UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:25-cv-23665-JB

PEDRO BELLO-RUBIO, *et al.*,

Plaintiff,

v.

KRISTI NOEM, *in her official capacity as the Secretary of Homeland Security, et al.*,

Defendants.
_____/

NAMED PLAINTIFF DETAINED IN GOVERNMENT CUSTODY

PLAINTIFFS' MOTION FOR ALL-WRITS ACT INJUNCTION & INCORPORATED MEMORANDUM OF LAW

The plaintiffs, by and through the undersigned, hereby move the Court to issue an All-Writs Act injunction under 28 U.S.C. § 1651(a), while this case proceeds as an exercise of the "court['s] traditional, inherent power to protect the jurisdiction [it] already ha[s]," and "to safeguard not only ongoing proceedings, but potential future proceedings." *Klay* v. *United Healthgroup, Inc.*, 376 F. 3d 1092, 1099 (CA11 2004).

More specifically, the plaintiffs move the Court to: (1) order the immediate release of named-plaintiff #558, Adrian Duran-Matos, who was detained by ICE on Thursday, October 16, 2025, while reporting to ICE in San Antonio, Texas under his I-220A, Order of Release on Recognizance, and is currently in the custody of ICE at the Karnes County Immigration Processing Center in Karnes City, Texas, **Ex. A, p. 1**; and (2) order that the defendants must provide the named-plaintiff class-members with a pre-detention custody hearing prior to re-detaining any named plaintiffs into their custody, absent any material change of circumstance since the initiation of this case. E.g., *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981) ("where a previous bond

determination has been made by an immigration judge, no change should be made by [the DHS] absent a change of circumstance.").

Relevant Factual Background Leading to the Filing of the Instant Motion

Plaintiff #558, Adrian Duran-Matos, is a native and citizen of Cuba. He currently resides in Plugerville, Texas. He arrived in the United States by land between ports-of-entry (POE) on February 7, 2022, at or near San Luis, Arizona. **Ex. A, p. 4**. Within 24 hours of his arrival in the United States, he was apprehended by the Department of Homeland Security, inspected under 8 U.S.C. § 1225(a)(3), and was placed into immigration custody. ***Id***. He was assigned the alien registration number ("A#") of A[redacted]. Following the service of his NTA for full removal proceedings under 8 U. S. C. §§ 1229(a) & 1229a, on February 8, 2022, **Ex. A, pp. 9-10**, and following a determination that he is not a flight risk or danger to the community, he was released from physical immigration custody by the Department of Homeland Security, of its own volition, without being given any documentation of his parole from custody under § 1182(d)(5)(A), and is being treated as he has not been paroled out of custody. **Ex. A, p. 8**. Instead, upon his release from physical DHS custody, he was given the Form I-220A, Order of Release on Recognizance, issued under the purported auspices of 8 U.S.C. § 1226(a) which limits his liberty in various ways. **Ex. A, pp. 12-14**. Despite the defendants' mis-papering of his release under the purported auspices of 8 U.S.C. § 1226(a) via the Form I-220A, Order of Release on Recognizance—instead of documenting his parole from custody under § 1182(d)(5)(A), as is required by 8 CFR § 235.1(h)(2)—upon his release from custody, the named-plaintiff #558 Adrian Duran-Matos acquired a protected liberty interest in being free from detention.

In full compliance with the (albeit unlawful, see D.E. 22, Amended Complaint) conditions placed upon him by the defendants pursuant to his I-220A, Order of Release on Recognizance,

plaintiff #558 Adrian Duran Matos (A[redacted]) consistently reported to ICE since his release from custody. **Ex. A, p. 14**. When Mr. Duran-Matos last reported to ICE in San Antonio, Texas on Thursday, October 16, 2025, he was re-detained and taken into the defendants' custody, despite the absence of any material change of circumstance since the initiation of this case. Mr. Duran-Matos is currently detained by the defendants at the Karnes County Immigration Processing Center in Karnes City, Texas. **Ex. A, p. 1**.

Argument

I. An All-Writs Act injunction is warranted here because it is necessary to ensure that the Court can retain jurisdiction over the plaintiffs' causes of action.

"There are at least three different types of injunctions a federal court may issue." *Klay*, 376 F. 3d, at 1097. "The first is a 'traditional' injunction, which may be issued as either an interim or permanent remedy for certain breaches of common law, statutory, or constitutional rights." *Id.* (footnote omitted). "The requirements for a traditional injunction are well-known," being the normal four-factor test that courts apply, and it also requires that "any motion or suit for a traditional injunction must be predicated upon a cause of action." *Id.* But that is not true of all the different types of injunctions that a federal court may issue. For example, some injunctions are "not a traditional injunction, and could not be justified as such, [where] the plaintiffs had no cause of action against the defendants upon which the injunction was based." *Id.*, at 1098. That point is important for jurisdictional purposes as will be discussed later.

As relevant to this motion:

> The final type of injunction is an injunction under 28 U.S.C. § 1651(a), the All Writs Act, which states, "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." The Act does not create any substantive federal jurisdiction. *See Brittingham v. Comm'r,* 451 F.2d 315, 317 (5th Cir.1971) ("It is settled that ... the All Writs Act, by itself, creates no

> jurisdiction in the district courts. It empowers them only **to issue writs in aid of jurisdiction previously acquired on some other independent ground**."). Instead, it is a codification of the **federal courts' traditional, inherent power to protect the jurisdiction they already have, derived from some other source**. *See Procup v. Strickland,* 792 F.2d 1069, 1074 (11th Cir. 1986) (en banc) ("Federal courts have both the inherent power and the **constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions**."). In allowing courts to protect their "respective jurisdictions," the Act allows them **to safeguard not only ongoing proceedings, but potential future proceedings, as well as already-issued orders and judgments**." *See Wesch v. Folsom,* 6 F.3d 1465, 1470 (11th Cir.1993) ("In addition, courts hold that despite its express language referring to 'aid ... of jurisdiction,' the All–Writs Act empowers federal courts to issue injunctions **to protect or effectuate their judgments**.").

Id., at 1099–100 (emphasis added) (footnotes omitted).

Here, the Court's jurisdiction to entertain the plaintiffs' putative class-action habeas complaint comes from its jurisdiction under 28 U. S. C. § 2241, *et seq.*, (D.E. 22, pp. 151-52, Count I, Habeas Relief), and its federal question jurisdiction to grant related relief under the Declaratory Judgment Act, 28 U. S. C. §§ 2201–02, and the Administrative Procedure Act (APA), 5 U. S. C. §§ 701, *et seq.*, (D.E. 22, pp. 153-54, Counts II & III), see *Califano* v. *Sanders*, 430 U. S. 99, 105 (1977), in aid of the principal habeas claim under Count I.

Returning to the All Writs Act, a "court may grant a writ under this act whenever it is 'calculated in [the court's] sound judgment to achieve the ends of justice entrusted to it,' and not only when it is ' "necessary" in the sense that the court could not otherwise physically discharge its . . . duties.' " *Klay*, 376 F. 3d, at 1100 (citation omitted). "Such writs may be directed to not only the immediate parties to a proceeding, but to 'persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order or the proper administration of justice, and . . . even those who have not taken any affirmative action to hinder justice.' " *Id.* (citation omitted).

"Whereas traditional injunctions are predicated upon some cause of action, an All Writs Act injunction is predicated upon some other matter upon which a district court has jurisdiction." *Id.* "Thus, while a party must 'state a claim' to obtain a 'traditional' injunction, there is no such requirement to obtain an All Writs Act injunction—**it must simply point to some ongoing proceeding**, or some past order or judgment, **the integrity of which is being threatened** by someone else's action or behavior." *Id.* (emphasis added). "The requirements for a traditional injunction do not apply to injunctions under the All Writs Act because a court's traditional power to protect its jurisdiction, codified by the Act, is grounded in entirely separate concerns." *Id.*, at 1100–01 (footnotes omitted) (citations omitted).

A. The Court should order the immediate release of named-plaintiff #558, Adrian Duran-Matos.

Here, the plaintiffs' initial complaint (D.E. 1, filed on August 14, 2025) and amended complaint (D.E. 22, filed on September 10, 2025) primarily seeks review of the defendants' ongoing unlawful "custody" pursuant to Form I-220A, Order(s) of Release on Recognizance, under the purported auspices of § 1226(a). See *Clements* v. *Fla.*, 59 F. 4th 1204, 1213 (CA11 2023) ("non-citizens released on supervision while awaiting a final decision in their immigration proceedings are deemed to be 'in custody' for purposes of habeas corpus") (D.E. 22, pp. 151-52, Count I, Habeas Relief).

More than one month after the filing of the amended complaint, when named-plaintiff #558 Adrian Duran-Matos last reported to ICE in San Antonio, Texas on Thursday, October 16, 2025, he was re-detained and taken into the defendants' custody, despite the absence of any material change of circumstance since the initiation of this case. Mr. Duran-Matos is currently detained by the defendants at the Karnes County Immigration Processing Center in Karnes City, Texas. **Ex. A, p. 1**.

If Mr. Duran-Matos were to remain detained in the physical custody of the defendants, the first cause of action (Count I)—seeking review of the defendants' ongoing unlawful "custody" pursuant to Form I-220A, Order(s) of Release on Recognizance, under the purported auspices of § 1226(a)—as applied to him, would become moot. Therefore, a grant of this motion is necessary as an exercise of the "courts' traditional, inherent power to protect the jurisdiction [it] already ha[s]." *Klay*, 376 F. 3d, at 1099 (quoting *Procup,* 792 F. 2d, at 1074). In fact, the Court has "the constitutional obligation to protect [its] jurisdiction from conduct which impairs [its] ability to carry out Article III functions." *Id*. (quoting *Procup,* 792 F. 2d, at 1074). Therefore, the Court should order Mr. Duran-Matos' immediate release from the defendants' custody to protect its own jurisdiction and the integrity of these proceedings, as it relates to Mr. Duran-Matos' first cause of action (Count I).

However, even if Mr. Duran-Matos were to remain in the defendants' physical custody for the duration of the instant litigation before the Court, the Court must still determine whether the defendants' failure to provide him with evidence of his § 1182(d)(5)(A) parole when he was initially released from their custody on February 8, 2022— under the purported auspices of 8 U.S.C. § 1226(a) via the Form I-220A, Order of Release on Recognizance—as is required by 8 CFR § 235.1(h)(2), amount to an unlawful withholding of agency action under 5 U.S.C. § 706(1). (D.E. 22, pp. 153-54, Counts II & III). This matters because Mr. Duran-Matos is currently in removal proceedings before an Executive Office of Immigration Review (EOIR) immigration court.[1] Prior to be being re-detained on Thursday, October 16, 2025, he was scheduled for a master

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[1] Although Mr. Duran Matos, and other named plaintiffs and members of the proposed class, are currently in removal proceedings before the immigration court, the jurisdictional bars of 8 U.S.C. §§ 1252(a)(5), (b)(9), or (g) do not bar this Court from reviewing the named-plaintiff's and proposed class's claims, as such claims do not involve the review of orders of removal, removal proceedings, or actions to "commence proceedings, adjudicate cases, or execute removal orders." § 1252(g). See, e.g., *Canal A. Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1257-58 (CA11 2020); *Madu v. U.S. Att'y Gen.*, 470 F.3d

calendar hearing (preliminary hearing) on October 14, 2026, before the San Antonio Immigration Court. **Ex. A, pp. 15-17**. Mr. Duran-Matos is now scheduled for a master calendar hearing on November 5, 2025, before a detained immigration court in Pearsall, Texas. **Ex. A, pp. 2-3**.

If the Court were to rule in the plaintiffs' favor as to Counts II and III and grant the corresponding requested relief, Mr. Matos-Duran would receive evidence of his initial parole out of custody under § 1182(d)(5)(A) from February 8, 2022, as is required by 8 CFR § 235.1(h)(2). (D.E. 22, pp. 153-54, Counts II & III; pp. 155-56, Prayer for Relief). Therefore, he would become prima facie eligible to adjust status to that of Lawful Permanent Resident (LPR) under the Cuban Refugee Adjustment Act of 1966 (CAA), Pub. L. No. 89-732, 80 Stat. 1161 (as amended) after having been "inspected and admitted or paroled into the United States subsequent to January 1, 1959." CAA § 1; See *Toro v. Sec'y, U.S. Dept. of Homeland Sec.*, 707 F.3d 1224, 1228 (CA11 2013) (restating the five requirements to adjust status to LPR under the CAA). This would remain the case whether he is detained or free from the defendants' physical custody.

B. The Court should order the defendants to provide the named-plaintiff class members with pre-detention custody hearings prior to re-detaining any named-plaintiff class members, absent any material change of circumstance since the initiation of this case.

In light of named-plaintiff #558 Adrian Duran-Matos re-detention on October 16, 2025, the Court should issue an All-Writs act injunction, ordering that the defendants may not re-detain the named-plaintiff class members, absent any material change of circumstance since the initiation of this case, without first providing the named-plaintiff class members a pre-detention custody

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1362, 1366-68 (CA11 2006); *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *3 (S.D. Fla. Sept. 9, 2025) ("The Eleventh Circuit has nevertheless distinguished between situations where an alien's claims are founded directly on a decision or action to commence proceedings, adjudicate cases, or execute removal orders, from those where an alien challenges the "underlying legal bases" of those decisions or actions.") (citing *Madu*, 470 F.3d at 1368).

hearing before a neutral arbiter. See, e.g., *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019) (granting writ of habeas corpus and enjoining ICE from re-arresting the petitioner "until a hearing, with adequate notice, is held in Immigration Court to determine whether his bond should be revoked or altered."); *Saravia v. Sessions*, 280 F. Supp. 3d 1168 (N.D. Cal. 2017) (applying the *Matter of Sugay* change of circumstance standard to justify re-arresting unaccompanied minors originally released from DHS/ORR custody to a sponsor), *aff'd sub nom., Saravia for A.H. v. Sessions*, 905 F.3d 1137 (CA9 2018)); *Calderon v. Kaiser*, No. 25-CV-06695-AMO, 2025 WL 2430609 (N.D. Cal. Aug. 22, 2025) (Ordering the petitioner's release from government custody and enjoining ICE from re-arresting a non-citizen initially released on their own recognizance under § 1226 paperwork without first providing the non-citizen a pre-detention hearing before a neutral decision maker); *Pablo Sequen v. Kaiser*, No. 25-CV-06487-PCP, 2025 WL 2203419 (N.D. Cal. Aug. 1, 2025) (same); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *1 (N.D. Cal. July 24, 2025) (same); *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (granting habeas relief for a petitioner, initially released from ICE on his own recognizance under § 1226 paperwork, where ICE re-detained the petitioner without notice and no showing of changed circumstances and that such re-detention violated due process); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (same).

Such an order would serve to protect the Court's jurisdiction, any potential future judgments as to Count I of the amended complaint for all named-plaintiff class members, and the integrity of these proceedings. *Klay*, 376 F. 3d at 1099-100; *A. A. R. P. v. Trump*, 605 U.S. 91, 97-98 (2025) ("Finally, this Court may properly issue temporary injunctive relief to the putative class in order to preserve our jurisdiction pending appeal. . . . And because courts may issue temporary

relief to a putative class, see 2 W. Rubenstein, Newberg & Rubenstein on Class Actions § 4:30 (6th ed. 2022 and Supp. 2024), we need not decide whether a class should be certified as to the detainees' due process claims in order to temporarily enjoin the Government[.]")

The plaintiffs do not dispute that DHS, in general, has the authority to revoke a noncitizen's release on bond or parole "at any time," even if that individual has previously been released. 8 U.S.C. § 1226(b); 8 CFR 242.2(c); 8 CFR 212.5(e). However, the BIA has placed a limitation on this authority: "where a previous bond determination has been made by an immigration judge, no change should be made by [the DHS] absent a change of circumstance." *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981); see *Thamotar* v. *U.S. Att'y Gen.*, 1 F. 4th 958, 971 (CA11 2021) ("precedential agency decisions 'are binding on . . . immigration judges' and cabin the scope of their discretion"); *Zarate* v. *U.S. Att'y Gen.*, 26 F. 4th 1196, 1207 (CA11 2022) ("Moreover, an agency is generally required to 'follow its own procedure' when the 'rights of individuals are affected.' ") (quoting *Hall* v. *Schweiker*, 660 F. 2d 116, 119 (CA5 1981)). "In practice, the DHS re-arrests individuals only after a 'material' change in circumstances." *Ortega*, 415 F. Supp. 3d at 968 (citing *Saravia*, 280 F. Supp. 3d at 1197 (applying *Matter of Sugay* change of circumstance standard to justify re-arresting unaccompanied minors originally released from DHS/ORR custody to a sponsor), *aff'd sub nom., Saravia for A.H. v. Sessions*, 905 F.3d 1137 (CA9 2018)).

Here, all the named-plaintiff class members are natives and citizens of Cuba. They currently reside in the city and state as noted in the Amended Complaint. (D.E. 22, Amended Complaint, ¶ 25, pp. 46-134; D.E. 22, Exhibit A). Every named plaintiff in this case was assigned their respective alien registration numbers ("A#") as noted in the Amended Complaint. *Id.* Every named plaintiff arrived in the United States by land between ports-of-entry (POE) on or about the date noted in Amended Complaint. *Id.* Every plaintiff was apprehended by the Department,

inspected under 8 U.S.C. § 1225(b)(1), and was placed into immigration custody, within 24 hours of their arrival in the United States. Prior to their release from physical immigration custody, removal proceedings under 8 U. S. C. § 1229a were commenced against every plaintiff via service of a notice to appear (NTA) under § 1229(a). Following the service of their NTA for full removal proceedings under 8 U. S. C. §§ 1229(a) & 1229a, and following a determination that they were not flight risks or dangers to the community, the Department of Homeland Security, of its own volition, released every plaintiff from its physical custody. However, DHS released every plaintiff without providing them any documentation of their parole from custody under § 1182(d)(5)(A), and is treated them as not having been paroled out of custody. Instead, upon their release from physical DHS custody, every plaintiff was given the Form I-220A, Order of Release on Recognizance, issued under the purported auspices of 8 U.S.C. § 1226(a) which limits their liberty in various ways.

Despite the defendants' mis-papering of every named-plaintiff's release under the purported auspices of 8 U.S.C. § 1226(a) via the Form I-220A, Order of Release on Recognizance—instead of documenting his parole from custody under § 1182(d)(5)(A), as is required by 8 CFR § 235.1(h)(2)—upon their release from custody, each named-plaintiffs acquired a constitutionally protected liberty interest in being free from detention. *Yamataya* v. *Fisher*, 189 U. S. 86, 101 (1903) ("An alien who has entered the country, and has become subject in all respects to its jurisdiction, and a part of its population, although alleged to be illegally here," and is therefore entitled to "due process of law."); *Landon v. Plasencia*, 459 U.S. 21 1982 ("[O]nce an alien gains admission to our country and begins to develop ties that go with permanent residence his constitutional status changes accordingly."); *Zadvydas, v. Davis*, 533 U.S. 678, 693-94 (2001) (describing that the Due Process Clause applies to all "persons" within the United States,

"including aliens, whether their presence here in lawful, unlawful, temporary, or permanent."); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896) ("It must be concluded that all persons within the territory of the United States are entitle to the protection guaranteed by [the Fifth Amendment], and that even aliens shall not ... be deprived of life, liberty, or property without due process of law."); *Trump v. J. G. G.*, 604 U.S. 670, 673 (2025) ("It is well established that the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.").

District courts have consistently held that if DHS released a noncitizen pending civil removal proceedings, the noncitizen has a protected liberty interest in remaining out of immigration custody. See, e.g., *Roa v. Albarran*, No. 25-cv-07802, WL 2732923, at*5 (N.D. Cal. Sept. 25, 2025); *Ramirez Clavijo v. Kaiser*, No. 250cv006248, 2025 WL 2419263, at*6 (N.D. Cal. Aug. 21, 2025) (gathering cases); *Guillermo M.R. v. Kaiser*, No. 25-cv-05436, 2025 WL 1983677, at *4 (N.D. Cal. July 17, 2025); *Romero v. Kaiser*, No. 22-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022).

The fact that government previously elected to release the named-plaintiffs from its custody as a matter of its parole discretion under § 1182(d)(5)(A)—albeit while mis-papering those releases via the Form I-220A, Order of Release on Recognizance, under the purported auspices of 8 U.S.C. § 1226(a), instead of providing the proper parole documentation, as is required by 8 CFR § 235.1(h)(2)—does not undermine the named-plaintiff's liberty interest in being free from detention. "Even when the government has discretion to detain an individual, its subsequent decision to release the individual creates an 'implicit promise' that she will be re-detained only if she violates the conditions of her release." *Pablo Sequen v. Kaiser*, No. 25-CV-06487-PCP, 2025 WL 2203419, at *10 (N.D. Cal. Aug. 1, 2025) (citing *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)); see also *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) ("But the fact that

a decision-making process involves discretion does not prevent an individual from having a protectable liberty interest.") (citing *Young v. Harper*, 520 U.S. 143, 150 (1997) (rejecting an argument that a pre-parolee does not enjoy the same liberty interest as a parolee because the governor could exercise discretion to deny parole)). Conditional release "is valuable and must be seen as within the protection of the [Due Process Clause]." *Morrissey*, 408 U.S. at 482.

Therefore, the named-plaintiffs are therefore entitled to due process under the Fifth Amendment, U.S. Const. Amend. V, with respect to their protected liberty interest in remaining out of immigration custody during the pendency of this action, and in light of their prior releases from immigration custody. And to be sure, the Due Process Clause requires a hearing of some sort before the government may deprive a person of liberty. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).

Where the government seeks to deprive an individual of a protected interest, the Supreme Court has directed that courts balance three distinct factors:

> First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews v. *Eldridge*, 424 U. S 319, 335 (1976). This test is applicable here, in the context of the government seeking to re-detain a noncitizen who has acquired a protected liberty interest in remaining free from immigration detention. See *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206-07 (CA9 2022).[2]

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[2] Although the Ninth Circuit "assumed without deciding" that *Mathews* applied, it noted that other circuits have applied *Mathews* in considering due process challenges to immigration detention. See, e.g., *Miranda v. Garland*, 34 F.4th 338 (CA4 2022); *Hernandez-Lara v. Lyons*, 10 F.4th 19 (CA1 2021); *Velasco Lopez v. Decker*, 978 F.3d 842 (CA2 2020).

First, the named-plaintiffs have a substantial private interest in remaining out of custody. All named-plaintiffs have an interest in "remaining in [their] home, continuing [their] employment, [and] obtaining necessary medical care." *Pinchi*, 2025 WL 2084921, at *4; see also *Arostegui Castellon v. Kaiser*, 2025 WL 2373425, at *9 (finding petitioner "has a substantial private interest in being out of custody, which would allow her to continue" working, attending community college, building connections in the community, and obtaining necessary medical care.). The first *Mathews* factor therefore weighs in the favor of the named-plaintiffs.

Second, there is a risk that Government will erroneously deprive the named-plaintiffs of their liberty interest if it does not first provide them with a pre-detention hearing, absent any material change of circumstances since the initiation of this case. When an individual has not received a bond or redetermination hearing, "the risk of erroneous deprivation [of liberty] is high." *Singh v. Andrews*, No. 1:25-cv-00801, 2025 WL 1918679, at *7 (E.D. Cal. July 11, 2025). Here, the probable value of additional procedural safeguards—a pre-detention hearing before a neutral arbiter—is high, *Id.*, given that the government has already made an implicit determination that none of the named-plaintiffs are flights risks or dangers to the community. The applicable regulations provided that a noncitizen may only be paroled from custody, "provided the aliens present neither a security risk nor a risk of absconding." 8 CFR § 212.5.[3] Therefore, the fact the government previously released the named-plaintiffs from its custody reflects a determination that none of the named-plaintiffs were dangers to the community nor flight risks. Thus, the second

[3] Even if the defendants take that position that the named-plaintiffs were in fact processed and released under 8 U.S.C. § 1226(a) [INA § 236(a)]—such that they were properly papered under § 1226(c) via their Forms I-220A, Order of Release on Recognizance, this point is inarguable, given that the pertinent regulations governing releases under § 1236(a) require that a noncitizen, "demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons," and that that noncitizen is "likely to appear for any future proceedings." 8 CFR §§ 236.1(c)(8), 1236.1(c)(8).

Mathews factors weighs in favor of the named-plaintiffs.

Finally, any countervailing government interest here in minimal. The government has identified no legitimate interests that would support detaining either Mr. Matos-Duran or any of the named-plaintiffs without a pre-detention hearing. See *Ortega v. Bonnar*, 415 F. Supp. 3d at 970 (finding the third factor favored petitioner, noting the government "has the power to take steps towards" re-arresting petitioner, but "its interest in doing so without a hearing is low."). Additionally, the cost of providing the named-plaintiffs with pre-detention hearings would not impose a financial or administrative burden. "In immigration court, custody hearings are routine and impose a 'minimal' cost." *Singh*, 2025 WL 1918679, at *8 (citing *Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, at *2 (E.D. Cal. March 3, 2025)); see also *Pinchi*, 2025 WL 2084921, at *6 ("[I]t is likely that the cost to the government of detaining [petitioner] pending any bond hearing would significantly exceed the cost of providing her with a pre-detention hearing."). Thus, the third *Mathews* factor also weighs in favor of the named-plaintiffs.

Conclusion

Based upon the foregoing, the Court should grant this motion pursuant to the All-Writs Act, 28 U.S.C. § 1651(a), and (1) order the immediate release of named-plaintiff #558, Adrian Duran-Matos, who is currently in the custody of ICE at the Karnes County Immigration Processing Center in Karnes City, Texas; and (2) order that the defendants must provide the named-plaintiff class-members with a pre-detention custody hearing prior to re-detaining any named plaintiffs into their custody, absent any material change of circumstance since the initiation of this case

Respectfully submitted,

Dated: November 4, 2025

s/ Anthony Richard Dominguez
Fla. Bar No. 1002234
s/ Mark Andrew Prada
Fla. Bar No. 91997

s/ Maitte Barrientos
Fla. Bar No. 1010180
Prada Dominguez, PLLC
12940 SW 128th St. Ste. 203.
Miami, FL 33186
o. 786.703.2061
adominguez@pradadominguez.com
mprada@pradadominguez.com
maitte@pradadominguez.com

s/ Claudia Canizares
Fla. Bar No. 98308
Canizares Law Group, LLC
8360 W. Flagler Street, Suite 200
Miami, FL 33144
o. 305.680.0036
claudia@abogadadeinmigracion.us

Counsel for the Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by e-mail, pursuant to consent in writing under Fed. R. Civ. P. 5(b)(2)(E), on November 4, 2025, on all counsel or parties of record on the Service List below.

Dated: November 4, 2025

s/ Anthony Richard Dominguez
Fla. Bar No. 1002234
Prada Dominguez, PLLC

Counsel for Plaintiffs

Service List

Natalie Diaz
Assistant U.S. Attorney
Florida Bar No. 85834
E-mail: Natalie.Diaz@usdoj.gov
99 N.E. 4th Street, Suite 300
Miami, Florida 33132
Telephone: (305) 961-9306
Attorney for Defendants