

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BULAT SAMBUEV

GOLDEN STATE ANNEX
611 FRONTAGE RD
MCFARLAND, CA 93250
PRO SE

BULAT SAMBUEV

Y.

Case No. 1:25cv01814 DJC-Ac (HC)
**EMERGENCY MOTION FOR
 TEMPORARY RESTRAINING
 ORDER AND PRELIMINARY
 INJUNCTION**
[FRCP 65; E.D. Cal. L.R. 231]

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**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

TO THE HONORABLE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Petitioner respectfully moves this Court, on an emergency basis, for a Temporary Restraining Order ("TRO") and, after briefing and hearing, a Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65 and Eastern District of California Local Rule 231.

PETITIONER SEEKS AN ORDER:

**(1) IMMEDIATELY ENJOINING RESPONDENTS FROM CONTINUING TO
DETAIN PETITIONER WITHOUT AN INDIVIDUALIZED CUSTODY HEARING
BEFORE A NEUTRAL DECISIONMAKER;**

(2) DIRECTING RESPONDENTS TO EITHER:

**(A) RELEASE PETITIONER FORTHWITH UNDER APPROPRIATE
CONDITIONS OF SUPERVISION (INCLUDING, IF NECESSARY, A REASONABLE
BOND SET IN LIGHT OF PETITIONER'S ABILITY TO PAY), OR**

**(B) IN THE ALTERNATIVE, SCHEDULE AND PROVIDE A
CONSTITUTIONALLY ADEQUATE CUSTODY HEARING BEFORE AN
IMMIGRATION JUDGE WITHIN [5-10] DAYS, ATWHICH:**

**THE GOVERNMENT BEARS THE BURDEN OF PROVING BY CLEAR AND
CONVINCING EVIDENCE THAT PETITIONER IS A DANGER OR A FLIGHT RISK; THE
IMMIGRATION JUDGE MUST CONSIDER ALTERNATIVES TO DETENTION; AND IF
DETENTION IS NOT JUSTIFIED, THE IMMIGRATION JUDGE SHALL ORDER**

PETITIONER'S RELEASE ON APPROPRIATE CONDITIONS, TAKING INTO
ACCOUNT PETITIONER'S ABILITY TO PAY A BOND; AND

(3) PROHIBITING RESPONDENTS FROM TRANSFERRING PETITIONER
OUTSIDE THE EASTERN DISTRICT OF CALIFORNIA PENDING RESOLUTION OF
THIS MOTION AND THE UNDERLYING HABEAS PETITION, ABSENT FURTHER
ORDER OF THIS COURT.

This motion is based on the accompanying Memorandum of Points and Authorities; the
Petition for Writ of Habeas Corpus filed in this action; exhibits thereto; all other pleadings and
papers on file in this action; and such further evidence and argument as may be presented at
any hearing the Court sets. Pursuant to Local Rule 231(c), Petitioner also submits a proposed
Temporary Restraining Order and a proposed Order to Show Cause regarding a preliminary
injunction.

12/7/2025

Respectfully submitted,

Bulat Sambuev

PETITIONER PRO SE

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioner is a noncitizen who has been detained by Immigration and Customs Enforcement (“ICE”) at Golden State Annex in McFarland, California for more than six months without any individualized custody hearing before a neutral decisionmaker to determine whether his detention is justified based on danger or flight risk. Petitioner previously lived in the community on parole, complied with his release conditions, and supported his wife and stepson in the United States.

On July 9, 2025, Petitioner requested a bond hearing. DHS opposed, arguing that Petitioner is detained as an “applicant for admission” under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2), and that, under *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Immigration Court lacked jurisdiction to provide bond. The Immigration Judge accepted DHS’s position and denied Petitioner’s request for a custody redetermination hearing solely on jurisdictional grounds, without making any findings as to danger or flight risk.

On October 22, 2025, an Immigration Judge found Petitioner removable under INA § 212(a)(6)(A)(i) but granted withholding of removal and protection under the Convention Against Torture. That order is now administratively final. Despite being legally protected from removal to Russia and despite the lack of any realistic prospect of removal to a third country in the reasonably foreseeable future, Respondents continue to detain Petitioner at Golden State Annex without any custody hearing before a neutral decisionmaker.

Conditions of confinement at Golden State Annex are harsh and punitive:

Petitioner is held in overcrowded and unsanitary housing units, receives nutritionally inadequate food, lacks consistent access to basic hygiene and clothing, is effectively denied timely medical care, and has virtually no opportunity to walk or engage in meaningful physical activity. Correctional staff subject Petitioner to racially derogatory slurs and engage in unnecessary, non-consensual physical contact without any legitimate security justification.

Petitioner's prolonged civil detention—now exceeding six months—without any bond hearing, combined with these conditions, violates the Due Process Clause of the Fifth Amendment. Under Federal Rule of Civil Procedure 65 and controlling precedent, Petitioner is entitled to emergency injunctive relief ordering his release or, at minimum, a prompt constitutionally adequate custody hearing.

II. FACTUAL BACKGROUND

A. Petitioner's Entry, Parole, and Compliance on Release

Petitioner is a native and citizen of the Russian Federation. He entered the United States without inspection near San Luis, Arizona on or about June 22, 2023, was apprehended shortly after entry, and was charged as inadmissible under INA § 212(a)(6)(A)(i). DHS issued a Notice to Appear and placed him in full INA § 240 removal proceedings. On or about July 2, 2023, DHS released Petitioner on parole under INA § 212(d)(5)(A). While on release, Petitioner maintained a clean criminal record, complied with all reporting and supervision requirements, and supported his wife and stepson in the United States.

B. Petitioner's Redetention and Denial of Bond Jurisdiction

On June 6, 2025, when Petitioner appeared in person for a hearing at the San Francisco Immigration Court, ICE officers took him into custody without providing a warrant, written

1 order, or explanation. He was handcuffed for more than twelve hours before being transferred
2 to Golden State Annex in McFarland, California, where he remains detained today.

3 On July 9, 2025, Petitioner, through counsel, requested a custody redetermination hearing.
4 DHS opposed, arguing that Petitioner is detained under INA § 235(b)(2) as an “applicant for
5 admission” and therefore subject to mandatory detention with no eligibility for bond under INA
6 § 236(a). DHS relied on Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025), which holds that such
7 applicants for admission “are ineligible for any subsequent release on bond under section
8 236(a)” until their removal proceedings have concluded. The Immigration Judge adopted this
9 position and denied Petitioner’s request for a bond hearing, finding that the Immigration Court
10 lacked jurisdiction to redetermine custody and making no findings on danger or flight risk.

11 **C. Final Merits Decision and Ongoing Detention**

12 On October 22, 2025, the Immigration Court issued a final decision finding Petitioner
13 removable but granting withholding of removal and CAT protection. IJ Merits Decision. That
14 decision is administratively final. Petitioner is legally protected from removal to Russia, and
15 there is no realistic prospect that Respondents will be able to remove him to any third country
16 in the reasonably foreseeable future. Nonetheless, Respondents continue to detain Petitioner at
17 Golden State Annex, and there is no statutory or regulatory avenue for him to seek a custody
18 hearing before a neutral decisionmaker in his current posture.

19 **D. Punitive Conditions of Confinement at Golden State Annex**

20 Petitioner’s conditions of confinement further underscore the arbitrary and punitive nature
21 of his detention. He is held in overcrowded and unsanitary housing units, receives nutritionally
22 inadequate food, and lacks consistent access to basic hygiene and clothing. Requests for medical
23 care are frequently ignored or subject to lengthy delays, and Petitioner is often unable to see a

1 qualified medical provider when needed. Because of overcrowding and the layout of the unit,
2 Petitioner has virtually no opportunity to walk or engage in any meaningful physical activity;
3 there is simply no space inside the unit where detainees can move freely or exercise.

4 In addition, correctional staff at Golden State Annex have repeatedly subjected Petitioner
5 to degrading and humiliating verbal abuse, including slurs and derogatory remarks directed at
6 him on the basis of his race and national origin, and have on multiple occasions engaged in
7 unnecessary, non-consensual physical contact with Petitioner and other detainees without any
8 legitimate security justification. These conditions cause ongoing physical and psychological
9 harm, bear no reasonable relation to any legitimate governmental objective, and render
10 Petitioner's already prolonged civil detention punitive in violation of the Due Process Clause.

11 III. LEGAL STANDARD

12 A party seeking a TRO or preliminary injunction must establish: (1) a likelihood of success
13 on the merits; (2) a likelihood of irreparable harm in the absence of relief; (3) that the balance
14 of equities tips in the movant's favor; and (4) that an injunction is in the public interest. *Winter*
15 *v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). In the Ninth Circuit, a preliminary
16 injunction is also appropriate where the movant demonstrates "serious questions going to the
17 merits" and a balance of hardships that tips sharply in the movant's favor, so long as the other
18 *Winter* factors are satisfied. See *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131–
19 35 (9th Cir. 2011).

20 The same standard applies to TROs and preliminary injunctions. *Stuhlbarg Int'l Sales Co.*
21 *v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). Eastern District of California
22 Local Rule 231 further governs applications for TROs in this District. See E.D. Cal. L.R. 231.

23 IV. ARGUMENT

1 A. Petitioner Is Likely to Succeed on the Merits of His Due Process Claim

2 The Due Process Clause of the Fifth Amendment protects all “persons” in the United States,
3 including noncitizens, from arbitrary detention. See *Zadvydas v. Davis*, 533 U.S. 678, 690
4 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003). Civil immigration detention is permissible
5 only to serve the narrow purposes of mitigating danger to the community and preventing flight,
6 and only with adequate procedural safeguards. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S.
7 at 528.

8 Courts in this Circuit and District have repeatedly held that prolonged immigration
9 detention without an individualized custody hearing before a neutral decisionmaker violates
10 procedural due process. See, e.g.,: *Diouf*, *Gonzalez v. Bonnar*, *Jimenez*, *Sho*, *Singh v. Garland*,
11 *Tonoyan v. Warden*, *Maksim v. Warden*, etc.

12 Here, Petitioner has been detained for more than six months, and there has never been a
13 bond hearing at which the government was required to justify his detention based on danger or
14 flight risk. DHS’s position that Petitioner was detained under INA § 235(b)(2) and therefore
15 ineligible for bond under *Matter of Q. Li* ensured that the Immigration Court could not provide
16 any custody review. Now that Petitioner’s removal proceedings have concluded and he has been
17 granted withholding of removal and CAT protection, his detention is properly analyzed under
18 INA § 241, 8 U.S.C. § 1231, and *Zadvydas*’s prohibition on prolonged post-order detention
19 where there is no significant likelihood of removal in the reasonably foreseeable future.
20 Whether characterized as detention under § 1225(b) or § 1231(a), the Constitution requires a
21 meaningful custody hearing, which Petitioner has never received.

22 Applying the *Mathews v. Eldridge* balancing test, Petitioner’s compelling interest in
23 freedom from physical confinement, the high risk of erroneous deprivation absent a hearing,

1 and the minimal burden on the government of providing such a hearing all weigh heavily in
2 favor of requiring a bond hearing with the government bearing the burden of proof by clear and
3 convincing evidence. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Singh v. Holder*, 638
4 F.3d 1196, 1203–08 (9th Cir. 2011).

5 Accordingly, Petitioner is likely to succeed on his claim that his prolonged detention
6 without a custody hearing violates the Due Process Clause.

7 **B. Petitioner Faces Irreparable Harm Absent Emergency Relief**

8 “It is well established that the deprivation of constitutional rights unquestionably
9 constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).
10 Prolonged civil detention without due process inflicts a continuing irreparable harm on
11 Petitioner each day it continues.

12 In addition to the loss of liberty itself, Petitioner faces serious and ongoing physical and
13 psychological harm from the conditions of confinement at Golden State Annex. He is housed
14 in overcrowded, unsanitary units; receives nutritionally inadequate food; has little or no access
15 to exercise or even space to walk; is denied timely medical care; and is subject to racially
16 abusive language and non-consensual touching by staff. These conditions are akin to, if not
17 worse than, penal confinement and are particularly inappropriate for civil immigration
18 detention. See *Zadvydas*, 533 U.S. at 690–92.

19 **Petitioner has already been detained for more than six months, and there is no end in**
20 **sight absent Court intervention. Each additional day of detention without a hearing**
21 **deepens the irreparable harm.**

22 **C. The Balance of Equities and Public Interest Strongly Favor Relief**

1 The balance of equities tips sharply in Petitioner's favor. On Petitioner's side is his
2 fundamental interest in liberty, his demonstrated compliance while on release, his family ties
3 and obligations, his grant of withholding of removal and the serious harms he suffers in
4 detention. On the government's side is, at most, an interest in ensuring appearance at future
5 proceedings and protecting the community—interests that can be fully addressed through
6 alternatives to detention (including supervision, reporting, electronic monitoring) and, if
7 necessary, reasonable bond conditions.

8 The public interest likewise favors adherence to constitutional limits and the humane
9 treatment of persons in civil immigration custody. See *Hernandez v. Sessions*, 872 F.3d 976,
10 996 (9th Cir. 2017) (“[I]t is always in the public interest to prevent the violation of a party’s
11 constitutional rights.”).

12 D. No Bond or Only a Nominal Bond Should Be Required

13 Federal Rule of Civil Procedure 65(c) allows courts to issue injunctive relief “only if the
14 movant gives security in an amount that the court considers proper.” However, courts regularly
15 set a zero or nominal bond in public-interest litigation brought by indigent litigants alleging
16 constitutional violations. Here, Petitioner is detained, indigent, and challenges the
17 constitutionality of his prolonged detention. Any bond requirement would effectively deny him
18 access to injunctive relief.

19 Petitioner respectfully requests that the Court waive the security requirement or, in the
20 alternative, set a nominal bond of \$1.

21 V. RULE 65(b)(1)(B) AND LOCAL RULE 231(c)(5) NOTICE STATEMENT

22 I, Petitioner, am detained at Golden State Annex and am filing this motion pro se. I do not
23 have access to email, the internet, or a telephone that would allow me to contact the United

1 States Attorney's Office for the Eastern District of California. I also do not know which
2 government attorney will be assigned to this case or how to reach them directly.

3 I understand that, in habeas corpus cases filed by immigration detainees, the Clerk of Court
4 serves the petition and related papers on the United States Attorney. I am relying on the Court
5 and the Clerk's Office to notify Respondents and their counsel of this motion. I do not seek to
6 conceal this motion from Respondents in any way, and I will comply with any service or notice
7 procedures the Court orders. Because I am detained, have extremely limited ability to
8 communicate with anyone outside the facility, and do not speak English fluently, I am not able
9 to provide advance notice of this motion to the United States Attorney myself. Under these
10 circumstances, I respectfully request that the Court consider this motion as promptly as it deems
11 appropriate and direct that Respondents be served through the ordinary procedures of the Court.

12 Given my detention and lack of access to meaningful communication with the outside
13 world, requiring me to provide notice to the United States Attorney before the Court considers
14 this motion would effectively make it impossible for me to obtain emergency relief.

15 VI. CONCLUSION

16 For the foregoing reasons, Petitioner respectfully requests that the Court:

17 1 GRANT his request for a Temporary Restraining Order;

18 2 ORDER Respondents to either immediately release Petitioner under appropriate
19 conditions of supervision or, in the alternative, provide a constitutionally adequate custody
20 hearing before an Immigration Judge within [10–14] days, at which the government bears the
21 burden of proof by clear and convincing evidence and the Immigration Judge must consider
22 alternatives to detention and Petitioner's ability to pay a bond;

1 3 PROHIBIT Respondents from transferring Petitioner outside the Eastern District of
2 California absent further order of this Court; and

3 4 SET an expedited briefing schedule and hearing on Petitioner's request for a preliminary
4 injunction, and, after such hearing, enter a preliminary injunction providing the same relief for
5 the duration of this action.

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7 Dated: 12/7/2025 Respectfully submitted,

8 BULAT SAMBUEV

9 PETITIONER PRO SE