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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

S-M-J, and J-M-L, Petitioners, v. DREW BOSTOCK, et al., Respondents.	**Lead Case No.** 6:25-cv-01425-MTK Case No. 6:25-cv-01426-MTK[1] **MOTION FOR TEMPORARY RESTRAINING ORDER AND RESPONSE TO RESPONDENTS' RETURN** **Oral Argument and Expedited Consideration Requested**

[1] **Note on Consolidation:** The court granted Father J-M-L's and son S-M-J's Unopposed Motions to Consolidate their cases. This single Motion for Temporary Restraining Order and Response to Respondents' Return ("TRO and Response") addresses both cases. Respondents, in their Return, offered ICE officer Weiss's declarations in each case—one for the father J-M-L, and one for the son, S-M-J. In this TRO and Response, they will be referred to as Weiss Decl. (J-M-L), and Weiss Decl. (S-M-J). All cites to Respondents' Return are to the one filed in S-M-J's case (now the lead case), which is ECF 11 (the Return in J-M-L's case is ECF 12, but it is the same document).

Petitioners J-M-L and S-M-J, through counsel, move this Honorable Court for a temporary restraining order granting the relief requested in Part II *infra*.

I. Introduction

Petitioners' detention is illegal and unconstitutional. They were initially released from custody over six years ago, after Immigration and Customs Enforcement ("ICE") determined that they were not a flight risk or a danger to the community. Their native language is Q'anjob'al, and although their English and Spanish is much better now that they've lived in the U.S. for over six years, counsel for Petitioners believe that they were not communicated to at the border in Q'anjob'al, and did not understand what was happening.[2] They fear returning to Guatemala; it is not known whether they were offered the opportunity to express this at the border. *See* J-M-L's Pet. ECF 1 at ¶ 1; S-M-J's Pet. ECF 1 at ¶ 1.

The father and son were detained most recently while checking in with Respondents as instructed, which Petitioners had consistently done for over six years (aside from the COVID-19 pause, but they came right back for their scheduled check-in when in-person check-ins resumed). Their re-detention was without lawful cause or process and thus violates: (1) the Administrative Procedure Act (APA) be-

[2] To the extent facts adduced at the evidentiary hearing diverge from what Petitioners' counsel believe or Petitioners believe as averred herein, counsel is presenting averments based on information and belief collected under challenging circumstances that involve language barriers, limited access to clients, and TRO time constraints.

cause the agency's detention decision was arbitrary and capricious; and (2) procedural due process rights, because they were not given individualized determinations when re-detained despite no evidence of flight risk or danger to the community.

As argued within Petitioners' Memorandum Supporting Release from Punitive Detention to Constructive Detention, the Court may reach the merits of the Petition for Writ of Habeas Corpus and order immediate release under 28 U.S.C. § 2243. J-M-L's ECF 9; S-M-J's ECF 8.

If the Court does so, it need not adjudicate this TRO Motion. However, in the event the Court finds that further proceedings or filings are necessary to adjudicate the merits of the habeas petitions, the Court should find that Petitioners warrant interim relief and grant a temporary restraining order.

A. Petitioners can satisfy the *Winter* factors for immediate release from active ICE to constructive ICE custody as further delay would prolong their unlawful detention which is not in the public interest.

The Court may provide interim legal relief when the movant establishes four factors: "**[1]** that he is likely to succeed on the merits, **[2]** that he is likely to suffer irreparable harm in the absence of preliminary relief, **[3]** that the balance of equities tips in his favor, and **[4]** that an injunction is in the public interest." *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008).[3] The standard for granting a preliminary injunction and a temporary restraining order are "substantially identical."

[3] Because analysis of the *Winter* factors is interspersed with Petitioners' response to Respondent's Return, the *Winter* factors and headings addressing them appear in blue font for quick identification.

Washington v. Trump, 847 F.3d 1151, 1159 n.3 (9th Cir. 2017). Here, each factor weighs in Petitioners' favor and warrants ordering that Respondents release them from actual ICE custody into constructive ICE custody thereby returning them to the status quo that existed Tuesday morning, August 12, 2025, before their current detention.

1. *Winters* factor 1: Both Petitioners are likely to succeed on the merits.

a. S-M-J (son) is likely to succeed on the merits of his habeas petition because his detention violates his procedural due process rights and is the result of an arbitrary and capricious agency decision, or at a minimum he has raised serious questions going to the merits of these claims.

Of the factors necessary to win interim relief, "[l]ikelihood of success on the merits is a threshold inquiry and is the most important factor." *Simon v. City & Cnty. of San Francisco*, 135 F.4th 784, 797 (9th Cir. 2025) (cleaned up).

Respondents' Return (ECF 11 at 9) states that "the end of inquiry with respect to S-M-J" is 8 C.F.R. § 236.1(c)(8) (and a case *Leonardo*, discussed below, regarding bond hearings). Section § 236.1(c)(8) guides Respondents for releasing noncitizens, as they did S-M-J in 2019. In relevant part, an immigration officer must be satisfied that the noncitizen "would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." *Id.* S-M-J was released, so the officer must have been satisfied.

Respondents misinterpret 8 C.F.R. § 236.1(c)(8), stating that an officer releases a noncitizen "on parole or on bond." ECF 11 at 9. That language about parole

or bond is nowhere in that regulation paragraph. Respondents then further muddle their argument with *Leonardo v. Crawford*, 646 F.3d 1157, 1160-61 (9th Cir. 2011). Their argument is further muddled because Leonardo pursued habeas review of the IJ's adverse bond determination. *Id.* at 1160. That case is misplaced here because, because Petitioners' counsel believes that there never was a bond determination here by an IJ. Thus, *Leonardo* appears inapposite. The issue here is revocation of release under 8 C.F.R. § 236.1(c)(9), which must not be arbitrary, capricious, or an abuse of discretion.

Again, § 236.1(c)(8) provides for a noncitizen's release if they are not dangerous and not a flight risk. That is an individualized determination. Under § 236.1(c)(8)-(9), it would be arbitrary, capricious, and an abuse of discretion to revoke that release absent changed circumstances that establish dangerousness or flight risk.

This Court is already familiar with this analysis. *See Morales Jimenez v. Bostock*, 3:25-cv-00570-MTK, (May 13, 2025) Transcript at 58-59 (Court making findings that "**the revocation of [the petitioner's] conditional parole without individualized determination was unlawful**" and ordering that "respondents may not detain" the petitioner "unless an authorized official under the regulations and statutes makes an individualized finding of probable cause that [the petitioner] is a flight risk or danger to the community.") (emphasis added).

In S-M-J's case, the record does not show that the "authorized official under the regulations" made any determination in his case.

Furthermore, the Court in *Morales Jimenez*, based its decision on the record that included no individualized determination of the petitioner's change of circumstances regarding dangerousness or flight risk.

> THE COURT: And there was no finding at all at any time that he was a danger to the community? MR. HICKMAN: That's correct.

Morales Jimenez at 44;

> and
>
> THE COURT: Well, I mean, on this record, there's no -- I mean, there's no evidence that Mr. Morales Jimenez has posed a danger to the community or would be a flight risk. I mean, and so, in fact, on April 9th, he responded to the phone call from the agent to appear voluntarily.

Morales Jimenez at 56.

In S-M-J's case, there is likewise no evidence of dangerousness or flight risk. Again likewise, S-M-J appeared voluntarily at his ICE check-in, vitiating any argument of him being a flight risk.

Although Respondents released S-M-J over six years ago under 8 U.S.C. § 1226(a), they now state that they now claim a different statutory scheme controls S-M-J's release: 8 U.S.C. § 1225(b)(2). *See* ECF 11 at 13. Although this habeas case is only about S-M-J's unlawful detention under 8 C.F.R. § 236.1,[4] assuming *arguendo* that Respondents thought § 1225(b)(2) *did* apply, S-M-J is "entitled to notice

[4] *See* ECF 11 at 9 (claiming that "the end of inquiry with respect to S-M-J" is 8 C.F.R. § 236.1(c)(8) (and a case *Leonardo*, *supra*)).

and opportunity to be heard appropriate to the nature of the case." *Trump v. J. G. G.*, 145 S. Ct. 1003, 1006 (2025) (cleaned up).

That did not happen here. S-M-J voluntarily showed up at the ICE office pursuant to his release under 8 C.F.R. § 236.1(c)(8); his attorney accompanied him but she was not allowed inside. Petitioners' counsel believes that there was no notice to S-M-J about some new statutory authority for his revocation of release, and he was detained (while being denied access to counsel who was denied entry).

Petitioners' counsel believes that at S-M-J's ICE check-in, a very aggressive officer repeatedly demanded S-M-J sign a "voluntary" departure agreement. S-M-J repeatedly asked for his attorney to represent him in the matter, stating that she was right outside the building. But ICE denied S-M-J access to his attorney. Now, after consulting with his immigration counsel, S-M-J wishes to withdraw any request or agreement for voluntary departure that he signed in the Eugene ICE office.

b. J-M-L is likely to succeed on the merits of his habeas petition because his detention violates his procedural due process rights and is the result of an arbitrary and capricious agency decision, or at a minimum he has raised serious questions going to the merits of these claims.

(1) This Court has jurisdiction over J-M-L's Habeas Petition

Respondents argue that this Court lacks jurisdiction in J-M-L's re-detention. ECF 11 at 9-12. But 28 U.S.C. § 2241 provides federal courts with habeas jurisdiction to determine whether a person is held in violation of the laws or Constitution of the United States. "At its historical core, the writ of habeas corpus has

served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest." *INS v. St. Cyr*, 533 U.S. 289, 301 (2001), *superseded on other grounds by statute as stated in Patel v. U.S. Att'y Gen.*, 971 F.3d 1258, 1270 (11th Cir. 2020). Federal courts have routinely exercised jurisdiction over claims regarding the unlawfulness of immigrant detention, including pre- and post-removal order detention and in the context of inadmissibility. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (federal courts have jurisdiction to hear challenges to mandatory detention under § 1226(c)); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (despite changes to immigration law, habeas remains "untouched as the basic method for obtaining review of continued *custody after* a deportation had become final"); *Clark v. Martinez*, 543 U.S. 371 (2005) (taking jurisdiction over habeas petition of an immigrant held on inadmissibility grounds).

Furthermore, the Supreme Court recently reaffirmed that when a petitioner's "claims for relief necessarily imply the invalidity of their confinement and removal under [immigration law] their claims fall within the 'core' of the writ of habeas corpus and thus must be brought in habeas." *Trump v. J. G. G.*, 145 S. Ct. 1003, 1005 (2025) (cleaned up).

Respondents' motion to dismiss misinterprets J-M-L's habeas petition, stating "[J-M-L] may not challenge the execution of his removal order." ECF 11 at 12.[5]

[5] Respondents' Return seems to include a typo. The section quoted here analyzes **J-M-L's** habeas petition, but it states that "**S-M-J** may not challenge…" Petitioners' counsel believes this was meant to state "J-M-L may not challenge…," so J-M-L replaced S-M-J in brackets.

Petitioner is not asking this Court to review the order of removal, but instead, J-M-L asks this Court to review the means of his detention, which is the core of habeas and squarely within this Court's jurisdiction.

This Court already understands the distinction between what J-M-L requests in his habeas petition and what Respondents state in their Return, writing in its Minute Order:

> Although a United States District Court generally lacks subject-matter jurisdiction to review orders of removal, see 8 U.S.C § 1252(a)(1), (g), it does generally have jurisdiction over habeas petitions. *See* 28 U.S.C § 2241(a); *see also Hamdi v. Rumsfeld,* 542 U.S. 507, 525 (2004) (citing U.S. Const., Art. I, § 9, cl. 2 and stating that "absent suspension, the writ of habeas corpus remains available to every individual detained within the United States").

ECF 3.

Habeas corpus means "that you have the body." Black's Law Dictionary (12th ed. 2024). The issue before the Court is precisely that: where will J-M-L *be* during his immigration matters? Either with his family to care for his disabled son (as Respondents state they previously released him to be) or locked up in custody, far from family, community, and legal counsel.

(2) J-M-L's redetention was arbitrary and capricious. Respondents were supposed to conduct an individual determination regarding flight risk and danger to the community. They did not.

J-M-L was released over six years ago pursuant to 8 U.S.C. § 1231(a)(3). ECF 11 at 7-8. That paragraph of the regulation concerns: "Supervision after [the] 90-day [removal] period." That paragraph is triggered, however, by paragraph (6),

which states that if the noncitizen is not a risk to the community or not a flight risk, they may be released, subject to the terms of supervision in paragraph (3). 8 U.S.C. § 1231(a)(6).

Therefore, the individualized determination for J-M-L's release was his non-dangerousness and his non-flight risk. That was done over six years ago, he continued to check-in with ICE as they instructed. Indeed, he was doing just that when they revoked his release. ECF 11 at 8.

Although J-M-L's release and its revocation are under different statutory schemes than his son S-M-J, **both require the same individual determination of dangerousness and flight risk.**[6]

Therefore, the same argument, *supra*, on that individual determination for S-M-J applies here to J-M-L: It would be arbitrary, capricious, and an abuse of discretion to re-detain absent changed circumstances evidencing flight risk or danger.

This Court is familiar with this analysis. *See Morales Jimenez v. Bostock*, 3:25-cv-00570-MTK, (May 13, 2025) Tr. at 58-59 (Court making findings that "**the revocation of [the petitioner's] conditional parole without individualized determination was unlawful**" and ordering that "respondents may not detain" the petitioner "unless an authorized official under the regulations and statutes makes an individualized finding of probable cause that [the petitioner] is a flight risk or danger to the community.") (emphasis added).

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[6] J-M-L is controlled by 8 U.S.C. § 1231, and S-M-J is controlled by 8 U.S.C. § 1226.

In J-M-L's case, the record does not include evidence that the "authorized official under the regulations" made any determination in his case.

Furthermore, the Court in *Morales Jimenez*, based its decision on the record that included no individualized determination of the petitioner's change of circumstances regarding dangerousness or flight risk.

> THE COURT: And there was no finding at all at any time that he was a danger to the community? MR. HICKMAN: That's correct.

Morales Jimenez at 44;

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> THE COURT: Well, I mean, on this record, there's no -- I mean, there's no evidence that Mr. Morales Jimenez has posed a danger to the community or would be a flight risk. I mean, and so, in fact, on April 9th, he responded to the phone call from the agent to appear voluntarily.

Morales Jimenez at 56.

In J-M-L's case, there is likewise no evidence of dangerousness or flight risk. Again likewise, J-M-L appeared voluntarily at his ICE check-in, vitiating any argument of him being a flight risk.

Respondents also state that the purpose of J-M-L's release has been served. ECF 11 at 12; 8 C.F.R. § 241.4(l)(2). But they do not offer documentary evidence *from the time of release* to show what that purpose actually was. Petitioners' counsel believes a common purpose for release is for noncitizens to pursue their immigration matters. Here, J-M-L has been referred to a reasonable fear interview. *See* ECF 11 at 14.

As their evidence, Respondents only quote an ICE officer in Eugene, Oregon, who J-M-L checked in with on August 12, 2025. *Id.* at 12-13. That officer does not state whether he was the officer at the border who released J-M-L, indeed this would be extremely unlikely to have been the case. Petitioners believe that, until recently, it has been immigration agencies' pattern and practice to release noncitizens at the border to pursue their immigration matters.[7] Respondents do not offer any documentary evidence, such as a report or the order of supervision, that stated any purpose of release *at the time J-M-L was released.* Officer Weiss merely discusses "records and systems maintained by ICE," but Respondents do not offer any of those hearsay records or systems that support their determinations, only Weiss's statement *about* them. Weiss Decl. ¶ 2.

Although Petitioners' counsel believes J-M-L indicated his fear of returning to Guatemala when he entered the U.S. in 2019, ICE also admits that, a short time afterwards, J-M-L did indicate fear at his July 18, 2019, check-in in the ERO office in San Francisco. He was referred to U.S.C.I.S. for a reasonable fear interview then. Weiss Decl. (J-M-L) ¶ 11.

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[7] *Compare with* Brittany Gibson, Stef W. Kight, *Scoop: Stephen Miller, Noem Tell ICE to Supercharge Immigrant Arrests*, Axios (May 28, 2025), available at www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller (last accessed August 20, 2025) ("The new target is triple the number of daily arrests that agents were making in the early days of Trump's term — and suggests the president's top immigration officials are full-steam ahead in pushing for mass deportations.")

On the record in this case, we discern there was no individual determination regarding J-M-L's dangerousness or flight risk.

Further violating J-M-L's due process rights, his attorney was right outside the ICE building when J-M-L was being detained inside. Petitioners' counsel believes that the Petitioners asked for their attorney to come in to help them, but ICE denied access.

(3) It is unlikely that J-M-L will be removed in the reasonably foreseeable future.

Respondents have not submitted any record evidence — not even the notice of revocation of release, if there was one. If there were a notice of revocation of release, it may state that a reason for the revocation of release was the significant likelihood of J-M-L's removal in the reasonably foreseeable future. But such a determination would be counterfactual. Any allegation of "significant likelihood of removal" would fail as significantly diminished by ICE having referred J-M-L to U.S.C.I.S. for a reasonable-fear interview so that he can pursue withholding of removal. ECF 11 at 14. Furthermore, J-M-L is a derivative applicant for asylum on his wife's case with U.S.C.I.S. J-M-L's Pet. ECF 1 at ¶ 4.

c. It is likely that both J-M-L and S-M-J will succeed on the merits of their claims.

Both petitioners will likely succeed on the merits of their due process and APA claims given the arbitrary and capricious nature of their detention and that they were denied access to their attorney, who was just outside the ICE facility.

Alternatively, a temporary restraining order may issue on a showing that there are "serious questions going to the merits—a lesser showing than likelihood of success on the merits" when the "balance of hardships tips sharply in the Plaintiff's favor, and the other two *Winter* factors are satisfied." *Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th Cir. 2014) (cleaned up). At a minimum, this TRO and Response, and Petitioners' Memoranda Supporting Release from Punitive Detention to Constructive Detention,[8] demonstrate that there are serious questions going to the merits of their claims. And as demonstrated below, the balance of the hardship tips sharply in favor of Petitioners who have been unnecessarily detained without a countervailing government interest in their detention.

2. *Winters* factor 2: Each day this father and son spend in custody causes and exacerbates irreparable harm.

It is beyond dispute that "[d]eprivation of physical liberty by detention constitutes irreparable harm." *Arevalo v. Hennessy*, 882 F.3d 763, 767 (9th Cir. 2018) (*citing Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017)); *see also Rodriguez v. Robbins*, 715 F.3d 1127, 1144–45 (9th Cir. 2013) (needless immigration detention constitutes irreparable harm). In *Hernandez*, the Ninth Circuit acknowledged "the irreparable harms imposed on anyone subject to immigration detention" in addition to the restriction on liberty, which include "subpar medical and psychiatric care in ICE detention facilities" and "the economic burdens imposed on detainees and their

[8] J-M-L's ECF 9; S-M-J's ECF 8.

families as a result of detention." 872 F.3d at 995. As the Ninth Circuit held, in the absence of interim relief, "harms such as these will continue to occur needlessly on a daily basis." *Id.*

The subpar medical care *Hernandez* identifies bears particularly heavily on S-M-J, who has physical disabilities. S-M-J's Pet. ECF 1 at ¶ 3. Petitioners' liberty has been unnecessarily restrained since August 12, 2025, and "[e]very day that a person is detained is a significant injury." *Mahdawi v. Trump*, --- F.Supp.3d ---, 2025 WL 1243135, *39 (D. Vt. 2025); *see also Rosales-Mireles v. United States*, 585 U.S. 129, 139–40 (2018) ("'Any amount of actual jail time' is significant, and 'has exceptionally severe consequences for the incarcerated individual and for society which bears the direct and indirect costs of incarceration.'") (cleaned up).

Furthermore, as J-M-L's and S-M-J's detention is a deprivation of their due process rights, that too "'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The irreparable harm factor weighs heavily in Petitioners' favor.

3. *Winters* factors 3 &4: The balance of equities [factor 3] tips in Petitioners' favor and the public has no interest [factor 4] in their unnecessary detention.

Because Respondent are a government entity, "the third and fourth factors—the balance of equities and the public interest—'merge.'" *Fellowship of Christian Athletes*, 82 F.4th 664, 695 (9th Cir. 2023) (quoting *Nken v. Holder*, 556 U.S. 418, 435 (2009)). "[I]t is always in the public interest to prevent the violation of a party's

constitutional rights." *Melendres*, 695 F.3d at 1002. "[T]he government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions." *Hernandez*, 872 F.3d at 994. Respondents have not alleged that Petitioners are a danger to the community, nor is there any basis to do so. Moreover, by checking in with ICE officials each time they have been directed and earnestly pursuing asylum and withholding of removal in this country (as derivatives in their wife's / mom's case) with the assistance of an attorney, Petitioners have demonstrated that they will appear at their immigration appearances, and they are motivated to do so.

Additionally, "'[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.'" *Diaz v. Kaiser*, No. 3:25-cv-05071, 2025 WL 1676854, *3 (N.D. Cal. June 14, 2025) (granting temporary restraining order enjoining respondents from detaining petitioner without notice and hearing) (quoting *Jorge M.F. v. Wilkinson*, No. 21-cv-01434, 2021 WL 783561, *3 (N.D. Cal. March 1, 2021)). The government has no legitimate countervailing interest in detaining people without due process. *Chipantiza-Sisalema v. Francis*, No. 25-cv-5528, 2025 U.S. Dist. LEXIS 132841, at *10 (S.D.N.Y. July 13, 2025) ("There is no dispute" that "ICE is required to adhere to the basic principles of due process" in exercising its "statutory, discretionary authority to detain noncitizens like

Chipantiza-Sisalema under 8 U.S.C. § 1226(a)"). This is particularly true in Petitioners' cases, as they were checking in at the ICE office when they were arrested and detained without procedural due process. *See* ECF 11.

B. The Court has jurisdiction to issue, and should issue, the temporary restraining order promptly.

Habeas corpus is a "speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination." *Van Buskirk v. Wilkinson*, 216 F.2d 735, 737-38 (9th Cir. 1954). "[A]bsent suspension, the writ of habeas corpus remains available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (plurality opinion) (citing U.S. Const., art. I, § 9, cl. 2). The writ is available to Petitioners as they are physically in the United States and challenging their unlawful detention. They do not seek review of any determination of their removal orders, eligibility for withholding of removal, or the merits of their family's asylum claim. Rather, they seek only release from custody and contend that they were detained without procedural due process and based on an arbitrary and capricious agency decision which violated the APA.

Other courts across the country have quickly granted temporary restraining orders or preliminary injunctions for immigrant detainees who had been released or paroled and then re-arrested without process or cause. *See Clavijo v. Kaiser*, 2025 WL 2097467 (N.D. Cal. July 25, 2025) (granting temporary restraining order one day after arrest for immigrant who was released under § 1226 in 2023 and then detained without process on July 24, 2025, ordering petitioner's immediate release

from custody to return them to the status quo—namely, "the moment prior to the Petitioner's likely illegal detention"); *Mata Velasquez v. Kurzdorfer*, No. 25-cv-493-LJV, 2025 WL 1953796 (W.D.N.Y. July 16, 2025) (granting preliminary injunction and ordering release after concluding that petitioner was likely to succeed on the merits of his claim that, after having been lawfully granted parole, his "about-face" detention violates his rights to procedural due process). Many more courts have considered habeas petitions on a highly expedited basis for similarly situated immigrant detainees. *See Benitez v. Francis, et al.*, 25-CV-5937 (DEH) (S.D.N.Y. July 28, 2025) (granting habeas petition ten days after petition was filed); *Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238 (D. Mass. July 24, 2025) (granting petition two weeks after petition was filed); *Chipantiza-Sisalema v. Francis*, No. 25-cv-5528, 2025 U.S. Dist. LEXIS 132841 (S.D.N.Y. July 13, 2025) (granting the habeas petition ten days after petition was filed); *Valdez v. Joyce*, 25-cv-04627-GBD, 2025 WL 1707737 (S.D.N.Y, June 18, 2025) (granting habeas petition 16 days after petition was filed).

II. Relief Requested

Accordingly, the Court should (1) enter a temporary restraining order requiring Respondents to release Petitioners from custody; (2) order the Respondents not to return Petitioners to custody during the pendency of this habeas matter absent leave of this Court; (3) order Respondents to only refer to Petitioners as J-M-L, S-M-J, or "Petitioners(s)" and to never anywhere disclose their name and personal identifying information in any court documents, press releases, or any statements or

documents during and after this habeas action, without leave of court because public disclosure of Petitioners' real names could expose Petitioners to harm if Petitioners are removed from the U.S. as Respondents seek;[9] (4) order Respondents to allow Petitioners' counsel to accompany them to any future immigration matters (including ICE check-ins), and (5) order that Petitioners post a $1.00 security related to the temporary restraining order.[10]

If such relief is granted, Petitioners will reside with their family, in Oregon, just like they did for six years before ICE detained them without due process.

Dated: August 21, 2025.

s/ Robert Easton
Robert Easton, OR SBN 203697

s/ Kurt Hermansen
Kurt David Hermansen, CA SBN 166349

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[9] In *Doe v. Garland*, 22-1824, the Ninth Circuit Changed Appellant's name to "Doe" even after its opinion was already released with his true name. http://www.metnews.com/articles/2024/johndoe_012924.htm ("According to Petitioner, public disclosure of his real name could expose him to harm upon his removal to Mexico. The panel amends the memorandum and its associated caption to remove all references to Petitioner's real name.")

[10] "[Federal] Rule [of Civil Procedure] 65(c) invests the district court 'with discretion as to the amount of security required, *if any*.'" *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003) (emphasis added) (quoting *Barahona-Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir. 1999)); *Innovation Law Lab v. Nielsen*, 342 F. Supp. 3d 1067, 1082 (D. Or. 2018) ("The Court has considered the relative hardships and the likelihood of success on the merits and concludes that to require any security in this case would be unjust.").