

1 MICHAEL T. SHAMOON, ESQ.
Nevada Bar. No. 15324
2 ATHENA C. ELIADES, ESQ.
Nevada Bar. No. 15216
3 SHAMOON ELIADES, LLP
7995 W Sahara Ave, Suite 101
4 Las Vegas, Nevada 89117
Telephone: 702-996-7411
5 Email: mts@shamooneliades.com
Attorneys for Petitioner

6
7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 EMAN ZAERI,

9 Petitioner,

10 v.

11 KRISTI NOEM, *et. al.*,

12 Respondents.
13
14

Case No. 2:25-cv-02219-CDS-NJK

**EMERGENCY MOTION FOR A
TEMPORARY RESTRAINING ORDER
OR PRELIMINARY INJUNCTION**

ORAL ARGUMENT REQUESTED

15 Petitioner, Eman Zaeri, is a citizen of Iran detained by U.S. Immigration and Customs
16 Enforcement (ICE). Petitioner remains in ICE custody at the Nevada Southern Detention Center
17 despite the fact that he cannot be removed to Iran, because an Immigration Judge (IJ) found, on
18 August 18, 2020, that it is more likely than not that he would be tortured if deported to his home
19 country and granted him deferral of removal under the Convention Against Torture (CAT). As a
20 result, Mr. Zaeri filed a petition for writ of habeas corpus challenging his continued detention.
21 After being granted two extensions, Respondents failed to respond by this Court's December 8,
22 2025 deadline. Mr. Zaeri now seeks a temporary restraining order or preliminary injunction
23 ordering his immediate release from ICE custody during the pendency of these proceedings. He
24 believes this is necessary because he cannot be removed to Iran under any circumstances, and
25 ICE has made no lawful or foreseeable effort to remove him to any third country, rendering his
26 continued detention unconstitutional under controlling Supreme Court precedent.
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1 The Petitioner moves, pursuant to Rule 7(b) and Rule 65 of the Federal Rules of Civil
2 Procedure, for this Court to use its judicial power to preserve its jurisdiction over the pending
3 habeas petition and ensure it can evaluate the Petitioner's claims and grant relief as law and justice
4 require. Specifically, Petitioner moves the Court to order his immediate release, or, in the
5 alternative, to enjoin Respondents from transferring him to a facility outside of this Court's
6 jurisdiction during the pendency of this proceeding.
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8 As set forth below, Petitioner's ongoing detention by Respondents violates his due process
9 rights under the United States Constitution. In the absence of a temporary restraining order,
10 Petitioner will suffer irreparable injury, and the balance of hardships and the public interest favor
11 relief. Critically, because Petitioner cannot be removed to Iran and his detention is no longer tied
12 to any lawful purpose, continued confinement serves no legitimate governmental interest and is
13 expressly prohibited under *Zadvydas v. Davis*, 533 U.S. 678 (2001) and the procedural protections
14 enforced under *Accardi v. Shaughnessy*, 347 U.S. 260 (1954).
15

16 In support of this Motion, Petitioner relies upon the accompanying memorandum in
17 support of a Temporary Restraining Order. A proposed order is attached for the Court's
18 convenience. Petitioner respectfully requests that this Court grant this emergency application and
19 issue a temporary restraining order or preliminary injunction.
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1 **MEMORANDUM OF POINTS OF POINTS AND AUTHORITIES IN SUPPORT OF**
2 **MOTION FOR TEMPORARY RESTRAINING ORDER**

3 **I. LEGAL AND FACTUAL BACKGROUND**

4 U.S. immigration law affords noncitizens three forms of statutory protection from
5 persecution or torture: asylum, withholding of removal under the INA, and protection under the
6 Convention Against Torture (CAT). Asylum typically bars removal to any country. *See* 8 U.S.C.
7 § 1158(c)(2). Individuals who are barred from asylum may still qualify for withholding of
8 removal, which prohibits removal to the specific country where the applicant faces a clear
9 probability of persecution. *Id.* § 1231(b)(3)(A); *see also* 8 C.F.R. §§ 208.16, 1208.16. Protection
10 under CAT—either in the form of withholding or deferral of removal—is likewise a mandatory
11 safeguard that prohibits the United States from removing a noncitizen to a country where it is
12 more likely than not that the person would be tortured. 8 C.F.R. §§ 208.16(c), 208.17(a). Unlike
13 statutory withholding, CAT deferral applies even to individuals otherwise barred from
14 immigration benefits; once granted, the Government may not remove the noncitizen to the country
15 for which CAT protection was granted. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 524
16 (2021).

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18
19 An IJ who grants CAT protection issues a removal order but simultaneously defers that
20 order with respect to the designated country. *See* 8 C.F.R. § 208.17(a). Either party may appeal
21 within 30 days. *See* 8 C.F.R. § 1003.38(b). If neither party appeals, the removal order and
22 associated CAT deferral become administratively final. *See id.* § 1241.1.

23
24 Petitioner is a native and citizen of Iran who first came into ICE custody in March 2020.
25 He was placed in removal proceedings, and, on August 18, 2020, an Immigration Judge granted
26 him deferral of removal under CAT, finding that it was more likely than not that he would face
27 torture if returned to Iran. On the present record, it appears that Petitioner's removal order and
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1 accompanying deferral grant became final either immediately on August 18, 2020—if all parties
2 waived appeal—or, at the latest, 30 days thereafter. 8 C.F.R. § 1003.39.

3 Choosing not to appeal the IJ’s decision, ICE released Petitioner on an Order of
4 Supervision on August 19, 2020. For nearly five years, Petitioner complied with all conditions of
5 supervision, maintained regular reporting, committed no new crimes, and repeatedly received
6 confirmation from ICE officers that Iran would not issue travel documents and that his removal
7 was not foreseeable.
8

9 Nevertheless, on June 25, 2025, ICE agents arrived at Petitioner’s home and re-detained
10 him without prior notice, without issuing a revocation of his supervised release, and without
11 conducting any of the post-order custody reviews required under 8 C.F.R. §§ 241.4 or 241.13. To
12 date, Petitioner has not been informed of any change in circumstances warranting detention, nor
13 has ICE identified any third country willing to accept him. ICE has likewise not initiated any
14 lawful process through which Petitioner could receive the notice and opportunity to seek
15 protection required before any third-country removal may occur.
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17

18 Petitioner’s fears regarding unlawful detention and potential transfer are heightened by
19 ICE’s recent record of arbitrary re-detentions and removal attempts involving individuals who,
20 like Petitioner, cannot lawfully be removed to their countries of origin. Courts have noted that
21 ICE has, in recent months, detained and attempted to transfer individuals without affording
22 required procedures, without identifying viable removal countries, and without statutory authority
23 to continue detention. *See Ali Ghafouri v. Noem*, No. 3:25-cv-02675-RBM-BLM, 2025 LX
24 462160 (S.D. Cal. Nov. 4, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH-VET, 2025 LX
25 377518 (S.D. Cal. Sep. 15, 2025). ICE’s conduct toward Petitioner mirrors the same deficiencies
26 identified by the court in *Ali Ghafouri* and *Rokhfirooz*: a failure to follow required regulations,
27 the absence of individualized review, and detention divorced from any legitimate removal
28

1 purpose. Most recently, on December 14, 2025, this Court ordered the immediate release of a
2 similarly situated individual whose case mirrors the facts of the instant petition nearly identically.
3 *See Shadalo v. Mattos*, No. 2:25-cv-02076-RFB-BNW, 2025 LX 552203 (D. Nev. Dec. 14, 2025).

4 In addition, recent public reporting confirms a dramatic surge in ICE arrests of Iranian
5 nationals following the June 2025 U.S.–Iran conflict—many of whom had no criminal history or
6 pending charges. *See ICE Press Release* (June 24, 2025) (announcing coordinated arrests of
7 Iranian nationals as a group); Prism Investigation (documenting officer statements that they were
8 directed to target Iranian immigrants and showing disproportionate enforcement by nationality).
9 Petitioner fits the profile of those swept up in this pattern of nationality-based enforcement.
10

11 Most critically, Petitioner cannot be removed to Iran under binding CAT regulations, and
12 ICE has not identified any lawful removal alternative. Petitioner thus seeks an injunction ordering
13 his immediate release and barring continued detention in violation of due process, the INA, and
14 controlling Supreme Court precedent.
15

16 **II. LEGAL STANDARD**

17 The standard a moving party must meet to obtain injunctive relief in the form of a
18 temporary restraining order or a preliminary injunction is the same: the moving party must show
19 (1) a likelihood of success on the merits, (2) a likelihood of irreparable harm, (3) that the balance
20 of equities tips in his favor, and (4) that an injunction is in the public interest. *Winter v. Natural*
21 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). “The first factor—likelihood of success on the
22 merits—is the most important factor.” *Chamber of Commerce of the United States v. Bonta*, 62
23 F.4th 473, 481 (9th Cir. 2023) (quoting *California ex rel. Becerra v. Azar*, 950 F.3d 1067, 1083
24 (9th Cir. 2020) (en banc)).
25
26

27 When the government is the defendant, “the balance of hardships and public interest
28 factors merge.” *Id.* (citing *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)).

1 Alternatively, under the Ninth Circuit’s sliding scale approach, a plaintiff may show either a
2 combination of probable success on the merits and the possibility of irreparable injury or that
3 serious questions going to the merits were raised and the balance of hardships tips sharply in his
4 favor. *See All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131–35 (9th Cir. 2011).

5 6 **III. ARGUMENT**

7 **A. Zaeri is likely to succeed on the merits.**

8 Petitioner brings this habeas action pursuant to 28 U.S.C. § 2241 alleging that his
9 continued detention by U.S. Immigration and Customs Enforcement (“ICE”) violates the Due
10 Process Clause of the Fifth Amendment. His petition challenges “the fact [and] duration” of his
11 confinement by immigration authorities. *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973). The first
12 *Winter* factor weighs strongly in Petitioner’s favor because he is likely to succeed on the merits
13 of his claim.

14
15 Here, Petitioner’s continued detention violates due process and 8 U.S.C. § 1231(a), as
16 interpreted by the Supreme Court in *Zadvydas v. Davis*, because his removal is not “reasonably
17 foreseeable.” 533 U.S. 678, 682 (2001). Petitioner cannot be removed to his country of
18 nationality, Iran, because an Immigration Judge granted him deferral of removal under the
19 Convention Against Torture (“CAT”) after finding it more likely than not that he would be
20 tortured if returned. *See* 8 C.F.R. § 1208.17. And Petitioner’s removal to a third country is
21 likewise not reasonably foreseeable: ICE has not identified any country willing to accept him, nor
22 has it provided notice of any concrete or lawful third-country removal effort.

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24
25 The 90-day removal period following Petitioner’s final order of removal expired years
26 ago. 8 U.S.C. § 1231(a)(1)(A). While ICE is not required to release a noncitizen immediately
27 upon expiration of the removal period, due process limits detention where “there is no significant
28 likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. Where

1 removal is not reasonably foreseeable, continued detention is “no longer authorized by statute.”
2 *Id.* at 699–700.

3 This case presents an even clearer due-process violation than *Zadvydas*. There, the
4 petitioners could not be removed because their countries of nationality would not issue travel
5 documents, and the Supreme Court allowed ICE a limited period to attempt repatriation. Here, by
6 contrast, Petitioner cannot be removed to Iran as a matter of law, not diplomacy. And ICE has not
7 shown—nor even claimed—that it has initiated a lawful, individualized process to remove
8 Petitioner to a third country. Accordingly, removal is not reasonably foreseeable in any direction.

9
10 Courts have consistently ordered release where ICE fails to comply with its own
11 regulations governing revocation of supervision. In *Rokhfirooz v. LaRose*, the Southern District
12 of California granted habeas relief where ICE re-detained an Iranian national without making the
13 required determination that removal was significantly likely in the reasonably foreseeable future,
14 without timely notice, and without a prompt interview. 2025 U.S. Dist. LEXIS 180605, at 10–12
15 (S.D. Cal. Sept. 15, 2025). Similarly, in *Ghafouri v. Noem*, the court ordered release after finding
16 that ICE violated 8 C.F.R. §§ 241.4 and 241.13 by revoking supervision without notice or
17 meaningful process. 2025 U.S. Dist. LEXIS 218347, at 11–13 (S.D. Cal. Oct. 28, 2025).

18
19 Most significantly, courts in this District have already granted the precise relief Petitioner
20 seeks under materially indistinguishable facts. In *Shadalo v. Mattos*, the District of Nevada
21 granted a preliminary injunction ordering the immediate release of an Iranian national with a final
22 order of removal and CAT protection where ICE could not articulate a reasonably foreseeable
23 path to removal and relied instead on speculative third-country review. 2025 U.S. Dist. LEXIS
24 257948, at 14–18 (D. Nev. Dec. 14, 2025). The court rejected ICE’s reliance on vague assertions
25 of future removal and held that continued detention was likely unlawful under *Zadvydas*. *Id.*
26
27
28

1 Finally, ICE's actions here violate the fundamental principle that agencies must follow
2 their own regulations. *Accardi v. Shaughnessy*, 347 U.S. 260 (1954). ICE re-detained Petitioner
3 without issuing a contemporaneous revocation decision, without providing notice of reasons for
4 detention, and without conducting the post-order custody reviews required by regulation. These
5 failures independently establish a likelihood of success on the merits.
6

7 In short, Petitioner's continued detention is arbitrary, unauthorized by statute, and
8 unconstitutional. Because he cannot be removed to Iran, because ICE has not identified any lawful
9 third-country removal option, and because ICE failed to comply with mandatory procedural
10 safeguards, Petitioner has demonstrated a strong likelihood of success on the merits of his habeas
11 petition.
12

13 **B. Zaeri would suffer irreparable harm in the absence of a temporary restraining**
14 **order.**

15 The second *Winter* factor also weighs strongly in Petitioner's favor. Although removal is
16 "not categorically irreparable," *Nken v. Holder*, 556 U.S. 418, 435 (2009), courts have
17 consistently recognized that ongoing unlawful detention and the deprivation of constitutional
18 rights constitute irreparable harm that cannot be remedied after the fact. *See Hernandez v.*
19 *Sessions*, 872 F.3d 976, 994 (9th Cir. 2017); *Rodriguez v. Robbins*, 715 F.3d 1127, 1144–45 (9th
20 Cir. 2013). Petitioner has been re-detained despite the absence of any reasonably foreseeable
21 removal pathway, and each additional day of confinement compounds an injury that cannot later
22 be cured.
23
24

25 It is well established that the deprivation of constitutional rights "unquestionably
26 constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting
27 *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Accordingly, "[w]hen an alleged deprivation of a
28 constitutional right is involved, most courts hold no further showing of irreparable injury is

1 necessary.” *Vasquez Perdomo v. Noem*, 148 F.4th 656, 689 (9th Cir. 2025) (citation omitted).
2 Because Petitioner has demonstrated a likely violation of his Fifth Amendment due process rights,
3 irreparable harm follows as a matter of law.

4 The Ninth Circuit has likewise made clear that, under the *Winter* framework, irreparable
5 harm is satisfied where the injury is ongoing and cannot be undone through later relief. *All. for*
6 *the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). Continued civil detention—
7 particularly where it is likely unlawful—fits squarely within that category. Petitioner’s injury is
8 not speculative or abstract; it is the daily loss of liberty caused by detention untethered to any
9 lawful removal purpose.
10

11 Petitioner also suffers irreparable harm because ICE revoked his supervision without
12 providing the procedural protections required by regulation, including timely notice, a prompt
13 interview, and a reasoned custody determination. Courts addressing materially similar facts have
14 held that such procedural deprivations constitute ongoing due process violations sufficient to
15 establish irreparable harm. *See Rokhfirooz v. LaRose*, 2025 U.S. Dist. LEXIS 180605, at 10–12
16 (S.D. Cal. Sept. 15, 2025); *Ghafouri v. Noem*, 2025 U.S. Dist. LEXIS 218347, at 11–13 (S.D.
17 Cal. Oct. 28, 2025). Petitioner is in the same position: he was re-detained without
18 contemporaneous notice of reasons, without a meaningful opportunity to respond, and without
19 any documented finding that removal is significantly likely in the reasonably foreseeable future.
20

21 Absent a TRO, Petitioner faces the risk of sudden transfer or attempted third-country
22 removal without adequate notice or process—actions that could irreparably frustrate this Court’s
23 ability to adjudicate the pending habeas petition. Courts routinely consider the risk of agency
24 action that undermines meaningful judicial review as irreparable harm. *See Mendez v. Noem*, No.
25 2:25-cv-02062-RFB-MDC, 2025 LX 578463 (D. Nev. Nov. 7, 2025). Courts in this District have
26 likewise recognized that continued detention pending habeas review causes irreparable injury
27
28

1 where detention is likely unlawful. *Shadalo v. Mattos*, 2025 U.S. Dist. LEXIS 257948, at 16–17
2 (D. Nev. Dec. 14, 2025).

3 Because Petitioner’s continued loss of liberty, ongoing deprivation of due process,
4 attendant psychological harm, and risk of actions that could defeat judicial review cannot be
5 remedied after the fact, Petitioner has satisfied the irreparable harm requirement.
6

7 **C. The balance of the equities and the public interest favor Zaeri.**

8 The final two *Winter* factors—the balance of equities and the public interest—also weigh
9 decisively in Petitioner’s favor. When the Government is the opposing party, these factors
10 “merge.” *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023) (quoting *Nken v. Holder*, 556 U.S.
11 418, 435 (2009)). As a result, the Court may consider these factors together.
12

13 Petitioner faces an ongoing deprivation of liberty from continued detention that is likely
14 unlawful. The Government, by contrast, faces minimal hardship from releasing Petitioner to the
15 same conditions of supervision under which he lived for years without incident. And where the
16 “impact of an injunction reaches beyond the parties, carrying with it a potential for public
17 consequences, the public interest will be relevant to whether the district court grants the
18 preliminary injunction.” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (quoting
19 *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1139 (9th Cir. 2009)).
20

21 The Ninth Circuit has also recognized that “neither equity nor the public’s interest are
22 furthered by allowing violations of federal law to continue.” *Galvez v. Jaddou*, 52 F.4th 821, 832
23 (9th Cir. 2022). Thus, to the extent Respondents invoke a generalized interest in enforcing
24 immigration laws, that interest cannot justify continued detention where, as here, Petitioner has
25 demonstrated that his detention is likely unlawful. *See Shadalo v. Mattos*, 2025 U.S. Dist. LEXIS
26 257948, at 17–18 (D. Nev. Dec. 14, 2025).
27
28

1 To be sure, the Government vindicates the public interest by enforcing this country's
2 immigration laws, including the "public interest in prompt execution of removal orders." *Nken*,
3 556 U.S. at 436. But that interest does not support continued detention where removal is not
4 reasonably foreseeable and detention exceeds statutory and constitutional limits. Where the
5 challenged detention "appears to be unlawful," an injunction requiring release "would itself
6 promote the rule of law." *Shadalo*, 2025 U.S. Dist. LEXIS 257948, at 18.
7

8 Finally, the public interest is also served because unnecessary detention imposes
9 significant costs. Immigration detention is "undoubtedly a costly endeavor," and limiting
10 unlawful detention reduces Respondents'—and the public's—fiscal and administrative burdens.
11 *Shadalo*, 2025 U.S. Dist. LEXIS 257948, 18 (quoting *Hernandez v. Sessions*, 872 F.3d 996 (9th
12 Cir. 2017)). Releasing Petitioner to supervision therefore advances, rather than undermines, the
13 public interest while this Court adjudicates the legality of his detention.
14

15 For these reasons, the balance of equities and the public interest strongly favor granting a
16 temporary restraining order.
17

18 **D. This Court should not impose a bond requirement.**

19 Federal Rule of Civil Procedure 65(c) provides that a court may issue a temporary
20 restraining order or preliminary injunction "only if the movant gives security in an amount that
21 the court considers proper." FED. R. CIV. P. 65(c). The purpose of a bond is to ensure that an
22 enjoined party may be compensated for costs incurred if it is later determined that the injunction
23 was wrongfully issued. *See Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009).
24

25 Despite Rule 65(c)'s wording, the Ninth Circuit has made clear that district courts retain
26 discretion as to the amount of security required, if any. *Johnson*, 572 F.3d at 1086. And the Court
27 "may dispense with the filing of a bond when it concludes there is no realistic likelihood of harm
28

1 to the defendant from enjoining his or her conduct.” *Id.*; *Jorgensen v. Cassidy*, 320 F.3d 906,
2 919 (9th Cir. 2003).

3 This Court should waive any bond requirement here because the requested injunctive
4 relief poses no realistic risk of monetary harm to Respondents. Petitioner seeks release to the
5 same conditions of supervision under which he lived for nearly five years without incident. The
6 requested relief restores the long-standing status quo and prevents continued detention that is
7 likely unlawful. Respondents will not suffer compensable damages from compliance with an
8 order requiring them to refrain from unlawful detention pending adjudication of the habeas
9 petition.
10

11 Accordingly, the Court should exercise its discretion to waive the security requirement
12 under Rule 65(c).
13

14 **IV. CONCLUSION**

15 For the foregoing reasons, Petitioner respectfully requests that the Court grant this
16 Emergency Motion for a Temporary Restraining Order or, in the alternative, a Preliminary
17 Injunction, and order Petitioner’s immediate release from ICE custody pending resolution of his
18 petition for writ of habeas corpus. Petitioner further requests that the Court waive any bond
19 requirement and grant such other and further relief as the Court deems just and proper.
20

21 DATED this 17th day of December, 2025.

22 Respectfully Submitted,

23 SHAMOON ELIADES, LLP

24 /s/ Michael T. Shamoan
25 Michael T. Shamoan, Esq.
26 Nevada Bar. No. 15324

27 Athena C. Eliades, Esq.
28 Nevada Bar. No. 15216
Attorneys for Petitioner

Certificate of Service

I hereby certify that on December 17, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, District of Nevada by using the CM/ECF system. All participants in the case are registered CM/ECF users and will be served by the CM/ECF system.

s/ Michael T. Shamoon

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1 MICHAEL T. SHAMOON, ESQ.
Nevada Bar. No. 15324
2 ATHENA C. ELIADES, ESQ.
Nevada Bar. No. 15216
3 SHAMOON ELIADES, LLP
7995 W Sahara Ave, Suite 101
4 Las Vegas, Nevada 89117
Telephone: 702-996-7411
5 Email: mts@shamooneliades.com
Attorneys for Petitioner
6

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 EMAN ZAERI,

10 Petitioner,

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12 KRISTI NOEM, *et. al.*,

13 Respondents.
14

Case No. 2:25-cv-02219-CDS-NJK

**[PROPOSED] TEMPORARY
RESTRAINING ORDER**

15 Upon consideration of Petitioner’s Motion for a Temporary Restraining Order or
16 Preliminary Injunction; having determined that Petitioner is likely to succeed on the merits of
17 his claim that his continued detention by the Respondents violates his right to due process; that,
18 in the absence of injunctive, relief Petitioner will suffer irreparable injury; and that the balance
19 of hardships and public interest favor temporary relief, it is, therefore,
20

21 **ORDERED** that Petitioner’s Emergency Motion for a Temporary Restraining Order is
22 hereby **GRANTED**.

23 **IT IS FURTHER ORDERED** that Respondents shall **IMMEDIATELY RELEASE**
24 Petitioner Eman Zaeri from ICE custody.

25 **IT IS FURTHER ORDERED** that Petitioner shall be released under the same Order of
26 Supervision, or substantially similar conditions, that governed his release prior to his re-
27 detention, pending further order of this Court.
28

