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20
21 **UNITED STATES DISTRICT COURT**
22 **DISTRICT OF NEW JERSEY**

23 THE UNITED STATES OF AMERICA,

24 Plaintiff,

25 v.

26 THE STATE OF NEW JERSEY; MIKIE
27 SHERILL, Governor of New Jersey, in her
official capacity,

28 Defendants.

Civil Case No. 3:26-cv-1770

COMPLAINT

1 Plaintiff, the United States of America, by and through its undersigned counsel, brings this
2 civil action for declaratory and injunctive relief, and alleges as follows:

3 **PRELIMINARY STATEMENT**

- 4 1. Within hours of assuming the Presidency, President Trump took immediate action to
5 fulfil his campaign promise to the American people and declared that a “national
6 emergency exists at the southern border of the United States” from the unprecedented
7 “illegal entry of aliens.” Proclamation 10,886, Declaring a National Emergency at the
8 Southern Border of the United States, 90 Fed. Reg. 8327, 8327 (Jan. 20, 2025). This
9 declaration was necessary given the flood of illegal immigration into our Nation under
10 the prior administration’s open border policies incentivizing disregard for laws passed by
11 Congress. As a result, millions of illegal aliens settled in American communities in
12 flagrant violation of federal law, resulting in “significant threats to national security and
13 public safety” and aliens “committing vile and heinous acts against innocent Americans.”
14 Exec. Order 14,159, Protecting the American People Against Invasion, 90 Fed. Reg.
15 8443, 8443 (Jan. 20, 2025).
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19 2. Despite the ongoing threat to American lives and communities President Trumps seeks
20 to cure, the State of New Jersey, insists on harboring criminal offenders from federal law
21 enforcement. Governor Mikie Sherill aims to intentionally obstruct federal law
22 enforcement and celebrates thwarting the constitutional obligation of the President of the
23 United States to take care that federal immigration law be faithfully executed. *See* Exec.
24 Order 14,287, Protecting American Communities From Criminal Aliens, 90 Fed. Reg.
25 18761 (Apr. 28, 2025). Such blatant disregard for federal laws that have been on the
26 books for over three decades is not merely a political statement, but is instead deliberate
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1 action that jeopardizes the public safety of all Americans. But the Supremacy Clause of
2 the United States Constitution prohibits a state from usurping Congress. Accordingly, the
3 United States files this action to preserve the integrity of federal law penned by Congress
4 aimed at preserving the safety and flourishing of our Nation.

5
6 3. Immediately following President Trump’s declaration of a national emergency at our
7 Southern border, the U.S. Department of Homeland Security (“DHS”) and its
8 components U.S. Immigration and Customs Enforcement (“ICE”) and U.S. Customs and
9 Border Protection (“CBP”) prioritized nationwide efforts to identify and remove criminal
10 illegal aliens from the United States in accordance with Federal law.

11
12 4. Federal immigration agents exercise discretion and common sense in carrying out their
13 duties, including in deciding where arrests and other enforcement actions should be
14 undertaken to best ensure the safety of the community. *See* Memorandum from former
15 Acting Secretary of DHS Benjamine Huffman, Enforcement Actions in or Near Protected
16 Areas (Jan. 20, 2025) (“DHS Memorandum”) (Ex. A); Memorandum from Acting
17 Director of ICE Todd M. Lyons, Civil Immigration Enforcement Actions In or Near
18 Courthouses (May 27, 2025) (“ICE Memorandum”) (Ex. B). In other words, there are no
19 “bright line rules regarding where our immigration laws are permitted to be enforced,”
20 DHS Memorandum at 1, and instead, the location of a civil enforcement action is
21 properly determined “on a case-by-case basis considering the totality of the
22 circumstances,” ICE Memorandum at 2.

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25 5. Contrary to this common-sense approach, the State of New Jersey, at the direction of
26 Governor Mikie Sherill, issued a blanket prohibition in Executive Order No. 12, barring
27 federal immigration officers from “entering, accessing, or using nonpublic areas” of
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1 state-owned property to enforce civil immigration law, and prohibiting federal
2 immigration officers from using state-owned property as a “staging area, processing
3 location, or operations base” to enforce civil immigration law. (Feb. 11, 2026) (“NJ Exec.
4 Order No. 12”) (Ex C.).

5
6 6. Pursuant to the Executive Order, New Jersey executive branch departments and agencies
7 “shall not permit or consent to federal immigration officers entering, accessing, or using
8 nonpublic areas of State property for the purpose of facilitating federal enforcement of
9 civil immigration law.” NJ Exec. Order No. 12, § 2.

10
11 7. Further, New Jersey executive branch departments and agencies “shall not permit or
12 consent to federal immigration officers using State property as a staging area, processing
13 location, or operations base for the purpose of facilitating federal enforcement of civil
14 immigration law.” NJ Exec. Order No. 12, § 3. This law poses an intolerable obstacle to
15 federal immigration enforcement and directly regulates and discriminates against the
16 Federal Government, in contravention of the Supremacy Clause.

17
18 8. On its face, the Executive Order prevents federal immigration agents from using state-
19 owned property accessible to local and state law enforcement. The sole reason for the
20 exclusionary treatment of federal immigration agents enforcing our Nation’s federal
21 immigration laws is New Jersey’s disagreement with the substance of the laws written
22 by Congress that have remained on the books and largely unchanged for half a century.

23
24 9. The State of New Jersey has adopted this policy with the clear objective of obstructing
25 President Trump from enforcing federal immigration law. The policy is designed to and
26 in fact does interfere with and discriminate against the Executive’s enforcement of
27 federal immigration law in violation of the Supremacy Clause.
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1 10. The New Jersey Executive Order intentionally discriminates against the Federal
2 Government by treating federal immigration authorities differently than other law
3 enforcement agents through access restrictions to property.

4 11. The Supremacy Clause prohibits New Jersey and its officials from singling out the
5 Federal Government for adverse treatment—as the challenged Executive Order does—
6 thereby discriminating against the Federal Government. Using publicly owned property
7 such as a parking lot, office building, or public garage for staging, base operations, or
8 processing reduces the safety risks to the public, illegal aliens, and law enforcement
9 officers.

10 12. Through the Executive Order, New Jersey obstructs federal law enforcement and
11 facilitates the evasion of federal law by dangerous criminals, notwithstanding federal
12 immigration agents’ statutory mandate to detain and remove illegal aliens. *See, e.g.*,
13 8 U.S.C. § 1225(b) (requiring the mandatory detention of aliens subject to expedited
14 removal during the pendency of their proceedings); *id.* § 1226(c) (requiring the
15 mandatory detention of certain aliens who are removable due to criminal convictions or
16 terrorist activities); *id.* § 1231(a) (requiring detention and removal of aliens who have a
17 final order of removal).

18 13. The Executive Order also facially discriminates against federal immigration officials and
19 treats local and state law enforcement more favorably by providing unrestricted access
20 to state-owned property.

21 14. As this Court decided in *CoreCivic, Inc. v. Murphy*, “a state law that wholesale deprives
22 the federal government of its chosen method of detaining individuals for violating federal
23 law cannot survive Supremacy Clause scrutiny.” *CoreCivic, Inc. v. Murphy*, 690 F. Supp.
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1 3d 467, 478 (D.N.J. 2023). The Third Circuit affirmed that decision, holding that “the
2 very essence of supremacy empowers the federal government to remove all obstacles to
3 its action within its own sphere . . . [and] exempt its own operations from [state]
4 influence.” *CoreCivic, Inc. v. Governor of NJ*, 145 F.4th 315, 321 (3d Cir. 2025) (internal
5 quotations and citations omitted).

6
7 15. Accordingly, the Executive Order is invalid under the Supremacy Clause and must be
8 enjoined. The United States brings this declaratory and injunctive action to prohibit the
9 State of New Jersey from enforcing the Executive Order that aims to thwart enforcement
10 of federal law it disagrees with.

11
12 **JURISDICTION AND VENUE**

13 16. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345.

14 17. Venue is proper in this jurisdiction under 28 U.S.C. § 1391(b) because Defendants State
15 of New Jersey, and its Governor, reside within the District of New Jersey and acts or
16 omissions giving rise to this Complaint arose from events occurring within this judicial
17 district.

18
19 18. The Court has the authority to provide the relief requested under 28 U.S.C. §§ 1651,
20 2201, and 2202, and its inherent equitable powers.

21
22 **PARTIES**

23 19. Plaintiff, the United States of America, regulates immigration under its inherent,
24 constitutional, and statutory authorities, and it enforces federal immigration laws through
25 its Executive agencies, including the Departments of Justice, State, and Homeland
26 Security as well as DHS’s component agencies ICE, and CBP.

27 20. Defendant State of New Jersey is a State of the United States of America.
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1 21. Defendant Mikie Sherill is the Governor of New Jersey and is being sued in her official
2 capacity.

3 **FEDERAL IMMIGRATION LAW**

4 22. Stemming from its inherent rights and obligations as an independent Nation, the United
5 States maintains a duty to control its borders, ensuring the safety and flourishing of its
6 citizens. *See Fong Yue Ting v. United States*, 149 U.S. 698, 707 (1893); *Ping v. United*
7 *States*, 130 U.S. 581, 603–04 (1889); *Landon v. Plasencia*, 459 U.S. 21, 34 (1982).

8 23. Pursuant to that authority, the Constitution affords Congress the power to “establish an
9 uniform Rule of Naturalization,” U.S. Const. art. I, § 8, cl. 4, and to “regulate Commerce
10 with foreign Nations,” U.S. Const. art. I, § 8, cl. 3, and affords the President of the United
11 States the authority to “take Care that the Laws be faithfully executed[.]” U.S. Const. art.
12 II, § 3.

13 24. Based on its inherent and constitutional powers to control and conduct relations with
14 foreign nations, the United States has broad authority to establish immigration laws, the
15 execution of which the States cannot obstruct or take discriminatory actions against. *See*
16 *Arizona v. United States*, 567 U.S. 387, 394–95 (2012); *accord North Dakota v. United*
17 *States*, 495 U.S. 423, 435 (1990) (plurality); *id.* at 444–47 (Scalia, J., concurring).

18 25. Congress has exercised its authority to make laws governing the entry, presence, status,
19 and removal of aliens within the United States by enacting various provisions of the
20 Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*

21 26. These laws confer upon the Executive Branch extensive authority to inspect, investigate,
22 arrest, detain, and remove aliens who are suspected of being, or found to be, unlawfully
23 in the United States. *See* 8 U.S.C. §§ 1182, 1225, 1226, 1227, 1228, 1231. That only
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1 makes sense given every sovereign maintains “complete discretion to determine who it
2 deems worthy to enter all parts of its political community.” *Qatanani v. Att’y Gen. United*
3 *States of Am.*, 144 F.4th 485, 507 (3d Cir. 2025) (Matey, J., dissenting).

4 27. Congress has also codified basic principles of cooperation and comity between state and
5 local authorities and the Federal Government. For example, federal law contemplates that
6 removable aliens in state custody who have been convicted of state or local offenses will
7 generally serve their state or local criminal sentences before being subject to removal,
8 but that they will be taken into federal custody upon the expiration of their state prison
9 terms. *See* 8 U.S.C. §§ 1226(c), 1231(a)(1)(B)(iii), (a)(4).

10 28. “Consultation between federal and state officials is an important feature of the
11 immigration system.” *Arizona*, 567 U.S. at 411. Congress has therefore directed that a
12 federal, state, or local government entity or official may not prohibit, or in any way
13 restrict, any government entity or official from sending to, or receiving from, DHS
14 “information regarding the citizenship or immigration status, lawful or unlawful, of any
15 individual.” 8 U.S.C. § 1373(a); *see id.* § 1644 (same); *see also id.* § 1357(g)(10)(A)
16 (providing for state and local “communicat[ion] with [DHS] regarding the immigration
17 status of any individual, including reporting knowledge that a particular alien is not
18 lawfully present in the United States”). Likewise, “no person or agency may prohibit, or
19 in any way restrict, a Federal, State, or local government entity from,” among other
20 things, “[m]aintaining” “information regarding the immigration status, lawful or
21 unlawful, of any individual,” or “[e]xchanging such information with any other Federal,
22 State, or local government entity.” *Id.* § 1373(b).

23 29. Congress also authorized states and localities “to cooperate with the [Secretary] in the
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1 identification, apprehension, detention, or removal of aliens not lawfully present in the
2 United States.” *Id.* § 1357(g)(10)(B).

3 30. Congress further sought to affirmatively penalize efforts to obstruct immigration
4 enforcement by, among other things, prohibiting the “conceal[ing], harbor[ing], or
5 shield[ing] from detection, or attempts to” accomplish the same, of any “alien in any
6 place, including any building or any means of transportation.” *Id.* § 1324(a)(1)(A)(iii).

7
8 31. Courts have recognized that ICE may avail itself of publicly owned property. *See United*
9 *States v. King Cnty., Washington*, 122 F.4th 740, 758 (9th Cir. 2024) (“Requiring this
10 form of non-discriminatory access to [public] property consistent with the
11 intergovernmental immunity doctrine does not create a back-end anti-commandeering
12 problem. [The court] would not perceive a threat of unconstitutional commandeering
13 when ICE uses county highways to transport immigration detainees from one place to
14 another just because the county owns its highways.”).

15
16 **SUPREMACY CLAUSE AND PREEMPTION PRINCIPLES**

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18 32. The Supremacy Clause of the Constitution mandates that “[t]his Constitution, and the
19 Laws of the United States which shall be made in Pursuance thereof . . . shall be the
20 supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the
21 Contrary notwithstanding.” U.S. Const. art. VI, cl. 2.

22
23 33. Thus, a state enactment is invalid if it “stands as an obstacle to the accomplishment and
24 execution of the full purposes and objectives of Congress,” *Hines v. Davidowitz*, 312
25 U.S. 52, 67 (1941), or if it “discriminate[s] against the United States or those with whom
26 it deals,” *South Carolina v. Baker*, 485 U.S. 505, 523 (1988).

27
28 34. The Constitution’s Supremacy Clause also embodies the doctrine of intergovernmental

1 immunity, which “generally immunizes the Federal Government from state laws that
2 directly regulate or discriminate against it.” *United States v. Washington*, 596 U.S. 832,
3 835 (2022) (citing *Baker*, 485 U.S. at 523).

4 35. A State or local law violates this doctrine if it “regulates the United States directly or
5 discriminates against the Federal Government or those with whom it deals.” *North*
6 *Dakota*, 495 U.S. at 435. Discrimination occurs when a state or locality “treats someone
7 else better than” the federal government, *id.* at 438, or singles out the federal government
8 for “less favorable ‘treatment.’” *Washington*, 596 U.S. at 839.

9 36. The doctrine operates even in the absence of a specific conflicting federal law, ensuring
10 that “federal officers are immune from state interference with acts ‘necessary and proper’
11 to the accomplishment of their federal duties.” *United States v. Ferrara*, 847 F. Supp.
12 964, 968 (D.D.C. 1993) (citing *In Re Neagle*, 135 U.S. 1, 10 (1890), *aff’d*, 54 F.3d 825
13 (D.C. Cir. 1995)).

14 37. In short, when states “substantially interfere[e] with [the federal government’s]
15 operations,” they “directly regulate[] the federal government[.]” *Core Civic, Inc. v*
16 *Murphy*, 145 F.4th at 327.

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20 **FACTUAL BACKGROUND**

21 38. On January 20, 2026, the “Safe Communities Act” was signed into law. N.J. 6308 Bill
22 A6308 Leg., 221 Sess. (2026).

23 39. The Act requires the Attorney General to “create certain model policies protecting
24 personal freedoms.” *Id.* The Act seeks to designate “schools, hospitals, shelters,
25 courthouses, and other essential government services” as “safe” spaces. *Id.*

26 40. Directing “State, county, and municipal entities to attend to local priorities rather than
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1 carrying out federal civil law enforcement initiatives,” the Act’s end is to restrict federal
2 immigration efforts in certain spaces in the State of New Jersey. *Id.*

3 41. Consistent with the Act, on February 11, 2026, Governor Mikie Sherill issued NJ Exec.
4 Order No. 12, which prohibits federal immigration officers from using nonpublic areas
5 of state-owned property to enforce civil immigration law, and prohibits federal
6 immigration officers from using state-owned property as a staging area, processing
7 location, or operations base to enforce civil immigration law. NJ Exec. Order No. 12 (Ex.
8 C).

9
10 42. Pursuant to the Executive Order, “Except as authorized by a judicial warrant or judicial
11 order or as authorized under Paragraph 5 of this Order, Executive Branch departments
12 and agencies shall not permit or consent to federal immigration officers entering,
13 accessing, or using nonpublic areas of State property for the purpose of facilitating
14 federal enforcement of civil immigration law.” NJ Exec. Order No. 12, § 2.

15
16 43. Going further, the Executive Order states: “Except as authorized by a judicial warrant or
17 judicial order or as authorized under Paragraph 5 of this Order, Executive Branch
18 departments and agencies shall not permit or consent to federal immigration officers
19 using State property as a staging area, processing location, or operations base for the
20 purpose of facilitating federal enforcement of civil immigration law.” NJ Exec. Order
21 No. 12, § 3.

22
23 44. The Executive Order broadly defines “State property” as “facilities, premises, and
24 parcels, or portions thereof, that are owned, operated, leased, or controlled by New Jersey
25 Executive Branch departments and agencies, including but not limited to office buildings,
26 parking lots, and parking garages.” NJ Exec. Order No. 12, § 1(a).

1 45. The Executive Order broadly defines “Executive Branch departments and agencies” as
2 “any of the principal departments in the Executive Branch of New Jersey State
3 government and any agency, authority, board, bureau, commission, division, office, or
4 other instrumentality within or created by any such department, and any independent
5 State authority, commission, instrumentality, or agency over which the Governor
6 exercises executive authority, as determined by the Attorney General.” NJ Exec. Order
7 No. 12, § 1(b).
8

9 46. In an accompanying press release parading the Executive Order, the State of New Jersey
10 identifies federal immigration agents, and ICE in particular, as prohibited from using
11 State property for immigration operations. State of New Jersey Press Release, *Governor*
12 *Sherrill Takes Action to Protect New Jerseyans’ Safety, Defend Constitutional Rights*
13 (Feb. 11, 2026), <https://www.nj.gov/governor/news/2026/20260211a.shtml>.
14

15 47. The State of New Jersey’s press release specifically addresses restrictions on ICE. *See*
16 *id.* (“The executive order prohibits ICE agents from entering, accessing, or using
17 nonpublic areas of State property for their operations unless authorized by a judicial
18 warrant.”). And revealing the true motive for Executive Order 12, the press release
19 parrots Governor Sherrill’s accusations that the Executive’s actions are lawless,
20 unconstitutional, and violent:
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22 Today, we are making clear that the Trump’s administration’s lawless
23 actions will not go unchecked in New Jersey. Given ICE’s willingness
24 to flout the Constitution and violently endanger communities – detaining
25 children, arresting citizens, and even killing several innocent civilians –
I will stand up for New Jerseyans[’] right to be safe.

26 *See id.* The Press Release even encourages citizens of the state to engage in monitoring
27 ICE activity. *See id.* (“As part of the actions announced by Governor Sherrill today, the
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1 Office of the Attorney General will launch a portal for New Jersey residents to upload
2 their interactions with ICE in New Jersey.”).

3 48. Moreover, the language of the Executive Order itself seeks to villainize federal
4 immigration agents by referring to their work as “deeply troubling trends in militarized
5 federal civil immigration enforcement in cities and states across the United States.” NJ
6 Exec. Order No. 12, § 1(b).

7
8 49. In restricting federal civil immigration agents from accessing non-public areas of State
9 property and prohibiting certain operational functions on State property, the State of New
10 Jersey is precluding federal immigration agents from conducting safe and effective
11 operations.
12

13 **THE CHALLENGED PROVISIONS’ IMPACT ON FEDERAL IMMIGRATION**
14 **ENFORCEMENT**

15 50. The Executive Order poses an obstacle to the United States’ enforcement of federal
16 immigration laws and discriminates against federal immigration enforcement officials.

17 51. The Executive Order impedes federal immigration enforcement in New Jersey by
18 dictating where federal immigration officers can enforce civil immigration laws.

19 52. All resulting in “undue interference with the implementation of Executive Branch
20 immigration policies” that result in harm to the federal Sovereign. *Ramos v. Att’y Gen.*
21 *United States*, No. 25-2946, 2025 WL 2950133, at *6 (3d Cir. Oct. 17, 2025).
22

23 *Prohibiting Access to Nonpublic Areas of State Property*

24 53. The New Jersey Executive Order prohibits New Jersey executive branch departments and
25 agencies from allowing federal immigration officers to enter, access, or use nonpublic
26 areas of State property for the purpose of immigration enforcement. NJ Exec. Order 12,
27 § 2.
28

1 54. This prohibition will disrupt will “substantially interfere[s]” with DHS’s civil
2 immigration enforcement operations at both state correctional facilities and courthouses.

3 *Core Civic, Inc. v Murphy*, 145 F.4th at 327.

4 55. ICE conducts civil immigration enforcement actions in or near courthouses. ICE
5 Memorandum at 2. That enforcement action targets “national security or public safety
6 threats;” “specific aliens with criminal convictions;” “gang members;” and other aliens
7 who are unlawfully present. *Id.*

8 56. For the safety of the public, federal immigration officers, and illegal aliens themselves,
9 “civil immigration enforcement actions in or near courthouses should, to the extent
10 practicable, continue to take place in non-public areas of the courthouse, be conducted in
11 collaboration with court security staff, and utilize the building’s non-public entrances and
12 exits.” *Id.*

13 57. The New Jersey Executive Order obstructs such operations in at least three ways. *First*,
14 the New Jersey Executive Order prohibits federal immigration agents from accessing
15 non-public areas at all. NJ Exec. Order 12, § 2. *Second*, the New Jersey Executive Order
16 prohibits any court security staff that are members of “Executive Branch departments
17 and agencies,” *id.* § 1(b), from cooperating with federal immigration agents for the
18 purpose of civil immigration enforcement, *id.* § 2. *Third*, even as to entering and exiting
19 the building, federal immigration agents are restricted from accessing non-public
20 entrances and exits. *Id.* There is no indication on the face of the New Jersey Executive
21 Order that officials working for the Federal Bureau of Prisons, Drug Enforcement
22 Administration, Bureau of Alcohol, Tobacco, and Firearms, or the Federal Bureau of
23 Investigations are subjected to similar regulation and discrimination.
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1 58. Additionally, though not exhaustively, the New Jersey Executive Order seeks to thwart
2 ICE’s ability to arrest dangerous criminals who are already in state custody through the
3 use of immigration detainers authorized under the INA and its implementing regulations.
4 8 U.S.C. § 1103(a)(3); *see also* 8 C.F.R. § 287.7 (“Any authorized immigration officer
5 may at any time issue a Form I-247, Immigration Detainer-Notice of Action, to any other
6 Federal, State, or local law enforcement agency”); *see generally* U.S. Immigration and
7 Customs Enforcement, *Immigration Detainers*, [https://www.ice.gov/immigration-](https://www.ice.gov/immigration-detainers)
8 [detainers](https://www.ice.gov/immigration-detainers) (last accessed: Feb. 21, 2026).
9

10 59. “An immigration detainer is a request from ICE that asks a federal, state or local law
11 enforcement agency—including jails, prisons or other confinement facilities—to: Notify
12 the requesting agency as early as possible before they release a removable alien; [h]old
13 the alien for up to 48 hours beyond the time they would ordinarily release them so DHS
14 has time to assume custody in accordance with federal immigration law.” *Id.*
15

16 60. The reason for immigration detainers is simple but consequential. “It’s safer to assume
17 custody of removable aliens in a secure, private environment.” *Id.* When states refuse to
18 honor immigration detainers, ICE is left with no other mechanism to detain such criminal
19 removable aliens other than at-large arrests in local communities. Such arrests “are
20 unpredictable and can be dangerous to the public, aliens and federal law enforcement
21 officers.” *Id.*
22

23 61. By prohibiting access to “nonpublic areas of State Property for the purpose of facilitating
24 federal enforcement of civil immigration law[,]” NJ Exec. Order 12, § 2, New Jersey
25 effectively denies any and all immigration detainers issued to its “executive Branch
26 departments and agencies[,]” *id.*, such as the New Jersey Department of Corrections.
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1 State of New Jersey, Department of Corrections, *About Us*,
2 <https://www.nj.gov/corrections/pages/aboutUs.html> (“The New Jersey Department of
3 Corrections is comprised of 9 correctional facilities, 11 Residential Community Release
4 Programs, and 1 Assessment Center.”). Since state prison officials are prohibited by the
5 New Jersey Executive Order from allowing federal immigration officials into nonpublic
6 areas of state prisons and correctional facilities, ICE is unable to “take the alien into
7 custody in the facility’s safe setting.” U.S. Immigration and Customs Enforcement,
8 *Immigration Detainers*, <https://www.ice.gov/immigration-detainers> (last accessed: Feb.
9 21, 2026).

10
11 62. By obstructing and prohibiting arrests in nonpublic areas of state prisons, correctional
12 facilities, and state courthouses, the New Jersey Executive Order “directly regulates the
13 federal government by substantially interfering with a core federal function.” *CoreCivic,*
14 *Inc.*, 145 F.4th at 327.

15
16 *Prohibiting Operations on State Property*

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18 63. To enforce the Executive Order, the State of New Jersey directs Executive Branch
19 departments and agencies to preclude federal immigration officers from using State
20 property as a staging area, processing location, or operations base for the purpose of
21 facilitating federal enforcement of civil immigration law. Notably, the Executive Order
22 precludes *only* federal immigration agents from accessing these areas.

23
24 64. DHS, through ICE and CBP regularly use state-owned property accessible to the public
25 for certain immigration activities now prohibited by the Executive Order: staging, base
26 operations, and processing.

27
28 65. DHS, through ICE and CBP, performs significant law enforcement activities in New

1 Jersey. For example, staging, operations including custodial transfers, and processing.

2 66. Although the Executive Order was recently issued, Courts have stated “that Plaintiffs
3 need not wait until an enforcement action is initiated against them to demonstrate
4 irreparable harm.” *New Jersey Civ. Just. Inst. v. Grewal*, No. CV 19-17518, 2021 WL
5 1138144, at *7 (D.N.J. Mar. 25, 2021).

6
7 67. The Third Circuit in *CoreCivic, Inc.* acknowledged that “‘the very essence of supremacy’
8 empowers the federal government to ‘remove all obstacles to its action within its own
9 sphere . . . [and] exempt its own operations from [state] influence.’” *CoreCivic, Inc.*, 145
10 F.4th at 321 (citing *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 427 (1819)).

11 **CLAIMS FOR RELIEF**

12
13 **COUNT ONE – VIOLATION OF THE SUPREMACY CLAUSE (PREEMPTION)**

14 68. Plaintiff hereby incorporates paragraphs 1 through 67 of the Complaint as if fully stated
15 herein.

16 69. The United States Constitution, and the Supremacy Clause, provides that “Laws of the
17 United States . . . shall be the supreme Law of the Land . . . any Thing in the Constitution
18 or Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI, cl. 2.

19 70. The Courts have decided “it is necessary for uniformity that the laws of the United States
20 be dominant over those of any state.” *Mayo v. United States*, 319 U.S. 441, 445 (1943).
21 That principle is only strengthened in the immigration context. *See* U.S. Const. art. I, § 8,
22 cl. 4.
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24
25 71. The State of New Jersey’s Executive Order creates burdensome obstacles to the
26 enforcement of federal immigration law. The Executive Order “stand[s] as an obstacle to
27 the accomplishment and execution” of federal immigration law. *Arizona*, 567 U.S. at
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1 406.

2 72. The State of New Jersey’s Executive Order is therefore invalid due to conflict preemption
3 and the Supremacy Clause. The Executive Order attempts to severely restrict the
4 locations in which federal immigration agents can perform their duties. The strict
5 limitations thus impede the federal immigration agents’ ability to engage in civil
6 immigration enforcement according to the laws of the United States. *See, e.g.*, 8 U.S.C.
7 §§ 1226a, 1226(c), 1231(a), 1357; *see also* 18 U.S.C. §§ 372, 1071. The Executive Order
8 violates the Supremacy Clause because it “stands as an obstacle to the accomplishment
9 and execution of the full purposes and objective of Congress.” *United States v. Locke*,
10 529 U.S. 89, 109 (2000).
11

12 73. Federal immigration law therefore preempts the challenged the State of New Jersey’s
13 Executive Order.
14

15 74. Accordingly, the State of New Jersey’s Executive Order as applied to the Federal
16 Government violates the Supremacy Clause and is thus invalid.
17

18 **COUNT TWO – VIOLATION OF THE SUPREMACY CLAUSE**

19 **(UNLAWFUL DISCRIMINATION AGAINST THE FEDERAL GOVERNMENT)**

20 75. Plaintiff hereby incorporates paragraphs 1 through 74 of the Complaint as if fully stated
21 herein.
22

23 76. Defendants’ enforcement of the challenged Executive Order also discriminates against
24 the Federal Government as it only applies to federal authorities enforcing federal
25 immigration law. It has no application to any other citizen, state, or federal entity.
26

27 77. The Executive Order singles out federal immigration officials, expressly and implicitly,
28 for unfavorable and uncooperative treatment when no other member of the public or law

1 enforcement is so treated. This is an undue and burdensome regulation specifically aimed
2 at impeding the Federal Government.

3 78. The intergovernmental immunity doctrine dictates that discriminatory targeting of the
4 Federal Government is unlawful. *See, e.g., Washington*, 596 U.S. at 839 (“[S]tate law
5 discriminates against the Federal Government . . . if it ‘singles them out’ for less
6 favorable ‘treatment’ or if it regulates them unfavorably on some basis related to their
7 governmental ‘status.’” (citations and alterations omitted)).

8
9 79. Accordingly, the Executive Order violates the doctrine of Intergovernmental Immunity
10 and therefore alternatively is invalid on that basis.

11 **COUNT THREE – VIOLATION OF THE SUPREMACY CLAUSE**

12 **(UNLAWFUL REGULATION OF FEDERAL GOVERNMENT)**

13
14 80. Plaintiff hereby incorporates paragraphs 1 through 79 of the Complaint as if fully stated
15 herein.

16 81. Lastly, Defendants’ enforcement of the challenged Executive Order effects direct
17 regulation of the Federal Government by eliminating nonpublic spaces of State property
18 as permissible locations for facilitating federal enforcement of civil immigration law, and
19 by eliminating State property as a staging area, processing location, or operations base
20 for the purpose of facilitating federal enforcement of civil immigration law.

21
22 82. Under the Supremacy Clause, “the activities of the Federal Government are free from
23 regulation by any state.” *Mayo*, 319 U.S. at 445.

24
25 83. Accordingly, the challenged Executive Order violates the doctrine of Intergovernmental
26 Immunity alternatively on that basis and thus is invalid.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests the following relief:

1. That this Court enter a judgment declaring that the challenged Executive Order violates the Supremacy Clause and is therefore invalid;
2. That this Court issue a permanent injunction that prohibits Defendants as well as their successors, agents, and employees, from enforcing or implementing the challenged Executive Order;
3. That this Court award the United States its costs and fees in this action; and
4. That this Court award any other relief it deems just and proper.

DATED: February 23, 2026

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LOCAL CIVIL RULE 101.1(f) DESIGNATION

The United States designates the United States Attorney's Office to receive notices and papers at the following address: Civil Chief, U.S. Attorney's Office 970 Broad Street, 8th Floor, Newark, NJ 07102.

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