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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Mahamat Rozi,

 Petitioner,

 v.

John Mattos, NSDC Warden; Michael
Bernacke, Field Director, West Valley City
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-02557-GMN-MDC
Motion for Preliminary Injunction

1 *Neom*, No. 2:25-cv-02259-GMN-EJY (D. Nev. Dec. 22, 2025); *Shadalo v. Mattos*, No.
2 2:25-cv-02076-RFB-BNW (D. Nev. Dec. 14, 2025).

3 This Court has likewise granted temporary restraining orders preventing
4 third-country removals without due process. *See e.g. Brunnel*, No. 2:25-cv-02259-
5 GMN-EJY; *Cavieres Gomez v. Mattos*, No. 2:25-cv-00975-GMN-BNW (D. Nev. Nov.
6 11, 2025).

7 Other courts have ordered release for petitioners whose immigration cases
8 are still pending.¹ *See e.g., Hinestroza v. Kaiser*, No. 25-CV-07559-JD, 2025 WL
9 2606983, at *2 (N.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK,
10 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025); *R.D.T.M. v. Wofford*, No. 1:25-
11 CV-01141-KES-SKO (HC), 2025 WL 2617255, at *6 (E.D. Cal. Sept. 9, 2025). These
12 courts have determined that, for these long-term releasees, liberty is the status quo,
13 and only a return to that status quo can avert irreparable harm.

14 **STATEMENT OF FACTS**

15 Concurrent with this motion, Petitioner files his amended § 2241 petition.
16 Petitioner incorporates by reference the statements of fact set forth in those
17 pleadings.

18 **ARGUMENT**

19 Pursuant to Federal Rule of Civil Procedure 65(b), a court may grant a
20 preliminary injunction to prevent “immediate and irreparable injury.” A
21 preliminary injunction is “an extraordinary remedy that may only be awarded upon
22 a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def.*
23 *Council, Inc.*, 555 U.S. 7, 22 (2008) (citation omitted). To obtain such relief, a
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26 ¹ Because immigration detainees whose cases have not been adjudicated are
27 entitled only to a bond hearing-not to outright release-some of these TROs require
release unless ICE provides that hearing. But because *Zadvydas* requires outright
release on supervision, a TRO fitted to Petitioner's claims should order that relief.

1 plaintiff “must show that: (1) [they are] likely to succeed on the merits, (2) [they are]
2 likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance
3 of equities tips in [their] favor, and (4) an injunction is in the public interest.”

4 *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (citation omitted).

5 The Ninth Circuit recognizes a “sliding scale” variant of the *Winter* standard,
6 where a strong showing of one factor can offset a weaker showing of another factor.

7 *See All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011).

8 According to this test, “serious questions going to the merits and a balance of
9 hardships that tips sharply towards the plaintiff can support issuance of a
10 preliminary injunction, so long as the plaintiff also shows that there is a likelihood
11 of irreparable injury and that the injunction is in the public interest.” *Id.* at 1135
12 (quotation marks omitted). A “serious question” is one on which the movant “has a
13 fair chance of success on the merits.” *Sierra On-Line, Inc. v. Phoenix Software, Inc.*,
14 739 F.2d 1415, 1421 (9th Cir. 1984).

15 Here, this Court should issue a preliminary injunction because “immediate
16 and irreparable injury . . . or damage” is occurring and will continue in the absence
17 of an order. Fed. R. Civ. P. 65(b). Respondents continue to detain Petitioner in
18 violation of his due process, statutory, and regulatory rights. ICE policy also allows
19 them to remove him to a third country in violation of his due process, statutory, and
20 regulatory rights. This Court should order Petitioner’s release and enjoin removal to
21 a third country with no or inadequate notice.

22 **I. Petitioner will likely succeed on the merits, or at a minimum,**
23 **Petitioner raises serious merits questions.**

24 In his amended § 2241 petition, Petitioner argues he has been
25 unconstitutionally detained and that he cannot be removed to a third country.

26 Petitioner addresses the merits of each claim below:
27

1 plans to remove him. Thus, this Court will likely find that Rozi warrants *Zadvydas*
2 relief.

3 **B. Petitioner is likely to succeed on the merits of his claim that he**
4 **is entitled to adequate notice and an opportunity to be heard**
5 **prior to any third country removal (Grounds 3 and 4).**

6 Petitioner is likely to succeed on the merits of his claim that he may not be
7 removed to a third country absent adequate notice and an opportunity to be heard.

8 U.S. law enshrines protections against dangerous and life-threatening
9 removal decisions. By statute, the government is prohibited from removing an
10 immigrant to any third country where a person may be persecuted or tortured, a
11 form of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A).
12 The government “may not remove [a noncitizen] to a country if the Attorney
13 General decides that the [noncitizen's] life or freedom would be threatened in that
14 country because of the [noncitizen's] race, religion, nationality, membership in a
15 particular social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16,
16 1208.16. Withholding of removal is a mandatory protection.

17 Similarly, Congress codified protections enshrined in the Convention Against
18 Torture (CAT) prohibiting the government from removing a person to a country
19 where they would be tortured. *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231
20 note) (“It shall be the policy of the United States not to expel, extradite, or
21 otherwise effect the involuntary return of any person to a country in which there
22 are substantial grounds for believing the person would be in danger of being
23 subjected to torture, regardless of whether the person is physically present in the
24 United States.”); 28 C.F.R. § 200.1; *id.* §§ 208.16-208.18, 1208.16-1208.18. CAT
25 protection is also mandatory.

26 To comport with the requirements of due process, the government must
27 provide notice of the third country removal and an opportunity to respond. Due
process requires “written notice of the country being designated” and “the statutory

1 basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v.*
2 *Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S. Dep’t*
3 *of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May
4 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

5 Due process also requires the following: “[A]sk[ing] the noncitizen whether he
6 or she fears persecution or harm upon removal to the designated country and
7 memorialize in writing the noncitizen’s response. This requirement ensures DHS
8 will obtain the necessary information from the noncitizen to comply with section
9 1231(b)(3) and avoids [a dispute about what was said].” *Aden*, 409 F. Supp. 3d at
10 1019. “Failing to notify individuals who are subject to deportation that they have
11 the right to apply for asylum in the United States and for withholding of
12 deportation to the country to which they will be deported violates both INS
13 regulations and the constitutional right to due process.” *Andriasian*, 180 F.3d at
14 1041.

15 If the noncitizen claims fear, measures must be taken to ensure that the
16 noncitizen can seek asylum, withholding, and relief under CAT before an
17 immigration judge in reopened removal proceedings. The amount and type of notice
18 must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
19 circumstances, he would have a reasonable opportunity to raise and pursue his
20 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009 (citing
21 *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132 F.3d 405,
22 408 (7th Cir. 1998)); *cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring a minimum of 15
23 days notice).

24 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,
25 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed. App’x 724 (9th Cir. 2016), and
26 for good reason: To have a meaningful opportunity to apply for fear-based protection
27 from removal, immigrants must have time to prepare and present relevant

1 arguments and evidence. Merely telling a person where they may be sent, without
2 giving them a chance to investigate country conditions, does not give them a
3 meaningful chance to determine whether and why they have a credible fear.

4 Respondents' third country removal policy skips over these statutory and
5 constitutional procedural protections. According to ICE's July 9, 2025 Directive,
6 individuals can be removed to third countries "without the need for further
7 procedures," so long as "the [U.S.] has received diplomatic assurances."³ Petitioner
8 is likely to succeed on the merits of his claim on this fact alone, because the policy
9 instructs officers to provide no notice or opportunity to be heard of any kind. The
10 same is true of the minimal procedures ICE offers when no diplomatic assurances
11 are present. The policy provides no meaningful notice (only 6-to-24 hours), instructs
12 officers not to ask about fear, and provides no actual opportunity to see counsel and
13 prepare a fear-based claim (6-24 hours), let alone reopen removal proceedings. In
14 sum, it directs ICE officers to violate the rights of those whom they seek to subject
15 to the third country removal program.

16 Faced with similar arguments, this Court has likewise granted temporary
17 restraining orders preventing third-country removals without due process. *See e.g.*
18 *Brunnel*, No. 2:25-cv-02259-GMN-EJY; *Cavieres Gomez*, No. 2:25-cv-00975-GMN-
19 BNW.

20 Because ICE's new policies for third country removal fail to comply with
21 existing law, they also violate the Administrative Procedures Act. Furthermore,
22 given the blatant unlawfulness and unconstitutionality of ICE's policies,
23 Petitioner's detention under the color of those policies is unlawful.

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³ Amended Petition Ex. 3.

1 **II. Petitioner will suffer irreparable harm absent injunctive relief.**

2 Petitioner also meets the second factor: irreparable harm. “It is well
3 established that the deprivation of constitutional rights ‘unquestionably constitutes
4 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
5 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged deprivation
6 of a constitutional right is involved, most courts hold that no further showing of
7 irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th
8 Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and Procedure*,
9 § 2948.1 (2d ed. 2004)).

10 Here, the potential irreparable harm to Rozi is even more concrete. Rozi has
11 been re-detained for nearly a year starting in February 2025. Counting his original
12 detention, Rozi has been cumulatively detained for nearly 3 years. Furthermore,
13 unlawful detention itself “constitutes extreme or very serious damage, and that
14 damage is not compensable in damages.” *Hernandez v. Sessions*, 872 F.3d 976, 999
15 (9th Cir. 2017) (internal citations omitted).

16 Third-country deportations pose that risk and more. Recent third-country
17 deportees have been held, indefinitely and without charge, in hazardous foreign
18 prisons.⁴ They have been subjected to solitary confinement.⁵ They have been
19 removed to countries so unstable that the U.S. government recommends making a
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23 ⁴ Edward Wong et al., *Inside the Global Deal-Making Behind Trump’s Mass*
24 *Deportations*, N.Y. Times (Jun. 25, 2025), available at
25 [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)

26 ⁵ Gerald Imray, *Men deported by US to Eswatini in Africa will be held in*
27 *solitary confinement for undetermined time*, Associated Press (Jul. 18, 2025),
available at [https://apnews.com/article/eswatini-united-states-trump-deportation-](https://apnews.com/article/eswatini-united-states-trump-deportation-immigrants-a5853b16b7b275c9cbfe6caff87d0bb8)
[immigrants-a5853b16b7b275c9cbfe6caff87d0bb8](https://apnews.com/article/eswatini-united-states-trump-deportation-immigrants-a5853b16b7b275c9cbfe6caff87d0bb8)

1 will and appointing a hostage negotiator before traveling to them.⁶ These and other
2 threats to Petitioner’s health and life independently constitute irreparable harm.

3 **III. The balance of hardships and the public interest weigh heavily in**
4 **Petitioner’s favor**

5 The final two factors for a TRO—the balance of hardships and public interest—
6 “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S.
7 418,435 (2009). That balance tips decidedly in Petitioner’s favor.

8 The government “cannot reasonably assert that it is harmed in any legally
9 cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d
10 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent
11 violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S. at
12 436 (describing public interest in preventing noncitizens “from being wrongfully
13 removed, particularly to countries where they are likely to face substantial harm”);
14 *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (when
15 government’s treatment “is inconsistent with federal law, . . . the balance of
16 hardships and public interest factors weigh in favor of a preliminary injunction.”).

17 Petitioner also faces weighty hardships: unlawful, indefinite detention and
18 removal to a third country where he is likely to suffer imprisonment or other serious
19 harm. The balance of equities thus favors preventing the violation of “requirements
20 of federal law,” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir.
21 2014), by granting emergency relief to protect against unlawful detention and
22 prevent unlawful third country removal.

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27 ⁶ *See Wong, supra.*

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CONCLUSION

For those reasons, Petitioner Mahamat Rozi requests that this Court issue a preliminary injunction.

Dated January 13, 2026.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Ron Y. Sung

Ron Y. Sung
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on January 13, 2026. I personally served a true and correct copy of the foregoing Motion for Preliminary Injunction by CM/ECF to the following individuals:

Richard (Tony) Anthony Lopez U.S. Attorney's Office 501 Las Vegas Blvd South Suite 1100 Las Vegas, NV 89101 Email: tony.lopez@usdoj.gov	Virginia Tomova DOJ-USAO 501 Las Vegas Blvd., S. Suite 1100 Las Vegas, NV 89101 Email: virginia.tomova@usdoj.gov
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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:

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