

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

BADAR KHAN SURI

Petitioner,

v.

DONALD TRUMP, *et al.*,

Respondents.

Case No. 1:25-cv-480

ORAL ARGUMENT REQUESTED

**MEMORANDUM OF LAW IN SUPPORT OF PETITIONER’S MOTION TO COMPEL
RESPONDENTS TO RETURN PETITIONER TO THIS DISTRICT**

Petitioner Badar Khan Suri brings this motion pursuant to the All Writs Act, 28 U.S.C. §1691, and the Court’s inherent equitable authority for an order requiring Respondents to (1) return the Petitioner to Virginia and (2) prohibit his removal from the United States pending resolution of his habeas petition. Respondents transferred Petitioner to Louisiana without notice to his to counsel in an effort to deny him meaningful access to the judicial system. The limited relief he now seeks, which does not require consideration of the merits of his petition, is necessary to preserve the integrity of this Court’s jurisdiction over his pending habeas corpus petition challenging the legality of his detention.

INTRODUCTION

Dr. Badar Khan Suri is a post-doctorate fellow and professor on a J-1 Exchange Visitor Visa as a research scholar at Georgetown University. He lives in Arlington, Virginia, with his U.S. citizen wife and three young children, ages five and nine. On March 17, 2025, at approximately 9:30 pm, masked agents ostensibly from the Department of Homeland Security (“DHS”) and

Homeland Security Investigations (“HSI”) arrested Dr. Suri with no apparent basis in law and detained him in Chantilly, Virginia.

When they arrested Dr. Suri outside of his apartment complex, the agents refused to tell him the basis for the arrest, handcuffed him, and forced him into an unmarked black SUV. Dr. Suri’s wife quickly arrived on the scene and begged for answers; the agents only disclosed that they were from Homeland Security, the government was revoking Dr. Suri’s visa, and he would be detained in Chantilly.

Two hours after his arrest, Dr. Suri was able to call his wife from the Immigration and Customs Enforcement (“ICE”) Washington Field Office. He relayed to her that he was going to be moved to Farmville Detention Center in Farmville, Virginia. The next day, immigration counsel for Dr. Suri filed a habeas corpus petition challenging the legality of his detention on First Amendment and due process grounds, among others. Immigration counsel also submitted Form E-28 (notice of representation) to ICE counsel on Dr. Suri’s behalf.

Unbeknownst to counsel, ICE had surreptitiously begun moving Dr. Suri out of the region and to an ICE staging facility in Louisiana, over a thousand miles away, without providing him any access to counsel and without providing counsel of record any notice of transfer or any information regarding any justification for his detention. Dr. Suri’s expedited relocation to Louisiana is particularly troubling given that a central basis for Dr. Suri’s claim for habeas relief is that his very arrest and detention was in retaliation for Dr. Suri’s constitutionally protected speech and the constitutionally protected speech of his wife on behalf of Palestinian human rights. Respondents’ retaliatory and punitive motives have since been confirmed.¹

¹ According to Tricia McLaughlin, a DHS spokesperson: “Suri was a foreign exchange student at Georgetown University actively spreading Hamas propaganda and promoting antisemitism on social media. Suri has close connections to a known or suspected terrorist, who is

Dr. Suri, therefore, moves this Court under the All Writs Act (“AWA”) and its inherent authority for an order returning him to the Virginia area and restoring the status quo as of the filing of his petition for habeas corpus—a status quo ante Respondents intentionally sought to disrupt by transferring him a thousand miles away. This Court has ample power conferred to it by the All Writs Act and this Court’s inherent equitable power to issue an order that reverses ICE’s post-habeas transfer of Dr. Suri so that he may retain access to his family and counsel, ensure that he is not summarily removed from the U.S., and so that this Court may proceed unimpeded in the exercise of its jurisdiction over his underlying case challenging the legality of his detention.

Dr. Suri’s last confirmed location was an ICE Staging Facility in Alexandria, Louisiana, where detainees are only permitted to be held for 72 hours pending flights, including deportation flights out of the country. The facility also does not permit access to visitors or even legal counsel. All of Dr. Suri’s legal counsel, including his immigration counsel, is based in Virginia. The relief requested does not seek to adjudicate the merits of the underlying habeas petition, and Respondents face no conceivable prejudice from returning him. An order reversing Dr. Suri’s seemingly retaliatory transfer is essential to preserve the integrity of this Court’s proceedings, that Respondents intentionally sought to disrupt, as well as his access to counsel and to his family, and it will cause no undue prejudice to Respondents.

a senior advisor to Hamas. The Secretary of State issued a determination on March 15, 2025 that Suri’s activities and presence in the United States rendered him deportable under INA section 237(a)(4)(C)(i). The legality of detention because of speech supporting Palestinian human rights but which Respondents believe is “Hamas propaganda” will ultimately be at issue in Dr. Suri’s habeas petition but need not be adjudicated in the context of the limited relief sought by this motion. This statement makes clear that the role of this Court in protecting Petitioner from unlawful detention is paramount.

FACTUAL BACKGROUND

A. Background

Dr. Suri is an Indian national who grew up in Uttar Pradesh, India. He has spent much of his life studying peace and conflict resolution in the Middle East and Asia. He has a master's degree and Ph.D. in Peace and Conflict Studies from the Nelson Mandela Center for Peace and Conflict Resolution from Jamia Millia Islamia in New Delhi. *See* Ex. 1, Declaration of Mapheze Saleh ("Saleh Decl.") at ¶¶ 6, 8.

In 2022, Dr. Suri entered the United States as a research scholar on an exchange visitor visa to pursue his post-doctorate fellowship at Georgetown University at the Alwaleed Bid Talal Center for Muslim-Christian Understanding. *Id.* at ¶ 10. As part of his fellowship, Dr. Suri teaches classes at Georgetown on Majoritarianism and Minority Rights in South Asia. *Id.*

Dr. Suri met his U.S. citizen wife, Mapheze Saleh, in 2011 in Gaza while traveling there as part of his master's degree program. *Id.* at ¶ 6. Ms. Saleh, although born in Missouri, spent much of her life in Gaza after age five. Her father was a political advisor to the Prime Minister of Gaza and a deputy of foreign affairs until 2011, when he left the government. In 2013, Dr. Suri and Ms. Saleh married in New Delhi and lived there with their three children until moving to the U.S. *Id.* at ¶¶ 3-8.

B. Speech on Matters of Public Concern

Dr. Suri is an academic, not an activist. But he spoke out on social media about his views on the Israel-Gaza war. Even more so, his wife is an outspoken critic of the Israeli government and the violence it has perpetrated against Palestinians. Since October 2023, Ms. Saleh estimates that she has shared stories about the war daily on her social media. She attributes her desire to do so to her Palestinian heritage and background in journalism. *Id.* at ¶ 11.

About a month ago, Ms. Saleh's social media posts got the attention of digital advocacy groups like Canary Mission, which campaigns to expose Israel's critics on college campuses.² These groups posted her name, picture, where she lives, and links to her social media accounts.³ Shortly after, Dr. Suri also became a target of these groups. *Id.* at ¶ 11.⁴

Expressive activities on social media regarding international law, the human rights of the Palestinian people, and related matters are all topics of public concern clearly protected by the First Amendment.

C. Unlawful Arrest by the Department of Homeland Security

On the evening of Monday, March 17, 2025, at approximately 9:20 p.m., Dr. Suri was returning home after teaching at Georgetown University and then attending Iftar. *Id.* at ¶ 13. When he arrived at his apartment building, Dr. Suri was approached by three masked men in uniforms. He managed to call his wife to come downstairs from their apartment, and when she arrived, Dr. Suri was in handcuffs and being placed in an unmarked black SUV. *Id.* During the arrest, Dr. Suri pleaded to know why he was being arrested but was ignored before being placed in the car. Ms. Saleh then asked the agents to identify themselves and the basis for Dr. Suri's arrest. They stated that they were from Homeland Security and the government was revoking Dr. Suri's visa and taking him to Chantilly. *Id.* at ¶ 11.

² Gabriella Borter, Joseph Ax & Andrew Hay, Name and shame: Pro-Israel website ramps up attacks on pro-Palestinian student protestors, Reuters (May 11, 2024), <https://www.reuters.com/world/name-shame-pro-israel-website-ramps-up-attacks-pro-palestinian-student-2024-05-11/>

³ Mapheze Saleh, Canary Mission (last updated: Mar. 10, 2025), https://canarymission.org/individual/Mapheze_Saleh.

⁴ Anna Stanley, *For Georgetown University Couple, Terror Ties are a Family Affair*, Campus Watch (February 24, 2025), <https://www.meforum.org/campus-watch/for-georgetown-univ-couple-terror-ties-are-a-family-affair>

Two hours after Dr. Suri's arrest, he called his wife from an officer's phone while detained at the Chantilly ICE office. He told her he would be taken to Farmville Detention Center and had a court date scheduled for May 6th in Texas. *Id.* at ¶ 13. Neither Ms. Saleh nor his counsel were able to speak to Dr. Suri until the evening of March 19, 2025. Even then, the call was cut short and his counsel was unable to ascertain all the relevant facts to adequately litigate his underlying habeas.

D. The Habeas Corpus Petition Filed in this Court Challenging the Legality of Detention

Under the law of this Circuit, it would be unconstitutional for Respondents to have imposed punitive immigration consequences on Dr. Suri, such as detention and removal, as they appear to have done, in retaliation for Dr. Suri's constitutionally protected speech. *Newsom ex rel. Newsom v. Albemarle Cnty. Sch. Bd.*, 354 F.3d 249, 261 (4th Cir. 2003) (citing *Homans v. Albuquerque*, 264 F.3d 1240, 1244 (10th Cir. 2001) (“[W]e believe that the public interest is better served by following binding Supreme Court precedent and protecting the core First Amendment right of political expression.”)). Counsel filed the instant habeas corpus petition on Dr. Suri's behalf on March 18, 2025, at 5:59 p.m. ECF No. 1. The urgently filed petition challenged his detention as unlawful and sought an order from this Court for his release. The petition lodged jurisdiction with this Court.⁵ Throughout the day on March 18, counsel checked the ICE detainee locator, and it did not show that Dr. Suri was in the system. It wasn't until March 19, 2025, that the ICE online detainee locator indicated that Dr. Suri was in the Alexandria Staging Facility in Louisiana. This

⁵ Dr. Suri's habeas petition was filed urgently, and counsel plan to amend it in due time. The instant motion is respectfully submitted without prejudice to Dr. Suri's ability to amend the underlying petition seeking relief from his unlawful detention as needed.

facility holds detainees for no more than 72 hours pending flights and is often the last stop for many detainees before they are removed from the country permanently.

Immediately upon filing Dr. Suri's habeas petition, counsel emailed the U.S. Attorney's Office for the Eastern District of Virginia a file-stamped copy. Thus, despite obviously being on notice that Dr. Suri's habeas petition challenged the legality of Respondent's retaliatory detention of Dr. Suri, Respondent nevertheless attempted to disrupt the course of this litigation and of Dr. Suri's access to his counsel by sending him into detention a thousand miles away.

ARGUMENT

I. THE COURT SHOULD ORDER RESPONDENTS TO RETURN PETITIONER TO THIS DISTRICT SO HE CAN LITIGATE HIS PENDING HABEAS CASE

A. The Court Enjoys Broad Authority to Issue an Injunction under the All Writs Act

The All Writs Act ("AWA") provides federal courts with a powerful tool to preserve the integrity of their jurisdiction to adjudicate claims before them. *See* 28 U.S.C. § 1651(a) (authorizing federal courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law"); *TBG v. Bendis*, 36 F.3d 916, 925 (10th Cir. 1994). The Act encompasses a federal court's power to "maintain the status quo by injunction pending review of an agency's action through the prescribed statutory channels," *F.T.C. v. Dean Foods Co.*, 384 U.S. 597, 604 (1966), and courts have found that the Act should be broadly construed to "achieve all rational ends of law," *California v. M&P Investments*, 46 F. App'x 876, 878 (9th Cir. 2002) (quoting *Adams v. United States*, 317 U.S. 269, 273 (1942)).

Whereas a traditional preliminary injunction requires a party to state a claim and show injury to the moving party, an injunction based on the AWA requires only that a party identify a threat to the integrity of an ongoing or prospective court proceeding, or of a past order or judgment.

Klay v. United Healthgroup, Inc., 376 F.3d 1092, 1102 (11th Cir. 2004) (a court may enjoin almost any conduct “which, left unchecked, would have . . . the practical effect of diminishing the court’s power to bring the litigation to a natural conclusion”). Thus, to issue an injunction pursuant to the AWA, this Court need not find that there is a likelihood of success on the merits of the underlying claims. *See Arctic Zero, Inc. v. Aspen Hills, Inc.*, No. 17-CV-00459-AJB-JMA, 2018 WL 2018115, at *5 (S.D. Cal. May 1, 2018) (distinguishing AWA injunction from traditional preliminary injunction). Rather, it is sufficient for the Court to find that a party has identified a threat to the integrity of or “natural conclusion” of an ongoing proceeding such as the instant habeas action.

Courts likewise retain comparable, inherent equitable authority to enjoin transfers pending a habeas petition, *see* 28 U.S.C. § 2243 (habeas courts authorized to order relief “as law and justice require”), and courts regularly exercise that authority. *See, e.g.*, Order, *Khalil v. Joyce*, No. 25-cv-01963 (D.N.J. March 19, 2025), ECF No. 81 (prohibiting the removal of detained Columbia student activist moved to Louisiana after his arrest under 8 U.S.C. § 1227(a)(4)(C)(i)); Mem. Op. & Order, *Perez Parra v. Castro*, No. 24-cv-912 (D.N.M. Feb. 9, 2025) (granting TRO preventing transfer of detained immigrant to U.S. military base at Guantánamo Bay, Cuba) (“Considering the uncertainty surrounding jurisdiction, the Court determines it is necessary to enjoin the transfer of Petitioners to Guantanamo Bay. At this time, the Court cannot say that without this injunction it would not be jurisdictionally deprived to preside over the original writ of habeas corpus should petitioners be transferred. Thus, an injunction is necessary to achieve the ends of justice entrusted to this Court.”); *see also, e.g.*, Order, *Westley v. Harper*, No. 2:25-cv-00229 (E.D. La. Feb. 2, 2025), ECF No. 7; *Santos Garcia v. Wolf*, No. 1:20-cv-821 (LMB/JFA), 2020 WL 4668189 (E.D. Va. Aug. 11, 2020); Order, *Campbell v. U.S. Immigr. & Customs Enf’t*, No. 1:20-cv-22999-MGC (S.D. Fl. July 26, 2020), ECF No. 13; Order, *Sillah v. Barr*, No. 19-cv-1747 (S.D.N.Y. Feb. 25,

2019), ECF No. 3; *see also Zepeda Rivas v. Davis*, 504 F. Supp. 3d 1060, 1077 (N.D. Cal. 2020); *Dorce v. Wolf*, No. 20-CV-11306, 2020 WL 7264869 (D. Mass. Dec. 10, 2020).

B. The Court Should Order Respondents to Return Petitioner to this District

Dr. Suri does not concede that this Court would not continue to have jurisdiction under controlling law. *See Ex parte Mitsuye Endo*, 323 U.S. 283 (1944) (affirming that district court retained jurisdiction over habeas corpus petition despite Petitioner’s transfer to a different site). Nor, for the purposes of the limited relief sought herein, does the Court need to address that question (or even the merits of the underlying habeas petition). Nevertheless, Respondents in this pending action have chosen to attempt to interfere with the jurisdiction of this Court over pending proceedings challenging the very legality of Dr. Suri’s detention, and to undermine Dr. Suri’s ability to access his immigration counsel, his counsel of record in his pending habeas, and his wife and children. Respondents’ seemingly retaliatory decision to undermine the natural course of these proceedings is all the more troubling given that his habeas petition itself challenged his detention as an unconstitutional form of government retaliation for his constitutionally protected speech. *See Am. Civil Liberties Union of Maryland, Inc. v. Wicomico Cnty., Md.*, 999 F.2d 780, 785 (4th Cir. 1993) (“The filing of a lawsuit carries significant constitutional protections, implicating the First Amendment right to petition the government for redress of grievances, and the right of access to courts.” (quoting *Hoeber on Behalf of NLRB v. Local 30*, 939 F.2d 118, 126 (3d Cir.1991))). The Court need not accept such brazen interference with its role in assessing the legality of government action.

Courts have explicitly relied upon the AWA to enjoin proceedings commenced after the Court’s assertion of jurisdiction in order to prevent even a risk that a respondent’s actions will diminish the Court’s capacity to adjudicate claims before it. In *Michael v. INS*, 48 F.3d 657, 664

(2d Cir. 1995), after the government moved a habeas appellant to the Fifth Circuit, the court of appeals observed that the petitioner “specifically invoked this Court’s jurisdiction via an appeal of his habeas petition,” and demonstrated “his desire to have this Court review his deportation appeal.” Thus, given that the court’s jurisdiction “[was] at issue and at risk,” the court ordered the petitioner returned to its jurisdiction under the AWA “in order to safeguard the court’s appellate jurisdiction” and preserve its ability to hear subsequent appeals by petitioner.

Moreover, just last month, a district court issued an order under the AWA enjoining the government from transferring three immigration detainees to Guantánamo Bay, Cuba, given the potential loss of access to counsel and the mere possibility that the government would question the ongoing jurisdiction of the court. *Perez-Parra v. Castro*, No. 24-cv-00912, Dkt. 47 (“Mem. Op. and Order”) (D.N.M. Feb. 9, 2025) (granting injunction under AWA and court’s inherent authority as “necessary to achieve the ends of justice entrusted to this Court”).

Other courts have done the same. *See Kurnaz v. Bush*, No. 04-cv-1135, 2005 WL 839542, *1–2 (D.D.C. Apr. 12, 2005) (enjoining Defense Department from transferring Guantánamo detainee with pending habeas petition, absent notice, outside jurisdiction of court); *SEC v. Vision Communs.*, 315 U.S. App. D.C. 384, 74 F.3d 287, 291 (D.C. Cir. 1996) (All Writs Act “empowers a district court to issue injunctions to protect its jurisdiction”); *Abu Ali v. Ashcroft*, 350 F. Supp. 2d 28, 54 (D.D.C. 2004) (federal courts “may and should take such action as will defeat attempts to wrongfully deprive parties” of their right to sue in federal court) (internal citation omitted); *Lindstrom v. Graber*, 203 F.3d 470, 474–76 (7th Cir. 2000) (All Writs Act permits court to stay extradition pending appeal of habeas corpus petition). At a minimum, the AWA authorizes the Court to ensure that the litigant is not put in a worse legal position by virtue of the transfer. *See Al Otro Lado v. McAleenan*, 423 F. Supp. 3d 848, 874–78 (S.D. Cal. 2019) (enjoining application of Trump administration “transit ban” which would categorically bar consideration of class members’

asylum claims who would only be subject to that categorical ban because of the alleged unlawful delays created by the government and subject to adjudication before the court); *N.Y. Tel. Co.*, 434 U.S. at 173 (holding that AWA allows a federal court to “avail itself of all auxiliary writs as aids in the performance of its duties, when the use of such historic aids is calculated in its sound judgment to achieve the ends of justice entrusted to it”).

In seeming retaliation for a habeas corpus challenge to the legality of an already-retaliatory detention, Respondents appear to have interfered both with the Court’s ability to exercise its jurisdiction over this habeas petition and with Dr. Suri’s ability to access this Court and his counsel, including his immigration counsel. They did so by transporting him a thousand miles away from the Court hearing his habeas corpus petition, to a staging facility that is commonly the last stop for many detainees before they are removed from the country permanently, leading undersigned counsel to believe that Dr. Suri is in imminent danger of being removed from the country prior to his May 6 hearing before an immigration judge unless this Court issues an order prohibiting such removal. The All Writs Act and the Court’s inherent equitable powers provide this Court ample authority to issue the modest relief that Petitioner seeks: restoration of the status quo ante so as to preserve the Court’s ability to exercise its jurisdiction over Dr. Suri’s pending habeas petition until the litigation completes its natural course. This relief is all the more appropriate given the absence of any meaningful or undue prejudice to Respondents. At the least, this Court should issue an order prohibiting Dr. Suri’s removal from the United States while his habeas petition is pending. In sum, this Court should not permit the executive to so cavalierly disrupt its ability to review a case that was properly brought before it.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court issue an order under the All Writs Act and/or the Court's inherent equitable authority to reverse Petitioner's transfer and return him to Virginia and to the status quo at the commencement of this litigation, and to prohibiting Respondents from removing Petitioner from the country pending resolution of the habeas petition or until the Court issues a contrary order.

Date: March 20, 2025

Respectfully submitted,

/s/Eden B. Heilman

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