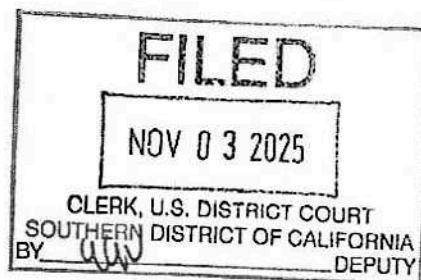


**ORIGINAL**

1 Abdalkarim Al Khatib  
2 A#   
3 Otay Mesa Detention Center  
4 P.O. Box 439049  
5 San Diego, CA 92143-9049

6 Pro Se<sup>1</sup>



7

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

10 ABDALKARIM AL KHATIB,

CIVIL CASE NO.: 25CV2978 LL VET

11 Petitioner,

12 v.  
13 KRISTI NOEM, Secretary of the  
14 Department of Homeland Security,  
15 PAMELA JO BONDI, Attorney General,  
16 TODD M. LYONS, Acting Director,  
17 Immigration and Customs Enforcement,  
18 JESUS ROCHA, Acting Field Office  
19 Director, San Diego Field Office,  
20 CHRISTOPHER LAROSE, Warden at  
21 Otay Mesa Detention Center,

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

22 Respondents.

23

24 <sup>1</sup> Mr. Al Khatib is filing this motion and associated petition for a writ of habeas  
25 corpus with the assistance of the Federal Defenders of San Diego, Inc., who  
26 drafted the instant motion. That same counsel also assisted the petitioner in  
27 preparing and submitting his request for the appointment of counsel, which has  
28 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.

1     **I. Introduction**

2           Petitioner Abdalkarim Al Khatib faces immediate irreparable harm:  
3           (1) revocation of his release on immigration supervision, despite ICE's failure to  
4           follow its own revocation procedures; (2) indefinite immigration detention with  
5           no significantly likely prospect of removal in the reasonably foreseeable future;  
6           and (3) potential removal to an unidentified, potentially dangerous third country  
7           never considered by an immigration judge. This Court should grant temporary  
8           relief of release on his pre-existing order of supervision to preserve the status quo.

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

24           Mr. Al Khatib is therefore facing both unlawful detention and a threat of  
25          removal to a dangerous third country without due process. The requested  
26          temporary restraining order would preserve the status quo while he litigates these  
27          claims by (1) reinstating Mr. Al Khatib's release on supervision, and  
28

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).

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

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

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

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

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

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

27      2 See also EOIR Automated Case Information, available at  
28      <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 **III. Argument: Mr. Al Khatib meets all *Winter* factors.**

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

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

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

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

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

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

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

Third, Respondents cannot remove Mr. Al Khatib to a third country other 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-Making Behind Trump’s Mass Deportations*, N.Y. Times, June 25, 2025. They  
16 have been subjected to solitary confinement. Gerald Imray, *3 Deported by US*  
17 *held in African Prison Despite Completing Sentences, Lawyers Say*, PBS (Sept. 2,  
18 2025). They have been removed to countries so unstable that the U.S. government  
19 recommends making a will and appointing a hostage negotiator before traveling  
20 to them. *See* Wong, *supra*. They have been “promptly deported . . . to the very  
21 countries to which the United States had withheld removal due to the risk of  
22 persecution, torture, or death.” *Santamaria Orellana v. Baker*, No. 25-1788-TDC,  
23 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.

27  
28

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

3       The final two factors for a TRO—the balance of hardships and public  
4       interest—“merge when the Government is the opposing party.” *Nken v. Holder*,  
5       556 U.S. 418, 435 (2009). That balance tips decidedly in Mr. Al Khatib’s favor.

6       On the one hand, the government “cannot reasonably assert that it is  
7       harmed in any legally cognizable sense” by being compelled to follow the law.  
8       *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). Moreover, it is always in the  
9       public interest to prevent violations of the U.S. Constitution and ensure the rule of  
10      law. *See Nken*, 556 U.S. at 436 (describing public interest in preventing  
11      noncitizens “from being wrongfully removed, particularly to countries where they  
12      are likely to face substantial harm”); *Moreno Galvez v. Cuccinelli*, 387 F. Supp.  
13      3d 1208, 1218 (W.D. Wash. 2019) (when government’s treatment “is inconsistent  
14      with federal law, . . . the balance of hardships and public interest factors weigh in  
15      favor of a preliminary injunction.”).

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

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

27       When Federal Defenders first started filing TROs in immigration habeas  
28       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.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1

**Conclusion**

2

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

4

5

DATED: 11-22-25

Respectfully submitted,

6

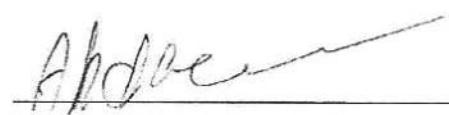
7

8

9

10

11

  
Petitioner

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

**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