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Jalal Al Chair

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Jalal Al Chair,

Petitioner-Plaintiff,

v.

John Cantu, Field Office Director of Phoenix Office of Detention and Removal, U.S. Immigrations and Customs Enforcement; U.S. Department of Homeland Security;

Pamela Bondi, in her Official Capacity, Attorney General of the United States;

Kristi Noem, in her Official Capacity, Secretary, U.S. Department of Homeland Security;

Todd Lyons, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security; and

Fred Figueroa, in his Official Capacity, Warden, at Eloy Detention Center, Eloy, Arizona

Respondents-Defendants.

Case No. TBD

EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER

POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION: HEARING REQUESTED

Challenge to Unlawful Incarceration; Request for Declaratory and Injunctive Relief

NOTICE OF MOTION

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Petitioner Jalal Al Chair ("Mr. Al Chair") hereby moves this Court for an order that Defendants Department of Homeland Security ("DHS"), United States Immigration and Customs Enforcement ("ICE"), Pamela Bondi, in her official capacity as the U.S. Attorney General, and Fred Figueroa, in his official capacity as Warden of the Eloy Detention Center in Eloy, Arizona, be enjoined from continuing to detain Petitioner in custody, and, following his release, be enjoined from re-detaining him 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. Petitioner additionally seeks to enjoin Respondents from removing Petitioner from the United States to any country to which he does not have a removal order (i.e., any country other than Syria or Venezuela) without first providing him with constitutionally-compliant procedures.

The reasons in support of this Motion are set forth in the accompanying Memorandum of Points and Authorities. As set forth in the Points and Authorities in support of this Motion, Petitioner raises that he warrants a temporary restraining order due to his weighty liberty interest under the Due Process Clause of the Fifth Amendment in remedying his unlawfully prolonged detention, which appears indefinite because there is no substantial likelihood that he will be removed in the reasonably foreseeable future. Petitioner has provided a copy of his Petition for Writ of Habeas Corpus and Motions for Temporary Restraining Order and Motion for Preliminary Injunction to Katherine

Branch, Civil Chief for the U.S. Attorney's Office, by email. *See* Exhibits K, L.

WHEREFORE, Petitioner prays that this Court grant his request for a temporary restraining order requiring ICE to immediately release him from custody (to enjoin the unlawful ongoing detention), enjoining Respondents from re-detaining him without a hearing before an Immigration Judge prior to any re-detention, and enjoining Respondents from removing him to any country other than Syria or Venezuela 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 a temporary restraining order from this Court.

Dated: October 7, 2025

Respectfully Submitted,
/s/Jesse Evans-Schroeder
Attorney for Petitioner-Plaintiff

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I. INTRODUCTION

Petitioner-Plaintiff Mr. Al Chair, 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. Al Chair also seeks an order enjoining Respondents from re-detaining him unless and until he is afforded notice and a hearing before an Immigration Judge where 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. Finally, Mr. Al Chair seeks an order enjoining Respondents from removing him to any country other than Venezuela without first providing him with constitutionally-compliant procedures, and an order enjoining DHS from transferring him outside this judicial district.

Mr. Al Chair is a Syrian citizen who fled that country for Venezuela in 2007. In 2024, after experiencing extortion and threats, Mr. Al Chair fled Venezuela. He arrived in the United States in June 2024, and at that time was detained by immigration authorities. He applied for asylum, withholding of removal, and protection under the regulations implementing the Convention Against Torture, but on January 29, 2025, an Immigration Judge denied his applications and ordered him removed to Syria, with an alternate order

of removal to Venezuela. Both DHS and Mr. Al Chair waived appeal of the Immigration Judge's decision, and as such, his order of removal became final on that date.

Although the removal period has expired, Mr. Al Chair is not aware of any efforts by ICE to secure travel documents for his removal to any country where he does not fear persecution or torture. The Supreme Court has limited potentially indefinite post-removal order detention to a *maximum* of six months where removal is not reasonably foreseeable. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). The United States and Syria do not maintain diplomatic relations, and Mr. Al Chair is not aware of any efforts by ICE to obtain travel documents for him to Venezuela or any other country where he does not fear persecution or torture. ICE has not provided Mr. Al Chair with an opportunity to assert his fear of torture in Turkey or Jordan, the countries to which it claims to be seeking his removal. Thus, Mr. Al Chair's removal is not reasonably foreseeable. Because there is no substantial likelihood that Mr. Al Chair will be removed in the reasonably foreseeable future, and he has been detained for more than eight months since his order of removal became final, Mr. Al Chair's continued detention by ICE must be held unlawful and unconstitutional because it is indefinite and limitless in duration. The only remedy is his immediate release.

Mr. Al Chair meets the standard for a temporary restraining order. He will continue to suffer immediate and irreparable harm stemming from his prolonged detention absent an order from this Court enjoining the government from further unlawful detention by ordering his release and absent an order enjoining future re-detention unless and until he receives a hearing before an Immigration Judge. He would also suffer

immediate and irreparable harm if removed to a country where his life could be in danger or if removed from this judicial district so as to frustrate this Court's jurisdiction. For that reason, he also seeks an order enjoining Respondents from removing him to any country other than Venezuela without first being provided with constitutionally-compliant procedures providing him adequate notice and an opportunity to demonstrate if his life is in danger or he stands a high risk of torture—all of which are demanded by the Constitution. Petitioner further seeks an order prohibiting Respondents from transferring him outside this judicial district while this petition is pending. Since holding federal agencies accountable to constitutional demands is in the public interest, the balance of equities and public interest are also strongly in Mr. Al Chair's favor.

II. STATEMENT OF FACTS AND CASE

Mr. Al Chair was born in Swaida, Syria in 1975. *See* Exhibit A (Biographic Page of Mr. Al Chair's Syrian Passport). As a [redacted] he was singled out by his employer. *See* Exhibit B (Form I-589 Application for Asylum and Withholding of Removal). Then, when he did not [redacted] *See id.* Mr. Al Chair fled Syria for Venezuela on or about July 2007, and he has not returned to his birth country since that time. *See id.*

In Venezuela, Mr. Al Chair had a renewable visa, and he co-owned a restaurant. *See id.* He met and married Yohaina Kadamani Hartouche, with whom he had two daughters, who are now six and four years old. *See id.*

When he lived in Venezuela, Mr. Al Chair constantly received extortion demands from [redacted] *See id.* He refused to pay in 2024, and he received death threats, so he fled to the United States. *See id.*

In June 2024, Mr. Al Chair arrived at the border and requested asylum. *See id.* He passed a credible fear interview and was detained at the Eloy Detention Center. *See* Exhibit C (Declaration of Mr. Al Chair). Mr. Al Chair filed a Form I-589 Application for Asylum and Withholding of Removal in August 2024. *See* Exhibit B.

Mr. Al Chair, through prior counsel, submitted a request for bond or parole to ICE. *See* Exhibit D (Cover Letter and Table of Contents for Bond/Parole Request). Mr. Al Chair explained that if he were released from custody, he would live in California with his United States-citizen sister. *See id.* He submitted letters from his sister and her fiancé, along with copies of his sister's most recent four years of tax returns to demonstrate that she was willing and able to support him financially. *See id.*

An Immigration Judge denied Mr. Al Chair's asylum application on January 29, 2025, and ordered Mr. Al Chair removed to Syria, with an alternate order of removal to Venezuela. *See* Exhibit E (January 29, 2025 Order of Removal). Both Mr. Al Chair and DHS waived appeal of the Immigration Judge's decision. *See id.*

After Mr. Al Chair was ordered removed, ICE gave him a letter informing him that he would receive a "90-day review." *See* Exhibit C. When he reached 90 days of detention following his order of removal, he spoke with an ICE officer and inquired whether they received the large packet of documents he had submitted advocating for his release. *See* Exhibits C, D. He was told that they only had about ten pages, and when he

inquired about the rest, he was told that it "did not matter anyway." *See* Exhibit C. Mr. Al Chair was not released.

On May 22, 2025, Deportation Officer Yanez of ICE presented Mr. Al Chair with a Form I-229a Warning for Failure to Depart and Instruction Sheet, but Officer Yanez used another piece of paper to cover up the portion of the form that contained text. Exhibit C; *see also* Exhibit F (Unsigned Instruction Sheet, Dated May 22, 2025). Officer Yanez pressured Mr. Al Chair to sign the form even though he could see only the signature line, but Mr. Al Chair refused to sign the form because he did not know what it was for. *See* Exhibits C, F. At another meeting on or about June 20, 2025, Mr. Al Chair again refused to sign for the same reason. *See* Exhibit C; Exhibit G (Form I-229a and Unsigned Instruction Sheet, Dated June 20, 2025). When the same thing happened for a third time at a meeting in July 2025, Al Chair was placed in solitary confinement for six days. *See* Exhibit C; Exhibit H (Notice of Failure to Comply and Proof of Service, Dated July 15, 2025). ICE further issued a decision at that time denying his request for release. Exhibit H.

Finally, at a fourth meeting on August 20, 2025, an ICE official met with Mr. Al Chair and explained that Form I-229a would help him obtain travel documents. *See* Exhibit C; Exhibit I (Form I-229a and Signed Instruction Sheet, Dated August 20, 2025). After receiving that explanation, Mr. Al Chair signed the form because he is willing to cooperate, although he maintains a fear of returning to Syria. *See* Exhibits C, I.

A fifth meeting took place on or about September 19, 2025. Exhibit C. ICE requested Mr. Al Chair's signature again, this time to execute his removal to Turkey and

Jordan. *Id.* ICE stated they had obtained approval from both countries. *Id.* However, Mr. Al Chair refused to sign the new form because he has a fear of being removed to both Turkey and Jordan, and he was not provided with an opportunity to express fears as to those countries. Exhibit C; Exhibit J (Form I-229a and Unsigned Instruction Sheet, Dated September 19, 2025). Mr. Al Chair is afraid because both Turkey and Jordan are Muslim nations, and will identify him as Druze when he arrives and they see that he is from Swaida, Syria. Exhibit C.

Mr. Al Chair has been detained for the past fifteen months since he arrived in the United States in June of 2024. This period includes over eight months since he was subject to a final order of removal in January 2025. ICE conducted a custody review in Mr. Al Chair's case in July 2025, but he was denied release because he would not sign a form that ICE refused to allow him to read. *See* Exhibit H.

No evidence has been made available to Mr. Al Chair that ICE has requested travel documents to Syria on his behalf. No evidence has been presented or made available to Mr. Al Chair that the government of Syria has ever indicated that it would issue such travel documents. *See* Exhibit C. At the time Mr. Al Chair's removal order became final (and currently to this day) he could not be repatriated to Syria by reason of the U.S.'s cessation of diplomatic relations with Syria in 2012.[1] Mr. Al Chair has reached

[1] The U.S. Department of State updated the Syria Travel Advisory on March 3, 2025, noting "[t]he U.S. government suspended operations in 2012…Do not travel to Syria for any reason." U.S. Department of State, Syria Travel Advisory (March 3, 2025), available at: https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/syria-travel-advisory.html.

out to ICE to inquire about the status of his travel documents, but ICE told him, "That's not our job." *See* Exhibit C. ICE asked him if he has friends or family in Syria who could assist him in obtaining travel documents, but he explained that he no longer has contacts in Syria. *See id.* Mr. Al Chair's parents and sister live in California, while his older brother lives in Venezuela, and he believes his other sister resides in Indonesia. *See id.* His wife and children live in Venezuela. *See* Exhibit B.

Mr. Al Chair is aware of no attempts to remove him to Venezuela or to any other country where he might be safe from persecution or torture. *See* Exhibit C. In addition to Venezuela, Mr. Al Chair inquired as to whether he could be removed to Mexico, Colombia, or Costa Rica, but his Deportation Officer was initially adamant about focusing on removal to Syria. *See id.*

Then, on September 19, 2025, Mr. Al Chair spoke with someone from ICE who told him they may try to remove him to Turkey or Jordan, and those countries had provided their approval. *See* Exhibit C. However, ICE did not provide Mr. Al Chair with an opportunity to express his fear of removal to Turkey or Jordan to determine whether removal to those countries would be legally permissible under U.S. and international law. *See id.*

Mr. Al Chair does not have travel documents for either Syria or Venezuela, despite his own diligent efforts to obtain such documents. *See* Exhibit C. He obtained residency in Venezuela in 2018, but he could not renew his residency when it expired in 2023, because his Syrian passport had expired by that time. *See id.* He also learned that Syria would not issue him a new passport because he had refused to serve in the civil war

in that country, and he had fled to Venezuela. *See id.* Because ICE cannot obtain travel documents for Mr. Al Chair to Syria, and it refuses to attempt to obtain documents to effectuate his removal to any country where he does not have a fear of persecution or torture, Mr. Al Chair remains in ICE custody with no end in sight to his detention.

III. LEGAL STANDARD

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); *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and temporary restraining order standards are "substantially identical"). Even if Petitioner does not show a likelihood of success on the merits, the Court may still grant a temporary restraining order if he raises "serious questions" as to the merits of his claims, the balance of hardships tips "sharply" in his favor, and the remaining equitable factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As set forth in more detail below, Petitioner overwhelmingly satisfies both standards.

IV. ARGUMENT

PETITIONER WARRANTS A TEMPORARY RESTRAINING ORDER BECAUSE HE IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIMS, AND HE SUFFERS IRREPARABLE INJURY EACH DAY HE REMAINS INDEFINITELY DETAINED.

A temporary restraining order should be issued if "immediate and irreparable injury, loss, 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).

The Court should enjoin further detention and enjoin re-detention without a pre-deprivation due process hearing, because Mr. Al Chair is likely to succeed on the merits of his first two claims below, as his continuous, indefinite detention violates his due process rights. The Court should enjoin removal to any country other than Venezuela without the constitutionally required procedures, and should enjoin his transfer outside this judicial district while his petition is pending, because he is likely to succeed on the merits of claim three below. Mr. Al Chair has already suffered irreparable injury in the form of incarceration well beyond the removal period, and he will continue to suffer irreparable injury each day he remains detained. Therefore, Mr. Al Chair asks the Court to grant all or part of the requested injunction.

A. Petitioner is Likely to Succeed on the Merits of His Claims.

The Court should grant the requested relief because Mr. Al Chair is likely to succeed on the merits of each of his claims, as outlined below.

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

First, Mr. Al Chair is likely to succeed on his claim that, in his particular circumstances, the Due Process Clause of the Constitution prevents Respondents from keeping him in custody, because he cannot be removed to Syria, and ICE has made no efforts of which he is aware to remove him to Venezuela. *See* Exhibit C. Nor has ICE permitted Mr. Al Chair to express his fear of removal to the countries from which they claim to have approval to effectuate his removal: Turkey and Jordan. *See id.* Mr. Al Chair's indefinite detention is unconstitutional because there is no end in sight.

Following a final order of removal, ICE is directed by statute to detain an individual for ninety (90) days in order to effectuate removal. 8 U.S.C. § 1231(a)(2). This ninety (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).

ICE did in fact detain Mr. Al Chair throughout that removal period, following his administratively final order of removal by the Immigration Judge on January 29, 2025. During that entire removal period, which ended on April 29, 2025, ICE was not able to remove Mr. Al Chair to Syria, and upon information and belief, it did not attempt to remove him to Venezuela. *See* Exhibit C.

If ICE fails to remove an individual during the ninety (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*, 533 U.S. at 690. 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.

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.

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*, 533 U.S. at 701.

Here, Mr. Al Chair's detention is unconstitutional because it is indefinite. The U.S. does not maintain normal diplomatic relations with Syria and has not since 2012.[2] Furthermore, there is no evidence that Syria will agree to accept Mr. Al Chair. Mr. Al Chair's Syrian passport has expired, and although Mr. Al Chair signed Form I-229a as soon as ICE permitted him to read it, ICE declared that it was "not [their] problem" to seek travel documents to effectuate his removal *See* Exhibits C, I; *see also Muhti. v. Ashcroft*, 314 F. Supp. 418 (M.D. Pa. 2004) (holding, inter alia, that petitioner did not "hold[] the keys to his freedom" where he refused to sign Form I-229a, because petitioner did not refuse to comply with any "specific directive" from ICE).

[2] *See supra*, n. 1.

Additionally, although Mr. Al Chair lived in Venezuela for many years before coming to the United States and ultimately obtained residency and built a family there, he is aware of no efforts by ICE to secure documents to permit his removal to that country. *See* Exhibit C. In fact, ICE officials at first told Mr. Al Chair that they would not seek removal to any country other than Syria, and later told him they would try to remove him to Turkey or Jordan, but they did not give him an opportunity to express his fear of removal to those countries. *See* Exhibit C. ICE has affirmatively forsworn all efforts to obtain travel documents for Mr. Al Chair to a country where he does not fear persecution or torture, declaring that it was "not [their] problem" to get such documents, even after Mr. Al Chair signed Form I-229a. *See id.* Thus, ICE's own representations to Mr. Al Chair, in addition to its lack of efforts to obtain documents and failure to provide him with an opportunity to express his fear, show that Mr. Al Chair's removal is not reasonably foreseeable.

Meanwhile, the minimal process undertaken by ICE to date cannot justify Mr. Al Chair's continued detention because it does not tend to show that his removal is reasonably foreseeable or that he is a "specially dangerous" individual. At Mr. Al Chair's "90 day review," ICE refused to release him from custody without reviewing his full submission of documents, dismissing his efforts to argue for release by telling him that even if ICE had documentation, it "would not matter anyway." Exhibits C, H. When ICE claimed, on September 19, 2025, to have identified two countries that would accept Mr. Al Chair, ICE did not provide him with any opportunity to express his fear of removal to those countries. Exhibit C. Such a threadbare process was insufficient to justify any

detention of Mr. Al Chair beyond the removal period and is even less sufficient to warrant continued detention for well over six months after his order of removal became final. There is no plausible view of the evidence that would indicate Mr. Al Chair is a "specially dangerous" individual, and his continued detention without any reasonably foreseeable end point is thus unconstitutionally prolonged in violation of clear Supreme Court precedent. *Zadvydas*, 533 U.S. at 690-91. Therefore, under these circumstances, the Court should order his immediate release. *See Zavvar v. Scott*, No. 25-2104-TDC, 2025 WL 2592543 (D. Md., Sep. 8, 2025) (granting petition and ordering release because petitioner's opportunity to seek fear-based relief from removal to third countries, and associated timeframes for adjudication of fear claims, demonstrated that there was no substantial likelihood of removal in the reasonably foreseeable future); *Chebib v. DHS*, 2020 WL 2561958 (N.D. Fla. Apr. 1, 2020) (ordering immediate release with order of supervision where removal not foreseeable) (R&R adopted in 2020 WL 25621277 (May 1, 2020)); *Manson v. Barr*, No. 3:20-CV-133, 2020 WL 3962235 (M.D. Fla. Jul. 13, 2020) (same); *Muhti*, 314 F. Supp. 2d at 430–31 (ordering release of the noncitizen where he showed, and the government failed to rebut, "substantial evidence that removal is unlikely in the reasonably foreseeable future"); *accord Cabrera Galdamez v. Mayorkas*, No. 22-CV-9847, 2023 WL 1777310 (S.D.N.Y. Feb. 6, 2023) (ordering bond hearing in lieu of immediate release despite detention beyond six-months following removal order, because Petitioner's appeal was only impediment to removal); *Shahbaz H. v. Green*, No. 19-8052, 2019 WL 2723880 at *5 (D. N.J. July 1, 2019) (denying petition due to issuance of travel documents by country to which petitioner was ordered removed, but reasoning

that "the Government can establish its continued authority to detain only if the Government can rebut [the] evidence and show that the alien's removal remains likely in the reasonably foreseeable future").

2. Petitioner is Likely to Succeed on the Merits of His Claim That as a Matter of Due Process, He Should Be Afforded a Hearing Before an Immigration Judge Prior to Any Re-Detention by ICE.

Should Mr. Al Chair be released, he would have a protected liberty interest in continued freedom from immigration custody, which would require a due process hearing prior to any re-detention.

Courts analyze procedural due process claims in two steps: (1) whether there exists a protected liberty interest, and (2) the procedures necessary to ensure any deprivation of that protected liberty interest accords with the Constitution. *See Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460 (1989).

Petitioner has a protected liberty interest because immigration custody is a form of civil detention. *See Zadvydas*, 533 U.S. at 696 (recognizing the liberty interest of noncitizens on OSUPs); *see also Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (noting that "subject to the conditions of his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life," and thus, those released on parole have a protected liberty interest, even where that liberty is subject to conditions). By way of comparison, parolees and probationers have a diminished liberty interest given their underlying convictions. *See, e.g., United States v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987). Nonetheless, even in the criminal parolee context, where an individual's liberty interest is

diminished, courts have held that the parolee cannot be re-arrested without a due process hearing in which they can raise any claims they may have regarding why their re-incarceration would be unlawful. *See Gonzalez-Fuentes v. Molina,* 607 F.3d 864, 891-92 (1st Cir. 2010); *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("a person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated"). Because Mr. Al Chair is not a criminal parolee, but a civil detainee with no underlying convictions, he would retain a truly weighty liberty interest upon conditional release from immigration custody.

As to the necessary procedures, Mr. Al Chair's protected interest would warrant a due process hearing prior to any re-detention. Where such a protected liberty interest exists, the released individual has a right to a meaningful pre-deprivation process prior to re-detention. *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *see also Hurd*, 864 F.3d at 683. "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must "balance [Petitioner's] liberty interest against the [government's] interest in the efficient administration of" its immigration laws in order to determine what process he is owed to ensure that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357.

Under the test set forth in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test: "first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail." *Haygood*, 769 F.2d at 1357 (*citing Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

The private interest at stake for Mr. Al Chair if he were released is one of the most profound individual interests recognized by our legal system: whether ICE may unilaterally nullify a prior release and take away his "constitutionally protected interest in avoiding physical restraint." *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). *See also Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.").

Meanwhile, as long as Mr. Al Chair complies with the terms of any Order of Supervision ("OSUP"), and unless his removal becomes reasonably foreseeable, the government's interest in re-detaining Mr. Al Chair without a due process hearing will be low. For example, any interest in complying with an arbitrary arrest quota is negligible by comparison to the costs of detention, both to the detained individual and to the

government.[3] Indeed, releasing Mr. Al Chair subject to conditions is far *less* costly and burdensome for the government than keeping him detained. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to the public of immigration detention are 'staggering': $158 each day per detainee, amounting to a total daily cost of $6.5 million." *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017). When weighed against Mr. Al Chair's significant private interest in his liberty, the scale tips sharply in favor of releasing him from custody.

Meanwhile, the process that ICE maintains is lawful for re-detention affords released individuals no process whatsoever, because it allows ICE to simply re-detain them at any point if the agency desires to do so. Pursuant to 8 C.F.R. § 241.4(l), revocation of release on an OSUP is at the discretion of the Executive Associate Commissioner. Under the regulations, ICE has the authority to re-detain a noncitizen previously ordered removed where an individual violates any condition of release or there are changed circumstances regarding the reasonable foreseeability of removal. 8 U.S.C. § 1231; 8 C.F.R. § 241.4(l)(1)-(2); 8 C.F.R. § 241.13(i). After re-arrest, ICE makes its own, one-sided custody determination and can decide whether the agency wants to hold him. 8 C.F.R. § 241.4(e)-(f). Thus, the regulations governing re-detention are insufficient to protect Mr. Al Chair's due process rights if he is released, as they permit ICE to

[3] *See* "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post* (January 26, 2025), available at: https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/.

unilaterally re-detain individuals, even for an accidental error in complying with the conditions.

Accordingly, Mr. Al Chair requests that the Court issue an order requiring that following his release, Respondents must provide him with a pre-deprivation hearing before an Immigration Judge prior to any re-detention. A process before a neutral arbiter is much more likely to produce accurate determinations regarding these factual disputes. *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir.1989) (when "delicate judgments depending on credibility of witnesses and assessment of conditions not subject to measurement" are at issue, the "risk of error is considerable when just determinations are made after hearing only one side"); *see also Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001) (noting that "[a] neutral judge is one of the most basic due process protections"), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006).

Due process also requires consideration of alternatives to detention at any custody redetermination hearing that may occur. The primary purpose of immigration detention is to ensure removal *if* reasonably foreseeable. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if, as here, removal is not actually foreseeable. Accordingly, alternatives to detention must be considered in determining whether Mr. Al Chair's re-detention is warranted.

3. Petitioner is Likely to Succeed on the Merits of His Claim That he is Entitled to Constitutionally Adequate Procedures Before Removal to Any Country Other Than Venezuela.

Finally, Mr. Al Chair 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 country other than Venezuela.

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 [noncitizen] to the country the [noncitizen] . . . 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).

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). Mr. Al Chair is the subject of removal orders to Syria and Venezuela. He cannot be returned to Syria due to the lack of diplomatic relations between that country and the United States. Accordingly, any imminent removal to a country other than Venezuela fails to comport with the statutory obligations set forth by Congress in the INA and is unlawful.

Moreover, prior to removal to any country other than Venezuela, ICE must provide Mr. Al Chair 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 the

binding international treaty: The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[4] Currently, DHS has a policy of removing or seeking to remove individuals to third countries without first providing constitutionally adequate notice of third country removal, or any meaningful opportunity to contest that removal if the individual has a fear of persecution or torture in that country.[5] This policy squarely violates the INA because it does not take into account, *or even mention*, an individual's designated country of removal—thereby fully contravening the statutory instruction that DHS must only remove an individual to the designated country of removal. U.S.C. § 1231(b)(2)(A)(ii).

Further, the policy plainly 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.* If, in turn, the country has not provided such an assurance, then DHS officers must simply inform an individual of removal to that third country but are not required to inform them of their rights to apply for protection from removal to that country under the Convention Against Torture. *Id.* Rather, noncitizens instead must

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[4] United Nations, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Dec. 10, 1984), available at: https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading.

[5] Catholic Legal Immigration Network, "Updates on Third Country Removals and the D.V.D. Litigation," June 26, 2025, available at: https://www.cliniclegal.org/resources/removal-proceedings/updates-third-country-removals-and-dvd-litigation.

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 fear-based interview to screen for their eligibility for protection under the Convention Against Torture. *Id.*

Even so, the screening interview is hardly a meaningful opportunity for individuals to apply for fear-based relief, because the interview happens within 24 hours after an individual states a fear of removal to a recently-designated third country, which hardly provides for any time to consult with an attorney or prepare any evidence for the interview. *Id.* And, in actuality, the screening interview is not a screening interview at all, because USCIS officers under the policy are instructed to determine at this interview "whether the alien would more likely than not 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 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.* This is nothing more than a fig leaf of due process meant to deprive individuals of the protection that the law and treaty are supposed to provide them.

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, the 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, which would more squarely comport with *DHS's obligations* under the treaty not to remove individuals to countries where they face torture. *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.*; *see also Sagastizado Sanchez v. Noem*, 5:25-CV-00104 (S.D. TX, Oct. 2, 2025) (finding due process right to review by immigration judge of USCIS reasonable fear determination as to third country of removal for noncitizen in removal proceedings under 8 U.S.C. § 1229a). 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 J.R. v. Bostock*, No. 2:25-cv-01161-JNW, 2025 U.S. Dist. LEXIS 124229 (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").

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.[6] This is made clear by the Court's decision in *Trump v. J.G.G.*, 604 U.S. ____ (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.[7]

Indeed, in Mr. Al Chair's own case, ICE has indicated that it obtained approval

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[6] The Supreme Court's July 3, 2025, order in *U.S. Department of Homeland Security, et al. v. D.V.D., et al.*, 606 U. S. ____ (2025) (2025) further reinforces that the Supreme Court only disagrees with the means of a nationwide injunction, and not the underlying substance of the nationwide injunction. There, the Court held that the stay of the preliminary injunction divests remedial orders stemming from that injunction of enforceability, and cited to *United States v. Mine Workers*, 330 U. S. 258, 303 (1947) for the proposition that: "The right to remedial relief falls with an injunction which events prove was erroneously issued and *a fortiori* when the injunction or restraining order was beyond the jurisdiction of the court." *Id.* In any event, the remedial order at issue involved six individuals who had *already been removed* from the United States to a third country, and is therefore distinct from this case, where Mr. Al Chair remains in the United States and this Court therefore continues to have jurisdiction over his case.

[7] CBS News, "Politics Supreme Court lets Trump administration resume deportations to third countries without notice for now" (June 24, 2025), available at: https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-deportations-to-third-countries-without-notice/.

from Turkey and Jordan to remove Mr. Al Chair to those countries, but it did not provide him with an opportunity to assert his claim of fear as to either Turkey or Jordan. Exhibit C. It therefore appears that ICE is on the precipice of violating its legal obligations with respect to Mr. Al Chair.

Mr. Al Chair's removal to a country other than Venezuela 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. Particularly in light of ICE's recent indication that it seeks to remove Mr. Al Chair to Turkey or Jordan, intervention by this Court is necessary to protect those rights.

B. Petitioner Will Suffer Irreparable Harm Absent Injunctive Relief.

Mr. Al Chair will suffer irreparable harm were he to remain deprived of his liberty and subject to continued and indefinite detention by immigration authorities without being immediately released. Detainees in civil ICE custody are held in "prison-like conditions" which have real consequences for their lives. *Preap v. Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, "[t]he time spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job; it disrupts family life; and it enforces idleness." *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972); *accord Nat'l Ctr. for Immigrants Rights, Inc. v. INS*, 743 F.2d 1365, 1369 (9th Cir. 1984). Moreover, the Ninth Circuit has recognized in "concrete terms the irreparable harms imposed on anyone subject to immigration detention" including "subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of

detainees whose parents are detained." *Hernandez*, 872 F.3d at 995. Finally, the government itself has documented alarmingly poor conditions in ICE detention centers.[8]

Mr. Al Chair's continued detention also prevents him from reuniting with his family members in the United States, in particular his United States-citizen sister, her fiancé, and Mr. Al Chair's parents, all of whom live in California. *See* Exhibit C. Moreover, if Mr. Al Chair remains detained in an immigration jail, his health could be endangered. On October 20, 2024, Detention Watch Network released a report the Eloy Detention Center, noting it "has gained notoriety as the "deadliest immigration detention center in the U.S.'" [9] The report documents that ICE's own Office of Detention Oversight documented serious lapses in medical care and failure to comply with suicide and self-harm intervention standards. *Id.* In February of 2024, Florence Immigrant and Refugee Rights Project staff documented numerous complaints of poor medical care, unsanitary dining conditions, inadequate laundry services, frequent lockdowns, improper use of

[8] *See, e.g.*, DHS, Office of Inspector General ("OIG"), Summary of Unannounced Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024) (violations of health and safety standards; staffing shortages affecting suicide watch, and detainees held in unauthorized restraints, without being allowed time outside their cell,). U.S. Dep't of Homeland Security Office of Inspector General, OIG-24-23, Results of an Unannounced Inspection of ICE's Golden State Annex in McFarland, California (Sept. 24, 2024), available at https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf.

[9] Detention Watch Network, "Anthology of Abuse" (DATE), available at: https://www.detentionwatchnetwork.org/sites/default/files/reports/Anthology%20of%20Abuse%20-%20A%20Legacy%20of%20Failed%20Oversight%20and%20Death%20at%20the%20Eloy%20Detention%20Center_.pdf

suicide watch and segregation, and verbal and physical abuse by detention center staff. *Id.*

Further, Mr. Al Chair will suffer irreparable harm were he to be removed to a country other than Venezuela without first being provided with constitutionally-compliant procedures to ensure that his right to apply for fear-based relief is protected. Individuals removed to third countries under DHS's policy have reported that they are now stuck in countries where they do not have government support, do not speak the language, and have no network.[10] Others removed in violation of their prior grant of protection under the Convention Against Torture have reported that they faced severe torture at the hands of government agents.[11] It is clear that "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. Al Chair 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.

Mr. Al Chair will also suffer irreparable harm if he is transferred outside this judicial district while his petition is pending. Because habeas review is governed by the district-of-confinement/immediate-custodian rule, transfer of a detainee to another

[10] NPR, "Asylum seekers deported by the U.S. are stuck in Panama unable to return home (May 5, 2025), available at: https://www.npr.org/2025/05/05/nx-s1-5369572/asylum-seekers-deported-by-the-u-s-are-stuck-in-panama-unable-to-return-home.

[11] NPR, "Abrego Garcia says he was severely beaten in Salvadoran prison" (July 3, 2025), available at: https://www.npr.org/2025/07/03/g-s1-75775/abrego-garcia-el-salvador-prison-beaten-torture.

judicial district can frustrate effective review. *See Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025); *Rumsfeld v. Padilla*, 542 U.S. 426, 441–42 (2004); *FTC v. Dean Foods Co.*, 384 U.S. 597, 603–05 (1966).

Furthermore, in a habeas action, the physical presence of a petitioner in the judicial district where the action is pending "facilitate[s]" the petitioner's "ability to work with [his or] her attorneys, coordinate the appearance of witnesses, and generally present [his or her] habeas claims." *Ozturk v. Trump*, 779 F. Supp. 3d 462, 497 (D. Vt. 2025). These interests are particularly acute where, as in Mr. Al Chair's case, the habeas claim is "based on events that occurred in" the same geographic region as the judicial district of detention. *Id.*; *see also* Standing Order 2025-01, Misc. No. 00-308 (D. Md., May 21, 2025) (prohibiting, for at least two business days after the filing of all habeas petitions, removal of petitioners from the continental United States to preserve their ability to participate in court proceedings and access legal counsel); *Velasquez-Salazar v. Dedos*, 1:25-CV-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sep. 17, 2025) (enjoining Respondents from transferring petitioner outside judicial district during pendency of habeas action upon a finding that petitioner showed a likelihood of irreparable harm absent injunction). The physical proximity of a petitioner to the adjudicating tribunal also permits a fair hearing of any claims that may develop related to conditions of confinement, such as overcrowding, sanitation, or health issues. *See Ozturk v. Trump*, 779 F. Supp. 3d at 497-98. Ultimately, in light of these concerns, the transfer of a petitioner outside of a judicial district after a habeas action is filed in that district "undoubtedly impact[s]" the very "integrity" of the proceedings themselves. *Id.* The

Court therefore should enjoin Respodnents from transferring Petitioner outside of Arizona while this petition is pending.

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

First, the balance of hardships strongly favors Mr. Al Chair. His detention is potentially indefinite, and his summary removal to any country other than Venezuela where he may face persecution or torture would violate the INA, binding international treaty, and Mr. Al Chair's due process rights. The government cannot suffer harm from an injunction that prevents it from engaging in an unlawful practice. *See Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983).

Further, any burden imposed by requiring the Respondents to release Mr. Al Chair from custody (and provided notice and a hearing before an Immigration Judge prior to any future re-detention) is both *de minimis* and clearly outweighed by the substantial harm he will suffer as long as he continues to be detained. *See Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) ("Society's interest lies on the side of affording fair procedures to all persons, even though the expenditure of governmental funds is required."). Similarly, any burden of requiring Respondents *not* to remove Mr. Al Chair 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.*

Just as the government cannot be burdened by releasing Mr. Al Chair from custody, any burden imposed by requiring them to *maintain* custody in the District of Arizona for the duration of this case is clearly outweighed by the substantial harm Mr. Al

Chair will face if his case cannot be heard at all because he is moved to a different jurisdiction. *See Ozturk v. Hyde*, 136 F.4th 382 ("[f]aced with such a conflict between the government's unspecific financial and administrative concerns on the one hand, and the risk of substantial constitutional harm to [petitioner] on the other, we have little difficulty concluding 'that the balance of hardships tips decidedly' in [the petitioner's] favor") (quoting *Mitchell v. Cuomo*, 748 F.2d 804, 808 (2d Cir. 1984)).

Finally, a temporary restraining order is in the public interest. First and most importantly, "it would not be equitable or in the public's interest to allow [a party] . . . to violate the requirements of federal law, especially when there are no adequate remedies available." *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014) (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013)). If a temporary restraining order is not entered, the government would effectively be granted permission to detain Mr. Al Chair, and/or to summarily remove him to any third country, and/or frustrate this Court's jurisdiction by moving him to another judicial district in violation of the requirements of Due Process. "The public interest and the balance of the equities favor 'prevent[ing] the violation of a party's constitutional rights.'" *Ariz. Dream Act Coal.*, 757 F.3d at 1069 (quoting *Melendres*, 695 F.3d at 1002); *see also Hernandez*, 872 F.3d at 996 ("The public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and held in immigration detention because of bonds established by a likely unconstitutional process."); *cf. Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) ("Generally, public interest concerns are implicated when a

constitutional right has been violated, because all citizens have a stake in upholding the Constitution.").

V. REQUIREMENTS OF FRCP 65(b)

In compliance with Fed. R. Civ. P. 65(b)(1), Petitioner certifies that prior notice of this motion to counsel for Respondents should not be required because: (1) as the associated habeas petition was only recently filed, no attorney has entered a notice of appearance for Respondents as of the time of this filing; (2) because ICE has indicated that it may wish to remove Mr. Al Chair to Turkey or Jordan, and it has not provided him with an opportunity to express his fear of persecution and torture in those countries, Mr. Al Chair has shown that immediate and irreparable injury, loss, or damage will result to him before Respondents can be heard in opposition.

VI. CONCLUSION

For all the above reasons, Mr. Al Chair warrants a temporary restraining order that Respondents release him from custody; that Respondents not re-detain him absent notice and a hearing before an Immigration Judge on whether his re-detention is indefinite, and further whether it is justified by evidence that he is a danger to the community or a flight risk; that Respondents not remove him to any country other than Venezuela without first providing him with constitutionally-compliant procedures; and that Respondents not transfer him to another judicial district while this petition is pending.

Dated: October 7, 2025

Respectfully submitted,

s/ Jesse Evans-Schroeder
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