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11 UNITED STATES DISTRICT COURT
12
13 FOR THE EASTERN DISTRICT OF CALIFORNIA
14
15 SACRAMENTO DIVISION

16 John Doe,

17 Petitioner-Plaintiff,

18 v.

19 MOISES BECERRA, Acting Field Office
20 Director of Sacramento Office of Detention and
21 Removal, U.S. Immigrations and Customs
22 Enforcement; U.S. Department of Homeland
23 Security;

24 Caleb VITELLO, Acting Director, Immigration
25 and Customs Enforcement, U.S. Department of
26 Homeland Security;

27 Kristi NOEM, in her Official Capacity,
28 Secretary, U.S. Department of Homeland
Security; and

Pam BONDI, in her Official Capacity, Attorney
General of the United States;

Tonya ANDREWS, in her Official Capacity,
Facility Administrator at Golden State Annex,
McFarland, California;

Respondents-Defendants.

Case No. 2:25-cv-00647-DJC-DMC

**PETITIONER-PLAINTIFF'S
REPLY IN SUPPORT OF
MOTION TO AMEND
PRELIMINARY INJUNCTION
ORDER**

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1 Petitioner, through undersigned Counsel, hereby submits this Reply in support of his
2 Motion to Amend the Preliminary Injunction filed on August 8, 2025. Dkt. 42.

3 **ARGUMENT**

4 **I. The Court has the inherent authority to modify its preliminary injunction in**
5 **consideration of new facts and law.**

6 Respondents' opposition significantly confuses the procedural posture of the present
7 Motion. Dkt. 52, Respondents' Opposition (Opp.). Respondents variously characterize
8 Petitioner's Motion as an attempt to reconsider a final judgment, surreptitiously amend the
9 operative complaint, and rehash arguments previously addressed by this Court, none of which is
10 accurate. Respondents further urge that this Court does not retain plenary authority to amend or
11 modify its injunction in response to new evidence or law, but they fail to provide any authority
12 indicating that a Court's power to modify a preliminary injunction is limited in any way.

13 Respondents cite *Rodgers v. Watt*, Opp. at 2, to argue that the Court should deny
14 Petitioner's Motion. 722 F.2d 456, 459 (9th Cir. 1983) (en banc). But *Rodgers* dealt with the
15 critically distinct situation of a court entering summary judgment and final judgment dismissing
16 the action. 722 F.2d 456, 459 (9th Cir. 1983) (en banc) (holding there exists a "compelling interest
17 in the finality of judgements which should not be lightly disregarded."). It is thus inapposite.

18 Rule 15(a) of the Federal Rules of Civil Procedure is also irrelevant, as it governs
19 amending pleadings, *see* Fed. R. Civ. P. 7(a) (defining pleadings), not orders of the Court.
20 Petitioner does not seek to amend his *motion* for preliminary injunction—he asks the Court to
21 modify its injunction and rule on Petitioner's request for outright release set forth in his prior
22 motion for preliminary injunction given the changed circumstances that have since arisen. *See*
23 Dkt. 2 at 31 (requesting the Court to order immediate release); Dkt. 2-3 (proposed order with
24 alternative forms of relief). Similarly, Petitioner does not seek reconsideration of the Court's
25 March 3 order, so a Rule 60(b) motion would not be appropriate. Instead, he asks the Court to
26 rule on requested relief that, up until this point, this Court has not explicitly ruled on that would,
27 if granted, afford Petitioner additional due process protections.

28 Petitioner's request accords with the extensive authority he cited in his Motion to Amend

1 demonstrating the Court’s inherent ability to amend its injunction in light of new information. *See*
2 *A&M Records v. Napster, Inc.*, 284 F.3d 1091, 1098 (9th Cir. 2002) (“A district court has *inherent*
3 *authority* to modify a preliminary injunction in consideration of new facts”) (emphasis added);
4 *Mariscal-Sandoval v. Ashcroft*, 370 F.3d 851, 859 (9th Cir. 2004) (“The proposition that a court
5 has the authority to alter the effect of an injunction in light of changes in the law or the
6 circumstances is well established”). District courts routinely amend preliminary injunctions when
7 new evidence and circumstances warrant it, and this includes expanding the scope and type of
8 relief ordered. *See, e.g., J.O.P. v. U.S. Dep’t of Homeland Sec.*, 338 F.R.D. 33, 58 (D. Md. 2020)
9 (amending preliminary injunction to prevent manifest injustice and because of newly arisen
10 evidence).

11 Respondents assert, without any basis, that the Court’s authority to modify its preliminary
12 injunction is confined to cases requiring continuing compliance and monitoring to ensure that a
13 party abides by the terms of the injunction. Opp. at 2-3. Not so.¹ That some cases where a court
14 has amended or modified its injunction dealt with instances where a party violated or was going
15 to violate its terms does not cabin this Court’s inherent authority. There is no exhaustive set of
16 circumstances where a Court can or cannot exercise its inherent authority. The Court’s power to
17 modify its interlocutory judgments at any time before final judgment is not dependent on whether
18 the injunction requires continuing compliance, and Respondents cite no authority suggesting
19 otherwise.

20 **II. INTERPOL’s decision to provisionally block the Red Notice is a significant new fact**
21 **that warrants modifying the preliminary injunction order.**

22 Respondents attempt to minimize the critical fact of INTERPOL’s decision to
23 provisionally block the Red Notice against him, as well as its supporting information, Opp. at 4,
24 but that attempt fails. The blocking of the Red Notice is significant not only because the
25 Immigration Judge (IJ) relied heavily on the Red Notice and the underlying police reports to deny

26 _____
27 ¹ Respondents’ characterization of the cases Petitioner cites is also factually inaccurate. For example, Petitioner cited
28 *Martinez v. City of Fresno*, where the Court enjoined a facially invalid ordinance. No. 122CV00307DADSAB, 2022
WL 1645549 (E.D. Cal. May 24, 2022). The injunction in *Martinez* was neither a consent decree nor the type of
injunction that requires continuing compliance, yet the Court made clear that, if “the parties alert the court to any
changed circumstances warranting a tailoring of the injunction, the court is at liberty to do so.”). *Id.* at *15.

1 Petitioner bond, but also because it corroborates his consistent statements—including in this
2 Court—that the criminal allegations against him in India are reflective of the Indian government’s
3 efforts to persecute and torture him. *See, e.g.*, Dkt. 2 (Motion for TRO) at 27-29. This fact alone
4 supports Petitioner’s request for outright release because it is additional strong evidence that he
5 is not a danger or a flight risk, meaning that his now eight-month detention is contrary to the only
6 constitutionally permissible purposes of immigration detention—alleviating danger to the
7 community and risk of flight. *See Hernandez v. Sessions*, 872 F.3d 967, 990 (9th Cir. 2017) (citing
8 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“The government has legitimate interests in
9 protecting the public and in ensuring that noncitizens in removal proceedings appear for hearings,
10 but any detention incidental to removal must ‘bear a reasonable relation to its purpose.’”).

11 Respondents argue that, because the Board of Immigration Appeals (BIA) did not rely on
12 the INTERPOL Red Notice to uphold Petitioner’s denial of bond, the blocking is irrelevant. *Opp.*
13 at 4. That is wrong. In these proceedings, prior to this Court’s the issuance of the preliminary
14 injunction, Respondents cited the Red Notice to justify their re-arrest and re-incarceration of
15 Petitioner. Dkt. 8 at 2-3; Dkt. 8-1 at ¶ 4 (citing Red Notice and “Open Date Arrest Warrant”);
16 Dkt. 9 at 21-23. Eliminating the Red Notice and underlying allegations renders Respondents’
17 actions even more starkly egregious than they already were.

18 Furthermore, although the BIA’s erred decision is challenged in Petitioner’s Supplemental
19 Pleading, Dkt. 46, and forthcoming motion for a preliminary injunction, Petitioner will take the
20 opportunity to briefly reply to Respondents’ incorrect assertion that the BIA’s dismissal of his
21 appeal—based solely on his arrest for theft in September 2022—signifies that he has received due
22 process. *Opp.* at 4. To start, the U.S. Department of Homeland Security (DHS) learned of
23 Petitioner’s arrest and criminal charge for theft in May 2023—at the very latest—nearly two years
24 before DHS re-arrested him on January 28, 2025. Dkt. 23-1 at Exh. G (Form I-213, Record of
25 Inadmissible/Deportable Alien). During that two-year period, DHS made the determination—on
26 at least four occasions—that the theft arrest and charge did not warrant incarceration. *See Saravia*
27 *v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v.*
28 *Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“Release reflects a determination by the government

1 that the noncitizen is not a danger to the community or a flight risk.”). DHS never even attempted
2 to explain what circumstances changed between May 2023 and January 2025 that led it to
3 suddenly believe confinement was warranted, and the BIA failed to consider DHS’s inexplicable
4 and divergent actions, as it was required to do. *See Ngo v. INS*, 192 F.3d 390, 398 (3d Cir.1999)
5 (“The assessment of flight risk and danger to the community must be made on a current basis”).

6 Second, the BIA’s reliance on Petitioner’s dismissed theft charge and uncorroborated
7 allegations from his former employer that were never prosecuted only confirms that Petitioner
8 could not and did not receive a fair hearing before the agency. A single arrest for which Petitioner
9 was never convicted does not support a clear and convincing finding of dangerousness,
10 particularly where, as here, he was denied the opportunity provide any testimony in response. *See,*
11 *e.g., Arzate v. Andrews*, 1:25-cv-00942-KES-SKO, Dkt. 15, *8 n.2 (E.D. Cal. Aug. 20, 2025)
12 (“The contention that an arrest, without more, constitutes evidence of criminal activity is without
13 merit.”) (quoting *Duncan v. California*, No. S-04-523 LKK/PAN, 2006 WL 18883385, at *2
14 (E.D. Cal. July 7, 2006); *see also Ortega-Rangel v. Sessions*, 313 F. Supp. 3d 993, 1004 (N.D.
15 Cal. 2018) (finding a due process violation when IJ concluded respondent was a danger to the
16 community solely because of an arrest for which she was not convicted, where respondent had no
17 criminal history). Indeed, even “[t]he mere conviction of a crime is not an adequate basis for
18 finding that an individual is a threat to the community.” *Judulang v. Chertoff*, 562 F. Supp. 2d
19 1119, 1124 (S.D. Cal. 2008) (quoting *Korkees v. Reno*, 137 F.Supp.2d 590, 598 (M.D. Pa. 2001)).

20 Respondents’ reliance on Petitioner’s arrest and his former employer’s baseless and
21 uncharged allegations is particularly egregious because the IJ, and now the BIA, denied Petitioner
22 any opportunity to rebut this evidence. *See* Dkt. 31-1, Declaration of Johnny Sinodis dated Apr.
23 8, 2025 (Second Sinodis Decl.) at Exh. H (Transcript) at 11:18 (because the IJ refused to hear
24 testimony, Petitioner could not provide any explanations on his own behalf). Respondents’
25 assertion that “[t]he underlying facts of Petitioner’s prior criminal history, which the IJ and BIA
26 relied upon in their respective orders, remain undisputed by Petitioner” is misleading, Opp. at 4,
27 as Petitioner’s vigorous challenge to the denial of his right to respond to and rebut those exact
28 facts has been a central element of these proceedings. *See generally* Dkts. 1, 2, 12, 23, Dkt. 33.

1 The only other basis for the BIA’s decision is photos of Petitioner with firearms, which
2 he similarly was never given the opportunity to explain despite being prepared to do so at his
3 bond hearing. *See* Second Sinodis Decl. at Exh. H (Transcript) 18:14-22 (“And he hasn’t had the
4 opportunity to discuss any of this because the Court won’t hear testimony. And the photos, there’s
5 an explanation for them.”). The photos similarly do not constitute clear and convincing evidence,
6 especially when Petitioner has been denied the opportunity to present testimony.

7 **III. Respondents have not provided Petitioner due process, and release from custody**
8 **until he is provided a constitutionally compliant hearing is necessary.**

9 Respondents argue that Petitioner has already received a hearing and so release from
10 custody until he is afforded a constitutionally compliant hearing would not serve an additional
11 purpose. *Opp.* at 4. This overlooks that immediate release is the most appropriate remedy when
12 the underlying arrest was itself unlawful. Numerous courts in this district, relying on this Court’s
13 injunction in these proceedings, have ordered immediate release after unlawful rearrests so that
14 the exact situation presented here—where petitioner has remained detained for months on end as
15 he challenges his detention in administrative proceedings and habeas proceedings—does not
16 occur. *See* Dkt. 42 at 8-10 (collecting cases). Moreover, Petitioner has not in fact received a
17 constitutionally compliant hearing before a neutral arbiter, as the IJ’s initial decision and the
18 BIA’s subsequent reliance on a dismissed nonviolent misdemeanor arrest to justify detention
19 demonstrates.²

20 If the Court grants Petitioner release, under the circumstances presented here, this Court
21 is the most appropriate neutral adjudicator for any subsequent re-incarceration hearing. This Court
22 possesses inherent authority to conduct such a hearing. *See, e.g., Leslie v. Holder*, 865 F. Supp.
23 2d 627 (M.D. Penn. 2012) (“[W]e are empowered to conduct bail proceedings in habeas corpus
24 proceedings brought by immigration detainees. Indeed, the authority to conduct such hearing has
25 long been recognized as an essential ancillary aspect of our federal habeas corpus jurisdiction.”)
26 (collecting cases); *see also Khalil v. Joyce*, 780 F.Supp.3d 476 (D.N.J 2025); *Aditya W.H. v.*
27 *Trump*, 782 F.Supp.3d 691, 703-706 (D. Minn. 2025); *Mohammed H. v. Trump*, 781 F.Supp.3d

28 ² Petitioner’s challenges to these developments are presented in his Supplemental Pleading, Dkt. 46, and forthcoming
motion for preliminary injunction.

1 886, 891-92 (D. Minn. 2025); *Mahdawi v. Trump*, 781 F.Supp.3d 214, 223-228 (D. Vt. 2025);
2 *Ozturk v. Trump*, 779 F.Supp.3d 462, 480-86 (D. Vt. 2025), *amended by Ozturk v. Hyde*, 136
3 F.4th 382 (2d Cir. 2025). And the Court should do so here, as it otherwise cannot guarantee that
4 Petitioner’s due process rights would be protected. At that hearing, Respondents could submit
5 whatever evidence they have to try to demonstrate that Petitioner is a danger or flight risk by clear
6 and convincing evidence.

7 Unlike Article III judges, IJs and BIA members are employees of the Department of
8 Justice. 8 C.F.R. §§ 1003(a), 1003.10(a). Both can be hired and fired by the Attorney General at
9 will and do not receive civil service protections. The Attorney General, who retains discretion to
10 fire IJs and BIA members, not only oversees the immigration court system but also acts as a
11 prosecutor in removal and bond proceedings.³

12 On top of these pre-existing structural deficiencies, in recent months, the Trump
13 Administration has taken drastic steps to fire IJs and BIA members in what appears to be
14 retaliation for higher grant rates of relief to noncitizens.⁴ In the unprecedented circumstances of
15 immense pressure on IJs to comply with the administration’s policy preferences—which, under
16 recent policy changes, includes similarly unprecedented detention of millions of noncitizens—
17 there is simply no guarantee that any hearing Petitioner received before an IJ would be impartial.
18 *See* U.S. Immigration and Customs Enforcement, Interim Guidance Regarding Detention
19 Authority for Applicants for Admission (July 8, 2025),
20 <https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for->

21 _____
22 ³ The Hill, *I was once an ICE prosecutor. What I see now in immigration court is disturbing*, July 17, 2025,
23 [https://thehill.com/opinion/immigration/5404863-i-was-once-an-ice-prosecutor-what-i-see-now-in-immigration-](https://thehill.com/opinion/immigration/5404863-i-was-once-an-ice-prosecutor-what-i-see-now-in-immigration-courts-is-disturbing/)
24 [courts-is-disturbing/](https://thehill.com/opinion/immigration/5404863-i-was-once-an-ice-prosecutor-what-i-see-now-in-immigration-courts-is-disturbing/) (“Earlier this year, the Department of Justice abruptly fired 20 immigration judges, including
25 five assistant chief judges and an entire incoming class, a purge widely condemned as politically motivated. Newer
26 judges, trained under Trump-era protocols, now operate under intense scrutiny and are instructed to deny even the
27 most basic continuances, including the standard 10-day extension attorney typically receive to prepare a response.”)

28 ⁴ “Trump is firing S.F. judges with highest rates of granting asylum, new analysis finds,” *San Francisco Chronicle*
29 (Sept. 16, 2025), <https://www.sfchronicle.com/politics/article/sf-judges-fired-rates-21020186.php>; “Valid fear:
30 Immigration judges, lawyers say they’re being targeted by Trump administration,” *ABC7* (Aug. 18, 2025),
31 [https://abc7.com/post/more-100-immigration-judges-fired-trumps-inauguration-white-house-targets-](https://abc7.com/post/more-100-immigration-judges-fired-trumps-inauguration-white-house-targets-lawyers/17503922/)
32 [lawyers/17503922/](https://abc7.com/post/more-100-immigration-judges-fired-trumps-inauguration-white-house-targets-lawyers/17503922/) (“In San Francisco, four judges have been fired in the past three months. A review of Tracreports,
33 a website run by Transactional Records Access Clearinghouse, shows several of those fired were approving more
34 than 90% of asylum cases. For comparison, just 4% of asylum seekers are being approved at Adelanto ICE Detention
35 Center in San Bernardino County. Immigration judges have gotten policy memos pressuring them to reject more
36 asylum cases.”).

1 [undocumented-immigrants/#/tab-policy-documents](#); Executive Office for Immigration Review,
2 PM 25-47, *Case Priorities and Immigration Court Performance Measures* (Sept. 12, 2025),
3 <https://www.justice.gov/eoir/media/1413981/dl?inline>; *Matter of Yajure-Hurtado*, 29 I&N Dec.
4 216 (BIA 2025). Prior studies suggest that political pressure may impact bond decisions and that
5 IJs were more likely to deny bond during the first Trump administration's era of anti-immigrant
6 rhetoric.⁵ Given that this Court unequivocally has the inherent authority to conduct bond hearings,
7 it should exercise its discretion to conduct any future hearing due to the particular circumstances
8 of this case.

9 Due process also requires consideration of alternatives to detention at any custody
10 redetermination hearing that may occur. The primary purpose of immigration detention is to
11 ensure removal *if* reasonably foreseeable. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably
12 related to this purpose if, as here, removal is not actually foreseeable. Accordingly, alternatives
13 to detention must be considered in determining whether Mr. Singh's re-incarceration is warranted.

14 **IV. Respondents do not contest that Petitioner is suffering irreparable harm and that**
15 **the balance of equities and public interest tip sharply in favor of granting him**
16 **outright release.**

17 Given that Petitioner is likely to succeed on the merits of his claim (or at least has raised
18 serious questions), and that his claim is constitutional in nature, he has sufficiently demonstrated
19 that he will suffer harm absent immediate injunctive relief in the form of release from custody.
20 Respondents do not contest the well-settled principle that a violation of constitutional rights
21 constitutes irreparable injury or that Petitioner is, in fact, suffering irreparable harm. *See* Opp.
22 They also wholly ignore the concrete harms Petitioner has suffered and will continue to suffer if
23 he remains detained. As such, the balance of equities and public interest weigh heavily in favor
24 of granting Petitioner injunctive relief.

25 In this instance, the law clearly counsels in favor of amending the preliminary injunction
26 order and granting Petitioner release from custody given the illegality of his rearrest, the
27 irreparable harm that he has suffered and will continue to suffer absent the Court's intervention,

28 ⁵ Richard Frankel, *Risk Assessment and Immigration Court*, 80 Wash. & Lee L. Rev. 1, 48-50 (2023) (explaining systemic bias in immigration system that leads to significantly higher rates of bond denial than in the criminal bail context).

1 and the balance of equities and public interest which tip sharply in his favor.

2 **CONCLUSION**

3 This Court should amend the preliminary injunction and order Petitioner be immediately
4 released from custody. The Court should further order that Respondents are prevented from re-
5 arresting Petitioner unless and until he receives a constitutionally compliant hearing before a
6 neutral adjudicator on whether a change in bond amount or revocation of his bond is justified by
7 clear and convincing evidence that he is a danger or a flight risk. In the alternative, if the Court
8 were not inclined to order immediate release, this Court should order that Petitioner be provided
9 a constitutionally compliant bond hearing before this Court where this Court decides whether
10 Respondents can establish that the continued incarceration of Petitioner is justified by clear and
11 convincing evidence.

12 Dated: September 23, 2025

Respectfully submitted,

13 /s/ Johnny Sinodis

14 Johnny Sinodis

Oona Cahill

15 Attorneys for Petitioner