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9 **UNITED STATES DISTRICT COURT**  
10 **WESTERN DISTRICT OF WASHINGTON**  
11 **AT SEATTLE**

11 **HASSAN AMHIRRA, et al,**

12 *Plaintiffs,*

Case No.: 2:25-cv-01376-TL

13 v.

14 **WARDEN, Northwest Detention Center, et al.,**

15 *Defendants.*

16  
17 **NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION FOR**  
18 **RELEASE FROM CUSTODY OR, ALTERNATIVELY, A BOND HEARING**  
19  
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22 NOTICE OF MOTION FOR  
23 PRELIMINARY INJUNCTION

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1       **PLEASE TAKE NOTICE** that on as soon as counsel may be heard, before the Honorable  
 2 Tana Lin, United States District Judge for the Western District of Washington, Petitioner Hassan  
 3 Amhirra, by and through his undersigned counsel, will and hereby does move this Court for a  
 4 Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65 and Local Civil Rule 7.

5       Petitioner seeks a mandatory injunction requiring his immediate release from immigration  
 6 custody, or, in the alternative, ordering an expedited individualized bond hearing before a neutral  
 7 adjudicator at which the Government must justify continued detention by clear and convincing  
 8 evidence.

9       This motion is made on the grounds that Petitioner's nearly year-long detention at the  
 10 Northwest ICE Processing Center violates the Due Process Clause of the Fifth Amendment  
 11 because removal is not reasonably foreseeable, proceedings cannot be conducted due to the  
 12 Government's failure to secure an competent interpreter, and no statutory authority justifies  
 13 indefinite detention. Petitioner will continue to suffer irreparable harm absent relief, while the  
 14 balance of equities and the public interest strongly favor release or a bond hearing.

15       Dated: August 20, 2025

Respectfully Submitted,

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NOTICE OF MOTION FOR  
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**Petitioner's Memorandum in Support of Motion for Preliminary Injunction  
for Release from Custody or, Alternatively, a Bond Hearing**

**I. Introduction**

Petitioner Hassan Amhirra hereby moves for a preliminary injunction, pursuant to Fed. R. Civ. P. 65, ordering his immediate release from immigration custody or, alternatively, requiring an immediate bond hearing, during the pendency of his habeas corpus action. Mr. Amhirra's continued detention by U.S. Immigration and Customs Enforcement (ICE) has become unlawful and unconstitutionally prolonged. He has now been detained for nearly a year – since September 15, 2024 – and is currently detained at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington without any viable removal proceedings or final removal order in place. Removal is not reasonably foreseeable, as the Government itself has been unable to effectively initiate or pursue removal due to a fundamental language barrier. Indeed, an Immigration Judge terminated Mr. Amhirra's initial removal proceedings on December 13, 2024 precisely because the court could not communicate with him in his only language (a regional dialect of Tamazight), making it impossible to proceed without violating due process. *See* Ex. A, IJ Order.

In the eight months following that termination, the Department of Homeland Security (DHS) took no meaningful action to remove Mr. Amhirra or restart his case. Only on July 17, 2025, immediately after Mr. Amirrah sought a custody redetermination before the Immigration Court, did DHS belatedly reinstate removal proceedings by issuing a new charging document. *See* Ex. B, IJ Custody Redetermination Order; *see also* Ex. C, Second Notice to Appear. This attempt, however, has not cured the problem. On July 18, 2025, Mr. Amhirra moved to terminate the refiled proceedings based on the same due process violation (the lack of a dialect specific Tamazight

1 interpreter). The immigration court convened master calendar hearings on July 31, 2025 and  
2 August 18, 2025, but in both instances was unable to locate a Tamazight interpreter who could  
3 efficiently communicate with the respondent. In other words, despite the Government's knowing  
4 attempt to move forward, the fundamental language barrier remains unresolved. No functional  
5 removal process is in place, and the Petitioner continues to be held in legal limbo – indefinitely  
6 detained without a viable path to removal, without any final order, and without any meaningful  
7 proceeding to resolve his case.

8 Under these extraordinary circumstances, Mr. Amhirra's ongoing detention lacks any lawful  
9 basis and violates due process. Removal is not remotely foreseeable, and no statutory authority  
10 permits holding him in limbo under conditions that make removal impossible. Petitioner is  
11 therefore likely to succeed on the merits of his habeas claims. He is suffering irreparable harm  
12 with each day he remains in custody without justification, far beyond the "presumptively  
13 reasonable" six-month detention period after the initial termination of his removal proceedings.  
14 *See Zadvydas v. Davis*, 533 U.S. 678 (2001). The balance of hardships tips sharply in his favor,  
15 and the public interest is served by upholding the Constitution and preventing arbitrary, indefinite  
16 detention.

17 For these reasons, the Petitioner respectfully requests that this Court enjoin the Government  
18 from continuing to detain him and order his immediate release. In the alternative, the Court should  
19 order that he be given a prompt bond hearing before a neutral decision-maker with the Government  
20 bearing the burden of proof, as required by due process. Petitioner meets all the requirements for  
21 preliminary injunctive relief. Given the urgent and ongoing harm, he asks that the Court grant the  
22 requested preliminary injunction to secure his release (or an immediate bond hearing) while this  
23 habeas action is resolved on the merits.

## II. Factual Background

### A. Prolonged Detention with No Viable Removal Proceedings

Petitioner Amhirra is native of Morocco who fled to the United States seeking protection. He has been detained in ICE custody since September 15, 2024. Despite detaining him for nearly a year, DHS has been unable conduct any meaningful removal process against him. The sole reason is that the Executive Office of Immigration Review (Immigration Court) is unable to secure a Tamazight interpreter who can speak and understand the Aulouz dialect, which is the only language Petitioner understands. No credible fear interview, asylum merits hearing, or other removal proceeding processes have been completed because the relevant government agencies cannot communicate with Mr. Amhirra in a language he comprehends. In other words, through no fault of Mr. Amhirra, the Government literally cannot even explain the removal charges or process to him, rendering any such proceedings constitutionally void. *See Go v. Holder*, 640 F.3d 1047, 1055 (9th Cir. 2011) (holding the Constitution guarantees due process in immigration proceedings); *see also He v. Ashcroft*, 328 f.3d 593, 598 (9th Cir. 2003) (requiring competent translation in removal proceedings).

By December 2024 – after Petitioner had languished in custody for three months with zero progress on his case – the impasse became untenable. On December 13, 2024, the Immigration Judge (IJ) convened a hearing in Mr. Amhirra’s removal case, only to confirm that the court still had no interpreter available. Recognizing that continuing under these conditions would violate due process, the IJ terminated the removal proceedings. *See Ex. A*. In the written termination order, the IJ expressly noted that proceeding without interpretation in a language Mr. Amhirra understands was impossible without denying fundamental fairness. The termination was entered without

1 prejudice, meaning DHS could theoretically re-initiate removal proceedings in the future if it  
2 became able to do so in a fair manner (for example, by obtaining a qualified Tamazight interpreter).

3 **B. No Progress Toward Removal – Proceedings Remain at a Standstill**

4 In the many months that followed the IJ's termination order, ICE made no progress toward  
5 removing Petitioner or reopening his case. For over half a year, ICE did not refile charges or  
6 otherwise advance any removal efforts. There was no indication that an appropriate interpreter had  
7 been found, nor any sign of progress in obtaining travel documents to remove Mr. Amhirra to  
8 Morocco. As a result, Mr. Amhirra remained in custody in a legal limbo – neither subject to an  
9 active removal case nor a final order of removal. In fact, as of the filing of his habeas Petition on  
10 July 17, 2025, more than seven months had elapsed since the proceedings were terminated, yet his  
11 detention continued with no end in sight. ICE provided no evidence during that time that removal  
12 had become imminent or even likely in the reasonably foreseeable future. To the contrary, all signs  
13 indicated that Mr. Amhirra could not be removed in any reasonable timeframe, given the  
14 Government's inability to even communicate with him to complete the requisite fear screening or  
15 Immigration Court processes.

16 Faced with Mr. Amhirra's request for custody redetermination, ICE finally attempted to  
17 revive the removal process – but its efforts only underscored the ongoing impasse. On July 17,  
18 2025, DHS issued a new Notice to Appear and reinitiated removal proceedings against Petitioner.  
19 Mr. Amhirra, through counsel, filed a motion to terminate those proceedings, citing the due process  
20 violations inherent in proceeding without a qualified interpreter. The immigration court then  
21 scheduled two master calendar hearings to move the case forward, but both attempts failed for lack  
22 of interpretation. On July 31, 2025, the IJ convened a hearing, but no Tamazight interpreter was  
23 available; the IJ was unable to communicate with the Respondent and had to continue the matter.

1 The same scenario repeated on August 18, 2025 – once again, no interpreter that could  
2 communicate efficiently with the respondent be secured, and the hearing could not go forward in  
3 any substantive way. In sum, ICE’s belated reinitiation of removal proceedings has not remedied  
4 the fundamental barrier to prosecuting the case. To date, there is still no functional removal  
5 proceeding against Mr. Amhirra. He remains detained with no ability for the court to communicate  
6 with him, no way to adjudicate his case and proceed to a final removal order authorizing his  
7 removal.<sup>533</sup>

### 8 **C. No Basis in Statute or Security Rationale for Continued Detention**

9 Because Petitioner has no final removal order, he is not within the post-removal detention  
10 period governed by 8 U.S.C. § 1231. And because his prior removal case was terminated (and his  
11 reinitiated case remains effectively stalled), he was for a lengthy period not detained pursuant to  
12 the pre-removal authority of 8 U.S.C. § 1226 either. In short, for most of his custody there was no  
13 immigration detention statute that explicitly authorized Mr. Amhirra’s ongoing confinement. Even  
14 now, ICE’s nominal reopening of proceedings has not provided any legitimate footing to hold  
15 Petitioner under these extraordinary circumstances. ICE appears simply to be holding Mr. Amhirra  
16 by default, without any clear legal authority or timeline – a detention divorced from the purposes  
17 of the immigration laws. *See Zadvydas*, 533 U.S. at 682 (holding that the indefinite immigration  
18 detention of aliens raise serious constitutional concerns).

19 Civil immigration detention is meant to facilitate removal (by preventing flight or danger  
20 during a brief removal process), not to institutionalize, punish, or indefinitely warehouse  
21 noncitizens when removal cannot be effectuated. In this case, ICE’s inability to proceed has  
22 severed the rationale for custody. Mr. Amhirra has no criminal history in the United States, and  
23 there is no evidence that he poses any danger to the community. Indeed, because he has never been

1 released from custody, he has never had an opportunity to be on supervision; there is no indication  
2 that he would fail to comply with reasonable conditions of release. Any theoretical flight risk in  
3 his case is exceedingly low, especially given that flight risk is minimal where removal itself seems  
4 a remote possibility. Despite the lack of any progress toward removal or any evidence of danger,  
5 ICE refuses to release Petitioner or even to provide him an opportunity to contest his continued  
6 detention. Mr. Amhirra requested a bond hearing in immigration court, but on July 16, 2025 the IJ  
7 denied that request for lack of jurisdiction – since at that time no case was pending. As a result,  
8 Mr. Amhirra has had no hearing whatsoever to determine if his prolonged detention is justified.  
9 He has now spent almost a year in jail-like confinement solely due to administrative inertia and  
10 DHS’s inability to carry out removal. What began as civil detention has morphed into indefinite  
11 imprisonment, in clear violation of due process.

12 Numerous courts – including courts in this District – have recognized that such prolonged  
13 immigration detention, without a realistic prospect of removal or a bond hearing, will – at some  
14 point – violate the right to due process. *See Martinez v. Clark*, No. 18-CV-01669-RAJ, 2019 WL  
15 5962685, at \*1 (W.D. Wash. Nov. 13, 2019), *rev’d on other grounds*, 36 F.4th 1078 (9th Cir. 2022).  
16 Petitioner has undoubtedly passed that point. He is being held indefinitely with no end in sight and  
17 no legal justification.

### 18 **III. Legal Standards**

19 ***Preliminary Injunction.*** To obtain a preliminary injunction, a petitioner must demonstrate: (1)  
20 a likelihood of success on the merits of his claims; (2) that he is likely to suffer irreparable harm  
21 in the absence of injunctive relief; (3) that the balance of equities (hardships) tips in his favor; and  
22 (4) that an injunction is in the public interest. *See Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20

(2008). In the Ninth Circuit, these factors are applied on a “sliding scale”: a particularly strong showing on one factor (e.g. extreme hardship or a serious merits question) can compensate for a lesser showing on another, so long as irreparable harm is present. *See Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011). Here, Petitioner satisfies all four elements. Indeed, this case presents a paradigmatic situation warranting immediate injunctive relief: a person’s core liberty interest is at stake, the detention is patently unlawful under binding precedent, and every additional day in custody constitutes irreparable constitutional and human harm.

***Due Process and Prolonged Detention: The Banda Test.*** In addition, courts in this District apply the Banda test to evaluate whether immigration detention has become unconstitutionally prolonged. *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1105–06 (W.D. Wash. 2019). Under *Banda*, courts consider: (1) the total length of detention to date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays attributable to the parties; and (5) the likelihood that proceedings will culminate in a final removal order. This is a fact-specific inquiry to ensure detention remains reasonably related to its purpose of effectuating removal. If detention becomes excessive relative to its purpose, it violates due process. *Id.* at 1106 (citing *Zadvydas v. Davis*, 533 U.S. 678 (2001)).

#### **IV. Argument**

##### **A. Likelihood of Success on the Merits**

Petitioner is in custody in violation of the Constitution or laws of the United States and is likely to prevail on the merits of his habeas claims. His detention has become prolonged and arbitrary, lacking constitutional due process protections. The record overwhelmingly supports relief.

1 The Fifth Amendment’s Due Process Clause guarantees that no person may be deprived of  
2 liberty without due process of law. This fundamental protection applies to noncitizens like  
3 Petitioner just as it does to citizens. Petitioner’s nearly year-long detention, with no hearing and  
4 no realistic end point, runs afoul of due process. Courts in this District, and across the country,  
5 have widely recognized that such prolonged immigration detention without a bond hearing “will  
6 – at some point – violate the right to due process.” *See Martinez, No. C18-1669-RAJ-MAT, 2019*  
7 *LX 57468, at \*17* (collecting cases).

8 While there is no bright-line duration that marks the constitutional limit, the Ninth Circuit has  
9 expressed “grave doubts that any statute that allows for arbitrary prolonged detention without any  
10 process is constitutional.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018). In the wake of  
11 the Supreme Court’s decision in *Jennings v. Rodriguez*, which left open the constitutional question,  
12 district courts have grappled with how to assess due process challenges to prolonged detention.  
13 Nearly all have agreed that at a certain point, continued detention without a bond hearing becomes  
14 unconstitutional. Petitioner’s case has reached that point.

15 In the Western District of Washington, courts commonly apply the six-factor test from *Banda*  
16 *v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019), to evaluate when prolonged detention  
17 violates due process. Under this “Banda test,” the court considers: (1) the total length of detention  
18 to date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays in the  
19 removal proceedings caused by the detainee; (5) delays caused by the government; and (6) the  
20 likelihood that the removal proceedings will result in a final removal order. *Id.* No single factor is  
21 dispositive; rather, the court evaluates them collectively to determine whether detention has  
22 become unreasonably prolonged such that due process requires a bond hearing or release. Applying

these factors here demonstrates that Mr. Amhirra's detention is precisely the kind of prolonged, arbitrary incarceration that due process forbids:

***Length of Detention:*** Petitioner has been detained for approximately 11 months (since mid-September 2024) and counting. This duration approaches the range that other courts in this district have deemed unconstitutional. *See Ashemuke v. ICE Field Off. Dir.*, No. C23-1592-RSL-MLP, 2024 U.S. Dist. LEXIS 73224, 2024 WL 1683797, at \*4 (W.D. Wash. Feb. 29, 2024), *report and recommendation adopted*, No. C23-1592-RSL, 2024 U.S. Dist. LEXIS 71164, 2024 WL 1676681 (W.D. Wash. Apr. 18, 2024) (eleven months); *see also Rahman v. Garland*, No. 2:24-CV-02132-JHC-TLF, 2025 U.S. Dist. LEXIS 133500, 2025 WL 1920341, at \*3 (W.D. Wash. June 26, 2025), *report and recommendation adopted sub nom.*, No. 2:24-CV-02132-JHC-TLF, 2025 U.S. Dist. LEXIS 132410, 2025 WL 1919252 (W.D. Wash. July 11, 2025) (twelve months). The length of the Mr. Ahmirra's detention coupled with the unique circumstances here make 11 months exceptionally severe: throughout this time, Petitioner's case has *never even progressed beyond preliminary stages* due to the interpreter issue. He has essentially been held in administrative purgatory, which amplifies the due process concerns. Every additional day in custody without a path forward compounds the constitutional injury. This factor weighs decisively in Plaintiff's favor.

***Likely Duration of Future Detention.*** Second, the Court "considers how long the detention is likely to continue absent judicial intervention; in other words, the 'anticipated duration of all removal proceedings—including administrative and judicial appeals.'" *Banda*, 385 F. Supp. 3d at 1119 (citation omitted). Here, the future detention period is indefinite. There is no reason to believe that removal proceedings will be able to proceed given the interpretation issues and the previous

Immigration Judge's order that the case could not proceed without competent interpretation. In the

seven weeks since the government has reinitiated removal proceedings, two hearing dates have come and gone with no viable interpretation. The Government has offered no timeline or assurance of when, or if, an interpreter with proficiency in the regional dialect spoken and understood by Mr. Amhirra will be secured. If proceedings cannot move forward, Mr. Amhirra could languish for years in detention without progress in his removal proceedings. In short, there is no clear end in sight, which strongly favors Petitioner – prolonged detention with no defined endpoint is exactly what due process prohibits. *See generally Zadvydas*, 533 U.S. 678.

***Conditions of Detention.*** Petitioner is held in a secure immigration detention center (NWIPC) that is essentially equivalent to a jail. He lives in prison-like conditions with significant liberty restrictions. As courts have found, detention conditions at NWIPC are "similar . . . to those in many prisons and jails." *See Maliwat v. Scott*, No. 2:25-cv-00788-TMC, 2025 LX 396826, at \*15 (W.D. Wash. Aug. 7, 2025) (collecting cases). Courts recognize that the more that the conditions under which the non-citizen is being held resemble penal confinement, the stronger the argument that he is entitled to a bond hearing. *See Id.* Here, Mr. Amhirra has endured nearly a year in such confinement. This factor thus bolsters his due process claim – civil detention has effectively become punitive imprisonment in his case.

***Delays Caused by Parties.*** *Banda* instructs the Court to consider delays caused by the parties— together. *Banda*, 385 F. Supp. 3d at 1119 (highlighting delays as the fourth and fifth factors); *see also Doe*, 2024 U.S. Dist. LEXIS 102019, 2024 WL 3291033, at \*12. Here, Mr. Amhirra has not meaningfully delayed his proceedings. To the contrary, he is desperate for a resolution. The only action he has taken that might be considered a “delay” is filing a motion to terminate the new proceedings – a motion that asserts his fundamental rights and the Government’s own failure to be ready. He cannot be faulted for invoking due process; indeed, the initial case was terminated by

1 the IJ *sua sponte* for the same reasons. Petitioner has complied with all procedures and has not  
2 sought excessive continuances or otherwise stretched out his case.

3 Conversely, all delay in Mr. Amhirra's case is attributable to the Government's inability to  
4 provide interpretation, as constitutionally required, or otherwise prosecute the case. The  
5 Government has had a full year to secure an interpreter or arrange an alternative, yet has failed to  
6 do so. In *Banda*, the court noted that delays "caused by the government" – for example, *failure to*  
7 *secure an interpreter* – weigh in favor of the petitioner's due process claim. Likewise here, the  
8 entire cause of the delay is the Government's linguistic unpreparedness. Even after termination,  
9 DHS chose to keep detaining Petitioner without fixing the problem. This factor strongly favors  
10 Petitioner: the Government cannot detain someone indefinitely when the Government's own  
11 failures are what prevent the case from moving forward.

12 ***Likelihood of Removal Outcome.*** It is unlikely that Mr. Amhirra will ultimately be removed.  
13 In fact, because of the interpretation issues, removability has not been found in Mr. Amhirra's case.  
14 He came to the U.S. to seek asylum or other protection and intends to pursue this application.  
15 However, if the Immigration Court cannot procure a competent court appointed interpreter,  
16 removal proceedings cannot proceed. Thus, continued categorical detention is not justified by an  
17 any chance of removal, much less imminent deportation. Given his lack of criminal history and  
18 the posture of his removal proceedings, it is entirely possible his removal proceedings will again  
19 be terminated. This undermines any notion that his prolonged detention is serving the immigration  
20 system's needs. In fact, detaining him now does nothing to further removal – it only punishes him  
21 while his case cannot proceed.

22 Considering all these factors together, Petitioner's continued detention is plainly unreasonable  
23 and unconstitutional. Nearly every *Banda* factor weighs in his favor (and certainly none weigh

1 against him in any significant way). The totality of circumstances – an 11-month (and growing)  
2 detention with no hearing, no translation, no progress, and no end in sight – offend fundamental  
3 due process. If this situation does not violate due process, it is hard to imagine what would.  
4 Petitioner is therefore likely to succeed on the merits of his Fifth Amendment claim. At the very  
5 least, he has raised serious questions going to the merits of this claim, given the extreme and  
6 unprecedented facts.

7 In addition, Petitioner is likely to succeed on his claim that his ongoing detention lacks any  
8 statutory authority and thus violates the law. As noted, Mr. Amhirra is not currently covered by the  
9 usual immigration detention statutes. He has no final order (so 8 U.S.C. § 1231's post-removal-  
10 order detention provision is inapplicable), and his original removal case was terminated (so ICE  
11 cannot rely on 8 U.S.C. § 1226 pending a live proceeding). DHS's decision to keep holding him is  
12 *ultra vires* – essentially detention by bureaucratic inertia rather than by law. The Supreme Court  
13 has made clear that immigration detention is permissible only as authorized by statute, within  
14 constitutional bounds. Here, ICE has exceeded its authority by detaining Petitioner outside the  
15 scope of any statute. This legal violation bolsters Petitioner's likelihood of success. In similar  
16 *Zadvydas v. Davis*, 533 U.S. 678 (2001), which established a presumptive 6-month limit for post-  
17 order detention absent removal in sight). By *a fortiori* reasoning, if six months is the reasonable  
18 limit when a final removal order does exist, then detaining someone for well over six months when  
19 there is not even an active removal case is plainly unlawful. Petitioner's detention has long passed  
20 that point and fails *Zadvydas*' test for reasonableness. Thus, Petitioner is likely to prevail in  
21 showing that his continued detention violates both due process and the statutory scheme.

22 Finally, because Petitioner seeks a mandatory injunction, the Court should note that he has  
23 met the higher "clear entitlement" standard as well. The facts and law clearly favor Petitioner's

position. No conceivable public interest is served by keeping him locked up in these circumstances, and every relevant legal principle (from basic due process, to the *Banda* factors, to the presumptive limits on detention) supports relief. In sum, Petitioner has a very high likelihood of success on the merits of his claims. At minimum, he has shown serious and substantial questions going to the merits, combined with a sharply favorable balance of hardships, which satisfies the Ninth Circuit's alternate test for preliminary relief. *See Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011).

### **B. Irreparable Harm Absent Relief**

Every day that Petitioner remains in unlawful detention inflicts irreparable harm. Loss of liberty for even a short period is a quintessential form of irreparable injury, as it cannot be adequately remedied by monetary damages after the fact. Here, Mr. Amhirra has already lost nearly eleven months of freedom, time that can never be returned to him. Worse, there is no end point in sight – without court intervention, he faces the prospect of being imprisoned indefinitely, causing ever-greater damage to his life and well-being. The injury is immediate and continuing: each additional day behind bars is irreparable harm to Petitioner. No later award or after-the-fact remedy could ever compensate for the loss of his freedom and the profound personal suffering caused by indefinite confinement.

Moreover, prolonged civil detention inflicts harms beyond the mere passage of time. It exacts a serious toll on a person's mental and physical health, family relationships, and overall life prospects. These harms compound as detention drags on. And in a case like this – where detention should never have continued this long to begin with – the harm of being jailed without cause is per se irreparable. Courts routinely recognize irreparable harm in cases of unlawful detention or

1 imprisonment, since the loss of liberty for any period constitutes irreparable injury. This case is no  
2 exception; in fact, it is an especially strong example. Petitioner has been in custody far longer than  
3 the vast majority of immigration detainees at a similar stage of proceedings, with no end in sight.  
4 Absent judicial relief, he could remain in custody for many more months (or even years) without  
5 progress – a harm of incalculable magnitude. Accordingly, the irreparable harm factor is clearly  
6 satisfied. Petitioner’s ongoing detention is exactly the type of injury that preliminary injunctive  
7 relief is intended to prevent.

### 8 **C. Balance of Equities**

9 The balance of hardships in this case tips decidedly in Petitioner’s favor. Mr. Amhirra faces  
10 a grave and personal hardship if injunctive relief is denied: he will continue to be unjustifiably  
11 incarcerated, losing precious time and freedom, and suffering the myriad harms described above.  
12 On the other hand, the Government would face minimal, if any, harm from the requested relief.  
13 Releasing Petitioner (or granting him a bond hearing) would not undermine any valid  
14 governmental interest at this point. As discussed, Petitioner has no criminal record and no history  
15 of violence. There is no indication that he poses a danger to the community. ICE’s own  
16 justifications for detention – preventing danger or flight risk during the removal process – carry  
17 little weight here because removal is not foreseeable and Petitioner has every incentive to comply  
18 with legal processes in order to obtain protection. Any speculative risk can be mitigated through  
19 appropriate release conditions (such as check-ins, GPS monitoring, or other supervision), which  
20 Petitioner is willing to undergo.

21 In contrast to Petitioner’s concrete and significant harm, the Government’s “harm” from  
22 releasing him or simply holding a bond hearing is negligible. DHS has no legitimate interest in  
23 detaining individuals for detention’s sake, particularly when removal cannot be effectuated. The

administrative burden of a bond hearing is minor – the Government regularly conducts such hearings as part of normal procedure. If released, Petitioner can be required to report to ICE or abide by conditions, preserving the Government’s ability to monitor him. The public safety or flight concerns that might normally weigh in the balance are either absent or extremely low in Petitioner’s case – certainly not enough to outweigh his dire personal harm. Keeping Petitioner jailed serves no useful purpose; it does not bring him any closer to removal or meaningfully enhance community safety given the unique circumstances. On the equities, it is essentially Petitioner’s fundamental liberty versus the Government’s preference to detain someone whom it currently cannot remove or process. The scales are not close. Courts in similar cases have found that the balance of hardships favors detainees challenging prolonged detention, because the hardship to the individual (loss of freedom) far exceeds any administrative inconvenience to the Government. That is manifestly true here. Releasing Petitioner (or granting a hearing) would simply maintain the status quo of public safety – with appropriate conditions, he would reside in the community just like countless other asylum seekers do while their cases are being resolved. The Government, for its part, loses nothing except the ability to detain someone where it has no good reason to do so. Equity favors preventing unjustified incarceration. Thus, this factor strongly supports injunctive relief.

#### **D. Public Interest**

Finally, the public interest strongly favors granting the requested injunction. It is always in the public interest to uphold the Constitution and to ensure that government agencies act within the bounds of the law. Here, that means preventing DHS from subjecting a person to indefinite, unlawful detention. The public has no interest in the continued detention of a non-dangerous

1 individual who cannot be removed and who is being held in clear violation of the law. To the  
2 contrary, the public interest is served when individual liberty is protected against arbitrary  
3 government action. As the Ninth Circuit has noted, the public has a powerful interest in securing  
4 the freedoms guaranteed by the Constitution. See *Sammartano v. First Judicial Dist. Court*, 303  
5 F.3d 959, 974 (9th Cir. 2002) (collecting cases). Releasing Petitioner – or at least affording him a  
6 bond hearing – advances that interest by safeguarding due process and the rule of law.

7       There is also a practical public interest in not needlessly spending government resources to  
8 detain someone who poses no threat and cannot be deported anytime soon. Prolonged detention is  
9 costly to taxpayers and burdensome on the detention system. If no legitimate end is being served  
10 by Petitioner’s detention (as here), the public is better served by conserving resources and allowing  
11 the individual to live freely (under supervision if necessary) pending any future developments in  
12 his case. Moreover, granting relief in this case poses no public safety risk: as noted, Petitioner has  
13 no criminal record and there is no evidence of dangerousness. The public interest in community  
14 safety can be fully protected through less restrictive means short of imprisonment, if even needed.  
15 On the flip side, denying relief would undercut public confidence in the fairness of our legal  
16 system, by effectively tolerating an ongoing due process violation and an unlawful deprivation of  
17 liberty. In sum, the public interest aligns with Petitioner’s interest. Upholding constitutional due  
18 process values, preventing unlawful detention, and treating a civil detainee humanely and lawfully  
19 are all public goods. No countervailing public interest would be served by keeping Mr. Amhirra  
20 jailed without cause. Therefore, this final factor also favors issuance of the injunction.

## 21       **V. Conclusion**

1 All four preliminary-injunction factors are satisfied in this case. The petitioner has  
 2 demonstrated a clear likelihood of success on the merits of his claim that his ongoing detention is  
 3 unauthorized and unconstitutional under *Zadvydas*, *Mathews*, and relevant case law. He is  
 4 suffering irreparable harm each day that he remains confined in this legal limbo. The balance of  
 5 hardships is overwhelmingly in his favor, as his liberty is at stake while the Government has no  
 6 valid interest in continued detention. And the public interest is served by releasing him or at least  
 7 according him the due process of a bond hearing. Petitioner does not lightly seek injunctive relief,  
 8 but his situation is extraordinary and urgent – he is being held without lawful basis and without  
 9 process, potentially indefinitely. The Court’s intervention is his only avenue for relief.

10 Accordingly, Petitioner respectfully requests that the Court GRANT this motion and issue a  
 11 Preliminary Injunction ordering his immediate release from ICE custody. In the alternative, the  
 12 Court should order Respondents to provide Petitioner with an expedited bond/custody hearing by  
 13 a date certain (within the next 14 days) before an immigration judge or other neutral adjudicator,  
 14 at which the Government bears the burden to justify any further detention by clear and convincing  
 15 evidence. If the Government cannot meet that burden, Petitioner should be released on appropriate  
 16 conditions. Petitioner further requests that the Court enjoin Respondents (and their agents) from  
 17 continuing to detain Petitioner without a lawful basis. In practical terms, this means that absent a  
 18 viable removal proceeding or other valid authority, Petitioner cannot be re-detained on the same  
 19 facts once released. For all the above reasons, Petitioner asks that the Court grant the requested  
 20 relief. A proposed order is submitted herewith.

21 Dated: August 20, 2025

Respectfully Submitted,

22 /s/ Rafael Ureña  
 23 Rafael Ureña, Esq.  
 Phone: (703) 989-4424

24 MEMORANDUM IN SUPPORT OF  
 MOTION FOR PRELIMINARY  
 INJUNCTION

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**Certificate of Service**

I hereby certify that on August 20, 2025, I electronically filed the foregoing Motion for Preliminary Injunction (and proposed order) with the Clerk of the Court using the CM/ECF system. Service of the motion is being made upon all Respondents by electronic mail and by operation of the Court's ECF notification system to Respondents' counsel of record.

Dated: August 20, 2025

Respectfully Submitted,

/s/ Rafael Ureña

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