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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 Ali Partvoi,

13 Petitioner,

14 v.

15 John Mattos, NSDC Warden; Michael
Bernacke, Field Director, West Valley City
16 Office of ICE ERO; Todd Lyons, ICE
Acting Director; Kristi Noem DHS
17 Secretary; Pam Bondi, U.S. Attorney
General

18 Respondents.
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Case No. 2:25-cv-02283-JAD-DJA

**Motion for Temporary Restraining
Order**

1 Other district courts within the Ninth Circuit have also granted TROs or
2 preliminary injunctions mandating release for post-final-removal-order immigrants
3 like Petitioner. *See Rodriguez-Gutierrez v. Noem*, No. 25-cv-02726-BAS-SBC (S.D.
4 Cal. Nov. 7, 2025); *Phetsadakone v. Scott*, 2025 WL 2579569, at *6 (W.D. Wash.
5 Sept. 5, 2025); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at
6 *7 (E.D. Cal. July 16, 2025); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025
7 WL 1993735, at *7 (E.D. Cal. July 16, 2025); *Nguyen v. Scott*, No. 2:25-CV-01398,
8 2025 WL 2419288, at *29 (W.D. Wash. Aug. 21, 2025).

9 Several more have ordered release for petitioners whose immigration cases
10 are still pending.¹ *See, e.g., Hiestroza v. Kaiser*, No. 25-CV-07559-JD, 2025 WL
11 2606983, at *2 (N.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK,
12 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025); *R.D.T.M. v. Wofford*, No. 1:25-
13 CV-01141-KES-SKO (HC), 2025 WL 2617255, at *6 (E.D. Cal. Sept. 9, 2025). These
14 courts have determined that, for these long-term releasees, liberty is the status quo,
15 and only a return to that status quo can avert irreparable harm.

16 Several courts have likewise granted temporary restraining orders
17 preventing third-country removals without due process. *See, e.g., J.R. v. Bostock*,
18 25-cv-01161-JNW, 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); *Vaskanyan v.*
19 *Janecka*, 25-cv-01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. Jun. 25, 2025); *Ortega*
20 *v. Kaiser*, 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025); *Hoac v.*
21 *Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16,
22 2025); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *7 (E.D.
23 Cal. July 16, 2025).

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¹ Because immigration detainees whose cases have not been adjudicated are
entitled only to a bond hearing-not to outright release-some of these TROs require
release unless ICE provides that hearing. But because *Zadvydas* requires outright
release on supervision, a TRO fitted to Petitioner's claims should order that relief.

1 Granting this relief would not even be breaking new ground in this District.
2 Another court in this District recently granted habeas relief on this basis. *See*
3 *Gomez v. Mattos*, No. 2:25-CV-00975-GMN-BNW, 2025 WL 3101994, at *6–7 (D.
4 Nev. Nov. 6, 2025). Another court in this District recently granted a TRO or
5 preliminary injunctions on this basis, in addition to ordering release. *See Bunnell v.*
6 *Noem*, No. 2:25-CV-02259-GMN-EJY, 2025 WL 3707588, (D. Nev. Dec. 22, 2025).
7 Petitioner therefore respectfully requests that this Court grant this TRO.

8 ARGUMENT

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

1 Here, this Court should issue a temporary restraining order because
2 “immediate and irreparable injury . . . or damage” is occurring and will continue in
3 the absence of an order. Fed. R. Civ. P. 65(b). Not only have Respondents re-
4 detained Petitioner in violation of his due process, statutory, and regulatory rights.
5 ICE policy also allows them to remove him to a third country in violation of his due
6 process, statutory, and regulatory rights. This Court should order Petitioner’s
7 release and enjoin removal to a third country with inadequate notice.

8 **I. Petitioner will likely succeed on the merits, or at a minimum,**
9 **Petitioner raises serious merits questions.**

10 In his amended § 2241 petition, Petitioner raises five claims that he has been
11 unconstitutionally detained and that he cannot be removed to a third country.
12 Petitioner is likely to prevail on his claims.

13 **A. Petitioner is likely to succeed on the merits of his claim that**
14 **his detention violates *Zadvydas* and the Immigration and**
15 **Nationality Act, 8 U.S.C. § 1231(a)(6). (Grounds 1 and 2).**

16 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered a
17 problem affecting people like Petitioner: Federal law requires ICE to detain an
18 immigrant during the “removal period,” which typically spans the first 90 days after
19 the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). And after that 90-day
20 removal period expires, ICE may detain the migrant while continuing to try to
21 remove them. *Id.* § 1231(a)(6). If that subsection were understood to allow for
22 “indefinite, perhaps permanent, detention,” it would pose “a serious constitutional
23 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the
24 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits. *Id.*
25 at 689. As an initial matter, *Zadvydas* held that detention is “presumptively
26 reasonable” for six months after the removal order becomes final. *Id.* at 701.

27 After six months, detention ceases to be presumptively reasonable. Courts
use a burden-shifting framework to decide whether detention remains authorized.

1 First, the petitioner must prove that there is “good reason to believe that there is no
2 significant likelihood of removal in the reasonably foreseeable future.” *Id.* If he does
3 so, the burden shifts to “the Government [to] respond with evidence sufficient to
4 rebut that showing.” *Id.* Ultimately, then, the burden of proof rests with the
5 government: The government must prove that there is a “significant likelihood of
6 removal in the reasonably foreseeable future,” or the immigrant must be released.
7 *Id.*

8 Here, Petitioner was ordered removed much more than 6 months ago, as his
9 removal order became final in 2002. He has also been detained since June 24, 2025.
10 On information and belief, Partovi was previously detained for the initial 90-day
11 remove period in 2002, so he has cumulatively been detained for over six months.
12 Even without counting the initial 90-day detention from 2002, Partovi’s present
13 detention has already spanned six months, and there is no significant likelihood of
14 removal, so Partovi still prevails. Thus, this Court will likely find that Petitioner
15 warrants *Zadvydas* relief.

16 **B. Petitioner is likely to succeed on the merits of his claim that he**
17 **is entitled to adequate notice and an opportunity to be heard**
18 **prior to any third country removal (Grounds 4 and 5).**

19 Petitioner is also likely to succeed on the merits of his claim that he may not
20 be removed to a third country absent adequate notice and an opportunity to be
21 heard.

22 U.S. law enshrines protections against dangerous and life-threatening
23 removal decisions. By statute, the government is prohibited from removing an
24 immigrant to any third country where a person may be persecuted or tortured, a
25 form of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A).
26 The government “may not remove [a noncitizen] to a country if the Attorney
27 General decides that the [noncitizen's] life or freedom would be threatened in that
country because of the [noncitizen's] race, religion, nationality, membership in a

1 particular social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16,
2 1208.16. Withholding of removal is a mandatory protection.

3 Similarly, Congress codified protections enshrined in the Convention Against
4 Torture (CAT) prohibiting the government from removing a person to a country
5 where they would be tortured. *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231
6 note) (“It shall be the policy of the United States not to expel, extradite, or
7 otherwise effect the involuntary return of any person to a country in which there
8 are substantial grounds for believing the person would be in danger of being
9 subjected to torture, regardless of whether the person is physically present in the
10 United States.”); 28 C.F.R. § 200.1; *id.* §§ 208.16-208.18, 1208.16-1208.18. CAT
11 protection is also mandatory.

12 To comport with the requirements of due process, the government must
13 provide notice of the third country removal and an opportunity to respond. Due
14 process requires “written notice of the country being designated” and “the statutory
15 basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v.*
16 *Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S. Dep’t*
17 *of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May
18 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

19 Due process also requires the following: “[A]sk[ing] the noncitizen whether he
20 or she fears persecution or harm upon removal to the designated country and
21 memorialize in writing the noncitizen’s response. This requirement ensures DHS
22 will obtain the necessary information from the noncitizen to comply with section
23 1231(b)(3) and avoids [a dispute about what was said].” *Aden*, 409 F. Supp. 3d at
24 1019. “Failing to notify individuals who are subject to deportation that they have
25 the right to apply for asylum in the United States and for withholding of
26 deportation to the country to which they will be deported violates both INS
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1 regulations and the constitutional right to due process.” *Andriasian*, 180 F.3d at
2 1041.

3 If the noncitizen claims fear, measures must be taken to ensure that the
4 noncitizen can seek asylum, withholding, and relief under CAT before an
5 immigration judge in reopened removal proceedings. The amount and type of notice
6 must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
7 circumstances, he would have a reasonable opportunity to raise and pursue his
8 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009 (citing
9 *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132 F.3d 405,
10 408 (7th Cir. 1998)); *cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring a minimum of 15
11 days notice).

12 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,
13 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed. App’x 724 (9th Cir. 2016), and
14 for good reason: To have a meaningful opportunity to apply for fear-based protection
15 from removal, immigrants must have time to prepare and present relevant
16 arguments and evidence. Merely telling a person where they may be sent, without
17 giving them a chance to look into country conditions, does not give them a
18 meaningful chance to determine whether and why they have a credible fear.

19 Respondents’ third country removal policy skips over these statutory and
20 constitutional procedural protections. According to ICE’s July 9, 2025 Directive,
21 individuals can be removed to third countries “without the need for further
22 procedures,” so long as “the [U.S.] has received diplomatic assurances.”² Petitioner
23 is likely to succeed on the merits of his claim on this fact alone, because the policy
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26 ² Todd Lyons Directive to All ICE Employees (Jul. 7, 2025) at 1, available at
27 https://iptp-production.s3.amazonaws.com/media/documents/2025.07.09_ICE_-_Third_Country_Removals_Following_Dept_of_Homeland_Sec._v._D.V.D..pdf (last
accessed 12/25/2025).

1 instructs officers to provide no notice or opportunity to be heard of any kind. The
2 same is true of the minimal procedures ICE offers when no diplomatic assurances
3 are present. The policy provides no meaningful notice (only 6-24 hours), instructs
4 officers not to ask about fear, and provides no actual opportunity to see counsel and
5 prepare a fear-based claim (6-24 hours), let alone reopen removal proceedings. In
6 sum, it directs ICE officers to violate the rights of those whom they seek to subject
7 to the third country removal program.

8 Faced with similar arguments, several courts have recently granted
9 individual TROs against removal to third countries. See *Rodriguez-Gutierrez*, No.
10 25-cv-02726-BAS-SBC (S.D. Cal. Nov. 7, 2025) *J.R.*, 2025 WL 1810210; *Vaskanyan*,
11 2025 WL 2014208; *Ortega*, 2025 WL 1771438; *Hoac*, 2025 WL 1993771, at *7; *Phan*,
12 2025 WL 1993735, at *7. Courts in this District have granted habeas relief on this
13 basis. See *Gomez v. Mattos*, No. 2:25-CV-00975-GMN-BNW, 2025 WL 3101994, at
14 *6–7 (D. Nev. Nov. 6, 2025); *Barka v. Mattos*, No. 2:25-CV-01781-GMN-MDC, 2025
15 WL 3723998, (D. Nev. Dec. 23, 2025).

16 Because ICE’s new policies for third country removal fail to comply with
17 existing law, they also violate the Administrative Procedures Act. Furthermore,
18 given the blatant unlawfulness and unconstitutionality of ICE’s policies,
19 Petitioner’s detention under the color of those policies is unlawful.

20 **II. Petitioner will suffer irreparable harm absent injunctive relief.**

21 Petitioner also meets the second factor: irreparable harm. “It is well
22 established that the deprivation of constitutional rights ‘unquestionably constitutes
23 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
24 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged deprivation
25 of a constitutional right is involved, most courts hold that no further showing of
26 irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th
27 Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and Procedure*,

1 § 2948.1 (2d ed. 2004)). Furthermore, unlawful detention itself “constitutes extreme
2 or very serious damage, and that damage is not compensable in damages.”
3 *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017) (internal citations
4 omitted).

5 Third-country deportations pose that risk and more. Recent third-country
6 deportees have been held, indefinitely and without charge, in hazardous foreign
7 prisons.³ They have been subjected to solitary confinement.⁴ They have been
8 removed to countries so unstable that the U.S. government recommends making a
9 will and appointing a hostage negotiator before traveling to them.⁵ These and other
10 threats to Petitioner’s health and life independently constitute irreparable harm.

11 **III. The balance of hardships and the public interest weigh heavily in** 12 **Petitioner’s favor**

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

16 The government “cannot reasonably assert that it is harmed in any legally
17 cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d
18 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent
19 violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S. at
20 436 (describing public interest in preventing noncitizens “from being wrongfully
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22 ³ Edward Wong et al., *Inside the Global Deal-Making Behind Trump’s Mass*
23 *Deportations*, N.Y. Times (Jun. 25, 2025), available at
24 [https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-](https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html)
[deportations.html](https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html)

25 ⁴ Gerald Imray, *Men deported by US to Eswatini in Africa will be held in*
26 *solitary confinement for undetermined time*, Associated Press (Jul. 18, 2025),
27 available at [https://apnews.com/article/eswatini-united-states-trump-deportation-](https://apnews.com/article/eswatini-united-states-trump-deportation-immigrants-a5853b16b7b275cbcbfe6caff87d0bb8)
[immigrants-a5853b16b7b275cbcbfe6caff87d0bb8](https://apnews.com/article/eswatini-united-states-trump-deportation-immigrants-a5853b16b7b275cbcbfe6caff87d0bb8)

⁵ *See Wong*, *supra*.

1 removed, particularly to countries where they are likely to face substantial harm”);
2 *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (when
3 government's treatment “is inconsistent with federal law, . . . the balance of
4 hardships and public interest factors weigh in favor of a preliminary injunction.”).

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

11 CONCLUSION

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

14 Dated December 29, 2025.

15 Respectfully submitted,

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17 Rene L. Valladares
18 Federal Public Defender

19 /s/ Laura Barrera

20 Laura Barrera
21 Assistant Federal Public Defender
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on December 29, 2025. I certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third-party commercial carrier for delivery within three calendar days, to the following person:

Ali Partovi,  Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89048	John Mattos, Warden Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89048
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/s/ Kaitlyn O'Hearn
An Employee of the
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