

The Honorable John H. Chun
The Honorable S. Kate Vaughan

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

MARINA TZAFIR,

Petitioner,

v.

PAMELA BONDI, United States Attorney
General, *et al.*,

Respondents.

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

FEDERAL RESPONDENTS'¹ RESPONSE
TO PETITIONER'S MOTION FOR
PRELIMINARY INJUNCTION

Federal Respondents submit this response to Petitioner Marina Tzafir's motion for a preliminary injunction asking the Court to prevent the U.S. Department of Homeland Security ("DHS") from transferring Petitioner out of the Western District of Washington or removing or deporting Petitioner from the United States. Dkt. 10. Federal Respondents do not request a hearing and ask that the motion be decided on the pleadings.

ARGUMENT

"It frequently is observed that 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

¹ Respondent Bruce Scott is not a Federal Respondent.

1 of persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original) (internal
2 quotations omitted); *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). “A plaintiff
3 seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he
4 is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities
5 tips in his favor, and that an injunction is in the public interest.” *Winter*, 555 U.S. at 20.
6 Alternatively, a plaintiff can show that there are “serious questions going to the merits and the
7 balance of hardships tips sharply towards [plaintiff], as long as the second and third *Winter* factors
8 are satisfied.” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017) (internal
9 quotation omitted).

10 **a. Petitioner’s request for injunctive relief concerning removal should be denied**

11 Petitioner’s argument that she could be removed to a third country is speculative. The
12 record contains no declaration or evidence supporting this allegation, except her counsel’s
13 statement that she is “aware that [the government does] not always take this step [to designate a
14 third country where it may attempt removal] before effectuating third-country removal” and that
15 “this administration has developed a pattern of deporting individuals from the United States
16 without providing proper process and without allowing them access to federal review.” Dkt. 10,
17 pp. 4, 6. Again, Petitioner bears the burden to show that preliminary injunctive relief is warranted,
18 and conclusory statements are insufficient to meet that burden. At minimum, Petitioner should be
19 required to present some evidence that she will be removed to a third country before injunctive
20 relief is granted. *Khamba v. Albarran*, No. 25-1227-JLT-SKO, 2025 WL 2959276, at *10 n. 15
21 (E.D. Cal. Oct. 17, 2025) (declining to grant preliminary injunction against third country removal
22 because any such fear was “speculative,” and petitioner did “not allege any specific threat of third
23 country removal”).

1 We recognize that other courts in this district have granted preliminary injunctive relief
2 concerning third-country removals, but in one, there was evidence that the noncitizen's attorney
3 had been told by DHS that it was seeking to deport her client to a third country. *See, e.g., Baltodano*
4 *v. Bondi*, No. 25-1958-RSL, 2025 WL 3123991, at *1 (W.D. Wash. Nov. 7, 2025). Moreover, even
5 then, the injunctive relief that the courts granted was limited to requiring DHS to provide notice
6 and a meaningful opportunity to respond to the detainee if it elected to pursue third-country
7 removal. *Id.* at *5; *see also Nguyen v. Scott*, --- F. Supp. 3d ---, 2025 WL 2419288, at *29 (W.D.
8 Wash. Aug. 21, 2025). Petitioner's request here goes beyond that relief, and instead, seeks to
9 prevent DHS from altogether pursuing a third-country removal while this habeas petition is
10 pending. Dkt. 10, p. 7. Petitioner's motion fails to provide a sound basis for such relief.
11 Accordingly, Petitioner's request for a preliminary injunction should be dismissed.

12 **b. Petitioner's request for a preliminary injunction preventing her from being**
13 **transferred away from the NWIPC should be denied**

14 Likelihood of success on the merits is a threshold issue: "[W]hen a plaintiff has failed to
15 show the likelihood of success on the merits, [the court] need not consider the remaining three
16 *Winters* elements." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (internal quotation
17 omitted). Here, Petitioner does not show that she is likely to succeed on the merits of her claim
18 regarding transfers, and in fact her arguments as to the first *Winter* factor relate either to removal
19 or to the relief that she actually seeks in this habeas petition – release from detention. *See* Dkt. 10,
20 p. 4. On this basis, Petitioner's motion for injunctive relief should be denied.

21 Notwithstanding, DHS has broad authority under 8 U.S.C. § 1231(g) to determine the
22 placement and transfer of detainees to appropriate detention facilities. Section 1231(g) explicitly
23 authorizes DHS to arrange for appropriate places of detention for individuals detained pending
24 removal or a decision on removal. *See also* 2025 U.S. Immigration and Customs Enforcement,

1 National Detention Standards, <https://www.ice.gov/doclib/detention-standards/2025/nds2025.pdf>.
2 This includes the authority to acquire, build, lease, and operate detention facilities to meet
3 operational needs. Placement and transfer decisions are made based on operational priorities,
4 including proximity to immigration courts, facility capacity, security needs, medical care, and the
5 ability to meet detention standards. For example, detainees may be placed in facilities near
6 immigration courts to ensure efficient processing and participation in removal proceedings.
7 Transfers occur when detainees need to be relocated to other facilities due to medical care,
8 overcrowding, operational necessity, or security concerns.

9 The Ninth Circuit's decision in *GEO Group v. Newsom*, 50 F.4th 745 (9th Cir. 2022),
10 further reinforces DHS's authority over detention and transfers. In *Geo Group*, the court held that
11 California's AB 32, which banned private detention facilities, was preempted by federal law. The
12 court emphasized that federal immigration law grants DHS/ICE's exclusive authority to manage
13 detention operations, including the ability to contract with private entities and determine
14 appropriate detention locations. *Id.* at 751.

15 Furthermore, Petitioner's claims that she faces irreparable injury if she were transferred are
16 vague and speculative. *See Winter*, 555 U.S. at 22 (the mere "possibility" of irreparable harm is
17 insufficient; instead, the moving party must "demonstrate that irreparable injury is likely in the
18 absence of an injunction."). Petitioner's argument on this factor rests on her allegation that if she
19 is transferred to any immigration detention facility other than the Northwest ICE Processing
20 Center, it will result in separating her from "her attorneys, her family, and her support system."
21 Dkt. 10, p. 5. Here again, Petitioner provides no declaration, evidence, or facts describing current
22 communication practices between her and her counsel or her family, and how those conditions
23 would be materially different or worse at any other immigration detention facility in the United
24 States. *See ICE National Detention Standards*, Section 5.4 "Telephone Access" (detailing

1 nationwide facility standards to ensure for “reasonable and equitable access to telephone
2 services.”). The mere assertion that communication with counsel and family could be disrupted is
3 insufficient to establish a likelihood of irreparable harm. *See Tellez Gomez v. Bondi*, No. 25-2248,
4 2025 WL 3176941, at *1 (W.D. Wash. Nov. 11, 2025) (denying motion for TRO on similar
5 argument that if detainee was transferred, it would be a threat to access of counsel of his choosing).

6 As to the third and fourth *Winter* factors, Petitioner provides only that she “will suffer great
7 harm if she is ... transferred. The respondents will suffer no harm if she stays where she is.” Dkt.
8 10, p. 6. As discussed above though, Federal Respondents have an interest in operating its
9 detention facilities in a manner to meet their operational needs, which is also within the public
10 interest. Within that, detainees may need to be relocated to other facilities due to medical care,
11 overcrowding, operational necessity, or security concerns. Meanwhile, Petitioner only provides
12 vague claims that she will suffer irreparable harm contacting her counsel and family without a
13 declaration, evidence, or facts to support it. Therefore, the balance of equities and the public
14 interest tips in the favor of Federal Respondents.

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CONCLUSION

Accordingly, Federal Respondents ask the Court to deny the motion for preliminary injunction.

DATED this 21st day of November, 2025.

Respectfully submitted,

CHARLES NEIL FLOYD
United States Attorney

s/ James C. Strong
JAMES C. STRONG, WSBA No. 59151
Assistant United States Attorney
United States Attorney's Office
Western District of Washington
700 Stewart Street, Suite 5220
Seattle, Washington 98101-1271
Phone: 206-553-7970
Fax: 206-553-4067
Email: james.strong@usdoj.gov

Attorneys for Federal Respondents

I certify that this memorandum contains 1,301 words in compliance with the Local Civil Rules.