

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PAUL DAVID RODRIGUEZ SANCHEZ

Petitioner,

v.

EMERGENCY PETITION
A No. 

KEN GENALO , NY Director, Field Office,
Enforcement and Removal Operations.
U.S. Immigration and Customs Enforcement;

DAVID VENTURELLA, Director, U.S.
Immigration and Customs
Enforcement;

MARKWAYNE MULLIN, Secretary of the U.S. Department
of Homeland Security;

TODD BLANCHE, Attorney General of the United States,

RAUL MALDONADO, Jr. Warden, Delaney Hall, Newark, NJ
Respondents.

**EMERGENCY MOTION FOR ORDER TO SHOW CAUSE
AND TEMPORARY RESTRAINING ORDER**

1. Petitioner, PAUL DAVID RODRIGUEZ SANCHEZ by counsel, respectfully moves for an Order to Show Cause pursuant to 28 U.S.C. § 2243 and for a Temporary Restraining Order pursuant to 28 U.S.C. § 2241, Federal Rule of Civil Procedure 65, and the All Writs Act, 28 U.S.C. § 1651(a) prohibiting Respondents from transferring Petitioner outside the District of New Jersey or removing him from the United States pending adjudication of this habeas petition.
2. Petitioner is presently in federal immigration detention and subject to transfer without notice at any time. Temporary relief narrowly tailored to preserve the Court's jurisdiction, to prevent frustration of meaningful habeas review, and to prevent impairment of Petitioner's constitutional right of access to counsel while the legality of detention is reviewed.
3. Petitioner is presently held in federal immigration detention and is subject to transfer without prior notice and at any time. Immigration detainees are frequently relocated across state lines—

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often to distant facilities in Louisiana, Texas, or Arizona—shortly after habeas petitions are filed. Such transfers can severely disrupt attorney-client communication, impair access to family and legal resources, and create jurisdictional complications that delay or frustrate judicial review of detention.

4. Temporary relief is therefore necessary to preserve this Court’s jurisdiction, protect Petitioner’s constitutional right of access to counsel, and ensure that habeas review remains meaningful rather than illusory.

**A. AUTHORITY TO ISSUE ORDER TO SHOW CAUSE AND PRESERVE
JURISDICTION**

5. Under 28 U.S.C. § 2243, once a habeas petition is presented the Court “shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted.” The statute requires prompt judicial inquiry into executive detention and directs the custodian to certify the true cause of confinement. Section 2243 reflects Congress’s determination that executive restraint must remain subject to immediate and meaningful judicial supervision.
6. Federal courts exercising habeas jurisdiction possess inherent authority to preserve their jurisdiction and ensure meaningful review of detention. The Third Circuit has repeatedly emphasized that courts must ensure that immigration detention remains subject to effective judicial oversight. See *Hope v. Warden York County Prison*, 972 F.3d 310, 324 (3d Cir. 2020); *Guerrero-Sanchez v. Warden York County Prison*, 905 F.3d 208, 224–25 (3d Cir. 2018).
7. In addition, under the All Writs Act, 28 U.S.C. § 1651(a), federal courts may issue orders necessary or appropriate in aid of their jurisdiction. The Supreme Court has long recognized that federal courts may enter orders to preserve jurisdiction and prevent executive action that would frustrate effective judicial review. See *Scripps-Howard Radio, Inc. v. FCC*, 316 U.S. 4, 9–10 (1942); *United States v. New York Telephone Co.*, 434 U.S.

8. Habeas review must remain effective, not theoretical. See *Zadvydas v. Davis*, 533 U.S. 678, 687–90 (2001). Courts within the Third Circuit therefore retain equitable authority to preserve the status quo where executive action could impair meaningful review of detention. See *E.O.H.C. v. Secretary U.S. Department of Homeland Security*, 950 F.3d 177, 184 (3d Cir. 2020).

B. STANDARD FOR TEMPORARY RESTRAINING ORDER

9. A temporary restraining order may issue where the movant demonstrates (1) a likelihood of success on the merits or sufficiently serious questions going to the merits, (2) irreparable harm absent relief, (3) that the balance of equities favors the movant, and (4) that the public interest supports relief. See *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *Reilly v. City of Harrisburg*, 858 F.3d 173, 176–79 (3d Cir. 2017).
10. The purpose of temporary relief in habeas proceedings is not to decide the merits but to preserve the Court’s ability to decide them.

C. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS

11. Petitioner is likely to succeed because the record reflects a warrantless arrest without an articulated basis and continued detention without any contemporaneous individualized custody determination. New Jersey federal judges have repeatedly granted habeas relief and ordered immediate release when ICE’s detention process is defective, and the Government cannot show lawful individualized decision-making. The Third Circuit has emphasized that immigration detention must remain subject to meaningful judicial review and procedural protections consistent with due process. See *Hope*, 972 F.3d at 324; *Guerrero-Sanchez*, 905 F.3d at 224–25.
12. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. See *Zadvydas*, 533 U.S. at 690. In several recent habeas petitions litigated by the undersigned, this Court ordered release where the Government failed to demonstrate lawful

Constitution. These decisions include *Penaloza v. Bondi*, *Bautista-Sanchez v. Bondi*, *Salaria v. Tsoukaris*, *Singh v. Tsoukaris*, and *Albarran-Aranda v. Bondi*, cited below, where this Court ordered release after concluding that the Government had not demonstrated detention consistent with governing statutory procedures or constitutional due process requirements. Petitioner's detention here presents the same concerns. The habeas petition challenges the legality of Petitioner's arrest and detention, including the absence of a judicial warrant or contemporaneous administrative warrant service, the lack of an individualized custody determination at the time of arrest, and the asserted statutory basis for detention.

13. In *Albarran Aranda v. Tsoukaris*, No. 1:25-cv-18736 (KMW) (D.N.J. Jan. 22, 2026) (Williams, J.) (concluding that detention under § 1225 violated due process, the court granted the petition and ordered that “Petitioner’s Petition for a Writ of Habeas Corpus is granted” and that Respondents “immediately release Petitioner under the same conditions that existed prior to her detention.”)
14. Similarly, in *Salaria v. Tsoukaris*, No. 2:26-cv-01148 (SDW) (D.N.J. Feb. 27, 2026) (Wigenton, J.) (granted habeas relief and ordered that “Respondents shall immediately release Petitioner,” and further enjoined the Government from re-detaining the petitioner under § 1225).
15. In *Singh v. Tsoukaris*, No. 26-cv-01531 (D.N.J. Feb. 19, 2026) (O’Hearn, J.) (concluding that the Government’s detention theory was materially identical to arguments previously rejected by federal courts and that the petitioner’s continued custody was unlawful. The court therefore granted the habeas petition and ordered immediate release, directing that “Respondents shall ... immediately return petitioner to New Jersey and immediately release Petitioner under the same conditions, if any, that existed prior to his re-detention.”)
16. Likewise, in *Penaloza Penalosa v. Bondi*, No. 2:25-cv-18843 (JKS) (D.N.J. Jan. 23, 2026) (Semper, J.) (holding that the bond process provided was constitutionally deficient,

detention was unlawful and ordered that “the Petition for a Writ of Habeas Corpus [be] granted” and that Respondents “shall immediately release Petitioner from immigration custody.”).

17. Most recently, in *Bautista Sanchez v. Bondi*, No. 2:26-cv-01700 (JKS) (D.N.J. Mar. 3, 2026) (Semper, J.) (ruling that custody could not be justified under § 1225 and that the absence of an individualized custody determination violated the statutory framework and due process and granted the habeas petition and ordered that Respondents “immediately release Petitioner “from immigration custody under the same conditions that existed prior to his detention.”)
18. New York federal judges have similarly repeatedly granted habeas relief and ordered immediate release when ICE’s detention process is defective, and the Government cannot show lawful individualized decision-making. See *Lopez Benitez v. Francis*, No. 25-Civ-5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (granting habeas petition and ordering release). *Tumba Huamani v. Francis*, No. 25-cv-8110 (LJL), 2025 WL 3079014 (S.D.N.Y. Nov. 4, 2025). *Huang v. Almodovar*, No. 25-Civ-9346 (DEH), 2025 WL 3295912 (S.D.N.Y. Nov. 26, 2025), *Chipantiza-Sisalema v. Francis* (1:25-cv-05528) (S.D. N.Y. 2025) WL 1927931.
19. Warrantless arrests require probable cause. See *Beck v. Ohio*, 379 U.S. 89, 91 (1964). The Fourth Amendment applies to immigration enforcement. See *INS v. Delgado*, 466 U.S. 210, 215 (1984). Federal immigration officers may conduct warrantless arrests only under limited statutory circumstances. See 8 U.S.C. § 1357(a)(2).
20. At a minimum, these issues present serious constitutional and statutory questions that strongly support preservation of the status quo pending judicial review.

D. PETITIONER IS UNDERGOING IRREPARABLE HARM

21. Petitioner suffers irreparable harm each day he remains confined without lawful authority and without the constitutionally required process. The Supreme Court has recognized that

22. Petitioner also faces the imminent risk of transfer to a distant detention facility.
23. Petitioner also suffers from, *inter alia*, substandard prison conditions at Delaney Hall; lack of access to counsel and an inability to prepare the defense of his deportation case; the inability to earn an income to support his family and pay for an adequate legal defense, and lack of reasonable family visitation, and other harms commensurate with his incarceration.

E. PETITIONER'S TRANSFER WOULD FRUSTRATE HABEAS REVIEW

24. Federal courts must ensure that executive action does not frustrate judicial review of detention.

The All Writs Act authorizes courts to issue orders necessary to protect their jurisdiction. See *United States v. New York Telephone Co.*, 434 U.S. at 172.

25. If the Government could defeat habeas review simply by transferring detainees after the filing of a petition, judicial supervision of immigration detention would be substantially undermined. Federal districts courts have similarly cautioned that post-petition transfer may introduce “complicated jurisdictional defects” and delay merits review, reinforcing the principle that courts must guard against jurisdictional manipulation in immigration detention cases. See *Hope*, 972 F.3d at 324 (recognizing equitable authority in detention habeas proceedings).

F. PETITIONER'S TRANSFER WOULD SEVERELY IMPAIR PETITIONER'S ACCESS TO LEGAL HABEAS COUNSEL, FAMILY, INTERPRETERS, IMMIGRATION LEGAL RESOURCES, AND MEDICAL CARE

26. Preventing transfer is also necessary to preserve Petitioner's meaningful access to counsel and to the resources necessary to defend against removal in immigration court. Immigration detainees frequently rely on locally retained counsel, family support networks, and regional legal service providers to navigate complex removal proceedings.
27. Maintaining Petitioner within this jurisdiction ensures continued access to retained counsel and facilitates confidential attorney-client communication. Transfer to a distant facility may significantly limit in-person consultation and create logistical barriers to attorney visits.

28. Transfer would also disrupt Petitioner's access to family members who provide emotional support and assist with gathering documentation and coordinating with counsel.

29. Immigration detainees frequently rely on local interpretation services and community-based legal aid organizations to understand their rights and navigate removal proceedings. Sudden transfer to a distant jurisdiction can sever access to these essential resources.

30. Transfer may also cut off access to free or low-cost legal service providers who regularly assist detainees appearing before immigration courts in this region.

31. Finally, maintaining Petitioner within this jurisdiction ensures continued access to local medical providers and medical resources capable of addressing detainees' health needs. Transfers between detention facilities often interrupt ongoing medical treatment and delay access to care.

G. TRANSFER WOULD EXPOSE PETITIONER TO MATERIALLY DIFFERENT DETENTION LAW

32. Transfer outside this jurisdiction could also place Petitioner in a circuit governed by materially different detention jurisprudence. Courts within the Third Circuit emphasize meaningful procedural safeguards. See *Hope*, 972 F.3d at 324.

33. By contrast, other circuits have adopted more restrictive interpretations. In *Buenrostro-Mendez v. Bondi*, 2026 WL 323330 (5th Cir. Feb. 6, 2026), the Fifth Circuit held certain noncitizens may be treated as applicants for admission under §1225 and subjected to mandatory detention without bond.

H. THE RISK OF POST-PETITION TRANSFER WARRANTS PRESERVATION OF THE STATUS QUO

34. Experience in immigration habeas litigation demonstrates detainees are frequently transferred shortly after habeas petitions are filed. Such transfers can disrupt attorney access and create jurisdictional complications.

35. Courts therefore act to preserve the status quo to ensure that review remains meaningful. See *Hope*, 972 F.3d at 324.

**I. DUE PROCESS REQUIRES PRODUCTION OF THE ADMINISTRATIVE
RECORD**

36. Meaningful habeas review is impossible where the Government withholds detention records.

The writ requires the custodian to produce the basis for confinement. See 28 U.S.C. § 2243.

37. The Supreme Court has emphasized habeas review must permit courts to evaluate the sufficiency of the Government's evidence supporting detention. See *Boumediene v. Bush*, 553 U.S. 723, 779 (2008).

38. Courts reviewing immigration detention must therefore examine the factual and legal basis for custody. See *Zadvydas*, 533 U.S. at 688–90.

39. Accordingly Respondents should produce the relevant portions of Petitioner's A-file and detention records so that the Court may evaluate the legality of confinement.

J. BALANCE OF EQUITIES AND PUBLIC INTEREST

40. The equities overwhelmingly favor preventing unlawful detention. The public interest is served by ensuring executive detention complies with constitutional and statutory limits. See *Zadvydas*, 533 U.S. at 690.

41. Petitioner does not seek release through this motion, only preservation of the status quo while the Court reviews the legality of detention.

REQUEST FOR RELIEF

42. Petitioner respectfully requests that the Court:

- a) For the foregoing reasons, Petitioner respectfully requests that this Court Order the Respondents to Show Cause pursuant to 28 U.S.C. § 2243 why a Temporary Restraining Order should not remain in effect pending adjudication of the habeas petition;
- b) Prohibiting Respondents from transferring Petitioner outside this District or the SDNY or EDNY absent further order of this Court
- c) directing Respondents to provide reasonable and timely access to counsel, including meaningful and confidential in-person legal visitation;
- d) directing Respondents to file, within forty-eight (48) hours, a full return certifying the statutory and factual basis for detention pursuant to 28 U.S.C. § 2243;
- e) requiring production, within forty-eight (48) hours of this Order, of all custodial and administrative documents supporting detention, as well as all DHS and ICE custody, detention, and administrative records, with appropriate relief for noncompliance;

- f) producing Petitioner forthwith before this Court as necessary to effectuate meaningful habeas review; and
- g) grant the writ of habeas corpus and order Petitioner's immediate release from unlawful detention;
- h) award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), should Petitioner prevail in this action; and
- i) order that Petitioner shall not be re-detained without notice and an opportunity to be heard at a pre-deprivation bond hearing before a neutral decisionmaker, where Respondents will have the burden of showing that his detention is authorized under 8 U.S.C. § 1226(a), that Petitioner be "entitled to release from the unlawful restrictions on his liberty which means, in the circumstances here, restoration of... the status quo ante." *Khabazha v. United States Immigr. & Customs Enft*, No. 25-cv-5279, 2025 WL 3281514, at *8 (S.D.N.Y. Nov. 25, 2025) (ordering government release petitioner from "restrictions on his liberty imposed as a result of his unlawful [detention]... including the ankle monitor and reporting requirements") and "an injunction barring deprivation [of any] of the [Petitioner's] rights without the requisite procedural protections." *Id. See Ccorihuaman v. Genalo* No. 26-cv-554 (E.D.N.Y. Feb 6, 2026) and
- j) order that Respondents shall return to Petitioner all personal property belonging to Petitioner that was seized at the time of detention and that is currently in their custody, possession, or control, whether maintained directly by Respondents or by any contracted or affiliated facility, and that such property shall be returned in the same condition as it existed immediately prior to Petitioner's detention; and
- k) Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

s/ S. Michael Musa-Obregon

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