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Johnny Azzo

Otay Mesa Detention Center
P.O. Box 439049
San Diego, CA 92143-9049

Pro Se¹

FILED
Nov 12 2025
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY s/ Anthony Hazard DEPUTY

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

JOHNNY AZZO,
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.: '25CV3122 RBM BJW

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

¹ Mr. Azzo 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.

1 **I. Introduction**

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

9 Mr. Azzo has been ordered removed to Lebanon—and had deferral of
10 removal from Lebanon—since 2004. Ever since 2004, the government has proved
11 unable to remove him to a third country. Ever since 2004, Mr. Azzo has complied
12 with his conditions of immigration supervision. On October 10, 2025, the
13 government arrested Mr. Azzo at his scheduled ICE check-in. ICE gave him no
14 opportunity to contest his re-detention, and it did not identify the reasons why it
15 thought it could re-detain him. It did not identify a country to remove him to. But
16 its own policies allow ICE to remove him to a third country never before
17 considered by an IJ, with either 6-to-24 hours' notice or no notice at all. While in
18 immigration detention, Mr. Azzo has faced significant challenges managing his
19 diabetes.

20 Mr. Azzo is therefore facing both unlawful detention and a threat of
21 removal to a dangerous third country without due process. The requested
22 temporary restraining order would preserve the status quo while he litigates these
23 claims by (1) reinstating Mr. Azzo's release on supervision, and (2) prohibiting
24 the government from removing him to a third country without an opportunity to
25 file a motion to reopen with an IJ.

26 In granting this motion, this Court would not break new ground. Courts in
27 this district and around the Ninth Circuit have granted TROs or preliminary
28 injunctions mandating release for post-final-removal-order immigrants like

1 Mr. Azzo. *See, e.g., Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D.
2 Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES,
3 *3 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No.
4 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-
5 SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025); *see also, e.g., Phetsadakone v. Scott*,
6 2025 WL 2579569, at *6 (W.D. Wash. Sept. 5, 2025); *Hoac v. Becerra*, No. 2:25-
7 CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16, 2025); *Phan v.*
8 *Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *7 (E.D. Cal. July
9 16, 2025); *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *29 (W.D.
10 Wash. Aug. 21, 2025). These courts have determined that liberty is the status quo,
11 and only a return to that status quo can avert irreparable harm.

12 Courts have likewise granted temporary restraining orders preventing third-
13 country removals without due process. *See, e.g., Van Tran v. Noem*, 2025 WL
14 2770623 at *3; *Nguyen Tran v. Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D.
15 Cal. Sept. 18, 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-2502-
16 JES, *4 (S.D. Cal. Oct. 9, 2025); *see also, e.g., J.R. v. Bostock*, 25-cv-01161-
17 JNW, 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); *Vaskanyan v. Janecka*, 25-
18 cv-01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. Jun. 25, 2025); *Ortega v.*
19 *Kaiser*, 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025); *Hoac v.*
20 *Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July
21 16, 2025); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at
22 *7 (E.D. Cal. July 16, 2025).

23 **II. Statement of facts: Mr. Azzo is ordered removed, released as ICE**
24 **proves unable to deport him for two decades, and then re-detained in**
25 **October 2025.**

26 Johnny Azzo was born and raised in Lebanon. Exhibit A to Habeas
27 Petition, Declaration of Johnny Azzo (“Azzo Dec.”), ¶ 1. He came to the United
28 States in his mid-20s in 1985. *Id.*

1 In August 2004, Mr. Azzo was ordered removed to Lebanon. *Id.* ¶ 2.
2 However, because he established that he was “more likely than not to be tortured”
3 if he were removed to Lebanon, he was also granted deferral of removal. 8 C.F.R.
4 § 1208.17; Azzo Dec. ¶ 2. ICE held him for about six months after he was ordered
5 removed. Azzo Dec. ¶ 3. For the next two decades, Mr. Azzo checked in with ICE
6 without incident. *Id.*

7 On October 10, 2025, Mr. Azzo went for his regularly scheduled check-in.
8 ICE arrested him. *Id.* ¶ 5. He remembers, “All they told me was I was being
9 detained, that they were going to try to deport me to a third country, and that they
10 were going to review my case to see if they could deport me to a third country for
11 three months before they would do a review about if they would keep me longer.”
12 *Id.* As of November 2, Mr. Azzo had received a “Notice of Revocation of
13 Release,” but had not “been able to talk to an ICE officer since [he] checked in
14 and was told [he] was being detained.” *Id.* ¶ 6.

15 While at Otay Mesa Detention Center, Mr. Azzo has struggled to maintain
16 his sugar levels and manage his diabetes. *Id.* ¶ 8. He had managed his diabetes
17 with healthy eating and insulin three times a day before his re-detention; now, he
18 is receiving insulin less, and he is served starchy food that makes managing his
19 diabetes much more challenging. *Id.* He already has very poor eyesight, and he is
20 worried about how his less-managed diabetes in custody could result in even
21 worse eye problems. *Id.*

22 Meanwhile, ICE has begun removing immigrants to third countries without
23 adequate notice or a hearing. Under prevailing ICE policy, an immigrant can be
24 removed to a third country with no notice, 6 hours’ notice, or 24 hours’ notice
25 depending on the circumstances. Exhibit D to Habeas Petition (“Third Country
26 Removal Policy”). Many of these countries are extremely dangerous and subject
27 immigrants to imprisonment without sentence or charge. *See generally* Edward
28

1 Wong et al, *Inside the Global Deal-Making Behind Trump's Mass Deportations*,
2 N.Y. Times, June 25, 2025.

3 **III. Argument: Mr. Azzo meets all *Winter* factors.**

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

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

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

As described in detail in Mr. Azzo’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. Azzo’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).

Second, *Zadvydas v. Davis* holds that immigration statutes do not authorize the government to detain immigrants like Mr. Azzo, 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. Azzo to a third country without first providing notice and a sufficient opportunity to be heard before an immigration judge. Their current policy allowing third-country removal in the absence of that notice “contravenes Ninth Circuit law.” *Nguyen v. Scott*, No. 25-CV-1398, 2025 WL 2419288, *19 (W.D. Wash. Aug. 21, 2025) (explaining how the July 9, 2025 ICE memo contravenes Ninth Circuit law on the process due to noncitizens in detail); *see also Delkash v. Noem*, No. 25-cv-1675-HDV-AGR, 2025 WL 2683988, *1, *6 (C.D. Cal. Aug. 28, 2025); *Rebenok v. Noem*, No. 25-cv-2171-

1 TWR at ECF No. 13; *Van Tran v. Noem*, 2025 WL 2770623 at *3; *Nguyen Tran*
2 *v. Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D. Cal. Sept. 18, 2025);
3 *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-2502-JES, *4 (S.D. Cal.
4 Oct. 9, 2025) (all either granting temporary restraining orders or habeas petitions
5 ordering the government to not remove petitioners to third countries without
6 notice and an opportunity to be heard).

7 **B. Mr. Azzo will suffer irreparable harm absent injunctive relief.**

8 Mr. Azzo also meets the second factor, irreparable harm. “It is well
9 established that the deprivation of constitutional rights ‘unquestionably constitutes
10 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
11 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The Ninth Circuit has
12 specifically recognized the “irreparable harms imposed on anyone subject to
13 immigration detention.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir.
14 2017).

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

19 Regardless, Mr. Azzo has already suffered injury while in ICE custody. As
20 the Ninth Circuit has recognized, immigration detainees can face “subpar medical
21 . . . care in ICE detention facilities.” *Hernandez*, 872 F.3d at 995. Mr. Azzo has
22 struggled to maintain his diabetes while in custody, particularly in light of lacking
23 access to healthy foods and the regularity of insulin injections he received before
24 he was re-detained. Azzo Dec. ¶ 8. He’s concerned his poorly managed diabetes
25 will result in even worse eye problems than he already has. *Id.*

26 Further, “[i]t is beyond dispute that Petitioner would face irreparable harm
27 from removal to a third country.” *Nguyen*, 2025 WL 2419288, at *26. Recent
28 third-country deportees have been held, indefinitely and without charge, in

1 hazardous foreign prisons. See Edward Wong et al, *Inside the Global Deal-*
2 *Making Behind Trump’s Mass Deportations*, N.Y. Times, June 25, 2025. They
3 have been subjected to solitary confinement. Gerald Imray, *3 Deported by US*
4 *held in African Prison Despite Completing Sentences, Lawyers Say*, PBS (Sept. 2,
5 2025). They have been removed to countries so unstable that the U.S. government
6 recommends making a will and appointing a hostage negotiator before traveling
7 to them. See Wong, *supra*. They have been “promptly deported . . . to the very
8 countries to which the United States had withheld removal due to the risk of
9 persecution, torture, or death.” *Santamaria Orellana v. Baker*, No. 25-1788-TDC,
10 2025 WL 2841886, *12 (D. Md. Oct.7, 2025).

11 These and other threats to Mr. Azzo’s health and life independently
12 constitute irreparable harm.

13 **IV. The balance of hardships and the public interest weigh heavily in**
14 **Mr. Azzo’s favor.**

15 The final two factors for a TRO—the balance of hardships and public
16 interest—“merge when the Government is the opposing party.” *Nken v. Holder*,
17 556 U.S. 418, 435 (2009). That balance tips decidedly in Mr. Azzo’s favor.

18 On the one hand, the government “cannot reasonably assert that it is
19 harmed in any legally cognizable sense” by being compelled to follow the law.
20 *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). Moreover, it is always in the
21 public interest to prevent violations of the U.S. Constitution and ensure the rule of
22 law. See *Nken*, 556 U.S. at 436 (describing public interest in preventing
23 noncitizens “from being wrongfully removed, particularly to countries where they
24 are likely to face substantial harm”); *Moreno Galvez v. Cuccinelli*, 387 F. Supp.
25 3d 1208, 1218 (W.D. Wash. 2019) (when government’s treatment “is inconsistent
26 with federal law, . . . the balance of hardships and public interest factors weigh in
27 favor of a preliminary injunction.”).

28

1 On the other hand, Mr. Azzo faces weighty hardships: unlawful, indefinite
2 detention; poorly managed diabetes; and possible removal to a third country
3 where he is likely to suffer imprisonment or other serious harm. The balance of
4 equities thus favors preventing the violation of “requirements of federal law,”
5 *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014), by
6 granting emergency relief to protect against unlawful detention and prevent
7 unlawful third country removal.

8 **V. Mr. Azzo will give the government notice of this TRO motion**
9 **immediately, and the TRO should remain in place throughout habeas**
10 **litigation.**

11 When Federal Defenders first started filing TROs in immigration habeas
12 cases, a Federal Defenders attorney called the U.S. Attorney’s Office and was put
13 in touch with Janet Cabral. Ms. Cabral requested that Federal Defenders provide
14 notice of these motions via email after the motion has been filed with the court.
15 Federal Defenders will do so in this case.

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

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Conclusion

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

DATED: 11/2/25

Respectfully submitted,



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 12, 2025

/s/ Jessie Agatstein
Jessie Agatstein