

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DERWIN CAPUNAY GUZMAN,

Petitioner,

v.

WILLIAM P. JOYCE, *et al.*,

Respondents.

Case No. 25 Civ. 4777 (RA)

**RESPONDENTS' MEMORANDUM OF LAW IN OPPOSITION TO PETITIONER'S
LETTER MOTION TO COMPEL PETITIONER'S TRANSFER TO THIS DISTRICT**

JAY CLAYTON
United States Attorney
Southern District of New York
86 Chambers St., 3rd Floor
New York, New York 10007
Telephone: 212-637-2810
Facsimile: 212-637-2786
Attorney for Respondents

ANTHONY J. SUN
Assistant United States Attorney
Of Counsel

TABLE OF CONTENTS

PRELIMINARY STATEMENT 1

BACKGROUND 1

ARGUMENT..... 3

CONCLUSION..... 9

The government respectfully submits this memorandum of law in opposition to the letter motion filed by petitioner Derwin Capunay Guzman (“Petitioner”) on June 9, 2025, seeking an order compelling the return of the petitioner to a detention facility in this district. ECF No. 4.

PRELIMINARY STATEMENT

Petitioner is a citizen of Peru who is currently in removal proceedings. On May 29, 2025, U.S. Immigration and Customs Enforcement (“ICE”) arrested him and initially detained him at 26 Federal Plaza. Because the Orange County Jail in Goshen, New York, ICE’s only detention center in the Southern District of New York, was overcapacity for detainees with Petitioner’s risk classification, ICE informed him on June 5, 2025, that it planned to transfer him to a facility in Louisiana with available long-term bed space. After receiving such notice, Petitioner then filed the instant habeas petition late in the evening on June 5 (after 11:00 p.m.), principally challenging his detention. As scheduled, Petitioner was transferred to Louisiana the morning of June 6, 2025, departing New York in the early morning. Three days later, on June 9, 2025, the Court issued its order to show cause, and that same evening, Petitioner moved for an order compelling his return to this district.

This Court should deny Petitioner’s motion because Petitioner cannot meet the stringent standard for a mandatory injunction.

BACKGROUND

Petitioner is a native and citizen of Peru who unlawfully entered the United States on or about April 24, 2024. Declaration of Kunal Datta dated June 11, 2025 (“Datta Decl.”), ¶¶ 3, 4. Petitioner admitted to Border Patrol that he unlawfully entered the United States, was not admitted or paroled, and did not possess valid entry documents. *Id.* ¶ 4. Consequently, United States Customs and Border Protection (“CBP”) placed Petitioner in custody that same day. *Id.*

On April 26, 2024, CBP served Petitioner with a Notice to Appear (“NTA”), the charging document used to commence removal proceedings, charging him with removability pursuant to INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *Id.* ¶ 5.

As relevant to the instant motion, ICE arrested and detained Petitioner on May 29, 2025. *Id.* ¶ 11. Petitioner was initially detained in this district at 26 Federal Plaza while ICE attempted to locate available bedspace at his risk classification level in the region. *Id.* However, because Orange Country Jail in Goshen, New York — ICE’s only detention facility in this district — was over capacity for detainees with Petitioner’s risk classification, on June 5, 2025, ICE notified Petitioner that it planned to transfer him to ICE’s Allen Parish Public Safety Complex in Louisiana. *Id.* ¶ 13. This decision on account of bedspace limitations was made prior to the filing of the instant petition for habeas corpus. *Id.* With knowledge of the impending transfer, Petitioner filed his habeas petition in this Court after 11:00 p.m. on June 5, 2025.

On June 6, 2025, ICE transferred Petitioner to the Allen Parish Public Safety Complex, departing New York at around 5:15 a.m., and he remains detained at that facility at this time. *Id.* ¶¶ 15, 17. In light of the transfer, ICE also moved the Varick Immigration Court to transfer venue of the removal proceedings to the Oakdale Immigration Court in Louisiana, which the Immigration Judge granted on June 9, 2025. *Id.* ¶ 16.

Orange County Jail remains at capacity for detainees with Petitioner’s risk classification at this time, as does another nearby facility in Newark, New Jersey. *Id.* ¶ 18. As a result, in order to return Petitioner to this district — *i.e.*, Orange County Jail, ICE’s only detention facility in the

Southern District of New York — ICE would necessarily need to transfer another detainee in order to accommodate Petitioner.¹

On June 9, 2025, the Court issued an order directing the government to “Show Cause why the Petitioner for Writ of Habeas Corpus should not be granted by June 12, 2025,” and further ordered that, “Pending consideration of the Petition, Respondents are hereby RESTRAINED from transferring Petitioner out of the Southern District of New York.” ECF No. 3. However, three days prior to the Court’s order, Petitioner had already been transferred to the Allen Parish Public Safety Complex in Louisiana, and counsel for Petitioner was informed of the transfer that same morning (and had been informed by ICE that he was to be transferred the day beforehand). *See* ECF No. 4-1.

On the evening of June 9, 2025, Petitioner then filed a two-page letter motion seeking an order from the Court compelling ICE to transfer Petitioner to a detention facility in this district. ECF No. 4. The Court directed a response by June 11, 2025, at 5:00 p.m. ECF Nos. 5, 8.

ARGUMENT

The Court should deny Petitioner’s motion for an order compelling ICE to transfer him to a detention facility in the Southern District of New York, which is in essence a mandatory injunction altering the status quo, because Petitioner cannot meet the stringent standard for such an injunction. As an initial matter, Petitioner has made absolutely no showing or argument to support the requested relief: the letter motion does not set forth the applicable standard for an injunction, does not address any of the factors required to obtain such an injunction, and entirely

¹ In the past, ICE’s New York City Field Office used to house many detainees at the Hudson County Jail and Bergen County Jail in New Jersey, but those facilities ended their contracts with ICE several years ago, limiting the available bedspace options in the region.

fails to make any argument whatsoever in support of the requested relief. Nor could Petitioner satisfy the stringent requirements for such an injunction. Additionally, there are reasons why such an injunction should not be issued: there is a lack of available bed space within the Southern District of New York, and an order requiring ICE to detain Petitioner in this district would necessarily require ICE to transfer a different detainee to an ICE facility outside of this district. Moreover, transfer to this district is not necessary for resolution of the habeas petition because his habeas petition was properly filed while he was detained in this district, and his subsequent transfer to an ICE facility with available bed space outside of this district does not deprive this Court of habeas jurisdiction. Consequently, Petitioner cannot show irreparable harm, and relief is neither warranted nor necessary to preserve this Court's jurisdiction.

In this case, although Petitioner was temporarily detained within this judicial district at the time of filing, due to a lack of available bed space within the Southern District of New York, ICE transferred him to a facility in Louisiana with available bed space on the morning of June 6, 2025, prior to this Court's June 9, 2025, order. Moreover, the transfer was planned and scheduled prior to the filing of this habeas action for operational reasons, namely a lack of bed space within the district. Though Petitioner's barebones letter motion does not frame the request as a motion for preliminary injunction, that is exactly what it seeks — an order compelling ICE to transport, transfer, and detain Petitioner at a detention facility within “the *physical* jurisdiction of this Court pending consideration of the Petition.” ECF No. 4 at 2 (emphasis added).

But such injunctive relief requires a strong showing. “A preliminary injunction ‘is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion.’” *Students for Fair Admissions v. U.S. Military*

Academy at West Point, 709 F. Supp. 3d 118, 129 (S.D.N.Y. 2024) (quoting *Grand River Enterprises Six Nations, Ltd. v. Pryor*, 481 F.3d 60, 66 (2d Cir. 2007)); see also *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 24 (2008) (“A preliminary injunction is an extraordinary remedy never awarded as of right.”). To demonstrate entitlement to this extraordinary and drastic remedy, a movant must clearly demonstrate: “(1) irreparable harm absent injunctive relief, (2) a likelihood of success on the merits, [] (3) public interest weighing in favor of granting the injunction,” and (4) “that the balance of equities tips in his or her favor.” *A.H. by & through Hester v. French*, 985 F.3d 165, 176 (2d Cir. 2021) (quotation marks and footnotes omitted).

Where, as here, the movant seeks “to modify the status quo by virtue of a ‘mandatory preliminary injunction’ (as opposed to seeking a ‘prohibitory preliminary injunction’ to maintain the status quo),” the “standard for obtaining preliminary injunctive relief is higher.” *Id.* (quoting *Yang v. Kosinski*, 960 F.3d 119, 127 (2d Cir. 2020)). “In this circumstance, the movant must . . . make a *strong* showing of irreparable harm and demonstrate a *clear or substantial* likelihood of success on the merits.” *Id.* (emphasis added; quotation marks omitted); accord *Tom Doherty Associates, Inc. v. Saban Entertainment, Inc.*, 60 F.3d 27, 34 (2d Cir. 1995) (“[A] mandatory injunction should issue only upon a clear showing that the moving party is entitled to the relief requested, or where extreme or very serious damage will result from a denial of preliminary relief.” (quotation marks omitted)).

Petitioner cannot do so here. For one, the requested relief has nothing to do with this Court’s jurisdiction over the habeas petition; it is expressly just for his physical presence in this district. But requiring ICE to transfer and detain Petitioner in this district is not necessary to

preserve the Court’s habeas jurisdiction. Petitioner’s challenge to his detention is a “core” habeas matter that must be filed in the district of confinement and name the immediate custodian as respondent. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1005–06 (Apr. 7, 2025); *Khalil v. Joyce*, __ F. Supp. 3d ___, 2025 WL 849803, at *5 (S.D.N.Y. March 19, 2025). At the time Petitioner filed his petition for writ of habeas corpus, he was detained within the Southern District of New York, albeit temporarily. Consequently, habeas jurisdiction properly vested in this Court, and Petitioner’s subsequent transfer out of the district does not deprive this Court of jurisdiction. *See Khalil*, 2025 WL 849803 at *5 (citing *Ex Parte Endo*, 323 U.S. 283 (1944)). And the Court can rule on his detention claims without his presence in the district.²

The only authority cited in Petitioner’s letter motion,³ *Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025), does not compel a contrary result. There, the Second Circuit was reviewing a motion to stay an order compelling transfer back to the district in which the petition was pending on account of “an expeditious schedule for a bail hearing and to resolve the constitutional claims made in the habeas petition” along with “Öztürk’s interest in participating in her scheduled habeas proceedings in person.” *Id.* at 387–88; *see also Ozturk v. Trump*, No. 2:25-cv-374, 2025 WL 1190759, at *2 (D. Vt. Apr. 24, 2025) (“To briefly reiterate, Ms. Ozturk’s physical transfer to ICE custody in Vermont will have no impact on the government’s separate removal proceedings against her in immigration court. However, her return to Vermont will facilitate speedy resolution of her petition in this Court.”). By contrast, Petitioner has made no showing

² The government will respond to the challenge to its detention authority in its response to the petition for writ of habeas corpus, currently due by June 12, 2025.

³ A movant has an obligation to raise all arguments in their moving brief and not to raise new theories on reply. *See, e.g., Jackson Hold Burger, Inc. v. Estate of Galekovic*, 701 F. Supp. 3d 228, 232 (S.D.N.Y. 2023) (“[A]rguments raised for the first time on reply are waived.”)

that his habeas petition here requires his presence at this time, as his claims primarily focus on legal issues, namely, the extent of ICE's authority under the INA. Simply put, the facts and circumstances of this case are far afield of those in *Ozturk*, and Petitioner has made no showing to justify the issuance of such an extraordinary order here.

Moreover, although ICE had already decided to transfer Petitioner on account of bedspace limitations prior to the filing of this action (and had notified Petitioner in advance of the transfer), and transferred him to another ICE facility outside of this district before any Court order prohibiting such transfer, an order compelling ICE to transport and transfer Petitioner back to a detention facility in this district would not be appropriate in light of the lack of available bedspace in this district. ICE would necessarily have to transfer a different detainee currently housed at the Orange County Jail (ICE's only detention facility in this district) to a detention facility in a different district in order to make room for Petitioner, merely shifting the transferee status to another similarly situated individual, without any attendant effect on this Court's jurisdiction.

Second, in his letter motion, Petitioner has not made any claim of irreparable harm from his detention. *See* ECF No. 4 (no mention of "irreparable harm" and citing only to "the spirit of this Court's order" and the "interest of justice"). "The showing of irreparable harm is perhaps the single most important prerequisite for the issuance of a preliminary injunction." *Kamerling v. Massanari*, 295 F.3d 206, 214 (2d Cir. 2002) (internal quotation marks and citations omitted). A movant can establish irreparable harm if she shows that "there is a continuing harm which cannot be adequately redressed by final relief on the merits and for which money damages cannot provide adequate compensation." *Id.* (internal quotation marks and citations omitted). Moreover,

the irreparable harm alleged must be shown to be “actual and imminent, not remote or speculative.” *Kamerling*, 295 F.3d at 214. The “mere possibility of irreparable harm is insufficient to justify the drastic remedy of a preliminary injunction.” *Borey v. Nat’l Union Fire Ins. Co.*, 934 F.2d 30, 34 (2d Cir. 1991). Where, as here, Petitioner does not make *any* assertion of irreparable harm, the motion must be denied.

Third, the balance of equities does not weigh in Petitioner’s favor; in fact, the public interest would be disserved by relief here because an order compelling ICE to transfer Petitioner from a detention facility in Louisiana to the sole ICE detention facility in this district, the Orange County Jail, would require ICE to, in turn, transfer a different detainee out of this district in order to make room for Petitioner. *See* Datta Decl. ¶ 18. Petitioner does not claim any particularized harm from his detention outside of this district, and his removal proceedings will continue accordingly. On the other hand, an order requiring ICE to transfer Petitioner to a detention facility in this district imposes harm on the government, who at a minimum must incur the expense of transferring another detainee to another facility.

Accordingly, Petitioner fails to meet the stringent standard for a mandatory injunctive order, and this Court should deny the motion to compel his transfer back to this district.

CONCLUSION

For the foregoing reasons, the Court should deny Petitioner's motion to compel ICE to transfer him to a detention facility within the Southern District of New York.

Dated: New York, New York
June 11, 2025

Respectfully submitted,

JAY CLAYTON
United States Attorney
Southern District of New York
Attorney for Respondents

By: s/ Anthony J. Sun
ANTHONY J. SUN
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: 212-637-2810
anthony.sun@usdoj.gov

Certificate of Compliance

Pursuant to Local Civil Rule 7.1(c), the above-named counsel hereby certifies that this memorandum complies with the word-count limitation of this Court's Local Civil Rules. As measured by the word processing system used to prepare it, this memorandum contains 2,406 words.