therapy would also pose an immediate risk to his life." Death is the quintessential irreparable harm for which there is no adequate legal remedy. No monetary damages can compensate for loss of life.

d. An Injunction Is in the Public Interest

The public has an interest in preventing government officials from taking actions that would foreseeably cause death, particularly where those actions would violate constitutional protections against deliberate indifference to serious medical needs. As this Court has already found, "the public interest weighs in favor of preventing foreseeable death." Order Granting TRO at 2. The public has no interest in the immediate detention and removal of a terminally ill individual who has cooperated with immigration authorities for many years, poses no security or public safety risk, and is attempting to make voluntary departure arrangements that account for his medical needs.

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Furthermore, the public interest is served by ensuring that individuals in government custody or subject to government action receive constitutionally adequate medical care. Allowing government officials to remain deliberately indifferent to serious medical needs would undermine public confidence in the justice system and the rule of law. An injunction is therefore in the public interest.

V. CONCLUSION

Mr. De Alba has made a clear showing that he is entitled to a preliminary injunction. He has demonstrated: (1) a strong likelihood of success on the merits of his constitutional and statutory claims; (2) that he will suffer irreparable harm—likely death—absent an injunction; (3) that the balance of equities tips sharply in his favor because his very life is at stake; and (4) that an injunction is in the public interest because it prevents foreseeable death and ensures compliance with constitutional protections. This Court has already made these findings in granting the temporary restraining order. The preliminary injunction should maintain this protection pending final resolution of Mr. De Alba's habeas petition.

WHEREFORE, Plaintiff Adrian De Alba Castrejon respectfully requests that this Court:

a. Grant this Motion for Preliminary Injunction;

b. Issue a preliminary injunction prohibiting Defendants and all of their respective officers, agents, servants, employees, attorneys, and persons acting on their behalf from:

    i. Arresting or detaining Mr. De Alba;

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

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

c. Maintain the preliminary injunction in effect until Mr. De Alba is medically stable for transport or until further order of this Court; and

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d. Grant such other and further relief as this Court deems just and proper.

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s/ Stephen C. Robbins

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