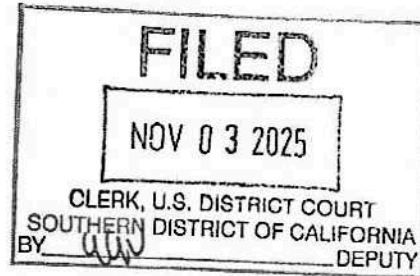


**ORIGINAL**

**Abdalkarim Al Khatib**  
A# [REDACTED]  
Otay Mesa Detention Center  
P.O. Box 439049  
San Diego, CA 92143-9049

Pro Se<sup>1</sup>



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

**ABDALKARIM AL KHATIB,**

Petitioner,

v.

**KRISTI NOEM**, Secretary of the  
Department of Homeland Security,  
**PAMELA JO BONDI**, Attorney General,  
**TODD M. LYONS**, Acting Director,  
Immigration and Customs Enforcement,  
**JESUS ROCHA**, Acting Field Office  
Director, San Diego Field Office,  
**CHRISTOPHER LAROSE**, Warden at  
Otay Mesa Detention Center,

Respondents.

**CIVIL CASE NO.: '25CV2978 LL VET**

**Notice of motion and memorandum  
of law in support of temporary  
restraining order**

<sup>1</sup> Mr. Al Khatib is filing this motion and associated petition for a writ of habeas corpus with the assistance of the Federal Defenders of San Diego, Inc., who drafted the instant motion. That same counsel also assisted the petitioner in preparing and submitting his request for the appointment of counsel, which has been filed concurrently with this petition, and all other documents supporting the petition. Federal Defenders has consistently used this procedure in seeking appointment for immigration habeas cases.

**I. Introduction**

Petitioner Abdalkarim Al Khatib 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 significantly likely prospect of removal in the reasonably foreseeable future; and (3) potential removal to an unidentified, potentially dangerous third country never considered by an immigration judge. This Court should grant temporary relief of release on his pre-existing order of supervision to preserve the status quo.

Mr. Al Khatib is a Palestinian from the West Bank who has been ordered removed to Jordan since 2004. Ever since 2004, the government has proved unable to remove him. Ever since 2004, Mr. Al Khatib has complied with his conditions of immigration supervision. On June 16, 2025, the government arrested Mr. Al Khatib at his scheduled ICE check-in. ICE gave him no opportunity to contest his re-detention, and it did not identify what authority it was re-detaining him under, and for what reason. It did not explain why it thought it would be able to remove him to the West Bank in the middle of an ongoing war. If ICE was attempted to remove him somewhere else, its own policies allow ICE to remove him to a third country never before considered by an IJ, with either 6-to-24 hours' notice or no notice at all. While in immigration detention, Mr. Al Khatib has faced significant medical complications and confusion. He has rarely seen a doctor with the benefit of an Arabic interpreter, and has faced significant challenges managing his diabetes, liver condition, and to-be-diagnosed cavitory lesion in his lung while in custody.

Mr. Al Khatib is therefore facing both unlawful detention and a threat of removal to a dangerous third country without due process. The requested temporary restraining order would preserve the status quo while he litigates these claims by (1) reinstating Mr. Al Khatib's release on supervision, and

1 (2) prohibiting the government from removing him to a third country without an  
2 opportunity to file a motion to reopen with an IJ.

3 In granting this motion, this Court would not break new ground. Courts in  
4 this district and around the Ninth Circuit have granted TROs or preliminary  
5 injunctions mandating release for post-final-removal-order immigrants like Mr.  
6 Al Khatib. *See, e.g., Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D.  
7 Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES,  
8 \*3 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No.  
9 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-  
10 SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025); *see also, e.g., Phetsadakone v. Scott*,  
11 2025 WL 2579569, at \*6 (W.D. Wash. Sept. 5, 2025); *Hoac v. Becerra*, No. 2:25-  
12 CV-01740-DC-JDP, 2025 WL 1993771, at \*7 (E.D. Cal. July 16, 2025); *Phan v.*  
13 *Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at \*7 (E.D. Cal. July  
14 16, 2025); *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at \*29 (W.D.  
15 Wash. Aug. 21, 2025). These courts have determined that liberty is the status quo,  
16 and only a return to that status quo can avert irreparable harm.

17 Courts have likewise granted temporary restraining orders preventing third-  
18 country removals without due process. *See, e.g., Van Tran v. Noem*, 2025 WL  
19 2770623 at \*3; *Nguyen Tran v. Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D.  
20 Cal. Sept. 18, 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-2502-  
21 JES, \*4 (S.D. Cal. Oct. 9, 2025); *see also, e.g., J.R. v. Bostock*, 25-cv-01161-  
22 JNW, 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); *Vaskanyan v. Janecka*, 25-  
23 cv-01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. Jun. 25, 2025); *Ortega v.*  
24 *Kaiser*, 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025); *Hoac v.*  
25 *Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at \*7 (E.D. Cal. July  
26 16, 2025); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at  
27 \*7 (E.D. Cal. July 16, 2025).  
28

**II. Statement of facts: Mr. Al Khatib is ordered removed, released as ICE proves unable to deport him for two decades, and then re-detained in June 2025.**

Abdalkarim Al Khatib is a Palestinian who was born in Ramallah, in the West Bank, in 1975. Exhibit A to Habeas Petition (Declaration of Abdalkarim Al Khatib) ¶ 1. He got married in 1996. *Id.* ¶ 3. His wife was a U.S. citizen, and the two moved to the United States. *Id.* Mr. Al Khatib got his green card in 1996. *Id.*

In 2002, Mr. Al Khatib was convicted of a domestic violence offense in Florida. *Id.* ¶ 4. He and his wife divorced. *Id.* On July 29, 2004, Mr. Al Khatib was ordered removed. *Id.*<sup>2</sup> He was kept in custody about two and a half months after he was ordered removed. *Id.* ¶ 5. But ICE could not remove him to either Palestine or Jordan, despite requesting travel documents from both. *Id.* Mr. Al Khatib was released on an order of supervision. *Id.*

Since 2004, Mr. Al Khatib has checked in with ICE as scheduled. *Id.* ¶ 7. He has always complied with his conditions of supervision. *Id.* He's complied with ICE's efforts to remove him, including requesting travel documents. *Id.* ¶ 6. In 2016, ICE put Mr. Al Khatib on an ankle monitor for two years. He never violated his conditions, and ICE eventually removed it. *Id.* ¶ 7.

In early summer 2025, Mr. Al Khatib went to his regularly scheduled ICE check-in. Exhibit A ¶ 9. ICE put him on an ankle monitor and told him to come back a few weeks later. *Id.* When he came back for his scheduled check-in on June 16, 2025, ICE arrested him. *Id.* He has been in ICE custody ever since.

When Mr. Al Khatib was arrested this June, no one told him why his release was being revoked. *Id.* ¶ 12. To this day, he has never been given the opportunity in an interview to hear what has changed to make his removal more likely, or to explain why he should not be re-detained. *Id.* ¶ 13.

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<sup>2</sup> See also EOIR Automated Case Information, available at <https://acis.eoir.justice.gov/en/> (reporting Mr. Al Khatib's nationality under Jordan and that he was ordered removed on July 29, 2004).



1           Instead, several months into his detention, an ICE officer gave him “a  
2 questionnaire asking for personal information about [his] life and [his] family.”  
3 *Id.* ¶ 10. He filled it out and returned it, but “didn’t hear any more about it.” *Id.*

4           Meanwhile, Mr. Al Khatib was not given medication for his diabetes or his  
5 other medications when he first arrived in custody. Exhibit A to Habeas Petition  
6 ¶ 16. His blood sugar levels (his “A1C”) spiked to dangerous levels at several  
7 points this fall. Exhibit E to Habeas Petition (medical record excerpts). He often  
8 had no Arabic interpreter. Exhibit A to Habeas Petition ¶ 17. In the meantime,  
9 ICE facility’s medical staff began intensive treatment of tuberculosis for Mr. Al  
10 Khatib. Over six weeks of treatment, Mr. Al Khatib became seriously ill. Once  
11 tuberculosis treatment stopped—doctors eventually confirmed he did not have  
12 tuberculosis—his symptoms improved. Exhibit E to Habeas Petition.

13           In early October, as he was getting better, Mr. Al Khatib asked his  
14 deportation officer for an update on his case. “The deportation officer said that  
15 they were trying to get [him] travel documents and to be patient.” Exhibit A to  
16 Habeas Petition ¶ 11.

17           On October 28, an ICE officer gave Mr. Al Khatib a “Notice of Revocation  
18 of Release.” *Id.* ¶ 12; *see* Exhibit F to Habeas Petition. The notice states, “This  
19 letter is to inform you that your order of supervision has been revoked . . . based  
20 on a review of your official alien file and a determination that there are changed  
21 circumstances in your case.” Exhibit F to Habeas Petition. “Your case is under  
22 current review for removal to the West Back [*sic*] and/or an alternate country.” *Id.*

23           The notice informed Mr. Al Khatib that he “will promptly be afforded an  
24 informal interview at which you will be given an opportunity to respond to the  
25 reasons for the revocation.” *Id.* The officer who gave Mr. Al Khatib the  
26 document, Mr. Al Khatib explains, “knows I can’t read English well and so can’t  
27 understand the papers he gave me. When he asked me to sign the papers, I told  
28 him I don’t understand them. He asked me if I write English, and I said no.”

1 Exhibit A to Habeas Petition ¶ 12. The officer who gave Mr. Al Khatib the  
2 document told him “an officer would see [him] on Monday [November 3] for an  
3 interview.” *Id.* He did not tell Mr. Al Khatib if the officer would bring an Arabic  
4 interpreter. *Id.*

5  
6 **III. Argument: Mr. Al Khatib meets all *Winter* factors.**

7 To obtain a TRO, a petitioner “must establish that he is likely to succeed on  
8 the merits, that he is likely to suffer irreparable harm in the absence of preliminary  
9 relief, that the balance of equities tips in his favor, and that an injunction is in the  
10 public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008);  
11 *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7  
12 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve  
13 “substantially identical” analysis). A “variant[] of the same standard” is the  
14 “sliding scale”: “if a plaintiff can only show that there are ‘serious questions  
15 going to the merits—a lesser showing than likelihood of success on the merits—  
16 then a preliminary injunction may still issue if the balance of hardships tips  
17 sharply in the plaintiff’s favor, and the other two *Winter* factors are satisfied.”  
18 *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025)  
19 (internal quotation marks omitted). Under this approach, the four *Winter* elements  
20 are “balanced, so that a stronger showing of one element may offset a weaker  
21 showing of another.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131  
22 (9th Cir. 2011). A TRO may be granted where there are “‘serious questions going  
23 to the merits’ and a hardship balance. . . tips sharply toward the plaintiff,” and so  
24 long as the other *Winter* factors are met. *Id.* at 1132.

25 Here, this Court should issue a temporary restraining order because  
26 “immediate and irreparable injury . . . or damage” is occurring and will continue  
27 in the absence of an order. Fed. R. Civ. P. 65(b). Not only have Respondents re-  
28 detained Mr. Al Khatib and held him in violation of his due process, statutory,  
and regulatory rights. ICE policy also allows them to remove him to a third

1 country in violation of his due process, statutory, and regulatory rights. This Court  
2 should order Petitioner's release and enjoin removal to a third country with no or  
3 inadequate notice.

4  
5 **A. Mr. Al Khatib is likely to succeed on the merits, or at a minimum, raises serious merits questions.**

6 As described in detail in Mr. Al Khatib's habeas petition, he is likely to  
7 succeed on each of his three claims.

8 First, ICE failed to follow its own regulations before and during Mr. Al  
9 Khatib's re-detention. This was a violation of both the regulations and due  
10 process and requires his release. *See, e.g., See Phan v. Noem*, 2025 WL 2898977,  
11 No. 25-CV-2422-RBM-MSB, \*3-\*5 (S.D. Cal. Oct. 10, 2025) (explaining this  
12 regulatory framework and granting a habeas petition for ICE's failure to follow  
13 these regulations for a refugee of Vietnam who entered the United States before  
14 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET, 2025 WL 2646165 at \*2 (same  
15 as to an Iranian national); *Abuelhawa v. Noem*, No. , 2025 WL 2937692 (S.D.  
16 Tex. Oct. 16, 2025) (granting preliminary injunction and ordering Palestinian  
17 national released due to regulatory violations when he was re-detained at annual  
18 check-in).

19 Second, *Zadvydas v. Davis* holds that immigration statutes do not authorize  
20 the government to detain immigrants like Mr. Al Khatib, for whom there is "no  
21 significant likelihood of removal in the reasonably foreseeable future." 533 U.S.  
22 678, 701 (2001); *see, e.g., Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL  
23 2419288 \*17 (W.D. Wash. Aug. 21, 2025) (granting habeas petition on *Zadvydas*  
24 grounds); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, \*5,  
25 \*7 (E.D. Cal. July 16, 2025) (granting preliminary injunction and temporary  
26 restraining order on these same grounds).

27 Third, Respondents cannot remove Mr. Al Khatib to a third country other  
28 than Israel, Jordan, or Palestine without first providing notice and a sufficient

1 opportunity to be heard before an immigration judge. Their current policy  
2 allowing third-country removal in the absence of that notice “contravenes Ninth  
3 Circuit law.” *Nguyen v. Scott*, No. 25-CV-1398, 2025 WL 2419288, \*19 (W.D.  
4 Wash. Aug. 21, 2025) (explaining how the July 9, 2025 ICE memo contravenes  
5 Ninth Circuit law on the process due to noncitizens in detail); *see also Delkash v.*  
6 *Noem*, No. 25-cv-1675-HDV-AGR, 2025 WL 2683988, \*1, \*6 (C.D. Cal. Aug.  
7 28, 2025) (explaining this point as to an Iranian national); *Rebenok v. Noem*, No.  
8 25-cv-2171-TWR at ECF No. 13; *Van Tran v. Noem*, 2025 WL 2770623 at \*3;  
9 *Nguyen Tran v. Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D. Cal. Sept. 18,  
10 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-2502-JES, \*4 (S.D.  
11 Cal. Oct. 9, 2025) (all either granting temporary restraining orders or habeas  
12 petitions ordering the government to not remove petitioners to third countries  
13 without notice and an opportunity to be heard).

14 **B. Mr. Al Khatib will suffer irreparable harm absent injunctive**  
15 **relief.**

16 Mr. Al Khatib also meets the second factor, irreparable harm. “It is well  
17 established that the deprivation of constitutional rights ‘unquestionably constitutes  
18 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)  
19 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The Ninth Circuit has  
20 specifically recognized the “irreparable harms imposed on anyone subject to  
21 immigration detention.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir.  
22 2017).

23 Where the “alleged deprivation of a constitutional right is involved, most  
24 courts hold that no further showing of irreparable injury is necessary.” *Warsoldier*  
25 *v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (quoting 11A Charles Alan  
26 Wright et al., *Federal Practice and Procedure*, § 2948.1 (2d ed. 2004)).

27 Regardless, Mr. Al Khatib has already suffered injury while in ICE  
28 custody. As the Ninth Circuit has recognized, immigration detainees face “subpar



1 medical . . . care in ICE detention facilities.” *Hernandez*, 872 F.3d at 995. When  
2 Mr. Al Khatib was first detained, he was not given any medication for his  
3 diabetes; he has yet to receive any medication for his liver, despite listing his  
4 medications, including his liver medication, upon his admittance to ICE custody.  
5 Exhibit A to Habeas Petition ¶¶ 15–16. While in custody, he has received  
6 intensive tuberculosis treatment that has significantly worsened his diabetes and  
7 liver condition; after a month and a half of this treatment, ICE removed him from  
8 it because it did not believe he had tuberculosis. Exhibit E to Habeas Petition  
9 (medical record excerpts). He usually has a hard time communicating with his  
10 nurses and doctors in custody; they rarely use Arabic interpreters. Exhibit A to  
11 Habeas Petition ¶ 17.

12 Further, “[i]t is beyond dispute that Petitioner would face irreparable harm  
13 from removal to a third country.” *Nguyen*, 2025 WL 2419288, at \*26. Recent  
14 third-country deportees have been held, indefinitely and without charge, in  
15 hazardous foreign prisons. *See* Edward Wong et al, *Inside the Global Deal-*  
16 *Making Behind Trump’s Mass Deportations*, N.Y. Times, June 25, 2025. They  
17 have been subjected to solitary confinement. Gerald Imray, *3 Deported by US*  
18 *held in African Prison Despite Completing Sentences, Lawyers Say*, PBS (Sept. 2,  
19 2025). They have been removed to countries so unstable that the U.S. government  
20 recommends making a will and appointing a hostage negotiator before traveling  
21 to them. *See* Wong, *supra*. They have been “promptly deported . . . to the very  
22 countries to which the United States had withheld removal due to the risk of  
23 persecution, torture, or death.” *Santamaria Orellana v. Baker*, No. 25-1788-TDC,  
24 2025 WL 2841886, \*12 (D. Md. Oct.7, 2025).

25 These and other threats to Mr. Al Khatib’s health and life independently  
26 constitute irreparable harm.

**IV. The balance of hardships and the public interest weigh heavily in Mr. Al Khatib's favor.**

The final two factors for a TRO—the balance of hardships and public interest—“merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). That balance tips decidedly in Mr. Al Khatib's favor.

On the one hand, the government “cannot reasonably assert that it is harmed in any legally cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S. at 436 (describing public interest in preventing noncitizens “from being wrongfully removed, particularly to countries where they are likely to face substantial harm”); *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (when government's treatment “is inconsistent with federal law, . . . the balance of hardships and public interest factors weigh in favor of a preliminary injunction.”).

On the other hand, Mr. Al Khatib faces weighty hardships: unlawful, indefinite detention; medical care without regular interpretation or his regular medications; and possible removal to a third country where he is likely to suffer imprisonment or other serious harm. The balance of equities thus favors preventing the violation of “requirements of federal law,” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014), by granting emergency relief to protect against unlawful detention and prevent unlawful third country removal.

**V. Mr. Al Khatib will give the government notice of this TRO motion immediately, and the TRO should remain in place throughout habeas litigation.**

When Federal Defenders first started filing TROs in immigration habeas cases, a Federal Defenders attorney called the U.S. Attorney's Office and was put in touch with Janet Cabral. *See Exhibit A, Declaration of Jessie Agatstein*, ¶ 2.

1 Ms. Cabral requested that Federal Defenders provide notice of these motions via  
2 email after the motion has been filed with the court. *Id.* Federal Defenders will do  
3 so in this case. *Id.*

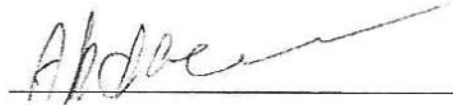
4 Additionally, Mr. Al Khatib requests that this TRO remain in place until the  
5 habeas petition is decided. Fed. R. Civ. Pro. 65(b)(2). Good cause exists, because  
6 the same considerations will continue to warrant injunctive relief throughout this  
7 litigation, and habeas petitions must be adjudicated promptly. *See In re Habeas*  
8 *Corpus Cases*, 216 F.R.D. 52 (E.D.N.Y. 2003). A proposed order is attached.

**Conclusion**

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

DATED: 11/2/2025

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'A. Doe', is written over a horizontal line.

Petitioner



**PROOF OF SERVICE**

I, the undersigned, caused to be served the within Notice of Motion and Memorandum of Law in Support of Temporary Restraining Order by email, at the request of Janet Cabral, Chief of the Civil Division, to:

U.S. Attorney's Office, Southern District of California  
Civil Division  
Janet.Cabral@usdoj.gov

Date: November 3, 2025

/s/ Jessie Agatstein  
Jessie Agatstein