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**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF EASTERN CALIFORNIA**

SAM SARFARZI-ESFAHARI,

Petitioner,

v.

RON MURRAY, Warden, Mesa Verde ICE
processing center; United States Immigration and
Customs Enforcement; TODD M. LYONS, Acting
Director, United States Immigration and Customs
Enforcement; KRISTI NOEM, Secretary of
Homeland Security; PAMELA JO BONDI, United
States Attorney General, *in their official capacities,*

Respondents.

**PETITIONER'S MOTION FOR AND
MEMORANDUM IN SUPPORT OF
TEMPORARY RESTRAINING
ORDER**

MOTION AND MEMORANDUM OF LAW

Petitioner, Sam SARFARZI-ESFAHARI, also known as Sam BEHPOOR, respectfully moves this Court for an emergency order preventing his detention, transfer, and deportation in violation of his rights.

INTRODUCTION

1. Sam SARFARZI-ESFAHARI is an Iranian national who currently has an order in deferral of his removal under United Nations, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10, 1984, U.N.T.S. 85 in Article III where it states, “ No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” Instead, the court shall deferral removal where the individual has been ordered removed to a country where the individual will likely be tortured. 8 CFR 208.17(a).
2. Following the executive orders of President Donald Trump and their implementation by Respondents, Petitioner believes that Respondents have adopted a blanket policy to detain and immediately remove noncitizens who have received final removal orders, such as himself, irrespective of any individualized circumstances, including protected victim status.
3. Petitioner seeks an emergency order from this Court to halt his detention, transfer out of this district, and removal from the United States.

PARTIES

4. Petitioner is currently detained by Respondents and is detained in Mesa Verde, an immigration detention facility. He was arrested on June 23, 2025, at the Fresno Immigration and Customs Enforcement Office (ICE).
5. Respondent is the Warden of the Mesa Verde facility, where Petitioner is currently detained. He is a legal custodian of Petitioner and is named in his official capacity.

6. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.
7. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.
8. Respondent Pamela Jo Bondi is the Attorney General of the United States Department of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

STATEMENT OF FACTS

9. Petitioner came to the United States on June 24, 1987, as a B2 Visa holder. He was then admitted into the United States as a Legal Permanent resident on January 21, 2000. Later, he was placed in removal proceedings where he was stripped of his lawful permanent residence status and ordered removed from the United States. However, the court granted him deferral of removal under Article III of the Convention Against Torture. For purposes of this habeas petition is that Petitioner's removal is still deferred according to Article III of the Convention Against Torture.
10. Subsequently, he married a U.S Citizen on October 24, 2024. On January 10, 2025, Petitioner filed a Motion to Reopen his proceedings because he is now eligible to adjust once more through his U.S Citizen wife.
11. On June 22, 2025, Petitioner was called into the Fresno ICE office for an alleged interview. Petitioner complied with ICE's request and went to their office early on Monday morning, June 23, 2025. There, he was arrested and placed in custody.
12. On January 20, 2025, President Donald Trump signed several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. This EO instructs

the DHS Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures “that protect the public safety and national security interests of the American people, including by ensuring the successful enforcement of final orders of removal.”

13. On June 23, 2025, The United States Supreme Court granted in *Department of Homeland Security, et al. v D.V.D, et. Al* a stay submitted by the current administration to allow them to continue to deport foreign nationals located in the United States without due process. Justice Sotomayor in her dissent stated, “In matters of life and death, it is best to proceed with caution. IN this case, the Government took the opposite approach...I cannot join so gross an abuse of the Court’s equitable discretion”.
14. On the same day, DHS released a statement from the Assistant Secretary Tricia McLaughlin that, “DHS can now execute its lawful authority and removal illegal aliens to a country willing to accept them. Fire up the deportation planes”.
15. These actions have resulted in Respondents adopting a blanket policy under which ICE is currently arresting, detaining, and deporting people like Petitioner, who have a prior final order of removal that has been stayed through the Convention Against Torture relief mechanism, and without individualized consideration of their cases. Under these new policies, ICE/ERO is attempting to detain, transfer, and deport Petitioner to a third country with no due process considerations, including allowing the Petitioner a meaningful opportunity to challenge removal to a third country.

LEGAL FRAMEWORK

16. The standard for issuing a TRO is the same as the standard for issuing a preliminary injunction. See *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977). A TRO is “an extraordinary remedy that may only be awarded upon a clear showing that the

plaintiff is entitled to such relief.” Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 24 (2008).

“The proper legal standard for preliminary injunctive relief requires a party to demonstrate (1) “that he is likely to succeed on the merits, (2) that he is likely to suffer 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.” Stormans, Inc. v. Selecky, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing Winter, 555 U.S. at 20).

17. As an alternative to this test, a preliminary injunction is appropriate if “serious questions going to the merits were raised and the balance of the hardships tips sharply in the plaintiff’s favor,” thereby allowing preservation of the status quo when complex legal questions require further inspection or deliberation. Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1134-35 (9th Cir. 2011).

ARGUMENT

18. Petitioner’s Motion for a Temporary Restraining Order should be granted because he is likely to suffer irreparable harm in the absence of preliminary relief, he is likely to succeed on the merits, and the balance of the equities and public interest weigh in favor of emergency relief.

A. Petitioner will likely suffer irreparable harm if not granted preliminary relief

19. If this Court does not grant a temporary restraining order, Petitioner will be imminently transferred out of the state of California and deported to Iran or a third country designation before he is provided with a meaningful opportunity to be heard.

20. Respondents’ actions will cause irreparable harm to Petitioner by separating him from his family members and community in the United States, forcing his loss of meaningful employment, and denying him the benefit of deferral. These impacts constitute irreparable harm. See e.g., Leiva-Perez v. Holder, 640 F.3d 962, 969-70 (9th Cir. 2011) (describing “separation from family members” and the mental damage concomitant with such separation

as irreparable harm) (quotation marks omitted); see also *Ching v. Mayorkas*, 725 F.3d 1149, 1157 (9th Cir. 2013) (“The right to live with and not be separated from one’s immediate family is ‘a right that ranks high among the interests of the individual’ and that cannot be taken away without procedural due process.”)(quoting *Landon v. Plasencia*, 459 U.S. 21, 34-35 (1982)).

21. Additionally, transferring Petitioner out of this district will deprive him of proximity to his loved ones and community support, distance him from access to his local counsel, and impede his ability to engage in these immediate judicial proceedings. See *Arroyo v. United States Dep’t of Homeland Sec.*, 2019 WL

22. Petitioner will also lose his ability to adjust his lawful status to that of a Lawful Permanent Resident through his U.S. Citizen wife if he is removed.

B. Petitioner is likely to succeed on the merits of his habeas petition

23. Petitioner requests habeas relief from this court on the grounds that Respondents’ decision to detain, transfer, and deport him under a blanket policy is (1) arbitrary and capricious and (2) a violation of his procedural due process rights.

24. Petitioner is likely to succeed on the merits of his case under Article III of the Convention Against Torture because a judge deferred his deportation to his country of Citizenship as he is likely to be tortured there. Additionally, before he is removed to a third country designation, Petitioner must be notified and given an opportunity to show “reasonable fear” of being removed to a designated third country. 8 CFR 208.16-18.

C. The balance of the equities and public interest factors tip sharply in favor of

preliminary relief

25. Petitioner has established that “the balance of the equities tip in [his] favor and that an injunction is in the public interest” because she is the recipient of a deferral of deportation, he is not a flight risk, and he is not a danger to the community. See *Winter*, 555 U.S. at 20. When

the federal government is a party, the balance of the equities and public interest factors merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)).

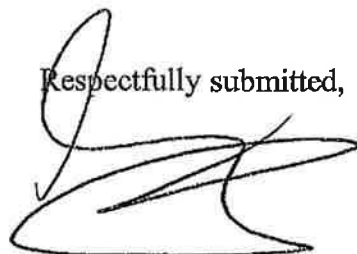
26. The balance of hardships tips substantially in favor of Petitioner. “[I]n addition to the potential hardships facing Plaintiffs in the absence of the injunction, the court ‘may consider . . . the indirect hardship to their friends and family members.’” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017), quoting *Golden Gate Rest. Ass’n v. City & Cty. of San Francisco*, 512 F.3d 1112, 1126 (9th Cir. 2008). Petitioner’s detention and deportation would harm not only him, but also her family members depending on him for their care and support.
27. Even when considered from a fiscal perspective, the public interest in the efficient allocation of the government’s fiscal resources weighs in favor of emergency relief here. As the Ninth Circuit has explained, “The costs to the public of immigration detention are “staggering”: \$158 each day per detainee, amounting to a total daily cost of \$6.5 million. Supervised release programs cost much less by comparison: between 17 cents and 17 dollars each day per person.” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017). The interests of the general public will not be served by Petitioner’s detention where he is eligible to become a lawful permanent resident, is already complying with supervised release, and is neither a flight risk nor a danger to the community.

CONCLUSION

28. For the foregoing reasons, Petitioner respectfully requests that this Court grant his motion for temporary restraining order to release him from detention, block his transfer outside the district of California, and stay her removal from the United States.

Dated: June 25, 2025

Respectfully submitted,


A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a long horizontal stroke.

Declaration of H. Ty Kharazi

I, H. Ty Kharazi, declare that the foregoing documents attached to this application are true and correct:

- Exhibit A: Copy of Certified Court Documents for Sam Behpoor
- Exhibit B: Copy of Statement from Lera Mirakyan
- Exhibit C: Copy of I-130, Petition for Alien Relative receipt notice
- Exhibit D: Copy of Marriage Certificate for Lena Mirakyan and Sam Behpoor
- Exhibit E: Copy of Birth Certificate for Lena Mirakyan
- Exhibit F: Copy of Birth Certificate for Psalm Wally Behpoor
- Exhibit G: Copy of B1/B2 Tourist Visa used by Sam to enter the United States
- Exhibit H: Copy of Immigration Judge Order granting deferral of removal under Article III Convention Against Torture
- Exhibit I: Copy of draft I-485 Application to Register Permanent Residence of Adjust Status

Declared/sworn under penalty of perjury of the laws of the State of California, signed in Fresno, California on June 25, 2025.


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