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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ARTUR TCHIBASSA,

Petitioner.

v.

Jimmy Johnson, Facility Administrator,
Prairieland Detention Center; Josh Johnson, Acting
Director of Dallas Field Office, U.S. Immigration
and Customs Enforcement and Removal
Operations; Marcos Charles, Acting Executive
Associate Director, ICE Enforcement and Removal
Operations; Kristi Noem, Secretary of the U.S.
Department of Homeland Security; and Pamela
Bondi, Attorney General of the United States,
in their official capacities,

Respondents.

Case No. 3:25-cv-02604-N-BN

**PETITIONER'S MOTION FOR
TEMPORARY RESTRAINING
ORDER**

NOTICE OF MOTION

1. Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Petitioner hereby moves this Court for an order that Defendants Department of Homeland Security (“DHS”), United States Immigration and Customs Enforcement (“ICE”), Pam Bondi, in her official capacity as the U.S. Attorney General, and Jimmy Johnson, in his capacity as Facility Administrator, Prairieland Detention Center, be enjoined from (1) continuing to detain Petitioner-Plaintiff Artur Tchibassa in custody; (2) re-detaining him thereafter without first providing him with a hearing before an Immigration Judge prior to any future re-detention, as required by the Due Process clause of the Fifth Amendment; and (3) removing Petitioner from the United States to any third country to which he does not have a removal order (i.e. any country other than Angola) without first providing him with constitutionally-compliant procedures.

2. The reasons in support of this Motion are set forth in the accompanying Memorandum of Points and Authorities. In sum, Plaintiff warrants a temporary restraining order due to his weighty liberty interest under the Due Process Clause of the Fifth Amendment in remedying his unlawful indefinite detention.

3. WHEREFORE, Petitioner prays that this Court grant his request for a temporary restraining order enjoining his unlawful, ongoing detention, enjoining Respondents from re-detaining him before providing him a hearing before an Immigration Judge, and enjoining Respondents from removing him to any third country without first providing him with constitutionally-compliant procedures. The only mechanism to ensure that he is not continuously unlawfully detained in violation of his due process rights is an ex-parte temporary restraining order from this Court.

Dated: 11/03/2025

Respectfully submitted,

/s/ Paul S. Zoltan
Attorney for Petitioner-Plaintiff

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I. STATEMENT OF FACTS AND THE CASE

4. Petitioner-Plaintiff Mr. Tchibassa, by and through undersigned counsel, hereby files this motion for a temporary restraining order and preliminary injunction to enjoin the U.S. Department of Homeland Security's ("DHS") Immigration and Customs Enforcement ("ICE") from his ongoing immigration detention in its custody and immediately release him. Mr. Tchibassa also seeks an order enjoining 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 DHS bears the burden of demonstrating that (a) his removal is reasonably foreseeable, or (b) circumstances have changed such that his re-detention would be justified (i.e. whether he poses a danger or a flight risk). He moves also for an order enjoining Respondents from removing him to any third country without first providing him with constitutionally-compliant procedures.

5. Petitioner is a 70-year-old citizen of Angola sentenced to 24 years' imprisonment for conspiring to commit hostage-taking in violation of 18 U.S.C. §§ 371 and 1203 and (2) hostage-taking in violation of 18 U.S.C. §§ 2 and 1203. He had been released from criminal custody when, in June 2023, when he applied for deferral of removal to Angola under 8 C.F.R. § 1208.17.

6. On December 20, 2024, the Board of Immigration Appeals issued an administratively final order that concurrently (a) ordered his removal and (b) forbade his removal to Angola. Though ten months have passed since the issuance of that order, Defendants continue to detain Plaintiff.

7. That detention imperils Plaintiff's health. In 2009, Mr. Tchibassa was diagnosed with Parkinson's Disease. Over the years that followed, his gait became a shuffle. Later, he required a

walker to move about. He now needs for someone to push him in a wheel chair. Mr. Tchibassa was consequently transferred for periods of time to BOP medical prisons. A diagnosis of prostate cancer in 2014 prompted his transfer, first, to the federal medical center at Butneer, North Carolina, then to the Federal Medical Center, Fort Worth, Texas. It was from the Fort Worth facility that he was transferred to DHS custody in April 2023.

8. While in DHS custody, Mr. Tchibassa asked the Dallas Immigration Court to forbid his return to Angola under 8 C.F.R. § 1208.17(a) because, he asserted, he was “more likely than not to be tortured.” The immigration judge (IJ) initially denied this relief. On remand from the Board of Immigration Appeals, however, the IJ found that “Respondent has met his burden of establishing it is ‘more likely than not’ that he will be tortured by the government of Angola for his support of Cabindan independence.” and granted deferral of removal. **Exhibit 1.**

9. On March 12, 11 days before Mr. Tchibassa’s 90-day custody review, DHS violated 8 C.F.R. § 241.4(h)(2) by issuing a decision extending his detention before receiving from him any “information in writing in support of his... release.” **Exhibit 2.** As the next custody review approached, Mr. Tchibassa formally requested release. **Exhibit 3.** The Headquarters Post-Order Detention Unit (HQPDU), which 8 C.F.R. § 241.4(c)(2) charges with determining whether there is a significant likelihood of removing Petitioner in the reasonably foreseeable future, has been silent since.

10. Since 8 C.F.R. § 1208.17(a) forbids Respondents from removing Mr. Tchibassa to Angola, the one country of which he is a citizen, his removal is “reasonably foreseeable” only if DHS intends to send him elsewhere. He has asserted, via certified mail, a fear of torture in Honduras and El Salvador (**Exhibit 4**); virtually every other nation outside western Europe (**Exhibit 5**); and, for emphasis, Ghana (**Exhibit 6**). Should DHS intend to deport Tchibassa to

any of these 173 countries, it may do so only after notifying Mr. Tchibassa of that intention; notify the ICE Office of the Principal Legal Advisor so that it can move to reopen removal proceedings to designate a new country of removal and allow Mr. Tchibassa to present his fear-based claim to an immigration judge; and stay Mr. Tchibassa's removal until his fear-based claim is adjudicated by an immigration judge.

11. Respondents' failure to comply with these obligations before enforcing the December 20, 2024 order of removal would violate Mr. Tchibassa's statutory, regulatory, and due process rights, and the United States' commitment to non-refoulement under international law. *See* 8 U.S.C. § 1231(b)(3); Due Process Clause of the Fifth Amendment; Foreign Affairs Reform and Restructuring Act of 1998, Pub. L. No. 105-277, div. G, tit. XXII, § 2242(a), 112 Stat. 2681, 2681-822 (1998) (codified at Note to 8 U.S.C. § 1231); see also 8 C.F.R. § 1240.10(f); 8 C.F.R. § 1240.11(c)(1)(i).

II. LEGAL STANDARD

12. Petitioner is entitled to a temporary restraining order if he establishes that he is “likely to succeed on the merits.... likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [his] favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Clark v. Prichard*, 812 F.2d 991, 993 (5th Cir. 1987) (“The party seeking such relief must satisfy a cumulative burden of proving each of [these] four elements enumerated before a temporary restraining order or preliminary injunction can be granted.”) As detailed below, Petitioner overwhelmingly satisfies this standard.

III. ARGUMENT

13. A temporary restraining order should be issued if “immediate and irreparable injury, or irreversible damage will result” to the applicant in the absence of an order. Fed. R. Civ. P. 65(b). The purpose of a temporary restraining order is to prevent irreparable harm before a preliminary injunction hearing is held. *See Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974). Mr. Tchibassa’s continuous, indefinite detention violates his due process rights. He has already suffered irreparable injury in the form of incarceration and will continue to suffer irreparable injury each day he remains detained without due process.

14. The Court should enjoin further detention because Mr. Tchibassa is likely to succeed on the merits of claims below, and should enjoin removal to a third country other than Angola without the constitutionally required procedures, because he is likely to succeed on the merits claim four below. Mr. Tchibassa asks the Court to grant all or part of the requested injunction.

1. Petitioner is Likely to Succeed on the Merits of His Claim That, in Violation of Clear Supreme Court Precedent, his Detention is Unconstitutional Because it is Indefinite.

15. First, Mr. Tchibassa is likely to succeed on his claim that, in his particular circumstances, the Due Process Clause of the Constitution prevents Respondents from re-detaining Mr. Tchibassa because he cannot be deported to Angola and therefore his indefinite detention is unconstitutional because there is no end in sight.

16. Following a final order of removal, ICE is directed by statute to detain an individual for 90 days in order to effectuate removal. 8 U.S.C. § 1231(a)(2). This 90-day period, also known as “the removal period,” generally commences as soon as a removal order becomes administratively final. *Id.* at § 1231(a)(1)(A); § 1231(a)(1)(B).

17. If ICE fails to remove an individual during the 90-day removal period, the law requires ICE to release the individual under conditions of supervision, including periodic reporting. 8 U.S.C. § 1231(a)(3) (“If the alien . . . is not removed within the removal period, the alien, pending removal, shall be subject to supervision.”). Limited exceptions to this rule exist. Specifically, ICE “may” detain an individual beyond ninety days if the individual was ordered removed on criminal grounds or is determined to pose a danger or flight risk. 8 U.S.C. § 1231(a)(6). However, ICE’s authority to detain an individual beyond the removal period under such circumstances is not boundless. Rather, it is constrained by the constitutional requirement that detention “bear a reasonable relationship to the purpose for which the individual [was] committed.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Because the principal purpose of the post-final-order detention statute is to effectuate removal (and not to be punitive), detention bears no reasonable relation to its purpose if removal cannot be effectuated. *Id.* at 697.

18. The Supreme Court has addressed the fact that the statute is silent regarding the limits on post-final order detention, and has definitively held that such detention has the potential to be indefinite and such indefinite detention would be unconstitutional. Thus, there must be constitutional limits on post-final order detention. Specifically, the Supreme Court held that post-final order detention is only authorized for a “period reasonably necessary to secure removal.” a period that the Court determined to be presumptively six months. *Id.* at 699-701. After this six-month period, if a detainee provides “good reason” to believe that his or her removal is not significantly likely in the reasonably foreseeable future, “the Government must respond with evidence sufficient to rebut that showing.” *Id.* at 701. If the government cannot do so, the individual must be released.

19. In light of the Supreme Court limitations imposed on the statutory scheme, the

government updated the regulations to be consistent with those constitutionally required limitations on indefinite detention. Under those regulations, detainees are entitled to release even before six months of detention, as long as removal is not reasonably foreseeable. See 8 C.F.R. § 241.13(b)(1) (authorizing release after ninety days where removal not reasonably foreseeable). Moreover, under the Supreme Court’s constitutional limitations on indefinite detention, as the period of post-final-order detention grows, what counts as “reasonably foreseeable” must conversely shrink. *Zadvydas* at 701.

20. In this case, Mr. Tchibassa’s detention is unconstitutional because it is indefinite. 8 C.F.R. § 1208.17(a) forbids his repatriation to Angola. Mr. Tchibassa’s removal is therefore not reasonably foreseeable, and his continued detention unlawful.

2. Petitioner is Likely to Succeed on the Merits of his Claim That he is Entitled to Constitutionally Adequate Procedures Prior to Any Third Country Removal

21. Mr. Tchibassa is likely to succeed on the merits of his claim that he must be provided with constitutionally adequate procedures—including notice and an opportunity to respond and apply for fear-based relief—prior to being removed to any third country.

22. Under the INA, Respondents have a clear and non-discretionary duty to execute final orders of removal only to the designated country of removal. The statute explicitly states that a noncitizen “shall remove the alien to the country the alien...designates.” 8 U.S.C. § 1231(b)(2)(A)(ii) (emphasis added). And even where a noncitizen does not designate the country of removal, the statute further mandates that DHS “shall remove the alien to a country of which the alien is a subject, national, or citizen. See *id.* § 1231(b)(2)(D); *see also generally Jama v. ICE*, 543 U.S. 335, 341 (2005).

23. As the Supreme Court has explained, such language “generally indicates a command that

admits of no discretion on the part of the person instructed to carry out the directive,” *Nat’l Ass’n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661 (2007) (quoting *Ass’n of Civilian Technicians v. Fed. Labor Relations Auth.*, 22 F.3d 1150, 1153 (D.C. Cir. 1994)); see also Black’s Law Dictionary (11th ed. 2019). Accordingly, any imminent third country removal fails to comport with the statutory obligations set forth by Congress in the INA and is unlawful.

24. Moreover, prior to any third country removal, ICE must provide Mr. Tchibassa with sufficient notice and an opportunity to respond and apply for fear-based relief as to that country, in compliance with the INA, due process, and binding international treaty, The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. United Nations, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Dec. 10, 1984), available at:

<https://www.ohchr.org/en/instrumentsmechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

25. On February 18, 2025, DHS issued a directive to DHS officers to review for re-detention and removal to third countries all cases of individuals who have been released from immigration detention. **Exhibit 7**

26. The policy violates the Immigration and Nationality Act (INA) and Code of Federal Regulations insofar as it considers neither (a) the likelihood of torture in the third country nor (b) the third country’s desposition to deport the alien the country from which removal has been withheld or deferred. It likewise violates the United States’ obligations under the Convention Against Torture and principles of due process because it allows DHS to provide individuals with no notice whatsoever prior to removal to a third country, so long as that country has provided “assurances” that deportees from the United States “will not be persecuted or tortured.” *Id.*

27. Even absent such an “assurance,” DHS officers need only inform an individual of removal to that third country; they are not required to inform the alien of their rights to apply for protection from removal to that country under the Convention Against Torture. *Id.* Rather, noncitizens instead must already be aware of their rights under this binding international treaty, and must affirmatively state a fear of removal to that country in order to receive a “...be persecuted on a statutorily protected ground or tortured in the country of removal”—which is the standard for protection under the Convention Against Torture that Immigration Judges apply after a full hearing in Immigration Court. *Id.* Then, if the USCIS officer determines that the noncitizen has not met this standard, they will then be removed to the third country to which they claimed, and tried to demonstrate within 24 hours, a fear of persecution or torture. *Id.* Finally, there is no indication that any of this process will occur in an individual’s native language. *Id.*

28. Crucially, it is now plain that “assurances” amount to nothing. Plaintiffs’ Emergency Motion for Interim Relief, filed in *D.A. v. U.S. Department of Homeland Security*, Case No. 1:25-cv-03135 in the District of Columbia cites a Reuters report that “the President of Ghana has himself indicated that Ghana’s agreement with the United States contemplates the repatriation of all persons removed to Ghana from the United States.” **Exhibit 8.**

29. Clearly, this policy violates the Convention Against Torture, which instructs that the United States cannot remove individuals to countries where they will face torture, because the policy allows DHS to swiftly remove noncitizens to countries where they very well may face torture if those countries simply provide the United States with “assurances” that deportees will

not be tortured. *Id.* Moreover, third countries' manifest intention to repatriate some or all of these deportees effectively means that we *are* removing aliens to be tortured in their their countries: Defendants are just doing it by proxy.

30. DHS' policy puts the onus of individuals to be aware of their rights under the Convention Against Torture—which is a treaty that binds the United States government—instead of ensuring that DHS officials make individuals aware of their rights, as the treaty and implementing regulations require. *Id.* For similar reasons, the policy also violates principles of due process, because it does not provide individuals with notice or any meaningful opportunity to apply for fear-based relief. *Id.* Again, the policy allows individuals to be removed to third countries without any notice or an opportunity to be heard if that country merely promises that deportees will not face torture there, and if individuals are otherwise unaware of their right to seek fear-based relief. *Id.*; *see also ZN Decl. at Exh. F, J.R. v. Bostock, et al.*, 2:25cv-01161-JNW (W.D. Wash. June 30, 2025) (TRO prohibiting the government from removing petitioner to “any third country in the world absent prior approval from this Court”).

31. The U.S. District Court for the District of Massachusetts previously issued a nationwide preliminary injunction blocking such third country removals without notice and a meaningful opportunity to apply for relief under the Convention Against Torture. *D.V.D., et al. v. U.S. Department of Homeland Security, et al.*, No. 25-10676-BEM (D. Mass. Apr. 18, 2025). The U.S. Supreme Court has since granted the government's motion to stay the injunction on June 23, 2025, just before the Court published *Trump v. Casa*, No. 24A884 (June 27, 2025) limiting nationwide injunctions. Thus, the Supreme Court's order, which is not accompanied by an opinion, signals only disagreement with the nature, and not the substance, of the nationwide preliminary injunction.

32. This is made clear by the Court's decision in *Trump v. J.G.G.*, 604 U.S. 670 (2025), where the Court explained that the putative class plaintiffs there had to seek relief in individual habeas actions (as opposed to injunctive relief in a class action) against the implementation of Proclamation No. 10903 related to the use of the Alien Enemies Act to remove non-citizens to a third country. Regardless, ICE appears to be emboldened and intent to implement its campaign to send noncitizens to far corners of the planet—places they have absolutely no connection to whatsoever—in violation of individuals' due process rights.

33. If Mr. Tchibassa's removal to a third country would violate his due process rights unless he is first provided with sufficient notice and a meaningful opportunity to apply for protection under the Convention Against Torture. Intervention by this Court is necessary to protect those rights.

3. Petitioner will Suffer Irreparable Harm Absent Injunctive Relief

34. Mr. Tchibassa will suffer irreparable harm were he to remain deprived of his liberty and subjected to continued and indefinite detention by immigration authorities without being immediately released and provided the constitutionally adequate process (a future predeprivation hearing before an Immigration Judge) that at this motion for a temporary restraining order seeks. Frail and ailing, Mr. Tchibassa lives out his days in the "prison-like conditions" of civil ICE custody. *Preap v. Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, "time spent in jail... has a detrimental impact on an individual. It often means a loss of a job; it disrupts family life; and it enforces idleness." *Barker v. Wingo*, 407 U.S. 514, 532-533 (1972). In April 2025, the *Washington Post* published a report entitled "Immigrants forced to sleep on floors at overwhelmed ICE detention centers: Conditions are deteriorating as many detention centers approach capacity and the Trump administration closes

two agencies overseeing health and safety at the facilities.” Of the facility holding Mr. Tchibassa, the article says, “at Prairieland Detention Center in Alvarado, Texas, some immigrant women have been forced to sleep on thin mats on the concrete floor because all the beds in the female holding unit are taken. ‘You’re stripped from your humanity,’ said América Platt, 29, who spent four sleepless nights on Prairieland’s floor.” **Exhibit 9.** (Article available online: <https://www.washingtonpost.com/business/2025/04/18/immigrant-detention-overcrowding-trump-crackdown/>.) In a report released last week, the office of U.S. Senator Jon Ossoff found that “[b]etween January 20 and August 5, the Senator’s staff received or identified 85 credible reports concerning medical neglect of detainees, including reports of delayed or denied medical care, even in urgent circumstances, and reported failures by facility staff to administer critical medication, including detainees’ own prescription medication..” **Exhibit 10.** (Report available online: https://www.ossoff.senate.gov/wp-content/uploads/2025/10/25.10.24_Sen.-Ossoff-Medical-Neglect-Denial-of-Adequate-Food-or-Water-in-U.S.-Immigration-Detention.pdf.) With Stage 4 Parkinson’s Disease, Mr. Tchibassa cannot so much as swallow safely without regular medication. Such medical neglect could kill him.

35. The irreparable harm consequent to Mr. Tchibassa’s removal without due process is no less stark. Removed to a third country without first being provided with constitutionally-compliant procedures to ensure that his right to apply for fear-based relief exposes him to the severe risk of torture or death in both the receiving country and—if he is repatriated—in Angola. Moreover, “the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Thus, a temporary restraining order is necessary to prevent Mr. Tchibassa

from suffering irreparable harm by remaining in unlawful and unjust detention, and by being summarily removed to any third country where he may face persecution or torture.

4. The Balance of Equities and the Public Interest Favor Granting the Temporary Restraining Order

36. The Fifth Circuit has observed, “[t]here is generally no public interest in the perpetuation of unlawful agency action.” *Louisiana v. Biden*, 55 F.4th 1017, 1035 (5th Cir. 2022). This alone tips the balance of equities in in Mr. Tchibassa’s favor. His detention is potentially indefinite, and his summary removal to any third country where he may face persecution or torture would violate the INA, binding international treaty, and Mr. Tchibassa’s due process rights.

37. Further, any burden imposed by requiring the Respondents to release Mr. Tchibassa from custody (and provided notice and a hearing before an Immigration Judge prior to any future redetention) is both de minimis and clearly outweighed by the substantial harm he will suffer as long as he continues to be detained. Similarly, any burden of requiring Respondents not to remove Mr. Tchibassa to any third country is outweighed by the substantial harm he may suffer if removed to a country where he will face persecution or torture. *See id.*

38. Finally, a temporary restraining order is in the public interest, since “the public has a significant stake in the Government’s compliance with the law.” *League of Women Voters v. Newby*, 838 F.3d 1, 12, 426 U.S. App. D.C. 67 (D.C. Cir. 2016). With respect to Mr. Tchibassa’s removal, the analysis tracks closely *Sanchez v. Noem*: “the Court has found that Petitioner’s removal is likely in violation of his procedural due process rights under the Fifth Amendment. The Court therefore finds that enjoining Respondents from removing Petitioner... is in the public interest.” No. 5:25-CV-00104, 2025 U.S. Dist. LEXIS 205572, at *42 (S.D. Tex. Oct. 2, 2025).

IV. CONCLUSION

For the above reasons, Mr. Tchibassa warrants a temporary restraining order that Respondents release him from custody, not re-detain him unless he is afforded notice and a hearing before an Immigration Judge on whether his re-detention is not indefinite, and further whether it is justified by evidence that he is a danger to the community or a flight risk, and not remove him to any third country without first providing him with constitutionally-compliant procedures.

Respectfully submitted,

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Counsel for Petitioner

Dated: November 3, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Artur Tchibassa, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 3rd day of November 2025.

/s/ Paul S. Zoltan
Paul S. Zoltan