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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

_____	)	
HONORIO LATYR PEREIRA BARRETO,	)	Case No. _____
	)	
Petitioner,	)	NOTICE OF MOTION; MOTION
	)	FOR TEMPORARY
v.	)	RESTRAINING ORDER;
	)	MEMORANDUM OF POINTS
STATE OF ALASKA, Department of	)	AND AUTHORITIES
Corrections; ARNALDO HERNANDEZ,	)	
Superintendent of the Anchorage	)	
Correctional Complex, in his official	)	
capacity; U.S. IMMIGRATION AND	)	
CUSTOMS ENFORCEMENT; DAVID	)	
VENTURELLA, Acting Director, in his	)	
official capacity, and LAURA	)	
HERMOSILLO, Field Office Director,	)	
Seattle Field Office; DEPARTMENT OF	)	
HOMELAND SECURITY;	)	
MARKWAYNE MULLIN, Secretary, in his	)	
official capacity,	)	
Respondents.	_____	

To: U.S. Attorney Michael Heyman

PLEASE TAKE NOTICE that Petitioner Honorio Latyr Pereira Barreto, by and through counsel, hereby files the instant Motion for Temporary Restraining Order.

Petitioner is current detained at the Anchorage Correctional Complex and requests that the Court consider this motion on an emergency basis for the reasons below. **Petitioner called Respondent but did not receive a response. Petitioner notified Respondent of the filing of Petitioner's emergency habeas petition by email. Petitioner also called ICE Supervising Deportation Officer Bradley Hayes to notify him of the filing of the habeas petition and the vesting of the Court's jurisdiction over Petitioner as of the time of the filing of the habeas petition.** *See Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004); *Smith v. Campbell*, 450 F.2d 829, 834 (9th Cir. 1971); *Acosta v. Doerer*, 2024 WL 4800878 at *4 (C.D. Calif., Oct. 24, 2024).

I. INTRODUCTION

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Petitioner moves this Court for an order enjoining Respondents Department of Homeland Security (DHS), United States Immigration and Customs Enforcement (ICE), and the Warden of the Anchorage Correctional Center where Petitioner is incarcerated, to release Petitioner from custody or, in the alternative, refrain from transferring Petitioner to a facility outside of Anchorage, Alaska, so that he may complete his criminal proceedings, have access to counsel, and complete his immigration case before U.S. Citizenship and Immigration Services (USCIS) As set forth below, detaining Petitioner and transferring him to a facility outside of Anchorage, Alaska is a violation of Petitioner's constitutional rights.

This case warrants a temporary restraining order due to the violation of Petitioner's constitutional right to access to counsel in criminal proceedings and his

procedural due process rights to complete his criminal proceedings in Wellness Court in Anchorage, Alaska, and his immigration case before the USCIS Anchorage Field Office.

The only mechanism to ensure that Petitioner is not removed from this District in violation of his constitutional rights is a temporary restraining order from this Court.

WHEREFORE, Mr. Pereira Barreto prays that this Court grant his request for a temporary restraining order to release him from custody or, in the alternative, to enjoin DHS/ICE from transferring him to a location outside of Alaska.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioner Honorio Latyr Pereira Barreto was arrested on June 11, 2026, by Immigration and Customs Enforcement officials in Anchorage. He is currently being held in custody as an immigration detainee at the Anchorage Correctional Complex and is expected to be transferred to a facility outside Alaska within the next 24 hours.

Petitioner is a citizen of Senegal and a conditional lawful permanent resident. Petitioner resides in Anchorage, Alaska. Petitioner is participating in Wellness Court in Anchorage, Alaska, and he has an application to remove the conditions on his permanent resident status (Form I-751, Petition to Remove Conditions on Residence) pending before the USCIS Anchorage Field Office.

Petitioner's detention is unlawful because it violates the laws, regulations, and Constitution of the United States by depriving him of access to counsel in his criminal proceedings, frustrating local criminal proceedings, and depriving Petitioner of the ability to complete his pending case before USCIS.

II. PETITIONER WARRANTS A TEMPORARY RESTRAINING ORDER

A temporary restraining order should be issued if "immediate and irreparable injury, loss, or damage will result" to the applicant in the absence of an order. Fed. R. Civ. P. 65(b). The purpose of a temporary restraining order is to preserve the status quo and prevent irreparable harm before a hearing is held. *See Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974).

The standard for issuing a TRO is the same as the standard for issuing a preliminary injunction. *See Stuhlberg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d

832, 839 n. 7 (9th Cir. 2001) (explaining that the analysis for temporary restraining orders and preliminary injunctions is “substantially identical”). When seeking a TRO or PI, plaintiffs must establish: (1) they are “likely to succeed on the merits” of their claims, (2) they are “likely to suffer irreparable harm in the absence of preliminary relief,” (3) “the balance of equities tips in [their] favor” and (4) “an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

The Court may weigh the request for a preliminary injunction with a sliding-scale approach. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). Even if Petitioner does not show a likelihood of success on the merits, the Court may still grant a temporary restraining order if he raises “serious questions” as to the merits of his claims, the balance of hardships tips “sharply” in his favor, and the remaining equitable factors are satisfied. *Id.* As set forth in detail below, Petitioner satisfies both standards.

II. ARGUMENT

A. Applying the *Winter* factors, Petitioner Can Establish Grounds for a Temporary Restraining Order.

1. Likelihood of Success on the Merits.

Petitioner is likely to succeed on the merits of his claims regarding the constitutionality of his detention.

First, as a criminal defendant in Wellness Court, Petitioner has a right to effective assistance of counsel. U.S. CONST. amend. VI. Furthermore, the Fifth Amendment provides that Petitioner shall not “be deprived of life, liberty, or property without due process of law.” U.S. CONST. amend. V. “This includes access to courts to challenge their convictions and to seek and receive the assistance of counsel.” *United States v. Moi*, No. 3:19-cr-00112-TMB-DMS, 2021 LX 37906 (D. Alaska June 7, 2021) (citing *Procurier v. Martinez*, 416 U.S. 396, 419 (1974)).

Procedural due process requires notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333–34 (1976). To state a claim for a violation of procedural due process rights, a petitioner must establish (1) a protected property or liberty interest, (2) a denial of adequate procedural protections, and (3) a lack of process. The Court must also consider “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1207 (9th Cir. 2022) (quoting *Mathews*, 424 U.S. at 335).

In this case, Petitioner’s liberty interest is substantial. Petitioner’s interest in not being detained is “the most elemental of liberty interests” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). As the Ninth Circuit noted in *Singh v. Holder*, the Supreme Court has “repeatedly [] recognized that civil commitment for *any* purpose constitutes a significant deprivation of liberty.” 638 F.3d 1196, 1204 (9th Cir. 2011) (citing *Addington v. Texas*, 441 U.S. 418, 425-27 (1979)).

The second factor, risk of denial of adequate procedural protections, also weighs in Petitioner’s favor. Petitioner’s ongoing detention and imminent transfer out of the State of Alaska would deprive him of his procedural due process rights to participate in his own criminal proceedings in Wellness Court in Anchorage, Alaska, and to participate in his pending immigration case before the USCIS Anchorage Field Office. Further, Petitioner’s transfer out to an ICE detention facility would deprive him of access to counsel. Without the effective assistance of counsel and without the ability to attend his own criminal proceedings, Petitioner would unquestionably be denied adequate procedural protections. The risk of the denial of adequate procedural protections to Petitioner is therefore extremely high.

The final factor, the government's interest in detaining an immigrant based on a unlawful detention is negligible. Moreover, it would be less of a fiscal and administrative burden for the Government to allow Petitioner to return home to await a determination on his reasonable fear application, and present his other claims for adjustment of status, than to continue to detain him in a detention facility. *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 14, 2025) ("[T]he Ninth Circuit has recognized that the costs to the public of immigration detention are staggering.")

2. Irreparable Harm.

The Ninth Circuit has recognized "the irreparable harms imposed on anyone subject to immigration detention." *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1253 (W.D. Wash. 2025) (citing *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017)) ("For example ... subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained."). "In the absence of an injunction, harms such as these will continue to occur needlessly on a daily basis." *Hernandez*, 872 F.3d at 995. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). "As other courts that have faced this issue have explained, the violation of petitioner's statutory rights causes 'immediate and irreparable injury.'" *Lepe v. Andrews*, 801 F. Supp. 3d 1104, 1119 (E.D. Cal. 2025) (citations omitted). Here, Petitioner is being deprived of his physical freedom, and absent relief will continue to suffer irreparable harm by this restraint. Petitioner's imminent transfer outside this district would also cause irreparable harm because it would deprive

him of access to counsel and the ability to participate in his own criminal proceedings at the Wellness Court in Anchorage, Alaska, and to participate in his immigration case before the USCIS Anchorage Field Office.

3. Balance of Equities.

The consideration of the balance of equities and the public interest in an injunction merge when the government is a party. *Yang v. Kaiser*, No. 2:25-CV-02205-DAD-AC (HC), 2025 WL 2791778, at *28-*29 (E.D. Cal. Aug. 20, 2025) (citing *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)). In balancing the claims, the Court should “consider the effect on each party of the granting or withholding of the requested relief.” *Amoco Prod. Co v. Vill. Of Gambell*, 480 U.S. 531, 542 (1987).

Petitioner would clearly suffer if he is not released from detention and is transferred outside the State of Alaska. His ongoing detention and transfer would deprive him of the access to counsel and the ability to participate in Wellness Court, as well as the ability to participate in his immigration case before the USCIS Anchorage Field Office. Additionally, continuing to detain Petitioner may result in loss of his housing, his job with Enhabit Home Health and Hospice, as well as the loss of income for the time he is unable to work while he is in detention. Petitioner is also separated from a community which supports him and cares deeply for his well-being. Releasing Petitioner would restore the status quo.

Releasing petitioner or at least denying transfer of Petitioner to an out of state facility would inflict no harm to the Government.

4. An Injunction is in the Public Interest.

“[I]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

Furthermore, “[j]ust as the public has an interest in the orderly and efficient administration of this country’s immigration laws, the public has a strong interest in upholding procedural protections against unlawful detention.” *Hoac*, 2025 WL 1993771, at *16 (internal quotation marks omitted).

Respondents “cannot reasonably assert that [they are] harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. U.S. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983); see also *Rodriguez v. Robbins*, 715 F. 3d 1127, 1145 (9th Cir. 2013) (“[The government] cannot suffer harm from an injunction that merely ends an unlawful practice[.]”).

III. REQUESTED RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Grant this Motion for a Temporary Restraining Order and releasing Petitioner from ICE custody;
3. Declare that Petitioner’s arrest and detention violates the Due Process Clause of the Fifth Amendment;
4. Declare that Petitioner’s detention and transfer outside the State of Alaska violates the Due Process Clause of the Fifth Amendment and the Sixth Amendment right to counsel;
5. Enjoin Respondents from transferring Petitioner outside this District pending these proceedings;
6. Order Respondents to refrain from rearresting or re-detaining Petitioner upon release.

DATED this 12th day of June, 2026.

/s/ Margaret D. Stock

Margaret D., Stock, Esq.

Alaska State Bar No.: 9306036

/s/ Kristine A. Quint

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