

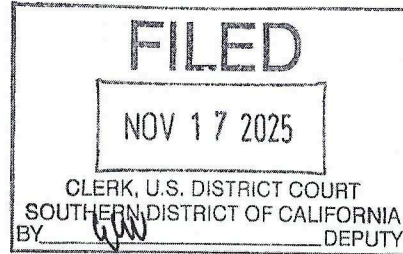
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**Samir Paudel**



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

Pro Se<sup>1</sup>



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

SAMIR PAUDEL,

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.: '25CV3174 AGS BLM

**Motion for a  
Temporary Restraining Order**

Samir Paudel has spent over 8 months in immigration detention. Despite his full cooperation with ICE, ICE has not been able to remove him to his native country of Nepal. He has a strong claim to release, and every additional day in detention works irreparable harm. And ICE's policy permits his removal to a third country with little or no notice. This Court should therefore enter a temporary restraining order ("TRO") pending further litigation.

<sup>1</sup> Mr. Paudel is filing this petition for a writ of habeas corpus and all associated documents with the assistance of the Federal Defenders of San Diego, Inc. As explained in the motion to appoint counsel, Federal Defenders has consistently used this procedure in seeking appointment for immigration habeas cases.

1  
2 **Argument**

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

21 Here, this Court should issue a temporary restraining order because his  
22 unlawful immigration detention has caused, and will continue to cause,  
23 “immediate and irreparable injury . . . or damage.” Fed. R. Civ. P. 65(b). This  
24 Court should therefore order Petitioner’s release and enjoin removal to a third  
25 country with no or inadequate notice.

26 **I. Petitioner is likely to succeed on the merits, or at a minimum, raises  
27 serious merits questions.**

28 Concurrent with this TRO motion, Mr. Paudel files a habeas petition setting  
forth in detail why he is likely to succeed on the merits. Mr. Paudel will not repeat

1 those arguments here, but he provides some examples of recent TRO or habeas  
2 petition grants in this district related to the claims he raises in this petition.

3 *Zadvydass violations: See Quoc Nguyen v. Noem*, 25-cv-2791-BAS (S.D.  
4 Cal. Nov. 7, 2025); *Thanh Nguyen v. Noem*, 25-cv-2760-TWR-KSC, ECF No. 12  
5 (Oct. 23, 2025); *Conchas-Valdez*, 2025 WL 2884822, No. 25-cv-2469-DMS (S.D.  
6 Cal. Oct. 6, 2025); *Alic v. Dep't of Homeland Sec./Immigr. Customs Enft*, No. 25-  
7 CV-01749-AJB-BLM, 2025 WL 2799679 (S.D. Cal. Sept. 30, 2025); *Rebenok v.*  
8 *Noem*, No. 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept. 25, 2025).

9 *Third-country removal statutory and due process violations: See, e.g.,*  
10 *Rebenok v. Noem*, No. 25-cv-2171-TWR at ECF No. 13; *Van Tran v. Noem*, 2025  
11 WL 2770623 at \*3; *Paudel Tran v. Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D.  
12 Cal. Sept. 18, 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-2502-  
13 JES, \*4 (S.D. Cal. Oct. 9, 2025).

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

15 Petitioner also meets the second factor, irreparable harm. “It is well  
16 established that the deprivation of constitutional rights ‘unquestionably constitutes  
17 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)  
18 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged deprivation  
19 of a constitutional right is involved, most courts hold that no further showing of  
20 irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02  
21 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and*  
22 *Procedure*, § 2948.1 (2d ed. 2004)).

23 Here, the potential irreparable harm to Petitioner is even more concrete. The  
24 Ninth Circuit has specifically recognized the “irreparable harms imposed on anyone  
25 subject to immigration detention.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th  
26 Cir. 2017). That is because “[u]nlawful detention constitutes ‘extreme or very  
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1 serious damage, and that damage is not compensable in damages.” *Hernandez v.*  
2 *Sessions*, 872 F.3d 976, 999 (9th Cir. 2017).

3 The psychological effects on Mr. Paudel underscore the point. He has started  
4 taking antidepressants and sleeping pills as a result of his indefinite detention. Exh.  
5 A to Habeas Petition (“Paudel Dec.”) at ¶ 7.

6 Finally, “[i]t is beyond dispute that Petitioner would face irreparable harm  
7 from removal to a third country.” *Nguyen*, 2025 WL 2419288, at \*26. Recent third-  
8 country deportees have been held, indefinitely and without charge, in hazardous  
9 foreign prisons. *See Wong et al., supra*. They have been subjected to solitary  
10 confinement. *See Imray, supra*. They have been removed to countries so unstable  
11 that the U.S. government recommends making a will and appointing a hostage  
12 negotiator before traveling to them. *See Wong, supra*. These and other threats to  
13 Petitioner’s health and life independently constitute irreparable harm.

14 **III. The balance of hardships and the public interest weigh heavily in**  
15 **petitioner’s favor.**

16 The final two factors for a TRO—the balance of hardships and public  
17 interest—“merge when the Government is the opposing party.” *Nken v. Holder*,  
18 556 U.S. 418, 435 (2009). That balance tips decidedly in Petitioner’s favor. On the  
19 one hand, the government “cannot reasonably assert that it is harmed in any legally  
20 cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d  
21 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent  
22 violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S.  
23 at 436 (describing public interest in preventing noncitizens “from being wrongfully  
24 removed, particularly to countries where they are likely to face substantial harm”);  
25 *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019)  
26 (when government’s treatment “is inconsistent with federal law, . . . the balance of  
27 hardships and public interest factors weigh in favor of a preliminary injunction.”).  
28 On the other hand, Petitioner faces weighty hardships: unlawful, indefinite

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

6 **IV. Petitioner gave the government notice of this TRO, and the TRO should**  
7 **remain in place throughout habeas litigation.**

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

13 Additionally, Petitioner requests that this TRO remain in place until the  
14 habeas petition is decided. Fed. R. Civ. Pro. 65(b)(2). Good cause exists, because  
15 the same considerations will continue to warrant injunctive relief throughout this  
16 litigation, and habeas petitions must be adjudicated promptly. *See In re Habeas*  
17 *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: 11/16/2025

Respectfully submitted,



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**SAMIR PAUDEL**

Petitioner

**PROOF OF SERVICE**

I, the undersigned, will cause the attached Motion for a Temporary Restraining Order to be emailed to Janet Cabral, [janet.cabral@usdoj.gov](mailto:janet.cabral@usdoj.gov), when I receive the court-stamped copy.

Date: 11/17/2025

/s/ Katie Hurrelbrink  
Katie Hurrelbrink