

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA  
PHOENIX DIVISION

Rustam Sadykov,  
*Petitioner,*

v.

KRISTI NOEM, in her official capacity as  
Secretary of the Department of Homeland  
Security,

PAMELA BONDI, in her official capacity  
as Attorney General of the United States;

TODD LYONS, in his official capacity as  
Acting Director and Senior Official  
Performing the Duties of the Director of  
U.S. Immigration and Customs  
Enforcement;


Field Office Director of the Phoenix Field  
Office of U.S. Immigration and Customs  
Enforcement, Enforcement and Removal  
Operations;

WARDEN, Florence Staging Facility;

*Respondents.*

**EMERGENCY MOTION FOR  
TEMPORARY RESTRAINING  
ORDER AND PRELIMINARY  
INJUNCTION**

Case No.

Petitioner Rustam Sadykov () respectfully moves this Court for a Temporary Restraining Order and Preliminary Injunction under Fed. R. Civ. P. 65, enjoining Respondents from executing his removal and from transporting or relocating him while his Motion to Reconsider remains pending before the Board of Immigration Appeals ("BIA"). Removal has been scheduled for December 7, 2025, without providing the Petitioner lawful notice, a meaningful opportunity for review, or due process.

## I. INTRODUCTION

Mr. Sadykov arrived in the United States as an arriving alien with his spouse and two minor children. He was raising three children with his spouse, Irina Markova, including two who currently reside in the United States. Ms. Markova and the children are presently in active immigration proceedings before the Immigration Court in California. Removal at this stage would abruptly disrupt the family unit, undermine the stability of the children during their own legal proceedings, and cause significant emotional and psychological harm.

Mr. Sadykov is currently detained at the Florence Staging Facility in Arizona, where ICE has scheduled his removal for December 7, 2025, despite the fact that a Motion to Reconsider remains pending before the BIA.

Counsel sought every available administrative remedy. On October 21, 2025, counsel filed a Form I-246 Stay of Removal, which ICE denied. Counsel also sent multiple faxes, emails, and made repeated calls to ICE officials, all without success. Counsel then sought a stay from the BIA four times, and each request was denied solely because the BIA dismissed the underlying appeal as 'untimely,' despite conclusive evidence that the appeal was timely filed. Also, Counsel filed an Urgent Motion to issue a decision with BIA, which has not been adjudicated.

However, the BIA's untimeliness finding was factually and technically incorrect. Petitioner's appeal was timely filed, and counsel subsequently submitted documentary proof of timely delivery, including tracking confirmation and date-stamped receipt. The BIA has accepted these materials and is actively reviewing the dismissal in Petitioner's pending Motion to Reconsider.

Thus, both administrative stay denials were based on a procedural premise that is now demonstrably wrong. Removing Petitioner before the BIA resolves the MTR would unlawfully foreclose the agency's ability to correct its own error and would deprive Petitioner of due process.

Moreover, ICE has engaged in rapid, unannounced removal operations, including transfers from Texas to Arizona without notice. This pattern demonstrates a real risk of arbitrary removal inconsistent with regulatory requirements (8 C.F.R. §§ 1003.2, 241.4, 241.13–14) and due process.

Without immediate judicial intervention, Mr. Sadykov will be removed tomorrow, destroying both his legal rights and the Court's jurisdiction.

## **II. LEGAL STANDARD**

A Temporary Restraining Order is appropriate where a movant demonstrates:

1. Likelihood of success on the merits,
2. Irreparable harm absent injunctive relief,
3. That the balance of equities favors the movant, and
4. That an injunction is in the public interest.

*Winter v. NRDC*, 555 U.S. 7, 20 (2008).

## **III. ARGUMENT**

### **1. Likelihood of Success on the Merits**

Petitioner is likely to succeed because:

The BIA's dismissal for untimeliness was incorrect, and the pending Motion to Reconsider is supported by conclusive proof of timely filing.

His Motion to Reconsider is properly filed and pending, giving the BIA continuing jurisdiction over the case. Removal before adjudication violates due process and regulatory structure.

Courts consistently hold that removal while a reconsideration motion is pending unlawfully extinguishes the right to administrative review.

The BIA's denials of a stay were based entirely on the same erroneous procedural finding now undergoing review.

ICE and the BIA have failed to comply with due process requirements, including lawful notice, meaningful review, and protection of statutory rights.

Premature removal would render the pending BIA motion moot, itself a constitutional violation. *See Devitri v. Cronen*, 289 F. Supp. 3d 287 (D. Mass. 2018).

Because the administrative denials were premised on a BIA technical error, Petitioner's likelihood of success is substantial.

## **2. Irreparable Harm**

Irreparable harm is certain and imminent:

Removal on December 7, 2025, will permanently destroy Petitioner's ability to pursue agency relief.

Loss of the ability to obtain judicial review of a pending claim constitutes irreparable injury as a matter of law.

Petitioner and his family will suffer severe physical, psychological, and legal harm if removed without due process.

Petitioner's removal would cause severe and irreversible family separation. He arrived in the United States with his spouse, Irina Markova, and two minor children, ages 14 and 6, all presently in immigration proceedings in California. Removal would deprive them of his support and stability at a critical moment in their cases. Courts recognize that forced family separation, particularly where minor children remain in active immigration proceedings, constitutes irreparable harm as a matter of law.

## **3. Balance of Equities and Public Interest**

The equities overwhelmingly favor Petitioner:

Petitioner seeks only to preserve the status quo until the BIA adjudicates his motion. ICE suffers no harm from a brief stay of removal while the agency completes required review.

The public interest is always served when the government complies with constitutional and procedural requirements.

Preventing unlawful removal protects due process, agency integrity, and judicial review.

#### **IV. RELIEF REQUESTED**

Petitioner respectfully requests that this Court:

1. Issue a Temporary Restraining Order immediately enjoining Respondents from  
removing Petitioner;  
transferring, transporting, or moving him from the Florence Staging Facility;  
taking any action that would interfere with BIA jurisdiction, pending resolution of his  
Motion to Reconsider.
2. Require Respondents to provide at least 72 hours' written notice before any future  
removal or transfer.
3. Grant such further relief as the Court deems just and proper.

Dated: December 5, 2025  
Respectfully submitted,

/s/Maria Karimova  
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*Attorney for Plaintiff*  
*\* Pro hac vice applications in process with the Court*

#### **CERTIFICATE OF SERVICE**

I hereby certify that on December 5, 2025, I electronically filed the foregoing Emergency Motion for Temporary Restraining Order and Preliminary Injunction, together with all supporting documents, using the Court's email for Urgent filings.

In addition, because this matter concerns an imminent removal scheduled for December 7, 2025, I served copies of the TRO Motion, Habeas Petition, and Proposed Order on all Respondents and their counsel via electronic transmission and expedited service, as follows:

1. U.S. Attorney for the District of Arizona  
Civil Process Clerk  
Office of the United States Attorney  
U.S. Courthouse  
40 N. Central Avenue, Suite 1800  
Phoenix, AZ 85004  
Email: usaz.civil@usdoj.gov
2. Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
Email: civil.process@usdoj.gov
3. Secretary, U.S. Department of Homeland Security  
Office of the General Counsel  
Washington, DC 20528  
Email: OGC@hq.dhs.gov
4. Director, U.S. Immigration and Customs Enforcement (ICE)  
Office of the Principal Legal Advisor  
500 12th Street SW  
Washington, DC 20536  
Email: iceocc.service@ice.dhs.gov
5. Phoenix Field Office Director, ERO – ICE  
ICE/ERO Phoenix Field Office  
2035 N. Central Avenue  
Phoenix, AZ 85004  
Email: phoenix.outreach@ice.dhs.gov
6. Warden, Florence Staging Facility  
Florence Detention Center / Staging Facility  
3250 N. Pinal Parkway  
Florence, AZ 85132  
Service by email + UPS

A courtesy copy was also transmitted directly to ICE OCC Phoenix at:  
Email: ice-occ-phoenixfilings@ice.dhs.gov

All service was completed on December 5, 2025, via email and/or expedited methods due to the urgent nature of the relief sought.

/s/ Maria Karimova  
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Attorney for Petitioner  
*Pro hac vice application pending*