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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Juan Edelmar ALVA ALVA,

Petitioner,

v.

Polly KAISER, Acting Field Office Director of the San Francisco Immigration and Customs Enforcement Office; Todd LYONS, Acting Director of United States Immigration and Customs Enforcement; Kristi NOEM, Secretary of the United States Department of Homeland Security, Pamela BONDI, Attorney General of the United States, acting in their official capacities,

Respondents.

Case No. 3:25-cv-6676

REPLY BRIEF IN SUPPORT OF A PRELIMINARY INJUNCTION, AND IN FURTHER SUPPORT OF THE HABEAS PETITION

Date: August 21, 2025
Time: 1:00 p.m.
Courtroom: 15, 18th Floor
Hon. Rita F. Lin

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INTRODUCTION

Juan Edelmar Alva Alva ("Mr. Alva" or "Petitioner") now replies to Respondents' Response and provides further support of his habeas petition.[1] Respondents contend that the Supreme Court has upheld detention of noncitizens pending removal. Response at 1. They ignore that this case presents an as-applied challenge, in which Mr. Alva, a husband and father who came to the United States seeking safety for himself and his young daughter, was released by the Department of Homeland Security (DHS) seven years ago. In 2018, after finding that he was neither a danger to the community nor a flight risk, DHS allowed him to leave their custody on an order of supervision. Respondents do not contend that since then, he has become either a danger or a flight risk. Respondents say that Mr. Alva should now be detained because his removal is "reasonably foreseeable," but he has already exercised his right to seek immigration judge (IJ) review of his negative fear finding and intends to seek further review before the Ninth Circuit Court of Appeals, if necessary. These proceedings can all take place while Mr. Alva is out of custody, living as a productive member of the community, and caring for his family—as he has been for the past seven years. Despite Respondents' assurance that IJ review will happen in "a matter of days," Mr. Alva requested IJ review on Aug. 6, 2025, shortly before being detained by Respondents and to date, neither he nor his attorney have received a date to appear in immigration court for this review. Moreover, review by the Ninth Circuit Court of appeals may take a significant amount of time. Respondents cannot effectuate Mr. Alva's removal from the United States until he exhausts his remedies at the IJ and Ninth Circuit levels, nevertheless they seek to detain him to some uncertain future date that could be many months in the future.

Respondents attempt to diminish Mr. Alva's liberty interest by delving into his immigration history, his past removal order,[2] and a conviction for illegal reentry to the United

[1] Since Respondents answered the habeas petition and opposed a preliminary injunction in their Response, Petitioner replies in further support of the habeas petition as well.

[2] Respondents' contention that Petitioner made only a "passing reference" to his past removal order misses the mark. His petition mentions this fact up front in the first paragraph and clearly states he is ineligible for asylum based on past removal orders. *See* Petition at 1 and Memo. of Points and Authorities supporting TRO at 9. He refers throughout his papers to his reasonable fear interview, which is only offered to immigrants who are ineligible for asylum due to a past removal order.

States in 2017, [3] but they knew about *all* of these factors when they released him from custody in 2018, finding that he posed neither a flight risk or danger to the community. Indeed, Respondents do not argue that he is a danger to the community now, and case law does not support a lessened liberty interest for a person in Mr. Alva's procedural posture. Rather, where the government grants a person release from custody, whether on parole or an order of supervision they "form the … enduring attachments of normal life," *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), and the liberty interest that arises is inherent in the Due Process Clause.

ARGUMENT

The standards for issuing a preliminary injunction and a temporary restraining order are "substantially identical." *See Galindo Arzate v. Kaiser*, No. 25-CV-00942, 2025 WL 2230521, *3 (E.D. Cal. Aug. 4, 2025) (citing *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)) (noting the analysis for issuing a temporary restraining order and a preliminary injunction is substantially the same). To warrant a preliminary injunction, a movant must show (1) they are "likely to succeed on the merits," (2) they are "likely to suffer irreparable harm in the absence of preliminary relief," (3) "the balance of equities tips in [their] favor," and that (4) "an injunction is in the public interest." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)); *see Stuhlbarg Int'l Sales Co.*, 240 F.3d at 839 n.7 Even if the movant raises only "serious questions" as to the merits of their claims, the court can grant relief if the balance of hardships tips "sharply" in their favor. *All. for the Wild Rockies*, 632 F.3d at 1135. All factors here weigh decisively in Mr. Alva's favor.

[3] Respondents provided a Federal Bureau of Investigations background check for Mr. Alva with their Response, and it contains a 2017 disposition for 8 U.S.C. §1325 illegal entry, misdemeanor, with 30 days confinement. *See* Exh. 9, p. 38 to Decl. Deportation Off. Thomas Auer ECF 11-1. Respondents refer to other "convictions" for traffic violations, but this is unsupported by the FBI background provided. Notably, there is no disposition listed for a 2009 misdemeanor traffic arrest, which does not confirm a conviction. As such, only one misdemeanor conviction for an immigration violation can be tentatively confirmed. Only a copy of the criminal court documents can fully confirm any past convictions.

RESPONDENTS DO NOT SERIOUSLY CONTEST THAT PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.

PETITIONER'S DETENTION, AS APPLIED HERE, VIOLATES HIS DUE PROCESS RIGHTS

Mr. Alva is likely to prevail on his claim because the Respondents cannot show that his detention comports with due process. Respondents argue, in essence, that because immigration detention has been *facially* upheld by the Supreme Court, that it is lawful as applied to Mr. Alva. However, "[c]ivil immigration detention, which is 'nonpunitive in purpose and effect[,]' is justified *only* when a noncitizen presents a risk of flight or danger to the community" and where an immigrant has been previously released by immigration officials, any allegation that this has changed materially must be evaluated by a neutral decision maker before he can be re-detained. *See Galindo Arzate*, 2025 WL 2330521, at * 5 (emphasis supplied) (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)). 'The root requirement of the Due Process Clause is that an individual be given an opportunity for a hearing before he is deprived any significant protected interest." *See id.* (internal quotations omitted) (*citing Cleveland Bd. of Education v. Loudermill*, 470 U.S. 532, 542 (1985), *see also Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, *4 (Mar. 1, 2021) (*citing Ortega v. Bonnar*, 415 F.Supp. 3d 963 (N.D. Cal. 2019) and *Ortiz Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (granting petitioner's request for a temporary restraining order against re-arrest by ICE without a pre-deprivation hearing).

Courts have considered situations like Mr. Alva's in which a noncitizen is released by ICE on an order of supervision and decided that this "suggests he was determined not to present a flight risk" or a danger. *See Ortega v. Kaiser*, 25-CV-05259-JST, 2025 WL 2243616, *6-7 (N.D. Cal. Jun. 26, 2025) (*citing Tadros v. Noem*, No. 25-CV-04108, Order (D.N.J. Jun. 17, 2025) (granting habeas petition). As the courts found in those cases, Mr. Alva's release on an order of supervision, gives rise to a liberty interest that cannot be taken away without procedural protections.

Here, in 2018, Mr. Alva was previously released after DHS declined to remove him and instead placed him on an order of supervision. *See* Gutierrez Decl. at ¶¶ 7-8, ECF 2-1. Mr. Alva has materially complied with his order of supervision and ICE does not cite any alleged missed appointment as being the basis for his current re-detention and could not credibly do so given that

it allegedly occurred years ago[4] and he has since been in full compliance. *See Galindo Arzate, 2025 WL 223052*, at *5 (*citing Doe v. Becerra*, No. 25-CV-00647-DJC-DMC, 2025 WL 691664, at *5 (E.D. Cal. Mar. 3, 2025) (finding that an IJ's prior "evaluation that petitioner was not a flight risk or danger had 'largely been borne out' because petitioner had only been arrested for a misdemeanor in the interim.'"). He then appeared at his scheduled reasonable fear interview on Aug. 6, 2025, after which he was detained. The government has fingerprinted Mr. Alva at every encounter with immigration officials and would have known about his past entries to the United States, his 2013 misdemeanor conviction for illegal reentry, and his past removal orders. Nevertheless, after his last entry to the country in 2018, DHS declined to remove him and instead released him on an order of supervision. Respondents do not argue that there has been any material change in circumstances warranting his re-arrest. Therefore, Mr. Alva has a procedural due process right to bond hearing before a neutral arbiter before any new detention.

PETITIONER'S LIBERTY INTEREST ARISES FROM HIS RELEASE BY IMMIGRATION AUTHORITIES AND IS NOT DIMINISHED BY HIS HISTORY OR STATUS.

Respondents try to dimmish Mr. Alva's liberty interest based on his immigration history and status as a person with a reinstated removal order. *See* Response at 6-7. However, Mr. Alva's liberty interest arises from his release on parole by DHS in 2018. Even a parolee who is released by the government in error has a constitutionally protected liberty interest that entitles him to due process before he is re-incarcerated. *See Hurd v. D.C., Gov't*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("The Supreme Court has repeaetedly held that in at least some circumstances, a person who is in fact free of physical confienment – even if that freedon is lawfully revocable – has a liberty interest that entitles him to constitutional due process before he is re-incarcerated.") (*citing Young v. Harper*, 520 U.S. 143, 152 (1997), *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973), and *Morrissey v. Brewer*, 408 U.S. 47, 482 (1972)).

[4] Officer Auer's declaration alleges Petitioner missed an appointment in 2022 but that is not borne out by Petitioner's order of supervision, which shows that he attended 10 of 11 scheduled appointments with ICE since 2018. It's possible that he may have missed an appointment in 2019, before he was represented by undersigned counsel, but it is also possible that Mr. Alva appeared that day at a different time than was scheduled, prompting the ICE officer at check-in that day to write "no show" on Mr. Alva's check in paper, though in reality, he had to have shown up in person for an officer to write anything on his paper.

Respondents do not argue Mr. Alva was erronesouly released but say that he was released, rather than removed, due to a "lack of detention space[.]" Response at 2. But the government would have had Mr. Alva's fingerprints on file then and would therefore have been fully apprised of his past entries to the United States, his past removal orders, and his conviction for illegal reentry. They government's interest in detaining him now, after seven years, is itself diminished when they delay in detaining him. In *Ortega v. Kaiser*, a decision from this district, the court held that even where the petitioner had extensive criminal history in his past, of which the government was fully apprised when it released him, his re-deetention years later at an ICE appointment would likely violate his "protectable liberty interest in remaining out of custody on bond pending further immigration proceedings." *See Ortega*, 2025 WL 2243616, at *6 (*citing Ortiz Vargas*, 2020 WL 5074312, at *3.

Respondents contend that *Morrissey* and its progeny do not apply in the immigration detention context, but many courts in this district have expressly held the opposite. *See* Response at 7. *See Galindo Arzate,* 2025 WL 2330521, at *1, 4. ("Even where a statute allows the government to arrest and detain an individual, a protected liberty interest under the Due Process Clause may entitle the individual to procedural protections not found in the statute.") (*citing Young*, 520 U.S. at 147-49 (1997), *Morrissey*, 408 U.S. at 482, Gagnon, 411 U.S. at 782); *see also Jorge M.F.*, 2021 WL 783561at *2 (citing *Ortiz Vargas*, 2020 WL 5517277, at *2 (granting a preliminary injunction against re-arrest by ICE where petitioner had "raised serious questions going to the merits of his claim that he has a protectable liberty interest in his conditional release under [Morrissey v. Brewer, 408 U.S. 471 (1972)] and that he must be afforded a pre-deprivation hearing if respondent seek to re-arrest him."). Indeed, the Supreme Court long ago clarified that noncitizens are equally protected by the Due Process clause and the constitutional rights of people in criminal custody set the *floor* for the constitutional rights of detained noncitizens. *Mathews v. Diaz*, 426 U.S. 67, 77, 96 S. Ct. 1883, 1890, 48 L. Ed. 2d 478 (1976) ("[D]ecisions defining the constitutional rights of prisoners establish a floor for [detained noncitizens'] constitutional rights.").

Indeed, Respondents rely heavily on a case from this district called *Uc Encarnacion* to support the idea that Mr. Alva's detention won't erroneously deprive him of liberty. But *Uc*

Encarnacion itself endorses *Morrissey* as containing the guiding principle that "implicit in the parole system is the 'notion that the parolee is entitled to retain his liberty as long as he substantially abides by the conditions of his parole.'" *Uc Encarnacion v. Kaiser*, No. 22-cv-04369-CRB, 2022 WL 9496434 (N.D.Cal. Oct. 14, 2022), (*citing Morrissey* generally). There, the court expressly distinguishes Uc Encarnacion's facts from those of Morrissey by saying "[h]ere, though, Uc always knew that his release was subject to appellate review" and he could not argue that if he complied with the terms of his own release by the IJ, that he would remain free. *See id.* Thus, Respondents' claim that *Morrissey* and its progeny do not apply in the immigration detention context is wrong as a matter of law.

THE RISK THAT PETITIONER WILL AGAIN BE DETAINED AND ERRONEOUSLY DEPRIVED OF HIS LIBERTY IS HIGH.

Respondents rely on inapposite case law to support their claim that "the risk of erroneous deprivation of petitioner's liberty here is minimal." Response at 8 (citing *Rodriguez Diaz v. Garland,* 53 F.4th 1189 (9th Cir. 2022) and *Uc Encarnacion*, 2022 WL 9496434, at *4). In *Rodriguez Diaz*, the court found that the noncitizen had "requested and received a bond hearing before an immigration judge (IJ) to determine if his detention was justified" and based on extensive past criminal history, "the IJ denied release on bond." *See id.* at 1193. Similarly, in *Uc Encarnacion*, though an IJ had originally ordered him released on bond due to lack of dangerousness, the government appealed this decision, and the Board of Immigration Appeals reversed his release. *See id.* at *1. Thus, the court there held that where the petitioner knew that the government had timely appealed his release to the Board of Immigration Appeals, he therefore "was always subject to direct review and, therefore, the possibility of reversal." *See id.* at *2.

Rodriguez Diaz does not involve *re*-detention, which is at issue here, and *Uc Encarnacion* involves a timely filed government appeal of the petitioner's release, which is not at issue here. In

Mr. Alva's case, of course, he was released seven years ago by ICE on an order of supervision, which strongly implies that DHS found him not to be a risk of danger or flight risk. *See Ortega*, 2025 WL 2243616, at *6-7. His release was an agency decision that was not subject to an appeal process, nor was any kind of appeal filed, rather DHS chose to release him for as long as he substantially complied with the terms of his order of supervision. Respondents do not argue that Mr. Alva has substantially violated the terms of his order of supervision or that he's a risk of danger or flight.

Nevertheless, Respondents seek to re-detain him without due process, contending that: "Petitioner's conditional release does not somehow increase the strength of his liberty interest now, especially when his withholding-only claim has been rejected by an asylum officer." Response at 7. This contention fundamentally conflicts with recent case law holding the opposite. The decision in *Galindo Arzate* is instructive. There, the petitioner's prior removal order was reinstated by ICE and he was placed into DHS custody. *See id.* at * 1. He applied for withholding of removal and protection under the Convention Against Torture. After an IJ denied his applications, the petitioner appealed. *Id.* Then, he was conditionally released by an IJ and placed on an order of supervision with ICE. He substantially complied though he was arrested for a misdemeanor by local police and let go without charges filed. *Id.* at * 2. ICE arrested the petitioner at his next reporting check in and petitioner filed a writ of habeas corpus and a motion for a temporary restraining order. *Id.* at*3. Crucially, the court relied on *Morrissey* to find that the petitioner was likely to prevail on the merits.

> The parolee has relief on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions. The revocation of parole undoubtedly 'inflicts a grievous loss on the parolee.' Therefore, a parolee possesses a protected liberty interest in his 'continued liberty.' Petitioner's conditional release is similar. It allows him to be with his family and contribute to the community where he has spent most of his life, under certain terms of supervision. Here, the immigration judge ordered petitioner to be release on bond pending his immigration appeal. Petitioner's evidence indicates that he thereafter compiled with his release conditions. Nonetheless, the government rearrested petitioner without a new bond

> hearing before the immigration judge, which plainly contradicts the 'implicit promise that [petitioner's bond] will be revoked only if he fails to live up to the [bond] conditions.

See id. at *4 (internal quotations omitted) (*citing Morrissey*, 408 U.S. at. 482-84).

Further, Respondents claim that Mr. Alva was re-detained after his reasonable fear interview under 8 U.S.C. § 1231(a), but this is unsupported by the facts,[5] which further heightens the risk that he will be erroneously deprived of liberty in the future. The statute says that when a noncitizen is "ordered removed" he shall be removed within 90 days, which 90-day period begins on the later of (i) the date the order becomes final; (ii) the date the order is upheld by a judge; (iii) if detained, the date the noncitizen is released. This 90-day period is called the "removal period" in this section. Here, Mr. Alva's last removal order was entered in 2017, and DHS reinstated the order when he returned to the United States in 2018 with his daughter. *See* Exh. 8 to Decl. of Deportation Off. Thomas Auer, ECF # 11-1. This means that the removal period is years passed. Seven years ago, DHS declined to remove him and instead released him on an order of supervision. He has been here ever since. Thus, he cannot now be subject to detention under 8 U.S.C. § 1231(a)(2), which by its terms limits the Respondents to detaining a noncitizen during the removal period.

Importantly, there is little question that unless his habeas petition is granted, Mr. Alva will again be detained by ICE and held without an opportunity to contest his arrest or detention before a neutral decision-maker. Respondents claim, erroneously, that they can detain him now under § 1231 and that he will have no opportunity for a bond hearing before an IJ until such time as his detention becomes "prolonged." *See* Response at 5-6. Respondents state that Mr. Alva "has no right to a bond hearing before being detained" and would only have the right to a bond hearing after

[5] Respondents also say that in 2018, Mr. Alva "did not a claim a fear of returning to Guatemala" when he was detained by immigration officials near the southern border. *See* Response at 3. They rely on the declaration of Deportation Officer Thomas Auer, who in turn relies on a form I-213 and "record of sworn statement in affidavit form" generated by U.S. Customs and Border Patrol. Importantly, the record of sworn statement is not signed by Mr. Alva or the officer who purportedly took the statement. No interpreter or the language used to speak with him is listed. The form I-213 referenced cannot be relied on where there are mistakes apparent on the face of the document. There are several such errors including an incorrect address for Mr. Alva though this form was generated last week during his arrest, an incorrect number of children, and at p. 2 it says he has "no criminal history," which Respondents now say is not precise. Interestingly, another form I-213 generated in 2017 also states he has no criminal history.

six months or more of confinement. *See id.*

THE GOVERNMENT HAS LITTLE INTEREST IN DETAINING THE PETITIONER NOW WHERE HIS REMOVAL IS NOT REASONABLY FORESEEABLE.

The government's interest in detaining Mr. Alva without a hearing is "low." *See Galindo Arzate*, 2025 WL 2230521, at *5 (*citing Ortega*, 2025 WL 2243616, at *6 (noting that another court in this district properly found that the government's interest in re-detaining the petitioner was low given that he "had complied with his supervision requirements for years.") (*citing to Diaz v. Kaiser*, No. 25-CV-05071, 2025 WL 1676854, at *2 (N.D. Cal. Jun. 14, 2025)). Particularly where, here Mr. Alva has substantially complied with his order of supervision since 2018, appeared with his attorney to request a reasonable fear interview in 2023, and then on Aug. 6, 2025, over two years later, he attended that interview, the government's interest is "further diminished." *See id.* (*citing Pinchi v. Noem*, No. 25-CV05632, 2024 WL 1853763, at *5 (N.D.Cal. Jul. 4, 2025)). Respondents argue that because Mr. Alva is subject to a reinstated removal order and due to his past immigration history and "status," he has less liberty interest. Response at 7. But this is plainly contradicted by recent holdings in this district. *See Galindo Arzate*, 2025 WL 2230521, at *5 and *Pinchi*, 2024 WL 1853763, at *5.

Here, contrary to Respondents' contention that Mr. Alva's review of his negative reasonable fear finding will conclude in just "a matter of days," Mr. Alva has still not received a notice to appear before an IJ for the first phase of his right to review. Even if he does receive this notice in the coming weeks, if he is not successful in his review before an IJ, he will appeal such decision to the Ninth Circuit Court of Appeals, a process that could take months. Mr. Alva can easily complete this process outside of ICE custody, while contributing to his community and caring for his family, as he has done for years without issue. *See* Gutierrez Decl. at ¶¶ 11-13, ECF 2-1. Since DHS previously released him on an order of supervision, this implies they found he was not a flight risk or a danger, and since they do not allege that he is now, Respondents have little interest in re-detaining him.

PETITIONER WILL SUFFER GRIEVOUS LOSS IF HE IS DETAINED.

Respondents contend, without supporting authority, that Mr. Alva's "speculative claimed injuries" are "too tenuous" to support of preliminary injunction. Response at 9. This contention is squarely at odds with the findings of many courts in this district. *See Pinchi*, 2024 WL 1853763, at *4 (finding that petitioner "has a substantial private interest in remaining in her home, continuing her employment, providing for her family, obtaining necessary medical care, maintaining relationships in the community, and continuing to attend her church"); *see also Galindo Arzate*, 2025 WL 2230521, at *4 (applying the Supreme Court's analysis in *Morrissey* to find that "[t]he revocation of parole undoubtedly 'inflicts a grievous loss on the parolee.' … Petitioner's conditional release is similar. It allows him to be with his family and contribute to the community where he has spent most of his life, under certain terms of [ICE] supervision."). Here, the loss Mr. Alva will suffer if he is re-detained by ICE is no less grievous. In 2018, he returned to the United States with his daughter because he and his family were threatened with death "by a man who wanted to continue having his way with Mr. Alva's young daughter." *See* Gutierrez Decl. at ¶ 17, ECF 2-1. After he and his daughter left Guatemala together, this man burned down his home, forcing his wife and young son to flee. *Id.* Since then, he was approved for a work permit, he works to support his family and attends a local church with them. *Id.* at ¶¶ 11-12. Far from tenuous and speculative, Mr. Alva's loss if he is erroneously deprived of his liberty will mean that he is cut off from supporting his wife and children, he will lose his employment, and his young boy and girl will suffer enormously from not having him in their daily lives, which in turn will cause additional harm to Mr. Alva.

THE PUBLIC INTEREST IS ALWAYS SERVED IN PRESERVING A PERSON'S CONSTITUTIONAL RIGHTS.

Respondents claim that Petitioner ignores "the public interest in application of immigration laws that the Supreme Court has long upheld." Response at 10. But while the Supreme Court has facially upheld detention for certain noncitizens, here Mr. Alva has shown that re-detention in his case would be an erroneously deprivation of his liberty. Courts in this district have clarified that "[t]he public has a strong interest in upholding procedural protections against unlawful detention,

and the Ninth Circuit has recognized that the costs to the public of immigration detention are staggering… Without the requested injunction relief, Petitioner might be abruptly taken into ICE custody, subjecting both him and his family to significant hardship. Yet the comparative harm potentially imposed on Respondents-Defendants is minimal – a mere short delay in detaining Petitioner-Plaintiff, should the government ultimately show that detention is intended and warranted." *Ortega*, 2025 WL 2243616, at *8 (*citing Diaz*, 2025 WL 1676854, at 3). See also Jorge M.F., 2021 WL 783561, at*3 ("the public has a strong interest in upholding procedural protections against unlawful detention" and "the costs to the public of immigration detention are staggering") (internal quotes omitted) (*citing Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017). Here, the stakes and interests are similar. Where Mr. Alva has shown that his re-detention would serve no valid interest as he was previously found not to be a flight risk or a danger, and he has materially complied with his order of supervision, and given the enormous cost to taxpayers of detaining immigrants, preserving Mr. Alva's constitutional rights undoubtedly serves the public's interest in preventing due process violations.

CONCLUSION

For the foregoing reasons, Mr. Alva respectfully requests the Court grant a preliminary injunction that (1) enjoins Respondents from re-detaining him absent further order of this Court; (2) in the alternative, enjoins Respondents from re-detaining him unless they demonstrate at a pre-deprivation bond hearing, by clear and convincing evidence, that Mr. Alva is a flight risk or danger to the community such that his physical custody is required; and (3) prohibits the government from transferring him out of this District and/or removing him from the country until these habeas proceedings have concluded. Mr. Alva further respectfully requests the Court issue a writ of habeas corpus and declare that his arrest and detention violates the Due Process Clause of the Fifth Amendment.

Date: August 18, 2025

Respectfully Submitted,

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