

Ginger E. Jacobs (NY Bar No. 2953347)  
JACOBS & SCHLESINGER LLP  
1620 Fifth Avenue, Suite 750  
San Diego, CA 92101  
Tel: (619) 230-0012  
Fax: (619) 230-0044  
ginger@jsslegal.com

Attorney for Petitioner Al Bazergan

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Ali Hamed Al Bazergan,

Petitioner,

v.

Donald J. Trump, in his official capacity  
as the President of the United States;  
U.S. Immigration and Customs  
Enforcement;  
Executive Office of Immigration Review;  
CoreCivic, Inc.;  
Kristi Noem, Secretary of United States  
Department of Homeland Security, in her  
official capacity;  
Todd M. Lyons, Acting Director, U.S.  
Immigration and Customs Enforcement, in  
his official capacity;  
John E. Cantu, Field Office Director of  
U.S. Immigration and Customs  
Enforcement and Removal Operations  
(ERO) Phoenix, in his official capacity;  
Fred Figueroa, Warden, Eloy Detention  
Center, in his official capacity;  
and  
Pamela Bondi, Attorney General of the  
United States, in her official capacity,

Respondents.

No.: CV-25-03171-PHX-JJT (JFM)

**REPLY TO RESPONSE IN  
OPPOSITION TO MOTION FOR  
TEMPORARY RESTRAINING  
ORDER AND PRELIMINARY  
INJUNCTION**

Agency Doc. No.

A 

## INTRODUCTION

In his request for a preliminary injunction, Petitioner, Ali Hamed AL BAZERGAN, set forth the legal and factual reasons to compel this Court to (1) enjoin Respondents from his ongoing immigration detention in its custody and immediately release him; (2) enjoin Respondents from re-detaining him unless and until he is afforded notice and a hearing before an Immigration Judge prior to any future re-detention where the Department of Homeland Security (“DHS”) bears the burden of demonstrating that his removal is reasonably foreseeable and otherwise whether circumstances have changed such that his re-detention would be justified (i.e. whether he poses a danger or a flight risk), and where the Immigration Judge must further consider whether, in lieu of detention, alternatives to detention exist to mitigate any risk that DHS may establish; and (3) enjoin Respondents from removing him to any third country without first providing him with constitutionally compliant procedures.

In response, Respondents argue against these actions, but do not provide legal or factual reasons to refute the irreparable harm arising from continuing unlawful detention or provide any reasons to keep AL BAZERGAN detained under a legitimate basis.

### I. ARGUMENT

#### **A. 8 U.S.C. § 1252(g) does not bar review of AL BAZERGAN’S challenge to the execution of his removal order**

This Court maintains subject matter jurisdiction over habeas corpus claims arising from immigration detention. Section 1252(g) provides in relevant part: “[N]o court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the

1 decision or action by the Attorney General to commence proceedings, adjudicate cases, or  
2 *execute removal orders* against any alien under this chapter.” (Emphasis added.).

3  
4 The Supreme Court has interpreted § 1252(g)'s jurisdiction-stripping provision  
5 narrowly, limiting it to only "three discrete actions": the "'decision or action' to  
6 '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.'" *Reno v. Am.- Arab*  
7 *Anti-Discrimination Comm.*, 525 U.S. 471, 482, 119 S. Ct. 936, 142 L. Ed. 2d 940 (1999)  
8 ("AADC") (quoting 8 U.S.C. § 1252(g)) (emphasis in original). The Supreme Court  
9 rejected any reading of the statute that would cover "the universe of deportation  
10 claims," *id.*, and cautioned against interpreting § 1252(g) with "uncritical literalism" to  
11 sweep in any claim that can technically be said to "arise from" these three actions. *Jennings*  
12 *v. Rodriguez*, 583 U.S. 281, 293-95, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018);  
13 *M.S.L. v. Bostock*, No. 6:25-cv-01204-AA, 2025 U.S. Dist. LEXIS 162519, at \*18-19 (D.  
14 Or. Aug. 21, 2025).

15  
16  
17  
18 Courts have "distinguished between challenges to Immigration and Customs  
19 Enforcement ('ICE') discretion to execute a removal order, which are barred, and  
20 challenges to the manner in which ICE executes the removal order, which are not." *M.S.L.*  
21 *v. Bostock*, No. 6:25-cv-01204-AA, 2025 U.S. Dist. LEXIS 162519, at \*19 (D. Or. Aug.  
22 21, 2025) (citing *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137 (W.D.N.Y. 2025)).  
23

24  
25 Here, AL BAZERGAN is not challenging ICE'S discretion to execute his removal  
26 order; he is challenging his current detention and the lack of due process surrounding his  
27  
28

1 detention. He further alleges that the revocation of his Order of Supervision (“OSUP”) was  
2 done without regard for his due process rights and in an arbitrary and capricious manner.

3  
4 **B. AL BAZERGAN is entitled to injunctive relief**

5 **1. AL BAZERGAN is likely to succeed on the merits, and he has**  
6 **raised serious questions going to the merits of his claims**

7 **a. AL BAZERGAN’S detention is not authorized by 8 U.S.C. §**  
8 **1231(a)(6)**

9 Respondents correctly acknowledge that there are situations under 8 U.S.C. §  
10 1231(a)(6) where detention beyond the removal period may be appropriate. However, 8  
11 U.S.C. § 1231(a)(6) states that a noncitizen, “if released, *shall* be subject to the terms of  
12 supervision in paragraph (3).” 8 U.S.C. § 1231 (emphasis added). The referenced 8  
13 U.S.C. § 1231(a)(3) directs “[i]f the [noncitizen] does not leave or is not removed within  
14 the removal period, the [noncitizen], pending removal, *shall* be subject to supervision  
15 under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3) (emphasis  
16 added).  
17  
18

19 Under *Zadvydas*, after an initial period of six months post-removal, the burden  
20 shifts to the government to show a significant likelihood of removal to justify ongoing  
21 detention. *See Tadros v. Noem*, No. 25CV4108 (EP), 2025 WL 1678501, at \*3 (D.N.J.  
22 June 13, 2025) (*quoting Zadvydas v. Davis*, 533 U.S. 678, 688 (2001)). In *Tadros*, a  
23 District Court found that ICE’s statements that it was “making efforts to facilitate  
24 Petitioner’s removal” to a third country, years after the Petitioner was granted CAT, was  
25  
26  
27  
28

1 insufficient to justify ongoing detention. *Id.* The *Tadros* court asserted that the  
 2 Petitioner's release after deferral of his removal in 2009:

3 suggests he was determined not to present a flight risk, and that the  
 4 Government was unlikely to find a third country to accept him in the  
 5 reasonably foreseeable future. Furthermore, Tadros has demonstrated there  
 6 is no significant likelihood of his removal in the reasonably foreseeable  
 7 future because fifteen years have gone by without the Government securing  
 a third country for his removal.

8 *Id.* The *Tadros* court granted the Petitioner's TRO and ordered his release after he had  
 9 been re-detained years after the removal period had passed and where the government  
 10 made no showing of changed circumstances or evidence that the Petitioner's removal  
 11 order could be effectuated to a third country. Here, too, no such showing has been made  
 12 to show that AL BAZERGAN could be removed to any third country in the foreseeable  
 13 future.  
 14 future.

15 Respondents state that the purpose of 8 U.S.C. § 1231(a)(6) is to effectuate  
 16 removal, yet they have not proffered any evidence that they are any closer to making that  
 17 removal than they were when the removal order was issued in 2018. Doc. 10 at 9. They  
 18 state that AL BAZERGAN'S OSUP was revoked because the government has  
 19 determined that it was significantly likely to be able to effectuate his removal to a third  
 20 country in the reasonably foreseeable future." Doc. 10 at 9-10. However, at the time AL  
 21 BAZERGAN was detained on July 23, 2025, Respondents had not yet begun the process  
 22 of effectuating that removal. It wasn't until August 7, 2025, a full two weeks later, that  
 23 the ICE officers sent Form I-241 to Egypt, Jordan, and Türkiye regarding whether they  
 24 would accept AL BAZERGAN into their country. Doc. 10 at 4. Respondents have not yet  
 25  
 26  
 27  
 28

1 received a response from any of those countries. Doc. 10 at 5. While Respondents claim  
 2 that approximately 30 days is not long enough to have received a response to their  
 3 request, in actuality, Respondents have had since 2018 to seek a third country to which to  
 4 send AL BAZERGAN. Yet they have not proffered any evidence that they were making  
 5 efforts to facilitate this process at any point between 2018 and the present. That ICE  
 6 “anticipates it will be able to remove Al Bazergan within the reasonably foreseeable  
 7 future” is entirely speculative.

10 **b. Revocation of release and detention pending review are not**  
 11 **proper, and the government is required to show “changed**  
 12 **circumstances” and provide advance notice prior to**  
 13 **revoking an Order of Supervision**

14 ICE has not followed the proper procedures associated with the revocation of AL  
 15 BAZERGAN’S release or revocation of his OSUP. In their Response, Respondents first  
 16 state that “[t]he conditions of release on OSUP were revoked by the recent Supreme Court  
 17 decision regarding Deferral of Removal under CAT and removals to third countries.” Doc.  
 18 10 at 6. The Notice of Revocation of Release states that AL BAZERGAN is to remain in  
 19 ICE custody pursuant to 8 C.F.R. § 241.13. In their Response, Respondents state that “[o]n  
 20 August 1, 2025, Al Bazergan was interviewed and informed of the Alien Informal  
 21 Interview regarding the Revocation of Order of Supervision under 8 C.F.R. § 241.4(I); 8  
 22 C.F.R. § 241.13(i).” Doc. 10 at 13. Throughout the remainder of their Response,  
 23 Respondents vacillate between AL BAZERGAN’S revocation being pursuant to 8 C.F.R.  
 24 §241.4, 8 C.F.R. §231.13, or both. *See* Doc. 10. It is never made clear under which authority  
 25  
 26  
 27  
 28



1 AL BAZERGAN’S OSUP was actually revoked- the “Supreme Court decision,” 8 C.F.R.  
2 § 241.4, or 8 C.F.R. § 231.13.

3  
4 In their analysis, Respondents state that the revocation was pursuant to both 8  
5 C.F.R. § 241.13 and 8 C.F.R. § 241.4. Doc. 10 at 10. However, they do not establish  
6 which regulations’ process they chose to follow. *See M.S.L. v. Bostock*, No. 6:25-cv-  
7 01204-AA, 2025 U.S. Dist. LEXIS 162519, at \*24 (D. Or. Aug. 21, 2025) (“Noncitizens  
8 subject to a removal order may be released pursuant to 8 C.F.R. § 241.4 or 8 C.F.R. §  
9 241.13.”) (*ref. Ceesay*, 2025 U.S. Dist. LEXIS 84258, 2025 WL 1284720, at \*15 n. 22.);  
10 *See Orellana v. Baker*, Civil Action No. 25-1788-TDC, 2025 U.S. Dist. LEXIS 164986  
11 (D. Md. Aug. 25, 2025).

12  
13 Respondents assert that neither 8 C.F.R. § 241.13 nor 8 C.F.R. § 241.4 require a  
14 “change in circumstances” to revoke an OSUP, but this is not true.  
15

16  
17 **i. 8 C.F.R. § 241.13**

18 8 C.F.R. § 241.13(i)(2) governs revocation of release for removal, and states “[t]he  
19 Service may revoke an alien’s release under this section and return the alien to custody if,  
20 on account of changed circumstances, the Service determines that there is a significant  
21 likelihood that the alien may be removed in the reasonably foreseeable future.” (*emphasis*  
22 *added*). ICE’s regulations require that when an alien is notified of a revocation of release,  
23 the reasons for that revocation must be stated in the notification. *See* 8 C.F.R. §  
24 241.13(i)(3). This language in the notice must be individualized to the [noncitizen], and is  
25 not sufficient if it “provides zero reasons as to *what* changed circumstances exist such  
26  
27  
28

1 that [Petitioner's] removal is now significantly likely in the reasonably foreseeable  
2 future." *Nouri v. Herrera*, No. SA CV 25-1905-JFW(DTB), 2025 U.S. Dist. LEXIS  
3 171809, at \*14 (C.D. Cal. Sep. 3, 2025) (quoting *Roble v. Bondi*, No. 25-cv-3196  
4 (LMP/LIB), 2025 U.S. Dist. LEXIS 164108 (D. Minn. Aug. 25, 2025).

6 8 C.F.R. § 241.13(f) instructs ICE "on how it should make such a determination,"  
7 and, "to the extent ICE claims that it made such a determination, the court should review  
8 that claim in light of the factors set out in 8 C.F.R. § 241.13(f)," including but not limited  
9 to:  
10

11 [T]he history of the alien's efforts to comply with the order of removal, the  
12 history of the Service's efforts to remove aliens to the country in question or  
13 to third countries, including the ongoing nature of the Service's efforts to  
14 remove this alien and the alien's assistance with those efforts, the reasonably  
15 foreseeable results of those efforts, and the views of the Department of State  
16 regarding the prospects for removal of aliens to the country or countries in  
question.

17 See *Phong Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 U.S. Dist. LEXIS  
18 136000, at \*7-8 (E.D. Cal. July 16, 2025).

19 While Respondents claim that they do not need to demonstrate a change in  
20 circumstances, they still proffer evidence that their decision to revoke AL  
21 BAZERGAN'S release was based on changed circumstances. The Notice of Revocation  
22 of Release issued July 23, 2025, notifies AL BAZERGAN that his case has been  
23 reviewed, and it has been determined that he will remain in ICE custody, and that "[t]his  
24 decision has been made based on a review of your file and/or your personal interview on  
25 account of changed circumstances in your case. ICE has determined that there is a  
26  
27  
28



1 significant likelihood of removal in the reasonably foreseeable future in your case.” Doc  
2 10-2 at 2 (emphasis added). This Notice of Revocation of Release states that AL  
3 BAZERGAN will remain in custody pursuant to 8 C.F.R. § 241.13. The Notice of  
4 Revocation of Release does not identify any changed circumstances or any specificity or  
5 information about why there is now a significant likelihood that AL BAZERGAN will be  
6 removed in the foreseeable future—seven years after his removal order. Of note, the  
7 Notification of Revocation of Release is addressed to Ali Hamed Al Bazergan at the  
8 Florence Detention Center, not his home address, calling into question whether it was  
9 issued before or after his arrest. This suggests that ICE did not issue the Notice of  
10 Revocation of Release before detaining AL BAZERGAN. Rather, it appears that they  
11 detained him without ascertaining any changed circumstances and later back-filled with a  
12 late-issued Notice of Revocation of Release.

13 On Sunday, July 27, 2025, Eloy Detention Center (“EDC”) informed AL  
14 BAZERGAN’S attorney via email that he was being detained for third country removal.  
15 Doc. 1 at 10. On Friday, August 1, 2025, EDC informed AL BAZERGAN’S attorney via  
16 phone that they were looking for a third country to deport him to, but they had not found  
17 a third country that was willing to take him. Doc. 1 at 10. On Monday, August 4, 2025,  
18 EDC informed AL BAZERGAN’S legal team via email that “[d]ue to a recent [S]upreme  
19 [C]ourt ruling regarding [deferral of removal under the CAT] and third country removals,  
20 we have been advised by OPLA to seek removal of [AL BAZERGAN] to an alternate  
21 country. We are in the beginning stages of this process.” Doc. 1 at 11. Later that day,  
22

1 EDC informed AL BAZERGAN’S legal team via email that “[a]s far as removal time,  
2 there is no estimate to provide. If you would like to speak to your client, and determine a  
3 country that would be willing to accept him, that would speed up the process.” Doc. 1 at  
4 12.  
5

6 On August 1, 2025, ICE conducted an informal interview with AL BAZERGAN to  
7 provide him with an opportunity to respond to the reasons for the revocation. The record  
8 indicates that AL BAZERGAN did not submit a written statement and did not provide  
9 any documents.  
10

11 Apparently, ICE began looking for a country to which to remove AL BAZERGAN  
12 on August 1, 2025. Doc. 10 at 4. And it wasn’t until August 7, 2025, that ICE officers  
13 sent a Form I-241 to Egypt, Jordan, and Türkiye regarding whether they would accept AL  
14 BAZERGAN into their country. Doc. 10 at 4. As of September 5, 2025, ICE has not yet  
15 received a response from those countries. Doc. 10 at 5. Per Respondent, “ICE is still  
16 making an individualized request for travel documents on [AL BAZERGAN’S] behalf.”  
17 Doc. 10 at 10.  
18

19 Of note, on each of these highlighted dates, AL BAZERGAN’S attorney and/or  
20 staff was in contact with the detention facility. In those communications, AL  
21 BAZERGAN’S legal team repeatedly stated that AL BAZERGAN has significant health  
22 concerns, including early signs of dementia, and cannot understand or sign paperwork.  
23 AL BAZERGAN’S legal team only learned in Respondents’ Response that the informal  
24  
25  
26  
27  
28

1 interview had been conducted, that requests had actually been made to third countries,  
2 and to which third countries requests were made.

3  
4       Regarding the uncited Supreme Court ruling regarding deferral of removal under  
5 CAT and third country removals, other courts within the jurisdiction of the Ninth Circuit  
6 have not been convinced that “updated executive branch assessment” or other policy  
7 changes could aid in the court’s analysis on the foreseeability of removal, unless an  
8 individualized assessment and/or additional information is also provided. *See Phan v.*  
9 *Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 U.S. Dist. LEXIS 136000 (E.D. Cal. July  
10 16, 2025) (“Respondents intent to complete a travel document request for Petitioner does  
11 not make it significantly likely he will be removed in the foreseeable future” and  
12 “Respondents' intent to eventually complete a travel document request for Petitioner does  
13 not constitute a changed circumstance”); *See Hoac v. Becerra*, No. 2:25-cv-01740-DC-  
14 JDP, 2025 U.S. Dist. LEXIS 136002 (E.D. Cal. July 16, 2025) (rejecting the  
15 government's argument that ICE's intent to apply for a travel document for the petitioner  
16 constituted changed circumstances because the government failed to provide "any details  
17 about why a travel document could not be obtained in the past, nor have they attempted  
18 to show why obtaining a travel document is more likely this time around").  
19  
20  
21  
22  
23

24       At the time the Notice of Revocation of Release was served on July 23, 2025,  
25 Respondents had not begun to inquire about a safe third country to which to remove AL  
26 BAZERGAN. Additionally, pursuant to the factors for consideration in 8 C.F.R. §  
27  
28

1 241.13(f), it is unclear what, if any, ongoing efforts Respondents had engaged to try to  
2 remove AL BAZERGAN since his removal order became final in 2018.

3  
4 Therefore, at the time of the revocation of AL BAZERGAN'S OSUP, Respondents  
5 did not have adequate changed circumstances to justify doing so. As such, Respondents  
6 have not met their burden to detain AL BAZERGAN for removal under 8 C.F.R. §  
7 241.13.  
8

9 **ii. 8 C.F.R. § 241.4**

10 8 CFR § 241.4(1)(2) describes a process for revocation when the Executive  
11 Associate Commissioner of the Service (here, ICE) determines to revoke release in the  
12 exercise of discretion when it is appropriate to enforce a removal order. 8 CFR §  
13 241.4(1)(2)(iii). And when circumstances do not reasonably permit referral of the case to  
14 the Executive Associate Commissioner, AND revocation is in the "public interest," a  
15 district director may also make the discretionary decision. 8 CFR § 241.4(1)(2). This  
16 responsibility can be delegated to another official in an acting capacity within USCIS,  
17 CBP, ICE, or other component of DHS. 8 C.F.R. § 1.2.  
18  
19  
20

21 In *Ceesay*, the district court found that the absence of a delegation order giving an  
22 assistant field office director authority to revoke release, as well as the absence of  
23 caselaw to support the validity of such an order even if it did exist, rendered the  
24 revocation of the petitioner's release unlawful. *M.S.L. v. Bostock*, 2025 U.S. Dist. LEXIS  
25 162519, at \*27 (*ref. Ceesay*, No. 25-CV-267-LJV, 2025 WL 1284720, at \*17 (W.D.N.Y.  
26 May 2, 2025)); *See Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017).  
27  
28

1 In this case, neither the Executive Associate Commissioner of the Service nor a  
2 district director made the determination to revoke AL BAZERGAN'S release. The Notice  
3 of Revocation of Release was signed by Kevin L. Barrotte, a Supervisory Detention and  
4 Deportation Officer ("SDDO"). The signature block indicates that he is an "Field Office  
5 Director, ERO/Designated Representative." However, Respondents have not provided a  
6 copy of the delegation order or any other evidence documenting the scope of any  
7 delegation authority over the revocation of OSUPs to Barrotte or any other SDDO. Other  
8 district courts in the Ninth Circuit have not found this persuasive absent a copy of the  
9 delegation order. Therefore, the revocation under 8 C.F.R. § 241.4 is also insufficient,  
10 and Respondents have not met their burden of demonstrating that AL BAZERGAN'S  
11 OSUP revocation was compliant with federal regulations.

12  
13  
14  
15  
16 **c. AL BAZERGAN is entitled to a pre-detention hearing**

17 Respondents allege that AL BAZERGAN is not entitled to a pre-detention hearing  
18 should he be released and re-detained. Courts across the Ninth Circuit, including the  
19 District of Arizona, have held in the immigration context "that when there is a substantial  
20 liberty interest at stake, the a government should have the burden of proving, by clear and  
21 convincing evidence, that a [noncitizen] is a danger or flight risk before depriving the  
22 individual of their liberty." *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025  
23 U.S. Dist. LEXIS 156344, at \*40 (D. Ariz. Aug. 11, 2025) (*citing Singh*, 638 F.3d at 1203-  
24 04 (9th Cir. 2011)).

**2. The equities and public interest favor AL BAZERGAN, and he can meet his burden to show irreparable harm**

The balance of equities and the public interest tip sharply in AL BAZERGAN’S favor. These factors “merge where, as is the case here, the government is the opposing party.” *Leiva-Perez v. Holder*, 640 F.3d 962, 970 (9th Cir. 2011) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). In *Diaz v. Kaiser*, No. 3:25-cv-05071, 2025 WL 1676854, at \*3 (N.D. Cal. June 14, 2025), the court granted a temporary restraining order preventing detention for someone who had been out of ICE custody for five years and feared detention at an upcoming ICE check-in based on similar detentions in his community. The *Diaz* court concluded:

The public has a strong interest in upholding procedural protections against unlawful detention, and the Ninth Circuit has recognized that the costs to the public of immigration detention are staggering. . . .Without the requested injunctive relief, Petitioner-Plaintiff might be abruptly taken into ICE custody, subjecting both him and his family to significant hardship. Yet the comparative harm potentially imposed on Respondents-Defendants is minimal—a mere short delay in detaining Petitioner-Plaintiff, should the government ultimately show that detention is intended and warranted.

*Diaz v. Kaiser*, No. 3:25-cv-05071, 2025 WL 1676854, at \*3 (N.D. Cal. June 14, 2025) (citation modified). “Moreover, the [Government] cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983).

Here, AL BAZERGAN’S release from detention poses no harm to the government, because he will be released on an OSUP with which he will comply, as he has done since 2018. If at some point in the future, the government secures AL BAZERGAN’S travel



1 documents and finds a safe third country to which he will be accepted, ICE can call him  
2 into their offices to execute the removal order. There is no compelling government need to  
3 detain AL BAZERGAN while ICE goes about its paperwork.  
4

5 AL BAZERGAN, in turn, is likely to suffer irreparable harm in the absence of a  
6 temporary restraining order. “It is well-established that the deprivation of constitutional  
7 rights ‘unquestionably constitutes irreparable injury.’ *Melendres v. Arpaio*, 695 F.3d 990,  
8 1002 (9th Cir. 2012) (*quoting Elrod v. Burns*, 427 U.S. 247, 272 (1976)). Moreover, “[t]he  
9 Ninth Circuit has recognized ‘irreparable harms imposed on anyone subject to immigration  
10 detention’ including ‘the economic burdens imposed on detainees and their families as a  
11 result of detention.’” *Diaz v. Kaiser*, No. 3:25- cv-05071, 2025 WL 1676854, at \*3 (N.D.  
12 Cal. June 14, 2025) (*quoting Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017)).  
13 Here, those burdens are even more significant, because AL BAZERGAN has several  
14 serious medical conditions, including early signs of dementia, requiring both medical care  
15 and caregiving of his loved ones. AL BAZERGAN has made a compelling case that his  
16 detention imposes a severe burden, including losing access to his medication, medical care,  
17 support system, caregiver, family, and friends for weeks in detention.  
18  
19  
20  
21

22  
23 **C. AL BAZERGAN’S Membership in the *D.V.D. v. DHS* certified class does**  
24 **not preclude injunctive relief in the instant case**

25 Respondents correctly allege that the Petitioner is a member of the class in *D.V.D.*  
26 *v. DHS*, due to his final order of removal issued in INA § 240 proceedings. *D.V.D. v. DHS*,  
27 778 F. Supp. 3d 355, at \*11 (D. Mass. Apr. 18, 2025). In a now-vacated injunction in that  
28

1 case, DHS had been enjoined from removals to third countries without first providing  
2 written notice of removal to that country.

3  
4 AL BAZERGAN'S claim for relief extends beyond the relief identified in the  
5 complaint in *D.V.D. v. DHS*, principally, because this case is a petition for writ of habeas  
6 corpus. The principal relief sought is AL BAZERGAN'S release from detention.

7  
8 **II. CONCLUSION**

9 For good cause, Petitioner Ali Hamed AL BAZERGAN requests that the Court: 1)  
10 direct Respondents to immediately release AL BAZERGAN from immigration detention;  
11 2) enjoin Respondents from re-detaining AL BAZERGAN unless and until he is afforded  
12 notice and hearing by an Immigration Judge prior to any future re-detention, subject to the  
13 safeguards discussed herein; and 3) enjoin Respondents from removing him to any third  
14 country without first providing him with constitutionally compliant procedures.  
15  
16  
17  
18

19 Dated: September 9, 2025

Respectfully submitted,

20  
21 By: /s/Ginger E. Jacobs  
22 Ginger E. Jacobs  
23 Attorney for Petitioner  
24 E-mail: ginger@jsslegal.com  
25  
26  
27  
28