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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

Omid Delkash,

Petitioner,

v.

Kristi Noem, Secretary of the Department
of Homeland Security; et. al,

Respondents.

Case No.: 2:25-cv-04638

***EX-PARTE* APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

Filed pursuant to FRCP 65 and L.R. 7-19
and 65.1

APPLICATION FOR A TEMPORARY RESTRAINING ORDER

Undersigned counsel files this *ex parte* application for a temporary restraining order (TRO) on behalf of the Petitioner Omid Delkash (Mr. Delkash) because he was detained, 24 years after winning his withholding of removal petition, in excess of Immigration and Customs Enforcement's (ICE) constitutional, statutory, and regulatory authority. On June 24, 2025, the Petitioner was detained while picking up lunch on his lunch break. Mr. Delkash was told that he was being arrested because they had a "warrant for [him] because [he is] from Iran." The

1 Petitioner was forcefully detained despite him not resisting arrest. He was then
2 transferred to 34 Civic Center Drive in Santa Ana. An officer who wore a
3 windbreaker with the new "Williams" on it told the petitioner that he would be
4 removed to South Sudan. The Petitioner asked why he was being removed to South
5 Sudan because he is a veteran who was honorably discharged. After Mr. Delkash
6 proved he is an honorably discharged veteran, he was transferred to 300 N. Los
7 Angeles St., where he was kept in a cell, approximately 10' x 20' with 40-50 other
8 men. He was detained in deplorable conditions for four days and on the fifth day,
9 he was transferred to Adelanto. During that time, he spoke with a detention officer
10 in Farsi, but was given no information about why he was detained by ICE.
11

12 On July 3, 2025, Mr. Delkash's immigration attorney, Douglas Jalaie
13 received an email from Deportation Officer Jenson, informing him that (1) ICE
14 had not secured a travel document for Mr. Delkash; (2) it had not begun the
15 process; and (3) they did not give him an opportunity to challenge removal to a
16 third country because the third country had not been identified. Mr. Jalaie had an
17 additional conversation with the Petitioner's detention officer and she did not
18 know why the Petitioner is detained. Throughout this entire process, no one from
19 immigration has explained why or the authority it utilized to detain Mr. Delkash
20 without an opportunity to challenge this detention. The TRO must be granted to
21 maintain the status quo during the pendency of the petition.
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1 Date: 7/10/25

2 Respectfully submitted,

3
4 /s/ Andres Ortiz

5 Andres Ortiz, Esq.

6 Andres Ortiz Law

7 Attorney for the Petitioner
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

1. The Petitioner, Omid Delkash (Mr. Delkash) is a citizen of Iran who was born in Tehran, Iran in 1971. His family fled Iran in 1977, due to increasing tensions. Mr. Delkash and his family eventually settled in California. They applied for and received asylum. Eventually, Mr. Delkash enlisted in the U.S. Military and he became a medic. The Petitioner received an honorable discharge. However, the ethnic/racial discrimination he endured during his service had a lasting effect that haunted the noncitizen long after his honorable discharge. He was arrested several times and eventually placed in removal proceedings where he won withholding of removal. He was released later that day and never put on an order of supervision. The Petitioner lived another 24 years before he was redetained by ICE.

2. Mr. Delkash was redetained on June 24, 2025. To date, he has not been given a reason for his detention. ICE has yet to provide a rationale or authority that permits redetention under these circumstances. To the extent the government believes it is justified in detaining Mr. Delkash, it has not been communicated to him. He was not placed on an order of supervision; thus, the government could not officially revoke his supervision. Additionally, *assuming arguendo*, the government seeks to remove the Petitioner to a third country, it has not established *why it is necessary* to detain him without any process. Furthermore, even if it is presumed that ICE seeks removal to a third country, it has not informed Mr. Delkash to which country it hopes remove him. In failing to do so, he is without an opportunity to provide a country-specific explanation of his fear of being removed to that country. ICE has taken the position that, under certain circumstances, it will not provide the petitioner notice or an opportunity to

1 articulate an individualized fear of removal to a specific third country.

2 Consequently, extraordinary intervention is necessary.

3 **II. JURISDICTION AND VENUE**

4 3. This Court has jurisdiction under 28 U.S.C. §§ 2241 et seq.; the Declaratory
5 Judgment Act, 28 U.S.C. §§ 2201 et seq.; the All Writs Act, 28 U.S.C. § 1651; and
6 the Fifth Amendment to the United States Constitution. At the time the original
7 petition was filed, this Court had jurisdiction because Mr. Delkash was detained in
8 Los Angeles, California within the territorial jurisdiction of the Court. *See* 28
9 U.S.C. § 82 (“[Los Angeles, California] constitutes one judicial district.”). Mr.
10 Delkash remains in the Central District of California even after his transfer to
11 Adelanto, California.

12 4. Venue under 28 U.S.C. § 1391(e) and Local Civil Rule 83-8.2 because a
13 substantial part of the events or omissions giving rise to the claims set forth herein
14 occurred in this district.

15 **III. FACTUAL BACKGROUND**

16
17 5. The Petitioner was born on March 21, 1971, in Tehran, Iran, to Mohammed
18 and Mina Delkash. *See* Exhibit 1- Declaration of the Petitioner ¶ 1 and Exhibit 2-
19 Notice to Appear. In 1977, Mr. Delkash’s family left Iran due to increasing
20 tensions at the Tehran embassy. *See* Exhibit 1 ¶ 1. The family initially intended to
21 return once the in Iran situation stabilized; however, they remained in the United
22 States, first residing in New York for six months before relocating to Anaheim,
23 California, where they applied for asylum. *Id.* ¶ 1. His application for adjustment
24 of status was approved in October, 1989. *See* Exhibit 3- I-485 Approval.

25
26 6. The Petitioner attended public school in California and graduated high
27 school in 1989. *See* Exhibit 1 ¶ 2. During his high school years, his mother was
28 diagnosed with breast cancer, and his parents later separated. *Id.* ¶ 2. Following
graduation, the Petitioner lived with his father and worked in room service at the

1 Four Seasons Hotel in Newport Beach. *Id.* ¶ 2. Motivated by a desire to prove
2 himself and support his family, he enlisted in the U.S. military. *Id.* ¶ 2-3.

3 7. He completed basic training at Fort Knox, Kentucky, where he experienced
4 racial harassment, hazing, and physical assaults. *See Exhibit 1* ¶ 4. Specifically,
5 other servicemembers called him “terrorist” and “sand nigger.” *Id.* ¶ 4. He was
6 also beaten in the middle of the night with socks filled with padlocks by his
7 bunkmates. *Id.* ¶ 4. The Petitioner, who was an excellent marksman, had to
8 remain in basic training an extra month because other servicemembers tampered
9 with his scope, throwing off his aim and causing him more hardship. *Id.* ¶ 4. These
10 incidents caused lasting trauma, including persistent nightmares and sleep
11 disturbances. *Id.* ¶ 4.

12 8. After basic training, the Petitioner was sent to Fort Sam Houston in San
13 Antonio, Texas, for medical training, where he excelled and graduated at the top of
14 his class. *See Exhibit 1* ¶ 5. He served as a medic in the Army Reserves in
15 Corona, California, for four years, followed by four years in the Inactive Ready
16 Reserve. *Id.* ¶ 5. His primary role was to treat injuries that occurred on the base.
17 *Id.* ¶ 6. During this period, he lived with his reunited family in Newport Beach.
18 *Id.* ¶ 6. Mr. Delkash was honorably discharged from his military service. *See*
19 *Exhibit 1* ¶ 6 and *Exhibit 4- Proof of Honorable Discharge*.

20 9. Following his military service, the Petitioner entered the auto insurance
21 industry, where he was introduced to drugs by coworkers. *See Exhibit 1* ¶ 8. This
22 led to addiction and involvement in criminal activity, resulting in several
23 convictions. *Id.* ¶ 8. During this time, he was diagnosed with a gambling disorder

24 [REDACTED]
25 *See Exhibit 1- ¶ 8 and Exhibit 5- Mental Health Evaluation Dated 04/27/98*). *See*
26 *Exhibit 1* ¶ 8. He underwent rehabilitation at Shick Shadel in Long Beach for 45
27 days and remained clean for 18 months. *Id.* ¶ 8. Despite relapsing, he later
28

1 reestablished himself and started a family. *Id.* ¶ 8. At some point, the Petitioner
2 was also diagnosed [REDACTED]. *Id.* ¶ 8.

3 10. After being released from criminal custody around 2000, the Petitioner was
4 detained by immigration authorities and placed in removal proceedings. *See*
5 Exhibit 1 ¶ 9 and Exhibit 2. His application for withholding of removal to Iran was
6 granted, and he was released from custody. *See* Exhibit 1 ¶ 9. Mr. Delkash was
7 released without being placed on an order of supervision. *Id.* ¶ 9. And he was not
8 required to periodically check-in with ICE for the past 24 years. *Id.* ¶ 9-10. Other
9 than applying for naturalization through an N600 application and renewing his
10 work permit, Mr. Delkash had no interactions with any immigration officials until
11 June, 2025. *Id.* ¶ 9-11.

12 11. On June 24, 2025, while leaving his workplace for lunch in Santa Ana,
13 California, the Petitioner was surrounded by four unmarked Ford Explorer SUVs
14 with flashing lights. *See* Exhibit 1. ¶ 11. Armed officers, whose faces were
15 concealed and who failed to identify themselves, pointed firearms at him and
16 ordered him out of the vehicle. *Id.* ¶ 11. While attempting to contact his son via his
17 car's phone, the officers threatened to break his window. *Id.* ¶ 12. He complied by
18 exiting the vehicle. *Id.* ¶ 12.

19 12. The officers informed him that a federal warrant had been issued “because
20 you are from Iran.” *See* Exhibit 1 ¶ 12. When he asked for further explanation, he
21 was told it would be provided later. *Id.* ¶ 12. He was handcuffed tightly, resulting
22 in injury to his wrists, and slammed against the vehicle, causing his dental implant
23 to fall out. *Id.* ¶ 12. The officers refused to assist the Petitioner in recovering the
24 dental implant. *Id.* ¶ 12.

25 13. The Petitioner was transported to the federal building in Santa Ana and later
26 transferred to a holding cell. *See* Exhibit 1 ¶ 13. During questioning, an officer
27 doubted the Petitioner’s military service until he retrieved the DD-214 discharge
28 form from the Petitioner’s phone. *Id.* ¶ 13. The Petitioner was then transported to

1 300 N. Los Angeles Street in Los Angeles and placed in a crowded holding cell for
2 four nights. *Id.* ¶ 14. Mr. Delkash reports that he was placed in a holding cell that
3 is approximately 10' x 20' with approximately 40-50 other men. *Id.* ¶ 14. He was
4 forced to sleep on the floor and subject unsanitary conditions. *Id.* ¶ 14.

5 Specifically, he said there is one toilet for all 40-50 men to use and the toilet was
6 leaking urine and feces. *Id.* ¶ 14. All of the detainees were forced to use the toilet
7 without any privacy. *Id.* ¶ 14. The detainees were forced to sleep on the same
8 concrete floor as the overflowing toilet. *Id.* ¶ 14. During the Petitioner's time in
9 300 N. Los Angeles Street, no one would tell him why he was detained. *Id.* ¶ 14.

10 14. After Mr. Delkash was transferred to 300 N. Los Angeles Street, the family
11 hired Douglas Jalaie (Mr. Jalaie) to assist the Petitioner. *See Exhibit 6-*
12 *Declaration from Counsel Douglas Jalaie* ¶ 5. It is Mr. Jalaie's opinion that it is
13 rare for a withholding of removal, unlike a Convention Against Torture (CAT)
14 recipient to be placed on an order of supervision. *Id.* ¶ 3-4. As such, Mr. Jalaie
15 shared in Mr. Delkash's family's confusion about why the Petitioner was detained.
16 *Id.* ¶ 5. Mr. Jalaie visited Mr. Delkash when he was detained at 300 North Los
17 Angeles Street and he learned about the deplorable conditions and the Petitioner's
18 lack of access to medical care. *Id.* ¶ 5. The Petitioner's immigration counsel
19 emailed the ICE Outreach and provided his *G-28 Entry of Attorney Appearance*
20 and asked about Mr. Delkash's detention. *Id.* ¶ 6 and *Exhibit 7- Email to ICE*
21 *Outreach*. By sending this email, Mr. Jalaie followed the proper protocols to
22 establish a right to communicate with the appropriate deportation officer.
23 However, ICE did not respond to the email. *See Exhibit 6* ¶ 6.

24 15. On the sixth day, Mr. Delkash was transferred to the GEO center in
25 Adelanto, California. *See Exhibits 1 and Exhibit 8- ICE Detainee Locator Printout*
26 *(dated 7/9/25)*. After his sixth day in custody, Mr. Delkash was able to take a
27 shower and he received a bunk. *See Exhibit 1* ¶ 15. The Petitioner is unable to
28 sleep. *Id.* ¶ 15. He was prescribed Ambien due to his PTSD diagnosis stemming

1 from his traumatic military experiences. *Id.* ¶ 15. To date, the Petitioner has not
2 received medical treatment to address his medical and mental health needs. *Id.* ¶
3 15. He had been unable to access adequate medical care, receive his prescribed
4 Ambien, or obtain his missing dental implant, resulting in further health
5 complications. *Id.* ¶ 15.

6 16. Since being transferred to Adelanto, the Petitioner has not been told why he
7 is detained. *See Exhibit 1* ¶ 16. This uncertainty, in combination with Mr.
8 Delkash's unmet physical care and unaddressed mental health complications is
9 resulting in further problems. *Id.* ¶ 16. Mr. Delkash fears being removed to an
10 unknown country without *any* notice or ability to explain a fear of being forcefully
11 expelled to an unknown land. *Id.* ¶ 16-17.

12 17. Likewise, since Mr. Delkash was transferred to Adelanto, Mr. Jalaie has
13 been equally unsuccessful in ascertaining why his client was detained. *See Exhibit*
14 *6* ¶ 7. On July 3, Mr. Jalaie emailed an Adelanto-specific email address and asked
15 “*inter alia* whether ICE has travel documents for the Petitioner’s removal and
16 whether it has received diplomatic assurances that Respondent will not be
17 persecuted in the country of removal?” *Id.* and *Exhibit 9- Email Exchange with*
18 *Officer C. Jenson*. An officer C. Jenson responded “[Mr. Delkash] has not yet
19 been presented with the documents for acquisition of a travel document for third
20 country removal, as your client was granted withholding to Iran. This will take
21 place in the coming days.” *Id.* As of the date of filing this TRO, no
22 documentation has been provided to Mr. Delkash or his counsel to facilitate
23 removal to a third country. *See Exhibit 6* ¶ 7. On July 7, Mr. Jalaie spoke with
24 Officer Palacios, who is Mr. Delkash’s assigned deportation officer. *Id.* ¶ 8.
25 Officer Palacios was unable to tell Mr. Jalaie why his client was detained. *Id.* ¶ 8.
26 18. Under all available accounts, Mr. Delkash is being held in Adelanto, against
27 his will for an unknown reason. ICE has failed to articulate a reason or a process
28 that was followed, which it is detaining Mr. Delkash. Given the government’s

1 position that it can summarily remove a noncitizen to a third country without
2 notice or process and because the government has provided no information about
3 why Mr. Delkash has been detained, there is a very real risk that the Petitioner will
4 (1) be detained indefinitely or (2) be removed without any due process. Both are
5 blatantly unconstitutional and deserving of this court's usage of its authority to
6 grant the TRO.

7 **IV. ANALYSIS**

8 19. A preliminary injunction or TRO is appropriate if a plaintiff can show
9 that: (1) he is "likely to succeed on the merits"; (2) he "is likely to suffer
10 irreparable harm in the absence of preliminary relief"; (3) "the balance of equities
11 tips in [his] favor"; and (4) "an injunction is in the public interest." *Winter v. Nat.*
12 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Under the Ninth Circuit's "sliding
13 scale" approach, a TRO or preliminary injunction is appropriate when, "a plaintiff
14 demonstrates . . . that serious questions going to the merits were raised and the
15 balance of hardships tips sharply in the plaintiff's favor." *Alliance for the Wild*
16 *Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011) (internal quotation
17 omitted).

18 **A. The Petitioner is Likely to Win on the Merits of His Application**

19 **1. Detention Claims**

20 20. In considering the first factor, Mr. Delkash is likely to win on the merits of
21 his habeas petition on his first two claims that he was unlawfully detained. As
22 discussed in *Zadvydas v. Davis*, civil detention violates the Due Process Clause
23 except "in certain special and narrow nonpunitive circumstances, where a special
24 justification, such as harm-threatening mental illness, outweighs the individual's
25 constitutionally protected interest in avoiding physical restraint." 533 U.S. 678,
26 690 (2001) (citations omitted). When a noncitizen is ordered removed, 8 U.S.C. §
27 1231(a) authorizes detention in only two circumstances. "During the removal
28 period," the Attorney General "shall" detain the alien. *See* § 1231(a)(2) (emphasis

1 added). “[B]eyond the removal period,” the Attorney General “may” detain an
2 alien who falls within one of three categories specified by the statute [beyond the
3 removal period]. See § 1231(a)(6) (emphasis added).” *Prieto-Romero v. Clark*,
4 534 F.3d 1053, 1059 (9th Cir. 2008). If the government releases the noncitizen
5 during the 8 U.S.C. § 1231(a)(6) period, ICE “shall [] subject [the noncitizen] to
6 the terms of supervision.” In sum, the government *shall* detain a noncitizen during
7 the 90-day removal period 8 U.S.C. § 1231(a)(2) and it *may* continue to detain or it
8 *may* release under a mandatory order of supervision after the 90-day removal
9 period. 8 U.S.C. § 1231(a)(6).

10 21. Thus, under the Immigration and Nationality Act (the Act), immigration
11 authorities are authorized to detain noncitizens with a final order of removal but
12 the noncitizen’s removal is unlikely. See 8 U.S.C. § 1231(a)(6). However, ICE’s
13 ability to detain a noncitizen who cannot be removed is not unlimited. The Fifth
14 Amendment limits a noncitizen’s “post-removal-period detention to a period
15 reasonably necessary to bring about that [noncitizen]’s removal from the United
16 States.” *Zadvydas*, 533 U.S. at 689 (2001). Because of this constitutional
17 limitation, § 1231 “does not permit indefinite detention.” *Id.*

18 22. Regardless of the reason for release, both the INA and its corresponding
19 regulations provide a *mandatory* scheme for ICE to follow when releases a
20 noncitizen. See 8 U.S.C. 1231(a)(3) (“If the alien does not leave or is not removed
21 within the removal period, the alien, pending removal, *shall* be subject to
22 supervision under regulations prescribed by the Attorney General. The regulations
23 *shall* include provisions . . . (emphasis added) and 8 C.F.R. § 241.5(a) (“. An alien
24 released pursuant to [8 C.F.R.] § 241.4 *shall* be released pursuant to an order of
25 supervision.” (emphasis added)). An order of supervision is necessary because it
26 explains the conditions of release and the consequences for failing to comply with
27 the rules set forth by the agency and the procedure to revoke supervision if the
28

1 noncitizen fails to comply. *See* 8 C.F.R. § 241.4(l) as cited in *Noem v. Abrego*
2 *Garcia*, -- U.S. --, 145 S.Ct. 1017, 1019 (2025) (SOTOMAYOR, J. statement on the
3 disposition).

4 23. In this case, the Petitioner's 90-day removal period began when both parties
5 waived appeal after the immigration judge granted withholding of removal. *See* 8
6 U.S.C. § 1231 (a)(1)(B)(i). At that point, he was subject to mandatory detention
7 under 8 U.S.C. § 1231(a)(2). *Prieto-Romero*, 534 F.3d at 1059. However, he was
8 released immediately, and *also* unlike the regulations and the Act, Mr. Delkash
9 was not placed under an order of supervision. By failing to do this, ICE
10 necessarily failed to explain any conditions or expectations of him after being
11 released. *See* 8 C.F.R. § 241.4(j)(1) and 8 C.F.R. § 241.5(a). By failing to release
12 the noncitizen pursuant to the Act and its accompanying regulations, ICE has failed
13 to provide any meaningful notice for its authority to redetain Mr. Delkash nor has
14 it provided a rubric by which he shall be evaluated.

15 24. It is well-settled that the agency must follow its regulations. *See United*
16 *States v. Caceres*, 440 U.S. 741, 759 (1979) ("This Court has consistently
17 demanded governmental compliance with regulations designed to safeguard
18 individual interests even when the rules were not mandated by the Constitution or
19 federal statute.") and *Morton v. Ruiz*, 415 U.S. 199, 235, (1974) ("Where the rights
20 of individuals are affected, it is incumbent upon agencies to follow their own
21 procedures."). "An agency such as DHS can therefore be bound by its own
22 procedures when they (1) prescribe substantive rules-not interpretive rules, general
23 statements of policy or rules of agency organization, procedure or practice; and (2)
24 conform to certain procedural requirements." *Jane Doe 1 v. Nielsen*, 357 F. Supp.
25 3d 972, 1000 (N.D. Cal. 2018).
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1 25. In this case, 8 U.S.C. § 1231(a)(3) and 8 C.F.R. § 241.5(a) are mandatory
2 rules that provide vital information to the noncitizen including “obey[ing]
3 reasonable written restrictions on the alien’s conduct or activities that the Attorney
4 General prescribes for the alien.” *See* 8 U.S.C. § 1231(a)(3)(D). Without providing
5 any written notice about why the government is releasing him, the standards he
6 will be judged, and the consequences of failing to comply with these mandatory
7 terms of release, the Petitioner’s right to procedural due process is violated. To
8 date, neither the Petitioner nor his attorney have been informed of the reason(s) for
9 his redetention. One can only speculate the reason the Petitioner has been
10 detained. Surely, ICE’s conduct does not comply with the Fifth Amendment to the
11 Constitution and does not comply with the post-removal release scheme that it did
12 not follow.
13

14 26. For example, had the government followed the law and placed Mr. Delkash
15 on an order of supervision, there would be a scheme that would give him notice of
16 why his supervision was being revoked, would let him know who and under what
17 authority his supervision was being revoked, and would give him an opportunity to
18 explain why the supervision should not be revoked. *See* 8 C.F.R. § 241.4(l) and 8
19 C.F.R. § 241.13(i) *as discussed in See Ceesay v. Kurzdorfer*, -- F.Supp.3d--, No. 25-
20 CV-267-LJV, 2025 WL 1284720 (W.D.N.Y. May 2, 2025). Both Mr. Delkash and
21 Mr. Jalaie have stated that the Petitioner has been afforded none of these
22 procedural rights prior to his detention that he would have been afforded had ICE
23 done properly released Mr. Delkash on an order of supervision.
24

25 27. Given this blatant violation of Mr. Delkash’s constitutional, statutory, and
26 regulatory rights, at a minimum, immediate release is necessary to maintain the
27 status quo while further litigation is pending. Indeed, the *Ceesay* held that ICE’s
28 failure to follow its regulatory obligations when revoking an order of supervision is

1 grounds for immediate release. *Id.* at *21. The same standard should be applied
2 here and this court must find a substantial likelihood Mr. Delkash will succeed on
3 the merits of this claim.

4 **2. Third Country Removal Claim**

5 28. The Petitioner also seeks temporary relief from removal to a third country
6 without ensuring a measure of due process. ICE has recently taken the position
7 that it may not provide any individualized notice to the Petitioner or an opportunity
8 to respond before he is removed to a third country. *See* Noem, Kristi, Guidance
9 Regarding Third Country Removals, DHS (Mar. 30, 2025) (available at
10 https://lawprofessors.typepad.com/files/2025.03.30_dhs_guidance_regarding_third_c
11 [ountry_removals.pdf](https://lawprofessors.typepad.com/files/2025.03.30_dhs_guidance_regarding_third_c) (last accessed 7/10/25). Specifically, ICE has taken the position
12 that it does not need to provide *any notice* to the noncitizen if ICE and the State
13 Department believe a third country's assurances that the noncitizen will not be
14 tortured. *Id.* 1-2. Alternatively, if ICE or the State Department does not believe the
15 assurances that the noncitizen will not be tortured, they will inform, *but not*
16 *guarantee* an opportunity to seek an individualized fear review.

17 29. Under these guidelines, neither ICE nor the State Department articulate how
18 these "assurances" could cover every possible reason a person might seek protection
19 under the Convention Against Torture. Similarly, if the noncitizen is being removed
20 to a country where the government has doubts about the non-torture assurances, the
21 ICE agents will not ask the noncitizens if they fear being removed to the third
22 country. Essentially, ICE is forcing the noncitizen to assert a right he may not know
23 that he has.

24 30. When addressing the blanket assurances, they blatantly violate the applicable
25 regulations, "The Secretary of State may forward to the Attorney General assurances
26 that the Secretary has obtained from the government of a specific country that *an*
27 alien would not be tortured there if *the* alien were removed to that country." *See* 8
28

1 C.F.R. § 1208.18(c)(1) (emphases added). It is also doubtful that these blanket
2 assurances would cover non-state actors. Thus, it is possible that despite the
3 “assurances” from the foreign government that the noncitizen will not be tortured,
4 these assurances may do nothing to protect against non-state actors. *See e.g. Cole v.*
5 *Holder*, 659 F.3d 762, 771 (9th Cir. 2011) (“Acquiescence by government officials
6 requires only that they were aware of the torture but remained willfully blind to it, or
7 simply stood by because of their inability or unwillingness to oppose it.” (quotation
8 marks and citations omitted)). Similarly, there is no guarantee that the noncitizen
9 will be screened for his/her fear of return to a third country. There is no straight-
10 faced argument this conduct complies with due process and thus, there is a likelihood
11 of success on the merits for the third cause of action as well.

12
13 **B. The Petitioner Will Face Irreparable Harm**

14 31. In considering the second factor, “[i]t is well established that the deprivation
15 of constitutional rights unquestionably constitutes irreparable injury.” *Chhoeun v.*
16 *Marin*, 306 F. Supp. 3d 1147, 1162 (C.D. Cal. 2018) (citation omitted). By
17 violating Mr. Delkash’s constitutional rights, he is suffering an irreparable injury.
18 Further, the Petitioner is suffering specific harms related to his specific causes of
19 action.

20
21 **1. Mr. Delkash’s unlawful detention is causing him irreparable harm**

22 32. The Act requires ICE to provide adequate care for the detainee’s physical
23 and mental condition. *See* 8 U.S.C. § 1231(f)(1). This would include adequate
24 medical, dental, and mental health treatment while detained.

25 33. Mr. Delkash is a veteran. During his basic training at Fort Knox, he was
26 subject to hazing and racial discrimination that have caused him long-term mental
27 disabilities. He currently suffers from PTSD and PDD; because of this he has been
28 prescribed Ambien to help him sleep. The deplorable conditions at 300 North Los

1 Angeles Street and the unavailability of medical treatment are exacerbating his
2 mental health conditions. By not receiving his prescription medication he cannot
3 sleep. He lost a crown and has not gotten dental treatment. He complained of
4 losing feeling in two of his fingers, yet he has not seen a doctor. Further detention
5 is only serving to further trigger Mr. Delkash's mental health issues and denial of
6 medical treatment only further exacerbate his worsening physical state. Aside
7 from the obvious constitutional harms, Mr. Delkash's detention is causing
8 irreparable harm to his body and his mental health.

9
10 **2. Mr. Delkash will suffer irreparable harm if removed without due**
11 **process**

12 34. In addition to the constitutional harm Mr. Delkash would face by not being
13 informed of where he is being removed, he will also face an additional irreparable
14 harm. "Here, the threatened harm is clear and simple: persecution, torture, and
15 death. It is hard to imagine harm more irreparable." *D.V.D. v. U.S. Dep't. of*
16 *Homeland Security*, 1:25-cv-10676-BEM *44 (D. Mass., April 24, 2025) (Dckt.
17 64).

18 **C. The Final Two Factors Favor the Petitioner**

19 35. In considering the last two factors—balancing the parties' equities and
20 determination of whether injunctive relief is in the public interest—the Supreme
21 Court has found that these factors merge in immigration cases because
22 Respondents are both the opposing litigants and the public interest representatives.
23 *Nken v. Holder*, 556 U.S. 418, 435 (2009). In cases implicating removal, "there is
24 a public interest in preventing aliens from being wrongfully removed, particularly
25 to countries where they are likely to face substantial harm." *Id.* at 436. Though
26 these interests must be weighed against the public's "interest in prompt execution
27 of removal orders." *Id.*

36. Further, “the Plaintiff[‘s] likelihood of success on the merits lightens [Defendants’] stated interests.” *Huisha-Huisha v. Mayorkas*, 27 F.4th 718, 734 (D.C. Cir. 2022). The Supreme Court has confirmed that “our system does not permit agencies to act unlawfully even in pursuit of desirable ends.” *Alabama Ass’n of Realtors v. HHS*, 594 U.S. 758, 766 (2021). Like the previous section, these two factors have a slightly different analysis for each factor.

1. Unlawful detention

37. When considering the government’s interest in detaining Mr. Delkash without and process, the balance of equities and the public’s interest in the lawful administration of immigration laws is significant. Because the government’s re-detention of Mr. Delkash is illegal under controlling statutory and constitutional authority, it “cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from [statutory and] constitutional violations.” *Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983). Likewise, it is in the public interest to prevent the further deprivation of Mr. Delkash liberty in violation of due process of law because the incorrect application of controlling law can never be in the public interest. The public has an interest in upholding constitutional rights. *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) (“Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the Constitution.”). Moreover, the public has an interest in accurate determinations in all legal proceedings, including the decision of whether to detain individuals who are on an order of supervision. The public is also served by avoiding excessive expense on detention and ensuring that the government does not expend its resources to detain individuals unnecessarily.

2. **Third Country Removal**

38. When considering whether the balance of equities tips in the Petitioner's favor and it is in the public's interest to prevent a removal without due process. *D.V.D.* found "it likely that these deportations have or will be wrongfully executed and that there has at least been no opportunity for Plaintiffs to demonstrate the substantial harms they might face." *D.V.D. v. U.S. Dep't. of Homeland Security*, 1:25-cv-10676-BEM *45. And for this reason, the final two factors supported the Petitioners' stance.

V. THE COURT MAY ISSUE A TEMPORARY RESTRAINING ORDER

39. Finally, as set forth *supra*, Mr. Delkash asks this Court to find that he has complied with the requirements of Rule 65, Fed.R.Civ.P., **for the purposes of granting a Temporary Restraining Order**. Pursuant to Rule 65(b)(1), this Court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if (1) specific facts in an affidavit . . . clearly show that immediate and irreparable injury, loss or damage will result to the petitioner before the adverse party can be heard in opposition; and (2) the Petitioner's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

40. In the TRO exhibits, Mr. Delkash has provided his declaration that outlines his military service and the mental health challenges he suffers as a result of his dedication to this country. See Exhibit 1. He discusses the unique trauma he is suffering because of the physical and racial abuse he suffered during basic training. *Id.* Specifically, he is being triggered because being in detention is like being in the barracks where he was assaulted with padlocks. *Id.* As a result of this traumatic experience, he was diagnosed with PDD and PTSD. *Id.* and Exhibit 5. Mr. Delkash additionally identified three medical conditions that require medical treatment. See Exhibit 1. However, as of the date of filing this TRO, he

1 has not received any, much less adequate medical treatment. *Id.* All the while, he
2 has not been informed why he is detained, under what authority he is being held.
3 Finally, he fears being removed to a third country without notice or an opportunity
4 to receive an individualized hearing about his fear to be forcibly removed to an
5 unknown land. Both of these causes of actions demonstrate an immediate and
6 unrepairable harm.

7
8 41. Here, Mr. Delkash respectfully submits that sufficient notice has actually
9 been given to Respondents because they are represented by counsel in these
10 proceedings. Moreover, the Respondents were notified and served the habeas
11 petition. *See* Dckt. 4. The Magistrate ordered the Respondents to file a notice of
12 appearance within 14 days of the order. *Id.* As of filing this petition, no one from
13 the United States Attorney Office (AUSA) has filed an entry of appearance.
14 Consequently, at 3:21 p.m. on July 10, 2025, undersigned counsel called the public
15 facing AUSA number 213-894-2400. *See* [Exhibit 10](#)- Declaration from
16 Undersigned Counsel. No one answered the phone, so undersigned counsel left a
17 message where he asked for the name and contact information of the person
18 following this case. *Id.* He also informed the AUSA's Office of the Petitioner's
19 intent on following this motion and asked to speak with the person following the
20 case. As of filing this motion, no one from the AUSA's Office has responded to
21 undersigned counsel. *Id.* Finally, the Petitioner emailed a copy of this motion to
22 the Habeas inbox at USACAC.Habeas@usdoj.gov. *Id.*

23
24 42. . While proper service may not have been made on all Respondents' counsel,
25 for the purpose of Rule 65(b)(1), this Court should find that written notice has, in
26 fact, been provided to the adverse party. In the event this Court finds that not to be
27 the case, it should nevertheless find that the requirements of Rule 65(b)(1)(A) and
28 (B) have been met.

1 **VI. CONCLUSION**

2 For the foregoing reasons, this Court should hold that Mr. Delkash is likely
3 to succeed on the merits of his pending Petition for Writ of Habeas Corpus, that
4 he is likely to suffer irreparable harm in the absence of preliminary relief, that the
5 balance of equities tips in his favor, and that the requested restraining order is in
6 the public interest. Specifically, Mr. Delkash requests this Court to enter the
7 following findings and orders:
8

- 9
- 10 A) That Mr. Delkash's redetention violated the Fifth Amendment to the
11 Constitution, the INA, and its applicable regulations;
- 12 B) That a temporary restraining order is necessary to ensure that Respondents
13 do not continue to violate Delkash's constitutional rights;
- 14 C) That Mr. Delkash be released unless and until he receives adequate notice
15 and a hearing to determine the legality of his re-detention;
- 16 D) That, if Mr. Delkash is to be removed to a third country, that he be informed
17 of ICE's intention to do so and that he receive an individualized opportunity
18 to challenge removal through a reasonable fear interview;
- 19 E) That, under the particular circumstances of this case, it is proper to waive the
20 requirement that Mr. Delkash give an amount of security in connection with
21 the issuance of an injunctive order;
- 22 F) That Mr. Delkash is entitled to an award of attorney's fees under the Equal
23 Access to Justice Act (EAJA), 28 U.S.C. § 2412; and/or
- 24 G) That this Court grant any other relief it deems necessary and proper.

25 ///

26 ///

27 ///

1 DATED: July 10, 2025
2 Long Beach, California

3
4 Respectfully submitted,

5 /s/ Andres Ortiz
6 Andres Ortiz, Esq.
7 Andres Ortiz Law
8 Attorney for the Petitioner
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VERIFICATION

I, Andres Ortiz, hereby declare under penalty of perjury of the laws of the State of California and the United States that the facts alleged in the foregoing *Application for Temporary Restraining Order* are to the best of my knowledge true and correct.

Executed on this 10th day of July, 2025 in Long Beach, CA.

By: s/Andres Ortiz
Andres Ortiz, Esq.
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing *Application for Temporary Restraining Order* in *Omid Delkash v. Noem et. al*, with the Clerk of the Court for the Central District of California by using the appellate CM/ECF July 10, 2025, for filing and transmittal of Notice of Electronic Filing

/s/ Andres Ortiz
Andres Ortiz, Esq.
Attorney for Petitioner

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- Exhibit 1- Declaration of Omid Delkash
- Exhibit 2- Notice to Appear
- Exhibit 3- I-485 Approval
- Exhibit 4- Proof of Honorable Discharge
- Exhibit 5- Mental Health Evaluation Dated 04/27/98
- Exhibit 6- Declaration from Counsel Douglas Jalaie
- Exhibit 7- Email to ICE Outreach
- Exhibit 8- ICE Detainee Locator Printout (dated 7/9/25)
- Exhibit 9- Email Exchange with Officer C. Jenson
- Exhibit 10- Declaration from Undersigned Counsel