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7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 HAMED SALIMABADI,

9 Petitioner,

10 v.

11 KRISTI NOEM, *et. al.*,

12 Respondents.
13

Case No. 2:25-cv-02508-JAD-DJA

**PETITIONER’S REPLY IN SUPPORT
OF EMERGENCY MOTION FOR A
TEMPORARY RESTRAINING ORDER
OR PRELIMINARY INJUNCTION**

14
15 **I. INTRODUCTION**

16 Respondents’ Opposition confirms—rather than rebuts—Petitioner’s entitlement to
17 emergency injunctive relief. Despite bearing the burden under *Zadvydas v. Davis*, Respondents
18 have failed to produce any evidence establishing a significant likelihood of removal in the
19 reasonably foreseeable future. Nor have they demonstrated that Petitioner’s long-standing Order
20 of Supervision was ever lawfully revoked. Instead, the government relies on conclusory
21 assertions, legally irrelevant statutory citations, and exhibits that underscore the arbitrariness of
22 Petitioner’s re-detention.
23

24 Respondents attempt to avoid *Zadvydas* by (1) invoking an “indisputably clear” standard
25 drawn from noncontrolling Third Circuit cases, (2) characterizing Petitioner’s detention as falling
26 within a “presumptively reasonable” six-month window, and (3) asserting—without producing a
27 revocation instrument—that DHS “revoked” Petitioner’s order of supervision and is therefore
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1 lawfully detaining him. ECF No. 9 at 3–4. These positions do not withstand scrutiny. Ninth
2 Circuit law governs the TRO standard, not Third Circuit precedent. And Respondents cannot reset
3 the constitutional clock by unilaterally re-arresting a person whom they previously released twice
4 after conceding, in practice, that removal could not be effectuated. This Court has already rejected
5 the government’s reliance on generalized assertions of “active efforts,” references to other flights,
6 and speculative predictions of removal as insufficient to rebut a mature *Zadvydas* showing. *Zaeri*
7 *v. Noem*, 2025 U.S. Dist. LEXIS 267291, at *5–6 (D. Nev. Dec. 30, 2025). The same result is
8 warranted here.

10 II. LEGAL STANDARD

11 A temporary restraining order is evaluated under the *Winter* factors, and under the Ninth
12 Circuit’s sliding-scale approach, a TRO may issue when the movant raises serious questions on
13 the merits and the balance of hardships tips sharply in his favor, so long as irreparable harm and
14 the public interest also support relief. ECF No. 5 at 6–7 (citing *Winter v. Nat. Res. Def. Council,*
15 *Inc.*, 555 U.S. 7, 20 (2008); *Immigrant Defenders Law Ctr. v. Noem*, 145 F.4th 972, 986 (9th Cir.
16 2025)).

18 III. ARGUMENT

20 A. Petitioner Has Shown at Least Serious Questions (and, on this record, a 21 Likelihood) of Success on the Merits

22 Respondents apply the wrong TRO standard. Respondents’ insistence that Petitioner’s
23 right to relief must be “indisputably clear” rests on Third Circuit authority (*Kim; Hope*) and is
24 inapposite in this Court. ECF No. 9 at 12–14. The controlling standard is *Winter* as applied by the
25 Ninth Circuit—including the “serious questions” formulation. ECF No. 5 at 6–7.

26 *Zadvydas* prohibits continued detention where removal is not reasonably foreseeable. The
27 Supreme Court recognized six months as a presumptively reasonable post-order period, after
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1 which a noncitizen may obtain release by providing good reason to believe there is no significant
2 likelihood of removal in the reasonably foreseeable future; the burden then shifts to the
3 government to rebut that showing. *Zadvydas*, 533 U.S. at 701; *see also Zaeri*, 2025 U.S. Dist.
4 LEXIS 267291, at *5 (describing the burden-shifting framework).

5
6 Petitioner's showing is strong. ICE has twice held him in post-order detention and released
7 him after concluding that removal could not be executed. ICE detained Petitioner in 2006 for
8 approximately ninety days and released him under an order of supervision when Iran refused to
9 issue travel documents. ECF No. 5 at 3–4. In late 2009, ICE again detained Petitioner and again
10 released him after detaining him for more than six months—well in excess of 180 days of post-
11 order detention—because removal still could not be effectuated. ECF No. 5 at 4. Those prior
12 periods of prolonged, failed detention are not irrelevant history; they are direct evidence that
13 Petitioner's removal to Iran has been and remains not reasonably foreseeable. *Id.*

14
15 Respondents' suggestion that Petitioner's *Zadvydas* claim is premature because his
16 current detention falls within six months ignores both the record and the law. First, Petitioner was
17 re-detained on June 25, 2025. ECF No. 5 at 4. By the time of the consolidated TRO hearing now
18 set for January 9, Petitioner's current detention will have far exceeded the presumptively
19 reasonable six-month period, making *Zadvydas* directly applicable. Second, courts have
20 recognized that the government cannot evade *Zadvydas* by cycling detainees in and out of custody
21 when removal remains unforeseeable. In *Shadalo*, the court explained that aggregating post-order
22 detention periods is necessary to prevent the government from 'circumvent[ing] its constitutional
23 obligation' by releasing someone briefly and then re-detaining him again. *Shadalo v. Mattos*,
24 2025 U.S. Dist. LEXIS 257948, at *10 (D. Nev. Dec. 19, 2025). That logic applies with even
25 greater force here, where ICE has already detained and released Petitioner twice for inability to
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1 remove him, and now detains him again without identifying any change in circumstances that
2 would make removal suddenly feasible. ECF No. 5 at 4–5.

3 Respondents’ ‘active efforts’ narrative is speculation, not evidence. Respondents argue
4 that Iran has ‘recently accepted its citizens’ and that ICE is making good-faith efforts to secure
5 documents, so it is ‘premature’ to conclude removal is not foreseeable. ECF No. 9 at 3–4, 13–14.
6 This Court rejected materially identical assertions in *Zaeri*. There, the government invoked
7 ‘active efforts,’ pointed to other deportation flights involving Iranian nationals, and represented
8 that removal was expected. The Court held these claims were ‘mere speculation—not evidence’
9 sufficient to rebut a mature *Zadvydas* showing. *Zaeri*, 2025 U.S. Dist. LEXIS 267291, at *6.
10

11 Here, the government’s own record undermines its position. Petitioner alleges that ICE
12 re-detained him ‘without issuing a revocation of his supervised release’ and without conducting
13 the required post-order custody reviews under 8 C.F.R. §§ 241.4 or 241.13. ECF No. 5 at 4–5. He
14 further alleges that Iran continues to refuse to issue travel documents, that ICE has not identified
15 any third country willing to accept him, and that he has been informed of no change in
16 circumstances making removal reasonably foreseeable. *Id.* Those allegations are reinforced by
17 ICE’s own deportation officer: Petitioner alleges that Officer Molina confirmed that Iran would
18 not accept him and advised him to file a habeas petition. ECF No. 5 at 2–3. Respondents offer no
19 evidence that Iran has agreed to accept Mr. Salimabadi specifically, or that travel documents are
20 obtainable in the reasonably foreseeable future; instead, they offer generalized claims about other
21 removals and ongoing processing efforts—exactly the type of showing this Court found
22 insufficient in *Zaeri*. 2025 U.S. Dist. LEXIS 267291, at *6.
23

24 Respondents’ ‘revocation’ claim is unsupported by any revocation instrument and raises
25 serious due-process and *Accardi* concerns. Respondents repeatedly assert that ‘DHS revoked
26 [Petitioner’s] supervised release’ and detained him pursuant to his final order of removal, citing
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1 only a Warrant of Removal/Deportation as “Exhibit D.” ECF No. 9 at 2–4. But the warrant is not
2 a revocation decision, does not establish that any revocation occurred, and certainly does not show
3 that Petitioner received the notice and process required by regulation before ICE altered his
4 custody status from supervision to detention. Petitioner specifically alleged that ICE re-detained
5 him without issuing a revocation of his supervised release and without conducting required
6 custody reviews. ECF No. 5 at 4–5. That is enough to raise serious questions—if not a likelihood
7 of success—that ICE violated its own rules, triggering relief under *Accardi v. Shaughnessy*, 347
8 U.S. 260 (1954). ECF No. 5 at 3.

9
10 Moreover, the Warrant of Removal cites INA § 241(a)(5)—a provision governing
11 reinstatement of prior removal orders following unlawful reentry. That statute has no application
12 to Petitioner, who has remained in the United States continuously since his admission as a lawful
13 permanent resident and did not unlawfully reenter. The misapplication of § 241(a)(5), coupled
14 with the fact that the warrant misspells Petitioner’s name in multiple iterations—never once
15 rendering it correctly—further underscores the absence of individualized review and the arbitrary
16 nature of ICE’s actions.
17
18

19 **B. Petitioner Will Suffer Irreparable Harm Absent Immediate Relief**

20 Irreparable harm is straightforward: every day of unlawful civil detention is a day of
21 irreparable injury. The District of Nevada has repeatedly recognized this principle in the post-
22 order detention context. In *Shadalo*, the court held that ‘deprivation of liberty always constitutes
23 irreparable injury’ and that a detainee remains irreparably harmed when his continued
24 confinement violates due process. *Shadalo*, 2025 U.S. Dist. LEXIS 257948, at *13 (citing
25 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012); *Perdomo v. Noem*, 2025 U.S. Dist.
26 LEXIS 120064, at *10 (D. Nev. June 24, 2025); *Vasquez v. Rackauckas*, 734 F.3d 1025, 1044
27 (9th Cir. 2013)).
28

1 Respondents' contrary argument rests on their premise that detention is 'lawful' and 'not
2 prolonged.' ECF No. 9 at 14–15. That is simply merits disputation, not a rebuttal of irreparable
3 harm. If Petitioner has shown serious questions that his detention violates *Zadvydas* and due
4 process, the continuing deprivation of liberty itself constitutes irreparable harm. *Shadalo*, 2025
5 U.S. Dist. LEXIS 257948, at *13; *see also Zaeri*, 2025 U.S. Dist. LEXIS 267291, at *6 (treating
6 continued detention as an ongoing due process violation warranting prompt resolution).
7

8 **C. The Balance of Equities and the Public Interest Strongly Favor Release Under**
9 **Supervision**

10 When the government is the opposing party, the balance-of-equities and public-interest
11 factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). The equities here tip sharply toward
12 Petitioner. He faces ongoing loss of liberty despite ICE's longstanding inability to remove him
13 and despite the absence of any identified change in circumstances supporting renewed detention.
14 ECF No. 5 at 4–5. And Petitioner's fear that ICE's re-detention is untethered to any individualized
15 assessment is heightened by an officer's statement that the field office received instructions to
16 'round up all Iranians.' ECF No. 5 at 5.
17
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19 Conversely, Respondents would suffer no cognizable harm from restoring the status quo
20 ante—release under the same order-of-supervision regime that ICE itself has twice used for
21 Petitioner. ICE's own position is that removal efforts are ongoing but that removability depends
22 on travel documents that Iran has historically refused to issue. ECF No. 5 at 3–5; ECF No. 9 at
23 3–4. That concession defeats any claim of harm from immediate release: if removal is not
24 reasonably foreseeable, detention is not necessary to effectuate it. And if Respondents contend
25 some supervision condition was violated, the government has ample tools short of indefinite
26 detention to address compliance—beginning with the basic requirement that it actually issue and
27 serve a revocation decision and follow its own custody-review regulations. ECF No. 5 at 4–5.
28

1 District of Nevada precedent confirms the appropriate remedy. In *Shadalo*, the court
2 ordered immediate release ‘subject to the conditions of the previously issued order of
3 supervision.’ *Shadalo*, 2025 U.S. Dist. LEXIS 257948, at *15. That same tailored relief protects
4 the public interest in lawful enforcement of immigration orders while preventing unlawful,
5 potentially indefinite detention. *See id.*; *see also Zaeri*, 2025 U.S. Dist. LEXIS 267291, at *6
6 (granting habeas relief where removal was not reasonably foreseeable).
7

8 **D. No Bond Is Warranted**

9 Respondents’ request for a bond is based on noncontrolling authority and is unnecessary
10 in this context. ECF No. 9 at 15–16. Courts in this circuit may dispense with a bond requirement
11 when there is no realistic likelihood of harm to the enjoined party. Given Respondents’ own
12 assertions that detention is civil and tied to removal—which they have not shown is imminent—
13 there is no plausible basis for monetary damages from restoring release under supervision pending
14 adjudication of the habeas petition.
15

16 **IV. CONCLUSION**

17
18 Petitioner has shown, at minimum, serious questions going to the merits and a balance of
19 hardships that tips sharply in his favor, and he has also shown irreparable harm and that the public
20 interest favors relief. The Court should grant the TRO and order Petitioner’s immediate release
21 under appropriate conditions of supervision, or, at minimum, enjoin transfer outside this Court’s
22 jurisdiction pending adjudication of the habeas petition.
23

24 DATED this 8th day of January, 2026.

25 Respectfully Submitted,

26 SHAMOON ELIADES, LLP

27 /s/ Michael T. Shamoan
28 Michael T. Shamoan, Esq.
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Certificate of Service

I hereby certify that on January 8, 2026, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, District of Nevada by using the CM/ECF system. Participants in the case who are registered CM/ECF users and will be served by the CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing 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 non-CM/ECF participants:

John Mattos, Warden
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2190 E Mesquite Avenue
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s/ Michael T. Shamoon