

In the Matter of
DEVINDER SINGH SIDHU

Petitioner

Motion for Temporary Restraining Order Against Respondents

**Warden of Golden State Annex
Secretary of the U.S. Department
of Homeland Security
Attorney General of the United
States
U.S Immigration Customs Enforcement
U.S. Department of Homeland Security
In their official capacities
Respondents**

1 **I. INTRODUCTION**

2 1. Petitioner respectfully moves for a Temporary Restraining Order (“TRO”) pending
3 adjudication of his Petition for a Writ of Habeas Corpus. Petitioner requests that this Court
4 prohibit Respondents from transferring him outside the Eastern District of California
5 pending resolution of his habeas petition. Absent immediate injunctive relief, Respondents
6 may transfer Petitioner, causing irreparable harm and interfering with this Court’s
7 jurisdiction..
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9 **II. Statement of Facts**

- 10 2. Petitioner is currently detained at Golden State Annex facility in McFarland, CA.
11 3. Petitioner entered the United States without inspection on or about July 16, 2024, near
12 Otay Mesa, California, after which DHS served him with a Notice to Appear and placed
13 him into removal proceedings under INA § 240.
14 4. Petitioner has a recent misdemeanor DUI charge arising from an incident in Fresno
15 County on or about May 3, 2026. The charge is non-violent in nature and does not
16 establish that the Petitioner poses a danger to the community.
17 5. Petitioner actively litigated his asylum proceedings for approximately twenty-three
18 months while residing in the community before ICE abruptly re-detained him on June 27,
19 2026.
20 6. During initial DHS processing, Petitioner was released on an Order of Recognizance after
21 DHS determined that he did not present a danger to national security, border security, or
22 public safety. DHS thereafter permitted Petitioner to reside in the community for nearly
23 twenty-three months while he complied with all immigration proceedings, maintained his
24 address, pursued his asylum application, and never absconded.
25 7. Petitioner has not received a constitutionally adequate bond hearing.
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- 1 8. Absent injunctive relief, Respondents ICE possesses broad authority to transfer detainees
2 at any time without advance notice. Absent immediate injunctive relief, Respondents may
3 transfer Petitioner outside the Eastern District of California before this Court can resolve
4 his pending habeas petition.
- 5 9. Petitioner has a pending application for asylum, withholding of removal, and protection
6 under the Convention Against Torture. His wife and minor child likewise remain
7 respondents in pending removal proceedings. Maintaining Petitioner's presence within this
8 District is necessary to preserve meaningful judicial review and his ability to litigate those
9 proceedings.
- 10 10. For nearly twenty-three months, DHS allowed Petitioner to reside in the community while
11 he fully complied with all immigration proceedings, maintained his residence in Fresno,
12 California, pursued his asylum application, and never absconded. The sudden decision to
13 re-detain Petitioner without any meaningful individualized custody review underscores the
14 serious constitutional questions presented in the accompanying habeas petition and further
15 demonstrates Petitioner's likelihood of success on the merits.

18 **III. ARGUMENT**

- 19 11. Where a party requests a TRO that enjoins governmental action, the party must demonstrate
20 that "he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the
21 absence of the preliminary relief, that the balance of equities tip in his favor, and that an
22 injunction is in the public interest." *Winter v. Natural Resources Def. Council, Inc.*, 555
23 U.S. 7, 20 (2008). Here, because Petitioner meets both the irreparable harm and likelihood
24 of success prongs, and because the requested relief is not overly burdensome on
25 Respondents, he merits such relief.

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28 **PETITIONER IS LIKELY TO SUCCEED ON THE MERITS**

1 12. To satisfy that he is likely to succeed on the merits, Petitioner need demonstrate only a
2 reasonable probability or that “serious questions” going to the merits are raised. *Alliance*
3 *for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011). Petitioner meets
4 this standard.

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6 13. The Government's decision to re-detain Petitioner after permitting him to remain at liberty
7 for nearly two years raises substantial constitutional questions regarding whether his
8 continued detention is reasonably related to any legitimate governmental purpose.

9 14. Petitioner's habeas petition challenges the legality of his detention.

10 **PETITIONER WILL SUFFER IRREPARABLE HARM IF HE IS TRANSFERRED**

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12 15. Absent injunctive relief, Respondents may transfer Petitioner outside this District before
13 this Court can adjudicate the pending habeas petition, thereby interfering with this Court's
14 jurisdiction and rendering meaningful habeas relief unavailable.

15 16. Under the four-factor test, “a showing of irreparable harm is the single most important
16 prerequisite for the issuance of preliminary injunction. *Faiveley Transport Malmo AB v.*
17 *Wabtec Corp.*, 559 F.3d 110, 118 (2d Cir. 2009). Under this prong, Petitioner must show
18 that “but for the grant of equitable relief, there is a substantial chance that upon final
19 resolution of the action the parties cannot be returned to the position they previously
20 occupied.” *Brenntag Int'l Chems., Inc. v. Bank of India*, 175 F.3d 245, 249 (2d Cir. 1999).
21 The harm must be “neither remote nor speculative, but actual and imminent.” *Freedom*
22 *Holdings, Inc. v. Spitzer*, 408 F.3d 112, 114 (2d Cir. 2005).

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24 **A. Removal Would Permanently Deprive Petitioner of Meaningful Habeas Review**

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26 Petitioner's removal from the United States would effectively moot this Court's
27 jurisdiction over the pending habeas petition. Courts have recognized that removal or transfer
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1 during the pendency of a habeas action constitutes irreparable harm where it would prevent
2 meaningful judicial review. See *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011).
3 If Petitioner is removed from the United States by Respondents, Petitioner’s ability to obtain
4 habeas relief would be irreparably impaired, if not entirely extinguished. Once removed,
5 Petitioner’s ability to obtain habeas relief will be terminated.
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7 **B. Removal Would Terminate Petitioner’s Pending Asylum Application and**
8 **Statutory Right to Seek Protection**

9 Petitioner has an active and pending asylum application, and removal would result in the
10 immediate and irrevocable loss of his ability to pursue his claim for refuge and asylum. An
11 applicant for asylum must be physically present in the United States to seek relief. See 8
12 U.S.C. § 1158(a)(1).
13

14 The loss of the opportunity to pursue statutory relief, particularly humanitarian protection
15 such as asylum, constitutes irreparable harm. If removed, Petitioner would be permanently
16 deprived of the opportunity to have his asylum claim adjudicated on the merits, a loss that
17 cannot be remedied by later judicial proceedings.
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19 **C. Ongoing Detention Constitutes Irreparable Liberty Harm**

20 Petitioner continues to suffer irreparable harm through prolonged civil detention without a
21 constitutionally adequate bond hearing. The continued deprivation of liberty without
22 meaningful process constitutes irreparable harm. See *Rodriguez v. Robbins*, 715 F.3d 1127,
23 1144 (9th Cir. 2013).
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25 **D. Constitutional Violation Independently Establish Irreparable Harm**

26 Petitioner’s habeas petition raises serious constitutional claims, including violations of his
27 Fifth Amendment right to Due Process. Alleged violation of constitutional rights, by itself,
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1 constitutes irreparable harm. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

2 **THE BALANCE OF EQUITIES FAVOR PETITIONER**

3 17. The balance of equities weights in favor of the Petitioner. The Petitioner seeks narrowly
4 tailored relief to ensure meaningful judicial review. The Petitioner seeks protection
5 against removal or transfer that would undermine this Court's jurisdiction.
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7 18. Respondent's face little to no burden in temporarily refraining from removing or
8 transferring the Petitioner. Maintaining the Petitioner's current custodial status while the
9 decision of his Petition for a Writ of Habeas Corpus is pending imposes no undue
10 hardship on the government and does not interfere with their duties.

11 19. Where the Petitioner faces loss of liberty and permanent deprivation of statutory and
12 constitutional rights, while the government faces only administrative inconvenience, the
13 equities favor injunctive relief. *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017).
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15 **THE PUBLIC INTEREST FAVORS PRESERVING JUDICIAL REVIEW**

16 20. The public interest favors ensuring that detention complies with constitutional and
17 statutory limitations and requirements. Courts have recognized that it is always in the
18 public interest to prevent the violation of a party's constitutional rights. *Melendres v.*
19 *Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). The public has a compelling interest in
20 ensuring that asylum seekers are afforded vital access to the legal process Congress
21 established. The public also has an interest in courts restraining the ability to review
22 executive actions. Preserving judicial review and oversight promotes the public's
23 confidence in the rule of law, as well as the integrity of the governmental agencies
24 involved in the immigration system. Granting this TRO would advance the public interest
25 by ensuring that Petitioner's claims are adjudicated fairly and lawfully.
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2 **IV. CONCLUSION**

3 21. Petitioner satisfies all four factors required for emergency injunctive relief. First, he faces
4 irreparable harm absent relief. Removal or transfer would moot his habeas claims,
5 terminate his pending asylum application, and result in ongoing deprivation of liberty
6 without meaningful process, harms that cannot be undone after the fact.
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8 22. Petitioner has demonstrated a likelihood of success on the merits, or at minimum, serious
9 questions going to the merits.

10 23. Third, the balance of equities weighs heavily in Petitioner's favor, he seeks only narrow
11 relief to preserve jurisdiction and maintain existing custodial conditions. By contrast,
12 Respondents face minimal burden in temporarily refraining from removal or transfer.
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14 24. Finally, the public interest favors ensuring that asylum seekers receive meaningful access
15 to the judicial process, and that executive detention complies with constitutional and
16 statutory requirements and limitations.

17 25. For those reasons, Petitioner respectfully requests that the Court:

- 18 a. Issue a Temporary Restraining Order prohibiting Respondent from removing
19 Petitioner from the United States or transferring him outside the Eastern District of
20 California.
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22 b. Order Respondents to maintain Petitioner's current custodial status pending further
23 order of the Court;
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25 c. Issue an Order to Show Cause why a preliminary injunction should not issue; and
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27 d. Grant any relief the Court deems just and proper.
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1 Respectfully Submitted,

Dated this 6 day of July, 2026.

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6 Kamal D. Mann

7 THE MANN LAW OFFICES, P.C.

8 *Attorney for Petitioner*
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