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

12 **TESFAY GEBREMDHIM HAGOS,**

**CIVIL CASE NO.: '26CV0150 JES DEB**

13 Petitioner,

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**

24 Respondents.

25 Tesfay Hagos received withholding of removal to Eritrea in 2010. He spent  
 26 the next 15 years on release, during which time ICE proved unable to remove  
 27 him. Yet, in November 2025, ICE detained him. ICE did not comply with  
 28 regulations in redetaining him, and ICE has not been able to remove him to a third  
 country. He has a strong claim to release, and every additional day in detention  
 works irreparable harm. And ICE's policy permits his removal to a third country

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

### 3 **Argument**

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

22 Here, this Court should issue a temporary restraining order because his  
23 unlawful immigration detention has caused, and will continue to cause,  
24 “immediate and irreparable injury . . . or damage.” Fed. R. Civ. P. 65(b). This  
25 Court should therefore order Petitioner’s release and enjoin removal to a third  
26 country with no or inadequate notice.  
27  
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. Hagos files a habeas petition setting  
4 forth in detail why he is likely to succeed on the merits. Mr. Hagos will not repeat  
5 those arguments here, but he provides some examples of recent TRO or habeas  
6 petition grants in this district related to the claims he raises in this petition.

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

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

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

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

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

11 Here, the potential irreparable harm to Petitioner is even more concrete. The  
12 Ninth Circuit has specifically recognized the “irreparable harms imposed on anyone  
13 subject to immigration detention.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th  
14 Cir. 2017). That is because “[u]nlawful detention constitutes ‘extreme or very  
15 serious damage, and that damage is not compensable in damages.’” *Hernandez v.  
16 Sessions*, 872 F.3d 976, 999 (9th Cir. 2017). And in Mr. Hagos’s case, his  
17 redetention has caused him to start taking medication for sleep and depression for  
18 the first time. Exh. A to habeas petition at ¶ 10. It has also wrought hardship on his  
19 wife and two young children, all of whom depend on him for financial support. *Id.*  
20 at ¶ 11.

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

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

3 The final two factors for a TRO—the balance of hardships and public  
4 interest—“merge when the Government is the opposing party.” *Nken v. Holder*,  
5 556 U.S. 418, 435 (2009). That balance tips decidedly in Petitioner’s favor. On the  
6 one hand, the government “cannot reasonably assert that it is harmed in any legally  
7 cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d  
8 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent  
9 violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S.  
10 at 436 (describing public interest in preventing noncitizens “from being wrongfully  
11 removed, particularly to countries where they are likely to face substantial harm”);  
12 *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019)  
13 (when government’s treatment “is inconsistent with federal law, . . . the balance of  
14 hardships and public interest factors weigh in favor of a preliminary injunction.”).  
15 On the other hand, Petitioner faces weighty hardships: unlawful, indefinite  
16 detention and removal to a third country where he is likely to suffer imprisonment  
17 or other serious harm. The balance of equities thus favors preventing the violation  
18 of “requirements of federal law,” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d  
19 1053, 1069 (9th Cir. 2014), by granting emergency relief to protect against unlawful  
20 detention and prevent unlawful third country removal.

21  
22 Respectfully submitted,

23  
24 Dated: January 12, 2026

*s/ 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: 1/12/2026

/s/ Katie Hurrelbrink  
Katie Hurrelbrink