Artur Ashotovich Simonyan
Alein No. [redacted]
Otya Mesa Detention Center
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SOUTHERN DISTRICT OF CALIFORNIA
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IN THE UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Artur Ashotovich SIMONYAN, -Petitioner, *Pro Se*, v. THE UNITED STATES OF AMERICA, *et. al.*, Kristi NOEM, in her Official Capacity, Secretary of the Department of Homeland Security Pamela J. BONDI, in her Official Capacity, Attorney General, Department of Justice, Daniel A. BRIGHTMAN, in his Official Capacity, Field Office Director, San Diego Filed Office, U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, Todd LYONS, in his Official Capacity, Acting Director, Immigration & Customs Enforcement, Christopher J. LAROSE, in his Official Capacity, Warden of Immigration Detention Facility, Otay Mesa Detention Center; -Respondents.	**No. 3:26-cv-01564-DMS-MMP** INS No. [redacted] Custody Status: **DETAINED** **Petitioner's Reply**

I. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner, Artur Ashotovich Simonyan is a native and citizen of Azerbaijan. DHS/ICE has attempted to remove Petitioner to Azerbaijan since 2012, without success. The Azerbaijan Embassy formally informed ICE that it will not accept him and will not issue travel documents. ICE has also been unable to identify any other country willing to accept Petitioner. Petitioner has now been detained far beyond the presumptively reasonable six-month period established in *Zadvydas*. Respondents, including DHS/ICE has no removal plan, no viable alternative country, and no path toward removal. Respondents continues to detain Petitioner despite the legal impossibility of effectuating removal. DHS/ICE has a history of cherry-picking arrests, including Petitioner's, without any rational relationship to legitimate removal objectives.

Petitioner is currently being physically detained under the full custody of the Department of Homeland Security, Immigration and Customs Enforcement ("DHS/ICE") at Otay Mesa Detention Center.

On February 1, 2012, an Immigration Judge in Colorado ordered Petitioner removed from the United States. Yet, DHS has not removed him from the US, but rather released him from ICE detention. There is no indication that Petitioner will be removed in the future.

Regarding Appeals, Petitioner did not appeal the removal order thus, making it a final order of removal on 02/01/2012. To date, however, ICE has been unable to remove Petitioner to his home country, Azerbaijan and there is no indication that ICE will execute removal in the reasonably foreseeable future. In addition, ICE has been unable to remove Petitioner to any other country. Petitioner has cooperated fully with all of ICE's efforts to remove Petitioner from the United States.

Petitioner has cooperated with ICE in the following ways: Petitioner has fully complied with ICE's directives and has taken several steps in contacting the Consulate and Embassy for Azerbaijan, but to no avail. Although Petitioner is detained, ICE conducted a 90-Day custody review back in 2012, ICE has been unable to remove Petitioner from the United States. ICE is unlikely to remove Petitioner in the reasonably foreseeable future to Azerbaijan. No other country has accepted Petitioner. This case warrants an emergency injunction relief.

Regarding Petitioner's detention, he has been in ICE custody since December 30, 2025 and there is no clear indication that ICE will remove Petitioner.

Petitioner incorporates by reference the statements of fact set forth in those pleadings and set forth in his Motion for Temporary Restraining Order.

II. JURISDICTION

The Constitution guarantees the writ of habeas corpus "to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. CONST., Art. I, § 9, cl.2). "Its province, shaped to guarantee the most fundamental of all rights, is to provide an effective and speedy instrument by which judicial inquiry may be had into the legality of the detention of a person." *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (citations omitted).

Historically, "the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest." *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001) (citations omitted), superseded by statute on other grounds as stated in *Nasrallah v. Barr*, 590 U.S. 573, 580 (2020).

Accordingly, this Court has jurisdiction to grant writs of habeas corpus to noncitizens who are being detained "in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); *see also Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (clarifying that an

immigration detainee's challenge to their confinement, and removal, falls "within the 'core' of the writ of habeas corpus") (per curium) (citations and quotation marks omitted); *see also Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) ("[D]istrict courts retain jurisdiction under 28 U.S.C. § 2241 to consider habeas challenges to immigration detention . . . ."); *see also Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) ("We conclude that § 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention."). As habeas petitions must be verified, *see* 28 U.S.C. § 2242, their undisputed factual allegations must be taken at face value. *See Carlson v. Landon*, 186 F.2d 183, 188 (9th Cir. 1950) (citations omitted).

III. STANDARD OF LAW

A TRO and a preliminary injunction are both extraordinary remedies. In general, "[t]emporary restraining orders are governed by the same standard applicable to preliminary injunctions." *Aiello v. One West Bank*, No. 2:10-cv-0227-GEB-EFB, 2010 WL 406092, at *1 (E.D. Cal. Jan. 29, 2010) (internal citations omitted); *see also* E.D. Cal. L.R. 231(a).

For both a TRO and a preliminary injunction, courts consider whether Petitioner has established: "[1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Petitioner must "make a showing on all four prongs" of the *Winter* test. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). In evaluating a plaintiff's motion, a district court may weigh Petitioner's showings on the *Winter* elements using a sliding-scale approach. *Id.* A stronger showing on the balance of the hardships may support issuing a TRO even where the plaintiff shows that there are "serious questions on the merits . . . so long as the plaintiff

also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest." *Id.* Simply put, Petitioner must demonstrate, "that [if] serious questions going to the merits were raised [then] the balance of hardships [must] tip[ ] sharply" in Petitioner's favor in order to succeed in a request for a TRO.

Pursuant to Federal Rule of Civil Procedure 65(b), a court may grant a preliminary injunction to prevent "immediate and irreparable injury." A preliminary injunction is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008) (citation omitted). Again, to obtain such relief, a plaintiff "must show that: (1) [they are] likely to succeed on the merits, (2) [they are] likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in [their] favor, and (4) an injunction is in the public interest." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (citation omitted). The Ninth Circuit recognizes a "sliding scale" variant of the Winter standard, where a strong showing of one factor can offset a weaker showing of another factor. *See All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). According to this test, "serious questions going to the merits and a balance of hardships that tips sharply towards the plaintiff can support issuance of a preliminary injunction, so long as the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest." *Id.* at 1135 (quotation marks omitted). A "serious question" is one on which the movant "has a fair chance of success on the merits." *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1421 (9th Cir. 1984).

IV. LEGAL ARGUMENT

This Court should consider each of the *Winter* elements with respect to Petitioner's Habeas, preliminary injunction request and TRO request. Based on the *Winter* factors, the Court should

conclude that Petitioner is entitled to a preliminary injunction. Petitioner is likely to succeed on the merits of his claim and the remaining Winter factors weigh strongly in his favor.

A. Likelihood of Success on the Merits

Turning to the "most important" factor, *see Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (citation omitted), Petitioner is likely to succeed in showing that his ongoing detention is statutorily—and constitutionally—unlawful.

Even if Respondents argue that Petitioner is considered to be dangerous, that argument is unpersuasive and weak. The Supreme Court has "uphold preventive detention based on dangerousness only when limited to especially dangerous individuals and subject to strong procedural protection". *Lopez Reyes*, 362 F. Supp. 3d at 776 (quoting *Zadvydas*, 533 U.S. at 691). Any argument that "*danger*" to the community is established by the facts of this case is clearly erroneous, and by any legal standard is devoid of logic, reason, and facts to support such a conclusion. The Respondents may seek to characterize Petitioner's challenge as purely discretionary. As the Honorable U.S. District Court in *Griselda Negrete Vargas, supra,* found: "The Ninth Circuit has explained that *Casas-Castrillon* and *Guerra* contemplate that criminal history alone may be insufficient to justify detention" (emphasis added). *Singh*, 638 F.3d at 1260. "The *Guerra* factor most pertinent to assessing dangerousness' is the detainee's 'criminal record, including the *extensiveness* of criminal activity, the *recency* of such activity, and the *seriousness* of the offenses". *Id.* (citing *Guerra*, 20 I. & N. Dec. at 40) (emphasis added).

> "Indeed, not all criminal convictions conclusively establish that an alien presents a danger to the community, even where the crimes are serious enough to render the alien removable. *Cf. Foucha*, 504 U.S. at 82-83, 112 S. Ct. 1780 (requiring a showing of dangerousness beyond that "of any convicted criminal" to justify civil detention of the criminally insane). For example, some orders of removal may rest on convictions for relatively minor, non-violent offenses such as petty theft and receiving stolen property. Moreover, a conviction

> could have occurred years ago, and the alien could well have led an entirely law-abiding life since then. In such cases, denial of bond on the basis of criminal history alone may not be warranted". *Id.* at 1206.

If the heavy burden of proof on the Respondents, rather than on the Petitioner, it reveals that Petitioner does not pose a danger to persons or property. Petitioner has no such controlled substance trafficking offenses or anything close to relevant nor does he have an extensive criminal history here in the United States. Petitioner does have a felony convictions, however those prior convictions are too trivial to support that he presents public danger.

Even while in custody, Petitioner lacks disciplinary actions against him. Petitioner is not a threat to national security, has no history of such activity and presents no current danger to public safety. Petitioner does not have any pending criminal charges and respectfully reiterates that he has not been convicted of any terrorist activities or anything close to relevant. Petitioner is not a habitual criminal and points out that the Respondents are silent on this issue. Petitioner states that his offenses are too trivial and too stale to be used to demonstrate that he is a danger to the community. Petitioner's past conduct, though reprehensible, simply does not warrant the harsh sanction available under the mandatory detention statute. Surely, a case involving crimes less violent than presented here would be hard to find: hence, the adjudication of denying relief in this case serves neither the purposes of the INA statute nor the interests of justice.

Further, Petitioner has not participated in any criminal street gang and does not have any gang related convictions as defined under 18 U.S.C. § 521(a). Petitioner seeks to remain in the United States in a lawful manner with his family. Hence, Petitioner is neither a flight risk nor does he present a danger to the community. Here, the Respondents cannot prove so by *clear and convincing* evidence, or any standard of proof, that Petitioner should remain unlawfully detained.

Even though the Court may consider Petitioner's criminal record when determining

whether his detention is necessary to protect public safety, *see Matter of Guerra*, 24 I. & N. 37, 40 (BIA 2006), "criminal history alone will not always be sufficient to justify denial of bond on the basis for dangerousness". *Singh*, 638 F.3d at 1206. In this case, Petitioner's prior offenses are too trivial where the mandatory detention would not serve the purposes of the INA statue, mandatory detention statute or the interests of justice.

Although Petitioner was convicted of a serious crime, he served his sentence and upon the completion of his sentence, he was release and has been living a law abiding and productive lifestyle. The Respondents deliberately ignores this fact and badly intends to portrait Petitioner as a harden criminal. Even if this Court finds Petitioner dangerous based on his convictions, Petitioner points to relevant precedents and case laws such as *Singh*, *Guerra*, and *Foucha*.

This Courts should find that not all criminal convictions conclusively establish that a non-citizen, such as Petitioner, presents a danger to the community, even where the crimes are serious enough to render the alien removable. *Cf. Foucha*, 504 U.S. at 82-83, 112 S. Ct. 1780 (requiring a showing of dangerousness beyond that "of any convicted criminal" to justify civil detention of the criminally insane). Petitioner again points out that when the prior offenses are too remote, too trivial or too stale, it should not warrant the harsh punishment of mandatory detention where its serves neither the purpose of the INA statute, mandatory statute (§ 1226) nor the interests of justice.

To the extent ICE may argue that it can continue indefinitely detaining Petitioner on the grounds that he is "specially dangerous", ICE has not even attempted to comply with its own extensive procedures to obtain such a classification. *See* 8 C.F.R. § 241.14(f)-(g), (i). *See also*, *Sharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss. Oct. 9, 2020) (granting habeas relief to petitioner detained for seventeen months after Azerbaijanian officials failed to respond to a travel document request for more than seven months). Petitioner cannot be removed

to Azerbaijan and Respondents cannot provide a date where Petitioner would be removed in the foreseeable future.

This is a case where ICE has not obtained a certification of special dangerousness from the Commissioner, it has not ordered that Petitioner undergo a medical examination, and it has not initiated a reasonable cause proceeding in Immigration Court. In fact, ICE's own regulations provide that without proving "special dangerousness" by clear and convincing evidence before an IJ, ICE does not have the ability to indefinitely detain an alien who has no significant likelihood of being removed within a six-month period. In short, ICE has not followed its own rules, or the due process demanded by the United States Constitution and by *Zadvydas*

Here, Petitioner has led an entirely law-abiding lifestyle, even while detained. At the detention centers, Petitioner has remained in good standing and lacks disciplinary actions. Thus, denial of habeas relief on the basis of criminal history alone is not warranted. *Id.* at 1206. *See Singh*, 638 F.3d at 1206.

1. Post-Removal-Period Detention

By way of background, the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101 1537, provides a "complex statutory framework of detention authority." *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008). Generally, § 1231 governs the detention of non-citizens who are subject to final orders of removal. *See* 8 U.S.C. § 1231(a); *see also Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018)) (clarifying that § 1231(a) supplies DHS's detention authority once a non-citizen is subject to a final removal order). Specifically, when a non-citizen "is ordered removed, [the Department of Homeland Security ("DHS")] must physically remove [them] from the United States within a 90

day 'removal period.'" *Johnson v. Guzman Chavez*, 594 U.S. 523, 528 (2021) (quoting 8 U.S.C. § 1231(a)(1)(A)). During this removal period, "detention is mandatory." *Id.* (citing § 1231(a)(2)).

Critically, a non-citizen's removal period begins on the latest of three dates: (i.) when their removal order becomes administratively final; (ii.) when a court that stayed deportation enters a final order regarding the non-citizen's removal; or (iii.) when the non-citizen is released from non-immigration detention. *See* 8 U.S.C. § 1231(a)(1)(B); *see also Guzman Chavez*, 594 U.S. at 528 (citing 8 U.S.C. § 1231(a)(1)(B)).

As soon as a non-citizen's removal period lapses, they must be released subject to supervision, *see* 8 U.S.C. § 1231(a)(3), unless they fall into one of four statutory categories. *See* 8 U.S.C. § 1231(a)(6); *see also Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (citations omitted) ("The post-removal-period detention statute applies to certain categories of [non-citizens]."). Namely, DHS may continue to detain a non-citizen who is: (i.) inadmissible; (ii.) removable under certain provisions of § 1227(a); (iii.) a risk to the community; or (iv.) unlikely to comply with their removal order. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022) (quoting 8 U.S.C. § 1231(a)(6)) "Continued detention under this provision [triggers] the 'post-removal period.'" *Guzman Chavez*, 594 U.S. at 529.

As written, the INA does not limit the length of post-removal-period detention. *See* 8 U.S.C. § 1231(a)(6). Since a statute that authorizes "indefinite, perhaps permanent, detention" poses a "serious constitutional threat," *Zadvydas*, 533 U.S. at 699 (citation omitted), the Supreme Court has read an implicit limitation into § 1231(a)(6) based on "the Constitution's demands." *Guzman Chavez*, 549 U.S. at 529 (quoting *Zadvydas*, 533 U.S. at 689). Specifically, the *Zadvydas* Court "held that [a non-citizen] may be detained only for 'a period reasonably necessary to bring about that [non-citizen's] removal from the United States.'" *Id.* (quoting *Zadvydas*, 533 U.S. at

689). The Supreme Court also held that six months is a presumptively reasonable period of time to deport a non-citizen. *See Zadvydas*, 533 U.S. at 700–701.

Practically speaking, this means that the government may presumptively detain a non-citizen for up to six months once they are ordered removed from the United States. "After that point, if the [non-citizen] 'provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,' the [g]overnment must either rebut that showing or release the [non-citizen]." *Guzman Chavez*, 549 U.S. at 529 (citation omitted) (quoting *Zadvydas*, 533 U.S. at 701).

Thus, post-removal-period detention violates the INA and the Constitution when a non-citizen's removal is not reasonably foreseeable. *Cf. Arteaga-Martinez*, 596 U.S. at 579 (citation omitted) (reaffirming that *Zadvydas* construed 8 U.S.C. § 1231 "in light of the Constitution's demands.").

2. Petitioner's Post-Removal-Period Detention Is Likely Unlawful

Based on the facts of this case, this Court should find that Petitioner has established a likelihood of success on the merits of his unlawful detention claim.

As a preliminary matter, Petitioner falls within the ambit of 8 U.S.C. § 1231 because he is subject to a final order of removal. *See* 8 U.S.C. § 1231(a). Nonetheless, the Court should conclude that Petitioner is not subject to mandatory detention because his removal period ended nearly *five years ago*. The Executive Office of Immigration Review ordered Petitioner removed on March 4, 2020. Because Petitioner and DHS waived their appellate rights, Petitioner's removal order became administratively final that same day. *See* 8 U.S.C. § 1101(a)(47)(B)(ii); *see also* 8 C.F.R. § 1241.1(b) ("An order of removal . . . shall become final . . . [u]pon waiver of appeal by the respondent."); *see also Padilla-Ramirez v. Bible*, 882 F.3d 826, 831 (9th Cir. 2017). Thus,

Petitioner's removal period began running on February 1, 2012 and it lapsed on May 2, 2012—i.e., 90 days later. *See* 8 U.SC. § 1231(a)(1)(A). As soon as it did, Petitioner entered the post removal period and was no longer subject to § 1231(a)(2)(A)'s mandatory detention requirement. *See* 8 U.S.C. § 1231(a)(3); *Arteaga-Martinez*, 596 U.S. at 578–79 (citations omitted).

Since Petitioner is beyond the removal period, the Court must first decide whether his ongoing detention is presumptively reasonable. It is not. In making this determination, the Court should consider the full amount of time that Petitioner has spent in immigration detention since he was ordered removed. In other words, the Court considers his multiple periods of detention in the aggregate.

Otherwise, the government could simply circumvent the INA by releasing and re-detaining non-citizens such that they never reach six months of continuous detention. That would amount to indefinite detention in all but name, which is statutorily and constitutionally impermissible. *See Zadvydas*, 533 U.S. at 699; *see also Nguyen v. Scott*, 796 F.Supp.3d 703, 722 (W.D. Wash. 2025) (citation omitted) (Surely, "under the reasoning of *Zadvydas*, a series of releases and re-detentions by the government . . . in essence results in an indefinite period of detention, albeit executed in successive six month intervals."). Thus, Petitioner has already been detained for more than six months in the aftermath of his final order of removal. When Petitioner was ordered removed in 2012, he was detained by ICE. In this case, ICE re-detained Petitioner on December 30, 2025, and he has been incarcerated at Otay Mesa Detention Center for approximately 3 months.

Collectively, Petitioner has been detained for more than six months. Therefore, his period of post-removal detention exceeds the bounds of that which is presumptively permissible under the INA and the Constitution. *See Zadvydas*, 533 U.S. at 701.

Turning to the specific facts of this case, Petitioner has shown that his removal is not reasonably foreseeable. Petitioner was ordered removed on February 1, 2012. That was *over fourteen years ago*. Despite an abundance of time, ICE has been unable to effectuate Petitioner's removal from the United States. ICE cannot deport Petitioner to his birth country pursuant to the Convention Against Torture.

Azerbaijan has refused to accept Petitioner, even though ICE has repeatedly attempted to deport Petitioner there. And Respondents have not supplied any alternate plan for Petitioner's removal. On this record, it should reveal that there is "good reason to believe that there is no significant likelihood of [Petitioner's] removal in the reasonably foreseeable future." *Guzman Chavez*, 549 U.S. at 529 (quoting *Zadvydas*, 533 U.S. at 701).

Finally, Respondents have undoubtedly failed to strongly rebut this showing. They have not presented with any information or persuasive argument in this case. Thus, Respondents have not provided a legal basis for Petitioner's continued detention given the facts established in the Petition and established in the Motion for TRO.

Petitioner should not be "burdened by the impossible task of imagining and refuting [the] causes" of his detention. *See Carlson*, 186 F.2d at 188. "The imagination can hardly create a situation more incompatible with the spirit of our institutions that [ ] civil official[ls'] completely secret viewpoint[s] could be the basis of sustained imprisonment." *Id.* at 189. Respondents' "long and inadequately explained delay[ ]" in providing any justification for Petitioner's ongoing detention necessarily raises the presumption that he "is being illegally confined." *Ruiz v. Cady*, 660 F.2d 337, 340 (7th Cir. 1981) (citation omitted) (cited approvingly in *Gordon v. Duran*, 895 F.2d 610, 612 (9th Cir. 1990)). This presumption should only bolster the conclusion that

Respondents have failed to justify Petitioner's detention by demonstrating that his removal is, in fact, reasonably foreseeable.

In sum, at this procedural posture, Petitioner is likely to succeed in showing that his ongoing detention is statutorily and constitutionally unlawful because his removal is not reasonably foreseeable.

Petitioner asserts that he is likely to succeed on his claim that his re-detention would violate 8 C.F.R § 241.13(i)(2) ("§ 241.13(i)(2)") because Respondents cannot demonstrate his removal is reasonably foreseeable.[1] Petitioner contends § 241.13(i)(2) provides that immigration authorities may only re-detain an individual who was released from custody only if there are changed circumstances which establish that removal is reasonably foreseeable. Petitioner argues the Respondents have not provided evidence that Azerbaijan will accept Petitioner for removal, and thus, his re-detention is in violation of § 241.13(i)(2). (*Id.*)

In opposition, Respondents may argue, even in a conclusory fashion, that Immigration and Customs Enforcement ("ICE") has determined that there is a significant likelihood of removing Petitioner in the reasonably foreseeable future. They may even argue that Enforcement and Removal Operations ("ERO") is actively working on obtaining a travel document for Petitioner to

[1] Petitioner is likely to succeed on his claim that his re-detention would violate 8 U.S.C. § 1231(a)(6) ("§ 1236(a)(6)"). Specifically, Petitioner contends the Immigration and Nationality Act authorizes a period of six months to allow the United States to effectuate removal. (*Id.* (citing § 1236(a)(6)); *Zadvydas v. Davis*, 533 U.S. 678 (2001)).) Petitioner further contends once removal is no longer foreseeable, it is a violation of § 1231(a)(6) and due process to hold a noncitizen in detention. Petitioner also attests that because he was previously detained pursuant to a final order of removal, the six-month period allowed by § 1231(a)(6) has already run, and the Respondents have not provided evidence that now makes his removal reasonably foreseeable. (*Id.*) In opposition, Respondents may concede this matter turns on whether removal of the Petitioner is presently "reasonably foreseeable" but fails to directly address Petitioner's argument regarding § 1231(a)(6). In this case, Respondents have failed to meet their burden to show a significant likelihood that Petitioner will be removed in the reasonably foreseeable future, thus Petitioner is likely to succeed on his claim that his detention would violate § 1231(a)(6).

Azerbaijan and has determined that there is significant likelihood of removing Petitioner to Azerbaijan in the reasonably foreseeable future. Yet, those arguments cannot stand on its own. Even so, those arguments have no spine, are not supported by evidence on the record and are not persuasive. In addition, those arguments are insufficient to justify indefinite detention.

Respondents may also contend that ICE notified Petitioner of the reasons for revocation and provided him with an informal interview. Thus, Respondents may also argue that Petitioner has failed to show that he will succeed on the merits because his re-detention was authorized under 8 C.F.R. § 241.13. Section 241.13(i) permits revocation of the release of a noncitizen who has been ordered removed "if, on account of changed circumstances, [ICE] determines that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). Pursuant to § 241.13(i)(2), the burden is on ICE to first establish changed circumstances that make removal significantly likely in the reasonably foreseeable future. *Roble v. Bondi*, No. 25-cv-3196 (LMP/LIB), 2025 WL 2443453, at *4 (D. Minn. Aug. 25, 2025). The phrase "significant likelihood," as used in the regulation, requires something more than a mere possibility. *Vu v. Noem*, No. 1:25-CV-01366-KES-SKO (HC), 2025 WL 3114341, at *7 (E.D. Cal. Nov. 6, 2025).

Here, Respondents' may argument that there is significant likelihood that Petitioner will be removed in the foreseeable future because ERO is actively working on obtaining a travel document for Petitioner to Azerbaijan, yet those arguments are unpersuasive. Yet, Respondents do not identify the changed circumstances relating to Petitioner's removal, as required under § 241.13(i), nor have they stated their basis for determining that his removal is reasonably foreseeable.

Specifically, Respondents have not provided any specific efforts they have made to obtain a travel document from Azerbaijan for Petitioner and have not stated whether they have an indication from Azerbaijan that it is likely to issue such a travel document. Thus, Respondents have failed to meet their burden to show a significant likelihood that Petitioner will be removed in the reasonably foreseeable future. Accordingly, the Court should find Petitioner is likely to succeed on this claim.

B. Irreparable Harm

The next factor requires a showing "that irreparable harm is likely, not just possible," in the absence of preliminary injunctive relief. *See All. for the Wild Rockies*, 632 F.3d at 1131. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Hence, "[w]hen an alleged deprivation of a constitutional right is involved, most courts hold no further showing of irreparable injury is necessary." *Vasquez Perdomo v. Noem*, 148 F.4th 656, 689 (9th Cir. 2025) (citation omitted). Since Petitioner's ongoing detention serves as a statutory and constitutional violation, it follows "inexorably" that Petitioner has carried his burden as to irreparable harm. *See Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

Additionally, the Ninth Circuit has also recognized, in concrete terms, the irreparable harms "imposed on anyone subject to immigration detention (or other forms of imprisonment)." *Id.* In the absence of relief, "harms such as these will continue to occur needlessly on a daily basis." *Id.* Thus, Petitioner's detention itself imposes concrete, irreparable harms on Petitioner.

Petitioner asserts he will suffer irreparable harm were he to remain deprived of his liberty and subjected to continued detention. Specifically, Petitioner contends, he is separated from his family and community. *Id.* In addition, Petitioner argues he already spent time in detention by

immigration authorities when the Government could not remove him after his 2012 removal order. *Id.* Without a showing that Petitioner's removal is significantly likely, he now risks being detained for an indeterminate period. Respondents do not address this element in opposition.

The Court should find that Petitioner will suffer irreparable harm in the absence of preliminary injunctive relief. Prior to his re-detention, Petitioner had been out of immigration custody for about many years, during which time Petitioner appears to have made meaningful connections with his community. Absent relief, it appears that Petitioner would remain in custody until a travel document is issued by Azerbaijan, if ever. This violation of Petitioner's rights is sufficient to satisfy the irreparable harm requirement. *Vu*, 2025 WL 3114341, at *9.

C. Balance of Equities and Public Interest

As to the final two *Winter* factors, "[w]hen the government is a party, the analysis of the balance of the hardships and the public interest merge." *Nat'l Urban League v. Ross*, 484 F. Supp. 3d 802, 807 (N.D. Cal. 2020) (citing *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)).

Again, the balance of equities and the public interest, "merge" when the government is the opposing party. *See Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023) (quoting *Nken v. Holder*, 556 U.S. 418, 435 (2009)). When "the impact of an injunction reaches beyond the parties, carrying with it a potential for public consequences, the public interest will be relevant to whether the district court grants the preliminary injunction." *Hernandez*, 872 F.3d at 996 (quoting *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1139 (9th Cir. 2009)).

The Ninth Circuit has recognized that "neither equity nor the public's interest are furthered by allowing violations of federal law to continue." *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022) (holding that the district court did not abuse its discretion in finding the balance of hardships

weighed in favor of plaintiffs who credibly alleged that the government was violating the INA). This Court should find that the government vindicates the public interest by enforcing this country's immigration laws—e.g., by facilitating the deportation of removable non-citizens. *See Nken*, 556 U.S. at 436. The problem for Respondents is that Petitioner's ongoing detention appears to be unlawful. Thus, a preliminary injunction requiring his release would itself promote the rule of law.

Similarly, this Court should find in this case that this form of injunctive relief would reduce Respondents', and by extension the public's, fiscal and administrative burdens. Immigration detention is undoubtedly a costly endeavor. *See Hernandez*, 872 F.3d at 996 (describing the "staggering" public costs of immigration detention). As such, a preliminary injunction that limits unnecessary, unlawful detention would enable Respondents to direct valuable public resources to appropriate endeavors.

On the other hand, the hardships faced by Petitioner, and the public interest, weigh decisively in favor of ordering his immediate release. Since he was detained earlier this year, Petitioner has been separated from his family, employment, and community and has not been able to marry his fiancé while incarcerated. *See also Hernandez*, 872 F.3d at 996 (citation and quotation marks omitted) ("[I]n addition to the potential hardships facing Plaintiffs in the absence of the injunction, the court may consider . . . the indirect hardship to their friends and family members.").

And, because Petitioner's ongoing detention is likely unlawful, "neither equity or the public interest are furthered" by allowing Respondents to continue to violate the law. *See Galvez*, 52 F.4th at 832; *see also Hernandez*, 872 F.3d at 996 ("The public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and held in immigration detention because of . . . a likely unconstitutional process."). As such, this Court finds that the

balance of the equities and the public interest "tip sharply towards" Petitioner. *See All. for the Wild Rockies*, 632 F.3d at 1127. Therefore, Petitioner is entitled to a preliminary injunction. *See id.*

i. SCOPE OF RELIEF

Injunctive relief "should be no more burdensome to the defendant than necessary to provide complete relief to the plaintiffs before the court." *E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 680 (9th Cir. 2021) (citation and quotation marks omitted). "Where relief can be structured on an individual basis, it must be narrowly tailored to remedy the specific harm shown[.]" *Id.* (citation omitted). The federal habeas corpus statute "does not limit the relief that may be granted to discharge of the applicant from physical custody." *Carafas*, 391 U.S. at 239. "Its mandate is broad with respect to the relief that may be granted." *Id.* "It provides that '[t]he court shall . . . dispose of the matter as law and justice require.'" *Id.* (quoting 28 U.S.C. § 2243) (alteration in original).

ii. BOND

With respect to bond, under Federal Rule of Civil Procedure 65(c), a court "may issue a preliminary injunction . . . only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." FED. R. CIV. P. 65(c). "Despite the seemingly mandatory language, 'Rule 65(c) invests the district court "with discretion as to the amount of security required, if any."'" *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009) (quoting *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003)). "In particular, '[t]he district court may dispense with the filing of a bond when it concludes there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.'" *Id.* (quoting *Jorgensen*, 320 F.3d at 919) (alteration in original). Because

Respondents have not argued that releasing Petitioner will be costly, this Court should decline to impose bond in this case.

In this case, Petitioner is likely being detained unlawfully, as his removal from the United States is not reasonably foreseeable. Therefore, this Honorable Court should hold that the specific harm suffered by Petitioner must be remedied by ordering his immediate release subject to the conditions of his prior order of supervision. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021) (citations omitted). As such, this Court should conclude that Petitioner has established that the public interest factor weighs in his favor because his claims assert violations of federal laws.

Given the liberty interest at stake and the length of Petitioner's detention, this Court should find this urgent preliminary injunction requires immediate attention. *See Aparicio v. Noem*, No. 2:25-cv-01919-RFB-DJA, 2025 WL 2998098, at *4 (D. Nev. Oct. 23, 2025); *see also Int'l Molders' & Allied Workers' Local Union No. 164 v. Nelson*, 799 F.2d 547, 555 (9th Cir. 1986) (clarifying that a district court may rely solely on briefing, and the affidavits of the parties, where the urgent need for injunctive relief so requires).

Therefore, pursuant to its inherent authority to manage its own docket, this Court may also convert Petitioner's Motion for Temporary Restraining Order into one for a preliminary injunction. *See Dietz v. Bouldin*, 579 U.S. 40, 45 (2016) ("[A] district court possesses inherent powers that are governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.") (citations and quotation marks omitted).

The Court should find the balance of equities and public interest weighs in Petitioner's favor given that the Court finds that Petitioner has a strong likelihood of success on the merits and Respondents' lack of irreparable harm. *Rodriguez v. Robbins*, 715 F. 3d 1127, 1145 (9th Cir. 2013)

("[The Government] cannot suffer harm from an injunction that merely ends an unlawful practice . . . "). Therefore, Petitioner's respectfully requests for a preliminary injunction.

In granting this TRO or preliminary injunction relief, this Court would not break new ground. Several courts have granted TROs or preliminary injunctions mandating release for post-final-removal-order immigrants like Petitioner. *See, e.g., J.R. v. Bostock*, 25-cv-01161-JNW, 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); *Vaskanyan v. Janecka*, 25-cv-01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. Jun. 25, 2025); *Ortega v. Kaiser*, 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. Jun. 26, 2025); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16, 2025); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *7 (E.D. Cal. July 16, 2025).

Several more have ordered release for petitioners whose immigration case are still pending.[2] *See, e.g., Hinestroza v. Kaiser*, No. 25-CV-07559-JD, 2025 WL 2606983, at *2 (N.D. Cal. Sept. 9, 2028); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924, at *12 (D. Mass Sept. 9, 2025); *R.D.T.M. v. Wofford*, No. 1:25-CV-01141-KES-SKO (HC), 2025 WL 2617255, at *6 (E.D. Cal. Sept. 9, 2025). These courts have determined that, for these long-term releases, liberty is the status quo, and only return to that status quo can vert irreparable harm.

Granting this relief would not even be breaking new ground in this District. Indeed, this Court recently granted habeas relief on this basis. *See Cavieres Gomez v. Mattos*, No. 2:25-CV-00975-GMN-BNW, 2025 WL 3101994, at *6–7 (D. Nev. Nov. 6, 2025). *See also, Shadalo v. Mattos et al*, No. 2:25-CV-02076-RFB-BNW (D. Nev. Dec. 14, 2025). Petitioner therefore

[2] Because immigration detainees whose cases have not been adjudicated are entitled only to a bond hearing-not to outright release-some of these TROs require release unless ICE provides that hearing. But because *Zadvydas* requires outright release on supervision, a TRO fitted to Petitioner's claims should order that relief.

respectfully requests that this Court grant this TRO and moves for immediate release. *See also, Garro Pinchi v. Noem*, __ F. Supp. 3d __, 2025 WL 2084921, at *7 (converting TRO requiring release of asylum seeker arrested at her immigration court hearing into preliminary injunction prohibiting the government from re- detaining her without a hearing); *Singh v. Andrews*, 2025 WL 1918679, *8-10 (E.D. Cal. July 11, 2025) (granting PI under similar circumstances); *Doe*, 2025 WL 691664, at *8 (granting TRO over one month after petitioner's initial detention); *see also, e.g., Diaz*, 2025 WL 1676854, at *3- *4: *Garcia v. Bondi*, No. 3:25-CV-05070, 2025 WL 1676855, at *3 (N.D. Cal. June 14, 2025); *Jorge* M. F., 2021 WL 783561, at *4; *Romero v. Kaiser*, No. 22-CV-02508-TSH, 2022 WL 1443250, at *4 (N.D. Cal. May 6, 2022); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020).

V. CONCLUSION

Petitioner incorporates by reference the statements and those pleadings set forth in his Habeas Petition, Motion for TRO, and Memorandum of law in support of TRO. Petitioner respectfully prays for this Court to grant Petitioner's request for preliminary injunctive relief and to issue an Order for Respondents to IMMEDIATELY RELEASE Petitioner under the conditions of his prior order of supervision. *See* 8 U.S.C. § 1231(a)(3).

PRAYER FOR RELIEF

Petitioner respectfully prays that this Honorable Court:

1. **GRANT** the Temporary Restraining Order ("TRO");
2. **GRANT** the Preliminary Injunction Relief;
3. **ORDER** Respondents to **IMMEDIATE RELEASE** Petitioner from ICE custody under the same conditions he was released previously;
4. Enjoin Respondents from re-detaining Petitioner absent new, lawful grounds and

unless they obtain a travel document for his removal and unless and until they follow all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other applicable statutory and regulatory procedures;

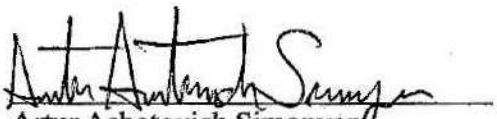
5. Waive the bond requirement of Federal Rule of Civil Procedure 65(c) is waived;

6. Set an expedited hearing on a Preliminary Injunction if needed;

7. Grant all other and further relief this Court deems just and proper.

I, Artur Ashotovich Simonyan, hereby affirm under penalty of perjury and under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 23rd day of March, 2026.



Artur Ashotovich Simonyan
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CERTIFICATE OF SERVICE

I, Artur Ashotovich Simonyan, hereby certify that on the date indicated below I served the Clerk of the Court for the United States District Court for the Southern District of California and Respondents a true and complete copy of the foregoing documents by placing it in a pre-paid envelope and mailing it to the following address:

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Respectfully submitted and executed on this 23sth day of March, 2026.

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