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11  
12 UNITED STATES DISTRICT COURT  
13 DISTRICT OF NEVADA

14 Mehmet Kucuk,

15 Petitioner,

16 v.

17 Pam Bondi, *et al.*,

18 Respondents.  
19

Case No. 2:25-cv-02285-APG-MDC

**Emergency Motion for Temporary  
Restraining Order**

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**POINTS AND AUTHORITIES**

Petitioner Mehmet Kucuk faces immediate and irreparable harm because: (1) he is being subjected to indefinite immigration detention with no reasonable prospect of removal in the reasonably foreseeable future to a country designated by the immigration judge (“IJ”); and (2) he is facing potential removal to a third country never considered by an IJ. Mr. Kucuk was granted withholding of removal to his home country, Turkey. His order of removal became final on April 18, 2025. He has now been detained for more than eight months beyond the date his removal order became final—well past the six-month presumptively reasonable detention period recognized in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Because of the grant of withholding, Mr. Kucuk cannot lawfully be removed to Turkey. There is no possibility that he can be deported to his home country, and there is no indication that he will be deported to a third country. Continued detention under these circumstances is unlawful. Temporary injunctive relief is therefore necessary to prevent further irreparable injury arising from Mr. Kucuk’s ongoing unconstitutional detention.

Mr. Kucuk recognizes that emergency motions should be rare, and that emergencies do not include situations where a party merely fails to manage litigation deadlines. This case is different. Mr. Kucuk remains detained well beyond the presumptively reasonable post-final-order period, and each additional day of detention constitutes an ongoing and irreparable deprivation of liberty. This motion is being filed now on an emergency basis because counsel could not seek this relief until they had an opportunity to speak to Mr. Kucuk. However, due to interpreter issues and then a lock down, counsel was not able to speak with Mr. Kucuk until December 24, 2025. After speaking with Mr. Kucuk, it was clear to counsel that there is absolutely no justification for his continued detention, and he must be released

1 immediately. Because the court was closed between December 24 and December 26,  
2 counsel is filing this emergency motion at the first available opportunity.

3 Mr. Kucuk brings this Emergency Motion under Local Rule 7-4. Undersigned  
4 counsel has conferred with Respondents' counsel regarding the relief sought, but  
5 Respondents have not responded. Pursuant to LR 7-4(a), undersigned counsel  
6 submits a supporting declaration with this motion.

7 Mr. Kucuk remains detained each day in violation of *Zadvydas*, and emergency  
8 relief is necessary to prevent continued unlawful detention while the habeas petition  
9 remains pending. The requested temporary restraining order ("TRO") would address  
10 the irreparable injury Mr. Kucuk is suffering by: (1) ordering his immediate release  
11 on an order of supervision ("OSUP"); (2) prohibiting Respondents from revoking  
12 OSUP absent compliance with required statutory procedures; and (3) prohibiting  
13 removal to a third country without advance notice and an opportunity to seek  
14 reopening before an immigration judge.

15 Granting this relief would not break new ground. Courts have repeatedly  
16 granted temporary restraining orders or preliminary injunctions ordering release  
17 from post-final-order detention and preventing third-country removals where, as  
18 here, there is no significant likelihood of removal in the reasonably foreseeable future.  
19 *See, e.g., Rodriguez-Gutierrez v. Noem*, No. 25-cv-02726-BAS-SBC (S.D. Cal. Nov. 7,  
20 2025); *Phetsadakone v. Scott*, 2025 WL 2579569, at \*6 (W.D. Wash. Sept. 5, 2025);  
21 *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at \*7 (E.D. Cal. July  
22 16, 2025); *Phan v. Becerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at \*7  
23 (E.D. Cal. July 16, 2025); *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at  
24 \*29 (W.D. Wash. Aug. 21, 2025). Courts have likewise granted TROs barring third-  
25 country removals without due process. *See, e.g., J.R. v. Bostock*, 25-cv-01161-JNW,  
26 2025 WL 1810210 (W.D. Wash. June 30, 2025); *Vaskanyan v. Janecka*, 25-cv-01475-


1 MRA-AS, 2025 WL 2014208 (C.D. Cal. June 25, 2025); *Ortega v. Kaiser*, 25-cv-05259-  
2 JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025).

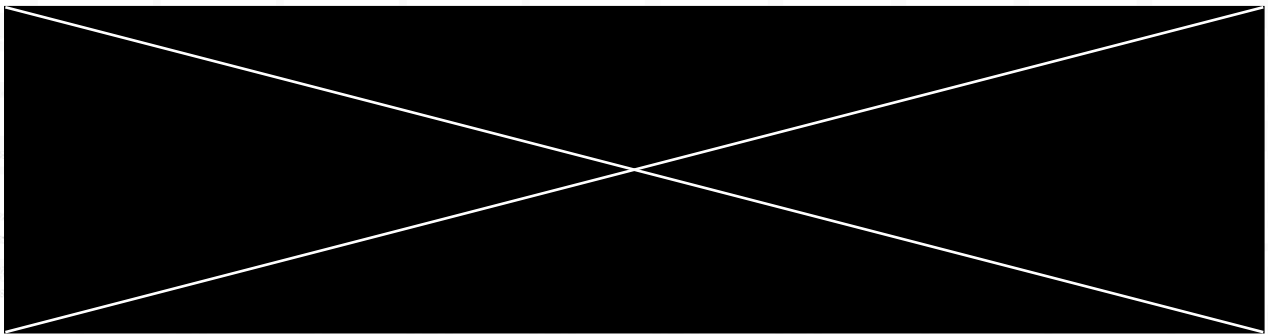
3 Moreover, courts in this District have reached the same result under  
4 materially similar circumstances. See *Barka v. Mattos*, No. 2:25-cv-01781-GMN-  
5 MDC, 2025 WL 3723998 (D. Nev. Dec. 23, 2025) (order granting § 2241 petition under  
6 *Zadvydas*); *Cavieres Gomez v. Mattos*, No. 2:25-cv-00975-GMN-BNW, 2025 WL  
7 3101994, at \*6–7 (D. Nev. Nov. 6, 2025); *Shadalo v. Mattos*, No. 2:25-cv-02076-RFB-  
8 BNW, 2025 WL 3568234 (D. Nev. Dec. 14, 2025). Mr. Kucuk therefore respectfully  
9 requests that this Court grant this TRO.

#### 10 STATEMENT OF FACTS

11 Mr. Kucuk incorporates by reference the factual allegations set forth in his  
12 Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. The facts  
13 summarized below are provided to supply additional background relevant to the  
14 requested temporary relief.

15 Mr. Kucuk is a 44-year-old citizen of Turkey. Prior to his detention, he lived  
16 and worked in Turkey, where he owned and operated a small textile business. He has  
17 no known criminal history.

18 In July 2016, Mr. Kucuk was beaten at his workplace by Turkish police, despite  
19 having committed no crime.<sup>1</sup> Around that time, Mr. Kucuk had 



26 <sup>1</sup> Pet'r's Exs. 1; 2.

27 <sup>2</sup> *Id.*

1 [REDACTED]

2 [REDACTED]

3 Fearing for his safety, Mr. Kucuk left Turkey on August 1, 2024, and

4 eventually arrived in the United States. Upon arrival at the San Diego port of entry,

5 he voluntarily surrendered to U.S. authorities and requested asylum. He traveled to

6 this country with his brother, Umutcan, who also surrendered himself and sought

7 asylum.<sup>5</sup> After a brief period of detention, Umutcan was released on bond. Even

8 though Mr. Kucuk was similarly situated to his brother, he was held in custody.

9 Although Mr. Kucuk's asylum application was denied, he was granted

10 withholding of removal to Turkey. As a result, the government is legally prohibited

11 from removing him to his home country. During removal proceedings, the

12 immigration judge indicated that Mr. Kucuk would be released from detention within

13 approximately one month of the order entered on March 19, 2025. This order only

14 lists Turkey as the removal country; no alternative country is listed.

15 Mr. Kucuk's order of removal became final on April 18, 2025. Despite the

16 immigration judge's statement, he has now been detained for more than nine months

17 since the order was entered and more than eight months since it became final. Mr.

18 Kucuk has not received any notice of removal to an identified third country.

19 Approximately four months ago, an ICE officer acknowledged to him that they could

20 not remove him to another country. They told him that they intended to remove him

21 to a third country. He told them he did not want to go to a third country. Then, two

22 months ago, an ICE officer told him that they were still searching for a safe third

23 country that would accept him. Mr. Kucuk suggested Canada because he has family

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25 <sup>3</sup> *Id.*

26 <sup>4</sup> *Id.*

27 <sup>5</sup> In his fear interview, Mr. Kucuk provided his brother Umutcan's A number, [REDACTED] Pet'r's Ex. 2 at 6.

1 members there. The ICE officer rejected the request, telling him that it was ICE that  
2 would decide what country. During that meeting, the ICE officers did not name any  
3 potential third countries. Mr. Kucuk has not heard anything from ICE officers about  
4 a possible removal since that meeting.

5 Mr. Kucuk has close family ties in the United States, including brothers and  
6 cousins who are prepared to support him upon release. Nevertheless, he remains in  
7 immigration detention without any meaningful prospect of removal.

### 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 an emergency temporary restraining order  
2 because “immediate and irreparable injury . . . or damage” is occurring and will  
3 continue in the absence of an order. Fed. R. Civ. P. 65(b). Not only have  
4 Respondents continued to detain Mr. Kucuk in violation of his due process,  
5 statutory, and regulatory rights, but ICE policy also allows them to remove him to a  
6 third country in violation of his due process, statutory, and regulatory rights. This  
7 Court should order Mr. Kucuk’s release and enjoin removal to a third country with  
8 no or inadequate notice.

9 **I. Mr. Kucuk will likely succeed on the merits, or at a minimum, he**  
10 **raises serious merits questions.**

11 In his § 2241 petition, Mr. Kucuk raises five claims that he has been  
12 unconstitutionally detained and that he cannot be removed to a third country. Mr.  
13 Kucuk addresses the merits of each claim below:

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

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

1 After six months, detention ceases to be presumptively reasonable. Courts  
2 use a burden-shifting framework to decide whether detention remains authorized.  
3 First, the petitioner must prove that there is “good reason to believe that there is no  
4 significant likelihood of removal in the reasonably foreseeable future.” *Id.* If he does  
5 so, the burden shifts to “the Government [to] respond with evidence sufficient to  
6 rebut that showing.” *Id.* Ultimately, then, the burden of proof rests with the  
7 government: The government must prove that there is a “significant likelihood of  
8 removal in the reasonably foreseeable future,” or the immigrant must be released.  
9 *Id.*

10 Here, Mr. Kucuk was ordered removed on March 19, 2025, and the order  
11 became final on April 18, 2025. He has now been detained for over **eight months**  
12 **since the removal order became final.** Due to the grant of withholding, there is  
13 no possibility of removal to Turkey. There is also no indication that there is a  
14 reasonable likelihood of removal to any third country. He has not been given notice  
15 of removal to an identified third country. There has been no indication that ICE has  
16 made any real attempt to obtain travel documents from any third country to effect a  
17 third country removal. In fact, he was recently told that ICE has not been able to  
18 identify a potential third country. Mr. Kucuk has not been provided any further  
19 information since then. Vague statements from ICE officers that they intend to  
20 remove someone to a third country do not establish, in any way, that there is a  
21 significant likelihood of removal in the reasonably foreseeable future. To the  
22 contrary, courts in this district and within the circuit have routinely found that  
23 generalized statements like these are insufficient. *See, e.g., Gomez v. Mattos*, No.  
24 2:25-cv-00975-GMN-BNW, 2025 WL 3101994 at \*6 (D. Nev. Nov. 6, 2025); *Singh v.*  
25 *Gonzales*, 448 F. Supp. 2d 1214, 1220 (W.D. Wash. 2006); *Hoac v. Becerra*, No. 2:25-  
26 CV-01740-DC-JDP, 2025 WL 1993771, at \*3 (E.D. Cal. July 16, 2025). Indeed, in  
27 cases such as *Singh* and *Hoac*, the Government had at least identified a specific

1 country for removal; here, no country has even been identified. In sum, there is no  
2 reliable or specific evidence that deportation is reasonably foreseeable.

3 Under nearly identical facts, a judge in this District has already concluded  
4 that prolonged post-final-order detention violates *Zadvydas* and ordered release. In  
5 *Barka v. Mattos, et al.*, the petitioner had been granted withholding of removal after  
6 surrendering himself and seeking asylum, remained detained well beyond six  
7 months post-final order, and faced no significant likelihood of removal. The court  
8 held that continued detention was unlawful and granted habeas relief. *See Barka v.*  
9 *Mattos, et al.*, No. 2:25-cv-01781-GMN-MDC, Order Granting Petition for Writ of  
10 Habeas Corpus (D. Nev. Dec. 23, 2025). Mr. Kucuk's circumstances are materially  
11 indistinguishable. He will certainly prevail on the merits.

12 **B. Mr. Kucuk is likely to succeed on the merits of his claim that**  
13 **ICE violated its own regulations in continuing to detain him**  
14 **(Ground 3).**

15 Under the Administrative Procedures Act (APA), a court must hold unlawful  
16 and set aside agency action found to be “arbitrary, capricious, an abuse of  
17 discretion, or otherwise not in accordance with law” or “without observance of  
18 procedure required by law.” 5 U.S.C. §706(2). An agency action is “arbitrary and  
19 capricious if the agency has relied on factors which Congress has not intended it to  
20 consider, entirely failed to consider an important aspect of the problem, offered an  
21 explanation for its decision that runs counter to the evidence before the agency, or is  
22 so implausible that it could not be ascribed to a difference in view or the product of  
23 agency expertise.” *Motor Vehicles Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto.*  
24 *Ins. Co.*, 463 U.S. 29, 43 (1983). Courts “defer to an agency's determinations so long  
25 as the agency ‘gives adequate reasons for its decisions, in the form of a satisfactory  
26 explanation for its action including a rational connection between the facts found  
27 and the choice made.” *Nat. Res. Def. Council, Inc. v. United States Env't Prot.*  
*Agency*, 961 F.3d 160, 170 (2d Cir. 2020) (cleaned up).

1 As noted in 8 C.F.R. §241.4, before the end of the 90-day removal period, the  
2 local ICE field office with jurisdiction over a noncitizen's detention must conduct a  
3 custody review to determine whether the noncitizen should remain detained. *See* 8  
4 C.F.R. § 241.4(c)(1), (h)(1), (k)(1)(i). A copy of any decision to release or continue to  
5 detain a noncitizen "shall be provided to the detained [noncitizen]." 8 C.F.R.  
6 §241.4(d). Where ICE decides that a noncitizen will stay detained, the decision  
7 provided to the noncitizen "shall briefly set forth the reasons for the continued  
8 detention." *Id.* The criteria for determining if continued detention is warranted  
9 mainly concerns whether the noncitizen presents a risk of flight or danger to the  
10 community. 8 C.F.R. §241.4(e). The review panel members must also determine that  
11 travel documents are not available or that "immediate removal, while proper, is  
12 otherwise not practicable or not in the public interest." *Id.*

13 Upon information and belief, Mr. Kucuk has never been informed of the  
14 reasons why he remains detained. There is also no evidence that an actual review  
15 has taken place. This break with protocol suggests that ICE never actually  
16 performed an individualized assessment of whether continued detention was  
17 warranted in Mr. Kucuk's case. It is likely that an individualized custody  
18 determination would have resulted in the release of Mr. Kucuk because there is no  
19 significant evidence to establish that he presents either a flight risk or a danger to  
20 the community. Indeed, his brother, who was similarly situated, was released on  
21 bond. Furthermore, he cannot be removed to Turkey, and has no legal status in any  
22 other country, so he does not have any travel documents that ICE could use to  
23 remove him. There has also been no indication that ICE has made any real attempt  
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1 to obtain travel documents from any third country to effect a third country  
2 removal.<sup>6</sup>

3 Because there is no evidence that Respondents found Mr. Kucuk to be a  
4 danger or a flight risk, or that he had travel documents, the decision to continue  
5 detaining him violates DHS's own regulations. "It is a familiar rule of  
6 administrative law that an agency must abide by its own regulations." *Fort Stewart*  
7 *Schs. v. Fed. Lab. Rels. Auth.*, 495 U.S. 641, 654 (1990); *see also United States ex rel*  
8 *Accardi v. Shaughnessy*, 347 U.S. 260 (1954) (holding that government agencies are  
9 required to follow their own regulations). In addition, continuing to detain Mr.  
10 Kucuk is contrary to ICE's longstanding policy of releasing individuals granted  
11 withholding of removal absent an exceptional reason not to do so. Even the new  
12 directives regarding removal to third countries, which on their face are  
13 unconstitutional and in violation of the INA because they fail to provide the  
14 requisite due process and comply with the regulations, do not provide any reason  
15 that a noncitizen in Mr. Kucuk's position should not be released. Accordingly, Mr.  
16 Kucuk's continued detention violates the APA because it is arbitrary and capricious  
17 and not in accordance with law.

18 Because officials have not followed the regulations in continuing to detain  
19 Mr. Kucuk, this Court will likely find that he is entitled to his release on an order of  
20 supervision.

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23 <sup>6</sup> Compare with *Medina v. Noem*, No. 25-CV-1768-ABA, 2025 WL 2306274, at \*1 (D.  
24 Md. Aug. 11, 2025) (ICE informed Honduran Kucuk in writing of intent to remove  
25 him to El Salvador and that his case was "under current review by El Salvador for  
26 the issuance of a travel document"); *I.V.I. v. Baker*, No. CV JKB-25-1572, 2025 WL  
27 1811273, at \*1 (D. Md. July 1, 2025) (ICE informed Honduran Kucuk in writing of  
intent to remove him to Mexico).

1           **C. Mr. Kucuk is likely to succeed on the merits of his claim that**  
2           **he is entitled to adequate notice and an opportunity to be**  
3           **heard prior to any third country removal (Grounds 4 and 5).**

4           Finally, Mr. Kucuk is likely to succeed on the merits of his claim that he may  
5           not be removed to a third country absent adequate notice and an opportunity to be  
6           heard.

7           U.S. law enshrines protections against dangerous and life-threatening  
8           removal decisions. By statute, the government is prohibited from removing an  
9           immigrant to any third country where a person may be persecuted or tortured, a  
10          form of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A).  
11          The government “may not remove [a noncitizen] to a country if the Attorney  
12          General decides that the [noncitizen's] life or freedom would be threatened in that  
13          country because of the [noncitizen's] race, religion, nationality, membership in a  
14          particular social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16,  
15          1208.16. Withholding of removal is a mandatory protection.

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

25          To comport with the requirements of due process, the government must  
26          provide notice of the third country removal and an opportunity to respond. Due  
27          process requires “written notice of the country being designated” and “the statutory  
                basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v.*

1 *Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); accord *D.V.D. v. U.S. Dep't*  
2 *of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at \*1 (D. Mass. May  
3 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

4 Due process also requires the following: “[A]sk[ing] the noncitizen whether he  
5 or she fears persecution or harm upon removal to the designated country and  
6 memorialize in writing the noncitizen's response. This requirement ensures DHS  
7 will obtain the necessary information from the noncitizen to comply with section  
8 1231(b)(3) and avoids [a dispute about what was said].” *Aden*, 409 F. Supp. 3d at  
9 1019. “Failing to notify individuals who are subject to deportation that they have  
10 the right to apply for asylum in the United States and for withholding of  
11 deportation to the country to which they will be deported violates both INS  
12 regulations and the constitutional right to due process.” *Andriasian*, 180 F.3d at  
13 1041.

14 If the noncitizen claims fear, measures must be taken to ensure that the  
15 noncitizen can seek asylum, withholding, and relief under CAT before an  
16 immigration judge in reopened removal proceedings. The amount and type of notice  
17 must be “sufficient” to ensure that “given [a noncitizen’s] capacities and  
18 circumstances, he would have a reasonable opportunity to raise and pursue his  
19 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009 (citing  
20 *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132 F.3d 405,  
21 408 (7th Cir. 1998)); cf. *D.V.D.*, 2025 WL 1453640, at \*1 (requiring a minimum of 15  
22 days notice).

23 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,  
24 180 F.3d at 1041; accord *Najjar v. Lunch*, 630 Fed. App’x 724 (9th Cir. 2016), and  
25 for good reason: To have a meaningful opportunity to apply for fear-based protection  
26 from removal, immigrants must have time to prepare and present relevant  
27 arguments and evidence. Merely telling a person where they may be sent, without

1 giving them a chance to look into country conditions, does not give them a  
2 meaningful chance to determine whether and why they have a credible fear.

3 Respondents' third country removal policy skips over these statutory and  
4 constitutional procedural protections. According to ICE's July 9, 2025 Directive,  
5 individuals can be removed to third countries "without the need for further  
6 procedures," so long as "the [U.S.] has received diplomatic assurances."<sup>7</sup> Mr. Kucuk  
7 is likely to succeed on the merits of his claim on this fact alone, because the policy  
8 instructs officers to provide no notice or opportunity to be heard of any kind. The  
9 same is true of the minimal procedures ICE offers when no diplomatic assurances  
10 are present. The policy provides no meaningful notice (only 6-24 hours), instructs  
11 officers not to ask about fear, and provides no actual opportunity to see counsel and  
12 prepare a fear-based claim (6-24 hours), let alone reopen removal proceedings. In  
13 sum, it directs ICE officers to violate the rights of those whom they seek to subject  
14 to the third country removal program.

15 Faced with similar arguments, several courts have recently granted  
16 individual TROs against removal to third countries. *See Rodriguez-Gutierrez*, No.  
17 25-cv-02726-BAS-SBC (S.D. Cal. Nov. 7, 2025) *J.R.*, 2025 WL 1810210; *Vaskanyan*,  
18 2025 WL 2014208; *Ortega*, 2025 WL 1771438; *Hoac*, 2025 WL 1993771, at \*7; *Phan*,  
19 2025 WL 1993735, at \*7.

20 Because ICE's new policies for third country removal fail to comply with  
21 existing law, they also violate the Administrative Procedures Act. Furthermore,  
22 given the blatant unlawfulness and unconstitutionality of ICE's policies, Mr.  
23 Kucuk's detention under the color of those policies is unlawful.

24 This Court will likely rule in Mr. Kucuk's favor on these claims.  
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27 <sup>7</sup> Pet'r's Ex. 3.

1 **II. Mr. Kucuk continues to suffer irreparable harm absent injunctive**  
2 **relief.**

3 Mr. Kucuk also meets the second factor: irreparable harm. “It is well  
4 established that the deprivation of constitutional rights ‘unquestionably constitutes  
5 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)  
6 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged deprivation  
7 of a constitutional right is involved, most courts hold that no further showing of  
8 irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th  
9 Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and Procedure*,  
10 § 2948.1 (2d ed. 2004)).

11 Mr. Kucuk easily meets this standard here. Unlawful detention itself  
12 “constitutes extreme or very serious damage, and that damage is not compensable  
13 in damages.” *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017) (internal  
14 citations omitted). Mr. Kucuk has been in custody for eight months since his  
15 removal order became final. That is three months beyond the six months of time the  
16 Government is presumptively granted under *Zadvydas* to effectuate a removal.

17 Third-country deportations increase the danger of irreparable injury here.  
18 Recent third-country deportees have been held, indefinitely and without charge,  
19 hazardous foreign prisons.<sup>8</sup> They have been subjected to solitary confinement.<sup>9</sup>  
20 They have been removed to countries so unstable that the U.S. government  
21 recommends making a will and appointing a hostage negotiator before traveling to

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23 <sup>8</sup> Edward Wong et al., *Inside the Global Deal-Making Behind Trump’s Mass*  
24 *Deportations*, N.Y. Times (Jun. 25, 2025), available at  
25 [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)

26 <sup>9</sup> Gerald Imray, *Men deported by US to Eswatini in Africa will be held in*  
27 *solitary confinement for undetermined time*, Associated Press (Jul. 18, 2025),  
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)

1 them.<sup>10</sup> These and other threats to Mr. Kucuk’s health and life independently  
2 constitute irreparable harm.

3 **III. The balance of hardships and the public interest weigh heavily in**  
4 **Mr. Kucuk’s favor**

5 The final two factors for a TRO—the balance of hardships and public interest—  
6 “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S.  
7 418,435 (2009). That balance tips decidedly in Mr. Kucuk’s favor.

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

17 Mr. Kucuk also faces weighty hardships: unlawful, indefinite detention and  
18 possible removal to a third country where he may likely suffer imprisonment or  
19 other serious harm. The balance of equities thus favors preventing the violation of  
20 “requirements of federal law,” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053,  
21 1069 (9th Cir. 2014), by granting emergency relief to protect against unlawful  
22 detention and prevent unlawful third country removal.

23 **CONCLUSION**

24 For those reasons, Mr. Kucuk requests that this Court issue a temporary  
25 restraining order.

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<sup>10</sup> *See Wong, supra.*

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Dated December 29, 2025.

Respectfully submitted,

Rene L. Valladares  
Federal Public Defender

*/s/ Jennifer Joseph*  
Jennifer Joseph  
Assistant Federal Public Defender

*/s/ Jonathan M. Kirshbaum*  
Jonathan M. Kirshbaum  
Assistant Federal Public Defender

1                   **DECLARATION IN SUPPORT OF EMERGENCY MOTION**

2           1.       My name is Jennifer Joseph. I am an Assistant Federal Public  
3 Defender in the district of Nevada. I am one of the attorneys representing Mehmet  
4 Kucuk in this case, Case No. 2:25-cv-02285-APG-MDC.

5           2.       Mr. Kucuk has been in custody since April 2025, in violation of his  
6 constitutional rights and the Government's own policies, as outlined in the petition  
7 (ECF No. 2).

8           3.       This case constitutes an emergency because Mr. Kucuk has already  
9 been detained for many months after his removal order became final, even though  
10 he was granted withholding of removal and cannot be sent back to Turkey. As a  
11 result, his detention continues with no clear end in sight.

12           4.       Due to interpreter issues and then a lock down, I was not able to speak  
13 with Mr. Kucuk until December 24, 2025. After speaking with Mr. Kucuk, it was  
14 clear to me that there is no justification for his continued detention, and he must be  
15 released immediately. Because the court was closed between December 24 and  
16 December 26, I am filing this emergency motion at the first available opportunity.

17           5.       My office number is 702-388-6577. My address is 411 E. Bonneville  
18 Ave., Ste. 250, Las Vegas, Nevada 89101.

19           6.       According to his notice of appearance (ECF No. 8), Attorney for  
20 Respondents is Tamer B. Botros. His number is 702-388-6336 and his address is  
21 501 Las Vegas Blvd. So., Suite 1100, Las Vegas, Nevada 89101.

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7. I reached out to AUSA Tamer Botros on December 24, 2025, requesting Mr. Kucuk's immediate release from detention. As of the signing of this declaration, we have not received a response.

I declare under penalty of perjury that the forgoing statement is true. This statement was executed in Las Vegas, Nevada, on December 29, 2025.

/s/ Jennifer Joseph  
Jennifer Joseph  
Assistant Federal Public Defender

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been filed on December 29, 2025. I personally served a true and correct copy of the foregoing index and exhibits in support of the first amended petition by CM/ECF to the following individuals:

Tamer B. Botros DOJ-USAO 501 Las Vegas Blvd. South Ste # 1100 Las Vegas, NV 89143 Email: tamer.botros@usdoj.gov	Virginia Tomova DOJ-USAO 501 Las Vegas Blvd., S. Suite 1100 Las Vegas, NV 89101 Email: virginia.tomova@usdoj.gov
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I further 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:

Mehmet Kucuk Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89060	Kristi Noem Secretary, United States Department of Homeland Security 245 Murray Lane SW Washington, DC 20528
John Mattos Warden Nevada Southern Detention Center 2190 E. Mesquite Ave., Pahrump, NV 89060	Pam Bondi Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-001
Todd Lyons Acting Director U.S. Immigration and Customs Enforcement 500 12th Street SW Washington, DC 20536	Director Michael Bernacke ICE Enforcement and Removal Operations Field Office 2975 Decker Lake Drive, Suite 100 West Valley City, UT 84119
Sigal Chattah First Assistant, US Attorney for the District of Nevada 501 Las Vegas Blvd, South Las Vegas, NV 89101 Email: sigal.chattah@usdoj.gov	Ashlee Hesman Struck Love Acedo, PLC 3100 West Ray Road Suite 300 Chandler, AZ 85226 Email: ahesman@strucklove.com

*/s/ Victoria Lenzi*  
 \_\_\_\_\_  
 An Employee of the  
 Federal Public Defender