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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ALIREZA HASHEMI,

Petitioner

v.

KRISTI NOEM, SECRETARY,
DEPARTMENT OF HOMELAND
SECURITY; PAM BONDI,
ATTORNEY GENERAL; TODD
LYONS, ACTING DIRECTOR,
IMMIGRATION AND CUSTOMS
ENFORCEMENT; ERNESTO
SANTACRUZ JR., LOS ANGELES
FIELD OFFICE DIRECTOR,
IMMIGRATION AND CUSTOMS
ENFORCEMENT; DEPARTMENT OF
HOMELAND SECURITY;
EXECUTIVE OFFICE OF
IMMIGRATION REVIEW;
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Respondents.

Case No. 2:25-cv-10335-HDV-SP

PETITIONER'S BRIEF IN SUPPORT
OF THE ISSUANCE OF A
PRELIMINARY INJUNCTION

VERIFIED

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1 **I. INTRODUCTION**

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3 On October 27, 2025, Mr. Hashemi, the Petitioner in this matter, filed a Petition
4 for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief (ECF.
5 No. 1). Petitioner then filed an *Ex Parte* Motion for Temporary Restraining Order and
6 Order to Show Cause Re: Preliminary Injunction (ECF. No. 5). The Respondents
7 opposed (ECF. No. 6). On October 31, 2025, this Court granted in part, and set a
8 briefing schedule regarding the issuance of a preliminary injunction (ECF No. 7).
9

10
11 Alireza Hashemi, through counsel, submits this brief in support of the issuance
12 of a preliminary injunction pending the full adjudication of the habeas petition.
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14 **II. STATEMENT OF FACTS**¹

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16 Since August 30, 2017, Petitioner Alireza Hashemi has been living in Los
17 Angeles, California under an Order of Supervision (“OSUP”). *See* Exhibit A, Order
18 of Supervision (Aug. 29, 2017). Mr. Hashemi received a final order of removal on
19 July 24, 2017. *See id.*
20

21 On October 22, 2025, Mr. Hashemi reported as instructed by Immigration and
22 Customs Enforcement (“ICE”) to the Federal Building in downtown Los Angeles for
23 a regularly scheduled check-in. *See* Exhibit B, Declaration of Alireza Hashemi of Oct.
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27 ¹ This Statement of Facts also includes by reference the Statement of Facts section in
28 Petitioner’s *Ex Parte* Motion for Temporary Restraining Order (ECF No. 5).

1 29, 2025 (hereinafter “Hashemi Decl. One”), at ¶ 10; Exhibit C, Declaration of E.
2 Katharine Tinto (hereinafter “Tinto Decl.”) at ¶ 18.² He attended this appointment
3 with a clinical law student from the Criminal Justice Clinic of UC Irvine School of
4 Law, current counsel and counsel at the time of the appointment on October 22, 2025.
5 See Tinto Decl. at ¶ 18. Mr. Hashemi went inside, and the law student was instructed
6 to wait outside. See *id.* They arrived at approximately 8:00am for the appointment. *Id.*

7
8 After several hours of waiting, and without any prior notice, Mr. Hashemi was
9 told by a female ICE officer that he was being taken into custody. See Exhibit D,
10 Second Declaration of Alireza Hashemi (hereinafter “Hashemi Decl. Two”) at ¶ 7;
11 Hashemi Decl. One at ¶¶ 10-11. He started nervous crying and he was taken into an
12 elevator by the ICE officer. Hashemi Decl. Two at ¶ 7. The officer did not tell Mr.
13 Hashemi why he was being taken into custody. *Id.*; Hashemi Decl. One at ¶ 11.

14
15 At some point later, an ICE officer handed him a *Notice of Revocation of*
16 *Release*. See Notice of Revocation of Release (Oct. 22, 2025), [ECF No. 6-2](#). After he
17 was re-detained, Mr. Hashemi was asked to sign documents without counsel present.
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26 ² Both of these declarations are the identical declarations previously submitted as
27 exhibits to Petitioner’s *Ex Parte* Motion for Temporary Restraining Order. See ECF
28 No. 5-2 (Decl. of Alireza Hashemi) and ECF No. 5-3 (Decl. of E. Katharine Tinto).
Counsel resubmits them as Exhibits here for ease of reference.

1 See Hashemi Decl. One at ¶ 10. He refused to sign as he did not understand what he
2 was being asked to sign. *Id.*

3
4 Meanwhile, after waiting for approximately five hours and seeing that Mr.
5 Hashemi had not come out, the law student went inside the federal building and asked
6 an officer if Mr. Hashemi had been detained. *See* Tinto Decl. One at ¶ 18. The officer
7 did not give him a certain answer. *Id.* At approximately 3:00pm, the law student
8 received a phone call from Brenda, Mr. Hashemi's partner. *Id.* Mr. Hashemi had been
9 able to make one phone call to Brenda informing her that he had been detained. *Id.* It
10 was at this point that counsel learned that Mr. Hashemi had been detained and had
11 been moved to the basement of the building, a detention facility known as "B-18." *Id.*

12
13 Mr. Hashemi remained in B-18 until October 28, 2025, when he was then
14 moved to Adelanto Detention Facility in Adelanto, California, where he remains
15 today. *Id.* at ¶ 2; Hashemi Decl. Two at ¶ 1. Prior to his re-detention, Mr. Hashemi
16 had been living in the community under his OSUP. Hashemi Decl. One at ¶¶ 5-6. Mr.
17 Hashemi lives with his partner, Brenda, and their two young U.S. citizen daughters,
18 F [REDACTED] (age 11) and V [REDACTED] (age 8). *See id.*; Declaration of Brenda Clemente (hereinafter
19 "Clemente Decl.") at ¶ 5.³

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27 ³ The Declaration of Brenda Clemente is the same declaration previously submitted.
28 *See* ECF No. 05-12.

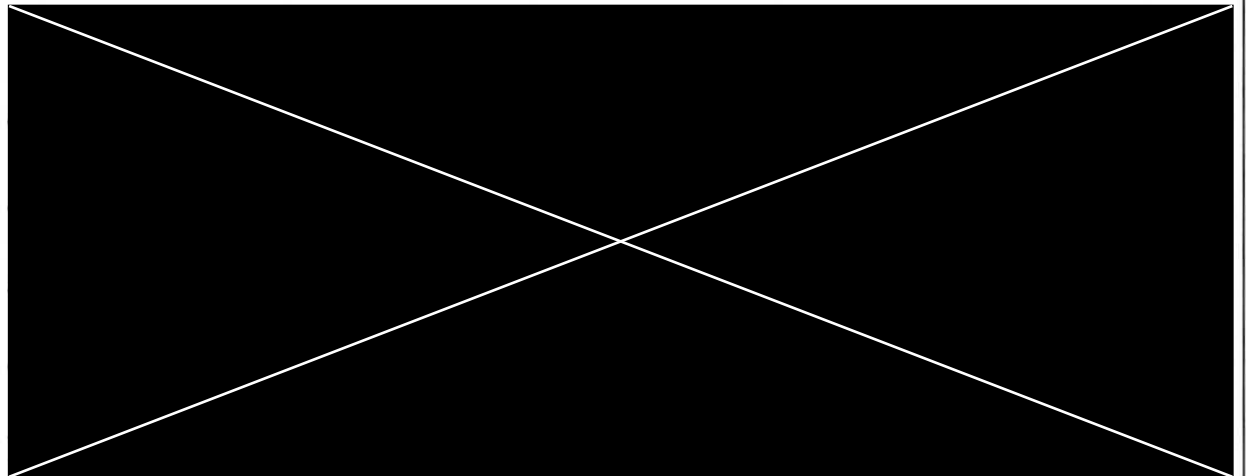
1 Mr. Hashemi and Brenda are raising Brenda's two young girls together, and
2 Mr. Hashemi considers them to be his daughters. *See* Hashemi Decl. One at ¶ 6;
3 Clemente Decl. at ¶ 6; Exhibit F, Declaration of Monsoureh Saraf (hereinafter "Saraf
4 Decl.") at ¶¶ 6, 8.⁴ Both girls consider Mr. Hashemi to be their father. *See* Hashemi
5 Decl. One at ¶ 6; Clemente Decl. at ¶ 12. He assists with their daily care and is the
6 primary financial support for the family. *See* Hashemi Decl. One at ¶ 6; Clemente
7 Decl. at ¶ 9. Mr. Hashemi wants to be a good father for them so he recently voluntarily
8 enrolled in a parenting class. *See* Hashemi Decl. at ¶ 6; Exhibit G, Letter from Case
9 Manager, Developing Opportunities Offering Reentry Solutions (DOORS) (also ECF
10 No. 5-7). Mr. Hashemi has worked steadily since his release, and for the past two
11 years, has worked as a driver for Uber. *See* Hashemi Decl. One at ¶ 6. Brenda and
12 their young daughters are suffering both emotionally and financially in his absence.
13 *See* Clemente Decl. at ¶¶ 10-12; Saraf Decl. at ¶ 11.

14
15 For the last seven years approximately, Mr. Hashemi has received case
16 management services from *The People Concern*, a non-profit that provides supportive
17 services for individuals with serious mental health challenges. *See* Exhibit H, Letter
18 from The People Concern (also ECF No. 5-6); Hashemi Decl. One at ¶ 5. Mr. Hashemi
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27 ⁴ The Declaration of Mansoureh Saraf is the same declaration previously submitted.
28 *See* ECF No. 05-13.

1 was connected with *The People Concern* through the Los Angeles County's Office of
2 Diversion and Reentry Housing Program, a supportive case management program for
3 individuals with serious mental disorders. *See* Exh. H; Hashemi Decl. One at ¶ 6.

4
5 Mr. Hashemi has schizoaffective disorder-bipolar type. *See* Hashemi Decl. One
6 at ¶ 12; Tinto Decl. One at ¶ 21; Exhibit I, Expert Declaration of Dr. Dhanu Mahesh
7 (hereinafter "Dr Mahesh Decl.") at ¶ 3; Exhibit J, Alvarado Parkway Institute
8 Discharge Summary (also [ECF No. 5-4](#)). Since receiving consistent mental health care
9 and medication in 2018, Petitioner's mental health is stable and he has had no
10 interactions with law enforcement. *See* Hashemi Decl. One at ¶ 5; Saraf Decl. at ¶¶ 3-
11 5; Exh. H.



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23 Since being detained on Wednesday, October 22, 2025, Mr. Hashemi has had
24 only sporadic access to some of his medications. *See* Hashemi Decl. One at ¶¶ 13-14;
25 Hashemi Decl. Two at ¶¶ 1, 5, 6. At first, he missed his daily dose of Lorazepam
26 (referred to by Mr. Hashemi as Ativan, its brand name) because his mother was not
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1 able to pick it up when he was first detained. *See* Hashemi Decl. One at ¶¶ 13-14. His
2 mother was able to eventually get this medication and she brought it to ICE the
3 afternoon of Monday, October 27, 2025. *Id.* However, even after his mother brought
4 it to B-18, Mr. Hashemi only received it once, and he has not received this medication
5 since being transferred to Adelanto Detention Facility on Tuesday morning, October
6 28, 2025, even though, like the two other medications he is sometimes receiving, the
7 Lorazepam was in his personal property. *See* Hashemi Decl. Two at ¶¶ 1, 6. This
8 medication is critical for Mr. Hashemi's mental health. If he does not receive his daily
9 dosage of Lorazepam, he has negative side effects from the other medications he is
10 prescribed. *See* Hashemi Decl. One at ¶ 13.

15 When he arrived at Adelanto Detention Center in the late afternoon of Tuesday,
16 October 28, 2025, Mr. Hashemi's mental health was deteriorating. He informed an
17 ICE officer and he was moved to a "medical observation" area. *See* Hashemi Decl.
18 Two at ¶ 2. He has repeatedly asked to take a second dose of his Escitalopram
19 medication at night because he believed it would improve his declining mental health,
20 but he has not received an answer. *See* Hashemi Decl. Two at ¶¶ 3, 4, 6. On November
21 3, 2025, Mr. Hashemi again asked a person about his medication. *See id.* at ¶ 4. This
22 staff member stated she was not from "psychiatric" and he needed to ask
23 "psychiatric." *Id.* On Monday evening, November 3, 2025. Mr. Hashemi did not
24 receive any medication at all. *Id.* at ¶ 5.

1 Since being detained, Mr. Hashemi has not spoken to anyone about the
2 medication he needs and, to the best of his knowledge, he has not seen a psychiatrist
3 since being detained. *See id.* at ¶ 6. Mr. Hashemi is suffering from anxiety and stress,
4 and his mental health is getting worse. *See id.* at ¶ 8. Mr. Hashemi is very scared of
5 missing his next injection because he needs it for treatment of his schizoaffective
6 disorder. *See Hashemi Decl. One* at ¶ 12; *Hashemi Decl. Two* at ¶ 8.

9 Dr. Dhanu Mahesh, Mr. Hashemi's psychiatrist in the community, states that
10 Mr. Hashemi's diagnosis of schizoaffective disorder requires an injection of long-
11 acting medication every three months. *See Dr. Mahesh Decl.* at ¶ 4. According to Dr.
12 Mahesh, it is "critical" that he receive this medication. *Id.* If he were to miss an
13 injection, his "mental health would deteriorate rapidly." *Id.* Mr. Hashemi would suffer
14 a rapid increase in paranoia, hallucinations and delusions. *Id.* In addition, the setting
15 of immigration detention is in of itself difficult for a person with schizoaffective
16 disorder. *See id.* at ¶ 5. The stress and anxiety of being in the custodial setting has a
17 negative impact on Mr. Hashemi's health and will likely lead to a deteriorating of his
18 mental health, even while on medication. *See id.*

23 **III. ARGUMENT**

24 Pursuant to *Winter v. Nat. Resources Defense Council*, a plaintiff seeking a
25 preliminary injunction must establish that: (1) he is likely to succeed on the merits of
26 his claims; (2) he is likely to suffer irreparable harm in the absence of preliminary
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1 relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public
2 interest. 555 U.S. 7, 20 (2008); *Matsumoto v. Labrador*, 122 F.4th 787, 804 (9th Cir.
3 2024).

4
5 The Ninth Circuit has adopted a “sliding scale variant of the *Winter* test” called
6 the “serious questions test.” *Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*,
7 98 F.4th 1180, 1190 (9th Cir. 2024) (citing *Alliance for the Wild Rockies v. Cottrell*,
8 632 F.3d 1127, 1134 (9th Cir. 2011)). Under the “serious questions test,” a plaintiff is
9 entitled to a preliminary injunction “if it demonstrates (1) serious questions going to
10 the merits, (2) a likelihood of irreparable injury, (3) a balance of hardships that tips
11 sharply towards the plaintiff, and (4) the injunction is in the public interest.” *Id.*

12
13 As to the first element, the “serious questions” standard is “a lesser showing
14 than likelihood of success on the merits.” *Id.* (quoting *Alliance for the Wild Rockies*,
15 632 F.3d at 1217). In addition, when the party opposing injunctive relief is a
16 government entity, the third and fourth factors combine. *Nken v. Holder*, 556 U.S.
17 418, 435 (2009).

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22 **A. Petitioner Has Demonstrated a Likelihood of Success on His Claim**
23 **that Respondents’ Violated his Fifth Amendment Due Process**
24 **Rights**

25 “Noncitizens, even those subject to a final removal order, have constitutional
26 rights just like everyone else in the United States.” *Cesay v. Kurzdorfer*, 781 F. Supp.
27 3d 137, 144 (W.D.N.Y. 2025) (citing *Zadvydas v. Davis*, 533 U.S. 678, 393 (2001)).
28

1 In this case, Petitioner has met the “serious questions” standard, as he has sufficiently
2 demonstrated that he was denied due process under the Fifth Amendment.⁵

3
4 8 U.S.C. § 1231 governs the detention and removal of noncitizens following a
5 final order of removal. A noncitizen who has been ordered removed but has been
6 released “shall be subject to supervision under regulations prescribed by the Attorney
7 General.” 8 U.S.C. § 1231(a)(3); *see also id.* § 1231(a)(6).

9 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 are the regulations that govern the
10 detention and release of removable noncitizens. These regulations also establish the
11 procedures that must be followed if a noncitizen’s order of supervision is revoked. *See*
12 8 C.F.R. § 241.4(l); *id.* § 241.13(i). Government agencies are required to follow their
13 own regulations. *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268
14 (1954); *United States v. Ramos*, 623 F.3d 672, 683 (9th Cir. 2010). In this case,
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20 ⁵ Given the direction of the Court, this section focuses on the claim that Respondents
21 violated Petitioner’s procedural due process rights under the Fifth Amendment
22 because of their failure to following the applicable governing regulations. The same
23 underlying factual allegations also support Petitioner’s claim under the APA. *See*
24 *M.S.L. v. Bostock*, 2025 WL 2430267, at *15 (D. Or. Aug. 21, 2025) (finding ICE’s
25 failure to follow own regulations regarding revocation to be “arbitrary and
26 capricious,” thereby violating the APA). If the Court would like additional briefing
27 on any of Petitioner’s other claims for relief, including the APA claim, Petitioner
28 would seek leave to file supplemental briefing. Petitioner need not establish that he
is likely to succeed on all his claims. A showing that he is likely to succeed on even
one is sufficient for injunctive relief as long he meets the other three factors. *See*
Citibank, N.A. v. Mitchell, 2024 WL 4906076, at *3 (N.D. Cal. Nov. 26, 2024).

1 Respondents repeatedly violated the governing regulations, thereby amounting to a
2 denial of Petitioner's due process rights.

3
4 **1. Petitioner was denied notice of the reasons for revocation.**

5 Pursuant to 8 C.F.R. § 241.4(l) and § 241.13(i), a noncitizen released on an
6 Order of Supervision must be provided notice of the reasons for the revocation. *See* 8
7 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). Furthermore, the governing regulations require
8 the reasons to be given "upon revocation." 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3).
9

10 Here, the generic Notice of Revocation given to Mr. Hashemi lists no specific
11 reasons for the revocation of his OSUP. *See* Notice of Revocation (Oct. 22, 2025),
12 ECF No. 6-2. The Notice contains no factual allegations of what led Respondents to
13 re-detain Mr. Hashemi. *See id.* Rather, it contains only the statement that the
14 revocation was "made based on a review of your file and/or your personal interview
15 on account of changed circumstances in your case." *Id.*; *see also* Hashemi Decl. One
16 at ¶ 11; Hashemi Decl. Two at ¶ 7 (stating he was not told why he was being detained).
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18 This vague, generic statement is plainly insufficient. *See Bui v. Warden of Otay*
19 *Mesa Detention Facility*, 2025 WL 2988356, at *4 (S.D. Cal. Oct. 23, 2025) (finding
20 generic statement that "your case has been reviewed" insufficient notice); *Esmail v.*
21 *Noem*, 2:25-cv-08325-WLH-RAO, 2025 WL 3030590, at *5 (C.D. Cal. Sept. 12,
22 2025) (finding generic statement that petitioner's "case had been reviewed"
23 insufficient notice); *Sarail A. v. Bondi*, 2025 WL 2533673, at *10 (D. Minn. Sept. 3,
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1 2025) (finding exact same language to be insufficient notice); *M.S.L. v. Bostick*, 2025
2 WL 2430267, at *2, 10-11 (D. Or. Aug. 21, 2025) (finding virtually identical language
3 to be insufficient notice); *Yang v. Kaiser*, 2025 WL 2791778, at *6 (E.D. Cal. Aug.
4 20, 2025) (finding exact same language to be insufficient notice).

5
6 In addition to not giving any specific factual allegations, the Notice of
7 Revocation given to Mr. Hashemi was untimely. It was not served until *after* DHS
8 had already re-detained Petitioner. *See* Notice of Revocation (Oct. 22, 2025), ECF No.
9 6-2 (listing Mr. Hashemi's address as B-18); *see also* 8 C.F.R. § 241.4(l)(1) (requiring
10 notice "upon revocation"); *id.* § 241.13(i)(3) (same); *Constantinovici v. Bondi*, 2025
11 WL 2898985, at *6 (S.D. Cal. Oct. 10, 2025) (finding petitioner was not given any
12 reasons for his re-detention prior to his arrest and therefore any later notice was
13 untimely); *M.S.L.*, 2025 WL 2430267, at *11 (same).

14
15 In short, because the Notice of Revocation given to Mr. Hashemi did not
16 identify any specific reasons for the revocation of his release at the time he was
17 detained, it violated the governing regulations and Mr. Hashemi's constitutional right
18 to due process.

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23 **2. Petitioner was denied an opportunity to respond to the reasons**
24 **for the revocation.**

25 Under the governing regulations, an "initial informal interview" is also required
26 upon detention. 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3). The purpose of the informal
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1 interview is “to afford [the noncitizen] an opportunity to respond to the reasons for
2 revocation stated in the notification.” 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3).

3
4 Here, Respondents allege the requisite interview of Mr. Hashemi took place.
5 *See* Resp. Opp. to Pet. *Ex Parte* Application for TRO, ECF. No. 6, at 5:22; Alien
6 Informal Interview Upon Revocation of Order of Supervised Release (Oct. 22, 2025),
7 ECF No. 6-3. Yet, the form submitted as evidence of this informal interview provides
8 no evidence at all. This form has nothing specific as to Mr. Hashemi at all and is blank
9 where Mr. Hashemi’s responses are to be noted. *See id.*

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12 Moreover, as discussed above, Mr. Hashemi was provided no notice of the
13 specific factual reasons for his re-detention. There were no “reasons for revocation
14 stated in notification.” 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3). As a result, he could
15 not have an actual “opportunity to respond to the reasons for revocation stated in the
16 notification” since none were given to him. *Id.* Any alleged interview is meaningless
17 and does not serve the intended purpose if insufficient notice is first given.

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19
20 In sum, the form signed by an ICE officer in this case does not present sufficient
21 evidence that the requirement that Mr. Hashemi be afforded an “informal initial
22 interview” for purposes of responding to the reasons for the revocation was met. The
23 Respondents’ actions violated the governing regulations and Mr. Hashemi’s rights
24 under the Due Process Clause. *See Yang*, 2025 WL 2791778 at *5 (concluding that “a
25 failure to provide an informal hearing is alone sufficient” to grant a TRO); *Phan v.*

1 *Beccerra*, [2025 WL 1993735](#), at *4 (E.D. Cal. July 16, 2025) (finding petitioner likely
2 to succeed on claim that re-detainment was unlawful because no informal interview
3 was provided); *Hoac v. Becerra*, [2025 WL 1993771](#), at *4 (E.D. Cal. July 16, 2025)
4 (same).
5

6 **3. Petitioner's Notice of Revocation was not properly executed.**
7

8 Under the governing regulations, only certain government officials may revoke
9 the release of a noncitizen and return him to custody. Under [8 C.F.R. § 241.4\(l\)](#), the
10 Executive Associate Commissioner, and in some instances the district director, is
11 exclusively permitted to revoke the release of a noncitizen. *See* [8 C.F.R. § 241.4\(l\)\(2\)](#).
12 The title of Executive Associate Commissioner is now outdated, but the contemporary
13 counterpart is the Executive Associate Director of ICE. *See* *Ceesay*, [781 F. Supp. 3d](#)
14 [at 160](#) (explaining title switch and citing [8 C.F.R. § 1.2](#)); *Santamaria Orellana v.*
15 *Baker*, [2025 WL 2841886](#), *5 (D. Md. Oct. 7, 2025) (agreeing and citing *Ceesay*).
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19 In this case, it is not possible to determine exactly who signed Petitioner's
20 Notice of Revocation, but there is no indication that it was the Executive Associate
21 Director of ICE. The only indication of the person who signed the revocation notice
22 is an illegible signature, and there is no title despite the form requiring one. *See* Notice
23 of Revocation (Oct. 22, 2025), [ECF No. 6-2](#); *see also* *Esmail*, [2025 WL 3030590](#), at
24 *5, n.12 (noting disapprovingly that the Notice of Revocation contained an "illegible
25 signature with no printed name").
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1 The requirement that an Executive Associate Director make the determination
2 of re-detention is not merely a “housekeeping” matter, given it involves a decision “to
3 restrict a person’s liberty.” *Santamaria Orellana*, [2025 WL 2841886](#), at *5. Therefore,
4 the fact that Mr. Hashemi’s Notice of Revocation was signed by an improper signatory
5 is further grounds supporting the granting of relief. *See M.S.L.*, [2025 WL 2430267](#), at
6 *10 (finding petitioner detained on a Notice with the improper signature was entitled
7 to release “on that basis alone”); *Ceesay*, [781 F. Supp. 3d at 162](#) (same).

8 * * *

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12 Courts have repeatedly recognized the importance of process, “particularly
13 where, as here, a person’s freedom stands in the balance.” *Ceesay*, [781 F. Supp. 3d at](#)
14 [157](#); *see also Delkash v. Noem*, 5:25-cr-01675-HDV-AGR, [2025 WL 2683988](#) at *5-
15 6 (C.D. Cal. Aug. 28, 2025) (“These procedures are not optional or discretionary; they
16 must be followed, and failure to do so renders the detention unlawful.”). Numerous
17 courts in this Circuit, including this one, have found that the failure of Respondents to
18 follow the revocation process as required by [8 C.F.R. §§ 236.4 and 236.13](#) constitutes
19 a violation of the petitioner’s due process rights under the Fifth Amendment. *See, e.g.*,
20 *Bui*, [2025 WL 2988356](#), at *5 (finding violations of DHS regulations to constitute a
21 violation of Petitioner’s due process); *Constantinovici*, [2025 WL 2898985](#), at *7
22 (same); *Phan v. Noem*, [2025 WL 2898977](#), at *5 (S.D. Cal. Oct. 10, 2025) (same);
23 *Esmail*, [2025 WL 3030589](#), at *3 (same); *Diaz v. Wofford*, [2025 WL 2581575](#), at *9
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(E.D. Cal. Sept. 5, 2025) (same); *Delkash*, 2025 WL 2683988, at *6 (same); *M.S.L.*, 2025 WL 2430267, at *12 (same); *Yang*, 2025 WL 2791778, at *5 (same); *Phan*, 2025 WL 1993735, at *4 (same).

Furthermore, in this case, the due process violations occurred in the broader context of the lack of any notice or access to his counsel. *See* Tinto Decl. at ¶¶ 18-20; *cf.* 8 U.S.C. § 1362 (right to counsel in removal proceedings at no expense to the government); 8 C.F.R. § 292.5(b) (same); *id.* § 241.4 (noting at points the mandatory involvement of the noncitizen’s “representative”); *id.* § 241.13 (same re “counsel”). The Ninth Circuit has “characterized a [noncitizen’s] right to counsel as fundamental and has warned the INS not to treat it casually.” *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 554 (9th Cir. 1990) (citation modified) (documenting ICE’s interference at the time with the right to counsel). Here, just as Petitioner was being detained without explanation or notice, Petitioner’s counsel was similarly kept in the dark.

In sum, Petitioner has demonstrated the likelihood of success—or, at the very least, has raised “serious questions”—of his claim that Respondents violated his procedural due process right under the Fifth Amendment. Thus, the first factor of the *Winter* analysis falls strongly in Petitioner’s favor.

B. Petitioner Has Demonstrated A Likelihood of Irreparable Injury

First, the “deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting

1 *Elrod v. Burns*, 427 U.S. 347, 373 (1976)); *Delkash*, 2025 WL 2683988 at *6. Here,
2 the failure to provide Mr. Hashemi with due process as required under the Constitution
3 constitutes irreparable injury.
4

5 In addition, the Ninth Circuit and courts in this district have repeatedly
6 recognized that the irreparable harm suffered by anyone in ICE detention may include
7 “subpar medical and psychiatric care, ...economic burdens imposed on detainees and
8 their families as a result of detention, and the collateral harms to children of detainees
9 whose parents are detained.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir.
10 2017); *see, e.g., X.R.M. v. Rerti Semaia, et. al.*, 5:25-cv-02783-AB-PVC, ECF No.
11 296, at 8 (C.D. Cal. Oct. 23, 2025) (finding second *Winter* factor satisfied for
12 petitioner in ICE detention and noting that these considerations “were especially
13 relevant for Petitioner as she suffers from several medical conditions”); *Sun v.*
14 *Santacruz*, 5:25-cv-02198-JLS-JC, 2025 WL 2730235, at *7 (C.D. Cal. Aug. 26,
15 2025) (finding detention would cause irreparable harm as it prevents petitioner from
16 “support[ing] her family financially and emotionally”); *Pinchi v. Noem*, 2025 WL
17 2084921, at *6 (N.D. Cal. July 24, 2025) (“The likely consequences of [petitioner’s]
18 detention—which would prevent her from providing for her family and sever her from
19 existing medical care—are grave and irreparable.”).
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26 Here, the stress and setting of immigration detention is particularly harmful for
27 Mr. Hashemi, as a person with a schizoaffective disorder. *See* Dr. Mahesh Decl. at ¶¶
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1 5-6. Moreover, Mr. Hashemi requires consistent medication to treat his
2 schizoaffective disorder. Yet, since his detention, Mr. Hashemi has had inconsistent
3 and insufficient medical care. See Hashemi Decl. One at ¶¶ 15-16; Hashemi Decl. at
4 ¶¶ 5-6. He has missed necessary doses of his medication on several occasions and has
5 only received his Ativan medication once out of the more than twelve days he has
6 been detained. *See id.* No one in detention has spoken to him about their plan for
7 mental health care for him or granting him access to the medications he needs. *See*
8 Hashemi Decl. Two at ¶ 6. Notably, Mr. Hashemi is set to imminently miss his long-
9 acting injection which is critical medication for his schizoaffective disorder. *See* Dr.
10 Mahesh Decl. at ¶ 4; Exh. G (Record of injections from Mercy LTC and Specialty
11 Pharmacy). If he were to not receive this injection, his mental health would deteriorate
12 rapidly and he would begin to suffer from the symptoms of untreated schizoaffective
13 disorder, which for Mr. Hashemi include paranoia, hallucinations, delusions, and
14 bouts of extreme mood swings. *See* Dr. Mahesh Decl. at ¶¶ 3, 4.

15
16 Mr. Hashemi also has a family that includes two U.S. citizen children who rely
17 on him, both financially and emotionally. Mr. Hashemi is the father-figure to his
18 partner's two young U.S. citizen daughters and is the family's main source of financial
19 support. *See* Clemente Decl. at ¶¶ 15-16. In addition to the support of his family, Mr.
20 Hashemi also receives support and case management services from *The People*
21 *Concern*. *See* Exh. H. This family and community support is a critical component in
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1 ensuring Mr. Hashemi's stability and stable mental health. *See* Dr. Mahesh Decl. at ¶
2 7.

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4 In sum, the failure to provide Mr. Hashemi with due process as required under
5 the Constitution, and the harms of his continued detention including his lack of access
6 to medical care and the detrimental impact on his family, constitute irreparable injury.
7
8 Therefore, this second *Winter* factor also weighs in Petitioner's favor.

9
10 **C. The Balance of Equities and the Public Interest Weigh in**
11 **Petitioner's Favor**

12 As stated above, the final two *Winter* factors merge when the opposing party is
13 a governmental agency. *Nken*, 556 U.S. at 435. Moreover, "a plaintiff's likelihood of
14 success on the merits of a constitutional claim also tips the merged third and fourth
15 factors decisively in his favor." *Baird v. Bonta*, 81 F. 4th 1036, 1042 (9th Cir. 2023).
16

17 This is because it is always in the public interest to prevent the
18 violation of a party's constitutional rights and the government cannot
19 reasonably assert that it is harmed in any legally cognizable sense
20 by being enjoined from constitutional violations.

21 *Sun*, 2025 WL 2730235, at *7 (citation modified); *see also Hernandez*, 872 F.3d at
22 996 ("Generally, public interest concerns are implicated when a constitutional right
23 has been violated, because all citizens have a stake in upholding the Constitution.").

24
25 In this case, because Petitioner has demonstrated that he satisfies the first factor
26 of *Winter* test regarding his procedural due process claim, the third and fourth
27 elements tip decisively in his favor as well.
28

1 In addition, it is undisputed that “the public has a strong interest in upholding
2 procedural protections against unlawful detention.” *Rodriguez-Flores v. Semaia et al.*,
3 2:25-cv-6900-JGB-JC, [2025 WL 2684181](#), at *5 (C.D. Cal. Aug. 14, 2025) (citation
4 modified). Although the public has an interest in the execution of immigration laws,
5 this interest is outweighed by the strong public interest of ensuring due process rights
6 are vindicated, particularly in the context of immigration detention, and the minimal
7 burden on Respondents in releasing Petitioner from detention. *See X.R.M.*, 5:25-cv-
8 02783-AB-PVC, [ECF No. 296](#), at 9 (finding Respondents’ interest in enforcement of
9 immigration laws “not so compelling as to permit Respondents to violate Petitioner’s
10 [] rights”); *Delkash*, [2025 WL 2683988](#) at *6 (finding same); *Singh v. Andrews*, [2025](#)
11 [WL 1918679](#), at *9 (E.D. Cal. July 11, 2025) (same).

12 A final consideration is the “general public’s interest in the efficient allocation
13 of the government’s fiscal resources.” *Hernandez*, [872 F.3d at 996](#). The Ninth Circuit
14 has recognized the “staggering” costs of immigration detention and courts have
15 considered these costs in concluding that the public interest weighs in favor of a
16 noncitizen’s release from detention. *Id.*; *see, e.g., Sun*, [2025 WL 2730235](#), at *7;
17 *Sequen v. Kaiser*, [2025 WL 2203419](#), at *3 (N.D. Cal. Aug. 1, 2025); *Pinchi*, [2025](#)
18 [WL 2084921](#), at *7.

19 In sum, the third and fourth *Winter* factors—the balance of equities and the
20 public interest—weigh strongly in Petitioner’s favor. *See Esmail*, [2025 WL 3030589](#),
21

at *8 (finding same); *Delkash*, [2025 WL 2683988](#) at *6 (same); *Sun*, [2025 WL 2730235](#), at *7 (same); *Pinchi*, [2025 WL 2084921](#) at *7 (same).

D. Petitioner Has Demonstrated That All Four *Winter* Factors Weigh Heavily in His Favor and the Court Should Issue a Preliminary Injunction

Petitioner has demonstrated that he is likely to succeed on the merits (or that he has at least raised “serious questions”) of his claim that Respondents violated his due process rights under the Fifth Amendment, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips sharply in his favor, and that the requested relief is in the public interest. Therefore, a preliminary injunction should issue. *See Bui*, [2025 WL 2988356](#), at *5 (finding violations of DHS regulations to constitute a violation of Petitioner’s due process rights and granting habeas petition); *Constantinovici*, [2025 WL 2898985](#), at *7 (same); *Phan*, [2025 WL 2898977](#), at *5 (same); *Esmail*, [2025 WL 3030589](#), at *3 (finding same and granting preliminary injunction); *Diaz*, [2025 WL 2581575](#), at *9 (same); *Delkash*, [2025 WL 2683988](#), at *6 (same); *M.S.L.*, [2025 WL 2430267](#), at *12 (finding same and granting habeas petition); *Yang*, [2025 WL 2791778](#), at *5 (finding same and granting TRO in part); *Phan*, [2025 WL 1993735](#), at *4 (finding same and granting preliminary injunction).

In addition requesting that the preliminary injunction bar his removal from the United States during the pendency of the adjudication of the habeas petition, Petitioner

1 also requests his release from detention subject to his previously issued OSUP. This
2 remedy returns him to *status quo ante litem*. The *status quo ante litem* is the “last
3 uncontested status which preceded the pending controversy.” *GoTo.com, Inc. v. Walt*
4 *Disney, Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000) (citation modified). Because Mr.
5 Hashemi is challenging the violation of his due process rights at his re-detainment, the
6 last uncontested status was on October 22, 2025, immediately prior to his re-detention.
7
8 *See Esmail*, 2025 WL 3030590, at *6 (finding that because ICE violated governing
9 regulations regarding revocation of release, appropriate remedy is to release him from
10 detention); *Hoac*, 2025 WL 1993771, at *7 (finding that because petitioner challenged
11 his re-detainment, the “last uncontested status” was before he was re-detained, and
12 granting release); *Pinchi*, 2025 WL 1853763, at *3 (same). Accordingly, Petitioner
13 seeks his release from custody, subject to the OSUP, in order to preserve the pre-
14 detention October 22, 2025 *status quo*.
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19 Finally, upon the issuance of a preliminary injunction, the Court has discretion
20 to set “the amount of security required, if any.” *Johnson v. Couturier*, 572 F.3d 1067,
21 1086 (9th Cir. 2009); *see also Fed. R. Civ. P. 65(c)*. Indeed, “the district court may
22 dispense with the filing of a bond when it concludes there is no realistic likelihood of
23 harm to the defendant from enjoining his or her conduct.” *Id.* (citation modified).
24
25 “Courts regularly waive security in cases like this one.” *Singh*, 2025 WL 1918679, at
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1 *9 (granting preliminary injunction and ordering petitioner's release from ICE
2 detention).

3
4 In this case, it is unlikely any harm will come to Respondents as a result of the
5 issuance of a preliminary injunction and Respondents will incur negligible or zero
6 financial costs. Petitioner asks the Court to exercise its discretion to waive the bond
7 requirement. *See, e.g., Sun*, [2025 WL 2730235](#), at *8 (waiving bond); *Pinchi*, [2025](#)
8 [WL 1853763](#), at *4 (same); *Singh*, [2025 WL 1918679](#), at *9 (same); *Garcia v. Bondi*,
9 [2025 WL 1676855](#), at *3 (N.D. Cal. June 14, 2025) (same).
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12 **IV. CONCLUSION**

13 For the foregoing reasons, this Court should issue a preliminary injunction in
14 this matter while the merits of the pending Petition for Writ of Habeas Corpus are
15 litigated. Specifically, Petitioner requests that the Court order:
16

- 17 • That Mr. Hashemi be released from ICE custody immediately;
- 18 • That Mr. Hashemi not be re-detained unless he receives due process as
19 required under the Due Process Clause of the Fifth Amendment;
- 20 • That Mr. Hashemi not be removed from the United States during the
21 pendency of the habeas petition.
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25 Dated: November 5, 2025 Respectfully Submitted,

26
27 /s/ Eda Katharine Tinto
28

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VERIFICATION

I, E. Katharine Tinto, hereby declare under penalty of perjury of the laws of the State of California and the United States that the facts alleged in the foregoing *Brief in Support of the Issuance of a Preliminary Injunction* and the previously filed *Ex Parte Motion for the Issuance of a Temporary Restraining Order and Order to Show Cause re Preliminary Injunction* are to the best of my knowledge true and correct.

Executed on this 5th day of November, 2025 in South Pasadena, CA.

/s/ Eda Katharine Tinto

E. Katharine Tinto, Esquire
Attorney for Petitioner Alireza Hashemi

CERTIFICATION OF COMPLAINT WITH LOCAL RULE 11-6.2