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7 Bar No.: 208563
8 EOIR ID: FF202218

9
10 UNITED STATES DISTRICT COURT
11
12 SOUTHERN DISTRICT OF CALIFORNIA
13

14 Asim Pasholli, 

Civil Action No. _____

15 Petitioner,

16 v.

17 **EMERGENCY MOTION FOR**
18 **TEMPORARY RESTRAINING ORDER**
19 **TO ENJOIN TRANSFER AND FOR**
20 **ORDER TO SHOW CAUSE**

21 **PATRICK DIVVER**, Field Office Director,
22 Enforcement and Removal Operations, San
23 Diego Field Office, U.S. Immigration and
24 Customs Enforcement; Warden of the
25 Imperial Regional Detention Facility;
26 **KRISTI NOEM**, Secretary, U.S. Department
27 of Homeland Security; **TODD M. LYONS**,
28 Acting Director, U.S. Immigration and
Customs Enforcement; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Respondents,

21
22 **EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER TO ENJOIN**
23 **TRANSFER AND FOR ORDER TO SHOW CAUSE**

24 **I. Relief Requested**

- 25 1. Petitioner moves for a temporary restraining order prohibiting Respondents from
26 transferring Petitioner outside the Southern District of California during the pendency of
27 this habeas action, or alternatively requiring 72 hours advance written notice to Petitioner
28 and counsel and an opportunity to be heard before any transfer.

1 **II. Grounds**

- 2 2. This TRO is necessary to preserve this Court's jurisdiction over the petition and to
3 prevent irreparable harm from an imminent transfer that would frustrate meaningful
4 habeas review.

5 **III. Legal Standard**

- 6 3. To obtain a TRO, Petitioner must show: (1) likelihood of success on the merits, (2) likely
7 irreparable harm absent relief, (3) balance of equities favors relief, and (4) relief is in the
8 public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The Court
9 may also apply the Ninth Circuit sliding scale where serious questions go to the merits
10 and the balance of hardships tips sharply toward the movant. *Alliance for the Wild*
11 *Rockies v. Cottrell*, 632 F.3d 1127, 1131 to 35 (9th Cir. 2011).

12 **IV. Argument**

13 **A. Likelihood of success, or at minimum serious questions on the merits**

- 14 4. Petitioner raises at least serious questions, and in fact is likely to succeed, because:
15 5. Petitioner is detained under 8 U.S.C. § 1231(a)(6) pursuant to a final order, and removal
16 is not significantly likely in the reasonably foreseeable future. ICE has no travel
17 documents from Albania and has not provided a removal date.
18 6. ICE has failed to provide required post order custody review procedures under 8 C.F.R.
19 §§ 241.4 and 241.13, and has provided no written custody determination. Under *Accardi*,
20 an agency must follow its own rules.
21 7. Continued detention without travel documents, without a removal schedule, and without
22 the mandated review process violates due process. Detention becomes arbitrary when
23 untethered from removal.
24 8. Even if Respondents argue the petition is slightly early relative to the six-month
25 presumption, *Zadvydas* describes the six-month period as presumptively reasonable, not
26 an absolute bar to relief, and the regulatory and due process violations are independently
27 cognizable now.

28 **B. Irreparable harm**

1 9. Transfer would cause immediate and irreparable harm for three reasons:

- 2 1. **Loss of meaningful habeas review and risk of jurisdictional whiplash.** Habeas
3 is designed to provide prompt relief from unlawful restraint. Transfer can
4 complicate or defeat effective review, delay proceedings, and require relitigation
5 of jurisdiction and venue.
- 6 2. **Practical denial of access to counsel and the court.** Transfer will disrupt
7 attorney client communication, access to legal calls, and the ability to litigate this
8 petition on an expedited basis.
- 9 3. **Concrete risk that Respondents will use transfer to delay or evade judicial**
10 **review.** Courts routinely recognize that transfer during habeas litigation can cause
11 irreparable harm because it undermines prompt adjudication of liberty claims.

12 **C. Balance of equities**

13 10. The balance of hardships tips sharply in Petitioner's favor. Petitioner faces continued
14 incarceration and disruption of counsel access. Respondents face only a temporary
15 restriction on transfer or a modest notice requirement. The Government cannot claim
16 cognizable harm from being required to preserve the Court's jurisdiction and maintain the
17 status quo while the Court reviews the legality of detention.

18 **D. Public interest**

19 11. The public interest favors preserving the integrity of judicial review, preventing arbitrary
20 detention, and ensuring courts can adjudicate habeas petitions without gamesmanship. It
21 is always in the public interest to ensure the Government complies with the Constitution
22 and its own regulations.

23 **VI. Requested Order**

24 12. Petitioner respectfully requests that the Court:

25 13. Issue a TRO prohibiting Respondents from transferring Petitioner outside the Southern
26 District of California pending resolution of the Petition, or alternatively requiring 72
27 hours advance written notice to Petitioner and counsel and an opportunity to be heard;
28 and

1 14. Set an expedited schedule and, if the Court prefers, issue an Order to Show Cause
2 requiring Respondents to respond within a short time under 28 U.S.C. § 2243.
3

4 Dated: March 2, 2026
5

6 Respectfully submitted,

7 /s/ John Burt
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1 **DECLARATION OF JOHN BURT IN SUPPORT OF TRO**

2 I, John Burt, declare as follows:

3 On information and belief based Petitioner is at risk of imminent transfer out of the Southern
4 District of California. Petitioner has been informed he may be moved, and counsel has reason to
5 believe transfer could occur without advance notice.
6

7 An out-of-district transfer would substantially impair Petitioner's ability to access counsel and
8 would disrupt these proceedings. It would also risk depriving this Court of the ability to provide
9 prompt and effective habeas review."
10

11 ICE has not provided counsel any travel document, removal date, or written custody review
12 decision.
13

14 I declare under penalty of perjury under the laws of the United States that the foregoing is true
15 and correct.
16

17 Executed on: **March 2, 2026**
18

19 /s/ John Burt
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[PROPOSED] TEMPORARY RESTRAINING ORDER

1. Upon consideration of Petitioner's Emergency Motion for Temporary Restraining Order, and good cause appearing, IT IS ORDERED:
2. Respondents, their officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with them, are TEMPORARILY RESTRAINED from transferring Petitioner Asim Pasholli, A# [A-NUMBER], outside the Southern District of California pending further order of this Court.
3. Alternatively, if transfer becomes unavoidable due to exigent circumstances, Respondents must provide Petitioner and counsel at least 72 hours advance written notice of the intended transfer location and date and time of transfer, and Petitioner may seek emergency relief from this Court.
4. Respondents shall file a response to the Petition and this Order within [7] days, and Petitioner may file a reply within [7] days thereafter, unless modified by the Court.

IT IS SO ORDERED.

Dated: _____

United States District Judge