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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

MAFOUZE DIALLO,¹

Petitioner,

v.

BRUCE SCOTT, et al.,
Respondents.

CIVIL ACTION NO.: 2:26-cv-00975-GJL

EMERGENCY MOTION FOR A
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

**PETITIONER'S EMERGENCY MOTION FOR A TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION**

COMES NOW, Petitioner, Mr. Diallo, by and through the undersigned counsel, and hereby files this Emergency Motion for a Temporary Restraining Order and Preliminary Injunction against Respondents. Mr. Diallo's motion is made following critical, recent factual developments that have been brought to undersigned counsel's attention. In support of his motion, Mr. Diallo alleges as follows:

FACTUAL AND PROCEDURAL HISTORY

Mr. Diallo, a native and citizen of Senegal, was granted withholding of removal under the Immigration and Nationality Act ("INA") on November 20, 2025. The immigration judge's grant

¹ Petitioner is currently detained

1 was based on the extensive persecution—physical, mental, and emotional—Mr. Diallo endured at
 2 the hands of his family, neighbors, and government on account of his sexual orientation. *See* Pet'r's
 3 Habeas Pet., ECF No. 1, Ex. 4; 8 U.S.C. § 1231(b)(3). But despite the grant of withholding of
 4 removal, and despite Mr. Diallo's lack of any criminal history, Respondents have subjected Mr.
 5 Diallo to months of continuous, unlawful detention at the Northwest Immigration and Customs
 6 Enforcement ("ICE") Process Center (referred to as "NWIPC"), allegedly pending "foreseeable"
 7 removal. Resp'ts' Br., ECF No. 7. The recent conditions during his unlawful detention have led to
 8 this emergency motion.

9 **I. MR. DIALLO'S HEALTH HAS DETERIORATED IN DETENTION**

10 During his time at NWIPC, Mr. Diallo has exhibited severe stress and fear of future harm.
 11 Undersigned counsel's firm has observed Mr. Diallo physically shaking during meetings and being
 12 unable to settle. Mr. Diallo expressed on numerous occasions that he has been unable to sleep,
 13 endures intense nightmares based on the persecution he suffered, and has been living in fear as he
 14 waits in limbo for the government's next steps. Ex. 5, Decl. M. Diallo. When asked whether Mr.
 15 Diallo could take medication to sleep, Mr. Diallo explained that the medicine makes him immobile,
 16 and that he fears the government will make him disappear to Senegal or somewhere even worse
 17 when he is in such a state.² *Id.* Consequently, Mr. Diallo has been exhibiting signs of deterioration
 18 in detention.

22 ² Mr. Diallo's fear of sudden removal is understandable. In *D.A. v. Noem*, 800 F. Supp. 3d 43, 49
 (D.D.C. 2025), a group of noncitizens "were awoken and removed from their cells," in the night
 and were "shackled in chains, [] put on a U.S. military plane without being told where they were
 going." (quotations omitted).

II. MR. DIALLO RECEIVED NOTICE OF THE GOVERNMENT'S INTENT TO REMOVE HIM TO GHANA: A COUNTRY THAT OPENLY PERSECUTES LGBTQ+ MEMBERS

On March 26, 2026, more than 90 days after Mr. Diallo received withholding of removal, ICE notified Mr. Diallo that they intended to remove him to a third country: Ghana. Mr. Diallo informed counsel that because he has family in Ghana, he knows that Ghana views and treats members of the LGBTQ+ community the same way Senegal does. Mr. Diallo said that he was terrified when he learned of the government's intentions. Indeed, Mr. Diallo was visibly distraught and shaken during a meeting with counsel to discuss Ghana. Mr. Diallo immediately expressed a fear of being removed to Ghana and, as a result, was scheduled to have his fear reviewed via a third-country screening.

On Tuesday, March 31st, 2026, US Citizenship and Immigration Services ("USCIS") provided Mr. Diallo with third country screening during which USCIS probed in Mr. Diallo's fear of being removed to Ghana. During the interview, Mr. Diallo explained that as a member of the LGBTQ+ community, he fears the same punishment, torture, and possible death in Ghana that he endured and ultimately fled from in his home country of Senegal. Mr. Diallo explained that his fear of future harm in Ghana is not speculative; he has family in Ghana and knows Ghana despises LGBTQ+ members the same way Senegal does. Mr. Diallo was aware that Ghana recently introduced a bill that can subject anyone convicted of identifying as LGBTQ+ to three years in prison. Accordingly, Mr. Diallo viewed removal to Ghana as a sentence to prison at the very least, if not death.

Considering Mr. Diallo's testimony and the evidence presented, the third-country screening yielded a positive result.³ As such, USCIS concluded that Mr. Diallo had a positive fear of being removed to Ghana and, under controlling regulations and statutes, could not be removed to Ghana without further procedural protections.

III. DESPITE EXPRESSING A CREDIBLE FEAR, THE GOVERNMENT NOTIFIES MR. DIALLO OF ITS INTENT TO CONTINUE PROCESSING HIS REMOVAL TO GHANA

On April 10, 2026—days after Mr. Diallo's positive fear determination—the government informed Mr. Diallo that they intend to effectuate his removal to Ghana within the month. Ex. 5 Considering the severity of Mr. Diallo's fear, his current physical and mental health, and the government's failure to provide due process or abide by its own regulations and policies, Mr. Diallo submits the instant emergency motion for a preliminary injunction. Mr. Diallo seeks an order preventing the government from removing him to Ghana or any other third country without due process under the law.

ARGUMENT

I. LEGAL FRAMEWORK FOR A PRELIMINARY INJUNCTION

To obtain both a temporary restraining order and a preliminary injunction, the movant must demonstrate:

- (1) he is likely to succeed on the merits,
- (2) he is likely to suffer irreparable harm absent preliminary relief,
- (3) the balance of equities tips in his favor, and
- (4) the relief sought is in the public interest.

³ Undersigned counsel's firm has yet to obtain a copy of their client's positive fear determination. Despite being attorney of record and attending the third country screening, counsel's firm was only made aware of the positive determination when Respondents noted it in their answer to Mr. Diallo's habeas petition. ECF No. 7. The firm has been attempting to obtain a copy of the positive fear determination from both ICE and USCIS for the last week, attempts have been futile. The only entity that has tried to aid undersigned counsel in obtaining the positive fear determination is opposing counsel.

1 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int'l Sales Co. v. John D.*
 2 *Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the two motions have “substantially
 3 identical” requirements). *See also* Fed. R. Civ. P. R. 65(b). To succeed, a movant must satisfy each
 4 element of the *Winter* test. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir.
 5 2011)). But “where the ‘balance of hardships tips sharply towards the plaintiff,’ a plaintiff need
 6 only show ‘serious questions going to the merits,’ rather than likelihood of success on the
 7 merits[.]” *Roman v. Wolf*, 977 F.3d 935, 941 (9th Cir. 2020) (quoting *All. for the Wild Rockies*,
 8 632 F.3d at 1135).

9 **II. MR. DIALLO WARRANTS A PRELIMINARY INJUNCTION AGAINST HIS** 10 **REMOVAL TO GHANA**

11 In the instant matter, the relief requested is a prohibitory injunction to prevent ICE from
 12 removing Mr. Diallo to Ghana or any third country without due process following a positive fear
 13 finding. *See Nguyen v. Scott*, 796 F. Supp. 3d 703, 718 (W.D. Wash. 2025) (explaining that a
 14 prohibitory injunction maintains the status quo in relation to third country removals). While such
 15 injunctions are considered “extraordinary remed[ies],” Mr. Diallo’s circumstances present no
 16 ordinary case. *Nguyen*, 796 F. Supp. 3d at 717 (citation omitted). As such, a preliminary injunction
 17 should “be awarded upon” Mr. Diallo’s “clear showing that [he] is entitled to such relief.” *Winter*,
 18 555 U.S. at 20.

19 **A. LIKELIHOOD OF SUCCESS ON THE MERITS**

20 Mr. Diallo is likely to succeed on the merits of his claim that removal to Ghana or any third
 21 country without due process violates the US Constitution, as well as the INA and its related
 22 regulations, and agency policies. First, any removal of Mr. Diallo to Ghana following his positive
 fear determination violates controlling policies, regulations, and statutes. Second, any removal of
 Mr. Diallo to a country that Mr. Diallo has a documented fear of returning to would, at this

junction, violate the due process clause of the Fifth Amendment. This is even more apparent when the Court considers the punitive nature of Mr. Diallo's removal.

i. Removal to Ghana violates the INA, implementing regulations, and agency policies

Pursuant to INA § 1231, ICE cannot "remov[e] a noncitizen to a designated country if it determines 'that the [noncitizen's] life or freedom would be threatened in that country because of the [noncitizen's] race, religion, nationality, membership in a particular social group, or political opinion.'" *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1010 (W.D. Wash. 2019) (quoting 8 U.S.C. § 1231(b)(3)(A)). See *Ibarra-Perez v. United States*, 154 F.4th 989, 1000 (9th Cir. 2025) (concluding that "immediately remov[ing] someone, without notice, to a country where he or she faces imminent persecution, torture, or death... would completely immunize [DHS's] practices and procedures from due process challenges.") (citation modified and quotations omitted). This statutory command applies with equal force to any third country identified for removal: "In the event that the Department of Homeland Security is unable to remove the [noncitizen] to the specified or alternative country or countries" specified in the initial order of removal, DHS is authorized "to remove the [noncitizen] to any other country as permitted by section 241(b) of the Act." 8 C.F.R. § 1240.12(d) (addressing third-country removals). Put simply, any third country "designation must be permitted by § 1231(b) and the exercise of discretion must comport with due process." *Aden*, 409 F. Supp. 3d at 1009 (citing *Oshodi v. Holder*, 729 F.3d 883, 889 (9th Cir. 2012)).

In the same vein, DHS' July 10, 2025, memo to all ICE employees provides further guidance for the agency's third country removals, Ex. 6, The Lyons Memo. The policy requires Enforcement Removal Officers ("ERO") to serve a noncitizen with a Notice of Removal listing the intended third country of removal. If the noncitizen affirmatively states fear of removal to the

1 third country, ERO must transfer the case to USCIS “for a screening for eligibility for protection
 2 under” the INA and the CAT. *Id.* Where, as here, USCIS concludes that the noncitizen has a
 3 positive fear and the noncitizen was previously in removal proceedings, “ERO will alert their local
 4 Office of the Principal Legal Advisor . . . to file a motion to reopen . . . for further proceedings for
 5 the sole purpose of determining eligibility for protection under [8 U.S.C. § 1231(b)] and CAT for
 6 the country of removal.” *Id.* “ICE may choose to designate another country for removal” instead.
 7 *Id.* Nowhere within the policy, however, is ICE permitted to remove a noncitizen to the third
 8 country *after* USCIS determines they have a credible fear. *Id.*

9 Mr. Diallo was informed on March 26, 2026, that the government intended to remove him
 10 to Ghana. Considering his sexual orientation and knowledge of Ghana’s persecution against
 11 homosexuals, Mr. Diallo immediately expressed a fear of removal to Ghana. On March 31, 2026,
 12 the government provided Mr. Diallo with a third-country screening to determine whether he had a
 13 positive fear of removal to Ghana. As Respondents point out in their answer to Mr. Diallo’s habeas
 14 petition, Mr. Diallo received a positive fear determination after his screening. Resp’ts’ Br., ECF
 15 No. 7. Accordingly, the government is no longer permitted by policy, regulation or statute to
 16 remove Mr. Diallo to Ghana. Instead, the government has two options: it can either (1) refer Mr.
 17 Diallo’s case to the local OPLA field office for further proceedings in relation to his fear of removal
 18 to Ghana, or (2) designate a different country for removal. Ex. 6.

19 Nonetheless, the government notified Mr. Diallo on April 10, 2026—days after his positive
 20 fear determination—that Ghana would accept Mr. Diallo, and the government would remove him
 21 to Ghana by the end of this month. Such action violates the INA, implementing regulations, and
 22 the agency’s own policies. *See* 8 U.S.C. § 1231(b), 8 C.F.R. § 1240.12(d), Ex. 6. Mr. Diallo must
 receive the “legally required multistep procedures set out in 8 U.S.C. § 1231(b) and required by

1 due process before ICE can remove him to a third country.” *Baltodano v. Bondi*, No. C25-1958,
 2 2025 WL 2987766, at *3 (W.D. Wash. Oct. 23, 2025) (quotations omitted). But the government’s
 3 current action of ending the procedural process at his third country screening falls far short of the
 4 procedure Mr. Diallo is entitled to. Accordingly, Mr. Diallo has established a likelihood of success
 5 on the merits of his claim that Respondents’ attempt to remove Mr. Diallo to Ghana or any third
 6 country without proper procedural protection violates the INA, related agency regulations and
 7 policies. 8 U.S.C. § 1231(b); 8 C.F.R. § 1240.12(d); Ex. 6.

8 **ii. Removal to Ghana violates due process**

9 Mr. Diallo also establishes a likelihood of success on the merits of his claim that
 10 Respondents’ current detention in advance of Mr. Diallo’s removal to Ghana violates procedural
 11 due process. The Supreme Court has “long held that ‘no person shall be’ removed from the United
 12 States ‘without opportunity, at some time, to be heard.’” *A. A. R. P. v. Trump*, 605 U.S. 91, 94
 13 (2025) (quoting *The Japanese Immigrant Cases*, 189 U.S. 86, 101 (1903)). See *Oshodi*, 729 F.3d
 14 at 889 (“It is well established that the Fifth Amendment guarantees non-citizens due process in
 15 removal proceedings.”). Indeed, “[f]ailing to notify individuals who are subject to deportation that
 16 they have the right to apply for asylum in the United States and for withholding of deportation to
 17 the country to which they will be deported violates both INS regulations and the constitutional
 18 right to due process.” *Andriastian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999). And “[i]n the
 19 context of country of removal designations, last minute orders of removal to a country may violate
 20 due process if an immigrant was not provided an opportunity to address his fear of persecution in
 21 that country.” *Najjar v. Lynch*, 630 F. App’x 724, 724 (9th Cir. 2016). Accordingly, “the burden
 22 [is] on the government – regardless of whether the country of deportation is designated during or

1 after the removal hearing – to provide a meaningful opportunity to be heard on asylum and
 2 withholding claims.” *Aden*, 409 F. Supp. at 1010. *See also Andriasian*, 180 F.3d at 1041.

3 Once Mr. Diallo expressed a credible fear of removal to Ghana, Respondents had a duty to
 4 comport with due process, meaning they had to provide Mr. Diallo with the opportunity to present
 5 his fear of removal before an immigration judge. *Andriasian*, 180 F.3d at 1041; *see also Nguyen*,
 6 796 F. Supp. 3d at 727 (noting that the government bears the burden to comply with due process
 7 and to do so, “the removal proceedings must be reopened [by the government] so that a hearing
 8 can be held” on the designated third country). But the government failed to do so here, and the
 9 importance of the government’s failure to afford due process cannot be underscored, particularly
 10 when Ghana was never designated as a country of removal in Mr. Diallo’s proceedings with EOIR.
 11 Thus, Mr. Diallo has yet to be given the opportunity to present evidence and develop the record
 12 for his well-founded fear of future persecution in Ghana. Procedural due process therefore requires
 13 that Mr. Diallo be afforded the opportunity to present evidence and an opportunity for a full
 14 factfinding hearing regarding his fear-based claim regarding his credible fear of being removed to
 15 Ghana.

16 **iii. Removal to Ghana further violates due process because it is paired with**
imprisonment and thus, intended to be punitive in nature

17 In Mr. Diallo’s case, there is one further constitutional violation that his removal to Ghana
 18 implicates: “the Constitution’s prohibition on ‘punitive’ third country removal.” *Nguyen*, 796 F.
 19 Supp. 3d at 732. Over a century ago, the Supreme Court recognized that “Congress could not add
 20 to the sanction of expulsion the punishment by imprisonment at hard labor ... without a trial by
 21 jury.” *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (citation modified). The *Wong Wing*
 22 Court’s conclusion still holds true today. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 694 (2001)
 (explaining that *Wong Wing* “held that punitive measures could not be imposed upon [noncitizens]

1 ordered removed because all persons within the territory of the United States are entitled to the
2 protection of the Constitution”) (citation modified); and *Rodriguez v. Robbins*, 804 F.3d 1060,
3 1076 (9th Cir. 2015), *rev’d sub nom. on other grounds Jennings v. Rodriguez*, 583 U.S. 281 (2018)
4 (citation omitted) (emphasizing that “detention may not be punitive”).

5 This administration’s increased execution of third-country removals has caused courts
6 across this circuit and the country to conclude that “the government is intentionally removing
7 individuals to countries where they will be imprisoned.” *Nguyen*, 796 F. Supp. 3d 733-34 (finding
8 that based on the administration’s statements, removal to countries that will imprison individuals
9 is punitive) (citing *Artiga-Morales v. Bondi*, No. 24-2519, 2025 WL 2305405, at *1 (9th Cir. Aug.
10 11, 2025) (“The evidence also establishes that there have been instances of torture in Salvadoran
11 prisons.”); *Rivera-Trigueros v. Bondi*, No. 24-3764, 2025 WL 1189561, at *2 (9th Cir. Apr. 24,
12 2025) (same) (citation omitted)). While Mr. Diallo’s set of facts differs slightly from those
13 considered in *Nguyen*, Mr. Diallo is nonetheless facing the threat of removal to a specific third
14 country where he will likely be imprisoned for his sexual orientation. *See Baltodano v. Bondi*, --
15 F. Supp. 3d --, 2025 WL 3484769, at *10 (W.D. Wash. Dec. 4, 2025) (citing *Abubaka v. Bondi*,
16 No. 2:25-CV-01889-RSL, 2025 WL 3204369, at *8 (W.D. Wash. Nov. 17, 2025)).

17 Ghana has increased its crackdown on members of the LGBTQ+ community in recent
18 years. Indeed, Ghana is consistently discussed alongside Senegal—the country Mr. Diallo is
19 withheld from being removed to because of persecution he endured on account of his sexual
20 orientation—as having some of the toughest crackdowns on LGBTQ+ individuals in Africa. *See*
21 Morgan Ofori, *What’s behind the worrying rise in anti-LGBTQ+ laws across Africa?*, The
22 Guardian, <https://www.theguardian.com/news/2026/apr/08/the-long-wave-anti-lgbtq-laws-africa-homosexuality-discrimination> (Apr. 8, 2026) (discussing the rise in anti-LGBTQ+ laws

1 exclusively in Senegal and Ghana). Ghana's documented crackdown on members of the
2 LGBTQ+ community includes a "bill [that] significantly expands criminal sanctions related to
3 same-sex conduct and imposes up to three years in prison for anyone who even identifies as
4 LGBT." Larissa Kojoué, *Ghana's Parliament Revives Dangerous Anti-LGBT Bill*, Human Rights
5 Watch, [https://www.hrw.org/news/2026/03/10/ghanas-parliament-revives-dangerous-anti-lgbt-](https://www.hrw.org/news/2026/03/10/ghanas-parliament-revives-dangerous-anti-lgbt-bill)
6 [bill](https://www.hrw.org/news/2026/03/10/ghanas-parliament-revives-dangerous-anti-lgbt-bill) (Mar. 10, 2026, 12:00AM).

7 Aside from the LGBTQ+ specific imprisonment Mr. Diallo will face, there is also severe
8 concern that Mr. Diallo's removal to Ghana will ultimately result in him being returned to
9 Senegal—the country that Respondents legally cannot remove Mr. Diallo to. In *D.A. v. Noem*, the
10 court acknowledged the reality that a group of noncitizens were "awoken and removed from their
11 cells, [in the middle of the night,] shackled in chains, and put on a U.S. military plane . . . to Ghana,
12 and then to their countries of origin." 800 F. Supp. 3d at 49. The court noted that in advance of the
13 noncitizens' removal, "the United States and Ghana entered into an unwritten agreement under
14 which it appears that Ghana has agreed to assist the United States with the removal of non-
15 citizens." *Id.* at 49-50. Thus, once in Ghana, officials "promptly returned one" noncitizen who had
16 received CAT deferral based on sexuality "to his home country," and "declared its intention to
17 repatriate the remaining Plaintiffs as well." *Id.* at 50. Considering Ghana's documented actions of
18 returning noncitizens to their native countries where they have endured persecution or even torture,
19 Mr. Diallo's fear of punitive imprisonment and possible return to Senegal is well-grounded. As
20 such, Mr. Diallo has established a likelihood of success on the merits of his procedural due process
21 claim.
22

B. MR. DIALLO FACES IRREPARABLE HARM WITHOUT A TEMPORARY RESTRAINING ORDER

There can be no dispute that Mr. Diallo will face irreparable harm if removed to Ghana, or any other third country without due process. *See A.A.R.P.*, 605 U.S. at 95. To demonstrate irreparable harm, a movant must show “that irreparable injury is *likely* in the absence of an injunction.” *Winter*, 555 U.S. at 22 (emphasis in original). “A threat of irreparable harm is sufficiently immediate to warrant preliminary injunctive relief if the plaintiff is likely to suffer irreparable harm before a decision on the merits can be rendered.” *Boardman v. Pac. Seafood Grp.*, 822 F.3d 1011, 1022 (9th Cir. 2016) (quotations omitted).

Mr. Diallo’s fear of persecution in Ghana is not speculative: as a member of the LGBTQ+ community he fears the same punishment, torture, and possible death in Ghana that he already endured and ultimately fled from in his home country of Senegal. According to current country reports, “Ghana’s Parliament [recently] had its first reading of an anti-LGBTQ Bill, which is now being considered by its Committee on Constitutional, Legal and Parliamentary Affairs.” Kerry Cullinan, *Ghana and Senegal Consider Harsher Measures Against LGBTQ People*, Health Policy Watch, available at <https://healthpolicy-watch.news/ghana-and-senegal-consider-harsher-measures-against-lgbtq-people/> (Mar. 3, 2026). Ghana’s bill strikes a similar nerve as Senegal’s new bill, which “will double the maximum penalty for same sex relationships – up to 10 years in prison.” *Id.* Ghana also “passed a tough new bill that imposes a prison sentence of up to three years for anyone convicted of identifying as LGBTQ+.” *See* Thomas Naadi, *Ghana passes bill making identifying as LGBTQ+ illegal*, BBC News, available at <https://www.bbc.com/news/world-africa-68353437> (Feb. 28, 2024). Considering the current environment in Ghana, it is undisputed that Mr. Diallo is facing “[a] threat of irreparable harm” that “is sufficiently immediate to warrant preliminary injunctive relief.” *Pac. Seafood Grp.*, 822 F.3d at 1022.

1 In addition, “the deprivation of constitutional rights ‘unquestionably constitutes irreparable
 2 injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427
 3 U.S. 347, 373 (1976)). Indeed, “[w]hen an alleged deprivation of a constitutional right is involved,
 4 most courts hold that no further showing of irreparable injury is necessary.” *Warsoldier v.*
 5 *Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (citations omitted). Considering Mr. Diallo has
 6 put forth evidence that he would endure irreparable injury in the form of both removal to Ghana
 7 and a violation of his constitutional rights, Mr. Diallo has shown irreparable harm.⁴

8 **C. THE BALANCE OF EQUITIES AND PUBLIC INTEREST FAVOR MR. 9 DIALLO**

10 The final two factors for both a temporary restraining order and a preliminary injunction
 11 combine when the Government is a party: *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092
 12 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). The Ninth Circuit has
 13 consistently underscored the “public interest in preventing [noncitizens] from being wrongfully
 14 removed, particularly to countries where they are likely to face substantial harm.” *Nken*, 556 U.S.
 15 at 436. Although the government has an interest in finalizing removal orders, “our system does not
 16 permit agencies to act unlawfully even in pursuit of desirable ends.” *Ala. Ass’n of Realtors v. Dep’t*
 17 *of Health and Human Servs.*, 594 U.S. 758, 766 (2021) (citation omitted)). Moreover, when
 18 constitutional rights are at risk—as they are in the instant matter—the factors weigh heavy in the
 19 movant’s favor.

20
 21
 22 ⁴ This Court has also recognized that the irreparable harm inquiry is further supported by evidence
 that “other similarly situated individuals have been removed to third countries with little notice”
 under ICE’s policies and procedures, *Nguyen*, 796 F. Supp. 3d at 736 (statements from counsel of
 similarly situated petitioners removed to third countries despite pending habeas litigation).

CONCLUSION

It is evident that Mr. Diallo has demonstrated a likelihood for success on the merits and has further demonstrated that irreparable harm will occur if he is removed to Ghana. The balance of equities and public interests also favor Mr. Diallo and supports his request for emergency relief.

RELIEF REQUESTED

WHEREFORE, Mr. Diallo respectfully requests the Court GRANT his relief requested in his initial Habeas Petition, along with the following:

Temporary Restraining Order

1. *Ex parte* temporary restraining order:

- a. Issue an *ex parte* temporary restraining order enjoining Respondents, their agents, and successors, from removing Petitioner to Ghana or any third country pending further order of this Court, pending an expedited hearing on Petitioner's request for a preliminary injunction.

Preliminary Injunction

2. Injunctive Relief:

- a. Enjoin Respondents, their agents, and successors, from removing Mr. Diallo to Ghana without additional procedural safeguards including, but not limited to, notice and opportunity to be heard before a neutral adjudicator, where Mr. Diallo can present his claims for withholding under the INA, CAT protection, and any other relief related to a removal to Ghana.
- b. Enjoin Respondents, their agents, and successors, from removing Mr. Diallo to any third country without notice and meaningful opportunity to be heard in compliance

1 with the INA, related regulations, and due process clause of the Fifth Amendment;
2 and

- 3 c. Enjoin Respondents, their agents, and successors, from transferring Mr. Diallo to
4 another facility within the United States without providing at least one week notice
5 to both Mr. Diallo and his counsel.

6 3. Declaratory Relief:

- 7 a. Declare that the government's practice of effectuating third country removal
8 without providing notice and a meaningful opportunity to be heard violates the Due
9 Process Clause of the Fifth Amendment and the INA; and
10 b. Declare that the government's practice of third country removal paired with
11 imprisonment is intended to be punitive and is therefore, in violation of the due
12 process clause.

- 13 4. Any further relief this Court deems just, equitable, and proper.

14
15 Dated: April 14, 2026

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to LCR 7(d)(4), (e)(4), and LCR 65(b)(2)-(3), I certify that this motion contains 4,218 words, in compliance with the Local Civil Rules. Counsel may rely on the word count of a word-processing system used to prepare the brief.

Respectfully submitted on this 14th of April, 2026.

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CERTIFICATE OF SERVICE

Pursuant to LCR 65(b)(1) I, Clayton Cook-Mowery, counsel for Petitioner, do hereby certify that on the 14th day of April 2026, I contemporaneously served the foregoing emergency motion for a preliminary injunction upon Respondents at the time of filing via the CM/ECF system.

By: /s/Clayton Cook-Mowery
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