DETAINED

District Judge Lauren King
Magistrate Judge S. Kate Vaughan

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID LAHAMENDU, Petitioner, v. PAMELA BONDI, *et al.;* Respondents.	CASE NO.: 2:25-cv-2155-LK-SKV **MOTION FOR PRELIMINARY INJUNCTION AND STAY OF REMOVAL** NOTED FOR CONSIDERATION: NOVEMBER 17, 2025

MOTION FOR PRELIMINARY INJUNCTION AND STAY OF REMOVAL

I. Motion

Under FRCP 65 and 5 U.S.C. §705, Petitioner moves this Court for a Preliminary Injunction and Stay of Removal, preventing his removal from the United States and his transfer to another detention facility while these proceedings are pending.

II. Basis for Motion

Petitioner, Mr. David Lahamendu, is a native and citizen of Indonesia. In his habeas petition, Petitioner seeks release from confinement due to his prolonged detention. Petitioner has been detained at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington since January 26, 2025. The Northwest ICE Processing Center is a privately-owned and operated immigration detention center run by the GEO Group, a private contractor for Immigration and Customs Enforcement.

Petitioner is a native and citizen of Indonesia. He entered the United States in New York, NY Port of Entry with a B-2 visa on or about November 28, 1993, when he was nine years old. His B-2 visa was extended from May 27, 1994, to November 26, 1994. Decl. of Hilary Smith, Exh. D. Petitioner overstayed that visa and remained in the United States, completing high school.

In around 2002, when Petitioner was approximately nineteen years old, he was informed of the National Security Entry-Exit Registration System (NSEERS). His prior attorney informed and encouraged him to register, presenting it as a type of immigration amnesty. Instead, after he registered, removal proceedings were initiated against Petitioner by way of a Notice to Appear dated April 8, 2003. *Id.*, Exh. B. Petitioner filed a Form I-589 with the Seattle Immigration Court and sought asylum, withholding of removal, and protection under the Convention Against Torture. *Id.*, Exh. G. The Immigration Judge denied Petitioner's applications for relief, but granted him voluntary departure on November 3, 2003. *Id.* Petitioner timely filed an appeal with

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the Board of Immigration Appeals (Board), which was dismissed on December 20, 2004. *Id.*, Exh. H. The Board also permitted Petitioner to voluntarily depart the United States within thirty days of that order. *Id.* Petitioner filed a Petition for Review with the United States Court of Appeals for the Ninth Circuit, which was denied on March 10, 2008. Petitioner never departed the United States pursuant to the grant of voluntary departure.

On October 8, 2010, Petitioner married a lawful permanent resident who became a U.S. citizen on July 30, 2013. Petitioner and his spouse filed a Form I-130 petition with USCIS on June 18, 2018, which was approved on March 21, 2019. *Id.*, Exh. A. Petitioner filed a motion to reopen with the Board so that he could seek adjustment of status based on this approved petition. *Id.*, Exh. L. He is not subject to any other ground of inadmissibility that would prevent him from adjusting his status.

Petitioner received Deferred Action for Childhood Arrivals (DACA) status in 2013, through which he was eligible to apply for work authorization. *Id.*, Exh. I, J. He continued to file renewal applications until around 2021. At this time, he has not renewed his DACA status, and has no lawful status in the United States. Petitioner has been under an Order of Supervision since March 21, 2019, and has remained in compliance with all requirements placed on him. *See id.*, Exh. K.

Petitioner was re-detained on January 26, 2025. Since then, the Department of Homeland Security has given no indication that Petitioner's removal to Indonesia is imminent or foreseeable. On October 30, 2025, Petitioner told his wife was likely being transported to another facility in

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the middle of the night, which would have severely hindered if not completely cut off his communication with his family and attorneys, despite having already been held at the NWIPC for 277 days at that time. He filed a habeas petition and an emergency motion for a temporary restraining order on October 30, 2025. Dkts. 1, 2. The motion for the temporary restraining order was provisionally granted on October 31, 2025, and replaced by an order granting in part and denying in part the motion. Dkts. 3, 7. Petitioner now files this motion for preliminary injunction.

III. Argument

A. Standards for Preliminary Injunction

"[T]he basic function of a preliminary injunction is to preserve the status quo ante litem pending a determination of the action on the merits." *Los Angeles Memorial Coliseum Com. v. National Football League,* 634 F.2d 1197, 1200 (9th Cir. 1980). "[T]he legal standards applicable to TROs and preliminary injunctions are 'substantially identical.'" *Washington v. Trump,* 847 F.3d 1151, 1159 (9th Cir. 2017) (*quoting, Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)). The legal standard requires the petitioner to show "(1) that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest." *Stormans, Inc. v. Selecky,* 586 F.3d 1109, 1127 (9th Cir. 2009) (*citing, Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). In the Ninth Circuit, the court also "employs an alternative 'serious questions' standard,

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also known as the 'sliding scale' variant of the *Winter* standard." *Fraihat v. United States Immigration & Customs Enf't,* 16 F.4th 613, 635 (9th Cir. 2021). Under that standard, "'serious questions going to the merits' and a balance of hardships that tips sharply towards the plaintiff[s] can support issuance of a preliminary injunction, so long as the plaintiff[s] also show[] that there is a likelihood of irreparable injury and that the injunction is in the public interest." *Id. (quoting, All. for the Wild Rockies*, 632 F.3d 1127, 1135 (9th Cir. 2011)).

Petitioner meets both of these tests.

B. Petitioner is likely to succeed on the merits and has raised serious legal questions.

Petitioner is likely to succeed on the merits of his habeas petition challenging his prolonged detention. As his petition and motion for temporary restraining order set out, Petitioner seeks release from detention given his length of detention is presumptively unreasonable. Petitioner has had a final order of removal in effect since January 19, 2005, issued by the Board Appeals, after he failed to depart pursuant to a grant of voluntary departure. He was granted DACA status between then and now, but he did not renew his status in 2021. In 2019, he was placed on an order of supervision and attended every ICE check-in that was required of him.

The Supreme Court has held that "the Due Process Clause protects a[ ] [noncitizen] subject to a final order of deportation[.]" *Zadvydas v. Davis*, 533 U.S. 678, 693–94 (2001) (citing *Wong Wing v. United States*, 163 U.S. 228, 238 (1896)); *see also Demore v. Kim*, 538

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U.S. 510, 523 (2003) (recognizing that Fifth Amendment due process protections extend to deportation proceedings but noting that "detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process"). The Court concluded that "once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Zadvydas*, 533 U.S. at 699. The "presumptively reasonable" period for detention following a removal order is six months. *Id.* at 701. "After this 6-month period, once the [non-citizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*

Petitioner states that DHS has not indicated that they will removal him to either Indonesia or to a third country. They have not provided Petitioner with any evidence that they are in the process of facilitating his removal or that they are seeking a travel document for him. In 2019, they placed him on an order of supervision. While he may have then had DACA status, his status expired in 2021, and DHS continued his order of supervision rather than detaining him and seeking removal. There is no evidence that Petitioner has caused any delay himself.

Petitioner's detention has extended well-beyond the 90-day removal period authorized under 8 U.S.C. § 1231 and well-beyond six-month "presumptively reasonable" period found in *Zadvydas*. Now, Respondents must respond with evidence that is sufficient to rebut the showing that there is a significant likelihood of removal in the "reasonably foreseeable future."

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The basis of Petitioner's habeas claim is not challenging his removal, but rather his prolonged detention. If there are no barriers to effectuating Petitioner's removal, Respondents must show that his removal is reasonably foreseeable, especially considering Petitioner has been detained nearly four months beyond the presumptively reasonable period.

C. Petitioner faces irreparable harm, and a hardship balance tips sharply toward him.

Petitioner's detention is now prolonged and considered a violation of due process because his deprivation of his constitutional right to liberty constitutes irreparable harm. *See Rodriguez v. Robbins*, 715 F.3d 1127, 1144 (9th Cir. 2013). The Ninth Circuit has recognized, in concrete terms, the irreparable harms "imposed on anyone subject to immigration detention (or other forms of imprisonment*). Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

1. Petitioner's removal from the United States would cause irreparable harm.

As stated above, Petitioner also has an approved Form I-130 that would allow him to seek adjustment of status in the United States. The Board would no longer be able to consider his motion to reopen proceedings if he is removed from the United States. Petitioner has lived in the United States for over thirty years and has two U.S. citizen children with his wife of fifteen years. Not being able to pursue his habeas petition and his motion to reopen so he can apply for relief which he is eligible for would certainly cause irreparable harm. His habeas petition and motion with the Board would then be moot.

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2. Petitioner's transfer to another facility would cause irreparable harm.

The Due Process Clause of the Fifth Amendment guarantees non-citizens the right to counsel at their own expense for immigration hearings. *See, e.g.*, *Tawadrus v. Ashcroft*, 364 F.3d 1099, 1103 (9th Cir. 2004) ("Although there is no Sixth Amendment right to counsel in an immigration hearing, Congress has recognized it among the rights stemming from the Fifth Amendment guarantee of due process that adhere to individuals that are the subject of removal hearings."); *Colindres-Aguilar v. INS*, 819 F.2d 259, 260 n.1 (9th Cir. 1987) ("Petitioner's right to counsel . . . is a right protected by the fifth amendment due process requirement of a full and fair hearing."). Concerns regarding whether a non-citizen has adequate access to counsel can arise when (1) non-citizens are detained "far from where potential counsel or existing counsel [is] located," (2) the facility limits attorney visitation hours, (3) systems used to apprise detainees of the presence of their attorneys are inadequate, (4) non-citizens are transferred "to remote detention centers without any notice to counsel," or (5) detainees' access to telephones is limited. *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 565-67 (9th Cir. 1990).

Petitioner's ability to talk to counsel would be severely constrained, as in-person visits would no longer be viable and phone calls would likely only be able to occur on long-distance phone lines that are not private or confidential. Further, Petitioner and his family have lived in Washington for many years. He would be separated from them, his friends, and his vast support system.

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D. The balance of equities tips in favor of Petitioner, and an injunction is in the public interest.

The remaining two factors for an injunction are the same under both legal tests, they merge when the government is a party, *Drakes Bay Oyster Co. v. Jewell,* 747 F.3d 1073, 1092 (9th Cir. 2014), and they favor Petitioner.

Respondents have an interest in enforcing immigration laws, but that interest is not significantly impaired by a temporary stay of removal pending the resolution of legitimate constitutional claims. In contrast, Petitioner faces permanent and irreparable injury if removed before his habeas petition is adjudicated. He has already been detained for 295 days without any notice of indication from DHS that his is to be removed from the United States or that DHS is in the process of obtaining some sort of travel document. Further, the public interest is served by ensuring that constitutional rights are protected and that individuals are not subjected to prolonged detention in violation of due process. The public interest also favors ensuring that individuals have a meaningful opportunity to present legitimate legal claims before being removed from the United States.

At the very least, Respondents should be prevented from transferring Petitioner because such requested relief does not pose an undue burden on their time, resources, or personnel, especially considering that they chose to detain Petitioner in the same facility for 295 days. *See Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013) (finding balance of equities favored

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granting a preliminary injunction where "[t]he government provide[d] almost no evidence that it would be harmed in any way by the district court's order, other than its assertion that the order enjoins 'presumptively lawful' government activity"). Allowing Petitioner to remain at the NWIPC and be in contact with his counsel and his family would help facilitate the resolution of all issues.

IV. Conclusion

Under FRCP 65, the petitioner moves this Court to issue a Preliminary Injunction and Stay of Removal:

1. Enjoining and restraining the respondents and all of their respective officers, agents, servants, employees, attorneys and persons acting on their behalf in concert or in participation with them from:
   a. Removing or deporting Petitioner from the United States while his Petition for Writ of Habeas Corpus is pending; and
   b. Transferring Petitioner from the Northwest ICE Processing Center to any other detention facility during the pendency of these proceedings.

WHEREFORE, for the reasons set forth in his Petition for Writ of Habeas Corpus, and in this motion, the petitioner respectfully requests this Court:

1. Grant a Preliminary Injunction and Stay of Removal;
2. Grant such other and further relief as justice may require.

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Respectfully submitted this 17th day of November, 2025,

/s/ Hilary Smith
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