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9
10 **UNITED STATES DISTRICT COURT FOR THE**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 Roni DerSarkissian,

13 Petitioner,

14 v.

15 Kristi NOEM, Secretary, Department of
16 Homeland Security; Todd LYONS, in his
17 official capacity as Acting Director of U.S.
18 Immigration and Customs Enforcement
19 (ICE); Pam BONDI, Attorney General of the
20 United States; Jaime RIOS, Director, Los
21 Angeles ICE Field Office; and Fereti
22 SEMAIA, Warden, Adelanto ICE Processing
23 Center.

24 Respondents.

No.

PETITIONER'S *EX PARTE*
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE RE: PRELIMINARY
INJUNCTION

Immigration Case

1 For the reasons explained in the accompanying Memorandum of Points and
2 Authorities, Petitioner hereby makes this Ex Parte Application for a Temporary
3 Restraining Order and Order to Show Cause Re: Preliminary Injunction pursuant to
4 Federal Rule of Civil Procedure 65. Petitioner is a native of Iran who was detained
5 in 1999 and was held for two years by immigration authorities *after* the entry of a
6 final order of removal on January 19, 2000. He was released because the
7 government was not able to remove him. Petitioner reported regularly on an order
8 of supervision to immigration authorities without fail for 23 years, but on June 23,
9 2025 was arrested in front of his home. He is detained at the Adelanto immigration
10 detention center. He has now, once again, been held for more than six months, and
11 the government is unable to remove him. Further, the government of Iran has
12 confirmed that it cannot issue a travel document because Petitioner does not have
13 his original passport and birth certificate.

14 Petitioner challenges his detention as a violation of the Immigration and
15 Nationality Act and Due Process. Expedited relief is necessary to prevent
16 irreparable injury before a hearing on a preliminary injunction may be held.

17 Petitioner requests that the Court issue a temporary restraining order and
18 order to show case re: preliminary injunction in the form of the proposed order
19 submitted concurrently with this Application. This Application is based on the
20 Complaint, Memorandum of Points and Authorities, and the declaration and
21 exhibits in support thereof.

22 Respondents were advised on December 19, 2025 that Petitioner would be
23 filing this ex parte application and of the contents of this application. Tolchin Decl.
24 ¶ 4. See Local Rule 17-19.1.

25
26 Counsel for Respondents is as follows:

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7
8 Dated : December 22, 2025

/s/ Stacy Tolchin

9 Stacy Tolchin
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1 I. INTRODUCTION

2 Petitioner is a citizen of Iran who came to the United States 35 years ago. He
3 is married to a United States citizen and has United States two citizen children. He
4 was ordered removed on January 19, 2000 by an immigration judge, based on a
5 conviction that was later found to be invalid in the criminal court.

6 Petitioner spent over two years in immigration detention after he was ordered
7 removed on January 19, 2000, and was released on March 11, 2002 because he
8 could not be removed from the United States. He regularly reported to immigration
9 officials on an order of supervision for *23 years*, but was detained by immigration
10 authorities on June 23, 2025, and has now been held for more than 180 days in
11 custody. His removal is not reasonably foreseeable and is a violation of 8 U.S.C. §
12 1231(a)(6) and Due Process. Petitioner's family is suffering immensely without
13 him, as he is separated from his United States citizen wife, children, and his elderly
14 mother who has Alzheimer's. He requires an ex parte order from this Court
15 ordering his immediate release.

16
17 II. STATEMENT OF FACTS

18 Petitioner was born in Iran in 1975 and is 50 years old. Tolchin Dec. Exh. C.
19 Petitioner came to the United States on February 27, 1990 as a refugee, and later
20 became a lawful permanent resident. Tolchin Dec. Exh. J. He has resided
21 continuously in the United States since 1990, for 35 years. Tolchin Dec. Exhs. C, F.

22 Petitioner married his United States citizen wife on November 22, 2008. They
23 have two United States citizen children together, ages 12 and 15. Tolchin Dec. Exh.
24 L.

25 On December 7, 1998, Petitioner was convicted of Assault with a Deadly
26 Weapon in violation of California Penal Code section 245(a)(1) and was sentenced
27 to two years in prison. Tolchin Dec. Exh. I. That conviction was later vacated on
28

1 December 3, 2025 as legally invalid under California Penal Code § 1473.7(a)(1) as
2 legally invalid. Tolchin Dec. Exh. K.

3 On May 27, 1999, Petitioner was detained by immigration authorities and was
4 placed into removal proceedings. Tolchin Dec. Exh. I. He was charged with
5 removal for an aggravated felony offense. 8 U.S.C. § 1227(a)(2)(A)(iii); 8 U.S.C. §
6 1101(a)(43)(F). Tolchin Dec. Exh. I. Petitioner was ordered removed by the
7 immigration court on January 19, 2000 and no appeal was filed. Tolchin Dec. Exh.
8 H. Petitioner remained detained by immigration authorities until he was released on
9 an order of supervision on March 11, 2002. Tolchin Dec. Exh. F. Petitioner's
10 detention pursuant to a final order of removal was over two years.

11 After his release, Petitioner reported regularly on an order of supervision.
12 Tolchin Dec. Exh. F. He appeared to report on the order of supervision May 20,
13 2025 and was scheduled for another appointment January 14, 2026. Tolchin Dec.
14 Exh. F. Despite this regularly scheduled appointment, Petitioner was arrested in
15 front of his home on June 23, 2025. Tolchin Dec. Exh. C.

16 Petitioner was arrested on June 23, 2025 in front of his home by armed
17 immigration agents. His California driver's license was taken by immigration
18 officers, which he requires for work. Tolchin Dec. Exh. C.

19 Petitioner has been held at the Adelanto immigration detention center since that
20 time, for more than 180 days. He has reason to believe that he cannot be removed
21 to Iran. On September 15, 2025, the Interests Section of the Islamic Republic of
22 Iran, Embassy of Pakistan, informed the Department of Homeland Security that it
23 could not issue Iranian travel documents unless Petitioner submits and original
24 Iranian birth certificate and original Iranian passport. Petitioner does not have either
25 of these. Tolchin Dec. Exhs. C, D. As a result, Petitioner was informed that travel
26 documents could not be issued. Tolchin Dec. Exh. D.

27 Petitioner was provided a 90 day custody review after his 2025 detention and
28 was informed he would not be released. Tolchin Dec. Exh. C. He also was provided

1 a 180 day custody review after his 2025 detention and was informed he would not
2 be released. Tolchin Dec. Exh. C.

3 Petitioner is suffering greatly while he is detained. He is separated from his
4 United States citizen wife and children. Tolchin Dec. Exh. C. In addition, he was a
5 caretaker to his elderly United States citizen mother who suffers from Alzheimer's.
6 His family has had to hire full-time care to help her since Petitioner has been
7 detained. Tolchin Dec. Exh. C. Petitioner also is having medical difficulty while
8 detained. He had an infection in June and was on antibiotic treatment, which he
9 could not continue while detained. The infection has returned and he is
10 experiencing great pain and discomfort. Tolchin Dec. Exh. C.

11
12 **III. STANDARD OF REVIEW**

13 A Temporary Restraining Order (“TRO”) may be issued upon a showing
14 “that immediate and irreparable injury, loss, or damage will result to the movant
15 before the adverse party can be heard in opposition.” Fed. R. Civ. P. 65(b)(1)(A). A
16 trial court may grant a TRO or a preliminary injunction to “preserve the status quo
17 and the rights of the parties” until a decision can be made in the case. *U.S. Philips*
18 *Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1094 (9th Cir. 2010). The status quo in
19 this context “refers not simply to any situation before the filing of a lawsuit, but
20 instead to ‘the last uncontested status which preceded the pending controversy[.]’ ”
21 *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000) (quoting
22 *Tanner Motor Livery, Ltd. v. Avis, Inc.*, 316 F.2d 804, 809 (9th Cir. 1963). The
23 analysis for a TRO and a preliminary injunction is the same. *Frontline Med. Assoc.,*
24 *Inc. v. Coventry Healthcare Workers Compensation, Inc.*, 620 F. Supp. 2d 1109,
25 1110 (C.D. Cal. 2009).

26 To obtain a preliminary injunction, a Petitioner “must establish [1] that he is
27 likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the
28 absence of preliminary relief, [3] that the balance of equities tips in their favor, and

[4] that an injunction is in the public interest.” *City & County of San Francisco v. USCIS*, 944 F.3d 773, 788-89 (9th Cir. 2019)(quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). “Likelihood of success on the merits is the most important factor.” *California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018) (quotations omitted). If the first two factors are met, the third and fourth factors merge when the Government is the opposing party. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

Additionally, in the Ninth Circuit, courts also “employ an alternative ‘serious questions’ standard, also known as the ‘sliding scale’ variant of the *Winter* standard.” *Frailhat v. U.S. Immigr. & Customs Enft*, 16 F.4th 613, 635 (9th Cir. 2021) (quotations and citations omitted and alterations accepted). “Under that formulation, ‘serious questions going to the merits’ and a balance of hardships that tips sharply towards the Petitioner[s] can support issuance of a preliminary injunction, so long as the Petitioner[s] also show[] that there is a likelihood of irreparable injury and that the injunction is in the public interest.” *Id.* (quoting *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134 (9th Cir. 2011)).

Petitioner meets all the requirements for relief.

IV. ARGUMENT

A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS

1. **Petitioner is Likely to Succeed on the Merits of his *Zadvydas* Statutory Claim**

Petitioner has been detained for more than 180 days and his removal is not reasonably foreseeable. His ongoing detention violates 8 U.S.C. § 1231(a)(6) and *Zadvydas v. Davis*, 533 U.S. 678 (2001).

In *Zadvydas v. Davis*, 533 U.S. at 682, 689, the Supreme Court held that the post-removal-period detention scheme contains “an implicit ‘reasonable time’

1 limitation” and does not permit indefinite detention. The Court reasoned that “[a]
2 statute permitting indefinite detention of an [noncitizen] would raise a serious
3 constitutional problem,” because “[t]he Fifth Amendment's Due Process Clause
4 forbids the Government to ‘depriv[e]’ any ‘person ... of ... liberty ... without due
5 process of law.’ ” *Id.* at 690. The Supreme Court deemed it “practically necessary
6 to recognize some presumptively reasonable period of detention” and deemed a six-
7 month period to be presumptively reasonable. *Id.* at 701. After this 6-month period,
8 once the alien provides good reason to believe that there is no significant likelihood
9 of removal in the reasonably foreseeable future, the Government must respond with
10 evidence sufficient to rebut that showing.” *Id.* Additionally, “as the period of prior
11 postremoval confinement grows, what counts as the ‘reasonably foreseeable future’
12 conversely would have to shrink” for detention to remain reasonable. *Id.*

13 In order to demonstrate eligibility for release, Petitioner must establish that,
14 after a detention of 180 days, there is “good reason to believe that there is no
15 significant likelihood of removal in the reasonably foreseeable future.” *Pelich v.*
16 *I.N.S.*, 329 F.3d 1057, 1059 (9th Cir. 2003) *citing* *Zadvydas v. Davis*, 533 U.S. 678,
17 701, 121 S. Ct. 2491, 2505, 150 L. Ed. 2d 653 (2001). Once that is established, the
18 government must provide evidence to refute that assertion and establish that
19 removal is likely in the foreseeable future, or release is required. *Pelich v. I.N.S.*,
20 329 F.3d 1057, 1059 (9th Cir. 2003). *See* *Iakubov v. Figueroa*, No. CV-25-03187-
21 PHX-KML (JZB), 2025 WL 2640218, at *2 (D. Ariz. Sept. 15, 2025) (after 180
22 day post-final order detention “the burden shifts to the Government to establish it is
23 likely petitioner will be removed in the reasonably foreseeable future.”)

24 Petitioner clearly cannot be removed from the United States. ICE has now
25 tried twice. *See Chun Yat Ma v. Asher*, No. 11-cv-01797-MJP, 2012 WL 1432229,
26 at *5 (W.D. Wash. Apr. 25, 2012) (“An undue delay in removal for an individual
27 alien beyond the typical removal period would naturally suggest that removal is
28 unlikely.”); *Liu v. Carter*, No. 25-cv-03036-JWL, 2025 WL 1696526, at *2 (D.

1 Kan. June 17, 2025) (finding that the respondents had not shown that removal was
2 reasonably foreseeable where they did not provide evidence why seeking travel
3 documentation was more likely to be successful this time around or describe other
4 actions taken to make the petitioner's removal more likely). Further, he has reason
5 to believe that Iran will not accept him, as when he applied for his travel
6 documents, he was told that they could not be issued without his original passport
7 and birth certificate, which he does not have. Tolchin Dec. Exhs. C, D.

8 As such, Petitioner demonstrates there is reason to believe that there is no
9 significant likelihood of removal in the reasonably foreseeable future, shifting the
10 burden to Respondents under *Zadvydas*. Respondents cannot overcome that burden.
11 *Panfilov v. Bondi*, No. 2:25-CV-02027-TMC, 2025 WL 3190522, at *3 (W.D.
12 Wash. Nov. 14, 2025) (“The government's representations here are not persuasive
13 enough to rebut Mr. Panfilov's showing that his detention has become indefinite.”)

14 “Courts in this circuit have regularly refused to find Respondents’ burden
15 met where Respondents have offered little more than generalizations regarding the
16 likelihood that removal will occur.” *G.A.A. v. Chestnut*, No. 1:25-CV-01102-EPG-
17 HC, 2025 WL 3251316, at *4 (E.D. Cal. Nov. 21, 2025) citing *Nguyen v. Scott*, No.
18 2:25-CV-01398, 2025 WL 2419288, at *16 (W.D. Wash. Aug. 21, 2025) (citing
19 *Singh v. Gonzales*, 448 F. Supp. 2d 1214, 1220 (W.D. Wash. 2006); *Chun Yat Ma*
20 *v. Asher*, No. C11-1797 MJP, 2012 WL 1432229, at *4-5 (W.D. Wash. Apr. 25,
21 2012); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *3
22 (E.D. Cal. July 16, 2025)).

23 Petitioner’s detention has exceeded the authorized 180 day period and he has
24 good reason to believe that his detention is not reasonably foreseeable. *Vaskanyan*
25 *v. Janecka*, No. 5:25-CV-01475-MRA-AS, 2025 WL 2014208, at *4 (C.D. Cal.
26 June 25, 2025). Respondents cannot meet their burden in establishing that there is a
27 significant likelihood of removal in the reasonably foreseeable future. Petitioner
28

1 must be ordered released from immigration custody based on 8 U.S.C. § 1231(a)(6)
2 limit on indefinite detention and based on substantive due process.

3 As such, he is likely to prevail on this claim.

4
5 **2. Petitioner is Likely to Succeed on the Merits of His Due**
6 **Process Claim**

7 Petitioner is also likely to prevail on his claim that his detention violates Due
8 Process. “Freedom from imprisonment—from government custody, detention, or
9 other forms of physical restraint—lies at the heart of the liberty that the [due
10 process clause] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491,
11 150 L.Ed.2d 653 (2001). Therefore, individuals conditionally released from
12 detention have a protected interest in their “continued liberty.” *See Young v.*
13 *Harper*, 520 U.S. 143, 147, 149, 152–53, 117 S.Ct. 1148, 137 L.Ed.2d 270
14 (1997) (holding that a pre-parolee released to “reduce prison overcrowding” enjoy a
15 protected liberty interest). It is well-established that the liberty interest that arises
16 upon release is “inherent in the Due Process Clause.” *Pruitt v. Heimgartner*, 620 F.
17 App'x 653, 657 (10th Cir. 2015) (quoting *Boutwell v. Keating*, 399 F.3d 1203, 1212
18 (10th Cir. 2005)) (emphasis in *Pruitt*).

19 “Petitioner has a liberty interest in his continued release on bond.” *Guillermo*
20 *M. R. v. Kaiser*, No. 25-CV-05436-RFL, 2025 WL 1983677, at *4 (N.D. Cal. July
21 17, 2025). Petitioner's detention has exceeded the presumptively reasonable six-
22 month period, and there is no significant likelihood of his removal in the reasonably
23 foreseeable future. As such, Petitioner is clearly likely to prevail on his claim that
24 his detention has become indefinite, violating his right to due process.

25 **B. PETITIONER WILL SUFFER IRREPARABLE HARM AND**
26 **THE EQUITIES TIP IN PETITIONER'S FAVOR**

27 The Ninth Circuit has recognized the “irreparable harms imposed on anyone
28 subject to immigration detention” including “subpar medical and psychiatric care in

1 ICE detention facilities” and “the economic burdens imposed on detainees and their
2 families as a result of detention.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th
3 Cir. 2017). Moreover, “[i]t is well established that the deprivation of constitutional
4 rights ‘unquestionably constitutes irreparable injury.’ ” *Melendres v. Arpaio*, 695
5 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).
6 Where, as here, the “alleged deprivation of a constitutional right is involved, most
7 courts hold that no further showing of irreparable injury is necessary.” *Warsoldier*
8 *v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (quoting *Wright, Miller, &*
9 *Kane, Federal Practice and Procedure*, § 2948.1 (2d ed. 2004)). The Ninth Circuit
10 has also noted that “unlawful detention certainly constitutes ‘extreme or very
11 serious’ damage, and that damage is not compensable in damages.” *Hernandez*, 872
12 F.3d at 999. Petitioner has been detained for more than six months, and has been
13 separated from his United States citizen family. Tolchin Dec. Exh. C. He clearly
14 establishes irreparable harm. Petitioner’s wife and children are separated from him,
15 and Petitioner is separated from his 80 year old United States citizen mother who is
16 suffering from Alzheimer’s. Tolchin Dec. Exh. C. The family has had to hire a full-
17 time caregiver for her because Petitioner has been detained. In addition, Petitioner
18 is suffering from medical issues and has not been able to get medical attention,
19 causing him pain and discomfort. Tolchin Dec. Exh. C.

20 The balance of the equities and public interest analyses merge when the
21 government is the opposing party, as is the case in this action. *See Drakes Bay*
22 *Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*,
23 556 U.S. 418, 435 (2009)). An injunction is in the public interest, given that
24 Petitioner seeks to protect constitutionally protected liberty. *See Meza v. Bonnar*,
25 No. 18-CV-02708-BLF, 2018 WL 2554572, at *4 (N.D. Cal. June 4, 2018) (“Given
26 the low risk of Petitioner’s causing harm to others or fleeing, such expenditure in
27 her case would not benefit the public absent a material change in circumstances.”).
28

1 “Just as the public has an interest in the orderly and efficient administration of this
2 country's immigration laws, [] the public has a strong interest in upholding
3 procedural protections against unlawful detention.” *Vargas v. Jennings*, No. 20-cv-
4 5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020). On the other hand,
5 “the burden on Respondents in releasing Petitioner from detention is minimal,
6 especially considering Petitioner's compliance with the requirements of the Order
7 of Supervision...” *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL
8 1993771, at *6 (E.D. Cal. July 16, 2025). Further, the Ninth Circuit has recognized
9 that “[t]he costs to the public of immigration detention are ‘staggering,’ ” and that
10 “[s]upervised release programs cost much less by comparison....” *Hernandez*, 872
11 F.3d at 996. Therefore, the *Winter* factors weigh in favor of a grant of a temporary
12 restraining order and preliminary injunction.

13 C. NO BOND IS NECESSARY

14 The Court has discretion to set the amount of security required for a
15 temporary restraining order or preliminary injunction under Rule 65(c), if
16 any. *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009) Indeed, “[t]he
17 district court may dispense with the filing of a bond when it concludes there is no
18 realistic likelihood of harm to the defendant from enjoining his or her
19 conduct.” *Id.* (quoting *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003)).
20 Here, it is unlikely any harm will come to Respondents as a result of a grant of
21 temporary relief and Respondents will incur negligible or zero financial costs.
22 Petitioner asks the Court to exercise its discretion to waive the bond requirement.
23

24 II. CONCLUSION

25 Petitioner respectfully requests that this Court grant his request for a
26 temporary restraining order and order that he 1) be immediately released from ICE
27 custody, 2) be returned to the terms of the original order of supervision issued prior
28

1 to his June 2025 arrest, and 3) that his California Driver's license be immediately
2 returned upon release, which Petitioner requires for his employment.

3
4 Dated: December 22, 2025

Respectfully Submitted,

S/Stacy Tolchin

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 22, 2025, I served a copy of PETITIONERS' *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION; DECLARATION OF STACY TOLCHIN; AND [PROPOSED] ORDER by email to the following individual:

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s/ Stacy Tolchin

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Counsel for Petitioner

WORD COUNT CERTIFICATION

The undersigned, counsel of record for Plaintiff certifies that this Memo contains 2942 words, which complies with the word limit of L.R. 11-6.1.

s/ Stacy Tolchin

Stacy Tolchin

Counsel for Petitioner