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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Reza AMIRI,

Petitioner,

v.

Chris HOWARD, Acting Warden, Eloy Detention
Center;

John CANTU, Field Office Director of Phoenix
Office of Detention and Removal, U.S. Immigrations
and Customs Enforcement; U.S. Department of
Homeland Security;

Todd M. LYONS, Acting Director, Immigration and
Customs Enforcement, U.S. Department of Homeland
Security;

Kristi NOEM, in her Official Capacity, Secretary,
U.S. Department of Homeland Security; and

Pamela BONDI, in her Official Capacity, Attorney
General of the United States;

Respondents.

Case No.



**MOTION FOR
TEMPORARY
RESTRAINING
ORDER**

Challenge to Unlawful
Incarceration; Request for
Declaratory and Injunctive Relief

NOTICE OF MOTION

Petitioner Reza Amiri (“Mr. Amiri”) applies to this honorable Court for a temporary
restraining order enjoining Respondents Department of Homeland Security (DHS), U.S.

Immigration and Customs Enforcement (ICE), and Pam Bondi, in her official capacity as the U.S. Attorney General, (1) from continuing to detain him based on an unlawful action by ICE, (2) ordering his immediate release from immigration detention; and (3) from re-arresting Mr. Amiri until he is afforded a hearing before a neutral decisionmaker, as required by the Due Process clause of the Fifth Amendment, to determine whether circumstances have materially changed such that his re-incarceration would be justified because there is clear and convincing evidence establishing that DHS-ICE is able to remove him to a third country.

If the Court deems oral argument necessary, Petitioner requests to appear by video.

Dated: December 19, 2025

Respectfully submitted,

/s/ Spencer C. Lee
Spencer C. Lee
Attorney for Reza Amiri

I. INTRODUCTION

Petitioner Reza Amiri (“Petitioner” or “Mr. Amiri”), an Afghan national, moves this Court for a Temporary Restraining Order (“TRO”) directing his immediate release from immigration detention. Mr. Amiri has been no notice re-detained by U.S. Immigration and Customs Enforcement (“ICE”) in violation of 8 C.F.R. § 241.4 and over a year and a half after his prior release from their custody without demonstrably changed circumstances. An Immigration Judge ordered him removed on June 3, 2024, but withheld his removal to Afghanistan finding it more likely than not Mr. Amiri’s life or freedom would be threatened on account of a protected ground if he were removed. The order became administratively final on that date when both parties waived appeal. Petitioner was released from ICE custody on July 1, 2024 pursuant to an order of supervision (OSUP) and has maintained contact with ICE since his release. Despite his continued compliance with ICE, he was no-notice re-arrested on December 6, 2025. He has remained in ICE

custody since that date. ICE has had over one and a half years to effectuate removal to a third country and has failed to do so clearly establishing that no significant likelihood of removal exists in the reasonably foreseeable future and continued detention is unlawful under *Zadvydas v. Davis*, 533 U.S. 678 (2001). Petitioner seeks immediate release under reasonable supervision.

II. JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241 and 28 U.S.C. § 1331. Venue lies in this District because Petitioner is detained within the District of Arizona at the Florence Correctional Center. This motion challenges only the legality of Petitioner's continued detention, not the underlying removal order. *See Zadvydas*, 533 U.S. at 688.

III. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDER

A temporary restraining order ("TRO") should be granted to "preserv[e] the status quo and prevent[] irreparable harm just so long as is necessary to hold a hearing and no longer." *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 779 (9th Cir. 2018) (quoting *Granny Goose Foods v. Bd. of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 423, 439 (1974)). A petitioner must show "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" to receive a TRO or a preliminary injunction. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008)

IV. ARGUMENT

a. The *Winter* factors weigh in favor of Petitioner.

i. Likelihood of Success on the Merits.

The first *Winter* factor “is a threshold inquiry and is the most important factor.” *Baird v. Bonta*, 81 F.4th 1036, 1042 (9th Cir. 2023) (quoting *Env’t Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 989 (9th Cir. 2020)).

Petitioner contends that his detention by ICE is unlawful – given the absence of paperwork or notice discussing his reasons for the revocation of his OSUP, as well as the failure to provide a prompt interview about why he should not be detained – thereby violating the Fifth Amendment’s due process requirement. Petitioner also expresses fear that he will be removed to a third country without notice or an opportunity to challenge removal. Finally, Petitioner contends that his removal is not reasonably foreseeable.

Petitioner’s habeas should be granted for myriad reasons including DHS’s violation and continued non-compliance with 8 C.F.R. § 241.4. Not only is DHS’s noncompliance a violation of regulatory and statutory protections, but they are also in violation of the Fifth Amendment Due Process Clause and the APA.

Additionally, *Zadvydus* does not require a particular detention period to apply. The INA does not authorize indefinite detention and Petitioner has established that his removal is not reasonably foreseeable.

ii. Irreparable Harm

A party seeking preliminary relief must also make a “clear showing” of a likelihood of irreparable harm in the absence of the relief requested. *Winter*, 555 U.S. at 22; see also *All For the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (“ . . . plaintiffs must establish that irreparable harm is likely, not just possible, in order to obtain a preliminary injunction). “[I]t is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury.” *Chhoeun v. Marin*, 306 F.Supp.3d 1147, 1162 (C.D. Cal. 2018) (quoting

Hernandez v. Sessions, 872 F.3d 976, 994-95 (9th Cir. 2017)). Where, as here, the “alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (quoting Wright, Miller, & Kane, *Federal Practice and Procedure*, § 2948.1 (2d ed. 2004)). Furthermore, “the Ninth Circuit has recognized the ‘irreparable harms imposed on anyone subject to immigration detention’ including ‘subpar medical and psychiatric care in ICE detention facilities’ . . .” *Hoac*, 2025 WL 1993771, at *6 (quoting *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017) (finding irreparable harm where the petitioner was detained far from his family and was at risk of losing his job and housing).

Petitioner was re-detained in violation of his due process rights. He has already been and continues to be irreparably harmed by the Respondents’ actions.

iii. Balance of Equities and Public Interest

Finally, “[t]he balance of the equities and public interest analyses merge when the government is the opposing party, as is the case in this action.” *Hoac*, 2025 WL 1993771, at *6. “Just as the public has an interest in the orderly and efficient administration of this country’s immigration laws, [] the public has a strong interest in upholding procedural protections against unlawful detention.” *Id.* (quoting *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020)). “A plaintiff’s likelihood of success on the merits of a constitutional claim also tips the merged third and fourth factors decisively in his favor.” *Baird*, 81 F.4th at 1042. “[I]t is always in the public interest to prevent the violation of a party’s constitutional rights[,]” *id.* (quoting *Riley’s Am. Heritage Farms v. Elasser*, 32 F.4th 707, 731 (9th Cir. 2022), and “[t]he government [] ‘cannot reasonably assert that it is harmed in any legally

cognizable sense by being enjoined from constitutional violations.” *Id.* (quoting *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983)).

Given Petitioner has demonstrated likelihood of success on the merits as to his constitutional claims, the merged third and fourth factors should be tipped in his favor.

In sum, the Winter Factors weigh heavily in favor of granting the Motion.

V. CONCLUSION

Prayer for Relief

For the foregoing reasons, Petitioner respectfully requests that this Court grant his motion for a temporary restraining order and:

1. Order Petitioner’s immediate release from ICE custody under reasonable conditions of supervision;
2. Declare to Respondents’ violated 8 C.F.R. § 241.4 in no notice re-detaining Petitioner and enjoin Respondents from no notice detaining Petitioner again;
3. Declare that Petitioner’s continued detention violates 8 U.S.C. § 1231 and the Fifth Amendment Due Process Clause; and
4. Grant such other relief as the Court deems just and proper.

Dated: December 19, 2025

Respectfully submitted,

/s/ Spencer C. Lee

Spencer C. Lee
Attorney for Reza Amiri