

DETAINED

District Judge John H. Chun
Magistrate Judge S. Kate Vaughan

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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

REPLY RE TEMPORARY RESTRAINING
ORDER AND STAY OF REMOVAL

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In its response to the petitioner's motion for a temporary restraining order (TRO), the government asserts that it has "broad authority" to transfer the petitioner where it pleases. Dkt. 6, at 2. But the support on which it relies is in apposite, and its transfer authority is not so broad as it asserts.

The government relies first on 8 U.S.C. § 1231(g), which gives the government authority to "arrange for" detention facilities, whether by rental or construction. The statute does not state how those facilities are to be used. It does require, however, that the facilities be "appropriate."

Nn "appropriate" facility is not any facility in the country. At the very least, where a detainee has

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1 filed a petition for habeas corpus, an appropriate facility is one that is in the federal district where
 2 jurisdiction and venue lie. It is also one where the petitioner's attorneys are, in order to assure
 3 that the petitioner and their attorneys may speak with each other privately and at their discretion.
 4 The Ninth Circuit has upheld mandatory injunctions that assure a non-citizen can contact their
 5 counsel. *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 565 (9th Cir. 1990). Concerns about
 6 access to counsel can arise when:

7 (1) [N]on-citizens are detained "far from where potential counsel or existing
 8 counsel [is] located," (2) the facility limits attorney visitation hours, (3) systems
 9 used to apprise detainees of the presence of their attorneys are inadequate, (4)
 10 non-citizens are transferred "to remote detention centers without any notice to
 counsel," or (5) detainees' access to telephones is limited. [*Orantes-Hernandez*
 at 565–67; see also, *Vasquez Perdomo v. Noem*, 790 F. Supp. 3d 850, 878 (C.D.
 Cal. 2025)].

11 *Lahamendu v. Bondi*, 2:25-cv-02155, at 11 (W.D. Wash. November 3, 2025). The respondents
 12 do not address how access to counsel can be preserved if the petitioner is transferred nor how a
 13 transfer under those circumstances could be "appropriate" under 8 U.S.C. § 1231(g).

14 The government also relies on the ICE Detention Standards. Dkt. 6, at 2. It does not offer
 15 a pin cite. The standards are 475 pages long and petitioner's counsel has not read them all, but
 16 the section on detainee transfers, at 457-462, do not support the government's argument. That
 17 section of the standards do not state the reasons that can justify detainee transfer, whether for
 18 medical, security, operational, or other needs. As to the reasons for transfer, the section says only
 19 this:

20 Decisions to transfer detainees are made by the Field Office Director or his or her
 21 designee on the basis of complete and accurate case information and principles set
 22 forth in the ICE/ERO Detainee Transfers Directive and other applicable ICE/ERO
 policies.

23 ICE Detention Standards, at 458. Those standards do not support the broad transfer authority that
 the government now asserts.

1 And finally, the government relies on *GEO Group v. Newsom*, 50 F.4th 745 (9th Cir.
2 2022), saying that it “further reinforces” DHS’ broad authority to transfer. Dkt. 6, at 2. But the
3 case is wholly in apposite. First, it vacates and remands a preliminary injunction, on the grounds
4 that the plaintiff did not make a sufficient showing of likely success on the merits. *GEO Group*,
5 at 763. That is not a grant of broad authority to transfer detainees, but rather a statement about
6 the likely outcome of a lawsuit. And it is also a case that centers on the Supremacy Clause. At
7 issue in that case was whether California could ban immigration detention in the state. The Court
8 found that the federal government’s authority was exclusive against the states, not against the
9 courts and their habeas powers. *GEO Group*, at 750. No one here is asserting state authority over
10 immigration detention, so the case does not apply.

11 The petitioner has shown why a TRO is justified under the relevant legal standard, and
12 the government has not defeated that showing. The petitioner respectfully asks the Court to issue
13 a TRO.

14
15 Dated: November 5, 2025.

16 /s/ Kelly Vomacka

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