**ANDRES ORTIZ LAW**
ANDRES ORTIZ (CSBN 279239)
4201 LONG BEACH BLVD., STE 326
LONG BEACH, CA 90807
PH. 657-243-3768
ANDRES.ORTIZ@ANDRESORTIZLAW.COM

*Attorneys for Garo Vartanyan*

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE CENTRAL DISTRICT OF CALIFORNIA**

| | |
|---|---|
| Garo Vartanyan,<br><br>Petitioner,<br><br>v.<br><br>Kristi Noem, Secretary of the Department of Homeland Security; et. al,<br><br>Respondents. | Case No.: Case 5:25-cv-03205-JFW-BFM<br><br>***EX-PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER; AND REQUREST FOR AN ORDER TO SHOW CAUSE OF WHY A PRELIMINARY INJUNCTION SHOULD NOT BE GRANTED**<br><br>Filed pursuant to FRCP 65(b) and L.R. 7-19 and 65.1<br><br>Request to refer the Petition to the assigned Magistrate under 28 U.S.C. § 636(b)(1)(A), (B) and General Order 05-07 |

## APPLICATION FOR A TEMPORARY RESTRAINING ORDER

Undersigned counsel files this *ex parte* application for a temporary restraining order (TRO) on behalf of the Petitioner Garo Vartanyan (Mr. Vartanyan) because he was re-detained in excess of Immigration and Customs Enforcement's (ICE) constitutional, statutory, and regulatory authority. Mr. Vartanyan is a native and citizen of Azerbaijan, but [redacted] He had previously been a

refugee and permanent resident. Mr. Vartanyan was removed in 2013 after being detained by immigration after he finished a prison sentence for possession of a controlled substance. He was ordered removed in December, 2013 and was released from immigration custody after the 180-day post-removal period on an Order of Supervision (OSUP). For the past 12 years, he has not suffered an OSUP violation.

Mr. Vartanyan is married to a United States Citizen. Since being released from custody, the Petitioner has been a productive member of society; he owns two businesses and his wife is a licensed marriage and family therapist. They would love to start a family. The Petitioner is the primary caretaker for his elderly mother.

Mr. Vartanyan was detained on November 25, 2025 because of "changed circumstances." He was accused of being convicted of being a felon in possession of a firearm; however, those counts were dismissed as part of the plea negotiations. Even worse, this criminal case occurred *before* removal proceedings commenced-thus, undermining any straight-faced argument of a "change in circumstances" that occurred *after* the OSUP was issued. On the day he was re-detained, Mr. Vartanyan was not given any letter or other written information explaining the reason for the detention. He was not interviewed about the reasons for the re-detention. By failing to do so, the Respondents violated 8 C.F.R. § 241.13(l)-(3), which explains the reasons and procedures the government *must follow* when revoking a noncitizen's OSUP. Indeed, the Central District of California recently addressed this nearly identical issue in *Delkash v. Noem*, 5:25-cv-01675-HDV-AGR (Dckt. 18) (granting the preliminary injunction, and ordering the Petitioner's immediate release from custody because ICE failed to comply with the regulatory provisions outlined in 8 C.F.R. § 241.13(l)-(3)).

According to 8 C.F.R. § 241.13(l)-(3), the agency may revoke an OSUP if (1) the noncitizen violated a reasonable term of his supervision or (2) DHS determined there is a *significant likelihood* the noncitizen will be removed in the near future.

*See* 8 C.F.R. § 241.13(i)(1), (2). If the agency chooses to revoke supervision, the government must: (1) have an appropriate official decide revocation is warranted; (2) inform the noncitizen of the specific basis—either a violation of release conditions or a significant likelihood of removal to a third country; and (3) afford the noncitizen a prompt chance to present rebuttal evidence explaining why detention is unwarranted. *See* 8 C.F.R. § 241.13(i)(3). Here, the Respondents failed to name the specific 8 C.F.R. § 241.13 subsection he was detained under. Failing to follow these procedures entitles the noncitizen to immediate release. *See Delkash*, 5:25-cv-01675-HDV-AGR *1 ("Rules matter. Hearings matter. In recognition of this cornerstone principle of our jurisprudence, a growing chorus of district courts have found that—in similar cases—the government's unlawful detention and revocation of withholding warrants immediate release.") (Dckt. 18).

None of the regulatory provisions have been followed. Therefore, immediate release from custody is warranted.

Finally, in the absence of any probative documentation, Mr. Vartanyan fears that he will be removed to a third country without notice or an opportunity to challenge the removal through a reasonable fear proceeding. At the behest of the Respondent Kristi Noem's "Noem Memo," ICE has begun removing some noncitizens to a third country without notice or an opportunity to challenge the removal through the proscribed legal avenues. Undersigned counsel has found no court that has addressed the Noem Memo and determined that it is constitutional.

As a result of the Respondents' conduct, the Petitioner is suffering, judicial intervention is needed. The TRO must be granted to maintain the status quo during the pendency of the petition.

///

///

///

///

///

Date: 12/14/25

Respectfully submitted,

*/s/ Andres Ortiz*
Andres Ortiz, Esq.
Andres Ortiz Law
Attorney for the Petitioner

# TABLE OF CONTENTS

I. Introduction....1

II. Jurisdiction and Venue....2

III. Factual Background....6

IV. Analysis....9

A. The Petitioner is likely to win on the merits of his application....9

1. Detention claims....9

2. Third country removal claim....19

B. The Petitioner will face irreparable harm....20

1. Mr. Vartanyan's unlawful detention is causing him irreparable harm....21

2. Mr. Vartanyan will suffer irreparable harm if removed without due process....21

C. The final two factors favor the Petitioner....21

1. Unlawful detention....22

2. Third Country Removal....23

V. Conclusion....23

# TABLE OF AUTHORITIES

**Cases**

*A.A.R.P. v. Trump*, 605 U.S. ---, 145 S. Ct. 1364, 1367 (2025) .....4

*Abrego Garcia*, 145 S.Ct. at 1019 .....12

*Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019) .....3

*Alabama Ass'n of Realtors v. HHS*, 594 U.S. 758, 766 (2021) .....22

*Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011) .9

*Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (W.D.N.Y. 2025) .....passim

*Chhoeun v. Marin*, 306 F. Supp. 3d 1147, 1162 (C.D. Cal. 2018 .....20

*D.V.D. v. U.S. Dep't of Homeland Sec.,* CV 25-10676-BEM, 2025 WL 942948, at *1 (D. Mass. Mar. 28, 2025) .....20

*D.V.D. v. U.S. Dep't. of Homeland Security*, 1:25-cv-10676-BEM .....23

*D.V.D. v. U.S. Dep't. of Homeland Security*, 1:25-cv-10676-BEM *44 (D. Mass., April 24, 2025 .....21

*Delkash v. Neom*, 5:25-cv-01675-HDV-AGR, *6 (C.D. Cal. Aug. 28, 2025).....2, 4, 12, 22

*Esmail v. Noem*, 2:25-cv-08325-WLH-RAO *9 (C.D. Cal. Sept. 26, 2005) (Dckt. 14) .....2, 5, 12

*Gazazyan v. Bondi*, Case 5:25-cv-02599-SRM-DTB * 8-13 (C.D. Cal. November 7, 2025) .....17

*Hashemi v. Noem*, No. 2:25-CV-10335-HDV-SR, --F.Supp.3d-, 2025 WL 3468694, at *4 (C.D. Cal. Nov. 19, 2025) .....14, 16, 18

*Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017) .....21

*Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *3 (E.D. Cal. July 16, 2025 .....12

*Huisha-Huisha v. Mayorkas*, 27 F.4th 718, 734 (D.C. Cir. 2022) .....22
*Johnson*.....9, 10, 11
*Johnson v. Guzman Chavez*, 594 U.S. 523, 527-529 (2021).....9, 10, 11
*MANUEL DE JESUS DIAZ, Petitioner, v. MINGA WOFFORD Facility Adm'r (Warden), Golden State Annex, et. al, Respondents.*, No. 1:25-CV-01079 JLT EPG, 2025 WL 2581575, at *9 (E.D. Cal. Sept. 5, 2025).....18
*Morales Sanchez v. Bondi, et al.*, 5:25-cv-02530-AB-DTB (C.D. Cal. December 5, 2025) (Dkt. no. 22) .....12, 13
*Morales Sanchez v. Bondi, et al.*, 5:25-cv-02530-AB-DTB [Dkt. no. 12].....12
*Morrissey v. Brewer*, 408 U.S.471, 482 (1972) .....13
*Nadari v. Bondi*, 2:25-cv-07893-JLS-BFM, *5-6 (C.D. Cal. Sept. 3, 2025) (Dckt. 9).....5
*Nazarian v. Noem*, 5:25-cv-02694-KK-ADS, *6 (Dckt. 13) .....passim
*Nken v. Holder*, 556 U.S. 418, 435 (2009).....22
*Noem v. Abrego Garcia*, -- U.S. --, 145 S.Ct. 1017, 1019 (2025 .....10, 11
*Nouri v. Herrera*, 8:25-cv-01905-JFW-DTB * 5-6 (C.D. Cal. Sept. 3, 2025).11, 13, 16
*Phetsadakone v. Scott*, No. 2:25-CV-01678-JNW, 2025 WL 2579569, at *4 (W.D. Wash. Sept. 5, 2025) .....19
*Phong Phan, Petitioner, v. Moises Beccerra, Respondent,* No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *6 (E.D. Cal. July 16, 2025) .....19
*Pinchi v. Noem*, 792 F.Supp.3d 1025, 1032 (N.D. Cal. 2025).....13
*Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005).....23
*Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010).....11
*Santamaria Orellana v. Baker*, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025)17

*Santamaria Orellana v. Baker*, No. CV-25-1788-TDC, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025 ..... 17

*Sun v. Noem*, No. 3:25-CV-02433-CAB-MMP, 2025 WL 2800037, at *2 (S.D. Cal. Sep. 30, 2025 ..... 13

v-10676-BEM ..... 4, 21, 23

*Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) ..... 20

*Winter v. Nat. Res. Def. Council, Inc.*, 555. U.S. 7, 20 (2008) ..... 9

*Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983) ..... 22

**Statutes**

8 U.S.C. § 1226(a) ..... 9, 10

8 U.S.C. § 1231(a) ..... 10

8 U.S.C. § 1231(a)(2) ..... 10

8 U. S.C. § 1231(a)(3) ..... 10, 11

8 U.S.C. § 1231(a)(6) ..... 10

8 U.S.C. § 1252(g) ..... 2

28 U.S.C. § 1391(e) ..... 5

28 U.S.C. § 1651 ..... 2

28 U.S.C. § 82 ..... 2

28 U.S.C. §§ 2201 ..... 2

28 U.S.C. §§ 2241 ..... 2

**Rules**

Local Civil Rule 83-8.2 ..... 5

**Regulations**

8 C.F.R. § 241.13(i)(3) ..... 3, 18

8 C.F.R. § 241.13(l)(3) ..... passim

8 C.F.R. § 241.4(l)(2) ..... 14, 16, 18

8 CFR § 241.5 ..... 10

## MEMORANDUM OF POINTS AND AUTHORITIES

## I. INTRODUCTION

1. The Petitioner, Garo Vartanyan (Mr. Vartanyan) is a citizen of Azerbaijan and [redacted] His family fled Azerbaijan and became refugees in the United States. He eventually became a lawful permanent resident. In 2012, Mr. Vartanyan was arrested and convicted of a removable crime. The Petitioner was ordered removed to Azerbaijan in December, 2013. Because Azerbaijan would not issue a travel document for him, Mr. Vartanyan was released from immigration custody and he was placed on an order of supervision (OSUP) in May, 2014. For the past 11 years, the Petitioner has abided by the terms of his OSUP. Mr. Vartanyan has a United States Citizen wife and hope to start a family. The Petitioner is a business owner and the primary caretaker for his mother.

2. Mr. Vartanyan was re-detained on November 25, 2025. On the day he was detained, the Petitioner did not receive any paperwork, an explanation of why he was being detained, or an interview where he could present evidence of why he should not be detained. He was held overnight in the infamous B-18 at 300 N. Los Angeles Street and on November 26, 2025, he was served a notice of OSUP revocation before he was transferred to the detention center in Adelanto, California.

3. The only reason he was given for his detention was because of a "changed circumstance." Specifically, he was accused of being convicted of being a felon in possession of a firearm on May 15, 2012. However, he was not convicted of the named offense on that day. More troubling, Mr. Vartanyan's conviction on May 15, 2012 predated initiating the removal proceedings; thus, it could never be a "changed circumstance" for OSUP purposes. Furthermore, even if it is presumed that ICE seeks removal to a third country, it has not informed Mr. Vartanyan to which country it hopes remove him. In failing to do so, he is without an opportunity to provide a country-specific explanation of his fear of being removed

to that country. ICE has taken the position that, under certain circumstances, it will not provide the petitioner notice or an opportunity to articulate an individualized fear of removal to a specific third country. Consequently, extraordinary intervention is necessary.

## II. JURISDICTION AND VENUE

4. This Court has jurisdiction under 28 U.S.C. § 2241 et seq.; the Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq.; the All Writs Act, 28 U.S.C. § 1651; and the Fifth Amendment to the United States Constitution. At the time the original petition was filed, this Court had jurisdiction because Mr. Vartanyan was detained in Los Angeles, California within the territorial jurisdiction of the Court. *See* 28 U.S.C. § 82 ("[Los Angeles, California] constitutes one judicial district."). Mr. Vartanyan remains in the Central District of California after he was transferred to the Adelanto Detention Center.

5. ICE may claim that this court lacks jurisdiction to hear this motion. It will likely argue that 8 U.S.C. § 1252(g) bars this court's review. However, no court has agreed with the government's position because, "[Mr. Vartanyan] is challenging his detention on statutory and constitutional process grounds rather than challenging the order of removal itself." *See Delkash v. Neom*, 5:25-cv-01675-HDV-AGR, *6 (C.D. Cal. Aug. 28, 2025) (Dckt. 18) (order granting motion for preliminary injunction).

6. Additionally, the Respondents may aver that the third-country removal claim is not justiciable because the Petitioner does not have standing. Recently, the Judge Hsu considered this argument and held that the noncitizen "satisfies the case and controversies clause because of the unique nature of ICE's overreach." *Esmail v. Noem*, 2:25-cv-08325-WLH-RAO *9 (C.D. Cal. Sept. 26, 2005) (Dckt. 14). In reaching this conclusion, the Court observed that the Noem Memo (and the subsequent Lyons Memo) is unconstitutional because it deprives noncitizens their due process when ICE seeks them to remove to a third country. *Id.*

7. The Noem Memo has two tracks when deciding the level of due process it will provide noncitizens who are removed to a third country. The Petitioner believes that **both** tracks are unlawful and warrant Article III standing. This is particularly true when the first track will provide *no notice or opportunity* to challenge removal to a third country.

8. Under the first track, "[i]f the United States has received diplomatic assurances from the country of removal that [noncitizens] removed from the United States will not be persecuted or tortured, and if the Department of State believes those assurances to be credible, the [noncitizen] *may be removed without the need for further procedures.*" *Nguyen v. Scott*, --F.Supp.3d --, 2025 WL 2419288 at *8 (W.D. Wash. 2025) (emphasis added). To be clear, these further procedures are notice and an opportunity to challenge removal through constitutional, statutory, and regulatory safeguards. *See Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019) ("noncitizen must be given sufficient notice of a country of deportation that, given his capacities and circumstances, he would have a reasonable opportunity to raise and pursue his claim for withholding of deportation.").

9. Second, in all other cases, ICE will provide some notice, but not guarantee access to a reasonable fear interview. *Nguyen*, 2025 WL 2419288, at *19 (*citing* July 9, 2025 ICE Memo). ICE has confirmed this remains its protocol for removing noncitizens to a third country. *Id.; and D.A., T.L., I.O., D.S., and K.S. v. Noem, et. al*, 1:25-cv-03135, *5 (D.D.C. September 12, 2025) (Dckt. 41) ("Here, Defendants transported Plaintiffs to Ghana with no notice or opportunity to challenge that removal, under what appears to be a hasty and unwritten agreement with Ghana, which has indicated its intention to return Plaintiffs to their home countries where Defendants agree they will almost certainly be persecuted."). In other words, the Respondents will not affirmatively inform noncitizens that they have the right to

request a reasonable fear interview *when ICE has reasons to believe the noncitizens will be persecuted. Id.*

10. Several districts have held that the Noem Memo is blatantly unconstitutional, yet ICE continues the practice. *See Nguyen*, 2025 WL 2419288, at *19 ("This policy contravenes Ninth Circuit law, as laid out above. *See Andriasian*, 180 F.3d at 1041)"; *D.V.D. v. U.S. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 387 (D. Mass. 2025 (*citing Andriasian*, 180 F.3d at 1041); *and Delkash*, 5:25-cv-01756-HDV-AGR, *1-2 (Dckt. 6) (*quoting A.A.R.P. v. Trump*, 605 U.S. ---, 145 S. Ct. 1364, 1367 (2025) "no person shall be removed from the United States without opportunity, at some time, to be heard.").

11. Given the fact that the Petitioner is a noncitizen with a removal order, he is subject to ICE's unlawful policy, "[t]his memorandum clarifies DHS policy regarding the removal of aliens with final orders of removal pursuant to sections 240, 241(a)(5), or 238(b) of the Immigration and Nationality Act (INA) to countries other than those designated for removal in those removal orders (third country removals)." *See* Noem Memorandum, March 30, 2025 (https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.43.1_1.pdf) (last accessed 11/3/25). ICE recently issued updated guidance and stated that it will continue to follow the Neom Memo. *See Nguyen*, 2025 WL 2419288, at *19 (*discussing* the July 9, 2025 ICE Memo).

12. Given ICE's conduct that may give no notice before the unlawful removal, it is impossible to predict the government's actions. As explained in *Nguyen*, there are accounts of noncitizens who were removed to a third country, without notice and despite ICE's representations that it was attempting to remove the noncitizen to his country of citizenship. *Nguyen*, 2025 WL 2419288, at *26. In other words, if the Court waits for there to be standing, it may too, also be powerless to prevent

ICE from implementing its unlawful policy. Thus, *Melendres v. Arpaio*, 695 F.3d 990, 997 (9th Cir. 2012) and the unconstitutional conduct exception in *City of Los Angeles v. Lyons*, 461 U.S. 95, 109 (1983) must be the rubric in which the Court assesses standing.

13. Indeed, for this reason, Judge Hsu reversed the TRO denial on this ground and held that this practice was unconstitutional and satisfied the standing requirement for prospective relief because:

> The Court is satisfied that, as a noncitizen with a removal order – who is, therefore, inherently subject to the policies articulated in the Noem and Lyons Memos – Petitioner has sufficiently demonstrated "'that he is realistically threatened by a repetition of the violation'" at issue. *Melendres*, 695 F.3d at 997 (quoting *Lyons*, 461 U.S. at 109).

*Esmail*, 2:25-cv-08325-WLH-RAO *10 (Dckt. 14) (footnote omitted). Further, the Court observed that the "claimed threat of injury" is nearly certain "to be redressed by the prospective injunctive relief." *Id.* (quotation omitted). Finally, the Court noted regardless of whether the Petitioner was told his removal was imminent, the fact that he has a removal order "makes him inherently at risk of removal under the terms of the policy expressed in the Noem and Lyons Memos." *Id.* n.8; *see also Nadari v. Bondi*, 2:25-cv-07893-JLS-BFM, *5-6 (C.D. Cal. Sept. 3, 2025) (Dckt. 9) (dismissing ICE's contention that the third-country removal claim was "speculative" and, thus, necessarily, finding jurisdiction to grant the TRO).

14. There are no principled differences between *Esmail* and Mr. Vartanyan. Both are subject to a removal order and therefore, "standing exists where the [ICE] '*ordered or authorized [its] officers to enforce an unconstitutional policy.*"

15. Venue under 28 U.S.C. § 1391(e) and Local Civil Rule 83-8.2 because a substantial part of the events or omissions giving rise to the claims set forth herein occurred in this district.

## III. FACTUAL BACKGROUND

16. Petitioner Mr. Vartanyan is a native and citizen of Azerbaijan and is [redacted] *See* Exhibit 1- Decl. Garo Vartanyan ¶ 1. He entered the United States as a minor and sought protection based on a fear of persecution. *Id.* On May 5, 2003, the Immigration and Naturalization Service granted Petitioner asylum pursuant to § 208 of the Immigration and Nationality Act, authorizing him to reside and work in the United States. *See* Exhibit 2- Asylum Approval. Petitioner later adjusted his status to that of a lawful permanent resident in or about 2006. *See* Exhibit 1 ¶ 1 and Exhibit 3- Notice to Appear.

17. Between approximately 2010 and 2012, Petitioner incurred several criminal charges in California. Some charges were dismissed, while others resulted in convictions. *See* Exhibit 4- I-213. On July 17, 2013, the Department of Homeland Security ("DHS") served Petitioner with a Notice to Appear (NTA) initiating removal proceedings. *See* Exhibit 5- Removal Order. The Notice to Appear charged Petitioner as removable based on controlled-substance convictions and did not charge him with any firearm-related offense. *Id.* On December 3, 2013, an immigration judge ordered Petitioner removed to Azerbaijan. *Id.*

18. Following the removal order, Immigration and Customs Enforcement ("ICE") detained Petitioner and attempted to obtain travel documents from the government of Azerbaijan. *See* Exhibit 6- OSUP-related documents. Azerbaijan declined to issue travel documents. *Id.* After approximately 180 days of post-order detention, ICE released Petitioner from custody on an Order of Supervision ("OSUP") on or about May 14, 2014. *See* Exhibit- 1 ¶ 3 and Exhibit 6.

19. From 2014 through November 2025, Petitioner remained continuously at liberty under ICE supervision and complied with all conditions of his OSUP. *See* Exhibit- 1 ¶ 3-4. He reported to ICE as directed, maintained a stable residence, and incurred no new arrests or criminal convictions. During this period, ICE scheduled Petitioner's reporting appointments on a recurring basis, generally annually. *Id.*

During his years on supervision, Petitioner rebuilt his life in the United States. *See* Exhibit- 1 ¶ 4. He maintained steady employment and operated his own businesses. *Id.* He is married to Ani Asatryan, with whom he shares a home and daily responsibilities, and he maintains close relationships with other family members in the United States. *Id.* Since his release from immigration custody in 2014, Petitioner has remained law-abiding. *Id.* Petitioner's character and rehabilitation are corroborated by members of his community. *See* Exhibit 7- Character Reference Letters. Narek Davtyan, a longtime family friend, submitted a written character reference stating that he has known Petitioner for more than seven years and describing Petitioner as hardworking, family-oriented, humble, and compassionate. Mr. Davtyan states that Petitioner is respected within the community and is an asset to it. *Id.*

20. Beginning approximately two years ago, Petitioner sought post-conviction relief in California state court. *See* Exhibit 8- Post-Conviction documents. On December 1, 2025, the Superior Court of California granted Petitioner's motion to vacate his May 23, 2011 conviction for possession of a controlled substance under Health and Safety Code § 11377(a), finding the conviction legally invalid due to a prejudicial error affecting Petitioner's ability to meaningfully understand and knowingly accept the actual or potential adverse immigration consequences of his plea, pursuant to Penal Code § 1473.7(a)(1). *Id.* This conviction underlay the removal proceedings; as a result, the basis for removal has been eliminated. Petitioner has additional post-conviction motions pending in California courts. *Id.*

21. On November 25, 2025, Petitioner appeared at ICE's Los Angeles Field Office for a previously scheduled check-in appointment. *See* Exhibit 1 ¶ 6. On that date, ICE detained Petitioner. *Id.* He was held overnight at the Los Angeles Field Office located at 300 North Los Angeles Street. *Id.*

22. The following day, on November 26, 2025, ICE issued a document titled "Notice of Revocation of Release," dated November 26, 2025. *See* Exhibit 9-

Notice of Revocation of Release. The Notice stated that Petitioner's case had been reviewed and that he would be kept in ICE custody due to "changed circumstances." *Id.* Specifically, the Notice asserted that on May 15, 2012, Petitioner was convicted in the Superior Court of California, County of Los Angeles, of being a felon in possession of a firearm in violation of California Penal Code § 12021(a)(1), and that he was sentenced to a term of imprisonment of two years. *Id.* The Notice cited 8 C.F.R. § 241.13 as the basis for continued custody. *Id.* The Notice further stated that Petitioner would be afforded an informal interview at which he would be given the opportunity to respond to the reasons for the revocation and to provide evidence demonstrating that his removal is unlikely. *Id.* The Notice also stated that if Petitioner were not released following the informal interview, he would receive notification of a new custody review to occur within approximately three months of the date of the Notice. *Id.* According to the proof of service attached to the Notice, ICE personally served the Notice of Revocation of Release on Petitioner at ICE ERO Los Angeles on November 26, 2025, at approximately 7:40 a.m. *Id.*

23. After service of the Notice of Revocation, ICE transferred Petitioner from the Los Angeles Field Office to the Adelanto ICE Detention Facility, where he remains detained. *See* Exhibit 1 ¶8 *and* Exhibit 10- Decl. of Douglas Jalaie, Esq. ¶ 4-5. Following Petitioner's detention, his wife retained immigration attorney Douglas Jalaie. *Id.* On November 26, 2025, Mr. Jalaie attempted to visit Petitioner at the Los Angeles Field Office but learned that Petitioner had already been transferred. *Id.* On November 27, 2025, Mr. Jalaie met with Petitioner at the Adelanto ICE Detention Facility. *Id.* Mr. Jalaie reviewed the documents Petitioner received in connection with his detention, including the Notice of Revocation of Release and the accompanying proof of service. *Id.*

24. For these reasons, immediate judicial intervention is needed.

///

## IV. ANALYSIS

25. A preliminary injunction or TRO is appropriate if a plaintiff can show that: (1) he is "likely to succeed on the merits"; (2) he "is likely to suffer irreparable harm in the absence of preliminary relief"; (3) "the balance of equities tips in [his] favor"; and (4) "an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555. U.S. 7, 20 (2008). Under the Ninth Circuit's "sliding scale" approach, a TRO or preliminary injunction is appropriate when, "a plaintiff demonstrates . . . that serious questions going to the merits were raised and the balance of hardships tips sharply in the plaintiff's favor." *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011) (internal quotation omitted).

### A. The Petitioner is Likely to Win on the Merits of His Application

#### 1. Detention Claims

26. In considering the first factor, Mr. Vartanyan is likely to win on the merits of his habeas petition on his first two claims that he was unlawfully detained. As discussed in *Zadvydas v. Davis*, civil detention violates the Due Process Clause except "in certain special and narrow nonpunitive circumstances, where a special justification, such as harm-threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citations omitted).

27. As discussed in *Johnson v. Guzman Chavez*, there are two periods where the noncitizen may be detained. *Johnson v. Guzman Chavez*, 594 U.S. 523, 527-529 (2021). The first period occurs after the noncitizen is arrested *on suspicion of being removable* and the noncitizen is not initially released from ICE custody. *Id.* at 527. If the noncitizen is not issued a bond, the noncitizen may apply for a custody redetermination (bond) before the immigration judge. *Id.* (*citing* 8 U.S.C. § 1226(a)). *Id.* The Supreme Court was clear that this section of the Act covers *only* pre-removal detention. *Id.* at 534.

28. After a noncitizen is ordered removed, 8 U.S.C. § 1226(a) is no longer applicable. Upon removal, the second detention scheme is authorized. According to 8 U.S.C. § 1231(a), ICE is authorized to detain a noncitizen in two circumstances: (1) "*[d]uring* the removal period," the Attorney General "shall" detain the alien, *see* 8 U.S.C. § 1231(a)(2) (emphasis added); and (2) "*beyond* the removal period," the Attorney General "may" detain an alien who falls within one of three categories specified by the statute [beyond the removal period]. *See* 8 U.S.C. § 1231(a)(6) (emphasis added) *and Guzman Chavez*, 594 U.S. at 528. If the government releases the noncitizen during the 8 U.S.C. § 1231(a)(6) period, ICE "shall [] subject [the noncitizen] to the terms of supervision." *Id.*

29. ICE's ability to detain a noncitizen who cannot be removed is not unlimited. The Fifth Amendment limits a noncitizen's "post-removal-period detention to a period reasonably necessary to bring about that [noncitizen]'s removal from the United States." *Zadvydas*, 533 U.S. at 689 (2001). The Fifth Amendment limits a noncitizen's "post-removal-period detention to a period reasonably necessary to bring about that [noncitizen]'s removal from the United States." *Zadvydas*, 533 U.S. at 689 (2001).

30. If the noncitizen is not removed after the 90-day removal period and no other exception applies, the foreign national "*will be released subject to supervision. See* 8 U. S. C. § 1231(a)(3); *see also* 8 CFR § 241.5." *Guzman Chavez*, 594 U.S. at 529 (emphasis added). An order of supervision is necessary because it explains the conditions of release and the consequences for failing to comply with the rules set forth by the agency and the procedure to revoke supervision if the noncitizen fails to comply. *See* 8 C.F.R. § 241.4(l) as cited in *Noem v. Abrego Garcia*, -- U.S. --, 145 S.Ct. 1017, 1019 (2025) (SOTOMAYOR, J. statement on the disposition). Thus, regulations—8 C.F.R. §§ 241.4 and 241.13—define the process by which detention authority may lawfully be exercised, not merely procedural niceties; these regulations "set out procedures *DHS must follow to impose continued detention*'

after the removal period." *Guzman Chavez*, 594 U.S. at 529 (*emphasis added*). Clearly, the Supreme Court interpreted these regulations as mandatory rules that must be followed if ICE sought to constitutionally detain the noncitizen after the removal period.

31. There is no specific section authorizing revocation of an OSUP in 8 U.S.C. § 1231(a)(2)–(6). Instead, this authority is derived from the regulations, which have the force of law. *See* 8 U.S.C. § 1231(a)(3) ("pending removal, *shall be subject to supervision under regulations prescribed by the Attorney General*" (emphasis added)). In *Guzman Chavez*, the Supreme Court affirmed this consistent interpretation by holding that 8 C.F.R. § 241.4 and § 241.13 "set out procedures *DHS must follow to impose continued detention* after the removal period." *Guzman Chavez*, 594 U.S. at 529 (*emphasis added*); *and Noem v. Abrego Garcia*, -- U.S. --, 145 S.Ct. 1017, 1019 (2025) (SOTOMAYOR, J. statement on the disposition). (observing that 8 C.F.R. § 241.4(l) provides the procedures to revoke the OSUP). Consequently, as this Court held, "ICE's ability to re-detain [a] noncitizen is constrained by its own regulations." *Nouri v. Herrera*, 8:25-cv-01905-JFW-DTB * 5-6 (C.D. Cal. Sept. 3, 2025) (Dckt. 17) (citation omitted).

32. While the Respondents may have broad discretion to revoke an OSUP; that is a categorically different question than whether the Respondents must adhere to their regulations to ensure their actions lawful. Recently, Judge Kato rejected the Respondents' argument that the broad authority to revoke an OSUP negates ICE's mandate to follow the regulations, "[e]ven if Section 241.4 grants certain officials' broad discretion over revocation, the regulation still requires ICE to provide Petitioner notice and an interview." *Nazarian v. Noem*, 5:25-cv-02694-KK-ADS, *6 (Dckt. 13) (*citing Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010) (explaining Section 241.4 "provides the detainee some opportunity to respond to the reasons for revocation")) *and see Nouri*, 8:25-cv-01905-JFW-DTB * 6 (C.D. Cal. Sept. 3, 2025) (Dckt. 17) ("Petitioner cannot be expected to 'respond to the reasons

for revocation stated in the notification' when the Notice does not actually state any reasons for revocation." (citation omitted)). By failing to follow the exclusive procedures for continued detention after the removal period, ICE's disregard of those rules eliminates any lawful predicate for returning the noncitizen to custody. *See Abrego Garcia*, 145 S.Ct. at 1019 (SOTOMAYOR, J. statement on the disposition). Detaining a person without statutory or regulatory authority is the very definition of arbitrary governmental action under the Fifth Amendment's Due Process Clause. *Id.*

33. When assessing this remedy for this regulatory violation, courts have uniformly held that "[r]ules matter" and "hearings matter", and that the remedy for failing to adhere to the regulations governing revoking supervision warrants immediate release from custody. *See Delkash*, 5:25-cv-01675-HDV-AGR (Dckt. 18) (granting motion for preliminary injunction); *Esmail*, 2:25-cv-08325-WLH-RAO (Dckt. 8 (granting TRO) *and* (Dckt. 14 (granting preliminary injunction); *Nazarian v. Noem*, 5:25-cv-02694-KK-ADS, *6 (Dckt. 13) (granting TRO for unlawful re-detention purposes); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16, 2025); *Ceesay, v. Kurzdorfer*, 781 F. Supp. 3d 137, 170 (W.D.N.Y. 2025); *see also Morales Sanchez v. Bondi, et al.*, 5:25-cv-02530-AB-DTB (C.D. Cal. December 5, 2025) (Dkt. no. 22) (overruling its prior decision denying TRO and granting the preliminary injunction). To be clear, nearly all courts within the Central District of California have adopted this view. Indeed, the Respondents have often cited *Morales Sanchez*, 5:25-cv-02530-AB-DTB (Dkt. no. 12) for the proposition that these regulations are mere procedural safeguards, having no consequence if they were violated. However, Judge Birotte reconsidered the TRO denial in light of the flood of cases that have been decided around the same time. *Morales Sanchez*, 5:25-cv-02530-AB-DTB, *4-5 (Dkt. no. 22). Judge Birotte departed from his previous holding and confirmed "the Court is persuaded that the regulations constitute binding legal requirements for ICE's

revocation process." *Id.* at 5 (citation omitted). Indeed, this Court has recognized the same. *See e.g. Nouri*, 8:25-cv-01905-JFW-DTB * 5-6 (Dckt. 17).

34. Here, Petitioner will show violations of all three regulatory safeguards required for lawful revocation. When revoking an OSUP, it is the Respondents' burden to prove that the regulations were followed. *Nazarian*, 5:25-cv-02694-KK-ADS, *6 (Dckt. 13) (granting TRO for unlawful re-detention purposes). Judge Kato observed, "because Petitioner challenges his re-detention after already being released on an OSUP, "ICE's own regulations [] place the burden on ICE to show changed circumstances that make removal significantly likely in the reasonably foreseeable future." *Id.* (*citing Sun v. Noem*, No. 3:25-CV-02433-CAB-MMP, 2025 WL 2800037, at *2 (S.D. Cal. Sep. 30, 2025."). Indeed, when ICE released Petitioner under an Order of Supervision, it conferred a constitutionally protected liberty interest. Under *Morrissey v. Brewer*, that release carries an "implicit promise" that liberty will not be revoked absent strict adherence to the governing procedures. *Morrissey v. Brewer*, 408 U.S.471, 482 (1972). Because continued release is the status quo, due process places the burden on the Respondents—not the noncitizen—to justify disturbing that liberty interest by proving compliance with the regulatory prerequisites to revocation. *Id.*; *Pinchi v. Noem*, 792 F.Supp.3d 1025, 1032 (N.D. Cal. 2025). Thus, it is incumbent for the Respondents to prove that the noncitizen failed to "live up to the conditions of release" when it seeks to upset the status quo by revoking the OSUP.

35. ICE may revoke the OSUP if there is a change in circumstances because (1) the noncitizen violated a reasonable term of his supervision or (2) DHS determined there is a *significant likelihood* the noncitizen will be removed in the near future. *See* 8 C.F.R. § 241.13(i)(1), (2); *Ceesay*, 781 F. Supp. 3d at 162 ; *and Hoac*, 2025 WL 1993771, at *3. *If* ICE determines that one of these two conditions are met, it is allowed to re-detain the noncitizen. *Id.* Upon re-detention, ICE must inform the noncitizen of the reason(s) for detention and provide the noncitizen a *prompt*

informal interview to rebut the reasons for the revocation. *Ceesay*, 781 F. Supp. 3d at 162-63. Moreover, because of the gravity of revoking supervision, only designated officials can revoke an OSUP. *See* 8 C.F.R. § 241.4(l)(2) *and Ceesay*, 781 F. Supp. 3d at 159-62. In sum, upon revoking supervision, the government must: (1) have an appropriate official decide revocation is warranted; (2) inform the noncitizen of the specific basis—either a violation of release conditions or a significant likelihood of removal to a third country; and (3) afford the noncitizen a prompt chance to present rebuttal evidence explaining why detention is unwarranted. In this case, the Respondents failed to comply with all of the steps outlined in 8 C.F.R. § 241.13(i)(1)-(3) as required to lawfully revoke an OSUP. Here, the OSUP revocation stated that it was being revoked under in 8 C.F.R. § 241.13, but identified no subsection. *See* Exhibit 9.

36. As an initial point, Judge Vera recently held that pursuant to the regulations, the noncitizen must be informed of the reasons for revoking the OSUP *upon revocation*. *Hashemi v. Noem*, No. 2:25-CV-10335-HDV-SR, --F.Supp.3d-, 2025 WL 3468694, at *4 (C.D. Cal. Nov. 19, 2025). The Petitioner appeared at his check-in on November 25, 2025. However, he was not served with the notice of revocation until the next day at 7:40 a.m. when Mr. Vartanyan was being transferred to the Adelanto Processing Center. *See* Exhibit 9. Clearly, the notice of revocation was not provided to the Petitioner *upon revocation* and, given the immediate transfer to Adelanto also prevented the noncitizen from receiving his informal interview. Moreover, the timing of issuing the revocation prevented a timely response. *See infra.*

37. First, the Respondents have not established a "change in circumstances" under 8 C.F.R. § 241.13(i)(1) or (2). As an initial point, the regulation provides two tracks that authorize revocation of the OSUP (1) because of the Petitioner's failure to follow to the terms of the OSUP and (2) if there is a substantial likelihood that the noncitizen will be removed from the country in the foreseeable future. Because

the notice of revocation only cites 8 C.F.R. § 241.13 and not its specific subsection, the Petitioner will analyze both. *See* Exhibit 9. Either way, the Respondents have failed to meet their burden.

38. According to 8 C.F.R. § 241.13(i)(1) authorizes revocation if the noncitizen "violates any of the condition[] of release." Hypothetically, the Respondents' revocation *could qualify* as a reason for revoking supervision under this subsection: "[o]n May 15, 2012, Vantanyan [*sic*] was convicted in the Superior Court of California, County of Los Angeles (case XNOMA05531201), [*sic*] felon in possession of a firearm, in violation of section 12021(a)(1) of the California Penal Code [CPC]. Vartanyan was given a term of imprisonment of [*sic*] two years for the offense." *See* Exhibit 9. However, this accusation is both factually inaccurate, as the Petitioner was not convicted of CPC § 12021(a)(1) on May 15, 2012, and even if it was, could not constitute a "changed circumstance[] in [his] case" because the charge predated the removal proceedings against the Petitioner, as well as issuance of the OSUP. *Id.*

39. In addressing the factual inaccuracy, the government's records contradict its assertion in the revocation. The I-213 prepared at the time of the Petitioner's detention, prior to initiating removal proceedings, indicates that his criminal history included charges filed on May 12, 2012 for multiple offenses including two counts of CPC § 12021(a)(1). *See* Exhibit 4 and Exhibit 8. However, the CPC § 12021(a)(1) counts were later dismissed due to a plea negotiation. *Id.* Thus, the reason for revoking the OSUP, according to the government's documentation is inaccurate. Moreover, the adjudication that contained these dismissed charges and contained the conviction that led to the removal proceedings was vacated on December 1, 2025. *See* Exhibit 8.

40. Even more problematic, the Petitioner's removal proceedings commenced on or around July 17, 2013. *See* Exhibit 3. The Petitioner withdrew all applications for relief and was ordered removed on December 3, 2013. *See* Exhibit 5. He was

released on the OSUP on May 14, 2014. *See* Exhibit 6. Given this timeline, it is unclear how a non-existent conviction—predating the OSUP, by nearly two years—could constitute a "change in circumstances." Clearly, the Petitioner could not have violated a term of an OSUP that did not exist when he was going through the criminal proceeding. The Petitioner must be released because ICE failed to follow its regulations when it revoked the OSUP.

41. Alternatively, the Respondents may aver that there is a significant likelihood that Mr. Vartanyan would be removed in the foreseeable future. This Court squarely addressed this question in *Nouri*. Specifically, this Court held in *Nouri* that under 8 C.F.R. § 241.13(i)(2), ICE must show real, actual facts that constitute a changed circumstance that makes removal significantly likely in the foreseeable future. *Nouri*, 8:25-cv-01905-JFW-DTB * 5-6 (Dckt. 17); *Hashemi* 2025 WL 3468694, at *5 ("This Court is not requiring that a notice of revocation include any particular magic words; but it must provide real, specific, concrete information that a noncitizen could actually respond to.").

42. Here, the Respondents failed to provide any specific facts that would substantiate this inferred rationale. Given this complete lack of evidence, the Court must find, under both theories, that the Respondents failed to meet their burden in proving a change in circumstances that warrants revoking the OSUP.

43. Second, according to *Ceesay*, ICE has not established that the ICE official who initiated the re-detention was an authorized person to revoke supervision. 781 F. Supp. 3d at 159-62. Ceesay argued that the Assistant Field Office Director, Darius Robinson was not a designated official who was authorized to revoke the OSUP. *Id.* The court held that under 8 C.F.R. § 241.4(l)(2) that the "Executive Associate Commissioner *shall have the authority*" to revoke an OSUP. *Id.* at 160 (emphasis added). The court then parsed the history of this position and held that under the modern orientation of immigration law, the "Executive Associate Commissioner" is the equivalent to the Field Office Director. *Id.* at 161. Indeed,

this requirement is not merely academic, as *Nazarian* held, "to the extent Petitioner's revocation was a *discretionary act pursuant to Section 241.4, Respondents do not establish the decision was issued by a properly authorized official*." *Nazarian*, 5:25-cv-02694-KK-ADS p. 6 (Dckt. 13) (emphasis added) (*citing Santamaria Orellana v. Baker*, No. CV-25-1788-TDC, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025) (finding a discretionary revocation of the petitioner's release was not made by a properly authorized official)); *see also Gazazyan v. Bondi*, Case 5:25-cv-02599-SRM-DTB * 8-13 (C.D. Cal. November 7, 2025) (Dckt. 22) (discussing the revocation requirements for the Field Office Director).

44. In the Notice of Revocation, there is an illegible signature by (A) AFOD, the signature line states "Signature and Title of Deciding Official" instead of providing the signer's name. *See* Exhibit 9. Additionally, the notice does not specify which subsection under 8 C.F.R. § 241.13 the action is being taken. *Id.* Without knowing the specific subsection or the name of the official who issued the revocation, the Court cannot evaluate the credentials of the person revoking supervision, because that person is unidentified. *Nazarian*, 5:25-cv-02694-KK-ADS, *6 n.4 ("Here, Respondents do not specify who made the decision to revoke Petitioner's release. Therefore, to the extent Petitioner's revocation was a discretionary act pursuant to Section 241.4, Respondents do not establish the decision was issued by a properly authorized official." (*citing Santamaria Orellana v. Baker*, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025) (finding a discretionary revocation of the petitioner's release was not made by a properly authorized official)). Notably, the AFOD is not a person who can revoke the supervision under 8 C.F.R. § 241.13(i)(2).

45. Consequently, ICE has not proven the person who revoked supervision was authorized to do so. Therefore, "this Court cannot conclude that [the unidentified ICE employee] had the authority to revoke release, [it must] find[] that [Mr. Vartanyan's] release was not lawfully revoked, and hold[] that he is entitled to release on that basis alone." *Ceesay*, 781 F. Supp. 3d at 162.

46. Third, neither Mr. Vartanyan nor his attorney have proof that the "informal interview" took place. *See* 8 C.F.R. § 241.13(i)(3). Because the Petitioner was given an insufficient reason to revoke supervision, *assuming arguendo*, he received some type of interview, he lacked the necessary notice to enable him to meaningfully respond. *Perez-Escobar*, 2025 WL 2084102, at *2; *and DE JESUS DIAZ, Petitioner, v. WOFFORD*, No. 1:25-CV-01079 JLT EPG, 2025 WL 2581575, at *9 (E.D. Cal. Sept. 5, 2025) (same). Here, unlike the attachment to Mr. Jalaie's declaration, neither the Petitioner nor his counsel have seen an "Alien Informal Interview Upon Revocation of Order of Supervision Under 8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i)" supplied by ICE. *See* Exhibit 10 and *also* 8 C.F.R. § 241.4(d). Thus, ICE cannot contend it met its constitutional obligation to the Petitioner.

47. Again, even if there is an interview form that is in the file, which was not given to Mr. Vartanyan or Mr. Jalaie, it would be of little utility because *upon revocation* the Petitioner was not informed any valid reason(s) for his re-detainment. *See Hashemi*, 2025 WL 3468694, at *4. Further, the Petitioner was not served the notice concurrently with the revocation. Specifically, the Notice of Revocation indicated that he was served 7:40 a.m. the day after supervision was revoked and shortly before he was transferred to Adelanto. If the Petitioner had been given an opportunity to object to the revocation, he could have told the officers that (1) he was not convicted of the alleged crime; (2) the criminal proceeding predated the OSUP that was revoked; and (3) there was a motion to vacate the charges that led to the removal proceeding currently pending. Regardless of whether this would have been a sufficient reason to avoid re-detention (undoubtedly, it would have) the bigger issue is that the Petitioner was completely prevented from providing a defense as required by the regulations.

48. Under 8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i)" form Given this blatant violation of Mr. Vartanyan's constitutional, statutory, and regulatory rights, at a

minimum, immediate release is necessary to maintain the status quo while further litigation is pending. *Nazarian*, 5:25-cv-02694-KK-ADS, *8; *and Esmail*, 2025 WL 3030590, at *9. The same standard should be applied here and this court must find a substantial likelihood Mr. Vartanyan will succeed on the merits of this claim.

**2. Third Country Removal Claim**

49. The Petitioner also seeks temporary relief from removal to a third country without ensuring a measure of due process. ICE has recently taken the position that it may not provide any individualized notice to the Petitioner or an opportunity to respond before he is removed to a third country. *See Nguyen*, 2025 WL 2419288. Specifically, ICE has taken the position that it does not need to provide *any notice* to the noncitizen if ICE and the State Department believe a third country's assurances that the noncitizen will not be tortured. *Id.* *8. Alternatively, if ICE or the State Department does not believe the assurances that the noncitizen will not be tortured, they will inform, *but not guarantee* an opportunity to seek an individualized fear review. *Id.* *19.

50. Given the horrific nature of this memo, there is no straight-faced argument this conduct complies with due process. *See Phetsadakone v. Scott*, No. 2:25-CV-01678-JNW, 2025 WL 2579569, at *4 (W.D. Wash. Sept. 5, 2025) (noting that the government does not defend the constitutionality of the Noem Memo). And thus, there is a likelihood of success on the merits for the third cause of action as well "where the Government concedes the legal framework by failing to defend it—further supports finding serious questions on the constitutional claims." *Id.*

51. The Petitioner recognizes that *Nazarian* recently denied a similar third-country claim. *Nazarian*, 5:25-cv-02694-KK-ADS, *4 n.1 (Dckt. 13). Mr. Vartanyan respectfully disagrees with this aspect of the decision. Specifically, Judge Kato held that there was no evidence that the noncitizen was going to be removed to a third country and to the contrary ICE indicated it was pursuing a travel document for Iran. *Id.* It cited three cases arising from the Central District and *Nguyen* for the

proposition that a third country case claim can only apply when there is no protection from removal to the foreign nationals' country of citizenship. *Id.* The Petitioner respectfully pushes back against that rule because *Nguyen* dealt with a nearly identical claim. In *Nguyen*, the court held that **both** there was a significant likelihood of success in proving that ICE violated his due process rights when he was detained because there was no evidence he would be removed in the foreseeable future. *Nguyen*, 2025 WL 2419288, at *18. Additionally, the court found that ICE had removed Vietnamese citizens to a third country, without notice, despite its communications with family members that it was attempting to remove the noncitizen to Vietnam, supported the third country claim. *Id.* at *26. Finally, like *Nguyen*, the Petitioner falls into the Neom Memo's purview of "*any individual* subject to a final order of removal from the United States." *Id.* at *7 (*quoting D.V.D. v. U.S. Dep't of Homeland Sec.,* CV 25-10676-BEM, 2025 WL 942948, at *1 (D. Mass. Mar. 28, 2025) (emphasis added)). Given the similarities to *Nguyen,* there is good cause to follow it here.

**B. The Petitioner Will Face Irreparable Harm**

52. In considering the second factor, "[i]t is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Chhoeun v. Marin*, 306 F. Supp. 3d 1147, 1162 (C.D. Cal. 2018) (citation omitted). Where, as here, the "alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (quoting Wright, Miller, & Kane, Federal Practice and Procedure, § 2948.1 (2d ed. 2004)).

53. By violating Mr. Vartanyan's constitutional rights, he is suffering an irreparable injury. Further, the Petitioner is suffering specific harms related to his specific causes of action. Specifically, Mr. Vartanyan suffers from being separated

from his wife and his mother. The Petitioner's detention is an example of unnecessary cruelness.

**1. Mr. Vartanyan's unlawful detention is causing him irreparable harm**

54. In addition to the irreparable harm caused by the constitutional violation, the Ninth Circuit has recognized the "irreparable harms imposed on anyone subject to immigration detention." *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). Moreover, *Hernandez* recognized that unlawful detention certainly constitutes 'extreme or very serious'" injury which "is not compensable in damages." *Id.* at 999.

55. The Respondents have demonstrated no necessity to detain the Petitioner, particularly the manner which he was detained. Mr. Vartanyan has worked incredibly hard to build a better life for himself. He and his partner are raising two citizen children and caring for his elderly mother, who completely relies on him for financial, emotional, and medical support. Mr. Vartanyan has been gainfully employed and several people attest to his reformation and good character.

**2. Mr. Vartanyan will suffer irreparable harm if removed without due process**

56. In addition to the constitutional harm Mr. Vartanyan would face by not being informed of where he is being removed, he will also face an additional irreparable harm. "Here, the threatened harm is clear and simple: persecution, torture, and death. It is hard to imagine harm more irreparable." *D.V.D. v. U.S. Dep't. of Homeland Security*, 1:25-cv-10676-BEM *44 (D. Mass., Apr. 24, 2025) (Dckt. 64).

**C. The Final Two Factors Favor the Petitioner**

61. In considering the last two factors—balancing the parties' equities and determination of whether injunctive relief is in the public interest—the Supreme Court has found that these factors merge in immigration cases because Respondents

are both the opposing litigants and the public interest representatives. *Nken v. Holder*, 556 U.S. 418, 435 (2009). In cases implicating removal, "there is a public interest in preventing aliens from being wrongfully removed, particularly to countries where they are likely to face substantial harm." *Id.* at 436. Though these interests must be weighed against the public's "interest in prompt execution of removal orders." *Id.*

62. Further, "the Plaintiff['s] likelihood of success on the merits lightens [Defendants'] stated interests." *Huisha-Huisha v. Mayorkas*, 27 F.4th 718, 734 (D.C. Cir. 2022). The Supreme Court has confirmed that "our system does not permit agencies to act unlawfully even in pursuit of desirable ends." *Alabama Ass'n of Realtors v. HHS*, 594 U.S. 758, 766 (2021).

**1. Unlawful detention**

63. When considering the government's interest in detaining Mr. Vartanyan without and process, the balance of equities and the public's interest in the lawful administration of immigration laws is significant. However, "[i]f the government is allowed to eschew these processes, it cannot guarantee the accuracy of the outcome. *Delkash*, 5:25-cv-01675-HDV-AGR, * 10 (Dckt. 18) (*citing Ceesay*, 2025 WL 1284720, at *1, 12 ("Procedure is not mere puffery, a gesture that is irrelevant so long as the result is correct." "After all, without due process, there is no way to tell whether the result is in fact correct."). Because the government's re-detention of Mr. Vartanyan is illegal under controlling regulatory and constitutional authority, it "cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from [statutory and] constitutional violations." *Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983). Likewise, it is in the public interest to prevent the further deprivation of Mr. Vartanyan's liberty in violation of due process of law because the unlawful application of controlling law can never be in the public interest. The public has an interest in upholding constitutional rights. *See Preminger v. Principi*,

422 F.3d 815, 826 (9th Cir. 2005) ("Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the Constitution."). Moreover, the public has an interest in accurate determinations in all legal proceedings, including the decision of whether to detain individuals who are on an order of supervision. The public is also served by avoiding excessive expense on detention and ensuring that the government does not expend its resources to detain individuals unnecessarily.

### 2. Third Country Removal

64. When considering whether the balance of equities tips in the Petitioner's favor and it is in the public's interest to prevent a removal without due process. *D.V.D.* found "it likely that these deportations have or will be wrongfully executed and that there has at least been no opportunity for Plaintiffs to demonstrate the substantial harms they might face." *D.V.D. v. U.S. Dep't. of Homeland Security*, 1:25-c10676-BEM *45. And for this reason, the final two factors supported the Petitioners' stance.

## V. CONCLUSION

For the foregoing reasons, this Court should hold that Mr. Vartanyan is likely to succeed on the merits of his pending Petition for Writ of Habeas Corpus, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that the requested restraining order is in the public interest. Alternatively, the Petitioner has raised serious questions to the merits of his claim. Specifically, Mr. Vartanyan requests this Court to enter the following findings and orders:

1. That Mr. Vartanyan's re-detention violated the Fifth Amendment to the Constitution, the Immigration and Nationality Act, and its applicable regulations;

2. That a temporary restraining order is necessary to ensure that Respondents do not continue to violate Vartanyan's constitutional rights;

3. That Mr. Vartanyan is to be released unless and until he receives adequate notice and a hearing to determine the legality of his re-detention;

4. That, if Mr. Vartanyan is to be removed to a third country, that the Petitioner be informed of ICE's intention to do so and that he receives an individualized opportunity to challenge removal through a reasonable fear interview;

5. That, under the particular circumstances of this case, it is proper to waive the requirement that Mr. Vartanyan give an amount of security in connection with the issuance of an injunctive order;

6. That the Court issue an Order to Show Cause (OSC) why an order for preliminary injunction should not be granted;

7. That Mr. Vartanyan is entitled to an award of attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412; and/or

8. That this Court grant(s) any other relief it deems necessary and proper.

DATED: December 14, 2025
Long Beach, California

Respectfully submitted,

*/s/ Andres Ortiz*
Andres Ortiz, Esq.
Andres Ortiz Law
Attorney for the Petitioner

**PROOF OF COMPLIANCE WITH FED.R.CIV.P 65(b)(1)**

Mr. Vartanyan asks this Court to find that he has complied with the requirements of Rule 65, Fed.R.Civ.P., ***for the purposes of granting a Temporary Restraining Order***. Pursuant to Rule 65(b)(1), this Court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if (1) specific facts in an affidavit . . . clearly show that immediate and irreparable injury, loss or damage will result to the petitioner before the adverse party can be heard in opposition; and (2) the Petitioner's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

In the TRO exhibits, Mr. Vartanyan has provided his declaration that outlines his addiction challenges as well as the lengths he has taken to address them. Additionally, he fears being removed to a third country without notice or an opportunity to receive an individualized hearing about his fear to be forcibly removed to an unknown land. Both of these causes of actions demonstrate an immediate and unrepairable harm.

Here, Mr. Vartanyan respectfully submits that he attempted to provide sufficient notice to the Respondents. At 4:12 p.m. on December 12, 2025, undersigned counsel called the public facing AUSA number 213-894-2400. *See* Attached Declaration from Undersigned Counsel at ¶ 5. No one answered. *Id.* at ¶ 5. He left message concerning the TRO and requested a return phone call. *Id.* Undersigned counsel unable to speak with anyone from the U.S. Attorney's Office prior to filing the TRO. *Id.*

Additionally, the Petitioner emailed a copy of this motion to the Habeas inbox at USACAC.Habeas@usdoj.gov shortly before filing this petition. *Id.* at 6.

Finally, the Respondent's conduct has hampered the Petitioner's ability to serve notice of the TRO request. Specifically, in the order requiring a response,

dated December 2, 2025, the Court ordered the Respondents' counsel to make an appearance. *See* Dckt. 4 p. 1. To date, the Respondents have failed to do so.

While proper service may not have been made on all Respondents' counsel, for the purpose of Rule 65(b)(1), this Court should find that verbal and written notice has, in fact, been provided to the adverse party. In the event this Court finds that not to be the case, it should nevertheless find that the requirements of Rule 65(b)(1)(A) and (B) have been met.

Executed on this 14th day of December, 2025 in Long Beach, CA.

By: *s/Andres Ortiz*
Andres Ortiz, Esq.
Attorney for Petitioner

**DECLARATION OF ANDRES J. ORTIZ**

I, Andres J. Ortiz, declare as follows:

1. I am over the age of 18 and not a party to this action. I have personal knowledge of all facts stated in this declaration, and if called to testify. I could and would testify competently thereto.

2. I am an attorney at Andres Ortiz Law ("Law Firm"). I am a member of the State Bar of California (SBN 279239). I represent Garo Vartanyan (Mr. Vartanyan) before this court.

3. I am writing this declaration to explain our compliance with FRCP 65(b)(1) and Local Rule 17-9.

4. On November 26, 2025, I filed a habeas petition under 28 U.S.C. § 2241 for my client Mr. Vartanyan because he was detained without cause by immigration officials.

5. On December 12, 2025 I contacted the U.S. Attorney's Office for the Central District of California, via its publicly facing telephone number 213-894-2400 at 4:12 p.m. No one answered, so I left a message explaining the nature of the proceedings and I also noted that we will be filing a request for a Temporary Restraining Order (TRO). I provided my callback number and requested an opportunity to speak with someone about the TRO.

6. As of 12:46 p.m. on December 14, 2025, I have not received a response from the U.S. Attorney's Office. I also emailed a copy of the TRO petition to the Habeas inbox at USACAC.Habeas@usdoj.gov. I have not received a response prior to filing this petition.

I declare under penalty of perjury of the laws of the United States of America and the State of California that the above statement is true and correct.

Executed on December 14, 2025 in Long Beach, CA.

*/s/ Andres Ortiz*
Andres Ortiz

## VERIFICATION

I, Andres Ortiz, 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 ***Ex-Parte Application for Temporary Restraining Order*** are to the best of my knowledge true and correct.

Executed on this 14th day of December, 2025 in Long Beach, CA.

By: *s/Andres Ortiz*
Andres Ortiz, Esq.
Attorney for Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing *Ex-Parte Application for Temporary Restraining Order* in *Garo Vartanyan v. Noem et. al*, with the Clerk of the Court for the Central District of California by using the CM/ECF December 13, 2025, for filing and transmittal of Notice of Electronic Filing

**/s/ Andres Ortiz**
Andres Ortiz, Esq.
Attorney for Petitioner