

Attorney for Petitioner, KAVEH MOMTAZIAN

KAVEH MOMTAZIAN

1 PLEASE TAKE NOTICE that Petitioner hereby moves this Court issue the
2 requested Temporary Restraining Order ordering Respondents to immediately
3 release Petitioner back on his Order of Supervision (OSUP), based on
4 Respondents' failure to comply with this Court's prior order requiring a response
5 by December 23, 2025 at 10:00 AM.
6

7 This Motion is made pursuant to Fed. R. Civ. P. 65, Civil Local Rule 65-1,
8 and the Court's inherent authority to enforce its orders, and is based on this Notice,
9 the accompanying Memorandum of Points and Authorities, the Declaration of
10 Counsel, all pleadings and papers on file, and any argument the Court may require.
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12 Respectfully submitted,
13 BERJIS | MYERS PLC
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15 _____/s/ Robert E Myers_____
16 Robert Myers, Esq.
17 Counsel for Petitioner
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MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURAL BACKGROUND

1. On December 18, 2025, this Court issued an order directing Respondents to file a response to the Motion for Temporary Restraining Order (TRO) and Petition for Writ of Habeas Corpus by December 23, 2025 at 10:00 AM.
2. That deadline has passed.
3. Respondents have not filed a response, sought an extension, or otherwise communicated with the Court.
4. Petitioner remains detained without a bond hearing, despite prolonged detention of more than 180 days and a due process claim.

Respondents' noncompliance places Petitioner in continued unlawful custody and frustrates the Court's ability to adjudicate the merits.

II. ARGUMENT

A. Respondents' Failure to Obey a Court Order Strongly Supports TRO Relief

Courts have inherent authority to enforce compliance with their orders. Respondents' failure to respond as ordered is not a technical defect—it is a complete abdication of their litigation obligations while Petitioner remains in physical custody.

Where liberty interests are at stake, delay itself constitutes harm, and a TRO is appropriate to preserve the status quo and prevent continued constitutional injury. Given the holidays and recent changes to Federal Court holiday schedule, this delay will likely cause an even longer delay given that the Court will be closed on December 24, 2025 and December 26, 2025.

1 B. Petitioner Is Likely to Succeed on the Merits

2 Petitioner's habeas petition raises a colorable due process claim challenging
3 prolonged immigration detention where he was re-detained after being on OSUP
4 for over 19 years without failing to report once or violating in any way.
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6 Respondents' failure to contest the petition—despite a court order—
7 underscores the strength of Petitioner's claim and weighs heavily in favor of
8 interim relief.

9 C. Continued Detention Constitutes Irreparable Harm

10 Loss of physical liberty, even for a short period, is irreparable harm per se.
11 Every additional day of unlawful detention cannot be remedied after the fact. And,
12 again, here, this lack of response is not going to be a one-day delay, the court will
13 be closed for the next five (5) days.

14 Respondents' silence compounds the harm and leaves Petitioner without any
15 procedural protection.

16 D. The Balance of Equities and Public Interest Favor Relief

17 The government suffers no cognizable harm from complying as Petitioner was
18 on OSUP for over 19 years without incident and was re-detained without due
19 process.

20 The public interest favors constitutional compliance, judicial authority, and
21 prompt resolution of liberty claims.

22 Allowing detention to continue while the government ignores court orders
23 undermines the rule of law.
24

25 **III. REQUESTED RELIEF**

26 Petitioner respectfully requests that the Court:
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- 1 1. Issue a Temporary Restraining Order requiring Respondents, within 48
- 2 hours, to:
- 3 ○ Release Petitioner pending further proceedings;
- 4 ○ Consideration of alternatives to detention; and
- 5
- 6 2. Grant any other relief the Court deems just and proper.
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8 Respectfully submitted,
9 BERJIS | MYERS PLC

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11 _____/s/ Robert E Myers_____
12 Robert Myers, Esq.
13 Counsel for Petitioner
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