

1 immigration judge ordered Petitioner removed and designated China as the country of
2 removal. *Id.* at 2. Petitioner then spent 190 days at the Adelanto ICE Detention Center.
3 *Id.* at 5. ICE was unable to effect his removal to China, and Petitioner was released on
4 March 22, 2019, on an Order of Supervision (“OSUP”). *Id.* at 2.

5 In the six years that followed, ICE was unable to obtain travel documents from China
6 on behalf of Petitioner. *Id.* On August 14, 2025, when Petitioner arrived at a federal
7 government building for his routine check-in with ICE, Petitioner was detained. *Id.* at 2.
8 Petitioner was not given any notice as to why his OSUP was revoked or given any
9 opportunity to respond. *Id.* at 5–6.

10 Petitioner “was not provided [a] proper place to sleep for 6 days,” and was instead
11 housed “in a holding tank at the federal building without a change of clothes, shower, or
12 regular meal.” *Id.* Petitioner was then transferred to the Adelanto ICE Detention Center
13 on August 21, 2025. *Id.* at 2.

14 Since Petitioner was released on the OSUP in 2018, he has since complied with all
15 conditions of the order, including periodic check-ins with ICE. *Id.* at 5. Petitioner has not
16 committed or been convicted of any criminal activity, and he has since “worked steadily
17 and paid taxes and contributed to society.” *Id.* at 3.

18 In the instant TRO Application, which was filed the same day as the habeas petition,
19 Petitioner requests that the Court enjoin Respondents D. Marin, Warden, Adelanto ICE
20 Processing Center; Thomas P. Giles, Acting Field Office Director of the Los Angeles ICE
21 Field Office; Todd Lyons, Acting Director of ICE; Kristi Noem, Secretary of the
22 Department of Homeland Security; and Pamela Bondi, United States Attorney General
23 (collectively, “Respondents” or the “government”) from continuing to detain him. ECF 4.
24 On February 26, 2026, the government filed a Notice of Non-Opposition to the TRO
25 Application. ECF 9. The Non-Opposition acknowledged Petitioner’s petition, the TRO
26 Application, and the Court’s order requiring a response to the TRO Application and stated
27 only: “Respondents do not have an opposition argument.” *Id.* at 2 (internal citations
28 omitted).

1 //

2 **II. DISCUSSION**

3 The same standard applies to issuing a TRO or a preliminary injunction under
4 Federal Rule of Civil Procedure 65. *Six v. Newsom*, 462 F. Supp. 3d 1060, 1067 (C.D. Cal.
5 2020) (citation omitted); *see also Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240
6 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve
7 “substantially identical” analysis). Like a preliminary injunction, a TRO is “an
8 extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is
9 entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). Under
10 *Winter*, a plaintiff seeking a TRO must establish four elements: “(1) a likelihood of success
11 on the merits, (2) that the plaintiff will likely suffer irreparable harm in the absence of
12 preliminary relief, (3) that the balance of equities tip in its favor, and (4) that the public
13 interest favors an injunction.” *Wells Fargo & Co. v. ABD Ins. & Fin. Servs., Inc.*, 758 F.3d
14 1069, 1071 (9th Cir. 2014) (citing *Winter*, 555 U.S. at 20).

15 The authority of ICE to detain noncitizens subject to final orders of removal derives
16 from 8 U.S.C. § 1231, which directs the Attorney General to cause the removal of any
17 noncitizen from this country within 90 days of any order of removal. 8 U.S.C. § 1231(a)(1).
18 Once that time passes, however, and it is determined that “removal is no longer reasonably
19 foreseeable, continued detention is no longer authorized by statute.” *Zadvydas v. Davis*,
20 533 U.S. 678, 699 (2001). The noncitizen must be released on appropriate terms of
21 supervision, 8 U.S.C. § 1231(a)(3), which appears to be what happened in this case at some
22 point after Petitioner was ordered removed. The revocation of that release is governed by 8
23 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen’s release if the noncitizen
24 violates any conditions of release and for purposes of removal. Specifically, a noncitizen’s
25 supervision may be revoked “if, on account of changed circumstances,” it is determined
26 that “there is a significant likelihood that the [noncitizen] may be removed in the
27 reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2).

28 Given the government’s non-opposition to the TRO Application, the Court finds that

1 Petitioner is clearly entitled to immediate release from custody. The government has
2 detained Petitioner without due process of law, without demonstrating that there is any
3 significant likelihood of his removal in the reasonably foreseeable future, and without
4 demonstrating that Petitioner violated any term of his supervision. *See Zadvydas*, 533 U.S.
5 at 693 (explaining that noncitizens within the United States are entitled to due process
6 “whether their presence here is lawful, unlawful, temporary, or permanent”). Moreover,
7 Petitioner was detained without notice and an opportunity to be heard on the revocation of
8 his supervision in violation of the requirements of 8 C.F.R. § 241.13(i). It is black letter
9 law that government agencies are required to follow their own regulations. *United States*
10 *ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). This is especially true when the
11 regulation provides for procedural due process. *See Niz-Chavez v. Garland*, 593 U.S. 155,
12 172 (2021) (“If men must turn square corners when they deal with the government, it
13 cannot be too much to expect the government to turn square corners when it deals with
14 them.”).

15 The government presents no defense or explanation for its actions despite freedom
16 from detention being “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542
17 U.S. 507, 529 (2004). Nor does the government dispute that “[d]eprivation of physical
18 liberty by detention constitutes irreparable harm.” *Arevalo v. Hennessy*, 882 F.3d 763, 767
19 (9th Cir. 2018) (citing *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017)). As for
20 the final *Winter* factors, the balance of equities and the public interest overwhelmingly
21 weigh in favor of granting the TRO because it obviously would be neither equitable nor in
22 the public interest to allow the government to continue to violate federal law.

23 Despite effectively conceding that Petitioner has been unlawfully detained,
24 Respondents make no effort to release him. Given its prerogative, the government would
25 continue to deprive Petitioner of his most fundamental liberty interest, keeping him
26 unlawfully detained until this Court orders his release. This approach not only squanders
27 finite judicial resources, but more importantly, it offends the Constitution. *See Zadvydas*,
28 533 U.S. at 679 (“Freedom from imprisonment lies at the heart of the liberty protected by

1 the Due Process Clause.”). Thus, this Court enforces the Constitution as it must even when
2 the government chooses to ignore it.¹

3 **III. CONCLUSION**

4 For the foregoing reasons, the TRO Application is **GRANTED**. The Court hereby
5 **ORDERS** as follows:

- 6 1. Respondents shall **IMMEDIATELY RELEASE** Petitioner from custody;
- 7 2. Respondents shall **REINSTATE** Petitioner’s prior order of supervision under the
8 same terms and conditions without additional restrictions, such as electronic
9 monitoring, if not previously imposed;
- 10 3. Respondents are **ENJOINED** from re-detaining Petitioner without notice and
11 opportunity to be heard consistent with the Due Process Clause and immigration
12 law and regulations;
- 13 4. Respondents are **ORDERED** to file reliable proof with this Court that Petitioner
14 has been released by no later than **March 2, 2026, at 8:00 a.m.** – failure to do so
15 may result in sanctions;
- 16 5. Respondents are **ORDERED TO SHOW CAUSE** why a preliminary injunction
17 should not issue. *See* L.R. 65-1. Respondents shall file any written response to
18 the Order to Show Cause no later than **March 6, 2026. Failure to file a response**
19 **will be deemed consent to the issuance of the preliminary injunction.** Upon
20 receipt of Respondents’ response, the Court may order Petitioner to file a reply if
21 necessary. If the parties agree that the TRO should be converted into a
22

23 ¹ Any efforts to remove Petitioner to a third country must also comport with due
24 process. ICE is required as a matter of law and protocol to afford Petitioner a meaningful
25 opportunity to contest his removal to a third country on the basis of fear of persecution or
26 torture. ECF 14 at 12; *see also* 8 U.S.C. § 1231(b)(3)(A); 28 C.F.R. § 200.1; 8 C.F.R.
27 § 208.16-18, 1208.16-18. “In other words, third-country removals are subject to the same
28 mandatory protections that exist in removal or withholding-only proceedings.” *D.V.D. v.*
U.S. Dep’t of Homeland Sec., No. CV 25-10676-BEM, 2025 WL 1142968, at *3 (D. Mass.
Apr. 18, 2025).

1 preliminary injunction and/or that dismissal of the habeas petition is warranted
2 because the relief sought is now moot, they shall file a joint stipulation no later
3 than **February 24, 2026**. The Court will order an OSC hearing only if necessary.

4 This TRO shall take immediate effect on **February 27, 2026**, and expires at 3:00
5 p.m. on March 13, 2026. The TRO may be extended for good cause or upon Respondents'
6 consent.

7 **IT IS SO ORDERED.**

8
9 Dated: February 27, 2026

10 
11 HON. MONICA RAMIREZ ALMADANI
12 UNITED STATES DISTRICT JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28