

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

YOUSHITA ALIZADEH,

PETITIONER,

v.

KRISTI NOEM, et al.,

RESPONDENTS.

Civil Case No.

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

Petitioner, Youshita Alizadeh, by and through undersigned counsel, respectfully moves this Court for an emergency Temporary Restraining Order ("TRO") and/or a Preliminary Injunction. Mr. Alizadeh seeks an immediate order compelling Respondents to release him from the custody of U.S. Immigration and Customs Enforcement ("ICE"). This motion is filed contemporaneously with Mr. Alizadeh's Emergency Petition for a Writ of Habeas Corpus, the most relevant aspects of which are summarized below. Mr. Alizadeh respectfully requests that this Court immediately order Respondents not to move Mr. Alizadeh from this Court's jurisdiction, to respond to this motion within one business day, and, if the Court deems appropriate, set this matter for an emergency evidentiary hearing.

INTRODUCTION

As detailed in the Habeas Petition accompanying this motion and discussed below, Mr. Alizadeh's detention by ICE is unlawful and it has been since the moment they detained him on July 2, 2025. This detention was and continues to be unlawful. Mr. Alizadeh's removal was not reasonably likely in the foreseeable future in 2007 or when he reported as directed in

February or March of 2025. And removal to Iran, previously thwarted because of its refusal to issue travel documents for Mr. Alizadeh, certainly did not get any more likely after the U.S. launched airstrikes at targets in Iran on June 22, 2025. Nonetheless, a few days later, on July 2, 2025, ICE suddenly arrested Mr. Alizadeh near his home.

The re-detention of Mr. Alizadeh is a flagrant violation of federal regulations, specifically 8 C.F.R. § 241.13, which requires ICE to follow specific procedures and make an individualized finding of changed circumstances rendering removal significantly likely in the reasonably foreseeable future before it can revoke supervised release.¹ Respondents failed to follow this mandatory process.

Mr. Alizadeh is from Iran, but came to the United States when he was still a child with his parents. He was arrested in 2007 for possession of a controlled substance, and after his criminal case was disposed, he was taken into ICE custody for removal proceedings which resulted in a final order of removal on May 8, 2007.² After ICE determined Mr. Alizadeh's removal was not reasonably likely in the foreseeable future, he was released on an OSUP sometime in late 2007. Since his release, Mr. Alizadeh has complied with his OSUP without incident. His removal to Iran is no more likely today than it has been for the past two decades. For the reasons set forth below, Mr. Alizadeh meets all the requirements for immediate injunctive relief.

¹ See *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *4–6 (E.D. Cal. July 16, 2025)(discussing the regulatory requirements for re-detention in the context of a habeas petition and request for a TRO seeking the immediate release of a “re-detained” pre-1995 Iran immigrant); see also *Hoac v. Beccerra, et al.*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *3 (E.D. Cal. July 16, 2025)(same); *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025)(same).

² (Pet'r's App. Ex. 2.)

RELEVANT BACKGROUND INFORMATION

Mr. Alizadeh is a 41-year-old respected, hardworking member of his community. He has lived in the United States since around 2001, when he arrived with his parents who sought (and were granted) asylum from Iran. For the past seventeen years, Mr. Alizadeh has lived under an Order of Supervision (“OSUP”) with U.S. Immigration and Customs Enforcement (“ICE”).

His reward for this compliance was to be summarily arrested. On July 2, 2025, Mr. Alizadeh, who had reported as directed in February or March of 2025, was suddenly arrested near his home. Without warning, explanation, or any lawful basis, ICE agents detained him. ICE did not identify any new criminal activity, any violation of his supervision, or any change in circumstances that would suddenly make his removal to Iran—who the U.S. launched airstrikes at on June 22, 2025—reasonably foreseeable.

Since his unlawful seizure, Mr. Alizadeh has been held in deplorable and dangerous conditions. He is being held in ICE custody without having been given a reason or explanation for his re-detention. Holding Mr. Alizadeh under these inhumane conditions is not an administrative act to effectuate removal; it is an unconstitutional punishment that inflicts irreparable harm with each passing hour.

LEGAL STANDARD

A party seeking a TRO or a preliminary injunction must establish four elements: (1) a substantial likelihood of success on the merits; (2) a substantial threat of irreparable harm if the injunction is not granted; (3) that the threatened injury outweighs any harm that will result to the non-movant if the injunction is granted; and (4) that the injunction will not disserve the public interest.³ Mr. Alizadeh satisfies all four factors.

I. Mr. Alizadeh is Likely to Succeed on the Merits.

Mr. Alizadeh's re-detention is unlawful because ICE flagrantly disregarded its own mandatory regulations. The decision to re-detain a noncitizen on supervised release is governed by 8 C.F.R. § 241.13(i).⁴ This regulation requires ICE to conduct an individualized determination, based on changed circumstances, that the noncitizen's removal has become significantly likely in the reasonably foreseeable future.⁵

ICE failed to meet this standard. Respondents provided no notice, no evidence, and no finding of any changed circumstance specific to Mr. Alizadeh. Instead, they

³ *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

⁴ *See Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *4–6 (E.D. Cal. July 16, 2025)(discussing the regulatory requirements for re-detention in the context of a habeas petition and request for a TRO seeking the immediate release of a “re-detained” pre-1995 Iran immigrant); *see also Hoac v. Beccerra, et al.*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *3 (E.D. Cal. July 16, 2025)(same); *Nguyen v. Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025)(same).

⁵ *Id.*; *see also Kong v. United States*, 62 F.4th 608, 619–20 (1st Cir. 2023).

summarily detained despite acknowledging a lack of changed circumstances when continuing him on OSUP a few months earlier. Similar conduct has been recently rejected by multiple federal courts under comparable facts.⁶

The government cannot demonstrate that Mr. Alizadeh's removal is reasonably foreseeable. He is from Iran who had refused to issue travel documents for years prior to the U.S. air strikes, which surely made removal less likely than the converse.⁷

Because ICE violated its own binding regulations and because Mr. Alizadeh's removal is not significantly likely in the reasonably foreseeable future, his detention is unlawful. He has a clear and substantial likelihood of succeeding on the merits of his habeas petition.

II. Mr. Alizadeh Faces Immediate and Irreparable Harm.

Continued unlawful detention is, by its very nature, an irreparable injury. The Supreme Court has affirmed that "[f]reedom from imprisonment . . . lies at the heart of the liberty" protected by the Due Process Clause.⁸ Every day Mr. Alizadeh remains in custody, he is irreparably harmed by the loss of his fundamental liberty, his separation from his U.S. two citizen children, and the loss of his ability to provide for his family.

The harm is not merely abstract. Mr. Alizadeh is being held at the Prairieland Detention Center. This raises grave concerns for his health and safety, especially given the

⁶ See *Phan*, 2025 WL 1993735, at *4–6; *Hoac*, 2025 WL 1993771, at *3; *Nguyen*, 2025 WL 1725791, at *3.

⁷ *Id.*

⁸ *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

recent, tragic death of a 55-year-old Vietnamese detainee in ICE custody and the rising number of in-custody deaths in 2025.⁹ This risk constitutes a severe and irreparable harm that warrants immediate judicial intervention.

III. The Balance of Equities Tips Decisively in Mr. Alizadeh's Favor.

The balance of harms weighs overwhelmingly in Mr. Alizadeh's favor. The injury to Mr. Alizadeh—unconstitutional detention, family separation, and risk to his well-being—is severe and immediate.

Conversely, the harm to Respondents is nonexistent. Mr. Alizadeh is not a danger to the community; he has lived peacefully and productively as an employed member of the community. He is not a flight risk; he has complied with his OSUP for the past two decades and reported to ICE on July 23, 2025, fully aware that he would likely be detained. As the Supreme Court noted in *Zadvydas*, the flight risk justification is "weak or nonexistent where removal seems a remote possibility."¹⁰ Releasing Mr. Alizadeh to his OSUP poses no conceivable harm to the government.

IV. An Injunction Serves the Public Interest.

The public has a profound interest in ensuring that government agencies abide by the Constitution and their own regulations. Granting this injunction upholds the rule of law and prevents the government from exercising unchecked power to deprive individuals of their liberty. Furthermore, the public interest is served by preserving family unity,

⁹ (Pet'r's App. Ex. 5.)

¹⁰ *Zadvydas*, 533 U.S. at 691.

especially where U.S. citizen children are involved, and by preventing the waste of taxpayer resources on unlawful and indefinite detention.

[Nothing further on this page.]

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant this Emergency Motion and issue a Temporary Restraining Order and/or Preliminary Injunction ordering his immediate release from ICE custody under his previous Order of Supervision, pending a final resolution of his Petition for a Writ of Habeas Corpus

1. GRANT this Emergency Motion;
2. ISSUE a Temporary Restraining Order immediately ENJOINING and RESTRAINING Respondents, their officers, agents, servants, employees, and all persons in active concert or participation with them, from continuing to detain Mr. Alizadeh and from removing to any third country (i.e. any country that is not Iran) without providing Mr. Alizadeh, his counsel, and the Court with at least 72-hours' notice of its intent to do so;
3. ORDER Respondents to appear and show cause immediately as to why a Preliminary Injunction should not issue;
4. Set an Emergency Hearing at the Court's Convenience; and
5. GRANT Petitioner such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED,

/s/ Dan Gividen

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Certificate of Service

I hereby certify that I sent this document along with all the other filings in this case via email to counsel for the government AUSA Ann Haag on August 27, 2025.

/s/ Dan Gividen

DAN GIVIDEN

Attorney for Petitioner

Certificate of Conference

I hereby certify that I spoke with AUSA Ann Haag who indicated the government opposes the relief sought by this motion and the accompanying Habeas Petition. Accordingly, it is being presented as opposed.

/s/ Dan Gividen

DAN GIVIDEN

Attorney for Petitioner