

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA

FERNANDO LUIZ DA SILVA RODRIGUES,)
A# )
)
Petitioner,)
)
vs.)
)
Anthony E. Lowery, Sheriff, Baldwin County)
Detention Center;)
MELLISSA HARPER, ICE New Orleans)
Field Office Director;)
TODD LYONS, in his official capacity as Acting)
Director of Immigration and Customs)
Enforcement; and)
KRISTI NOEM, Secretary of Homeland Security)
And PAMELA BONDI, U.S. Attorney General.)
)
Respondents.)

CASE NO.:
1:26-cv-20

**[PROPOSED] ORDER REGARDING PETITIONER'S EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION**

For good cause shown and for the reasons set forth in Petitioner's Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction, it is hereby ORDERED:

1. Pending final resolution of Petitioner's Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief, Respondents are ENJOINED from:
 - (a) removing Petitioner from the United States;
 - (b) transferring Petitioner outside the Southern District of Alabama or otherwise changing his immediate custodian; or
 - (c) taking any action that would divest this Court of habeas jurisdiction or render its eventual judgment ineffectual;

absent further order of this Court.

2. Pending final resolution of the Petition, Respondents are ORDERED to immediately release Petitioner from civil immigration custody forthwith on appropriate conditions of supervision set by this Court; (or, in the alternative, provide Petitioner with an individualized bond hearing before an Immigration Judge within forty-eight (48) hours of entry of this Order pursuant to 8 U.S.C. § 1226(a). At any such hearing: (i) the government shall bear the burden of proof; (ii) to justify continued detention, the government must prove, by clear and convincing evidence, that Petitioner is a danger to the community or a flight risk and that no less-restrictive conditions of release can reasonably ensure his appearance and protect public safety; and (iii) the Immigration Judge shall issue a written or recorded oral decision setting forth specific factual findings and the reasons for any decision to deny release or to impose particular conditions of release).
3. Pending final resolution of the Petition, Respondents are ENJOINED, upon Petitioner's release, from subjecting him to any form of electronic monitoring, GPS ankle bracelet, ISAP enrollment, or other custody-like alternative-to-detention program, unless Respondents first make an individualized, evidence-based determination — reflected in a contemporaneous written record provided to Petitioner and his counsel — that such specific conditions are necessary because less-restrictive alternatives, including release on recognizance or a monetary bond, would be inadequate to reasonably ensure appearance or protect public safety.
4. The Court ORDERS Respondents to Show Cause and file a Return to the Petition and a response to this Motion within three (3) days.

5. The Court set this matter for an expedited hearing on _____. Counsel for Petitioner may participate remotely in such hearing.
6. Grant such other and further relief as the Court deems just and proper.

SO ORDERED.