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

DANIS YATCIN

Petitioner,

v.

TODD M. LYONS, in his official capacity
as Acting Director, U.S. Immigration and
Customs Enforcement; Warden of Imperial
Regional Adult Det Fac; Deputy Field
Director of San Diego Field Office, U.S.
Immigration and Customs Enforcement;
Secretary of Homeland Security; **PAMELA
BONDI**, in her official capacity as Attorney
General of the United States,

Respondents.

Case No: 3:26-cv-01707-DMS-VET

**PETITIONER'S MEMORANDUM OF
LAW IN SUPPORT OF A MOTION FOR
A EMERGENCY TEMPORARY
RESTRAINING ORDER**

[EXPEDITED HANDLING REQUEST]

I. INTRODUCTION

Petitioner, through counsel, brings this instant motion for a Temporary Restraining Order (“TRO”) preventing Respondents from continuing to unlawfully detain Petitioner during the pendency of his habeas corpus petition. Respondents have no lawful basis for re-detaining Petitioner, a lawful asylum seeker from Turkey, who has been present in the U.S. since June 14, 2023. *See Exhibit A released on recognizance and Notice to Appear.* Petitioner seeks injunctive relief to prevent Respondents from continuing his unlawful detention. Every day Petitioner remains in custody constitutes an ongoing violation of his constitutional rights and an irreparable injury to his liberty.

On March 18, 2026, Petitioner filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his detention. The habeas petition remains pending and has not yet been adjudicated. During the pendency of this habeas proceeding, Petitioner continues to suffer ongoing and substantial harm as a result of his unlawful detention, including the continued deprivation of his liberty and the violation of his constitutional rights. The prolonged detention while his habeas claims remain unresolved exacerbates Petitioner’s injury and underscores the urgent need for immediate injunctive relief.

II. FACTUAL AND PROCEDURAL BACKGROUND

Respondents detained Petitioner on February 20, 2026, for what appears to be no individualized reason. *See Exhibit B Notice to EOIR.* While Petitioner was in full compliance with the requirements of his asylum process, he was summarily and unlawfully detained without the individualized assessment required by law. Petitioner was apprehended while traveling with a lawful permanent resident friend during a return trip from Arizona. Their vehicle was stopped by Border Patrol in Indiana, despite no apparent violation of law. When questioned, Petitioner’s friend

stated that he was a lawful permanent resident, and Petitioner explained that he had valid work authorization. Notwithstanding his lawful presence and full cooperation, Petitioner was taken into custody, transported to a local police station, and subsequently transferred to immigration detention. Petitioner is currently in Respondents' custody and is being detained at Imperial Regional Adult Det Fac, California. Petitioner filed his Petition for a Writ of Habeas Corpus on March 18, 2026. Despite the pending habeas petition and the transfer of the case to this Court, Petitioner remains detained, continuing to suffer harm while awaiting judicial review of the legality of his detention.

III. ARGUMENT

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

- (1) the probability that the moving party will succeed on the merits;
- (2) the threat of irreparable harm to the moving party;
- (3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and
- (4) whether the issuance of a TRO is in the public interest.

Dominion Video Satellite, Inc. v. Echostar Satellite Corp., 356 F.3d 1256, 1260 (10th Cir. 2004) (quoting *Prairie Band of Potawatomi Indians v. Pierce*, 253 F.3d 1234, 1246 (10th Cir. 2001)). The basic question is whether the balance of equities so favors the moving party “that justice requires the court to intervene to preserve the status quo until the merits are determined.” *Id.* Although the probability of success on the merits is a predominant factor, the Tenth Circuit has

established that a showing of probable irreparable harm is the “single most important prerequisite” for the issuance of a temporary restraining order. *Id.* Indeed, the Tenth Circuit has “repeatedly emphasized” that the movant must demonstrate that such injury is likely before the other requirements will be considered. *DTC Energy Grp., Inc. v. Hirschfeld*, 912 F.3d 1263, 1270 (10th Cir. 2018). Here, all four factors weigh heavily in favor of injunctive relief.

A. Petitioner is likely to succeed on the merits of his petition for writ of habeas corpus.

Writs of habeas corpus “may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). “The writ of habeas corpus shall not extend to a prisoner unless...He is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(2).

The federal courts have held that noncitizens are entitled to guarantees of the Fifth Amendment. *Sanchez-Velasco v. Holder*, 593 F.3d 733, 737 (8th Cir. 2010); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) (“all aliens[] are clearly protected by the Fifth and Fourteenth Amendments”). Courts treat Equal Protection and Due Process rights under the Fifth Amendment in the same manner as Equal Protection Claims under the Fourteenth Amendment. *Wienberger v. Wiesenfeld*, 420 U.S. 636, 638 n.2 (1975). Due process is only implicated when governmental decisions deprive an individual of “liberty” or “property” interests within the meaning of the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67, 78 (1976); *see also Rusu v. INS*, 296 F.3d 316, 321-22 (4th Cir. 2002).

The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be...deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. *See Zadvydas*, 533 U.S. at 690 (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem”); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10, 413 (D.N.J. 1999) (holding that, in analyzing due process in the immigration context, the first factor in the procedural due process analysis, “the petitioner’s private interest in his physical liberty, must be accorded the utmost weight.”).

Petitioner is likely to succeed in demonstrating that he is in custody in violation of the Constitution and laws of the United States. *See* 28 U.S.C. § 2241(c)(3). In addition to violating the Constitution, Respondents are also violating the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701 and 101 *et. seq.* and 8 U.S.C. §§ 1101 *et. seq.* by denying Petitioner his constitutional right to due process, arbitrarily and capriciously, thus exceeding their authority under the Immigration and Nationality Act (“INA”).

Petitioner is likely to succeed on the merits of his habeas corpus petition because his continued detention lacks a lawful and individualized basis. Respondents have failed to demonstrate that Petitioner poses a flight risk or a danger to the community, and Petitioner has consistently complied with all conditions imposed upon him prior to detention. As set forth in the habeas petition, Respondents’ decision to detain Petitioner is unsupported by the Immigration and Nationality Act and violates Petitioner’s due process rights under the Fifth Amendment.

Moreover, Petitioner's detention has become prolonged and indefinite, with no meaningful progress toward resolution. Courts have repeatedly held that prolonged civil immigration detention without individualized justification or adequate procedural safeguards violates constitutional protections. Given these circumstances, Petitioner has a substantial likelihood of success on the merits of his habeas claims.

Significantly, the Immigration Judge's own findings confirm that Petitioner's continued detention is unjustified. Although the Immigration Judge denied bond based solely on a perceived lack of jurisdiction, she expressly included alternative findings stating that Petitioner could be released upon posting a \$2,500 bond and complying with reasonable supervisory conditions, including electronic monitoring. These findings demonstrate that, even under a limited review, the Immigration Judge determined that Petitioner does not pose a danger to the community or a risk of flight and could be safely released. Accordingly, Petitioner's continued detention is not based on any individualized assessment of risk, but instead rests entirely on a legal technicality concerning jurisdiction. A detention scheme that results in continued confinement despite an adjudicator's express recognition that release is appropriate cannot withstand constitutional scrutiny. This record strongly supports Petitioner's likelihood of success on the merits. *See Exhibit C for the Order of the Immigration Judge.*

B. Petitioner Faces Irreparable Harm if the Court Does Not Grant a TRO

It is well established that deprivation of constitutional rights constitutes "irreparable injury" and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976). *See also Planned Parenthood of Minnesota, Inc. v. Citizens for Community Action*, 558 F.2d 861, 867 (8th Cir. 1977). When an alleged deprivation of constitutional rights is involved, no further showing of irreparable injury is necessary. *Planned Parenthood of Minnesota*, 558 F.2d at

867 (citing 11 C. Wright & A. Miller, *Federal Practice & Procedures: Civil* § 2948 at 439 (1973)); *Ng v. Bd. of Regents of the Univ. of Minn.*, 64 F.4th 992, 998 (8th Cir. 2023) (“[T]he denial of a constitutional right is a cognizable injury and an irreparable harm.”); *Hernandez*, 872 F.3d at 994–95; *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”).

Congress has unequivocally declared that “[a]ny alien who is physically present in the United States or who arrives in the United States . . . irrespective of such alien’s status, may apply for asylum.” 8 U.S.C. § 1158(a)(1). Likewise, the withholding of removal statute explicitly bars returning a noncitizen to a country where their “life or freedom” would be threatened based on a protected ground. Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102 (1980) (asylum and withholding); 8 U.S.C. §§ 1158 (asylum), 1231(b)(3) (withholding of removal). Congress has carefully specified the procedures by which noncitizens may be removed. The INA leaves little doubt that its procedures must apply to every removal, unless otherwise specified by that statute. It directs: “Unless otherwise specified in this chapter,” the INA’s comprehensive scheme provides “the sole and exclusive procedure for determining whether an alien may be . . . removed from the United States.” 8 U.S.C. § 1229a(a)(3); see also *United States v. Tinoso*, 327 F.3d 864, 867 (9th Cir. 2003) (“Deportation and removal must be achieved through the procedures provided in the INA.”). See *Huisha-Huisha v. Mayorkas*, 560 F. Supp. 3d 146, 172 (D.D.C. 2021) (irreparable harm where plaintiffs “face the threat of removal prior to receiving any of the protections the immigration laws provide”).

Petitioner continues to suffer irreparable harm as a result of his ongoing detention. Prolonged detention has caused Petitioner significant psychological distress, including anxiety,

depression, and emotional instability. The uncertainty surrounding the length of his detention, coupled with the lack of meaningful procedural review, has severely impacted Petitioner's mental health. Such psychological harm constitutes irreparable injury that cannot be remedied through monetary damages or post hoc relief.

Continued detention during the pendency of habeas proceedings effectively deprives Petitioner of meaningful relief and risks rendering the habeas remedy hollow. Accordingly, release during the pendency of these proceedings is necessary to prevent ongoing irreparable harm.

Furthermore, Petitioner's continued detention is causing concrete and ongoing harm to his ability to pursue his asylum claim. Petitioner had a scheduled asylum hearing on March 16, 2026. However, due to his detention, he has been unable to meaningfully participate in the preparation and presentation of his case. Detention has severely limited his ability to communicate with counsel, gather supporting evidence, and prepare testimony, all of which are critical to the fair adjudication of his claims for protection. As a result, Petitioner faces a substantial risk that his asylum claim will not be fully and fairly presented, thereby jeopardizing his statutory right to seek protection. This impairment of Petitioner's ability to pursue asylum relief constitutes irreparable harm independent of, and in addition to, the constitutional violations arising from his detention.

C. The Balance of Harm to Petitioner Compared to the Burden Placed on the Government Overwhelmingly Weighs in Favor of Petitioner

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221, 1236-7 (10th Cir. 2005). Moreover, Respondents "cannot suffer harm from an injunction that merely ends an unlawful practice" *Rodriguez v. Robbins*,

715 F.3d 1127, 1145 (9th Cir. 2013). The public interest is served by the faithful execution of the immigration laws, and that interest includes respect for protections Congress has enacted and to which the United States has committed itself by treaty. *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005) (recognizing “the public interest in having the immigration laws applied correctly and evenhandedly”); *Leiva-Perez v. Holder*, 640 F.3d 962, 971 (9th Cir. 2011) (noting “the public’s interest in ensuring that we do not deliver [noncitizens] into the hands of their persecutors”); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992) (discussing “the public interest in Government observance of the Constitution and laws”).

Petitioner’s harms, as discussed above, are weighty; these harms include deportation to a country where Petitioner faces severe persecution. Moreover, Respondents “cannot suffer harm from an injunction that merely ends an unlawful practice.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). Petitioner’s harms include the ongoing and unconstitutional loss of his physical liberty. Possible injuries to the government, should the restraining order be granted, are minimal and possibly nonexistent. For the aforementioned reasons, the irreparable harm that will occur should ICE continue to detain Petitioner clearly outweighs any burden to Respondents in detaining Petitioner.

Petitioner’s compliance history demonstrates that he does not pose a flight risk or a danger to the community. Respondents cannot claim harm from being enjoined from continuing unlawful and punitive detention practices, whereas Petitioner faces ongoing constitutional injury, loss of liberty, and severe personal and family hardship.

Critically, the Immigration Judge’s own findings confirm that Respondents face no meaningful harm from Petitioner’s release. Although the Immigration Judge denied bond based

solely on a perceived lack of jurisdiction, she made no finding that Petitioner posed a danger to the community or a risk of flight. To the contrary, the Immigration Judge expressly indicated that Petitioner could be released upon posting a \$2,500 bond and subject to reasonable conditions, including electronic monitoring. If any legitimate concern regarding danger or flight risk existed, the Immigration Judge would have identified such concerns and denied release on that basis. Instead, the record reflects the absence of any such risk.

Under these circumstances, the government cannot plausibly claim harm from Petitioner's release, particularly where an adjudicator has already recognized that release under supervision is appropriate. By contrast, Petitioner continues to suffer severe and ongoing harm, including the loss of his physical liberty, the deterioration of his mental health, and the inability to meaningfully pursue his asylum claim. The balance of equities therefore overwhelmingly favors Petitioner, as continued detention serves no legitimate purpose and imposes substantial and unjustified harm.

Detaining Petitioner under these circumstances transforms civil immigration supervision into punitive confinement, a result the Constitution does not permit.

D. The Issuance of a TRO is in the Public Interest

The public, and therefore the government, has an interest in protecting the rights of people in detention and ensuring the rule of law. *See Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”). “It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). Additionally, there is critical public interest in ensuring executive agencies act lawfully.

Respondents “cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983).

The protection of individuals’ constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government’s power to skew, alter, or improperly affect legal proceedings related to an individual’s property or liberty interest(s). To ensure the protection of Petitioner’s constitutional rights, and to protect against overzealous federal government intrusion of constitutional rights of others in similar situations, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from transferring Petitioner from the jurisdiction of this Court.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country’s legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

The public interest is served by ensuring that the government adheres to the Constitution and the rule of law. Preventing unlawful detention and safeguarding due process rights are fundamental public interests. The public also has a strong interest in ensuring that civil immigration detention remains administrative rather than punitive in nature. Granting a TRO in this case reinforces public confidence in the judicial system and affirms that constitutional protections apply to all persons within the United States.

E. Petitioner Has Complied With the Requirements of Rule 65.

Finally, as set forth *supra*, Petitioner asks this Court to find that he has complied with the requirements of Rule 65, Fed.R.Civ.P., for the purpose of granting a temporary restraining order. Respondents have been provided with a copy of the instant motion and supporting documents and are on notice. *See Declaration of Counsel*. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order 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. Under the circumstances of this case, however, Petitioner respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from deporting Petitioner could not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. Of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

Temporary release pending adjudication of the habeas petition is particularly appropriate where, as here, continued detention would cause irreparable harm and where Petitioner has demonstrated a strong likelihood of success on the merits. Absent injunctive relief, Petitioner will continue to suffer constitutional injury for the duration of these proceedings.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant temporary relief and enjoin Respondents from transferring him and ordering his immediate return to this jurisdiction if already transferred during the pendency of this petition.

Dated: March 19, 2026

/s/ _____

Certificate of Compliance

Pursuant to L. Civ. R. 7.2 and L. Civ. R. 10.1, I hereby certify that this Memorandum of Law complies with the formatting and page-limit requirements of the Eastern District of California. This brief is set in a proportional typeface (Times New Roman) of 12 points or larger, is double-spaced, and does not exceed the 40-page limit established by the Local Rules.

Date: March 19, 2026

/s/