

DETAINED

Kelly Vomacka
GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080
kelly.vomacka@ghp-law.net

Attorney for Petitioner

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

MARINA TZAFIR,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No.: 2:25-cv-02067-JHC-SKV

MOTION FOR EMERGENCY
TEMPORARY RESTRAINING ORDER
AND STAY OF REMOVAL

Agency File Number:



**MOTION FOR EMERGENCY TEMPORARY RESTRAINING ORDER
AND STAY OF REMOVAL**

I. Motion

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 her removal from the United States and her transfer to another detention facility while these proceedings are pending. Counsel is notifying the respondent's counsel of this motion through the ECF/CM portal and by emailing a copy to AUSA James Strong.

MOTION FOR EMERGENCY TRO
AND STAY OF REMOVAL

(CASE NO. 2:25-cv-02067-JHC-
SKV)

Page 1

GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080

II. Basis for Motion

The petitioner, Ms. Marina Tzafir, is a 57-year-old non-citizen who is currently being held in detention at the Northwest ICE Processing Center (NWIPC) by U.S. Immigration and Citizenship Enforcement (ICE). She has been detained since August 14, 2025.

She filed a petition for a writ of habeas corpus on October 22, 2025. She seeks release because she is stateless and there is no significant likelihood of removal in the reasonably foreseeable future. The government has designated no third country to which they might attempt removal, although counsel is aware that they do not always take this step before effectuating third-country removal.

At about midnight last night, counsel received word that Ms. Tzafir's husband, Binyamin Tzafir, who is also in custody in Tacoma, was being transferred to another detention facility. Five or six other clients of counsel's law firm were also slated for transfer last night. The Court granted an emergency Temporary Restraining Order for Mr. Tzafir early this morning, under cause 2:25-cv-02126-JLR-MLP, enjoining the respondents from transferring or removing Mr. Tzafir. Binyamin Tzafir is still at the Tacoma detention center today. Because Ms. Tzafir is in the same procedural and factual posture as her husband, she is concerned that she will also become subject to imminent transfer or removal, perhaps in the middle of the night.

Immediately after filing this habeas petition, counsel sought agreement from the government's attorney, AUSA Michelle Lambert, to stay transfer and removal during the proceedings. This has been successful in other cases to avoid seeking a TRO. However, as Ms. Lambert replied, the U.S. Attorney's office now has additional attorneys working on immigration cases, and they need to assign each case to an attorney when they receive service.

1 AUSA James Strong was assigned today to the cases of all three family members and
2 has appeared in all three cases.¹ He has contacted ICE about an agreement to not remove or
3 transfer Ms. Tzafir, but he has received no response and is not expecting one today. With the
4 pending weekend, Ms. Tzafir is turning to the Court. Her counsel will email a copy of this
5 motion to Mr. Strong upon filing.

6
7 **III. Argument**

8 ***A. Standards for Temporary Restraining Order***

9 To grant a Temporary Restraining Order, the petitioner must meet one of two tests. The
10 more recent test, known as the *Winter* test, requires the petitioner to prove as follows:

- 11 [1] that he is likely to succeed on the merits,
12 [2] that he is likely to suffer irreparable harm in the absence of preliminary
13 relief,
14 [3] that the balance of equities tips in his favor, and
15 [4] that an injunction is in the public interest.

16 *Sherley v. Sibelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (alteration in original, quoting *Winter v.*
17 *Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). “The same standard applies to both
18 temporary restraining orders and to preliminary injunctions.” *Sterling Commercial Credit-*
19 *Michigan, LLC v. Phoenix Industries I, LLC*, 762 F. Supp. 2d 8, 12 (D.D.C. 2011) (quoting
20 *Hall v. Johnson*, 599 F. Supp. 2d 1, 3 n.2 (D.D.C. 2009)).

21 The traditional test, which remains viable in the Ninth Circuit, is known as the “sliding
22 scale” test and requires the petitioner to prove “serious questions going to the merits” and “a
23 hardship balance that tips sharply toward the petitioner.” *Alliance For The Wild Rockies v.*

¹ The other cases are *Binyamin Tzafir v. Bondi*, 2:25-cv-02126-JLR-MLP, and *Sigal Tzafir v. Bondi*, 2:25-cv-02070-DGE-GJL.

1 *Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As under the *Winter* test, the petitioner must also show a
2 likelihood of irreparable injury and that the injunction is in the public interest. “Under this
3 approach, the elements of the preliminary injunction test are balanced, so that a stronger
4 showing of one element may offset a weaker showing of another.” *Alliance For The Wild*
5 *Rockies*, 632 F.3d at 1131.

6 Ms. Tzafir meets both of these tests.

7
8 ***B. Ms. Tzafir is likely to succeed on the merits and has raised serious legal questions.***

9 As the Petition sets out, Ms. Tzafir seeks release because she is stateless and there is no
10 significant likelihood of removal in the reasonably foreseeable future. The government has
11 designated no third country to which they might attempt removal, although counsel is aware
12 that they do not always take this step before effectuating third-country removal. In addition
13 other claims in the petition, there is no significant likelihood of removal in the reasonably
14 foreseeable future, so the detention has no purpose and must end. *Zadvydas v. Davis*, 533 U.S.
15 678, 690 (2001). Ms. Tzafir is likely to succeed on the merits as *Winter* requires, and she has
16 raised serious legal questions, as the sliding scale test requires.

17
18 ***C. Ms. Tzafir faces irreparable harm, and a hardship balance tips sharply toward her.***

19 Ms. Tzafir faces substantial hardships and irreparable harm if she is transferred to
20 another detention facility or if she is removed from the United States.

21 Mr. Tzafir, who is 57 years old, has lived in the United States for more than 25 years.
22 She has nowhere else to go, as evidenced when she was ordered removed and was unable to
23 obtain travel documents to her most recent country of residence, Israel. The country of her birth,

1 the Uzbek Soviet Socialist Republic, no longer exists, and she has never been a citizen of
2 Uzbekistan.

3 Given the events of last night concerning her husband, the probability of transfer appears
4 high, and the possibility of third-country removal is unknown but quite concerning. Transfer
5 would separate Ms. Tzafir from her attorneys, her family, and her support system. Removal
6 would also be an irreparable harm for similar reasons. In addition, some third-country removals
7 are to war zones, such as South Sudan, which would be an additional irreparable harm to Ms.
8 Tzafir.

9
10 ***D. The balance of equities tips in favor of Ms. Tzafir, and an injunction is in the public***
11 ***interest.***

12 The remaining two factors for an injunction are the same under both legal tests, and they
13 both favor Ms. Tzafir.

14 As to the balance of equities, although Ms. Tzafir will suffer great harm if she is
15 removed or transferred, the respondents will suffer no harm if she is not removed or transferred.

16 As to the public interest, it is in the public interest for the government to follow its own
17 laws. Removal to an undesignated third country, with no opportunity to challenge the removal
18 to that country, would violate the government's own laws and regulations, and it would
19 blatantly violate Due Process.

20 Further, this administration has developed a pattern of deporting individuals from the
21 United States without providing proper process and without allowing them access to federal
22 review. That is exactly what the respondents will accomplish if they are permitted to remove
23 Ms. Tzafir. Ms. Tzafir seeks the opportunity to access the laws that were passed by Congress
and the regulations that were promulgated by the very agencies that now seek to overstep.

IV. Conclusion

Under FRCP 65, the petitioner moves this Court to issue an Emergency Temporary Restraining Order and Stay of Removal:

1. Enjoining and restraining the Respondents and all of their respective officers, agents, servants, employees, attorneys and persons acting on their behalf in concert or in participation with them from:
 - a. Removing or deporting Ms. Tzafir from the United States while these proceedings are pending;
 - b. Transferring Ms. Tzafir from the Northwest ICE Processing Center to any other detention facility during the pendency of these proceedings.

WHEREFORE, for the reasons set forth in her Petition for Writ of Mandamus, and in this Motion the Petitioner respectfully requests this Court:

1. Grant this Emergency Motion for Temporary Restraining Order and Stay of Removal today, October 31, 2025;
2. Enter the Proposed Order Granting Petitioner's Emergency Motion for Temporary Restraining Order and Stay of Removal today; and
3. Grant such other and further relief as justice may require.

Dated: October 31, 2025.

/s/ Kelly Vomacka

Kelly Vomacka, WSBA 20090
GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080
kelly.vomacka@ghp-law.net

Attorney for Petitioner

MOTION FOR EMERGENCY TRO
AND STAY OF REMOVAL

(CASE NO. 2:25-cv-02067-JHC-
SKV)

Page 6

GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104
(206) 682-1080