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6 *Attorneys for Petitioner Salimitari*

7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF ARIZONA**

9 Saied Salimitari,

10 Petitioner,

11 vs.

12 David R. Rivas, Warden, et al.,

13 Respondents.  
14

No.

**Motion for a Preliminary Injunction**

15 Along with his petition for a writ of habeas corpus under 28 U.S.C. § 2241, Mr. Salimitari  
16 is filing this motion for a preliminary injunction and a temporary restraining order. In his petition,  
17 he asserts that he cannot be removed to Iran, such that his continued detention by immigration  
18 officials violates the Fifth Amendment's Due Process Clause. He also asserts that his detention is  
19 illegal because he has not received notice and an opportunity to seek relief from removal to a  
20 country other than Iran. Because he is almost certain to prevail on at least one of these claims, he  
21 respectfully asks the Court to order his immediate release from custody while this case is  
22 litigated.

23 "A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on  
24 the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the  
25 balance of equities tips in his favor, and that an injunction is in the public interest." *Planned*  
26 *Parenthood Great Northwest v. Labrador*, 122 F.4th 825, 843–44 (9th Cir. 2024) (quoting *Alliance*  
27 *for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011)). "Alternatively, a preliminary  
28

1 injunction may issue where serious questions going to the merits were raised and the balance of  
2 hardships tips sharply in plaintiff's favor if the plaintiff also shows that there is a likelihood of  
3 irreparable injury and that the injunction is in the public interest." *Id.* at 844 (quoting *Alliance for*  
4 *the Wild Rockies*, 632 F.3d at 1135). Here, Mr. Salimitari can make all four of these showings.

5 First, he is almost certain to succeed on the merits of his habeas petition. His continued,  
6 indefinite detention in immigration custody violates the Due Process Clause of the Fifth  
7 Amendment because there is no significant likelihood that he can be removed to Iran in the  
8 reasonably foreseeable future. Indeed, ICE released him from detention 21 years ago for this very  
9 reason, and he fully complied with an order of supervision until he was abruptly re-arrested on or  
10 about July 17, 2025. Second, illegal confinement is quintessentially irreparable harm, because  
11 "the deprivation of constitutional rights unquestionably constitutes irreparable injury."  
12 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Third, and finally, when the government  
13 is a party, as it is here, "the balance of equities and public interest factors merge." *Pimentel-*  
14 *Estrada v. Barr*, 464 F. Supp. 3d 1225, 1237 (W.D. Wash. 2020) (citing *Drakes Bay Oyster Co. v.*  
15 *Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)). The risk of harm to Mr. Salimitari far outweighs the  
16 government's interest in illegally detaining him, for it is "always in the public interest to prevent  
17 the violation of a party's constitutional rights." *Melendres*, 695 F.3d at 1002.

18 For the foregoing reasons, Mr. Salimitari respectfully asks the Court to grant a  
19 preliminary injunction and order his immediate release from custody.

20 Respectfully submitted:

October 24, 2025.

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