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13 UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

14 Humberto Perez,  
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16 Petitioner,  
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18 v.  
Pam Bondi, U.S. Attorney General, et al.,  
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20 Respondents.

Case No. 2:25-cv-02390-CDS-BNW  
**Emergency Motion for Temporary  
Restraining Order and/or  
Preliminary Injunction**

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**MEMORANDUM IN SUPPORT OF MOTION**

Petitioner respectfully requests this Court’s immediate action for the reasons stated below.

**A. Background**

Petitioner is a Cuban national detained by Immigration and Customs Enforcement (ICE) at Nevada Southern Detention Center (NSDC). There is dispute between the parties regarding whether Petitioner may be removed to the third country of Mexico, and if so, what procedural safeguards would be required before such a removal. It is beyond dispute that Petitioner cannot be removed to Cuba, because he is in grave danger of persecution and torture there, as was recently determined by an immigration judge.

On October 24, 2025, an immigration judge granted Petitioner’s withholding of removal pursuant to the Immigration and Nationality Act (INA). *See* Ex. 3. Upon information and belief, the relief granted was based upon Petitioner’s persecution by [REDACTED] prior to obtaining asylum in the United States in February of 2002, including his unjustified [REDACTED] for 3 years. Ex. 1, Affidavit by Mr. Perez at 5-6. Petitioner was born on [REDACTED] in Villa Clara, Cuba. *Id.* at 3. In 1994, when he was 21-years old, Petitioner joined the

[REDACTED]

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5 *Id.* at 5. He was charged with attempting to illegally exit the country. *Id.* While

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10 Petitioner. *Id.* at 5. The American Embassy in Cuba ultimately contacted Petitioner  
11 and gave him an interview at their facility in Guantanamo Bay. *Id.* at 5. Petitioner  
12 was given a refugee visa and, on February 23, 2002, left Cuba along with his wife.  
13 *Id.* Petitioner originally settled in Utah but moved to Las Vegas shortly thereafter.  
14 *Id.* at 6. Since being admitted into the United States, Petitioner has had 5 children,  
15 the oldest being 23 and the youngest 13 years old. *Id.*

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17 On or about June 3, 2025, Petitioner was stopped by police and told he had  
18 an order for arrest in Las Vegas for driving without insurance and a driver's license.  
19 *Id.* at 7. Ultimately his case was dismissed, but Petitioner remained in custody  
20 under an ICE detainer and, on or about July 3, 2025, was transported to NSDC. *Id.*

21  
22 On October 24, 2025, Petitioner was granted withholding of removal. *See Ex.*  
23 3. The Government filed an appeal with the Board of Immigration Appeals (BIA) on  
24 November 6, 2025. Upon information and belief, no briefing dates have been set as  
25 of yet.  
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## B. ICE's Threats and Mock Deportations

1           On or about November 9, 2025, Respondents' officers woke Petitioner from  
2 his cell at around 3 a.m. *See* Ex. 1, Affidavit by Mr. Perez, at 14. Over the course of  
3 the day—and without any prior notice regarding the events of that day—  
4 Respondents led Petitioner to believe he was about to be deported to Mexico. *Id.* He  
5 was first taken to the ICE office in Las Vegas. *Id.* There, Petitioner was ordered to  
6 sign a document so he could be deported to Mexico. Petitioner refused to sign. *Id.*  
7 Petitioner was then taken with many other detained men on a bus that parked at  
8 Harry Reid International Airport. *Id.* He again refused to be deported to Mexico.  
9 After hours spent at the ICE office and on a bus at the airport, Petitioner watched  
10 as the other men were boarded on a plane. *Id.* Petitioner was taken back to NSDC.  
11 *Id.*

12           The above-noted actions were repeated shortly thereafter. *Id.* at 15. On that  
13 second occasion, Petitioner was taken to the same ICE office with approximately 10  
14 other individuals. *Id.* He was again presented with a document. *Id.* Per the ICE  
15 agent who translated, the document threatened Petitioner with 4 years of prison if  
16 he didn't sign. *Id.* Petitioner again refused and was transported back to NSDC. *Id.*  
17 No interview was provided to assess whether Petitioner feared being removed to  
18 Mexico occurred during either of the above-noted attempts to deport him. *Id.* at 16.

## C. Petitioner's Severe Health Issues

19           Petitioner suffers from serious medical issues that have been exacerbated by  
20 Respondents' above-noted actions.  
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1           Petitioner suffers from high blood pressure, which caused him to suffer  
2 strokes in 2013 and again in 2020. *Id.* at 8; *see also* Ex. 5, Medical Records (filed  
3 under seal). The strokes left him with numerous physical and psychological  
4 difficulties that require regular medical supervision and care, including “cognitive  
5 impairment consistent with dementia.” Ex. 5 at 1. In addition, Petitioner’s body is  
6 partially paralyzed. Ex. 1, Affidavit by Mr. Perez at 8. He cannot use his right arm  
7 and hand. *Id.* In addition, Petitioner has difficulty remembering. *Id.*

9           Prior to being detained by ICE, Petitioner would see his primary doctor in  
10 Las Vegas every six months for checkups. *Id.* at 9. Since being detained by ICE,  
11 Petitioner’s medical condition has deteriorated. *Id.* Specifically, due to the  
12 conditions of his incarceration and the above-described events, Petitioner has been  
13 hospitalized twice following spikes in his blood pressure. *Id.* at 10-11. Petitioner’s  
14 first hospitalization occurred in late October or early November of 2025.<sup>1</sup> *Id.* at 10.  
15 Upon experiencing high blood pressure, cloudy vision, and disorientation, Petitioner  
16 sought assistance from NSDC staff. *Id.* In response, Petitioner was told to fill out a  
17 kite. *Id.* Upset over NSDC’s inaction, fellow inmates under immigration custody  
18 began loudly demanding Petitioner be transported to a hospital and pressed an  
19 emergency button in their cells. *Id.* Ultimately, NSDC officials relented and took  
20 Petitioner to a nearby hospital in Pahrump. *Id.* Petitioner was hospitalized for four  
21 days. *Id.* Doctors informed Petitioner that his symptoms were consistent with those  
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27           <sup>1</sup> Undersigned counsel is in the process of gathering the relevant hospital records.

1 that commonly precede a stroke. *Id.* Doctors also warned Petitioner regarding his  
2 pre-existing kidney problem,<sup>2</sup> noting that he might need to go on dialysis. *Id.*  
3 Finally, doctors changed Petitioner's high blood pressure medicine from Lisinopril  
4 to a stronger drug. *Id.* A few weeks following the above-described incident,  
5 Petitioner was hospitalized once again after he began experiencing similar  
6 symptoms. *Id.* at 11. After being seen by NSDC medical staff, Petitioner was  
7 transported in ambulance to the above-noted Pahrump hospital. *Id.* Petitioner was  
8 hospitalized for 3 days. *Id.*

9  
10 During both hospitalizations, Petitioner was kept handcuffed to the hospital  
11 bed. *Id.* In addition, prison guards kept watch over him. *Id.* Following Petitioner's  
12 second hospitalization, doctors diagnosed him with a defective heart valve, noting  
13 that the condition was causing his feet to swell. *Id.* It is unclear whether doctors  
14 recommended any follow up treatment on that medical issue. Regarding Petitioner's  
15 kidney issues, doctors once again warned Petitioner he might need to go on dialysis  
16 and prescribed him a blood thinner. *Id.*

17  
18 In addition to high blood pressure medicine and blood thinners, Petitioner  
19 takes medicine for high cholesterol. *Id.* at 12. Petitioner also strives to treat his  
20 kidney issue by drinking a lot of water. However, Petitioner believes the mineral-  
21 rich water in the prison is aggravating his condition. *Id.* Lastly, since being  
22 detained by Respondents, Petitioner has suffered dental problems. *Id.* at 13.  
23 Specifically, following his incarceration, one of Petitioner's molars broke off. *Id.*  
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<sup>2</sup> Petitioner has cysts in his kidneys.

1 Petitioner placed a kite for medical assistance, but, as of December 22, 2025, the  
2 problem had not been addressed by NDSC.

### 3 ARGUMENT

4 This court has habeas jurisdiction to consider conditions of confinement, and  
5 equitable jurisdiction to grant injunctions to remedy likely constitutional violations  
6 in immigration detention. *See Roman v. Wolf*, 977 F.3d 935, 941 (9th Cir. 2020). A  
7 court may grant a preliminary injunction to prevent “immediate and irreparable  
8 injury.” Fed. R. Civ. P. 65(b). A preliminary injunction is “an extraordinary remedy  
9 that may only be awarded upon a clear showing that the plaintiff is entitled to such  
10 relief.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). The standard  
11 for obtaining a TRO and a preliminary injunction is the same. *Quiroga v. Chen*, 735  
12 F. Supp. 2d 1226, 1228 (D. Nev. 2010). To obtain a TRO or preliminary injunction, a  
13 plaintiff must establish the following *Winter* factors: (1) a likelihood of success on  
14 the merits; (2) that the plaintiff will likely suffer irreparable harm in the absence of  
15 preliminary relief; (3) that the balance of equities tips in its favor; and (4) that the  
16 public interest favors an injunction. *Winter, Inc.*, 555 U.S. at 22.

17 Under this approach, the four *Winter* elements are “balanced, so that a  
18 stronger showing of one element may offset a weaker showing of another.” *All. for*  
19 *the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). A TRO may be  
20 granted where there are “serious questions going to the merits’ and a hardship  
21 balance ... tips sharply toward the plaintiff,” so long as the other *Winter* factors are  
22 met. *Id.* at 1132.

23 Here, the Court should issue a temporary restraining order because  
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1 “immediate and irreparable injury . . . or damage” is occurring and will continue in  
2 the absence of an order. Fed. R. Civ. P. 65(b). Specifically, this Court should issue a  
3 mandatory injunction ordering the release of Mr. Perez because Respondents’  
4 actions pose an imminent threat of “extreme or very serious damage” to Mr. Perez’  
5 life. *Hernandez v. Sessions*, 872 F.3d 976, 997 (9th Cir. 2017) (quoting *Marlyn*  
6 *Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 879 (9th Cir.  
7 2009)).

8  
9 Here, Respondents are threatening an extremely vulnerable and disabled  
10 individual with removal to Mexico in violation of his due process, statutory, and  
11 regulatory rights. Respondents’ unlawful and egregious conduct threatens  
12 irreparable harm to Petitioner’s health if not outright death. Because Mr. Perez  
13 meets the *Winter* factors, outlined below, this Court should order Petitioner’s  
14 immediate release from detention and enjoin Respondents from removing Petitioner  
15 to a third country during the pendency of his case. Alternatively, this Court should  
16 enjoin Respondents from transferring Petitioner out of district and removing him  
17 from his cell and engaging in conduct meant to threaten, intimidate, and hasten  
18 Petitioner’s deportation.

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21 **A. Petitioner is likely to succeed on the merits of his claims.**

22 Mr. Perez’ petition raises two claims: (1) ICE’s policy of removing noncitizens  
23 to third countries with no notice or opportunity to seek fear-based protection  
24 violates the Administrative Procedure Act, 5 U.S.C. § 706 (Ground One), and (2)  
25 detaining Petitioner on the basis of the above-noted policy violates the Fifth  
26 Amendment’s Due Process Clause (Ground Two). See ECF No. 2 at 16-17. Petitioner  
27

1 is likely to succeed on the merits of his claims.

2 As this Court recently found in *Cavieres Gomez v. Mattos*, No. 2:25-cv-00975-  
3 GMN-BNW, 2025 WL 3101994 at \*6–7 (D. Nev. Nov. 6, 2025), Petitioners such as  
4 Mr. Perez have a due process right to receive meaningful notice and opportunity to  
5 present a fear-based claim to an immigration judge before being deported to a third  
6 country. “Immigration proceedings must provide the procedural due process  
7 protections guaranteed by the Fifth Amendment.” *Vilchez v. Holder*, 682 F.3d 1195,  
8 1199 (9th Cir. 2012) (citing *Lacsina Pangilinan v. Holder*, 568 F.3d 708, 709 (9th  
9 Cir. 2009)). “A ‘noncitizen must be given sufficient notice of a country of deportation  
10 that, given his capacities and circumstances, he would have a reasonable  
11 opportunity to raise and pursue his claim for withholding of deportation.” *Nguyen*  
12 *v. Scott*, 796 F. Supp. 3d 703, 727 (W.D. Wash. Aug. 21, 2025) (quoting *Aden v.*  
13 *Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019) (citing *Mathews v. Eldridge*,  
14 424 U.S. 319, 349 (1976)). “[I]ndividuals whose rights are being determined are  
15 entitled to notice of the issues to be adjudicated, so that they will have the  
16 opportunity to prepare and present relevant arguments and evidence.” *Andriasian*  
17 *v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999). “In the context of country of removal  
18 designations, last minute orders of removal to a country may violate due process if  
19 an immigrant was not provided an opportunity to address his fear of persecution in  
20 that country.” *Najjar v. Lynch*, 630 F. App’x. 724, 725 (9th Cir. 2016) (non-  
21 precedential memorandum disposition).  
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26 More recently, in *Bunnell v. Noem, et al.*, No. 2:25-cv-02259-GMN-EJY, 2025  
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1 WL 3707588 at \*6 (D. Nev. December 22, 2025), this Court once more reiterated  
2 that Petitioners like Mr. Perez “ha[ve] a due process right to receive meaningful  
3 notice and opportunity to present a fear-based claim to an immigration judge before  
4 DHS deports [them] to a third country.” In that case, this Court ordered the  
5 immediate release of an Iranian national threatened with third country removal  
6 who—like Mr. Perez—alleged that he had “health complications and need[ed]  
7 ‘extensive medical treatment.’” *Id.* at \*7, 9. The Court also enjoined Respondents  
8 from removing the Petitioner to a third country without providing adequate notice  
9 and due process “in the form of an opportunity to seek to reopen Petitioner’s  
10 immigration court proceedings to seek fear-based relief from removal.” *Id.* at \*9. In  
11 *Suarez-Ramirez v. Bondi, et al.*, No. 2:25-cv-02369-MMD-EJY (D. Nev. December  
12 17, 2025), this Court likewise enjoined the Respondents from removing a  
13 Salvadoran national to Mexico.  
14

15  
16 The above-cited case law supports Petitioner’s claim in Ground Two that he  
17 has a due process right to receive meaningful notice and opportunity to present a  
18 fear-based claim to an immigration judge before DHS deports him to a third  
19 country. *See* ECF No. 2 at 17. Yet, over the course of the last two months,  
20 Respondents have twice attempted to deport Petitioner to Mexico without even  
21 attempting to assess whether he fears removal to that country. *See* Ex. 1, Affidavit  
22 by Mr. Perez at 16. Respondents’ complete and total disregard for Petitioner’s  
23 wellbeing and fate if removed to Mexico is poignantly demonstrated by the nature of  
24 their actions thus far. Respondents have thus far twice awakened Petitioner—a  
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1 disabled and medically vulnerable individual who had been previously hospitalized  
2 while under Respondents' watch—in the middle of the night, transported him to  
3 ICE offices (as well as the airport in one instance), and threatened him to prompt  
4 his unlawful deportation to Mexico. Petitioner demonstrates his request for  
5 mandatory injunctive relief on this ground is warranted.  
6

7 **B. Petitioner will suffer irreparable harm absent injunctive relief.**

8 Petitioner also meets the second factor, irreparable harm. The Ninth Circuit  
9 has recognized the “irreparable harms imposed on anyone subject to immigration  
10 detention” including “subpar medical and psychiatric care in ICE detention  
11 facilities” and “the economic burdens imposed on detainees and their families as a  
12 result of detention. *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).  
13

14 In this case, Respondents' actions and neglect have already had a grave effect  
15 on Petitioner's wellbeing. As he explains, Petitioner's physical disabilities have been  
16 severely exacerbated since his detention. And his psychological wellbeing has  
17 likewise deteriorated to the point Petitioner believes he remembers “70% less” than  
18 prior to his detention. *See* Ex. 1, Affidavit by Mr. Perez at 17. In addition, since his  
19 detention, doctors have diagnosed Petitioner with a defective heart valve. *Id.* at 11.  
20 Petitioner's continued detention presents the very real possibility that he will die in  
21 custody in the event he faces another medical emergency and Respondents fail to  
22 provide adequate treatment and/or refuse to provide or enable care.  
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25 Further, “[i]t is well established that the deprivation of constitutional rights  
26 ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990,  
27 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the

1 “alleged deprivation of a constitutional right is involved, most courts hold that no  
2 further showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418  
3 F.3d 989, 1001-02 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal*  
4 *Practice and Procedure*, § 2948.1 (2d ed. 2004)). Further, unlawful detention itself  
5 “constitutes extreme or very serious damage, and that damage is not compensable  
6 in damages.” *Hernandez*, 872 F.3d at 999 (internal citations omitted).

8 Third-country deportations pose that risk and more. Recent third-country  
9 deportees have been held, indefinitely and without charge, in hazardous foreign  
10 prisons.<sup>3</sup> They have been subjected to solitary confinement.<sup>4</sup> They have been  
11 removed to countries so unstable that the U.S. government recommends making a  
12 will and appointing a hostage negotiator before traveling to them.<sup>5</sup>

14 In the last two months, DHS/ICE has twice attempted Mr. Perez’ removal to  
15 Mexico. And they have done so without attempting to determine whether Mr. Perez  
16 fears removal to that country or whether a possibility exists that Mexico will  
17 remove Petitioner to Cuba where an immigration judge has already determined Mr.  
18 Perez faces persecution and/or torture. As noted above, Mr. Perez’s high blood  
19 pressure and his defective heart condition renders him vulnerable to strokes. His  
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22 <sup>3</sup> 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 <sup>4</sup> 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)

<sup>5</sup> See Wong, *supra*.

1 removal to Mexico will cause Mr. Perez physical and mental harm. These and other  
2 threats to Petitioner's health and life independently constitute irreparable harm.

3 Mr. Perez' removal from the United States, and this district, would further  
4 cause irreparable harm because he would lose his ability to have his claims heard  
5 by this Court. This Court, also, would lose its ability to exercise its jurisdiction over  
6 Mr. Perez' claims. "Were Petitioner prematurely removed from the United States  
7 District of Nevada, or more broadly the United States, this Court could be deprived  
8 of jurisdiction over his claims." *See Berhe v. Chief Council for the District of Nevada*,  
9 No. 2:25-cv-01782-RFB-DJA, 2025 WL 3034095 (D. Nev. Nov. 26, 2025). The  
10 authority to grant this relief and to exercise jurisdiction over Mr. Perez' claims is  
11 expressly given to this Court under the All Writs Act. *Id.* at 3; *see also F.T.C. v.*  
12 *Dean Foods Co.*, 384 U.S. 597, 601 (1966).

15 **C. The balance of hardships and the public interest weigh heavily**  
16 **in Petitioner's favor.**

17 The final two factors for a TRO—the balance of hardships and public  
18 interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556  
19 U.S. 418,435 (2009). That balance tips decidedly in Petitioner's favor.

20 The government "cannot reasonably assert that it is harmed in any legally  
21 cognizable sense" by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d  
22 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent  
23 violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S. at  
24 436 (describing public interest in preventing noncitizens "from being wrongfully  
25 removed, particularly to countries where they are likely to face substantial harm");  
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1 directly with Petitioner regarding removal, to meet and confer with  
2 Petitioner's counsel and to allow Petitioner to first consult with his  
3 counsel.  
4

5 Dated December 24, 2025

6 Respectfully submitted,

7  
8 Rene L. Valladares  
9 Federal Public Defender

10 */s/ Martin L. Novillo*

11 Martin L. Novillo  
12 Assistant Federal Public Defender

13 */s/ Sylvia Irvin*

14 Sylvia Irvin  
15 Assistant Federal Public Defender  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing has been filed on December 24, 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 to the following person:

Humberto Perez 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  
Federal Public Defender

