

1 James D. Jenkins*
2 P.O. Box 6373
3 Richmond, VA 23230
(804) 873-8528
jjenkins@valancourtbooks.com

4 *Application for pro hac vice admission forthcoming

5 Laura Belous, 028132
6 Florence Immigrant & Refugee Rights Project
7 P.O. Box 86299
8 Tucson, AZ 85754
(520) 934-7257
9 lbelous@firrp.org

10 *Attorneys for Petitioner*

11 **IN THE UNITED STATES DISTRICT COURT**
12 **DISTRICT OF ARIZONA**

13 Khikmatdzhon Iakubov,

14 Petitioner,

15 v.

16 Fred Figueroa, *et al.*,

17 Respondents.

18 **Case No.**

19 **MOTION FOR TEMPORARY**
20 **RESTRAINING ORDER AND**
21 **PRELIMINARY INJUNCTION**

22 COMES NOW Petitioner Khikmatdzhon Iakubov, through counsel, and pursuant
23 to Fed. R. Civ. P. 65 respectfully requests that this Court enter a temporary restraining
24 order and preliminary injunction enjoining Respondents from removing him to a third
25 country during the pendency of this case without first providing him with constitutionally
26 compliant protections, as well as injunctive relief requiring his immediate release from
27 unconstitutionally prolonged confinement. He has filed a Verified Petition for Writ of
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1 Habeas Corpus (ECF No. 1) because Respondents are continuing to detain him more than
2 six months after an immigration judge's order granting him withholding of removal
3 became final, and there is no significant likelihood of his removal in the reasonably
4 foreseeable future. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

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6 This motion "presents a simple question: before the United States forcibly sends
7 [Mr. Iakubov] to a country other than [his] country of origin, must [he] be told where [he
8 is] going and be given a chance to tell the United States that [he] might be killed if sent
9 there?" *D.V.D. v. U.S. Dep't. of Homeland Sec.*, 778 F. Supp. 3d 355, 364 (D. Mass. 2025)
10 ("*D.V.D. I*").

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12 As set out more fully in his Verified Petition and its accompanying exhibits, Mr.
13 Iakubov is a refugee from Tajikistan who was nearly murdered in his homeland because
14 of his LGBT identity and then tortured in Russia in an effort to conscript him into an
15 internationally condemned war. He has been granted withholding of removal by an
16 immigration judge under the Immigration and Nationality Act (INA) and Convention
17 Against Torture (CAT), meaning he cannot legally be deported to either Tajikistan or
18 Russia. However, pursuant to a March 30, 2025 guidance document issued by the
19 Department of Homeland Security (DHS), Mr. Iakubov faces the risk of deportation to an
20 unspecified third country, to which he has no ties whatsoever, and Respondents have said
21 that they will provide him with no notice and no review, "meaning that deportations to a
22 third county can occur without any consideration of the individual risks facing a particular
23 alien." *D.V.D. I*, 778 F. Supp. 3d at 368.

1 Mr. Iakubov seeks an order requiring his immediate release from custody pending
2 disposition of his habeas petition as well as an order preserving the status quo and
3 preventing his removal to a third country without due process before the Court can
4 consider the merits of his habeas petition. For the reasons below, he respectfully suggests
5 that his motion should be granted.

7 **BACKGROUND**

8 **A. Mr. Iakubov's withholding of removal case and prolonged detention**

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10 Mr. Iakubov is a 30-year-old native of Tajikistan and dual citizen of Tajikistan and
11 Russia. Pet. ¶ 12. When he was about 14 or 15 he began to realize he was attracted to
12 males, and by age 16 he identified as LGBT. *Id.* at ¶ 18. He did not tell anyone about his
13 sexual orientation because he felt it was unsafe for him to do so and that the police would
14 not protect him. *Id.* When he was 20, Mr. Iakubov attended a birthday party with other
15 members of the LGBT community where there was loud music and an LGBT flag hanging
16 up. The police raided the party and arrested all the participants, including Mr. Iakubov,
17 transporting him to a police station. *Id.* at ¶ 19. At the police station, officers cursed and
18 berated Mr. Iakubov for his sexual orientation, beat him for several hours, and used
19 electric chokers and torture against those they had arrested. *Id.* at ¶ 20. The police also
20 threatened to reveal his sexual orientation publicly, and in fact did so, phoning his family
21 and disclosing the reason he was at the police station. *Id.* When his relatives came to pick
22 him up at the police station and brought him home, they beat him as well, saying he was
23 a shame to the family. *Id.* at ¶ 21.

1 After being beaten by both the police and his own family, Mr. Iakubov fled his
2 home city of Dushanbe to another city, Khujand, around 350-400 kilometers away. Pet.
3 ¶ 22. Somehow his outraged and homophobic relatives traced him there, for shortly after
4 his arrival in Khujand he was attacked one evening by masked assailants whose voices
5 he recognized as his uncle's and cousins'. *Id.* During this attack, Mr. Iakubov was
6 bludgeoned with a heavy metal object and stabbed multiple times in the head and back.
7 *Id.* He lost consciousness and woke up in the hospital, covered in bandages; he spent two
8 weeks recovering from his wounds before being released. *Id.* Mr. Iakubov reported the
9 attempted murder to the police but was given the runaround and treated with coldness and
10 indifference, such that he felt it would be hopeless to depend on the authorities for any
11 assistance. *Id.* at ¶ 23. As soon as he mentioned he was LGBT, he noticed the police
12 stopped taking any notes and showed no sign of interest in helping him. *Id.*

16 Shortly after the attempted murder, Mr. Iakubov, realizing his life was not safe
17 from his family anywhere in Tajikistan, fled to Russia to live with a friend. Pet. ¶ 24. He
18 and his friend were involved in an intimate relationship, which led to their being the
19 victims of a homophobic street attack. *Id.* After that, he carefully hid his sexual orientation
20 while in Russia. *Id.* In November 2023, Mr. Iakubov was in a mosque where people were
21 praying, and Russian police entered and arrested him and other immigrants. *Id.* at ¶ 25.
22 The police took Mr. Iakubov to a police station, where they gave him documents to sign,
23 while refusing to tell him what the documents were. *Id.* The police asked him about his
24 attitude toward the Russian war in Ukraine and he told them repeatedly that he was against
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1 it. *Id.* Mr. Iakubov said he did not agree with the war and did not want to kill innocent
2 people. *Id.* When he continued to refuse to sign the papers, the police began to torture
3 him, threatening him and beating him, including hitting him in the area of his liver. *Id.* at
4 ¶ 26. He was held in a cell for five days, beaten every day, and not allowed to sleep. *Id.*
5 After five days, a supervisor told Mr. Iakubov he would continue to be tortured every day
6 until he signed a paper volunteering to go to war. *Id.* at ¶ 27. He felt he had no choice but
7 to sign. *Id.* Very shortly after signing the document, Mr. Iakubov fled Russia, traveling to
8 the United States by way of Tajikistan, Turkey, United Arab Emirates, Brazil, and Mexico.
9 *Id.* He entered the United States near San Luis, Arizona on or about January 9, 2024 and
10 was taken into ICE custody shortly thereafter. He has remained in custody ever since. *Id.*
11 ¶ 28.

12 Mr. Iakubov was served with a Notice to Appear on or about January 18, 2024,
13 charging him with being a noncitizen present in the United States without being admitted
14 or paroled. Pet. ¶ 29. A hearing was held on July 15, 2024, at which the immigration court
15 granted Mr. Iakubov's application for withholding of removal to Tajikistan under the INA
16 because of past persecution he had suffered due to his LGBT identity and further granted
17 his application for withholding of removal to Russia under both the INA and CAT. *Id.* at
18 ¶ 30. In its decision, the immigration court stated that it would have granted asylum as to
19 both Tajikistan and Russia, but was prevented from doing so by the Circumvention of
20 Lawful Pathways asylum ban. *Id.* As a result, the immigration court ordered Mr. Iakubov
21 removed from the United States, but prohibited Respondents from removing him to either
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1 Tajikistan or Russia; the court did not specify an alternate country of removal. *Id.* On
2 February 25, 2025, the Board of Immigration Appeals affirmed the immigration judge's
3 grant of withholding of removal. *Id.* at ¶ 31. "Withholding of removal is a mandatory
4 form of protection preventing deportation to the country or countries where an IJ finds
5 that the individual is more than likely to be persecuted." *D.V.D. I*, 778 F. Supp.3d at 366
6 (citing 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 208.16). Mr. Iakubov has now been detained
7 in excess of six months past the date of the immigration court's order, in contravention of
8 the Supreme Court's decision in *Zadvydas*, and he has filed a petition for writ of habeas
9 corpus requesting his release from detention.

12 **B. Third-country removal**
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14 "In certain circumstances, where the Government may not remove an alien to any
15 country covered by that alien's order of removal, the Government may still remove the
16 alien to any 'country whose government will accept the alien into that country.'" *D.V.D.*
17 *I*, 778 F. Supp. 3d at 367 (citing 8 U.S.C. § 1231(b)(2)(E)(vii)). These are called "third-
18 country removals." *Id.* However, "third-country removals are subject to the same
19 mandatory protections that exist in removal [...] proceedings"; in other words, the United
20 States may not remove a noncitizen to a third country where they would face torture or
21 persecution. *Id.*

24 On March 30, 2025, DHS issued updated guidance on third-country removals,
25 dictating that noncitizens can be removed to a third country without any notice
26 whatsoever. *See D.V.D. I*, 778 F. Supp. 3d at 368. Respondents' use of third-country
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removals in recent months has ranged from merely aggressive to downright lawless. In one high-profile case, one of the plaintiffs in *D.V.D.*, referred to in court filings as O.C.G., was granted withholding of removal to Guatemala by an immigration judge, and the immigration court's order did not name Mexico as a country of removal. *Id.* Nonetheless, Respondents removed O.C.G. to Mexico, which then promptly returned him to Guatemala, the very place a U.S. immigration judge said he could not be sent. *D.V.D. v. U.S. Dep't of Homeland Sec.*, --- F. Supp.3d ---, 2025 WL 1487238 (D. Mass. May 23, 2025) ("*D.V.D. III*"), at *1. The court in that case found that "O.C.G. is likely to succeed in showing that his removal lacked any semblance of due process." *Id.* In another now-notorious case, Respondents deported Venezuelans to a "Salvadoran mega-prison" in what a district judge called "willful disregard for" his order. *J.G.G. v. Trump*, 778 F. Supp.3d 24, 30 (D.D.C. 2025). Those Venezuelans were subsequently refouled to Venezuela in a prisoner swap, despite the fact that some of them had pending asylum or fear-based claims pending in immigration court. *See* Aaron Reichlin-Melnick, *United States Frees Venezuelans Held in El Salvador Following Prisoner Swap*, July 21, 2025, <https://www.americanimmigrationcouncil.org/blog/united-states-frees-venezuelans-el-salvador-prisoner-swap/> (noting that "many of the men had previously fled Venezuela seeking asylum in the United States and were sent to El Salvador before their U.S. asylum cases had been decided.")

In two other widely reported cases, migrants were deported to South Sudan and Eswatini. In *D.V.D.*, the South Sudan case, "the non-citizens at issue had fewer than 24

1 hours' notice, and zero business hours' notice, before being put on a plane and sent to a
2 country as to which the U.S. Department of State issues the following warning: 'Do not
3 travel to South Sudan due to **crime, kidnapping, and armed conflict.**'"*D.V.D. v. U.S.*
4 *Dep't of Homeland Security*, 2025 WL 1453640 (D. Mass. May 21, 2025) ("*D.V.D. II*"),
5 at *1 (citing U.S. Department of State travel advisory) (emphasis in original). Meanwhile,
6 the mainstream media reported that noncitizens sent to the small African nation of
7 Eswatini would simply be refouled to their home countries. *See Politico*, "5 immigrants
8 deported by the US to Eswatini in Africa are held in solitary confinement" (July 17, 2025)
9 [https://www.politico.com/news/2025/07/17/5-immigrants-deported-by-the-us-to-](https://www.politico.com/news/2025/07/17/5-immigrants-deported-by-the-us-to-eswatini-in-africa-are-held-in-solitary-confinement-00461712)
10 [eswatini-in-africa-are-held-in-solitary-confinement-00461712](https://www.politico.com/news/2025/07/17/5-immigrants-deported-by-the-us-to-eswatini-in-africa-are-held-in-solitary-confinement-00461712).
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13 Mr. Iakubov reasonably fears that he could be deported without notice to a country
14 where his life would be directly endangered (e.g., by violent civil war in South Sudan or
15 confinement in a notorious torture prison in El Salvador), or that he will be sent to a
16 country which will simply then refoul him to Tajikistan, where he faces persecution or
17 even death because of his LGBT orientation, or Russia, where he would face prosecution
18 for fleeing after his coerced signing of the conscription document. With this motion, he
19 seeks reasonable notice and a chance to have any fear claim heard by an immigration
20 judge before he is removed.
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24 **LEGAL STANDARD**
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26 To obtain a TRO, a plaintiff "must establish that he is likely to succeed on the
27 merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that
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1 the balance of equities tips in his favor, and that an injunction is in the public interest.”
2 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int'l Sales Co. v.*
3 *John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary
4 injunction and temporary restraining order standards are “substantially identical”). Even
5 if Mr. Iakubov does not show a likelihood of success on the merits, the Court may still
6 grant a temporary restraining order if he raises “serious questions” as to the merits of his
7 claims, the balance of hardships tips “sharply” in his favor, and the remaining equitable
8 factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir.
9 2011). As set forth in more detail below, he more than meets both standards.

12 ARGUMENT

14 **I. Mr. Iakubov Is Likely to Succeed on the Merits of His Habeas Petition and 15 His Challenge to Third-Country Removal Without Due Process.**

16 In analogous cases, district courts around the country have not hesitated to
17 conclude that petitioners like Mr. Iakubov are likely to succeed on the merits of their
18 challenge to third-country removals without notice or due process. In the leading case on
19 this issue, the court concluded that “Plaintiffs have established they are likely to succeed
20 in showing that Defendants have a policy or practice of executing third-country removals
21 without providing notice and a meaningful opportunity to present fear-based claims, and
22 that such policy or practice constitutes a deprivation of procedural due process.” *D.V.D.*
23 *I*, 778 F. Supp. 3d at 387. The court relied in part on the Supreme Court’s decision in
24 *Trump v. J.G.G.*, 604 U.S. --, 2025 WL 1024097 (April 7, 2025), at *2, in which “all nine
25 Supreme Court justices agreed” that “notice must be afforded within a reasonable time
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1 and in such a manner as will allow [noncitizens] to actually seek ... relief in the proper
2 venue before such removal occurs." *D.V.D. I*, 778 F. Supp. 3d at 387. Although the
3 Government argued that the noncitizens "could have brought up, during their initial
4 removal proceedings, all the countries where they have concerns that they will be
5 tortured," the court rejected this as "impossible as a practical matter, since the
6 immigration court does not normally consider claims about countries not proposed as a
7 country of removal." *Id.* at 388. The court also found that "the procedures outlined in
8 DHS's March Guidance" do not "satisfy due process. The March Guidance provides no
9 process whatsoever to individuals whom DHS plans to remove to a third country from
10 which the United States has received blanket diplomatic assurances." *Id.* at 389-90.
11 Significantly, as the court noted, "blanket assurances offer no protection against ... chain
12 refoulement, whereby the third country proceeds to return an individual to his country of
13 origin." *Id.* at 390.

14 In another case, *J.R. v. Bostock*, 2025 WL 1810210 (W.D. Wash. June 30, 2025),
15 at *1, the court granted an ex parte TRO where the plaintiff "face[d] imminent deportation
16 to a country that is neither his country of origin nor the country where the immigration
17 judge ordered [him] to be sent." The court found that "as the Government has not notified
18 [the noncitizen] what country to which it intends to deport him, he has been denied an
19 opportunity to seek withholding under CAT. Thus the Court has serious questions about
20 the merits of his due process claim that the Government violated his rights by attempting
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1 third-country removals without providing him notice and an opportunity to seek CAT
2 protection.” *Id.* at *3.

3 Recently, other courts have also granted TRO relief in legally indistinguishable
4 cases. In *Misirbekov v. Venegas*, -- F. Supp. 3d --, 2025 WL 2201470 (S.D. Tex. Aug. 1,
5 2025), for example, the court enjoined third-country removal, noting that “Petitioner fears
6 that he will be removed to a third country, without due process, before this Court has an
7 opportunity to rule on his petition” and holding that he was “likely to be successful on the
8 merits of his habeas corpus petition” because “it has been more than six months since the
9 removal period began [and] Petitioner has also provided good reason to believe there is
10 no significant likelihood of removal in the foreseeable future.” *Id.* at *1-2. In a similar
11 case, *Ambila v. Joyce*, 2025 WL 1534852 (D. Me. May 28, 2025), the petitioner, like Mr.
12 Iakubov in this case, sought relief under *Zadvydas* after he was detained by ICE for more
13 than six months after his removal order became final. He sought a TRO to “prohibit
14 Respondents from transferring Petitioner to a facility outside of this Court’s jurisdiction
15 and from removing Petitioner from the continental United States during the pendency of
16 this proceeding,” or, alternatively, to be provided “with at least 2 business days’ notice of
17 any scheduled transfer or removal,” which the court granted. *Ambila*, 2025 WL 1534852,
18 at *3, *6. Along the same lines, in *Vaskanyan v. Janecka*, 2025 WL 2014208 (C.D. Cal.
19 June 25, 2025) at *5, the petitioner had filed a habeas petition under *Zadvydas* and sought
20 a TRO to prevent his “removal to an undesignated third country without notice and an
21 opportunity to be heard.” The court enjoined third-country removal and found that he was
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1 likely to succeed on his *Zadvydas* claim since his “detention has exceeded the
2 presumptively reasonable six-month period, and he has ‘good reason to believe’ that there
3 is no significant likelihood of his removal in the reasonably foreseeable future.” *Id.* at *4-
4 *5. In short, there is ample authority from district courts all over the country supporting
5 a grant of injunctive relief to prevent third-country removal without due process while a
6 habeas petition is pending.

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8 In addition to seeking an injunction preventing third-country removal without due
9 process, Mr. Iakubov also seeks injunctive relief requiring his immediate release from
10 detention under *Zadvydas*. Resolution of his claim is governed by two words from
11 *Zadvydas*: “significant” and “reasonably.” Once a noncitizen shows that “there is no
12 significant likelihood of removal in the *reasonably* foreseeable future,” the Government
13 must produce evidence to rebut that showing. *Zadvydas*, 533 U.S. at 701 (emphasis added).
14 “A remote possibility of an eventual removal is not analogous to a significant likelihood
15 that removal will occur in the reasonably foreseeable future.” *Kane v. Mukasey*, 2008 WL
16 11393137, at *5 (S.D. Tex. Aug. 21, 2008) (superseded on mootness grounds by *Kane v.*
17 *Mukasey*, 2008 WL 11393094 (S.D. Tex. Sept. 12, 2008)).

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19 Mr. Iakubov’s Verified Petition sets out several reasons for believing that there is
20 no significant likelihood of his removal in the reasonably foreseeable future. As an initial
21 matter, he cannot be removed to either Tajikistan or Russia, and he does not have
22 citizenship in, or ties to, any other country. Pet. ¶ 55. Courts have often found that a
23 petitioner in Mr. Iakubov’s position meets his burden of showing that his removal is not
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1 significantly likely to occur in the reasonable future if he can show that removal to his
2 home country is impossible. *See, e.g., Palma v. Gillis*, 2020 WL 4880158, at *2 (S.D.
3 Miss. July 7, 2020) (“to shift the burden to the Government, an alien must demonstrate
4 ... barriers to his repatriation to his country of origin”); *Ali v. Dep’t of Homeland Sec.*,
5 451 F. Supp. 3d 703, 707-08 (S.D. Tex. 2020) (Pakistani man met burden by showing he
6 could not be removed to Pakistan); *Joseph v. Mukasey*, 2009 WL 331558, at *4 (N.D.
7 Fla. Feb. 10, 2009) (dual citizen of Bahamas and Haiti met burden by showing Bahamas
8 would not issue travel documents for him).

11 Directly on point is a recent case, *Ambrosi v. Warden, Folkston ICE Processing*
12 *Ctr.*, 5:25-cv-00013 (S.D. Ga. Aug. 18, 2025) (Dkt. 26), in which an Ecuadorian national
13 who had been granted withholding of removal to Ecuador filed a petition under *Zadvydas*
14 seeking his release from prolonged detention, and the court recommended that the petition
15 be granted because “he cannot be removed to his country of origin (Ecuador) and ICE
16 cannot feasibly remove him to another country ... ICE has attempted to have [him]
17 deported to a third country, but those countries denied the requests and ICE ‘does not
18 have an expected timeline for [his] removal to a third country.’” *Id.* at 5-6. Similarly, Mr.
19 Iakubov alleges that DHS’s efforts to remove him to a third country over the past six
20 months have been fruitless, and that his counsel’s experience in recent, similar cases
21 confirms this. Pet. at ¶¶ 58-59.

25 Finally, Mr. Iakubov argues that if Respondents attempt to remove him to a third
26 country that has a practice of extraditing Tajik or Russian nationals to their home countries
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1 or otherwise engaging in refoulement of refugees to places where they face persecution,
2 he would assert a credible fear of removal before a U.S. Citizenship and Immigration
3 services asylum officer, and, if necessary, seek relief in the immigration court. Pet. at ¶
4 60.¹
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6 In short, given DHS's failure to remove him during the statutory removal period
7 or even during the longer, presumptively constitutional six-month period from *Zadvydas*,
8 and given the substantial obstacles to removing him in the reasonably foreseeable future,
9 he has demonstrated a likelihood of success on his *Zadvydas* claim. Notably, courts have
10 held that even if ICE is engaged in ongoing efforts to secure removal, such efforts alone
11 do not mitigate already-prolonged detention, nor do they render removal reasonably
12 foreseeable. *See Shefqet v. Ashcroft*, 2003 WL 1964290 at *5 (N.D. Ill. April 28, 2003)
13 (“Even if [ICE] has been making regular efforts to secure Petitioner’s travel document
14 . . . at this time there must be some concrete evidence of progress. [ICE] cannot rely on
15 good faith efforts alone”). The likelihood of removal “does not turn on the degree of the
16 government’s good faith efforts,” but rather “on whether and to what extent the
17 government’s efforts are likely to bear fruit.” *Hassoun*, 2019 WL 78984 at *5. Indeed, the
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22 ¹ Mr. Iakubov acknowledges a seeming contradiction in arguing that Respondents have
23 no significant likelihood of removing him to a third country in the reasonably
24 foreseeable future, while at the same time seeking urgent injunctive relief to prevent
25 such a removal. However, Respondents have shown the ability to rush noncitizens onto
26 planes and out of the country when they wish to, and Mr. Iakubov seeks to prevent
27 such removal without due process in his case. *See, e.g.*, Devan Cole, “Trump
28 administration might deport Kilmar Abrego Garcia to Uganda” (Aug. 23, 2025)
<https://www.cnn.com/2025/08/23/politics/kilmar-abrego-garcia-uganda-deport>
(noting Government’s sudden intention and ability to remove a noncitizen to Uganda
within 72 hours).

1 Supreme Court specifically rejected the notion that removal is reasonably foreseeable as
2 long as “good faith efforts” continue, holding that such a standard “would seem to require
3 an alien seeking release to show the absence of any prospect of removal—no matter how
4 unlikely or unforeseeable—which demands more than our reading of the statute can bear.”
5 *Zadvydas*, 533 U.S. at 701. “[I]f [ICE] has no idea of when it might reasonably expect
6 [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal is
7 likely to occur—or even that it might occur—in the reasonably foreseeable future.”
8 *Palma*, 2020 WL 4880158, at *3 (citing *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102
9 (W.D.N.Y. 2019)).

12 **II. Mr. Iakubov Faces Irreparable Harm.**

14 “The irreparable harm factor likewise weighs in [Mr. Iakubov’s] favor. Here, the
15 threatened harm is clear and simple: persecution, torture and death. It is hard to imagine
16 harm more irreparable.” *D.V.D. I*, 778 F. Supp. 3d at 391. Respondents “contend that they
17 may remove aliens to third countries with no possibility for review. It is undoubtedly
18 ‘irreparable injury to reduce to a shell game the basic lifeline of due process before an
19 unprecedented and potentially irreversible removal occurs.’” *Id.*, citing *J.G.G. v. Trump*,
20 2025 WL 914682, at *30 (D.C. Cir. March 26, 2025) (Millett, J., concurring) (internal
21 citation omitted). *See also Misirbekov*, 2025 WL 2201470, at *2 (“Petitioner would suffer
22 irreparable harm if Respondents were allowed to transfer, relocate or remove Petitioner
23 from this Court’s jurisdiction. Petitioner would lose the opportunity for his petition to be
24 heard and, considering the procedures outlined in DHS’ March Guidance, likely face
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1 extradition [], political persecution, torture, and death"); *Vaskanyan*, 2025 WL 2014208,
2 at *6 ("Petitioner's removal to a third country without due process ... is likely to result in
3 irreparable harm at this time [...] [T]he Court is persuaded by Petitioner's argument that
4 Respondents may try to remove him to a third country without affording him adequate
5 notice and an opportunity to be heard. This is irreparable harm, plain and simple.")

6
7 With regard to his claim of prolonged detention without due process under
8 *Zadvydas*, the Ninth Circuit has repeatedly held that the deprivation of constitutional
9 rights constitutes irreparable harm. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir.
10 2012); *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013). Petitioner is
11 presently confined in violation of his statutory and constitutional rights. Each additional
12 day of detention compounds the harm and prolongs the unlawful deprivation of liberty.
13 Detainees in ICE custody are held in "prison-like conditions." *Preap v. Johnson*, 831 F.3d
14 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, "[t]he time spent in jail
15 awaiting trial has a detrimental impact on the individual. It often means loss of a job; it
16 disrupts family life; and it enforces idleness." *Barker v. Wingo*, 407 U.S. 514, 532-33
17 (1972); *accord Nat'l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th
18 Cir. 1984). Moreover, the Ninth Circuit has recognized in "concrete terms the irreparable
19 harms imposed on anyone subject to immigration detention" including "subpar medical
20 and psychiatric care in ICE detention facilities [and] the economic burdens imposed on
21 detainees and their families as a result of detention." *Hernandez*, 872 F.3d at 995. The
22 government itself has documented alarmingly poor conditions in ICE detention centers.
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1 *See, e.g.*, DHS, Office of Inspector General (OIG), Summary of Unannounced Inspections
 2 of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024) (reporting violations of
 3 environmental health and safety standards; staffing shortages affecting the level of care
 4 detainees received for suicide watch, and detainees being held in administrative
 5 segregation in unauthorized restraints, without being allowed time outside their cell, and
 6 with no documentation that they were provided health care or three meals a day).²
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8 **III. The Balance of Equities and Public Interest Favor Mr. Iakubov.**

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 10 The third and fourth *Winter* factors “merge when the Government is the opposing
 11 party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). In cases implicating removal, “there is
 12 a public interest in preventing aliens from being wrongfully removed, particularly to
 13 countries where they are likely to face substantial harm.” *Id.* at 436; *see also E. Bay*
 14 *Sanctuary Covenant v. Biden*, 993 F.3d 640, 678 (9th Cir. 2021) (“the public has an
 15 interest in ensuring that we do not deliver aliens into the hands of their persecutors”)
 16 (internal quotation marks omitted). Conversely, the government can make no comparable
 17 claim to harm from an injunction. *See E. Bay Sanctuary Covenant*, 993 F.3d at 678-79
 18 (noting that public interest factor weighs “sharply” against unlawful agency or executive
 19 action). Respondents clearly have no legitimate interest in detaining Petitioner
 20 indefinitely when no possibility of removal is reasonably foreseeable. *Zadvydas*, 533 U.S.
 21 at 690. The equities weigh sharply in Petitioner’s favor, and the public interest is always
 22 served by ensuring constitutional protections are respected. *Melendres*, 695 F.3d at 1002.
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 27 ² Available at <https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf> (last accessed Aug. 28, 2025).
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1 The government cannot suffer harm from an injunction that prevents it from
2 engaging in an unlawful practice. *See Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983)
3 (“[T]he INS cannot reasonably assert that it is harmed in any legally cognizable sense by
4 being enjoined from constitutional violations.”). Therefore, the government is not harmed
5 by a temporary restraining order or preliminary injunction ordering it to comply with the
6 Constitution. Further, any burden imposed by requiring DHS to release Mr. Iakubov from
7 unlawful custody is both *de minimis* and clearly outweighed by the substantial harm he is
8 suffering in detention. *See Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)
9 (“Society’s interest lies on the side of affording fair procedures to all persons, even though
10 the expenditure of governmental funds is required.”).
11

12 A temporary restraining order is in the public interest because “it would not be
13 equitable or in the public’s interest to allow [a party] . . . to violate the requirements of
14 federal law, especially when there are no adequate remedies available.” *Ariz. Dream Act*
15 *Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014) (quoting *Valle del Sol Inc. v.*
16 *Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013)). If a temporary restraining order is not
17 entered, the government would effectively be granted permission to detain Mr. Iakubov
18 in violation of the requirements of due process. “The public interest and the balance of
19 the equities favor ‘prevent[ing] the violation of a party’s constitutional rights.’” *Ariz.*
20 *Dream Act Coal.*, 757 F.3d at 1069 (quoting *Melendres*, 695 F.3d at 1002); *see also*
21 *Hernandez*, 872 F.3d at 996 (“The public interest benefits from an injunction that ensures
22 that individuals are not deprived of their liberty and held in immigration detention because
23

1 of bonds established by a likely unconstitutional process"); *cf. Preminger v. Principi*, 422
2 F.3d 815, 826 (9th Cir. 2005) ("Generally, public interest concerns are implicated when
3 a constitutional right has been violated, because all citizens have a stake in upholding the
4 Constitution."). Therefore, the public interest overwhelmingly favors entering a
5 temporary restraining order and preliminary injunction.

7 Finally, courts in cases like this one have found that the balance of equities and
8 public interest factors tip in a petitioner's favor. *Misirbekov*, 2025 WL 2201470, at *2
9 (noting that "In comparison to the persecution Petitioner would face, Respondent would
10 suffer little to no harm if Petitioner's Motion were granted. Respondent would merely be
11 required to obtain an Order from this Court before transferring, relocating, or removing
12 Petitioner from this Court's jurisdiction"); *Ambila*, 2025 WL 1534852, at *5; *Vaskanyan*,
13 2025 WL 2014209, at *7; *D.V.D. I*, 778 F. Supp. 3d at 391-92. In short, all four factors
14 weigh in Mr. Iakubov's favor.
15

CONCLUSION

19 For the foregoing reasons, Mr. Iakubov respectfully requests that this Court enter
20 an order requiring Respondents to immediately release him from custody, and further
21 enjoining Respondents from removing him to a third country without first providing him
22 with twenty-one days' notice in a language he can understand and a meaningful opportunity
23 to contest such removal, and for such other relief as the Court deems just and proper.
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1 Dated: August 29, 2025

Respectfully submitted,

2 /s/ James D. Jenkins*

3 James D. Jenkins (WA #63234)

4 P.O. Box 6373

Richmond, VA 23230

5 Tel.: (804) 873-8528

6 jjenkins@valancourtbooks.com

7 *Application for pro hac vice admission
forthcoming

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9 Laura Belous, 028132

10 Florence Immigrant & Refugee Rights Project

11 P.O. Box 86299

12 Tucson, AZ 85754

(520) 934-7257

13 lblous@firrp.org

14 *Counsel for Petitioner*

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