

1 **Inpone Omdara**

2 At# [REDACTED]

3 Otay Mesa Detention Center  
4 P.O. Box 439049  
5 San Diego, CA 92143-9049

6 Pro Se<sup>1</sup>

7 **FILED**

8 Oct 22 2025

9 CLERK, U.S. DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA  
11 BY s/danielmartinez  
12 DEPUTY

13 **UNITED STATES DISTRICT COURT**  
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 **INPONE OMDARA,**

16 **CIVIL CASE NO.: '25CV2834 BAS MMP**

17 Petitioner,

18 v.

19 KRISTI NOEM, Secretary of the  
20 Department of Homeland Security,  
21 PAMELA JO BONDI, Attorney General,  
22 TODD M. LYONS, Acting Director,  
23 Immigration and Customs Enforcement,  
24 JESUS ROCHA, Acting Field Office  
25 Director, San Diego Field Office,  
26 CHRISTOPHER LAROSE, Warden at  
27 Otay Mesa Detention Center,

28 Respondents.

29  
30 **Notice of Motion  
31 and  
32 Memorandum of Law  
33 in Support of  
34 Temporary Restraining Order**

35  
36 <sup>1</sup> Mr. Omdara is filing this petition for a writ of habeas corpus and all associated  
37 documents with the assistance of the Federal Defenders of San Diego, Inc. That  
38 same counsel also assisted the petitioner in preparing and submitting his request  
39 for the appointment of counsel, which has been filed concurrently with this  
40 petition, and all other documents supporting the petition. Federal Defenders has  
41 consistently used this procedure in seeking appointment for immigration habeas  
42 cases. The Declaration of Kara Hartzler in Support of Appointment Motion  
43 attaches case examples.

## Introduction

Petitioner Inpone Omdara (“Petitioner”) faces immediate irreparable harm: (1) revocation of his release on immigration supervision, despite ICE’s failure to follow its own revocation procedures; (2) indefinite immigration detention with no reasonable prospect of removal in the reasonably foreseeable future to the country designated by the immigration judge (“IJ”); and (3) potential removal to a third country never considered by an IJ. This Court should grant temporary relief to preserve the status quo.

Since he was ordered removed, Petitioner has spent about 21 years in the United States without the government being able to remove him to Laos. Yet on August 12, 2025, the government re-detained him. ICE gave him no opportunity to contest his re-detention, and there are no apparent changed circumstances justifying it. ICE does not appear to have a travel document in hand, and Laos has overwhelmingly declined to issue travel documents for deportees. Worse yet, in the likely case that ICE still proves unable to remove Petitioner to Laos, ICE's own policies allow ICE to remove him to a third country never before considered by the IJ in Petitioner's case, with either 6-to-24 hours' notice or no notice at all.

Petitioner is therefore facing both unlawful detention and a threat of removal to a dangerous third country without due process. The requested temporary restraining order (“TRO”) and injunction would preserve the status quo while Petitioner litigates these claims by (1) reinstating Petitioner’s release on supervision, and (2) prohibiting the government from removing him to a third country without an opportunity to file a motion to reopen with an IJ.

In granting this motion, this Court would not break new ground. Several courts have granted TROs or preliminary injunctions mandating release for post-final-removal-order immigrants like Petitioner. *See Phetsadakone v. Scott*, 2025 WL 2579569, at \*6 (W.D. Wash. Sept. 5, 2025) (Laos); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at \*7 (E.D. Cal. July 16, 2025)

1 (Vietnam); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735,  
2 at \*7 (E.D. Cal. July 16, 2025) (Vietnam); *Nguyen v. Scott*, No. 2:25-CV-01398,  
3 2025 WL 2419288, at \*29 (W.D. Wash. Aug. 21, 2025) (Vietnam). These courts  
4 have determined that, for these long-term releasees, liberty is the status quo, and  
5 only a return to that status quo can avert irreparable harm.

6 Several courts have likewise granted temporary restraining orders  
7 preventing third-country removals without due process. *See, e.g., J.R. v. Bostock*,  
8 25-cv-01161-JNW, 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); *Vaskanyan v.*  
9 *Janecka*, 25-cv-01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. Jun. 25, 2025);  
10 *Ortega v. Kaiser*, 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26,  
11 2025); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at \*7  
12 (E.D. Cal. July 16, 2025); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025  
13 WL 1993735, at \*7 (E.D. Cal. July 16, 2025). Petitioner therefore respectfully  
14 requests that this Court grant this TRO and injunction.

15 **Statement of Facts**

16 **I. In 2004, ICE tried and failed to remove Mr. Omdara because the  
17 Laotian consulate refused to issue travel documents.**

18 Inpone Omdara and his family came to the United States in 1982 as  
19 refugees from Laos. Exhibit A to habeas petition, “Omdara Declaration,” at ¶ 1.  
20 Mr. Omdara became a lawful permanent resident and remained so until 2004,  
21 when he was ordered removed due to a conviction. *Id.* at ¶ 3. After he was  
22 ordered removed, he was detained pending his removal for about three months. *Id.*  
23 at ¶ 4. Since 2013, Mr. Omdara has not violated his supervision or been convicted  
24 of any new offenses. *Id.* But on August 12, 2025, ICE arrested Mr. Omdara at his  
25 annual check in. *Id.* at ¶ 6.

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1           **II. The government is carrying out deportations to third countries**  
2           **without providing sufficient notice and opportunity to be heard.**

3           When removable immigrants cannot be removed to their home country—  
4           including Laotian immigrants—ICE has begun deporting those individuals to  
5           third countries without adequate notice or a hearing. As explained in greater detail  
6           in Petitioner’s habeas petition, the Administration has reportedly negotiated with  
7           countries to have many of these deportees imprisoned in prisons, camps, or other  
8           facilities. For example, the government paid El Salvador about \$5 million to  
9           imprison more than 200 deported Venezuelans in a maximum-security prison  
10           notorious for gross human rights abuses, known as CECOT. Edward Wong et al,  
11           *Inside the Global Deal-Making Behind Trump’s Mass Deportations*, N.Y. Times,  
12           June 25, 2025. In February, Panama and Costa Rica took in hundreds of deportees  
13           from countries in Africa and Central Asia and imprisoned them in hotels, a jungle  
14           camp, and a detention center. *Id.*; Vanessa Buschschluter, *Costa Rican court*  
15           *orders release of migrants deported from U.S.*, BBC (Jun. 25, 2025). On July 4,  
16           2025, ICE deported eight men to South Sudan. *See Wong, supra.* On July 15, ICE  
17           deported five men to the tiny African nation of Eswatini, where they are  
18           reportedly being held in solitary confinement. Gerald Imray, *3 Deported by US*  
19           *held in African Prison Despite Completing Sentences, Lawyers Say*, PBS (Sept. 2,  
20           2025). Many of these countries are known for human rights abuses or instability.  
21           For instance, conditions in South Sudan are so extreme that the U.S. State  
22           Department website warns Americans not to travel there, and if they do, to  
23           prepare their will, make funeral arrangements, and appoint a hostage-taker  
24           negotiator first. *See Wong, supra.*

25           On June 23 and July 3, 2025, in light of procedural arguments regarding the  
26           viability of national class-wide relief rather than individual relief, the Supreme  
27           Court issued a stay of a class-wide preliminary injunction issued in *D.V.D. v. U.S.*  
28           *Department of Homeland Security*, No. CV 25-10676-BEM, 2025 WL 1142968,

1 at \*1, 3 (D. Mass. Apr. 18, 2025). That national injunction had required ICE to  
2 follow the statutory and constitutional requirements before removing an  
3 individual to a third country. *U.S. Dep’t of Homeland Sec. v. D.V.D.*, 145 S. Ct.  
4 2153 (2025) (mem.); *id.*, No. 24A1153, 2025 WL 1832186 (U.S. July 3, 2025).  
5 On July 9, 2025, ICE rescinded previous guidance meant to give immigrants a  
6 “meaningful opportunity” to assert claims for protection under the Convention  
7 Against Torture (CAT) before initiating removal to a third country” like the ones  
8 just described. Exh. B to Habeas Petition.

9 Under the new guidance, ICE may remove any immigrant to a third country  
10 “without the need for further procedures,” as long as—in the view of the State  
11 Department—the United States has received “credible” “assurances” from that  
12 country that deportees will not be persecuted or tortured. *Id.* at 1. If a country fails  
13 to credibly promise not to persecute or torture releasees, ICE may still remove  
14 immigrants there with minimal notice. *Id.* Ordinarily, ICE must provide 24 hours’  
15 notice. But “[i]n exigent circumstances,” a removal may take place in as little as  
16 six hours, “as long as the alien is provided reasonably means and opportunity to  
17 speak with an attorney prior to the removal.” *Id.* Upon serving notice, ICE “will  
18 not affirmatively ask whether the alien is afraid of being removed to the country  
19 of removal.” *Id.* (emphasis original). Depending on whether immigrants assert a  
20 credible fear, they will either be removed or screened by USCIS for withholding  
21 or removal or Convention Against Torture (“CAT”) relief within 24 hours. *Id.* If  
22 USCIS determines that an individual does not qualify, they will be removed there  
23 despite asserting fear. *Id.*

24 **Argument**

25 To obtain a TRO, a plaintiff “must establish that he is likely to succeed on  
26 the merits, that he is likely to suffer irreparable harm in the absence of preliminary  
27 relief, that the balance of equities tips in his favor, and that an injunction is in the  
28 public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008);

1 *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7  
2 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve  
3 “substantially identical” analysis). A “variant[] of the same standard” is the  
4 “sliding scale”: “if a plaintiff can only show that there are ‘serious questions  
5 going to the merits—a lesser showing than likelihood of success on the merits—  
6 then a preliminary injunction may still issue if the balance of hardships tips  
7 sharply in the plaintiff’s favor, and the other two *Winter* factors are satisfied.”  
8 *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025)  
9 (internal quotation marks omitted). Under this approach, the four *Winter* elements  
10 are “balanced, so that a stronger showing of one element may offset a weaker  
11 showing of another.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131  
12 (9th Cir. 2011). A TRO may be granted where there are “‘serious questions going  
13 to the merits’ and a hardship balance. . . tips sharply toward the plaintiff,” and so  
14 long as the other *Winter* factors are met. *Id.* at 1132.

15 Here, this Court should issue a temporary restraining order and an  
16 injunction because “immediate and irreparable injury . . . or damage” is occurring  
17 and will continue in the absence of an order. Fed. R. Civ. P. 65(b). Not only have  
18 Respondents re-detained Petitioner in violation of his due process, statutory, and  
19 regulatory rights. ICE policy also allows them to remove him to a third country in  
20 violation of his due process, statutory, and regulatory rights. This Court should  
21 order Petitioner’s release and enjoin removal to a third country.

22 **I. Petitioner is likely to succeed on the merits, or at a minimum, raises  
23 serious merits questions.**

24 **A. Petitioner is likely to succeed on the merits of his claim that ICE  
25 violated its own regulations.**

26 In addition to *Zadvydas*’s protections, a series of regulations provide extra  
27 process for someone who, like Petitioner, is re-detained following a period of  
28 release. Under 8 C.F.R. § 241.4(l), ICE may re-detain an immigrant on

1 supervision only with an interview and a chance to contest a re-detention. When  
2 an immigrant is specifically released after giving good reason why they cannot be  
3 removed, additional regulations apply: ICE may revoke a noncitizen's release and  
4 return them to ICE custody due to failure to comply with conditions of release, 8  
5 C.F.R. § 241.13(i)(1), or if, "on account of changed circumstances," a noncitizen  
6 likely can be removed in the reasonably foreseeable future. *Id.* § 241.13(i)(2).

7 The regulations further provide noncitizens with a chance to contest a re-  
8 detention decision. ICE must "notif[y] [the person] of the reasons for revocation  
9 of his or her release." *Id.* § 241.13(i)(3). ICE must then "conduct an initial  
10 informal interview promptly" after re-detention "to afford the alien an opportunity  
11 to respond to the reasons for revocation stated in the notification." *Id.* During the  
12 interview, the person "may submit any evidence or information" showing that the  
13 prerequisites to re-detention have not been met, and the interviewer must evaluate  
14 "any contested facts." *Id.*

15 ICE is required to follow its own regulations. *United States ex rel. Accardi*  
16 v. *Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,  
17 1162 (9th Cir. 2004) ("The legal proposition that agencies may be required to  
18 abide by certain internal policies is well-established."). A court may review a re-  
19 detention decision for compliance with the regulations. *See Phan v. Beccerra*, No.  
20 2:25-CV-01757, 2025 WL 1993735, at \*3 (E.D. Cal. July 16, 2025); *Nguyen v.*  
21 *Hyde*, No. 25-cv-11470-MJJ, 2025 WL 1725791, at \*3 (D. Mass. June 20, 2025)  
22 (citing *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)).

23 None of the prerequisites to detention apply here. Since 2013, Petitioner  
24 has not violated the conditions of his release. And there are no changed  
25 circumstances that justify re-detaining him. ICE already tried—and failed—to  
26 remove Petitioner twice and has given Petitioner no indication that agents have a  
27 travel document in hand for him. Of course, ICE may be planning to renew their  
28 request for a travel document from Laos. But absent any evidence for "why

1 obtaining a travel document is more likely this time around[,] Respondents' intent  
2 to eventually complete a travel document request for Petitioner does not constitute  
3 a changed circumstance." *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025  
4 WL 1993771, at \*4 (E.D. Cal. July 16, 2025) (citing *Liu v. Carter*, No. 25-3036-  
5 JWL, 2025 WL 1696526, at \*2 (D. Kan. June 17, 2025)). Nor has Petitioner  
6 received the interview required by regulation. No one from ICE has ever invited  
7 him to submit evidence to contest his detention. *Id.*

8 "[B]ecause officials did not properly revoke petitioner's release pursuant to  
9 the applicable regulations," this Court will likely find that "petitioner is entitled to  
10 his release" on an order of supervision. *Liu*, 2025 WL 1696526, at \*3.

11       **B. Petitioner is likely to succeed on the merits of his claim that his**  
12 **detention violates *Zadvydas*.**

13       In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered  
14 a problem affecting people like Mr. Omdara: Federal law requires ICE to detain  
15 an immigrant during the "removal period," which typically spans the first 90 days  
16 after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). And after that  
17 90-day removal period expires, ICE may detain the migrant while continuing to  
18 try to remove them. *Id.* § 1231(a)(6). If that subsection were understood to allow  
19 for "indefinite, perhaps permanent, detention," it would pose "a serious  
20 constitutional threat." *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court  
21 avoided the constitutional concern by interpreting § 1231(a)(6) to incorporate  
22 implicit limits. *Id.* at 689.

23       As an initial matter, *Zadvydas* held that detention is "presumptively  
24 reasonable" for at least six months after the removal order becomes final. *Id.* at  
25 701. This acts as a kind of grace period for effectuating removals. Following the  
26 six-month grace period, courts must use a burden-shifting framework to decide  
27 whether detention remains authorized. First, the petitioner must prove that there is  
28 "good reason to believe that there is no significant likelihood of removal in the

1 reasonably foreseeable future.” *Id.*

2 If he does so, the burden shifts to “the Government [to] respond with  
3 evidence sufficient to rebut that showing.” *Id.* Ultimately, then, the burden of  
4 proof rests with the government: The government must prove that there is a  
5 “significant likelihood of removal in the reasonably foreseeable future,” or the  
6 immigrant must be released. *Id.*

7 Here, Petitioner was ordered removed more than six months ago, as his  
8 removal order became final in 2004. Omdara Dec. at ¶ 3. Thus, it is clear that the  
9 *Zadvydas* grace period has ended.

10 There is also strong evidence that there is no “significant likelihood of  
11 removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. Laos  
12 refused to accept Mr. Omdara during the three months he was detained in 2004.  
13 Omdara Dec. at ¶ 4, 5. Nothing has changed since the last time ICE attempted to  
14 deport him. And to date, there is no indication that ICE has obtained a travel  
15 document.

16 Finally, Petitioner’s criminal history cannot change this equation. Not only  
17 has Petitioner proved that he poses no danger or flight risk, *Zadvydas* also  
18 squarely prohibits ICE from indefinitely detaining immigrants because they pose  
19 risks of danger or flight. 533 U.S. at 684–91.

20 Thus, this Court will likely find that Petitioner warrants *Zadvydas* relief.  
21

22 **C. Petitioner is likely to succeed on the merits of his claim that he is  
23 entitled to adequate notice and an opportunity to be heard prior  
24 to any third country removal.**

25 Finally, Petitioner is likely to succeed on the merits of his claim that he  
26 may not be removed to a third country absent adequate notice and an opportunity  
27 to be heard. U.S. law enshrines protections against dangerous and life-threatening  
28 removal decisions. By statute, the government is prohibited from removing an  
immigrant to any third country where a person may be persecuted or tortured, a

1 form of protection known as withholding of removal. *See* 8 U.S.C.  
2 § 1231(b)(3)(A). The government “may not remove [a noncitizen] to a country if  
3 the Attorney General decides that the [noncitizen’s] life or freedom would be  
4 threatened in that country because of the [noncitizen’s] race, religion, nationality,  
5 membership in a particular social group, or political opinion.” *Id.*; *see also* 8  
6 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a mandatory protection.

7 Similarly, Congress codified protections in the CAT prohibiting the  
8 government from removing a person to a country where they would be tortured.  
9 *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) (“It shall be the policy  
10 of the United States not to expel, extradite, or otherwise effect the involuntary  
11 return of any person to a country in which there are substantial grounds for  
12 believing the person would be in danger of being subjected to torture, regardless  
13 of whether the person is physically present in the United States.”); 28 C.F.R.  
14 § 200.1; *id.* §§ 208.16-208.18, 1208.16-1208.18.

15 To comport with due process, the government must provide notice of third  
16 country removal and an opportunity to respond. Due process requires “written  
17 notice of the country being designated” and “the statutory basis for the  
18 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409  
19 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S. Dep’t of*  
20 *Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at \*1 (D. Mass. May  
21 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

22 Due process also requires “ask[ing] the noncitizen whether he or she fears  
23 persecution or harm upon removal to the designated country and memorialize in  
24 writing the noncitizen’s response. This requirement ensures DHS will obtain the  
25 necessary information from the noncitizen to comply with section 1231(b)(3) and  
26 avoids [a dispute about what was said].” *Aden*, 409 F. Supp. 3d at 1019. “Failing  
27 to notify individuals who are subject to deportation that they have the right to  
28 apply for asylum in the United States and for withholding of deportation to the

1 country to which they will be deported violates both INS regulations and the  
2 constitutional right to due process." *Andriasian*, 180 F.3d at 1041.

3 If the noncitizen claims fear, measures must be taken to ensure that the  
4 noncitizen can seek asylum, withholding, and relief under CAT before an  
5 immigration judge in reopened removal proceedings. The amount and type of  
6 notice must be "sufficient" to ensure that "given [a noncitizen's] capacities and  
7 circumstances, he would have a reasonable opportunity to raise and pursue his  
8 claim for withholding of deportation." *Aden*, 409 F. Supp. 3d at 1009  
9 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132  
10 F.3d 405, 408 (7th Cir. 1998)); *cf. D.V.D.*, 2025 WL 1453640, at \*1 (requiring a  
11 minimum of 15 days' notice). "[L]ast minute" notice of the country of removal  
12 will not suffice, *Andriasian*, 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed.  
13 App'x 724 (9th Cir. 2016), and for good reason: To have a meaningful  
14 opportunity to apply for fear-based protection, immigrants must have time to  
15 prepare and present relevant arguments and evidence. Merely telling a person  
16 where they may be sent, without giving them a chance to look into country  
17 conditions, does not give them a meaningful chance to determine whether and  
18 why they have a credible fear.

19 Respondents' third country removal program skips over these statutory and  
20 constitutional procedural protections. According to ICE's July 7 guidance,  
21 individuals can be removed to third countries "without the need for further  
22 procedures," so long as "the [U.S.] has received diplomatic assurances." Exh. B to  
23 Habeas Petition at 1. Petitioner is likely to succeed on the merits of his claim on  
24 this fact alone, because the policy instructs officers to provide no notice or  
25 opportunity to be heard. The same is true of the minimal procedures ICE offers  
26 when no diplomatic assurances are present. The policy provides no meaningful  
27 notice (6-24 hours), instructs officers *not* to ask about fear, and provides no actual  
28 opportunity to see counsel and prepare a fear-based claim (6-24 hours), let alone

1 reopen removal proceedings.

2 Faced with similar arguments, several courts have recently granted  
3 individual TROs against removal to third countries. *See J.R.*, 2025 WL 1810210;  
4 *Vaskanyan*, 2025 WL 2014208; *Ortega*, 2025 WL 1771438; *Hoac*, 2025 WL  
5 1993771, at \*7; *Phan*, 2025 WL 1993735, at \*7.

6 **II. Petitioner will suffer irreparable harm absent injunctive relief.**

7 Petitioner also meets the second factor, irreparable harm. “It is well  
8 established that the deprivation of constitutional rights ‘unquestionably constitutes  
9 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)  
10 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged  
11 deprivation of a constitutional right is involved, most courts hold that no further  
12 showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d  
13 989, 1001-02 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal  
14 Practice and Procedure*, § 2948.1 (2d ed. 2004)).

15 Here, the potential irreparable harm to Petitioner is even more concrete.  
16 “Unlawful detention certainly constitutes ‘extreme or very serious damage, and  
17 that damage is not compensable in damages.’” *Hernandez v. Sessions*, 872 F.3d  
18 976, 999 (9th Cir. 2017). Third-country deportations pose that risk and more.  
19 Recent third-country deportees have been held, indefinitely and without charge, in  
20 hazardous foreign prisons. *See Wong et al., supra*. They have been subjected to  
21 solitary confinement. *See Imray, supra*. They have been removed to countries so  
22 unstable that the U.S. government recommends making a will and appointing a  
23 hostage negotiator before traveling to them. *See Wong, supra*. These and other  
24 threats to Petitioner’s health and life independently constitute irreparable harm.

25 **III. The balance of hardships and the public interest weigh heavily in  
26 petitioner’s favor.**

27 The final two factors for a TRO—the balance of hardships and public  
28 interest—“merge when the Government is the opposing party.” *Nken v. Holder*,

1 556 U.S. 418, 435 (2009). That balance tips decidedly in Petitioner's favor. On  
2 the one hand, the government "cannot reasonably assert that it is harmed in any  
3 legally cognizable sense" by being compelled to follow the law. *Zepeda v. I.N.S.*,  
4 753 F.2d 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to  
5 prevent violations of the U.S. Constitution and ensure the rule of law. *See Nken*,  
6 556 U.S. at 436 (describing public interest in preventing noncitizens "from being  
7 wrongfully removed, particularly to countries where they are likely to face  
8 substantial harm"); *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218  
9 (W.D. Wash. 2019) (when government's treatment "is inconsistent with federal  
10 law, . . . the balance of hardships and public interest factors weigh in favor of a  
11 preliminary injunction."). On the other hand, Petitioner faces weighty hardships:  
12 unlawful, indefinite detention and removal to a third country where he is likely to  
13 suffer imprisonment or serious harm. The balance of equities thus favors  
14 preventing the violation of "requirements of federal law," *Arizona Dream Act*  
15 *Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014), by granting emergency  
16 relief to protect against unlawful detention and unlawful third country removal.

17 **IV. Petitioner gave the government notice of this TRO, and the TRO should  
18 remain in place throughout habeas litigation.**

19 Upon filing this motion, proposed counsel emailed Janet Cabral, from the  
20 United States Attorney's Office, notice of this request for a temporary restraining  
21 and all the filings associated with it. Additionally, Petitioner requests that this  
22 TRO and injunction remain in place until the habeas petition is decided. Fed. R.  
23 Civ. Pro. 65(b)(2). Good cause exists, because the same considerations will  
24 continue to warrant injunctive relief throughout this litigation, and habeas  
25 petitions must be adjudicated promptly. *See In re Habeas Corpus Cases*, 216  
26 F.R.D. 52 (E.D.N.Y. 2003). A proposed order is attached.

27  
28

## Conclusion

For those reasons, Petitioner requests that this Court issue a temporary restraining order.

DATED: 10-19-25

Respectfully submitted,

L. Cholcava

## INPONE OMDARA

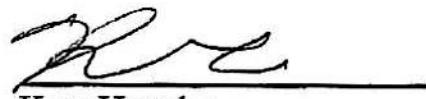
**Petitioner**

**PROOF OF SERVICE**

I, the undersigned, caused to be served the within Motion for a Temporary Restraining Order by email to:

U.S. Attorney's Office, Southern District of California  
Civil Division  
880 Front Street  
Suite 6253  
San Diego, CA 92101

Date: 10-22-25



Kara Hartzler