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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 MAHMOD SEYAM,
13 Petitioner,

CIVIL CASE NO.:

'25CV3850 LL SBC

14 v.

15 KRISTI NOEM, Secretary of the
16 Department of Homeland Security,
17 PAMELA JO BONDI, Attorney General,
18 TODD M. LYONS, Acting Director,
19 Immigration and Customs Enforcement,
20 JESUS ROCHA, Acting Field Office
21 Director, San Diego Field Office,
22 CHRISTOPHER LAROSE, Warden at
23 Otay Mesa Detention Center,

**Motion for a
Temporary Restraining Order**

20 Respondents.

22 Mahmod Seyam is a stateless Palestinian, whom ICE has not been able to
23 remove him for the last 19 months. He was released on an order of supervision in
24 2024, and he performed perfectly on release for 15 months. Nevertheless, ICE re-
25 detained him in October 2025. ICE did not provide notice upon revocation;
26 provided an untimely notice that was far too vague to satisfy due process; and
27 never gave Mr. Seyam a chance to contest his re-detention. There are no changed
28

1 circumstances suggesting that he can be removed now, when ICE has failed to
2 remove him for nearly two years. And if ICE somehow were able to remove him
3 to a third country, ICE’s policy permits such removals with little or no notice.
4 This Court should therefore enter a temporary restraining order (“TRO”) pending
5 further litigation.
6

7 **Argument**

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

26 Here, this Court should issue a temporary restraining order because his
27 unlawful immigration detention has caused, and will continue to cause,
28 “immediate and irreparable injury . . . or damage.” Fed. R. Civ. P. 65(b). This

1 Court should therefore order Petitioner's release and enjoin removal to a third
2 country with no or inadequate notice.

3 **I. Petitioner is likely to succeed on the merits, or at a minimum, raises**
4 **serious merits questions.**

5 Concurrent with this TRO motion, Mr. Seyam files a habeas petition setting
6 forth in detail why he is likely to succeed on the merits. Mr. Seyam will not repeat
7 those arguments here, but he provides some examples of recent TRO or habeas
8 petition grants in this district related to the claims he raises in this petition.

9 (1) *Regulatory and due process violations: Constantinovici v. Bondi*, __ F.
10 Supp. 3d __, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10, 2025);
11 *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept.
12 15, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-2422-RBM-MSB, *3-*5
13 (S.D. Cal. Oct. 10, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB
14 (S.D. Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-
15 2334-JES, *3 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES,
16 ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-
17 02575-JO-SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025).

18 (2) *Zadvydas violations: See Conchas-Valdez*, 2025 WL 2884822, No. 25-
19 cv-2469-DMS (S.D. Cal. Oct. 6, 2025); *Alic v. Dep't of Homeland Sec./Immigr.*
20 *Customs Enft*, No. 25-CV-01749-AJB-BLM, 2025 WL 2799679 (S.D. Cal. Sept.
21 30, 2025); *Rebenok v. Noem*, No. 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept.
22 25, 2025).

23 (3) *Third-country removal statutory and due process violations: Rebenok v.*
24 *Noem*, No. 25-cv-2171-TWR at ECF No. 13; *Van Tran v. Noem*, 2025 WL 2770623
25 at *3; *Nguyen Tran v. Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D. Cal. Sept. 18,
26 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-2502-JES, *4 (S.D.
27 Cal. Oct. 9, 2025).

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
8 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and*
9 *Procedure*, § 2948.1 (2d ed. 2004)).

10 Here, the potential irreparable harm to Petitioner is even more concrete. The
11 Ninth Circuit has specifically recognized the “irreparable harms imposed on anyone
12 subject to immigration detention.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th
13 Cir. 2017). That is because “[u]nlawful detention constitutes ‘extreme or very
14 serious damage, and that damage is not compensable in damages.’” *Hernandez v.*
15 *Sessions*, 872 F.3d 976, 999 (9th Cir. 2017).

16 Finally, “[i]t is beyond dispute that Petitioner would face irreparable harm
17 from removal to a third country.” *Nguyen*, 2025 WL 2419288, at *26. Recent third-
18 country deportees have been held, indefinitely and without charge, in hazardous
19 foreign prisons. *See Wong et al., supra*. They have been subjected to solitary
20 confinement. *See Imray, supra*. They have been removed to countries so unstable
21 that the U.S. government recommends making a will and appointing a hostage
22 negotiator before traveling to them. *See Wong, supra*. These and other threats to
23 Petitioner’s health and life independently constitute irreparable harm.

24 **III. The balance of hardships and the public interest weigh heavily in**
25 **petitioner’s favor.**

26 The final two factors for a TRO—the balance of hardships and public
27 interest—“merge when the Government is the opposing party.” *Nken v. Holder*,
28 556 U.S. 418, 435 (2009). That balance tips decidedly in Petitioner’s favor. On the

1 one hand, the government “cannot reasonably assert that it is harmed in any legally
2 cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d
3 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent
4 violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S.
5 at 436 (describing public interest in preventing noncitizens “from being wrongfully
6 removed, particularly to countries where they are likely to face substantial harm”);
7 *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019)
8 (when government’s treatment “is inconsistent with federal law, . . . the balance of
9 hardships and public interest factors weigh in favor of a preliminary injunction.”).
10 On the other hand, Petitioner faces weighty hardships: unlawful, indefinite
11 detention and removal to a third country where he is likely to suffer imprisonment
12 or other serious harm. The balance of equities thus favors preventing the violation
13 of “requirements of federal law,” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d
14 1053, 1069 (9th Cir. 2014), by granting emergency relief to protect against unlawful
15 detention and prevent unlawful third country removal.

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17 Respectfully submitted,

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19 Dated: December 31, 2025

s/ Katie Hurrelbrink

20 **KATIE HURRELBRINK**

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PROOF OF SERVICE

I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney’s Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: 12/31/2025

/s/ Katie Hurrelbrink
Katie Hurrelbrink

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