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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

GURTAJ SINGH
Petitioner,

v.

TODD M. LYONS, *et al.*,

Respondents.

Case No: 1:26-cv-05130-KES-SAB

**PETITIONER'S MEMORANDUM OF
LAW IN SUPPORT OF A MOTION FOR
A EMERGENCY TEMPORARY
RESTRAINING ORDER**

[EXPEDITED HANDLING REQUEST]

I. INTRODUCTION

Gurtaj Singh (“Petitioner”), through counsel, respectfully moves this Court for a Temporary Restraining Order (“TRO”) to prevent Respondents from continuing to unlawfully detain him and to preserve the status quo pending adjudication of his Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241.

Without such relief, Petitioner faces imminent and irreparable harm, including the deterioration of his untreated medical conditions and the risk of incurring additional family, and health consequences due to his inability to attend his wife’s operation related to her pregnancy.

Petitioner’s detention is constitutionally defective for multiple independent reasons. The Government has failed to maintain a consistent and reliable record of his custody, and continues to detain him despite the absence of a clear and lawful basis. Under these circumstances, emergency relief is warranted.

Accordingly, Petitioner seeks immediate injunctive relief ordering his release from custody. In the alternative, Petitioner requests that this Court order an expedited and constitutionally adequate bond hearing.

II. ARGUMENT

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

- (1) the probability that the moving party will succeed on the merits;
- (2) the threat of irreparable harm to the moving party;
- (3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and
- (4) whether the issuance of a TRO is in the public interest.

Dominion Video Satellite, Inc. v. Echostar Satellite Corp., 356 F.3d 1256, 1260 (10th Cir. 2004) (quoting *Prairie Band of Potawatomi Indians v. Pierce*, 253 F.3d 1234, 1246 (10th Cir. 2001)). The basic question is whether the balance of equities so favors the moving party “that justice requires the court to intervene to preserve the status quo until the merits are determined.” *Id.* Although the probability of success on the merits is a predominant factor, the Tenth Circuit has established that a showing of probable irreparable harm is the “single most important prerequisite” for the issuance of a temporary restraining order. *Id.* Indeed, the Tenth Circuit has “repeatedly emphasized” that the movant must demonstrate that such injury is likely before the other requirements will be considered. *DTC Energy Grp., Inc. v. Hirschfeld*, 912 F.3d 1263, 1270 (10th Cir. 2018). Here, all four factors weigh heavily in favor of injunctive relief.

A. Petitioner is likely to succeed on the merits of his petition for writ of habeas corpus.

Writs of habeas corpus “may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). “The writ of habeas corpus shall not extend to a prisoner unless...He is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(2).

The federal courts have held that noncitizens are entitled to guarantees of the Fifth Amendment. *Sanchez-Velasco v. Holder*, 593 F.3d 733, 737 (8th Cir. 2010); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) (“all aliens are clearly protected by the Fifth and Fourteenth Amendments”). Courts treat Equal Protection and Due Process rights under the Fifth Amendment in the same manner as Equal Protection Claims under the Fourteenth Amendment. *Wienberger v. Wiesenfeld*, 420 U.S. 636, 638 n.2 (1975). Due process is only implicated when governmental decisions deprive an individual of “liberty” or “property” interests within the meaning of the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution.

Mathews v. Eldridge, 424 U.S. 319, 332 (1976). All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67, 78 (1976); *see also Rusu v. INS*, 296 F.3d 316, 321-22 (4th Cir. 2002).

The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be...deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. *See Zadvydas*, 533 U.S. at 690 (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem”); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10, 413 (D.N.J. 1999) (holding that, in analyzing due process in the immigration context, the first factor in the procedural due process analysis, “the petitioner’s private interest in his physical liberty, must be accorded the utmost weight.”).

Petitioner is likely to succeed in demonstrating that he is in custody in violation of the Constitution and laws of the United States. *See* 28 U.S.C. § 2241(c)(3). In addition to violating the Constitution, Respondents are also violating the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701 and 101 *et. seq.* and 8 U.S.C. §§ 1101 *et. seq.* by denying Petitioner his constitutional right to due process, arbitrarily and capriciously, thus exceeding their authority under the Immigration and Nationality Act (“INA”).

Petitioner has demonstrated a strong likelihood of success on the merits of his habeas petition. His continued detention exceeds six months. Petitioner pursued available administrative avenues. No individualized custody determination has justified continued detention.

The circumstances surrounding his arrest reveal fundamental constitutional deficiencies that this Court is likely to recognize.

B. Petitioner Faces Irreparable Harm if the Court Does Not Grant a TRO

It is well established that deprivation of constitutional rights constitutes “irreparable injury” and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976). *See also Planned Parenthood of Minnesota, Inc. v. Citizens for Community Action*, 558 F.2d 861, 867 (8th Cir. 1977). When an alleged deprivation of constitutional rights is involved, no further showing of irreparable injury is necessary. *Planned Parenthood of Minnesota*, 558 F.2d at 867 (citing 11 C. Wright & A. Miller, *Federal Practice & Procedures: Civil* § 2948 at 439 (1973)); *Ng v. Bd. of Regents of the Univ. of Minn.*, 64 F.4th 992, 998 (8th Cir. 2023) (“[T]he denial of a constitutional right is a cognizable injury and an irreparable harm.”); *Hernandez*, 872 F.3d at 994–95; *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”).

Congress has unequivocally declared that “[a]ny alien who is physically present in the United States or who arrives in the United States . . . irrespective of such alien’s status, may apply for asylum.” 8 U.S.C. § 1158(a)(1). Likewise, the withholding of removal statute explicitly bars returning a noncitizen to a country where their “life or freedom” would be threatened based on a protected ground. Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102 (1980) (asylum and

withholding); 8 U.S.C. §§ 1158 (asylum), 1231(b)(3) (withholding of removal). Congress has carefully specified the procedures by which noncitizens may be removed. The INA leaves little doubt that its procedures must apply to every removal, unless otherwise specified by that statute. It directs: “Unless otherwise specified in this chapter,” the INA’s comprehensive scheme provides “the sole and exclusive procedure for determining whether an alien may be . . . removed from the United States.” 8 U.S.C. § 1229a(a)(3); see also *United States v. Tinoso*, 327 F.3d 864, 867 (9th Cir. 2003) (“Deportation and removal must be achieved through the procedures provided in the INA.”). See *Huisha-Huisha v. Mayorkas*, 560 F. Supp. 3d 146, 172 (D.D.C. 2021) (irreparable harm where plaintiffs “face the threat of removal prior to receiving any of the protections the immigration laws provide”).

Petitioner is suffering ongoing and irreparable harm as a result of his continued detention.

First, the loss of physical liberty, even for minimal periods of time, constitutes irreparable harm. Petitioner has been continuously detained for more than 6 (six) months, which is not even minimal periods of time, without lawful justification, and each additional day of confinement exacerbates this harm.

The harm facing Petitioner is both immediate and irreparable. He suffers from serious medical conditions that are actively worsening due to the lack of adequate care in detention. Petitioner suffers from hypertension requiring consistent treatment and monitoring. Petitioner has experienced difficulty obtaining reliable access to medication and continuity of care while detained. Continued detention creates ongoing risk of deterioration in Petitioner’s physical condition.

In addition, Petitioner’s wife is currently pregnant with the couple’s second child.

Petitioner is unable to provide emotional, financial, and practical support to his pregnant spouse and existing child. These harms cannot later be remedied through monetary compensation.

C. The Balance of Harm to Petitioner Compared to the Burden Placed on the Government Overwhelmingly Weighs in Favor of Petitioner

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221, 1236-7 (10th Cir. 2005). Moreover, Respondents "cannot suffer harm from an injunction that merely ends an unlawful practice" *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). The public interest is served by the faithful execution of the immigration laws, and that interest includes respect for protections Congress has enacted and to which the United States has committed itself by treaty. *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005) (recognizing "the public interest in having the immigration laws applied correctly and evenhandedly"); *Leiva-Perez v. Holder*, 640 F.3d 962, 971 (9th Cir. 2011) (noting "the public's interest in ensuring that we do not deliver [noncitizens] into the hands of their persecutors"); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992) (discussing "the public interest in Government observance of the Constitution and laws").

Petitioner's harms, as discussed above, are weighty; these harms include deportation to a country where Petitioner faces severe persecution. Moreover, Respondents "cannot suffer harm from an injunction that merely ends an unlawful practice." *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). Petitioner's harms include the ongoing and unconstitutional loss of his physical liberty. Possible injuries to the government, should the restraining order be granted, are minimal and possibly nonexistent. For the aforementioned reasons, the irreparable harm that will

occur should ICE continue to detain Petitioner clearly outweighs any burden to Respondents in detaining Petitioner.

The balance of equities overwhelmingly favors Petitioner. The harm Petitioner faces is immediate, concrete, and severe, while any burden on Respondents from the issuance of a Temporary Restraining Order is minimal.

The balance of equities overwhelmingly favors Petitioner.

On one side, Petitioner faces continued deprivation of his liberty, prolonged separation from his wife and children, escalating emotional and financial hardship, and his own health situation. These harms are substantial, immediate, and ongoing.

On the other side, the government has no legitimate interest in continuing to detain an individual who poses no danger and no risk of flight. He has never leaved California for 10 years. Petitioner has no criminal history, and is actively pursuing lawful immigration relief. He has strong family and community ties.

Any administrative burden associated with Petitioner's release is minimal compared to the severe harm he continues to suffer in detention. Accordingly, the balance of equities weighs decisively in favor of granting injunctive relief.

D. The Issuance of a TRO is in the Public Interest

The public, and therefore the government, has an interest in protecting the rights of people in detention and ensuring the rule of law. *See Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”). “It is always in the public interest to prevent the violation of a party’s

constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). Additionally, there is critical public interest in ensuring executive agencies act lawfully. Respondents “cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983).

The protection of individuals’ constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government’s power to skew, alter, or improperly affect legal proceedings related to an individual’s property or liberty interest(s). To ensure the protection of Petitioner’s constitutional rights, and to protect against overzealous federal government intrusion of constitutional rights of others in similar situations, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from transferring Petitioner from the jurisdiction of this Court.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country’s legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

The public interest is always served by ensuring that constitutional rights are protected and that government action remains within lawful bounds. Detaining an individual under

circumstances marked by inconsistent records, lack of justification, and denial of medical care undermines confidence in the legal system.

Granting temporary relief in this case would reaffirm the principle that liberty may not be deprived arbitrarily and that even in the immigration context, constitutional protections remain fully applicable.

E. Petitioner Has Complied With the Requirements of Rule 65.

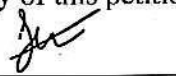
Finally, as set forth *supra*, Petitioner asks this Court to find that he has complied with the requirements of Rule 65, Fed.R.Civ.P., for the purpose of granting a temporary restraining order. Respondents have been provided with a copy of the instant motion and supporting documents and are on notice. *See Declaration of Counsel*. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Under the circumstances of this case, however, Petitioner respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from deporting Petitioner could not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. Of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant temporary relief and enjoin Respondents from transferring him and ordering his immediate return to this jurisdiction if already transferred during the pendency of this petition.

Dated: July 07, 2026

/s/



Saime Atakan

Certificate of Compliance

Pursuant to L. Civ. R. 7.2 and L. Civ. R. 10.1, I hereby certify that this Memorandum of Law complies with the formatting and page-limit requirements of the Eastern District of California. This brief is set in a proportional typeface (Times New Roman) of 12 points or larger, is double-spaced, and does not exceed the 40-page limit established by the Local Rules.

Date: July 07, 2026

/s/



Saime Atakan