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13 **Counsel for Petitioner**

14 **UNITED STATES DISTRICT COURT**
15 **EASTERN DISTRICT OF CALIFORNIA**

16 Y.T.D.,

17 *Petitioner,*

18 v.

19 TONYA ANDREWS, in her official
20 capacity as Facility Administrator of
21 Golden State Annex Detention Facility,

22 MOISES BECERRA, in his official
23 capacity as Acting Field Office Director of
24 the Immigration and Customs
25 Enforcement, Enforcement and Removal
26 Operations, San Francisco,

27 KRISTI NOEM, in her official capacity as
28 Secretary of the Department of Homeland
Security; and

PAM BONDI, in her official capacity as
Attorney General of the United States,

Respondents.

No. 1:25-cv-01100-JLT-SKO

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

Judge: Hon. Jennifer L. Thurston

Hearing: Sept. 8, 2025 at 1:30 PM

INTRODUCTION

1
2 1. On July 20, 2025, Acting ICE Director Todd Lyons put it well: “under the Supreme
3 Court ruling of *Zadvydas*, we don't hold punitively, so we can only hold someone for six months to
4 effectuate their removal.” ECF No. 1, Ex. 11 at 14. Here, Respondents have detained Petitioner
5 Y.T.D. (“Y.T.D.”) for a total of more than fourteen months, including more than six months after
6 his withholding of removal relief became administratively final on February 6, 2025. ECF No. 2 ¶¶
7 29–30. Y.T.D. has conclusively provided good reason to believe there is no significant likelihood
8 of removal in the reasonably foreseeable future. *See id.* ¶¶ 42–51. Respondents’ complete
9 evidentiary response to rebut Y.T.D.’s showing is that “ERO is actively working with the
10 Department of State to identify a third country of removal for Petitioner.” ECF No. 14, Ex. 1 ¶ 9.
11 That is woefully deficient to justify his continued incarceration as a matter of law. *See* ECF No. 2
12 ¶ 49. *Vaskanyan v. Janecka*, No. 5:25-CV-01475-MRA-AS, 2025 WL 2014208, at *5 (C.D. Cal.
13 June 25, 2025) (“At best, the government has shown that ‘good faith efforts to effectuate . . .
14 deportation continue’ . . . *Zadvydas*, however, expressly rejected such a high standard for release”)
15 (citing *Zadvydas v. Davis*, 533 U.S. 678, 702 (2001)). Therefore, Y.T.D.’s continued detention is
16 plainly unconstitutional and statutorily unlawful.

17 2. Respondents’ framing that the six-month period “expired a mere three-and-a-half
18 weeks” ago flips the *Zadvydas* habeas analysis on its head. ECF No. 14 at 4. Each day Y.T.D.
19 remains in detention constitutes irreparable harm because it “is well established that the deprivation
20 of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695
21 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). In fact,
22 Respondents’ evidentiary burden becomes greater with each passing day. *Zadvydas*, 533 U.S. at
23 701 (“as the period of prior postremoval confinement grows, what counts as the ‘reasonably
24 foreseeable future’ conversely would have to shrink”).

25 3. Respondents’ opposition arguments to Y.T.D.’s Administrative Procedures Act
26 (“APA”) claims, similarly, appear only to obfuscate their responsibilities. Respondents have
27 provided no evidence of any individualized custody review applying the standards of their statutory,
28 regulatory, or Fear-based Grant Release Policy obligations in assessing whether to continue to

1 incarcerate Y.T.D. ECF No. 2 ¶¶ 52–60. Contrary to Respondents’ assertions, courts have
2 consistently found that immigration agency rules are precisely the type of rules that DHS may not
3 stray from without running afoul of the APA. ECF No. 1 ¶¶ 68. *See, e.g., Damus v. Nielson*, 313 F.
4 Supp. 3d 317, 337–38 (D.D.C. 2018).

5 4. Finally, Y.T.D. cannot reasonably be expected to rely on Respondents’ mere
6 assertion that he will receive meaningful notice and an opportunity to be heard on a potential fear-
7 based claim prior to effectuating a third-country removal, when Respondents’ official published
8 policies and statements expressly deny that very right. *Compare* ECF No. 14-1, ¶ 10, with ECF No.
9 1, Ex. 6, and July 9, 2025, ECF No. 1, Ex. 7, ECF No. 2 ¶¶ 16–22, 62. *See also Bilbrey by Bilbrey*
10 *v. Brown*, 738 F.2d 1462, 1470 (9th Cir. 1984) (Declaratory relief is appropriate “(1) when the
11 judgment will serve a useful purpose in clarifying and settling the legal relations in issue, and (2)
12 when it will terminate and afford relief from the uncertainty, insecurity, and controversy giving rise
13 to the proceeding”) (internal citation omitted).

14 5. Petitioner should be granted immediate release from detention and declaratory
15 assurance of mandatory due process protections in connection with any future third-country
16 removal.¹

17 ARGUMENT

18 **I. Y.T.D. Is Likely to Succeed on the Merits**

19 **a. Y.T.D.’s Continued Detention Is Statutorily and Constitutionally Unlawful** 20 **Under *Zadvydas* Because His Removal Is Not Reasonably Foreseeable**

21 6. In *Zadvydas*, the Supreme Court held that the post-removal-period detention
22 scheme, enshrined under 8 U.S.C. § 1231(a)(6), contains “an implicit ‘reasonable time’ limitation.”
23 533 U.S. at 682. In statutorily construing § 1231(a)(6), the Supreme Court found “Congress
24 previously doubted the constitutionality of detention for more than six months,” and accordingly

25 _____
26 ¹ As Respondents discuss in their opposition, “Temporary restraining orders and preliminary injunctions are
27 governed by the same standard.” ECF No. 14 at 2–3. Here, “Respondents had notice and an opportunity to
28 respond.” *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *1, n.1 (E.D. Cal. July 16,
2025) (considering motions for temporary restraining order and preliminary injunction “as a singular motion
for preliminary injunction”). Y.T.D. therefore respectfully requests the Court consider his motion for a
temporary restraining order as a motion for preliminary injunction and issue relief accordingly.

1 held that after a non-citizen is detained for six months, if the detainee “provides good reason to
2 believe that there is no significant likelihood of removal in the reasonably foreseeable future, the
3 Government must respond with evidence sufficient to rebut that showing.” *Id.* at 701. *See also*
4 *Nadarajah v. Gonzales*, 443 F.3d 1069, 1078 (9th Cir. 2006) (holding same).² For detention to
5 remain reasonable, “as the period of prior postremoval confinement grows, what counts as the
6 ‘reasonably foreseeable future’ conversely would have to shrink.” *Zadvydas*, 533 U.S. at 701.

7 7. As set forth in his motion for temporary restraining order, Y.T.D. has clearly met
8 his burden of providing good reason to believe there is no significant likelihood of removal in the
9 reasonably foreseeable future. ECF No. 2 ¶¶ 43–51. First, ICE has historically managed to remove
10 to third countries less than two percent of non-citizens granted withholding relief. *Johnson v.*
11 *Guzman Chavez*, 141 S. Ct. 2271, 2295 (2021) (Breyer, J., dissenting).

12 8. Second, Y.T.D. has no criminal record, and the administration has made repeated
13 public statements that their third-country deportation initiatives target and prioritize removable
14 non-citizens with criminal records. ECF No. 2 ¶¶ 24–27.

15 9. Third, Y.T.D.’s withholding of removal status and credible fears of persecution and
16 torture if removed to any of the four countries Respondents have mentioned as possible destinations
17 of third-country removal also renders his removal not reasonably foreseeable. *Id.* ¶ 40. *See*
18 *Nadarajah*, 443 F.3d at 1081–82 (“relief under withholding of removal is mandatory if the
19 petitioner establishes that his ‘life or freedom would be threatened’ in the country to which he
20 would be removed . . . [or] if the applicant meets his burden of proof regarding the likelihood of
21 future torture”).

22 10. Relatedly, based on the statements and actions of countries that have recently
23 accepted third country removals from the United States, Y.T.D. would likely succeed on the claim
24 that these countries would repatriate him to Ethiopia where he would face torture and/or
25 persecution, further rendering his removal not reasonably foreseeable. *Id.*; ECF No. 1, Ex. 22 (*see,*
26 *e.g.*, government of Eswatini stating they would repatriate U.S. deportees). *See, e.g., Misirbekov v.*

27 _____
28 ² The *Zadvydas* Court’s statutory construction of the post-removal detention statute directly rebuts
Respondents’ tangential and generic discussion of the Due Process Clause at ECF No. 14 at 5–6.

1 *Venegas*, No. 1:25-CV-00168, 2025 WL 2201470, at *1 (S.D. Tex. Aug. 1, 2025) (“Petitioner is
2 likely to be successful on the merits of his [*Zadvydas*] habeas corpus petition . . . [in part because]
3 attempts to remove Petitioner to third countries are likely to fail since such action would likely
4 result in him being extradited to Kyrgyzstan and facing political persecution”).

5 11. Lastly, Respondents have not served a notice of intent to deport Y.T.D. to a specific
6 third country of removal on Y.T.D. or his counsel. Therefore, Y.T.D.’s continued detention is
7 presumptively unconstitutional and unlawful, and to keep Y.T.D. detained, Respondents must
8 provide sufficient evidence to rebut Y.T.D.’s showing. *Zadvydas*, 533 U.S. at 701.

9 12. Contrary to Respondents’ parsing of *Zadvydas*, ECF No. 14 at 6, the Supreme Court
10 explicitly considered and rejected the Fifth Circuit’s holding that “*Zadvydas*’ continued detention
11 [is] lawful as long as ‘good faith efforts to effectuate . . . deportation continue,’” because “this
12 standard would seem to require an alien seeking release to show the absence of *any* prospect of
13 removal—no matter how unlikely or unforeseeable—which demands more than our reading of the
14 statute can bear.” *Id.* at 702. *See also Vaskanyan*, 2025 WL 2014208, at *5.

15 13. This type of “good faith effort to effectuate . . . deportation” is all Respondents have
16 shown here. Respondents only offer a single-sentence affirmation that ERO is working with the
17 Department of State to identify a third country of removal for Y.T.D. ECF No. 14, Ex. 1 ¶ 9. *See*
18 *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *3 (W.D. Wash. August 21, 2025)
19 (“Courts in [the Ninth] circuit have regularly refused to find Respondents’ burden met where
20 Respondents have offered little more than generalizations regarding the likelihood that removal
21 will occur”); *Mohamed v. Ashcroft*, No. C01-1747P, 2002 WL 32620339, at *1 (W.D. Wash. Apr.
22 15, 2002) (“Respondents also ask that the Court give great deference to the INS’ determination that
23 Mr. Mohamed’s removal is reasonably foreseeable . . . The Supreme Court has explicitly rejected
24 this standard”). Further, Respondents seemingly admit by omission that they have not yet even
25 identified a third country of removal that is willing to accept Y.T.D.’s deportation, which is
26 unsurprising given that Y.T.D. lacks ties or connections to any third country. ECF No. 2, ¶¶ 28, 32.
27 *See, e.g., Misirbekov*, 2025 WL 2201470, at *1 (holding Petitioner is likely to be successful in
28 *Zadvydas* habeas claim in part because “[h]e cannot be removed to Kyrgyzstan without facing

1 political persecution and he does not have citizenship nor any ties to any other country”).

2 14. Courts in this Circuit and others routinely find the Government failed to carry their
3 burden even when they provide much more evidence than Respondents have here. In *Vaskanyan*,
4 the Central District of California held “[a]t best, the government has shown that ‘good faith efforts’
5 to effectuate . . . deportation continue” when they provided evidence that they were “pursuing the
6 possibility of removing Petitioner to [third-country] Armenia” and that “ICE now expects to receive
7 an answer from the Armenian consulate within approximately two weeks.” 2025 WL 2014208, at
8 *5. In *Hoac*, Judge Coggins recently held Respondents failed to establish “a significant likelihood
9 Petitioner will be removed . . . in the reasonably foreseeable future” even though they showed “a
10 pending updated travel document request,” “a ‘2020 treaty memorandum of understanding’” from
11 the foreign country, and that removals to that country “have occurred recently.” 2025 WL 1993771,
12 at *4. Likewise, in *Nguyen*, the Government provided several declarations showing Vietnam had
13 not formally denied any ICE request for a travel document in 10 months, had not taken more than
14 30 days to issue a travel document pursuant to request in 6 months, and had recently accepted “a
15 meaningful increase in the total number of removals compared to historical practice.” 2025 WL
16 2419288, at *15–17. But because the Government did not provide sufficient individualized
17 evidence as to the petitioner, the Court held it failed to carry its burden. *Id.* at *18. *See also Salad*
18 *v. Dep’t of Corr.*, 769 F. Supp. 3d 913 (D. Alaska 2025).

19 15. When all these circumstances are considered, Y.T.D. has clearly established that he
20 is likely to succeed on the merits of his *Zadvydas* habeas claim. He should be ordered immediately
21 released on this basis.

22 **b. Respondents’ Continued Detention of Y.T.D. Without Custody Review**
23 **Consistent with ICE Policy Violates the APA and Due Process**

24 16. For clarity, Y.T.D. will briefly re-explain his APA and due process claims as to
25 custody review. *See* ECF No. 1 ¶¶ 22–30; ECF No. 2 ¶¶ 7–15. Congress enacted 8 U.S.C. § 1231
26 to govern the detention of non-citizens with final orders of removal during the “removal period.”
27 Under Congress’ mandate, the Government “shall remove the alien from the United States within
28 a period of 90 days (in this section referred to as the ‘removal period’)” and “shall detain the [non-

1 citizen]” as it carries out the removal. 8 U.S.C. § 1231(a)(1)–(2). The *Zadvydas* Court considered
2 congressional intent in construing this post-removal detention statutory scheme and held that such
3 detention is authorized only for “a period reasonably necessary to bring about the [non-citizen]’s
4 removal from the United States,” ultimately setting forth the six-month burden-shifting scheme.
5 533 U.S. at 689.

6 17. DHS regulations under 8 C.F.R. § 241.4 mandate that by the end of the 90-day
7 removal period, the local ICE field office with jurisdiction over the non-citizen’s detention must
8 conduct a custody review to determine whether the noncitizen should remain detained, *id.* §§
9 241.4(c)(1), (k)(1). The regulation sets forth criteria for release, *id.* § 241.4(e), and factors for
10 consideration, *id.* § 241.4(f). A written copy of that decision “to release or to detain an alien shall
11 be provided to the detained alien,” and a “decision to retain custody shall briefly set forth the
12 reasons for the continued detention.” *Id.* § 241.4(d).

13 18. To comply with their statutory constraints under 8 U.S.C. § 1231 and obligations as
14 held in *Zadvydas*, DHS issued additional regulations in 2001 that established “special review
15 procedures” to determine whether detained non-citizens with final removal orders are likely to be
16 removed in the reasonably foreseeable future. *Id.* § 241.4(i)(7). Under these procedures, ICE HQ
17 evaluates the foreseeability of removal by analyzing certain factors. *Id.* § 241.13(f). If ICE HQ
18 determines that removal is not reasonably foreseeable but nonetheless seeks to continue detention,
19 such detention must be based on “special circumstances.” *Id.* § 241.14.

20 19. The Fear-Based Grant Release Policy constitutes ICE’s operative policy to carry out
21 their statutory and regulatory obligations. ECF No. 1-2, 1-6. Respondents are correct that the 2000
22 memorandum clarified that 8 U.S.C. § 1231 authorizes, but does not require, the detention of non-
23 citizens granted withholding of removal. ECF No. 1-2 at 2. Then in the 2004 memorandum, ICE
24 turned this acknowledgement of authority into a presumption stating: “[i]n general, it is ICE policy
25 to favor release of aliens who have been granted protection relief by an immigration judge, absent
26 exceptional concerns such as national security issues or danger to the community.” *Id.* at 3. That
27 general policy is then construed in the context where ICE has appealed an immigration judge’s
28 decision, but it is a general policy nonetheless as explained in the next memorandum. That 2012

1 memorandum clearly states it is a “Reminder [on] Detention Policy Where an Immigration Judge
2 has Granted . . . Withholding of Removal” from “Gary Mead, Executive Associate Director,
3 Enforcement and Removal Operations.” *Id.* at 3-4. Director Mead restates in full the general policy
4 of presumption of release and clarifies: “This policy applies at all times following a grant of
5 protection, including during any appellate proceedings and throughout the removal period.” *Id.* at
6 3-4. Therefore, there can be no debate whether the Fear-Based Grant Release Policy applies to
7 Y.T.D. The 2021 memorandum from Acting Director Tae Johnson is indeed directed at
8 enforcement priorities during the same appeals context as the initial 2004 memorandum, but it
9 importantly explains that the *general* policy is a “longstanding policy,” clarifying that the policy is
10 still operative. Respondents have provided no evidence of a rescission of the Fear-Based Grant
11 Release Policy.

12 20. There is no evidence, e.g. a written custody review determination, that Respondents
13 carried out their regulatory obligations of custody review and internal Fear-Based Grant Release
14 Policy in considering Y.T.D.’s post-removal detention and release requests. Since the Policy clearly
15 implicates individuals’ rights, Y.T.D. is entitled to its protections and it was unlawful for DHS not
16 to adhere to the Policy or the previously discussed custody review regulations. ECF No. 2 ¶¶ 53–
17 54. Y.T.D.’s claims as to custody review and the Policy sound in (1) an arbitrary and capricious
18 APA claim under 5 U.S.C. § 706(2)(A), (C), and (2) a due process claim. *See* ECF No. 1 ¶¶ 79–84
19 (Counts II and III); ECF No. 2 ¶ 53.

20 21. Respondents do not address Y.T.D.’s due process claim, and their arguments as to
21 his APA claim are unavailing. Respondents’ first argument addresses a different type of APA claim
22 under 5 U.S.C. § 706(1), not 5 U.S.C. § 706(2). Regardless, as to Respondents’ first two arguments,
23 Y.T.D. has shown that the Fear-Based Grant Release Policy and custody review regulations were
24 enacted to comply with DHS’s statutory post-removal detention duties and constraints enshrined
25 under 8 U.S.C. § 1231 as interpreted in *Zadvydas*. *See also Alcaraz v. INS*, 384 F.3d 1150, 1162
26 (9th Cir. 2004) (“Where the rights of individuals are affected, it is incumbent upon agencies to
27 follow their own procedures . . . even where the internal procedures are possibly more rigorous than
28 otherwise would be required”) (citing *Morton v. Ruiz*, 415 U.S. 199, 235 (1974)).

1 22. Respondents’ third argument about the availability of adequate remedy is
2 inapplicable here. The one case they cite is inapposite, clarifying that: “When Congress enacted the
3 APA to provide a general authorization for review of agency action in the district courts, it did not
4 intend that general grant of jurisdiction to duplicate the previously established special statutory
5 procedures relating to specific agencies.” *Bowen v. Massachusetts*, 487 U.S. 879, 903 (1988)
6 (providing special statutory review examples for the FTC, NLRB, and ICC). Habeas relief is not a
7 special statutory procedure relating to a specific agency—it is an equitable form of relief. *See, e.g.*,
8 *Nguyen v. Scott*, 2025 WL 2097979 at *3 (W.D. Wash. July 25, 2025) (holding Petitioner met their
9 burden on likelihood of success on the merits as to both a due process claim and an APA claim
10 both addressing relief from re-detention).

11 23. As to Respondents’ last argument, Congress did not provide DHS with unbridled
12 “agency discretion by law” for post-removal detention as explained in *Zadvydas*’ statutory
13 interpretation of 8 U.S.C. § 1231. There is no such jurisdictional bar here, especially considering
14 DHS’s regulations and Policy directly affect Y.T.D.’s rights. On this record, there is no evidence
15 that DHS adhered to its custody review regulatory duties or its Fear-Based Grant Release Policy in
16 considering Y.T.D.’s continued post-removal detention. Even if it did, based on the factors set forth
17 in those regulations and Policy, it carried out its duties in an arbitrary and capricious manner,
18 violating the APA and due process. The appropriate remedy is for the Court to either direct the
19 agency to properly apply its policies or order relief that the Court itself believes to be consistent
20 with the policies—i.e., release. *See, e.g., Jimenez v. Cronen*, 317 F. Supp. 3d 626, 657 (D. Mass.
21 2018) (scheduling bail hearing to review petitioners’ custody under ICE’s standards because “[it]
22 would be particularly unfair to require that petitioners remain detained . . . while ICE attempts to
23 remedy its failure”).

24 **a. Declaratory Relief Relating to Third-Country Removal Is a Necessary and**
25 **Appropriate Remedy in this Case**

26 24. Y.T.D. requires a declaratory judgement—and not an “advisory opinion”—to
27 clarify his rights and reasonable expectations regarding how Respondents may effectuate his
28 removal to a third country, and how they may not. While Respondents may claim otherwise, it is

1 long established that for any “dispute which affects the behavior of the defendant[s] towards the
2 plaintiff,” a declaratory judgement is “proper judicial resolution of a ‘case or controversy[.]’” *Trinh*
3 *v. Homan*, 466 F.Supp.3d 1077, 1094 (C.D. Cal. June 11, 2020) (citing *Hewitt v. Helms*, 482, U.S.
4 755, 761, 106 S.Ct. 2672, 96 L.Ed.2d 654 (1987)). Respondents’ declaration at ECF No. 14, Ex.
5 1 ¶ 10, that “ICE fully understands that prior to any removal to an alternate country other than
6 Ethiopia, Petitioner must be provided notice, an opportunity to claim fear, and, if a fear is claimed,
7 an opportunity to have that claim adjudicated” might have inspired confidence, but for the plethora
8 contradicting policies and actions by Respondents. *See* ECF No. 2 ¶¶ 17–22 (explaining DHS’s
9 March 30, 2025 and July 9, 2025 Third Country Removal policy memoranda show that DHS’s
10 *standard* procedure is to remove non-citizens to third countries in as few as 24 hours without due
11 process protections); *id.*, Exs. 6, 7. *See also A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1368 (2025)
12 (“notice roughly 24 hours before removal, devoid of information about how to exercise due process
13 rights to contest that removal, surely does not pass muster”).

14 25. As this Court and Respondents are aware from other recently filed cases, DHS has
15 made repeated unlawful attempts to remove deportees to third countries without mandatory notice
16 and process. Here are some additional examples:

- 17 a. March 31, 2025: unlawfully removed at least six non-citizens to El Salvador.
18 *D.V.D. v. DHS*, No. 1:25-cv-10676 (D. Mass. Apr. 30, 2025), ECF No. 86;
- 19 b. May 7, 2025: attempted to deport a flight of non-citizens to Libya without
20 mandatory due process protections, leading to an emergency TRO motion.
21 *D.V.D. v. DHS*, No. 1:25-cv-10676-BEM (D. Mass. May 7, 2025), ECF No. 91;
- 22 c. May 16, 2025: attempted to remove two Venezuelan nationals under the Alien
23 Enemies Act on a day’s notice. *A. A. R. P.*, 145 S. Ct. at 1368;
- 24 d. May 20, 2025: attempted to deport non-citizens to South Sudan without
25 mandatory process. *D.V.D. v. DHS*, No. 1:25-cv-10676-BEM (D. Mass. May 20,
26 2025), ECF No. 116;
- 27 e. June 1, 2025: deported the same group of non-citizens to South Sudan without
28 mandatory process. *Dep’t of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025)

1 (Sotomayor, J., dissenting) (“In matters of life and death, it is best to proceed
2 with caution. In this case, the Government took the opposite approach. . . in clear
3 violation of a court order, it deported six more to South Sudan, a nation the State
4 Department considers too unsafe for all but its most critical personnel.”).

5 26. Taken together, far from an advisory opinion, Y.T.D. seeks the same due process
6 relief awarded by a host of courts in this Circuit and others, ECF No. 2 ¶¶ 22, 62, because DHS’s
7 current policy runs afoul of its mandatory obligations and there is little to no way for Y.T.D. to
8 seek relief if DHS irreparably harms him by effectuating an unlawful third-country removal. *See*
9 *D.V.D. v. DHS*, 778 F. Supp. 3d 355, 387–89 (D. Mass. Apr.18, 2025) (“The Court finds it likely
10 that Defendants have applied and will continue to apply the alleged policy of removing aliens to
11 third countries without notice and an opportunity to be heard on fear-based claims—in other words,
12 without due process”).

13 **II. The Other Factors Favor Granting Relief**

14 27. Respondents have failed to respond to Y.T.D.’s irreparable harm showing arising
15 from the deprivation of constitutional rights, continued immigration detention (especially if
16 unlawful and under sub-standard conditions), and potential unlawful third-country removal. ECF
17 No. 2 ¶¶ 61–62. Respondents cannot cite the very post-removal detention statute that bars their
18 continued detention of Y.T.D. to rebut his irreparable harm showing. Moreover, the Government’s
19 interests only apply to the lawful administration of their statutory and constitutional duties — not
20 their misconduct here as set forth in detail in Y.T.D.’s motion. *Id.* ¶¶ 63–66.

21 **CONCLUSION**

22 Y.T.D. respectfully requests this Court grant his Motion for a Temporary Restraining Order
23 against Respondents.³

24
25 ³ Respondents seek dismissal of all but one respondent. ECF No. 14 at 1 n.1. However, they do not explain
26 why the federal officials who have legal authority over Y.T.D.’s detention cannot be named in addition to
27 the individual having the most direct custody of Y.T.D. *See Doe v. Garland*, 109 F.4th 1188, 1196-97 (9th
28 Cir. 2024). In any event, Respondents have not properly noticed or argued any motion to dismiss specific
individuals. E.D. Cal. Local Rule 230; *Phan v. Becerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1808702,
at *2 n.1 (E.D. Cal. June 30, 2025) (“Should Respondents seek to dismiss the remainder of the Respondents
from this action, they should do so pursuant to a properly noticed motion.”).

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Dated: September 4, 2025

Respectfully submitted,
/s/ Sean Lai McMahon

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242 AND LR 190

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 4th day of September 2025 in Oakland, CA.

/s/ Sean Lai McMahon

Counsel for Petitioner