UNITED STATES DISTRICT

COURT MIDDLE DISTRICT OF GEORGIA COLUMBUS DIVISION

FAIRAT BINALIEV,
Prceeding Pro Se

*Petitioner,*

v.

,WARDEN, Stewart Detention Center;
,FIELD OFFICE DIRECTOR, ICE Atlanta FieldOffice;TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement;MARKWAYNE MULLIN, Secretary of Homeland Security;TODD BLANCHE, Acting Attorney General, United States,

*Respondents.*

Case No.:

**PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER**

**NOTICE OF EX PARTE APPLICATION**

NOTICE IS HEREBY GIVEN that Petitioner FAIRAT BINALIEV applies *ex parte* for a Temporary Restraining Order pursuant to Rule 65(b) of the Federal Rules of Civil Procedure. Good cause exists to waive the advance notice requirements. The need for *ex parte* relief is urgent and compelling. Petitioner is currently in ICE custody and faces an imminent and credible threat of being transferred out of this jurisdiction or removed from the country before this Court can rule on his accompanying Petition for a Writ of Habeas Corpus. Providing notice of this application to Respondents would likely prompt them to immediately transfer or deport Petitioner, thereby divesting this Court of jurisdiction and rendering his petition, his pending asylum case (with a hearing on June 25, 2026), and his right to appeal a recent bond denial (deadline July 13, 2026) moot. An immediate order is the only mechanism to prevent this irreparable harm.

## I. INTRODUCTION

Petitioner Fairat Binaliev is a 28-year-old asylum seeker with zero criminal history. He has been detained by Immigration and Customs Enforcement (ICE) since March 19, 2026. He is currently held at the Stewart Detention Center.

Respondents arrested Petitioner after he voluntarily complied with a scheduled check-in appointment, an act of good faith that was met with incarceration. This detention violates the Due Process Clause of the Fifth Amendment, which forbids the arbitrary detention of individuals, particularly those with a pending asylum case and no criminal record.

Petitioner now seeks an emergency *ex parte* Temporary Restraining Order (TRO) to prevent Respondents from transferring him out of this district or removing him from the United States while his concurrently filed Petition for a Writ of Habeas Corpus is pending. The need for this order is critical and immediate. Petitioner has a pending asylum case with an imminent hearing on June 25, 2026. Any attempt to deport him now would unlawfully extinguish his right to present his claim. Furthermore, his recent request for a bond hearing was denied on purely jurisdictional grounds, not on the merits, and the deadline to appeal that decision is July 13, 2026. Absent an immediate order from this Court, there is an imminent risk that Respondents will transfer or remove him, which would irreparably harm him by denying him the ability to pursue his asylum case and support his dependent parents. A TRO is necessary to preserve the status quo and ensure this Court can provide meaningful relief.

## II. STATEMENT OF FACTS

1. Petitioner Fairat Binaliev, A-Number A[redacted] born in Ukraine and a citizen of Russia, entered the United States on or about November 28, 2022, to seek asylum.
2. On January 3, 2023, he was released by immigration authorities on humanitarian parole, having been deemed neither a danger nor a flight risk. He complied with all conditions of his

release.

3. On March 19, 2026, he was arrested in Charlotte, North Carolina. His arrest occurred after he voluntarily appeared for a scheduled ICE check-in appointment. An official ICE document confirms his appointment was for "March 19, 2026 between 9:00 AM and 10:00 AM."
4. Petitioner has no criminal history.
5. He is currently detained at the Stewart Detention Center in Lumpkin, Georgia.
6. Petitioner has a pending asylum application (Form I-589) and an active case before the Stewart Immigration Court, with a Master Hearing scheduled for June 25, 2026.
7. On June 12, 2026, an Immigration Judge denied Petitioner's request for a custody redetermination hearing on purely jurisdictional grounds, concluding the court lacked authority under *Matter of Q, Li.* The judge made no finding that Petitioner is a danger to the community or a flight risk. The deadline to appeal this denial is July 13, 2026.
8. Petitioner is the primary financial and emotional provider for his elderly parents, particularly his mother, Dilfuza Binalieva, who does not work or drive and depends on him for daily support.
9. Prior to his detention, he was legally employed with [redacted] and has a valid Employment Authorization Document (EAD) that expires on January 7, 2029.
10. The constant threat of transfer or removal is imminent, and any such action would severely impede his ability to prepare for his asylum hearing and meaningfully pursue his appeal of the bond denial.
11. Given Respondents' practice of detaining individuals during compliance-based check-ins, he faces an immediate and credible threat of being transferred out of this jurisdiction or removed to his country of persecution before his habeas petition and asylum claim can be heard.

**III. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDER**

A temporary restraining order is an extraordinary remedy intended to preserve the status quo

and prevent irreparable harm. To obtain a TRO, a petitioner must show: (1) a likelihood of success on the merits; (2) a likelihood of suffering irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

A. Petitioner Is Likely to Succeed on the Merits.

Petitioner has a strong likelihood of succeeding on the merits of his habeas petition. His detention is governed by 8 U.S.C. § 1226. Because he has no criminal history, he is not subject to mandatory detention under § 1226(c). His detention is arbitrary and violates due process, as he was arrested for complying with ICE's orders. Most critically, his pending asylum case affords him a statutory right to present his claim. Furthermore, he was denied a bond hearing on a procedural technicality, not because he was found to be a danger or flight risk. His detention is therefore unauthorized and unconstitutional, making success on the merits highly likely.

B. Petitioner Will Suffer Irreparable Harm Absent a TRO.

Petitioner will suffer immediate and irreparable harm if a TRO is not issued. First, the deprivation of constitutional rights—specifically, the fundamental right to liberty—"unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Second, and most urgently, deportation while his asylum case is pending would render that claim moot, permanently extinguishing his right to seek protection. This is the very definition of irreparable harm. See *La Union del Pueblo Entero v. McAleenan*, 440 F. Supp. 3d 1073, 1092 (N.D. Cal. 2019) (finding removal from the country is irreparable harm). Removal would also extinguish his right to appeal the bond denial before the July 13, 2026 deadline.

C. The Balance of Equities and the Public Interest Favor Granting the TRO.

The balance of equities tips sharply in Petitioner's favor. The harm to Petitioner from continued unlawful detention and the potential for removal—thereby extinguishing his asylum

claim and appeal rights—is immense. In contrast, the burden on the Government from a TRO is minimal; it merely requires maintaining the status quo by not transferring or removing an individual who was arrested while complying with ICE requirements. When the Government is a party, the balance of equities and the public interest merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). The public has a profound interest in ensuring that asylum seekers receive a fair hearing and that the government does not unlawfully deprive individuals of their liberty.

## IV. ARGUMENT

Petitioner meets all the requirements for an *ex parte* TRO under Federal Rule of Civil Procedure 65(b) and *Winter*. As established above, his claim that he is being unlawfully detained while his asylum case is pending is strong and likely to succeed. The harm he faces—continued unconstitutional confinement and the imminent threat of removal that would moot his asylum case and bond appeal—is severe and irreparable.

The *ex parte* nature of this request is justified by the realities of immigration detention. Individuals in ICE custody are frequently transferred or removed with little to no notice. Given that Petitioner has an imminent court hearing on June 25, 2026, and an appeal deadline on July 13, 2026, there is every reason to believe that providing notice would prompt Respondents to take immediate action to moot this case. An emergency order is the only way to ensure Petitioner's rights are not irrevocably lost.

## V. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant this *ex parte* application and issue a Temporary Restraining Order.

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue an immediate Temporary Restraining Order enjoining Respondents, their agents, and their employees from: a. Transferring Petitioner Fairat Binaliev, A-Number A[redacted] from his current place of detention at the Stewart Detention Center; b. Removing or deporting Petitioner from the United States; and c. Taking any other action to facilitate his transfer or removal pending a hearing on this matter.
2. Order Respondents to show cause why a preliminary injunction should not issue.
3. Set a hearing on the concurrently filed Petition for a Writ of Habeas Corpus within five (5) days, as required by 28 U.S.C. § 2243.
4. Grant such other and further relief as this Court deems just and proper.

**VERIFICATION**

I, Fairat Binaliev, being the petitioner, hereby certify under penalty of perjury that the statements set forth herein are true and correct to the best of my knowledge and belief.

Date: June 19, 2026.

/s/ Fairat Binaliev
Fairat Yassinovich Binaliev
Pro Se