UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISON

Emmanuel Blankson Marfo, Petitioner, vs. KEVIN RAYCRAFT, Acting Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; TODD BLANCHE, U.S. Attorney General, Respondents.	Case No. 26-cv-01293 Judge Benita Y. Pearson Magistrate Judge Jonathan D. Greenberg

PETITIONER'S NOTICE OF MOTION AND EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER

NOTICE OF MOTION AND EX PARTE MOTION

FOR TEMPORARY RESTRAINING ORDER

1. PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court for Northern District of Ohio, Western Division, that Petitioner, Emmanuel Blankson Marfo will and hereby respectfully moves for a temporary restraining order pursuant to Federal Rule of Civil Procedure 65(b) and Local Rule of Civil Procedure 65.1.
2. For the reasons explained in the Petition for Writ of Habeas Corpus, Petitioner hereby makes this Ex Parte Motion for a Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65 and 5 U.S.C. § 705.

3. Petitioner requests that the Court issue a temporary restraining order. This Motion is based on the Petition for writ of habeas corpus.
4. Petitioner respectfully moves this Court for a Temporary Restraining Order to preserve the Court's habeas jurisdiction and prevent irreparable harm arising from imminent alteration of Petitioner's custody status during the pendency of this habeas proceeding.

INTRODUCTION

5. Petitioner, Mr. Marfo, is a citizen of Ghana currently in ICE custody at the Central Louisiana Processing Center.
6. Absent immediate injunctive relief, Respondents may proceed to the unlawfully deport Mr. Marfo to a third country without proper proceedings, violating Mr. Marfo substantive and procedural rights. Such deportation would irreparably harm Mr. Marfo.
7. This court should therefore retain jurisdiction over this action and order Mr. Marfo's immediate return to the jurisdiction.
8. Further, this Court should order and restrain Respondents from making any determinations regarding Petitioner's approval for third country removal, which is intertwined with issues currently being actively litigated in this habeas action.
9. In the alternative, Petitioner respectfully requests his immediate release from custody based on the unlawful designation of a third country of removal.

STATEMENT OF FACTS

1. Petitioner is a resident Columbus, Ohio who entered the United States at or around Calexico, California in December of 2021. On June 7, 2024, Mr. Marfo was granted Withholding of Removal by an immigration Judge. (Petition, ECF 1-2, *PageID* 16, 17).

2. On May 29, 2026, ICE officers detained Mr. Marfo outside of his home as he was leaving for work. He was then transported to the Corrections Center of Northwest Ohio in Stryker, Ohio. This warrantless arrest and ensuing detention occurred nearly two years after being granted relief under the INA.
3. Shortly after being detained, Mr. Marfo was informed that it is the Government's intention to effectuate third country removal in his case and deport him to Sierra Leone.
4. On June 3, 2026, Petitioner filed a petition for Writ of Habeas Corpus in the Northern District of Ohio. To date, the government counsel has not entered their appearance on the matter.
5. On June 13, 2026, Mr. Marfo was transported to Central Louisianna ICE Processing Center. ICE has informed him that he has been approved for Third Country Deportation.
6. Mr. Marfo, at the time of this filing, has not had the opportunity to present a fear-based claim before an Immigration Judge regarding any potential third country of removal.

STANDARD OF REVIEW

1. An ex parte Temporary Restraining Order ('TRO") may be issued upon a showing that "immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition." Fed. R. Civ. P. 65(b)(1)(A). "[T]he legal standards applicable to TROs and preliminary injunctions are substantially identical." *Babaria v. Blinken*, 87 F.4th 963, 976 (9th Cir. 2023) (internal quotations omitted). The party seeking relief "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." W*inter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). "The first factor under Winter is the most

important—likely success on the merits." *Aamer v. Obama*, 742 F.3d 1023, 1038 (D.C. Cir. 2014). Where the government is the opposing party, the third and fourth factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits.

1. Petitioner's habeas petition raises a substantial and colorable challenge to the legality of his continued detention and proposed deportation.
2. Specifically, the Petitioner contends that his detention and proposed deportation is unlawful as ICE has neglected to comply with applicable law as well as its own policy. Pursuant to *D.V.D. v. DHS,* the 5th Amendment, and *Trump v. J.G.G.*, if DHS intends to deport Mr. Marfo to a third country, DHS must comply with its obligations to Provide written notice of the intent to deport to one of the designated countries to Mr. Marfo or his counsel in a language Mr. Marfo understands, notify the ICE Office of the Principal Legal Advisor so that it can move to reopen removal proceedings to designate a new country of removal and allow Mr. Marfo the opportunity to present his fear-based claim to an immigration judge; and stay Mr. Marfo's removal until his fear-based claim is adjudicated by an immigration judge. ICE has not complied with any of these obligations in Mr. Marfo's case.
3. The failure to comply with these obligations violate Mr. Marfo's statutory, regulatory, and due process rights, and the United States' commitment to non-refoulement under international law. *See* Immigration and Nationality Act § 241(b)(3); Due Process Clause of the Fifth Amendment; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. No. 105–277, div. G, tit. XXII, § 2242(a), 112 Stat. 2681, 2681–822 (1998) (codified at Note to 8 U.S.C. § 1231); see also 8 C.F.R. § 1240.10(f); 8 C.F.R. § 1240.11(c)(1)(i).

4. Petitioner's habeas petition presents a substantial and well-founded challenge to the legality of his continued detention and deportation, which arises from DHS's failure to comply with both the INA and the United States Constitution.
5. Further, Petitioner is likely to succeed on the merits of a fear-based claim, should DHS comply with their legal and constitutional obligations and provide Mr. Marfo with an opportunity to present a fear-based claim.
6. Mr. Marfo was awarded Withholding of Removal based on a claim that he would be persecuted in Ghana due to his homosexuality, as homosexuality is illegal in Ghana and socially unacceptable. Homosexuality is also illegal in Sierra Leone, the proposed third country of removal, and is viewed similarly amongst the population.
7. Therefore, DHS is not only violating Mr. Marfo's constitutional and statutory rights by failing to afford him the opportunity to assert a fear-based claim, Mr. Marfo would also be highly likely to succeed on the merits of any fear-based claim asserted.

B. Petitioner Will Suffer Irreparable Harm.

8. Each day that Petitioner remains in ICE custody in violation of the INA and the Due Process Clause of the Constitution, Petitioner suffers irreparable harm. Deprivation of constitutional rights "for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). *See also* Wright, Miller, & Kane, Federal Practice and Procedure, § 2948.1 (2d ed. 2004) ("When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary."). Moreover, Petitioner is in immigration detention, which "[imposes] … irreparable harms … on anyone subject to [it]." *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017).

9. While unnecessary to justify granting a TRO, Petitioner's continued detention is also detrimental to his family, community, and well-being.
10. If DHS effectuates Mr. Marfo's deportation while this habeas petition remains pending, Mr. Marfo's avenues to relief will be irreversibly changed and impossible to remedy.
11. Petitioner's habeas petition seeks immediate release from unlawful detention and an order compelling ICE to comply with their legal obligations as they relate to third country removal.
12. The Court's ability to grant effective relief on the pending habeas claims will be irreversible harmed if third party deportation is effectuated. In fact, relief would be impossible.
13. This harm is neither abstract nor speculative. It is immediate, concrete, and directly tied to the potential unlawful deportation. Once deportation occurs, the harm to Mr. Marfo will be final, irreversible, and completely without remedy.

C. The Balance of Equities Tips Heavily in Favor of Petitioner and a TRO is in the Public Interest

14. The ongoing injury to Petitioner far outweighs any harm that will result to Respondents if the Court issues a TRO. Further, the issuance of a TRO does not disserve the public interest but rather promotes it because it upholds the rule of law. "[N]either equity nor the public's interest are furthered by allowing violations of federal law to continue." *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022); *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) ("The public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and held in immigration detention because of bonds established by a likely unconstitutional process"). In this case, the law is clear that Respondents have no authority to detain Petitioner. Granting the TRO promotes the rule of law.

CONCLUSION

15. For the foregoing reasons, this court should order that Mr. Marfo be immediately returned to the jurisdiction in which his Petition for Writ of Habeas Corpus was filed.

16. Further, this Court should issue a temporary restraining order enjoining Respondents from taking any action towards effectuating Mr. Marfo's deportation to Sierra Leone or any other third country while his Habeas petition is pending.

Dated: June 14, 2026

Respectfully submitted,

/s/ Julie Nemecek

Julie C. Nemecek
Attorney for Petitioner
The Nemecek Firm, Ltd.
471 E Broad St, Suite 1200
Columbus, Ohio 43215
Telephone: (614) 459-2180
Email: julie@ninmigration.com

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2026, I caused a true and correct copy of the "Petitioner's Notice of Motion and Ex Parte Motion for Temporary Restraining Order and Order to Show Cause" and all accompanying documents to be served by emailing a copy to Respondents.

Dated: June 14, 2026

Respectfully submitted,

/s/ Julie Nemecek

Julie C. Nemecek
Attorney for Petitioner
The Nemecek Firm, Ltd.
471 E Broad St, Suite 1200
Columbus, Ohio 43215
Telephone: (614) 459-2180
Email: julie@jnimmigration.com