

1 **Katie Hurrelbrink**
2 Bar No. 325632
3 Federal Defenders of San Diego, Inc.
4 225 Broadway, Suite 900
5 San Diego, California 92101-5030
6 Telephone: (619) 234-8467
7 Facsimile: (619) 687-2666
8 katie_hurrelbrink@fd.org

9 Attorneys for Mr. Reinoso Martinez

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

12 SANDY REINOSO MARTINEZ,
13
14 Petitioner,

15 v.

16 KRISTI NOEM, Secretary of the
17 Department of Homeland Security,
18 PAMELA JO BONDI, Attorney General,
19 TODD M. LYONS, Acting Director,
20 Immigration and Customs Enforcement,
21 JESUS ROCHA, Acting Field Office
22 Director, San Diego Field Office,
23 CHRISTOPHER LAROSE, Warden at
24 Otay Mesa Detention Center,
25
26 Respondents.

CIVIL CASE NO.: '26CV0138 DMS SBC

**Motion for a
Temporary Restraining Order**

27 Mr. Reinoso Martienz is a Cuban citizen who was ordered removed in
28 2017. He has spent the last eight years on an order of supervision, never missing a
check in. Yet ICE redetained him on October 30, 2025. ICE did not comply with
its regulations in redetaining him, and ICE has not proved able to remove him to
Cuba, Mexico, or any other country. He has a strong claim to release, and every
additional day in detention works irreparable harm. And ICE's policy permits his

1 removal to a third country with little or no notice. This Court should therefore
2 enter a temporary restraining order (“TRO”) pending further litigation.

3
4 **Argument**

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

23 Here, this Court should issue a temporary restraining order because his
24 unlawful immigration detention has caused, and will continue to cause,
25 “immediate and irreparable injury . . . or damage.” Fed. R. Civ. P. 65(b). This
26 Court should therefore order Petitioner’s release and enjoin removal to a third
27 country with no or inadequate notice.

28

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

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

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

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

22 (3) *Third-country removal statutory and due process violations: This Court*
23 *should enjoin ICE from removing Mr. Ngo to a third country without providing an*
24 *opportunity to assert fear of persecution or torture before an immigration judge.*
25 *See, e.g., Rebenok v. Noem*, No. 25-cv-2171-TWR at ECF No. 13; *Van Tran v.*
26 *Noem*, 2025 WL 2770623 at *3; *Nguyen Tran v. Noem*, No. 25-cv-2391-BTM, ECF
27 No. 6 (S.D. Cal. Sept. 18, 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No.
28 25-cv-2502-JES, *4 (S.D. 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.

16
17 Respectfully submitted,

18
19 Dated: January 9, 2026

s/ Katie Hurrelbrink

20 **KATIE HURRELBRINK**

21 Federal Defenders of San Diego, Inc.

22 Email: Katie_Hurrelbrink@fd.org

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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: January 9, 2026

/s/ Katie Hurrelbrink
Katie Hurrelbrink