

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. Hadi



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

12 ISMAIL HADI,

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,

24 Respondents.

25 CIVIL CASE NO.: '26CV0255 RSH JLB

26 **Motion for a**  
27 **Temporary Restraining Order**

28 Ismail Hadi was ordered removed to Somalia in 2014. He spent the next decade on release, during which time ICE proved unable to remove him. Yet, in July 2025, ICE detained him. ICE did not comply with regulations in redetaining him, and ICE has not been able to remove him to Somalia. He has a strong claim to release, and every additional day in detention works irreparable harm. And

1 ICE's policy permits his removal to a third country with little or no notice. This  
2 Court should therefore enter a temporary restraining order ("TRO") pending  
3 further litigation.

#### 4 **Argument**

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

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

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. Hadi files a habeas petition setting  
4 forth in detail why he is likely to succeed on the merits. Mr. Hadi 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 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). And in Mr. Hadi’s case, his redetention  
16 has deprived his family of a primary caretaker for six kids, foisting full  
17 responsibility for childcare and financial support onto his wife. Exh. A at Habeas  
18 Petition at ¶ 7.

19 Finally, “[i]t is beyond dispute that Petitioner would face irreparable harm  
20 from removal to a third country.” *Nguyen*, 2025 WL 2419288, at \*26. Recent third-  
21 country deportees have been held, indefinitely and without charge, in hazardous  
22 foreign prisons. *See Wong et al., supra*. They have been subjected to solitary  
23 confinement. *See Imray, supra*. They have been removed to countries so unstable  
24 that the U.S. government recommends making a will and appointing a hostage  
25 negotiator before traveling to them. *See Wong, supra*. These and other threats to  
26 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 15, 2026

*s/ Katie Hurrelbrink*

25 **KATIE HURRELBRINK**  
26 Federal Defenders of San Diego, Inc.  
27 Email: [Katie\\_Hurrelbrink@fd.org](mailto:Katie_Hurrelbrink@fd.org)  
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**PROOF OF SERVICE**

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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: 1/15/2026

*/s/ Katie Hurrelbrink*  
Katie Hurrelbrink