Rene L. Valladares
Federal Public Defender
Nevada State Bar No. 11479
*Ellesse Henderson
Assistant Federal Public Defender
California State Bar No. 302838
*Margaret Lambrose
Assistant Federal Public Defender
Nevada State Bar No. 11626
411 E. Bonneville Ave., Ste. 250
Las Vegas, Nevada 89101
(702) 388-6577
Ellesse_Henderson@fd.org

*Attorneys for Petitioner Juak Albino Gabriel Biel

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Juak Albino Gabriel Biel

Petitioner,

v.

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

Respondents.

Case No. 2:25-cv-02432-APG-EJY

Reply in Support of § 2241 Petition and Motion for Temporary Restraining Order

INTRODUCTION

Petitioner Juak Albino Gabriel Biel, who came to the United States from Sudan at just eight years old, has been detained for more than seven months in ICE custody. During his detention, he was given no indication from the government that either Sudan or South Sudan would issue travel documents, something both countries had refused to do up to this point. In its response to Mr. Biel's Amended

Section 2241 petition and motion for temporary restraining order, however, the government contends "circumstances have changed," and "South Sudan recently indicated that it will issue [Mr. Biel] a travel document."[1] The government further accuses Mr. Biel of an "unwillingness to complete and sign the relevant forms."[2] These assertions do not suffice to extend Mr. Biel's detention beyond the presumptive period. The petition should be granted, and this Court should order Mr. Biel's immediate release.

ARGUMENT

I. Mr. Biel's continuing detention violates due process.

The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. Mr. Biel has a liberty interest in remaining free from physical confinement where removal is not reasonably foreseeable. The government has violated the Due Process Clause of the Fifth Amendment because Mr. Biel's removal is not reasonably foreseeable. *Zadvydas* requires that Mr. Biel be immediately released. *See* 533 U.S. at 700-01 (describing release as an appropriate remedy); 8 U.S.C. § 1231(a)(6) (authorizing release "subject to . . . terms of supervision").

Here, Mr. Biel has shown good cause to show that his deportation is not reasonable foreseeable. He has now been in ICE custody for more than seven months and, until he filed his Section 2241 petition, he had not been given any indication that his deportation would be occurring, and no travel documents have been produced. For the reasons discussed below, the government's arguments that Mr. Biel is responsible for its lack of progress are without merit, and this Court

[1] ECF No. 16 at 1.

[2] ECF No. 16 at 1.

should reject the government's bald assertion that South Sudan will issue travel documents.

A. The government's allegations of Mr. Biel's non-compliance with removal procedures are belied by the record, and the evidence does not justify his continued detention.

In its response, the government points to Mr. Biel's alleged refusals to sign I-299 "Warning for Failure to Depart" forms as evidence that he has been so non-compliant with the removal process that his continued detention is justified.[3] These allegations, which constitute the government's only evidence of purported non-compliance, fall well short of the standard required to extend detention beyond the presumptive removal period.

In *Lema v. INS*, the Ninth Circuit held that detention may be extended beyond the removal period only when an alien "willfully refuses to cooperate fully and honestly with officials to secure travel documents from a foreign government." 341 F.3d 853, 856 (9th Cir. 2003). There, the petitioner repeatedly misrepresented his Ethiopian nationality, contradicted prior statements, refused to provide corroborating documents, declined to reapply for travel papers, and ignored direct requests from immigration officials—conduct the court found affirmatively caused Ethiopia's refusal to issue travel documents. *Id.* at 856–57. The record in *Lema* contained substantial evidence that the petitioner's dishonesty and refusal to cooperate with the Ethiopian consulate were the direct reason removal could not proceed.

This case bears no resemblance to *Lema*. The government has not provided any evidence that Mr. Biel refused to apply for travel documents, provided false information, or withheld evidence necessary to establish his identity or nationality. The government does not contend (much less establish) that Mr. Biel's refusal to sign I-299 warning forms hindered or delayed the issuance of travel documents in any way. To the contrary, the government's own response undermines its position:

---

[3] ECF No. 16 at 10–11; ECF No. 16-8 (Resp. Ex. I).

"[a]*bout three weeks after ICE submitted the forms without his signature, Petitioner received an interview with the South Sudanese Consulate*."[4] That undisputed fact confirms that ICE was able to proceed with the removal process notwithstanding Mr. Biel's purported refusal to sign the warning forms. And the fact that Mr. Biel participated in the interview with the South Sudanese Consulate once it was scheduled further demonstrates that he has not been dishonest or willfully failed to cooperate.

Unlike in *Lema*, there is no evidence here that Mr. Biel "controls the clock" or has placed removal beyond the government's reach through willful or dishonest obstruction. At most, the government identifies a refusal to sign advisory paperwork—conduct that does not rise to the level of bad-faith obstruction contemplated by *Lema*. Because the government has failed to show that Mr. Biel's actions caused or contributed to any delay in obtaining travel documents, *Lema* does not authorize continued detention in this case.

B. Mr. Biel must be released immediately because his removal is not reasonably foreseeable.

In its response, the government provides woefully insufficient information to establish that removal is reasonably foreseeable.[5] Mr. Biel has now been in immigration detention for more than seven months. Upon information and belief, throughout his prolonged detention, he had not been given any indication that preparations have been made to deport him, until after he filed his amended § 2241

---

[4] ECF No. 16 at 11 (emphasis added).

[5] The government notes individuals were "removed to South Sudan a[t] least as early as July 2025." ECF No. 16 at 10 & n.2. But the cite the government provides concerns the third-country removal of people to South Sudan who had different countries on their orders of removal. *See* Amy Howe, *Court allows Trump administration to move forward in sending group of immigrants to South Sudan*, SCOTUSblog (Jul. 3, 2025), https://www.scotusblog.com/2025/07/court-allows-trump-administration-to-send-group-of-immigrants-to-south-sudan/. Whether South Sudan will issue travel documents to Sudanese citizens is a separate question.

petition. And the government has provided no evidence that South Sudan will actually issue travel documents.

At bottom, the question for this Court is whether Mr. Biel's removal is reasonably foreseeable and whether detention is necessary to effectuate removal. The history of his case, and the dearth of relevant evidence provided by the government, compels the conclusion that it is not. "Both during the six-month period and after, a district court has an ongoing *obligation to determine whether detention remains authorized.*" *Douglas v. Baker*, No. 25-CV-2243-ABA, 2025 WL 2997585, at *2 (D. Md. Oct. 24, 2025) (internal quotations omitted; emphasis in original). "Within the six-month window," the noncitizen bears the burden of "prov[ing] the unreasonableness of detention." *Cesar v. Achim*, 542 F. Supp. 2d 897, 903 (E.D. Wis. 2008). After six months, there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," and the burden shifts to the government to justify continued detention. *Zadvydas*, 533 U.S. at 701. "Whether detention is 'reasonably necessary to secure removal is determinative of whether the detention is, or is not, pursuant to statutory authority…The basic federal habeas corpus statute grants the federal courts authority to answer that question.'" *Medina v. Noem, et al., Respondents*, No. 25-CV-1768-ABA, 2025 WL 2306274, at *6 (D. Md. Aug. 11, 2025) (citing *Zadvydas*, 533 U.S. at 699).

Here, Mr. Biel has met his burden to show good reason why his removal is not reasonably foreseeable. The government provides no evidence to support its contention that Mr. Biel's removal is reasonably foreseeable. For example, the government could easily have provided an affidavit from an ICE official demonstrating the steps that have been taken in furtherance of removal; it did not. Other courts have granted habeas relief in similar cases where ICE cannot provide

documentation of their efforts to facilitate removal. *See Douglas*, 2025 WL 2997585, at *4.

II. Mr. Biel has satisfied the requirements for a temporary restraining order.

To obtain a temporary restraining order, a petitioner "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def Council, Inc.,* 555 U.S. 7, 20 (2008); *accord Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.,* 240 F.3d 832, 839–40 & n.7 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve "substantially identical" analysis). Mr. Biel satisfied those requirements.[6] As explained above, he is likely to succeed on the merits of his claims. And the three remaining factors additionally weigh in his favor.

As Mr. Biel argued in his motion,[7] his unconstitutional detention clearly constitutes irreparable injury. *See Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017); *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012); *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005). The government has two responses, both unpersuasive. The government first cites cases explaining a "possibility" of irreparable harm is insufficient.[8] But the government does not explain how this line of cases applies to Mr. Biel, who is facing the certainty—not the possibility—of continued unconstitutional detention absent this Court's granting of his petition. Second the government cites an unpublished decision from the Northern District of California, *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK,

---

[6] ECF No. 13.

[7] ECF No. 13 at 9.

[8] ECF No. 16 at 14.

2018 WL 7474861, at *10 (N.D. Cal. Dec. 24, 2018).[9] In *Lopez Reyes*, the court addressed an argument that extended detention caused irreparable harm, concluding that, because the harm "is essentially inherent in detention," it did not weigh heavily in favor of a temporary restraining order. *Id.* But the court also noted that the petitioner's "private interest" in his freedom from imprisonment "is strong." *Id.* Regardless, this Court need not reconcile the conflicting portions of *Lopez Reyes*, as the Court was not guided by constitutional Supreme Court decisions like *Zadvydas*. *See id.*; *see also Melendres*, 695 F.3d at 1002 ("It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); *Warsoldier*, 418 F.3d at 1001–02.

The remaining two factors, the balance of the equities and the public interest, merge because the government is a party. *Nken v. Holder*, 556 U.S. 418,435 (2009). That government argues the balance tips in its favor.[10] But the government's argument misses the point. Mr. Biel is not arguing the government cannot enforce orders of removal by removing non-citizens to their countries of origin. Mr. Biel is arguing, consistent with Supreme Court precedent, that the government cannot indefinitely detain non-citizens who *cannot* be removed. Unless and until the government provides proof that Mr. Biel can be removed to Sudan or South Sudan, his continued detention is unconstitutional.

Conclusion

Mr. Biel's continuing detention violates due process. He is entitled to relief on the grounds raised in his petition. Mr. Biel respectfully requests that this Court order his immediate release.

---

[9] ECF No. 16 at 14.

[10] ECF No. 16 at 14–15.

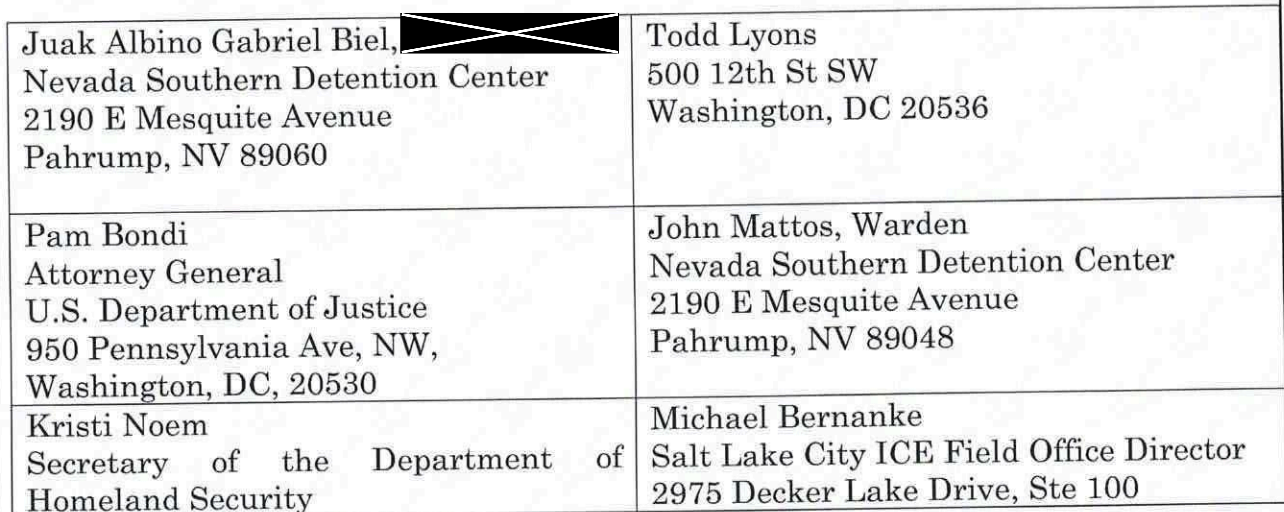
1
2 Dated January 9, 2026.
3 Respectfully submitted,
4
5 Rene L. Valladares
Federal Public Defender
6
7
8 */s/ Ellesse Henderson*
Ellesse Henderson
9 Assistant Federal Public Defender
10 */s/ Margaret Lambrose*
11 Margaret Lambrose
Assistant Federal Public Defender
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on January 9, 2026. I personally served a true and correct copy of the foregoing Reply in Support of Amended § 2241 Petition and Motion for Temporary Restraining Order by CM/ECF to the following individuals:

Virginia T. Tomova Assistant United States Attorney 501 Las Vegas Blvd. South Ste #1100 Las Vegas, NV 89101 Email: Virginia.Tomova@usdoj.gov	Sigal Chattah Acting US Attorney, District of Nevada 501 Las Vegas Blvd, Ste #1100 Las Vegas, NV 89101 Email: Sigal.Chattah@usdoj.gov
Richard Anthony Lopez Assistant United States Attorney 501 Las Vegas Boulevard South, Suite 1100 Las Vegas, Nevada 89101 Email: tony.lopez@usdoj.gov	

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:



Juak Albino Gabriel Biel, Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89060	Todd Lyons 500 12th St SW Washington, DC 20536
Pam Bondi Attorney General U.S. Department of Justice 950 Pennsylvania Ave, NW, Washington, DC, 20530	John Mattos, Warden Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89048
Kristi Noem Secretary of the Department of Homeland Security	Michael Bernanke Salt Lake City ICE Field Office Director 2975 Decker Lake Drive, Ste 100

2707 Martin Luther King Jr. Ave SE, Washington, DC 20528	West Valley City, UT 841179-6096

/s/ *Mayra Castillo*
An Employee of the Federal Public Defender