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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF COLORADO**

8 **HISSEIN SEIRO YAYA**

9 A# 

10 *Petitioner,*

11 v.

12 **JUAN BALTAZAR,**
13 **In his official capacity as Warden of the**
14 **Denver Contract Detention Facility owned**
15 **and operated by GEO Group, Inc.;**

16 **ROBERT HAGAN,**
17 **In his official capacity as Field Office**
18 **Director, Denver Field Office, U.S.**
19 **Immigration & Customs Enforcement**
20 **(ICE);**

21 **KRISTI NOEM, Secretary, U.S. Departme**
22 **of Homeland Security (DHS);**

23 **TODD LYONS, Acting Director of**
24 **Immigration and Customs Enforcement**
25 **(ICE);**

26 **PAM BONDI, Attorney General, U.S.**
27 **Department of Justice (DOJ).**

28 *Respondents.*


CASE NO.:


**MOTION FOR TEMPORARY
RESTRAINING ORDER**

MOTION FOR TEMPORARY RESTRAINING ORDER

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I. INTRODUCTION

After experiencing torture and persecution in the country of Chad on account of his 


 Plaintiff/Petitioner Mr. Hissein Seiro Yaya (“Mr. Yaya”), has now been in immigration detention for a total of eighteen (18) months. On July 24, 2025, the Immigration Judge (“IJ”) granted him withholding of removal. Neither party appealed, hence the order became final on that date. Since July 24, 2025, Mr. Yaya has spent more than six months languishing in the Denver Contract Detention Facility (Aurora) without the government giving any reason for his continued custody.

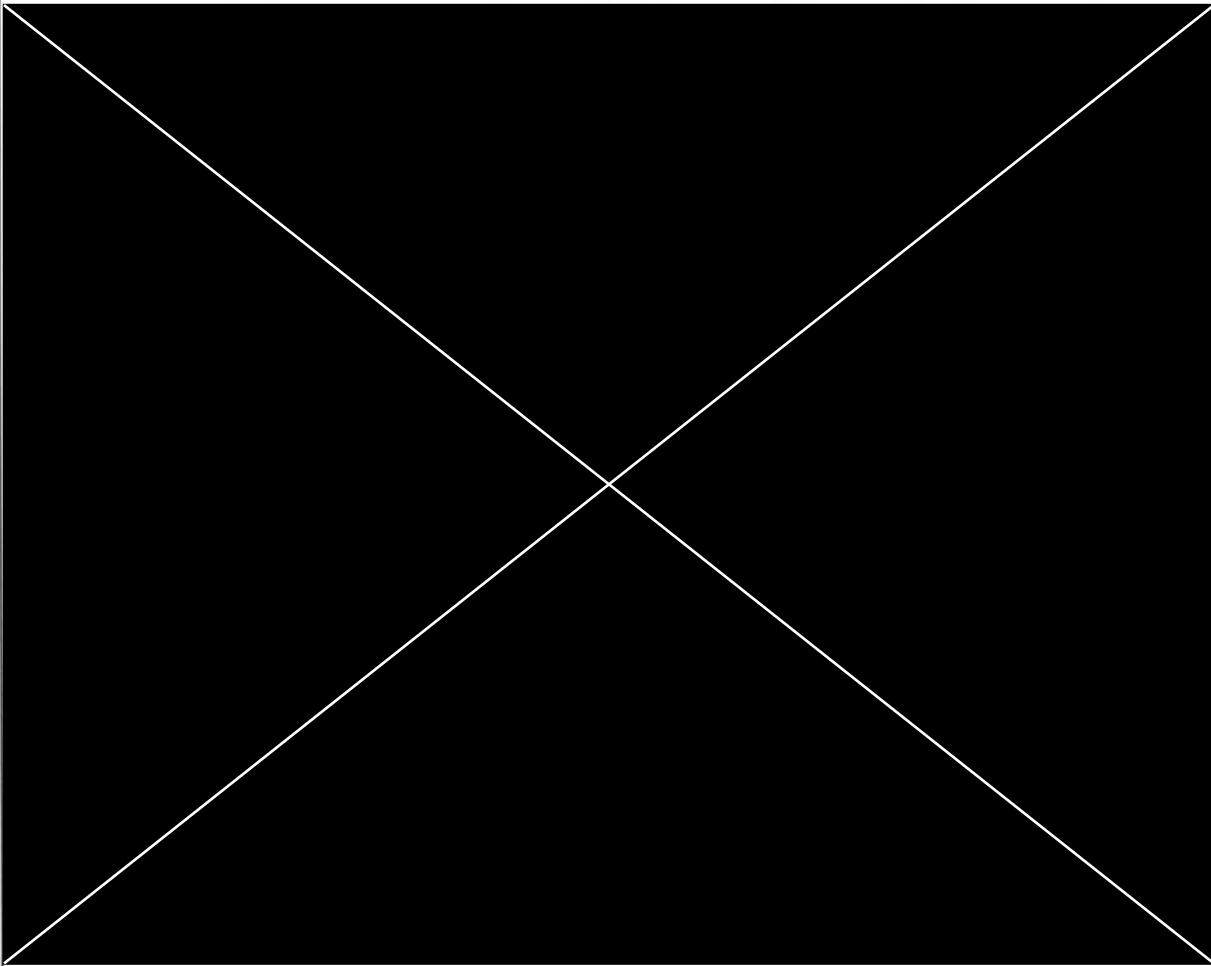
Consequently, Mr. Yaya moves for a temporary restraining order (“TRO”) pursuant to Fed.R.Civ.P. 65 against Juan Baltazar, in his official capacity as Warden of the Aurora Contract Detention Facility (“Aurora facility”),¹ and the other Respondents, which include government officials responsible for his indefinite detention and continuing denial of his due process rights. In particular, Mr. Yaya asks this Court to award injunctive relief compelling Respondents to release him. In the alternative, should the Court deny Mr. Yaya’s request for such injunctive relief, it should at least grant a temporary restraining order prohibiting Respondents from transferring him outside this Court’s jurisdiction during the pendency of his underlying habeas action, and should order Respondents to show cause why his habeas petition should not be granted.

Counsel for Mr. Yaya provided notice of intent to file his habeas petition and this motion to Counsel for Respondents at the U.S. Attorney’s Office for the District of Colorado on January 22, 2026.

¹ The Aurora facility is owned and operated by GEO Group, Inc., a private for-profit corporation. It is also referred to as the Denver Contract Detention Facility. These names are used interchangeably by the Department of Homeland Security (DHS), and both refer to the facility located at 3130 N. Oakland Stret, Aurora, Colorado 80010.

1 **II. FACTUAL BACKGROUND**

2 Mr. Yaya, a national and citizen of Chad, has been in continuous immigration detention for
3 about eighteen (18) months. 



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22 On July 10, 2024, Mr. Yaya entered the United States. He remained in detention throughout
23 his removal proceedings. On July 24, 2025 the IJ granted him withholding of removal, finding it
24 was “more likely than not” Mr. Yaya would be tortured if returned to Chad. *See also* 8 C.F.R. § §
25 1208.16. Because Mr. Yaya and the Department of Homeland Security (DHS) waived appeal, his
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1 § 2241, to order the immediate release of detained persons from unconstitutional confinement. *See,*
2 *e.g., Boutwell v. Keating*, 399 F.3d 1203, 1208-09 (10th Cir. 2005) (when an imprisoned
3 person “is challenging the very fact or duration of his physical imprisonment, and the relief he
4 seeks is a determination that he is entitled to immediate release ... his sole federal remedy is a writ
5 of habeas corpus”) (citing *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973)).

7 A party seeking a TRO must show that: (i) they will suffer irreparable harm unless the
8 injunction is issued; (ii) they have a substantial likelihood of prevailing on the merits; (iii) the
9 threatened injury outweighs any harm that the preliminary injunction may cause the opposing party;
10 and (iv) the injunction will not adversely affect the public interest. *Dine Citizens Against Ruining*
11 *Our Env’t v. Jewell*, 839 F.3d 1276, 1281 (10th Cir. 2016). Of the four factors, “a showing of
12 probable irreparable harm is the single most important prerequisite” for a preliminary injunction or
13 temporary restraining order, and “the moving party must first demonstrate that such injury is likely
14 before the other requirements for the issuance of an injunction will be considered.” *Dominion Video*
15 *Satellite v. Echostar Satellite Corp.*, 356 F.3d 1256, 1260–61 (10th Cir. 2004) (quotation and
16 citation omitted).

19 **A. Mr. Yaya Will Suffer Irreparable Harm in the Absence of a TRO.**

20 Mr. Yaya suffers great, immediate, and irreparable harm each day he remains detained,
21 separated from his United States Citizen uncle and his extended family after having suffered
22 unlawful detainment and torture for his political opinion. His harm is imminent and ongoing: it is
23 also “certain, great, and not theoretical.” *Heidman v. S. Salt Lake City*, 348 F.3d 1182, 1189 (10th
24 Cir. 2003). “Irreparable harm, as the name suggests, is harm that cannot be undone, such as by an
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1 award of compensatory damages or otherwise.” *Salt Lake Tribune Publ’g Co., LLC v. AT&T Corp.*,
2 320 F.3d 1081, 1105 (10th Cir. 2003).

3 Moreover, the violation of an individual’s constitutional rights is an irreparable injury. *Elrod*
4 *v. Burns*, 427 U.S. 347, 373-74 (1976). Indeed, “[m]ost courts consider the infringement of a
5 constitutional right enough and require no further showing of irreparable injury.” *Free the Nipple—*
6 *For Collins*, 916 F.3d 792, 805-06 (10th Cir. 2019) (citing *Awad v. Ziriox*, 670 F.3d 1111, 1131
7 (10th Cir. 2012)); *Connecticut Dept. of Environmental Protection v. O.S.H.A.*, 356 F.3d 226, 231
8 (2d Cir. 2004)(“[W]e have held that the alleged violation of a constitutional right triggers a finding
9 of irreparable injury”)(internal quotations and citations omitted).

10 Irreparable physical and mental harm is inevitable for those held in custody. As the Supreme
11 Court has explained, “[t]he time spent in jail . . . has a detrimental impact on the individual. It often
12 means loss of a job; it disrupts family life; and it enforces idleness. Most jails offer little or no
13 recreational or rehabilitative programs.” *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972); *see also*
14 *Velasco Lopez v. Decker*, 978 F.3d 842, 850 (2d Cir. 2020)(“[t]he deprivation [...] experienced [by
15 immigrants] incarcerated [is], on any calculus substantial. [They] are locked up in jail. [They
16 cannot] maintain employment or see [their] family or friends or others outside normal visiting
17 hours. The use of cell phone [is] prohibited, and [they] have no access to the internet or email and
18 limited access to the telephone”); *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir.
19 2017)(recognizing in “concrete terms the irreparable harms imposed on anyone subject to
20 immigration detention”).

21 Mr. Yaya satisfies the first prong of the test, since his ongoing and prolonged deprivation of
22 liberty have strongly affected his mental health—as a survivor of torture at the hands of the Chadian
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1 government—who now has been in detention a total of eighteen months, unable to be with his
2 family within the United States, unable to continue his studies as a University student, and—as a
3 young 24 year old man—unable to move forward with his life. Although the violation of his
4 constitutional rights is enough meet this prong, these effects of his prolonged custody also
5 constitutes irreparable harm.
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7 **B. Mr. Yaya Has a Substantial Likelihood of Success on the Merits of His Underlying**
8 **Petition.**

9 When assessing this prong of the test, the appropriate standard is a “reasonable likelihood”
10 of success and nothing more. *Dine Citizens Against Ruining Our Environment*, 839 F.3d at 1282;
11 e.g. *Singer Mgmt. Consultants, Inc. v. Milgram*, 650 F.3d 223, 229 (3d Cir. 2011)(en banc)(internal
12 quotation marks omitted)(“[L]ikelihood of success on the merits” means that a plaintiff has “a
13 reasonable chance, or probability, of winning . . . A likelihood does not mean more likely than not.”
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15 Here, Mr. Yaya’s claim is likely to succeed because his prolonged detention for more than
16 six months contravenes due process. The District of Colorado applies a six-factor test when
17 analyzing whether a noncitizens’ detention has become unconstitutionally prolonged. Those factors
18 include: (1) the total length of detention to date; (2) the likely duration of future detention; (3) the
19 conditions of confinement; (4) delays in the removal proceedings caused by the person in
20 immigration custody; (5) delays in the removal proceedings caused by the government; and (6) the
21 likelihood that removal proceedings will result in a final order of removal. *See Viruel Arias v.*
22 *Choate*, No. 22-cv-2238-CNS, 2022 WL 4467245 (D. Colo. Sept. 26, 2022); *Sheikh v. Choate*, No.
23 22-cv-1627-RMR, 2022 WL 17075894 (D. Colo. July 27, 2022); *Villaescusa-Rios v. Choate*, No.
24 20-CV-03187 (CMA), 2021 WL 269766 (D. Colo. Jan. 27, 2021); *Singh v. Choate*, No. 19-cv-
25 00909-KLM, 2019 WL 3923960 (D. Colo. May 12, 2020).
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1 First, when a noncitizen receives withholding and, thereby, is ordered removed from the
2 United States, the removal “shall” occur within the next 90 days—the “removal period.” 8 U.S.C. §
3 1231(a)(1); *Morales-Fernandez v. Immigr. & Naturalization Serv.*, 418 F.3d 1116, 1123 (10th Cir.
4 2005). Once the removal period expires, the noncitizen “may” be detained, *id.* § 1231(a)(6)
5 (emphasis added). However, constitutional demands limit a noncitizen’s “post-removal-period
6 detention to a period reasonably necessary to bring about that alien’s removal from the United
7 States.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). However, “once removal is no longer
8 reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699. The
9 period of six-months in detention is presumptively reasonable. *Id.* at 701. After this time, if the
10 noncitizen demonstrates “good reason to believe that there is no significant likelihood of removal in
11 the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut
12 that showing.” *Id.* “If the government fails to demonstrate a significant likelihood of removal in the
13 reasonably foreseeable future, the noncitizen must be released.” *Ahrach v. Baltazar*, No. 25-cv-
14 03195-PAB, 2025 WL 3227529, at *2 (D. Colo. Nov. 19, 2025)(citing *Zadvydas*, 533 U.S. at 701).

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18 Mr. Yaya has been detained in civil immigration detention since the Judge’s decision of July
19 24, 2025—a period of six months with there is no end in sight. The Government has provided no
20 reason for his continued detention. He was given a custody review about four months after his final
21 order, but ICE gave no further information. In addition, Mr. Yaya cannot receive any review by an
22 IJ because his immigration proceedings have ended and he has a final order. Thus, per the law, Mr.
23 Yaya has a substantial likelihood of succeeding on the merits based on his prolonged detention with
24 no stated reason.
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1 It should be noted, courts within this District and across the country have routinely held that
2 DHS detention of an individual for an excess of six months without neutral review violates the
3 Constitution. *Viruel Arias*, 2022 WL 4467245 at *2; *Sheikh*, 2022 WL 17075894 at *3; *Singh*, 2021
4 WL 2290712 at *4; *Villaescusa-Rios v. Choate*, No. 20-CV-03187 (CMA), 2021 WL 269766, at *3
5 (D. Colo. Jan. 27, 2021); *Singh*, 2019 WL 3943960 at *5; *Banda v. McAlleenan*, 385 F. Supp. 3d
6 1099, 1106 (W.D. Wash. 2019).

8 The second factor, the duration of future detention, also weighs in favor of Mr. Yaya. He
9 continues to sit in civil detention despite a Judge’s order granting him withholding of removal.
10 Given the government’s conduct in this case, Mr. Yaya’s detention is prolonged and without any
11 reason given or any notice as to how long he may be detained in the future. Accordingly, this factor
12 weighs strongly in Mr. Yaya’s favor. *Daley v. Choate*, No. 22-cv-03043, 2023 WL 2336052, at *3
13 (D. Colo. Jan. 6, 2023), *Sheikh*, 2022 WL 17075894, at *3.

15 The third factor, the conditions of detention, also weighs heavily in favor of Mr. Yaya. The
16 indefiniteness of his detention has caused understandable mental anguish. In fact, courts have found
17 that the Aurora facility “is enough like a corrections facility for this factor to favor” petitioners. *De*
18 *Zarate v. Choate*, No. 23-cv-00571, 2023 WL 2574370, at *4 (D. Colo. Mar. 20, 2023)(citing
19 *Daley*, 2023 WL 2336052, at *4). “[W]hether [Ms. XXX] is detained in a luxurious hotel or a
20 detention facility, or some other building, [s]he is being deprived of [her] liberty—thus, this factor
21 seems somewhat besides the point.” *Singh*, 2019 WL 3942960, at *6.

24 The fourth and fifth factors consider which party is responsible for any delay in the
25 petitioner’s removal proceedings. Here, the government is responsible for his continued custody
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1 without notice and without reason. His removal proceedings have come to an end. He has been
2 granted withholding of removal.

3 The sixth and final factor, the likelihood that the removal proceedings will result in a final
4 order of removal, also favors Mr. Yaya. Again, his removal proceedings did indeed have a
5 favorable outcome of a grant of withholding of removal. His orders are final.
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7 Thus, Mr. Yaya satisfies the six-factor test, showing he has been suffering from prolonged
8 detention that is unconstitutional.

9 **C. The Balance of Equities and Public Interest Weigh Heavily in Mr. Yaya’s Favor.**

10 Where the government is a party to a case, the final two injunction factors—*i.e.*, the balance
11 of equities and the public interest—merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *Bd. Of Cty.*
12 *Commissioners of Boulder Cty. V. Suncor Energy (U.S.A.) Inc.*, No. 18-CV-01672 (WJM-SKC),
13 2019 WL 4926764, *7 (D. Colo. Oct. 7, 2019).
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15 When assessing whether a preliminary injunction is warranted, the Court “must balance the
16 competing claims of injury and must consider the effect on each party of the granting or
17 withholding of her requested relief.” *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 24 (2008).
18 “When a constitutional right hangs in the balance,” it “usually trumps any harm to the defendant.”
19 *Free the Nipple—Fort Collins*, 916 F.3d at 806. The “public interest is best served by ensuring the
20 constitutional rights of person within the United States.” *Sajous v. Decker*, 18-cv-2447, 2018 WL
21 2357266, at *13 (S.D.N.Y. 2018)(internal citation omitted); *Free the Nipple—Fort Collins*, 237 F.
22 Supp. 3d at 1134 (It is “always in the public interest to prevent the violation of a party’s
23 constitutional rights”)(citing *Connection Distrib. Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998);
24 *Stawser v. Strange*, 44 F. Supp.3d 1206, 1210 (S.D. Ala. 2015)).
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1 Protecting rights secured by federal statutes necessarily advances the public interest and
2 cannot constitute significant injury to the government. Federal legislative enactments, as
3 “democratic determinations of the public interest,” offer useful guidance to courts analyzing the
4 public interest prong of the preliminary injunction inquiry. *Fish v. Kobach*, 840 F.3d 710, 755 (10th
5 Cir. 2016)(quoting *Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1191 (10th Cir. 2003); *see also O*
6 *Centro Espirita Beneficente Uniao De Vegetal v Ashcroft*, 342 F.3d 1170, 1174 (10th Cir.
7 2003)(affirming a preliminary injunction because “failure to vindicate religious freedom protected
8 under RFRA—a statute specifically enacted by Congress, as representative of the public . . . would
9 be adverse to the public interest”). Thus, in granting a TRO related to unlawful immigration
10 detention, the District of Colorado noted that requiring ICE’s “compliance with the law serves the
11 public interest.” *Andujo-Andujo v. Longshore*, No. 14-cv-01532, 2014 WL 2781163 at *6 (D. Colo.
12 June 19, 2014).

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15 Here, the balance of equities and public interest both weigh heavily in favor of granting the
16 preliminary injunction. The Government is constitutionally obligated to provide due process.
17 *Zadvydas*, 533 U.S. at 690. “It is well established that the Fifth Amendment entitles aliens to due
18 process of law’ in the context of removal proceedings.” *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006
19 (2025)(per curiam)(quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Indeed, expedited court
20 intervention is sometimes necessary to prevent violations of due process rights during immigration
21 proceedings. *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1368 (2025)(granting TRO to prevent expedited
22 deportation potentially violative of due process).

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25 Furthermore, although Mr. Yaya has *not* received any information as to the reason of his
26 continued detention, under 8 U.S.C. § 1231, DHS has the authority to remove noncitizens granted
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1 withholding to a third country. 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.17(b)(2). But, he cannot just be
2 spirited away with notice and an opportunity to present a fear claim before being sent to a third
3 country; the government has given no indication that in the reasonably foreseeable future any third
4 country will accept him because he only holds citizenship in Chad, the country to which the
5 Government cannot send him. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (finding
6 that “last minute” designation of alternative country without meaningful opportunity to apply for
7 protection “violate[s] a basic tenet of constitutional due process”).
8

9 Mr. Yaya’s suffering is particularly egregious given that he was found to be credible and
10 was granted withholding of removal, yet never given any reason for his continued detention after
11 the 90-removal period passed and now after more than six months. Meanwhile, the Government
12 faces no hardship if the court grants the injunction. Indeed, no countervailing public interest exists
13 in Mr. Yaya’s indefinite detention. Hence, he makes a strong showing that both the balance of
14 harms and the public interest weigh in his favor.
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16 Finally, Respondents “cannot suffer harm from an injunction that merely ends an unlawful
17 practice. . . .” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). The public interest is
18 served by the faithful execution of the immigration laws, and that interest includes respect for
19 protections Congress has enacted and to which the United States has committed itself by treaty.
20 *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005)(recognizing “the public interest in
21 having the immigration laws applied correctly and evenhandedly”); *Leiva-Perez v. Holder*, 640
22 F.3d 962, 971 (9th Cir. 2011)(noting “the public’s interest in ensuring that we do not deliver
23 [noncitizens] into the hands of their persecutors”); *Lujan v. Defs. Of Wildlife*, 504 U.S. 555, 576
24 (1992)(discussing “the public interest in Government observance of the Constitutional laws”).
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1 **D. In the Alternative, This Court Should Enjoin Respondents from Transferring Mr.**
2 **Yaya Out of this District During the Pendency of This Case.**

3 If the Court does not grant preliminary injunctive relief, Mr. Yaya respectfully requests that,
4 at a minimum, the Court enjoin Respondents from transferring him outside the District of Colorado
5 during the pendency of his underlying habeas case. In a recent case in this district, *Fuentes v.*
6 *Choate*, No. 24-cv-01277-NYW, 2024 WL 2978285 (D. Colo. June 13, 2024), the respondents
7 transferred the petitioner to an ICE facility in Arizona one day before she was able to get her habeas
8 petition on file with this Court, thus frustrating this Court's exercise of jurisdiction. Thus, to
9 preserve this Court's jurisdiction over the matter, facilitate judicial review of Mr. Yaya's significant
10 constitutional claims, and preserve judicial resources by avoiding the necessity of refiling this case
11 elsewhere, Mr. Yaya respectfully asks this Court enjoin his transfer outside this district during the
12 pendency of this case.
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1 **IV. CONCLUSION**

2 DHS has detained Mr. Yaya for six months in the psychologically excruciating conditions of
3 an indefinite future, without Respondents ever having demonstrated that this infringement of his
4 liberty is warranted. For the foregoing reasons, and as set out more fully in his Verified Petition
5 filed herewith, Mr. Yaya respectfully requests that this Court grant a TRO compelling Respondents
6 to release him, enjoining Mr. Yaya's removal from this district during the pendency of his habeas
7 case, and such further relief as the Court deems just and proper.
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10 Date: January 27, 2026

11 Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Barbara Zalewski-Zaragoza, hereby certify that on January 27, 2026, I filed the foregoing with the Clerk of Court using the CM/ECF system. I, Barbara Zalewski-Zaragoza, hereby certify that I have mailed a hard copy of the document to the individuals identified below pursuant to Fed.R.Civ.P. 4 via certified mail on January 27, 2026.


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2 UNITED STATES DISTRICT COURT
3 DISTRICT OF COLORADO

4 HISSEIN SEIRO YAYA)

CASE NO.:

5 *Plaintiff/Petitioner,*)

6 v.)

7 JUAN BALTAZAR,)
8 In his official capacity as Warden of the)
9 Denver Contract Detention Facility owned)
and operated by GEO Group, Inc.;)

10 PROPOSED ORDER GRANTING
11 PETITIONER'S EMERGENCY
12 MOTION FOR TEMPORARY
13 RESTRAINING ORDER

14 ROBERT HAGAN,)
15 In his official capacity as Field Office)
16 Director, Denver Field Office, U.S.)
17 Immigration & Customs Enforcement)
18 (ICE);)

19 KRISTI NOEM, Secretary, U.S. Departme)
20 of Homeland Security (DHS);)

21 TODD LYONS, Acting Director of)
22 Immigration and Customs Enforcement)
23 (ICE);)

24 PAM BONDI, Attorney General, U.S.)
25 Department of Justice (DOJ).)

26 *Defendants/Respondents.*)

27 THIS MATTER comes before the Court on Plaintiff's Emergency Motion for a Temporary
28 Restraining Order and Preliminary Injunction. Having considered the motion, the memorandum and
exhibits in support thereof, and any subsequent submissions related to the motion, the Complaint,
and the applicable law, the Court ORDERS as follows:

- 1) Petitioner's Motion for a Temporary Restraining Order is _____.
- 2) Respondents, and all of their officers, agents, servants, employees, attorneys, successors, assigns, and persons acting in concert or participation with them, are hereby ENJOINED AND RESTRAINED from _____.
- 3) The Court further ORDERS that Respondents, and all of their officers, agents, servants, employees, attorneys, successors, assigns, and persons acting in concert or participation with them, must _____.
- 4) No security bond is required under Federal Rule of Civil Procedure 65(c).
- 5) The parties shall, within _____ of this Order, propose a briefing schedule with respect to Petitioner's motion for preliminary injunctive relief. The hearing date shall be no later than fourteen days from today.

It is so ORDERED.

DATED this _____ day of _____, 2025.

UNITED STATES DISTRICT JUDGE