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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY: MRV

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Appearing Pro se

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Oleg Belach
A# [redacted]

Petitioner,

v.

David Marin, Warden, Adelanto ICE Processing Center; Thomas Giles, Director of the Los Angeles ICE Field Office; Todd Lyons, Acting Director of ICE; Kristie Noem, Secretary of the Department of Homeland Security; Pamela Bondi, Attorney General of the United States,

Respondents.

Case No.: EDCV 25-3452-SPG (RAO)

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

Immigration Case

For the reasons explained in the accompanying Memorandum of Points and Authorities, Petitioner hereby makes this Ex Parte Application for a Temporary Restraining Order and order to show cause: Preliminary Injunction pursuant to Federal Rule of Civil Procedures 65 and 5 U.S.C. § 705. Petitioner is a 51 years old man who came to the United Sates in the year of 2000. He was born [redacted] in the Union of Soviet Socialist Republics ("USSR") and left Russia in June 1996. At a regularly ICE scheduled check-in on June 4, 2024 Petitioner was re-detained by ICE and has been held by immigration authorities now for more than 180 days. He challenges his detention as a violation of the Immigration and Nationality Act, the implementing regulations, and Due Process. Expedited relief is necessary to prevent irreparably injury before a rearing on a preliminary injunction may be held.

Petitioner requests that the Court issue a Temporary Restraining Order and Order to Show Cause re: preliminary injunction in the form of the proposed order submitted currently with this Application. This application is based on the Petition for a Writ of Habeas Corpus, and the declaration and exhibits in support thereof.

Respondents are being serviced with a copy of this document and any other accompanying documents on the same date this instant application is being sent to the court.

I. INTRODUCTION

This case challenges the unlawful detention of Petitioner, Oleg Belach, who is currently in the custody of Immigration and Customs Enforcement ("ICE") at the Adelanto ICE Processing Center. Petitioner is neither a flight risk nor a danger to the community. But on June 4, 2025 ICE detained him without notice or opportunity to be heard, on the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules that provide for an opportunity for an orderly departure when the time came for Petitioner's removal from this country.

II. STATEMENT OF FACTS

On the year 2000 Petitioner and his wife applied for asylum.

On March of 2003 Petitioner and his wife did not attend to a court date because they never received the court notice and were ordered deported by the Immigration judge in absentia.

On December, 2011 Petitioner was arrested on charges for grand theft for a commercial burglary for stealing cloths with a value over $1,000, a felony.

On June, 2012 Petitioner had a conviction. He was not convicted to any time in prison, only time served in jail (around 5 months), and to two years probation. Immigration authorities took Petitioner to an immigration detention center and released him the following day on a $5000 bond. That is how Petitioner found out he had a deportation order. So we filed to re-open the case through counsel. The motion to re-pen was granted on June 20, 2012. On February 2, 2015 Petitioner had a second conviction for commercial burglary, and had a 2 years probation sentence. No jail time. Since his conviction did not have immigration consequences, ICE did not pick-up Petitioner or took away his bond.

On February 4, 2020 Petitioner was arrested for driving a car without owner's permission. He was convicted to 4 months in jail and 2 years probation, which does not have immigration consequences and ICE did not take me or took away the conditions of his bond. Petitioner does not deny the previous accusations of commercial burglary. But this third time the case was totally unfair. He was renting a car for a year and he was away in Florida when he had to return it. He called the owner and told him to charge him for an additional month or to take the deposit, that he will return the car in less than two weeks. The owner reported the car as stolen. Petitioner could have won this case but his detention was a problem for the wife and the family so he accepted a guilty plea deal to get out of detention as soon as

possible. The owner of the car kept the deposit and still charged Petitioner for another month as well as for damages. Petitioner would argue this man presented the complain only to make a bigger profit.
On or about September 2023 Petitioner had a hearing with an immigration judge for his asylum application. The translator was not very good and Petitioner told to the judge three times the translation was not good. After the third time the judge said he was going to stop the hearing and that he was going to set up another date to find another translator. The next hearing was set up for February 15, 2024.
When Petitioner and his wife showed up for Court on February 15, 2024 the judge told them they were there to hear his decision. They told the judge they had not had a hearing yet and the judge said it did not matter, that he had already reached his decision and that he was going to deny the petition.
Petitioner asked why he was denying the case and the judge said that because he had lied on his new Petition by claiming he was a national from Ukraine but later saying he was a Russian citizen.
Petitioner tried to explain the judge how that was not a lie but the judge order him to be quite and said that he could not trust Petitioner, that Petitioner was a lair and that the decision was already taken.

Petitioner's order of removal became final March 17, 2024 and he did not file any appeals.
On May 2, 2024 ICE put him in an order of supervision with an ankle monitor. He had to go to the ICE offices once a month. Once every two or three months ICE officers visited Petitioner's house. On May 9, 2025 USCIS accepted the application I-130 for Alien Relative based on his US citizen born daughter who is over 21 years now. The daughter petitioned for Petitioner and his wife.
The immigration judge had ordered Petitioner removed to Ukraine. Ukraine was part of the USSR but it is now an independent country. Petitioner is not and never has been a Ukraine citizen. He was born in USSR, not in Russia, but in Kazakhstan. Kazakhstan is now a different and independent country.
Petitioner has never been in Ukraine in his life but his ethnicity or nationality is Ukrainian because his parents were Ukrainian as a nationality or ethnicity. His parents were Soviet Union citizens. Please remember that as the name says it, the USSR was kind of a "super-confederation" composed of 15

Republics. So we were said to be national of a Republic but citizen of the USSR. Because my parents were of the Ukrainian ethnicity we were called Ukrainian nationals in the USSR and that is still how it is seen in Russia that still remains a big confederation of nationalities or ethnicities because they did not let go of the nationalities the had conquered before the times of the creation of the Soviet Union as for example the Chechen Republic. That does not mean we were Ukrainian citizens or that I was lying in my application.

Petitioner became a Russian citizen in March 1996 after the collapse of the Soviet Union. At that time they did not have Russian passports yet, so Petitioner and all his family were given Soviet Union passports.

On May 2024, Petitioner went to an interview with ICE officers who told him he had a deportation order to Ukraine. Petitioner told them he is not a Ukrainian citizen, but a Russian citizen. They had a photocopy of Petitioner's USSR passport. So they instructed Petitioner to contact the Russian embassy and apply for a new travel document. There was only the embassy of Russia in Washington, D.C. and the embassy required to make online appointments. Petitioner and his wife applied for an appointment every single month for a whole year (we could only apply once monthly). They showed the copies of the online results to the ICE officers every month when they went to report at ICE. If a Russian did not have his expired passport in hand they had to go in person to the embassy in Washington, D.C. The ICE officers told Petitioner every single month that if he did not bring the passport or leave the country they would arrest Petitioner. Petitioner told them he was trying his best, but that legally, he could not go out of the country without a passport. This went on for 13 months. They arrested Petitioner on June 4, 2025.

On June 12, 2025, and being already detained at Adelanto ICE Processing Center, ICE officers took Petitioner out of his dorm for an interview. They took Petitioner's picture for the application in the Ukraine embassy. Again, Petitioner told them he is not a Ukrainian citizen but a Russian citizen, but he signed the papers for the application requesting Ukrainian travel documents. The following day they came with a Russian application which Petitioner signed. They asked him where he was born and he told them Kazakhstan. They asked him if it was an independent republic now and he said it was. So the ICE officers told him they were going to apply for a travel document with Kazakhstan to which Petitioner agreed. They made a second picture to apply for documents either in Russia, Kazakhstan or both.

On July 15, 2025 Petitioner received notice for the 90-day review. The review was supposed to be on August 18, 2025. On September 3, 2025 Petitioner sent a message on the tablet asking for the result of the review. The answer next day was that they had sent Petitioner's file to the Headquarters and that the decision had not been made yet. On October 1, 2025 Petitioner wrote a hard-copy request form asking what happened with the review because it was over a month from the review date. He received a Notice of the Decision to Continue Detention October 12, 2025. It informed Petitioner the decision had been made on October 1, 2025. Petitioner's officer responded his written request on October 15, 2025 and he said Petitioner's case was in the Headquarters in Washington D.C. and his next review was December 1, 2025. Petitioner has not received any official letters for the 180-days interview date or any responses to the December 1, 2025 review.

Petitioner has always been willing to be deported and has done all he could to obtain a Russian passport for him and his wife because the both of them are Russian citizens. They are not citizens of any other country. They have even gotten U.S. passports for their children so the children are ready to go with them when Petitioner and his wife get deported. But with the war between Russia and Ukraine and the US's support to Ukraine the relationship between the U.S. and Russia has not been the best. But the chances that Petitioner and his wife get a passport are much better if Petitioner is out of detention and helping ICE to obtain a travel document. Particularly, because the physical condition of Petitioner's wife does not allow her to move as freely as Petitioner is able to.

III. STANDARD OF REVIEW

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

To obtain a preliminary injunction, a Petitioner "must establish [1] that he is likely to succeed on the merits, [2] that is he is likely to suffer irreparable harm in the absence of 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 forth 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." *Fraihat v. U.S. Immigr. & Customs Enf't*, 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)).

Further, the APA provides that "to the extent necessary to prevent irreparable injury," the Court may issue "all necessary and appropriate process ... to preserve status or rights pending" these proceedings. 5 U.S.C. § 705. The standard used by courts for a request to stay agency action "is the same legal standard as that used in a motion for preliminary injunction." *Hill Dermaceuticals, Inc. v. U.S. Food and Drug Admin.*, 524 F. Supp. 2d 5, 8 (D.D.C. 2007); *Nkeen*, 556 U.S. at 428 (describing a stay as "halting or postponing" operation of an action or "temporarily divest an order of enforceability").

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

Petitioner clearly cannot be removed from the United States. ICE has now tried twice. See *Chun Yat Ma v. Asher*, No. 11-cv-01797-MJP, 2012 WL 1432229, at *5 (W.D. Wash. Apr. 25, 2012) ("An undue delay in removal for an individual alien beyond the typical removal period would naturally suggest that removal is unlikely."); Liu v. Carter, No. 25-cv-03036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025) (finding that the respondents had not shown that removal was reasonably foreseeable where they did not provide evidence why seeking travel documentation was more likely to be successful this time around or describe other actions taken to make the petitioner's removal more likely). Petitioner was born in the USSR. Only Russia has recognized Petitioner as citizen but they have taken a very long time to issue Petitioner a travel document. Previously, embassy officers mentioned Petitioner they were not being able to find any information regarding Petitioner. Petitioner is in the same condition he was the first time he was in immigration detention. The government cannot meet its burden when no progress has been made in removal. *Misirbekov v. Venegas*, No. 1:25-CV-00168, 2025 WL 3033732, at *2 (S.D. Tex. Oct. 29, 2025) (ordering release where no progress has been made to release the petitioner); *Dougkas v. Baker*, No. 25-CV-2243-ABA, 2025 WL 2997585, at *4 (D. Md. Oct. 24, 2025) (ordering release where the government failed to produce evidence of any efforts to removal beyond one request over three months prior).

Petitioner's detention has exceeded the authorized 180 day period, and since the government has not being able to obtain a travel document for him, he has good reasons to believe that his removal is not reasonably foreseeable. *Vaskanyan v. Janecka*, No. 5:25-CV-01475-MRA-AS, 2025 WL 2014208, at *4 (C.D. Cal. June 25, 2025).

As such, he is likely to prevail on this claim

2. Petitioner is Likely to Succeed on the Merits of his Due Process Claim

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

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

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

The Ninth Circuit has recognized the "irreparable harms imposed on anyone subject to immigration detention including "subpar medical and psychiatric care in ICE detention facilities" and "the economic burden imposed on detainees and their families as a result of detention." *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). Moreover, "[i]t is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.' " *Melendez v. Arpaio*, F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). 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 Procedure, § 2948.1 (2d ed. 2004)). The Ninth Circuit has also noted that "unlawful detention certainly constitutes 'extreme or very serious' damage, and that damage is not compensable in damages." Hernandez, 872 F.3d at 999. Petitioner has been detained for more than six months, and has been separated from his United States citizen children and from his wife who has a physical condition and who needs him helping her taking care of the family matters. He clearly establishes irreparable harm.

The balance of the equities and public interest analysis merge when the government is the opposing party, as it is the case in this action. See *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing Nken v. Holder, 556 U.S. 418, 435 (2009)). An injunction is in the public interest, given that Petitioner seeks to protect constitutionally protected liberty. See *Meza v. Bonnar*, No. 18-CV-02708-BFL, 2018 WL 2554572, at *4 (N.D. Cal. June 4, 2018) ("Given the low risk of Petitioner's causing harm to others or fleeing, such expenditure in her case would not benefit the public absent a material change in circumstances.") "Just as the public has an interest in the orderly and efficient administration of this county's immigration laws, [ ] the public has a strong interest in upholding procedural protections against unlawful detention." *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cla. Aug. 23, 2020). On the other hand, "the burden on

Respondents in releasing Petitioner from detention is minimal, especially considering Petitioner's compliance with the requirements of the Order of Supervision…" *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *6 (E.D. Cal. July 16, 2025). Further, the Ninth Circuit has recognized that "[t]he costs to the public of immigration detention are 'staggering,' " and that "[s]upervised release programs cost much less by comparison. …" Hernandez, 872 F.3d at 996. Therefore, the *Winter* factors weigh in favor of a grant of a temporary restraining order and preliminary injunction.

C. NO BOND IS NECESSARY

The Court has discretion to set the amount of security required for a temporary restraining order or preliminary injunction under Rule 65(c), if any. *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009). Indeed, " '[t]he district court may dispense with the filing of a bond when it concludes there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.'" *Id.* (quoting *Jorgensen v. Cassidy*, 30 F.3d 906, 919 (9th Cir. 2003)).

Here, it is unlikely any harm will come to Respondents as a result of a grant of temporary relief and Respondents will incur or zero financial costs. Petitioner asks the Court to exercise its discretion to waive the bond requirement.

PRAYER FOR RELIEF

Petitioner prays that this Court grant the following relief:

1) Grant this request for a temporary restraining order and order Respondents to release him immediately from ICE Custody;

2) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of the Director of the Los Angeles ICE Field Office during the pendency of these proceedings and while Petitioner remains in Respondents' custody; and

3) Petitioner additionally requests the Court to enjoin the Immigration authorities from continue harassing Petitioner and forbid them to re-detain Petitioner unless they have obtained a legal travel document for Petitioner.

4) Order Petitioners to allow for orderly departure when the time to departure come.

Respectfully Submitted and Signed this 22nd day of December, 2025

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CERTIFICATE OF SERVICE

I, HEREBY CERTIFY THAT ON 12/22/2025 , I SERVED A COPY OF PETITIONER'S EX PARTE APPLICATION for Temporary Restraining Order and Order to Show Cause: Preliminary Injunction; and declaration of Petitioner, by the USPS mail to the following individual: Daniel A. Beck, Assistant United States Attorney Deputy Chief, Complex and Defensive Litigation Section United States Attorney's Office, Central District of California, 300 N. Los Angeles Street, Suite 7516, Los Angeles, CA 90012.

Respectfully Submitted and Signed this 22nd day of December, 2025

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WORD COUNT CERTIFICATION

Petitioner certifies that this memorandum contains 4,067 words, which complies with the word limit of L.R. 11-6.1.

Respectfully Submitted and Signed this 22nd day of December, 2025

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