

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Souleymane Dembele, *et al.*,

Petitioners-Plaintiffs,

v.

Bill Prim, *et al.*,

Respondents-Defendants.

Case No. 24-cv-2401

Hon. Joan H. Lefkow

**PETITIONERS' MOTION FOR A TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 2241 and Federal Rule of Civil Procedure 65(a)-(b), Petitioners-Plaintiffs Souleymane Dembele and Muhammed Taufiq Butt (“Petitioners”) hereby move this Court for a temporary restraining order and/or preliminary injunction that bars Respondents-Defendants Bill Prim, Daniel Sitkie, Robert Guadian, Matthew Albence, and Chad Wolf (“Respondents”) from continuing to detain Petitioners. In support of this motion, Petitioners state as follows:

1. As set forth in Petitioners’ Emergency Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and Complaint for Declaratory and Injunctive Relief (Dkt. 1) (“Emergency Petition”), Respondents detain Petitioners in conditions that violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

2. Petitioners bring this Motion for a Temporary Restraining Order and/or Preliminary Injunction (“TRO Motion”) to enforce Claim One of the Emergency Petition, which challenges Respondents’ detention of Petitioners, who are civil immigration detainees, in conditions that constitute unlawful punishment and cruel treatment in violation of the Fifth Amendment Due Process Clause.

3. Petitioners' TRO Motion does not seek immediate relief concerning Claim Two of the Emergency Petition, which challenges Respondents' detention of Petitioner Butt as unlawful under the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6), because Mr. Butt's removal from the United States is not significantly likely in the reasonably foreseeable future.

4. As set forth in the Memorandum of Law in Support of Petitioners' Emergency Petition and Motion for a Temporary Restraining Order and/or Preliminary Injunction ("MOL"), Petitioners have satisfied the four-part test for the issuance of a temporary restraining order and preliminary injunction. Petitioners are likely to succeed on the merits of their constitutional claims, and will suffer irreparable harm in the form of a high likelihood of serious illness or death from COVID-19 unless the requested injunctive relief is granted. Respondents have no legally cognizable interest in detaining Petitioners in clear violation of their constitutional rights, and granting the requested injunctive relief will not result in any foreseeable, serious harm to Respondents or the public. To the contrary, it is in the public interest for Respondents to respect constitutional rights to due process and to avoid the rampant spread of COVID-19 in the McHenry County Jail, which threatens detainees, jail staff and their families, and the public at large.

5. Through the undersigned counsel, Petitioners gave notice to Assistant U.S. Attorney Patrick W. Johnson and McHenry County State's Attorney Patrick Kenneally of the filing of this action, the Emergency Petition and attached declarations, and motion for a temporary restraining order and/or preliminary injunction, and attached declaration. All documents filed with this Court, including those accompanying this motion, are being served electronically on Mr. Johnson and Mr. Kenneally, within moments of filing.

6. Petitioners request that the Court immediately schedule a hearing and issue a temporary restraining order and/or preliminary injunction that bars Respondents from continuing to detain Plaintiffs in violation of their constitutional rights.

WHEREFORE, Petitioners respectfully request that this Court enter a temporary restraining order and/or preliminary injunction to enjoin Respondents from continuing to detain Petitioners in violation of their constitutional rights.

Dated: April 21, 2020

Respectfully Submitted,
/s/ Nusrat J. Choudhury
Counsel for Petitioners-Plaintiffs

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* *Admitted pro hac vice*

** *Petition for permission to appear pro hac vice forthcoming.*

CERTIFICATE OF SERVICE

I, Nusrat J. Choudhury, an attorney, hereby certify that I caused a true and correct copy of the foregoing PETITIONERS' MOTION FOR A TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION, the memorandum of law in support of this motion, unopposed motion for leave to file a brief in excess of fifteen pages instant, and attached declarations and supporting exhibits to be served upon the following counsel for the Defendants via email on April 21, 2020:

For Defendants Chad Wolf, Matthew Albence and Robert Guadian:

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I further certify that I will attempt personal service of the foregoing PETITIONERS' MOTION FOR A TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION, the memorandum of law in support of this motion, unopposed motion for leave to file a brief in excess of fifteen pages instant, and attached declarations and supporting exhibits to be served upon all Defendants on April 21, 2020.

/s/ Nusrat J. Choudhury