

1 Rene L. Valladares
Federal Public Defender
2 Nevada State Bar No. 11479
3 *Ellesse Henderson
Assistant Federal Public Defender
4 California State Bar No. 302838
5 411 E. Bonneville Ave., Ste. 250
Las Vegas, Nevada 89101
6 (702) 388-6577
Ellesse_Henderson@fd.org
7

8 *Attorney for Petitioner Muhammad Zeeshan
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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 Muhammad Zeeshan,

13 Petitioner,

14 v.

15 Pamela Bondi, *et al.*,

16 Respondents.

Case No. 2:25-cv-02613-CDS-DJA

**Motion for Temporary Restraining
Order**

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POINTS AND AUTHORITIES

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2 Petitioner Muhammad Zeeshan faces the immediate irreparable harm of (1)
3 indefinite immigration detention with no reasonable prospect of removal in the
4 reasonably foreseeable future to the country designated by the immigration judge
5 (“IJ”); and (2) potential removal to a third country never considered by an IJ. The
6 requested temporary restraining order (“TRO”) would preserve the status quo while
7 Petitioner litigates these claims by (1) allowing Petitioner's release on supervision,
8 (2) prohibiting the government from revoking his supervision without first following
9 the required statutory procedures, and (3) prohibiting the government from
10 removing him to a third country without an opportunity to file a motion to reopen
11 with an IJ.

12 In granting this motion, this Court would not break new ground. Several
13 courts have granted TROs or preliminary injunctions mandating release for post-
14 final-removal-order immigrants like Petitioner. *See Rodriguez-Gutierrez v. Noem*,
15 No. 25-cv-02726-BAS-SBC (S.D. Cal. Nov. 7, 2025); *Phetsadakone v. Scott*, 2025 WL
16 2579569, at *6 (W.D. Wash. Sept. 5, 2025); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-
17 JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16, 2025); *Phan v. Becerra*, No. 2:25-
18 CV-01757-DC-JDP, 2025 WL 1993735, at *7 (E.D. Cal. July 16, 2025); *Nguyen v.*
19 *Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *29 (W.D. Wash. Aug. 21, 2025).

20 Several courts have likewise granted temporary restraining orders
21 preventing third-country removals without due process. *See, e.g., J.R. v. Bostock*,
22 25-cv-01161-JNW, 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); *Vaskanyan v.*
23 *Janecka*, 25-cv-01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. Jun. 25, 2025); *Ortega*
24 *v. Kaiser*, 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025); *Hoac v.*
25 *Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16,
26 2025); *Phan v. Becerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *7 (E.D.
27 Cal. July 16, 2025).

1 Granting this relief would not even be breaking new ground in this District.
2 Indeed, this Court recently granted habeas relief on this basis. *See Cavieres Gomez*
3 *v. Mattos*, No. 2:25-CV-00975-GMN-BNW, 2025 WL 3101994, at *6–7 (D. Nev. Nov.
4 6, 2025). Petitioner therefore respectfully requests that this Court grant this TRO.

5 STATEMENT OF FACTS

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

9 ARGUMENT

10 To obtain a TRO, a plaintiff “must establish that he is likely to succeed on the
11 merits, that he is likely to suffer irreparable harm in the absence of preliminary
12 relief, that the balance of equities tips in his favor, and that an injunction is in the
13 public interest.” *Winter v. Nat. Res. Def Council, Inc.*, 555 U.S. 7, 20 (2008); *accord*
14 *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7 (9th
15 Cir. 2001) (noting that a TRO and preliminary injunction involve “substantially
16 identical” analysis). A “variant[] of the same standard” is the “sliding scale”: “if a
17 plaintiff can only show that there are ‘serious questions going to the merits’—a
18 lesser showing than likelihood of success on the merits—then a preliminary
19 injunction may still issue if the balance of hardships tips *sharply* in the plaintiff’s
20 favor, and the other two *Winter* factors are satisfied.” *Immigrant Defenders Law*
21 *Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025) (internal quotation marks
22 omitted). Under this approach, the four *Winter* elements are “balanced, so that a
23 stronger showing of one element may offset a weaker showing of another.” *All. for*
24 *the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). A TRO may be
25 granted where there are “‘serious questions going to the merits’ and a hardship
26 balance ... tips sharply toward the plaintiff,” and so long as the other *Winter* factors
27 are met. *Id.* at 1132.

1 Here, this Court should issue a temporary restraining order because
2 “immediate and irreparable injury . . . or damage” is occurring and will continue in
3 the absence of an order. Fed. R. Civ. P. 65(b). Not only have Respondents detained
4 Petitioner in violation of his due process, statutory, and regulatory rights, ICE
5 policy also allows them to remove him to a third country in violation of his due
6 process, statutory, and regulatory rights. This Court should order Petitioner’s
7 release and enjoin removal to a third country with no or inadequate notice.

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

10 In his amended § 2241 petition, Petitioner raises four claims that he has been
11 unconstitutionally detained and that he cannot be removed to a third country.
12 Petitioner addresses the merits of each claim below:

13 **A. Petitioner is likely to succeed on the merits of his claim that**
14 **his detention violates *Zadvydas* and the Immigration and**
15 **Nationality Act, 8 U.S.C. § 1231(a)(6) (Grounds 1 and 2).**

16 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered a
17 problem affecting people like Petitioner: Federal law requires ICE to detain an
18 immigrant during the “removal period,” which typically spans the first 90 days after
19 the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). And after that 90-day
20 removal period expires, ICE may detain the migrant while continuing to try to
21 remove them. *Id.* § 1231(a)(6). If that subsection were understood to allow for
22 “indefinite, perhaps permanent, detention,” it would pose “a serious constitutional
23 threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the
24 constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits. *Id.*
25 at 689. As an initial matter, *Zadvydas* held that detention is “presumptively
26 reasonable” for six months after the removal order becomes final. *Id.* at 701.

27 After six months, detention ceases to be presumptively reasonable. Courts
use a burden-shifting framework to decide whether detention remains authorized.

1 First, the petitioner must prove that there is “good reason to believe that there is no
2 significant likelihood of removal in the reasonably foreseeable future.” *Id.* If he does
3 so, the burden shifts to “the Government [to] respond with evidence sufficient to
4 rebut that showing.” *Id.* Ultimately, then, the burden of proof rests with the
5 government: The government must prove that there is a “significant likelihood of
6 removal in the reasonably foreseeable future,” or the immigrant must be released.
7 *Id.*

8 Here, Petitioner was ordered removed more than 6 months ago. As of the
9 filing of this motion, he has been detained for nearly six months, since July 31,
10 2025. Thus, by the conclusion of briefing and this Court’s decision, Mr. Zeeshan’s
11 detention will have spanned more than six months. Thus, this Court will likely find
12 that Petitioner warrants *Zadvydas* relief.

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

16 In addition, Petitioner is likely to succeed on the merits of his claim that he
17 may not be removed to a third country absent adequate notice and an opportunity
18 to be heard.

19 U.S. law enshrines protections against dangerous and life-threatening
20 removal decisions. By statute, the government is prohibited from removing an
21 immigrant to any third country where a person may be persecuted or tortured, a
22 form of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A).
23 The government “may not remove [a noncitizen] to a country if the Attorney
24 General decides that the [noncitizen's] life or freedom would be threatened in that
25 country because of the [noncitizen's] race, religion, nationality, membership in a
26 particular social group, or political opinion.” *Id.*; *see also* 8 C.F.R. §§ 208.16,
27 1208.16. Withholding of removal is a mandatory protection.

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

10 To comport with the requirements of due process, the government must
11 provide notice of the third country removal and an opportunity to respond. Due
12 process requires “written notice of the country being designated” and “the statutory
13 basis for the designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v.*
14 *Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S. Dep’t*
15 *of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May
16 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

17 Due process also requires the following: “[A]sk[ing] the noncitizen whether he
18 or she fears persecution or harm upon removal to the designated country and
19 memorialize in writing the noncitizen's response. This requirement ensures DHS
20 will obtain the necessary information from the noncitizen to comply with section
21 1231(b)(3) and avoids [a dispute about what was said].” *Aden*, 409 F. Supp. 3d at
22 1019. “Failing to notify individuals who are subject to deportation that they have
23 the right to apply for asylum in the United States and for withholding of
24 deportation to the country to which they will be deported violates both INS
25 regulations and the constitutional right to due process.” *Andriasian*, 180 F.3d at
26 1041.

1 If the noncitizen claims fear, measures must be taken to ensure that the
2 noncitizen can seek asylum, withholding, and relief under CAT before an
3 immigration judge in reopened removal proceedings. The amount and type of notice
4 must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
5 circumstances, he would have a reasonable opportunity to raise and pursue his
6 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009 (citing
7 *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132 F.3d 405,
8 408 (7th Cir. 1998)); *cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring a minimum of 15
9 days notice).

10 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,
11 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed. App’x 724 (9th Cir. 2016), and
12 for good reason: To have a meaningful opportunity to apply for fear-based protection
13 from removal, immigrants must have time to prepare and present relevant
14 arguments and evidence. Merely telling a person where they may be sent, without
15 giving them a chance to look into country conditions, does not give them a
16 meaningful chance to determine whether and why they have a credible fear.

17 Respondents’ third country removal policy skips over these statutory and
18 constitutional procedural protections. According to ICE’s July 9, 2025 Directive,
19 individuals can be removed to third countries “without the need for further
20 procedures,” so long as “the [U.S.] has received diplomatic assurances.” Amended
21 Petition Ex. 5. Petitioner is likely to succeed on the merits of his claim on this fact
22 alone, because the policy instructs officers to provide no notice or opportunity to be
23 heard of any kind. The same is true of the minimal procedures ICE offers when no
24 diplomatic assurances are present. The policy provides no meaningful notice (only 6-
25 24 hours), instructs officers not to ask about fear, and provides no actual
26 opportunity to see counsel and prepare a fear-based claim (6-24 hours), let alone
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1 reopen removal proceedings. In sum, it directs ICE officers to violate the rights of
2 those whom they seek to subject to the third country removal program.

3 Faced with similar arguments, several courts have recently granted
4 individual TROs against removal to third countries. See *Rodriguez-Gutierrez*, No.
5 25-cv-02726-BAS-SBC (S.D. Cal. Nov. 7, 2025) *J.R.*, 2025 WL 1810210; *Vaskanyan*,
6 2025 WL 2014208; *Ortega*, 2025 WL 1771438; *Hoac*, 2025 WL 1993771, at *7; *Phan*,
7 2025 WL 1993735, at *7.

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

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

13 Petitioner also meets the second factor: irreparable harm. "It is well
14 established that the deprivation of constitutional rights 'unquestionably constitutes
15 irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
16 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the "alleged deprivation
17 of a constitutional right is involved, most courts hold that no further showing of
18 irreparable injury is necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th
19 Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and Procedure*,
20 § 2948.1 (2d ed. 2004)). Furthermore, unlawful detention itself "constitutes extreme
21 or very serious damage, and that damage is not compensable in damages."
22 *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017) (internal citations
23 omitted).

24 Third-country deportations pose that risk and more. Recent third-country
25 deportees have been held, indefinitely and without charge, in hazardous foreign
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1 prisons.¹ They have been subjected to solitary confinement.² They have been
2 removed to countries so unstable that the U.S. government recommends making a
3 will and appointing a hostage negotiator before traveling to them.³ These and other
4 threats to Petitioner’s health and life independently constitute irreparable harm.

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

7 The final two factors for a TRO—the balance of hardships and public interest—
8 “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S.
9 418,435 (2009). That balance tips decidedly in Petitioner’s favor.

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

19 Petitioner also faces weighty hardships: unlawful, indefinite detention and
20 removal to a third country where he is likely to suffer imprisonment or other serious

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22 ¹ Edward Wong et al., *Inside the Global Deal-Making Behind Trump’s Mass*
23 *Deportations*, N.Y. Times (Jun. 25, 2025), available at
24 [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)

25 ² Gerald Imray, *Men deported by US to Eswatini in Africa will be held in*
26 *solitary confinement for undetermined time*, Associated Press (Jul. 18, 2025),
27 available at [https://apnews.com/article/eswatini-united-states-trump-deportation-](https://apnews.com/article/eswatini-united-states-trump-deportation-immigrants-a5853b16b7b275cbbcf6caff87d0bb8)
[immigrants-a5853b16b7b275cbbcf6caff87d0bb8](https://apnews.com/article/eswatini-united-states-trump-deportation-immigrants-a5853b16b7b275cbbcf6caff87d0bb8)

³ *See* Wong, *supra*.

1 harm. The balance of equities thus favors preventing the violation of “requirements
2 of federal law,” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir.
3 2014), by granting emergency relief to protect against unlawful detention and
4 prevent unlawful third country removal.

5 **CONCLUSION**

6 For those reasons, Petitioner requests that this Court issue a temporary
7 restraining order.

8 Dated January 27, 2026.

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10 Respectfully submitted,

11 Rene L. Valladares
12 Federal Public Defender

13 /s/ Ellesse Henderson

14 Ellesse Henderson
15 Assistant Federal Public Defender
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on January 27, 2026. I 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:

Muhammad Zeeshan A 212 990 009	John Mattos
Nevada Southern Detention Center	Warden
2190 E. Mesquite Avenue	Nevada Southern Detention Center
Pahrump, NV 89048	2190 E. Mesquite Ave.,
	Pahrump, NV 89060

I hereby certify that the foregoing has been filed on January 27, 2026. I personally served a true and correct copy of the foregoing **MOTION FOR TEMPORARY RESTRAINING ORDER** in support of the first amended petition by CM/ECF to the following individuals:

Virginia Tomova
DOJ-USAO
501 Las Vegas Blvd., S.
Suite 1100
Las Vegas, NV 89101
virginia.tomova@usdoj.gov

/s/ Jeremy Kip
An Employee of the
Federal Public Defender