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8  
9 UNITED STATES DISTRICT COURT  
10  
11 FOR THE DISTRICT OF ARIZONA  
12

13 Mehرداد Rowshandel

14 Petitioner-Plaintiff,

15 v.

16 Pam Bondi, in her Official Capacity,  
17 Attorney General of the United States; et  
18 al.

19 Respondents-Defendants.  
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Case No.



**MOTION FOR  
TEMPORARY  
RESTRAINING ORDER**

**POINTS AND  
AUTHORITIES IN  
SUPPORT OF EX PARTE  
MOTION FOR  
TEMPORARY  
RESTRAINING ORDER  
AND MOTION FOR  
PRELIMINARY  
INJUNCTION**

Challenge to Unlawful Incarceration,  
Request for Declaratory and  
Injunctive Relief

**NOTICE OF MOTION**

Petitioner Client Name applies to this honorable Court for a temporary restraining order enjoining Respondents Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), and Pam Bondi, in her official capacity as the U.S. Attorney General, (1) from continuing to detain Petitioner based on an unlawful action by ICE, (2) ordering his immediate release from immigration detention; and (3) from removing Petitioner from the United States.

If the Court deems oral argument necessary, Petitioner requests to appear by video.

Dated: September 22, 2025      Respectfully submitted,

/s/ Siovhan Ayala  
Siovhan Ayala  
Attorney for Petitioner-Plaintiff Client  
Name

1 **I. INTRODUCTION**

2 Respondents unlawfully detain Petitioner, Mehrdad Rowshandel, in violation  
3 of the Immigration and Nationality Act and the Constitution. Mr. Rowshandel was  
4 released from criminal custody in 2003 and has lived in the community for over  
5 twenty years without any violations. On June 16, 2016, his probation was  
6 terminated, confirming his full compliance. Since then, he has lived freely in the  
7 community, incurred no new convictions, and demonstrated by two decades of  
8 lawful behavior that he is neither a flight risk nor a danger to the community. He  
9 complied fully with the terms of his release, incurred no new convictions, and  
10 demonstrated by two decades of lawful behavior that he is neither a flight risk nor  
11 a danger to the community.

12 On June 22, 2025, without prior notice or explanation, ICE agents re-arrested  
13 Mr. Rowshandel and placed him in custody at Eloy Detention Center. ICE did not  
14 demonstrate any change in circumstances that would justify revoking his long-  
15 standing release, nor did it provide him with an opportunity to be heard before  
16 depriving him of his liberty. The agency acted unilaterally, contrary to statute,  
17 regulation, and due process.

18 *Matter of Sugay* and its progeny, as well as decisions from the Ninth Circuit  
19 and this District, make clear that ICE cannot revoke a noncitizen's release absent a  
20 material change in circumstances. Federal courts have consistently held that due  
21 process requires notice and a hearing before the government may revoke liberty and  
22 impose incarceration. ICE's sudden re-arrest of Mr. Rowshandel, after more than  
23 twenty years of compliance, violates those principles.

24 Mr. Rowshandel meets the TRO standard. He is likely to succeed on the  
25 merits of his claims, he faces immediate and irreparable harm from unlawful  
26 detention, and the balance of equities and public interest weigh heavily in his favor  
27  
28

1 **II. STATEMENT OF FACTS AND CASE**

2 Petitioner Mr. Rowshandel is a native and citizen of Iran. He entered the  
3 United States in 1998 and has resided here since.  
4

5 On July 18, 2002, he pled guilty in Maricopa County Superior Court to  
6 attempted sexual assault, a class 3 felony. The court sentenced him to lifetime  
7 probation and a period of incarceration in Maricopa County Jail, which lasted until  
8 July 8, 2003. Mr. Rowshandel fully served that custodial sentence and was released  
9 under probationary supervision.  
10

11 For more than twenty years following his release, Mr. Rowshandel remained  
12 in the community without any violations of probation. On June 16, 2016, the state  
13 court terminated his probation, confirming his full compliance. Since then, he has  
14 lived freely in the community, incurred no new convictions, and demonstrated by  
15 two decades of lawful behavior that he is neither a flight risk nor a danger to the  
16 community., and no authority has found him in breach of his conditions. He incurred  
17 no new criminal convictions during this period.  
18

19 Nevertheless, on June 22, 2025, ICE agents appeared at his residence without  
20 prior notice, arrested him, and transported him to Eloy Detention Center. No court  
21 order authorized this re-arrest. ICE officers provided no explanation, nor did they  
22 demonstrate that Mr. Rowshandel suddenly posed a flight risk, constituted a danger  
23 to the community, or violated the conditions of his probationary release.  
24

25 On June 3, 2025, DHS filed a motion to recalendar administratively closed  
26 proceedings. Shortly thereafter, ICE began carrying out highly publicized arrests of  
27  
28

1 noncitizens with no recent criminal history or violations. Mr. Rowshandel’s arrest  
2 followed this pattern.

3 At no time did ICE provide him with notice or a hearing prior to re-  
4 incarceration. He remains detained solely on ICE’s unilateral assertion of authority,  
5 without a showing of changed circumstances or lawful justification.  
6

7 **LEGAL STANDARD**  
8

9 Mr. Rowshandel is entitled to a temporary restraining order if he establishes  
10 that he is “likely to succeed on the merits, . . . likely to suffer irreparable harm in  
11 the absence of preliminary relief, that the balance of equities tips in [his] favor, and  
12 that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*,  
13 555 U.S. 7, 20 (2008); *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d  
14 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and temporary  
15 restraining order standards are “substantially identical”). Even if Mr. Rowshandel  
16 does not show a likelihood of success on the merits, the Court may still grant a  
17 temporary restraining order if he raises “serious questions” as to the merits of his  
18 claims, the balance of hardships tips “sharply” in his favor, and the remaining  
19 equitable factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d  
20 1127 (9th Cir. 2011). As set forth in more detail below, Mr. Rowshandel  
21 overwhelmingly satisfies the standards for a temporary restraining order.  
22

23 **III. ARGUMENT**

24 **A. MR. ROWSHANDEL WARRANTS A TEMPORARY**  
25 **RESTRAINING ORDER**

26 A temporary restraining order should be issued if “immediate and irreparable  
27 injury, loss, or irreversible damage will result” to the applicant in the absence of an  
28 order. Fed. R. Civ. P. 65(b). The purpose of a temporary restraining order is to

1 prevent irreparable harm before a preliminary injunction hearing is held.  
2 *See Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Local*  
3 *No. 70 of Alameda City*, 415 U.S. 423, 439 (1974). Mr. Rowshandel is likely to  
4 remain in unlawful custody in violation of his due process rights without  
5 intervention by this Court. Mr. Rowshandel will continue to suffer irreparable  
6 injury if he continues to be detained without due process.

7  
8 **1. Mr. Rowshandel is Likely to Succeed on the Merits of His  
Claim That He be Released from Detention**

9 Mr. Rowshandel is likely to succeed on his claim that, in his particular  
10 circumstances, his current detention is unlawful because the Due Process Clause  
11 and the statute.

12 The District of Arizona has recognized that when the government seeks to  
13 revoke or stay a noncitizen's release from custody, due process under the Fifth  
14 Amendment requires a meaningful opportunity to be heard before the deprivation  
15 occurs. *See Organista v. Sessions*, No. CV-18-00285-PHX-GMS (D. Ariz. Feb. 8,  
16 2018). Applying the familiar three-factor test from *Mathews v. Eldridge*, 424 U.S.  
17 319 (1976), the court weighed 1) the private liberty interest at stake; 2) the risk of  
18 erroneous deprivation; and 3) the burden on the government – “the fundamental  
19 requirement of due process – the opportunity to be heard at a meaningful time and  
20 manner.” *Organista*, No. CV-18-00285-PHX-GMS, at 4.; *City of Los Angeles v.*  
21 *David*, 538 U.S. 715, 717 (2003). In weighing the *Mathews* factors, the court  
22 declared that “there is no meaningful dispute that Petitioner has a liberty interest in  
23 being heard before the BIA can prolong his detention.” *Organista*, No. CV-18-  
24 00285-PHX-GMS, at 4.

25  
26 Likewise, federal district courts in California have repeatedly recognized that  
27 the demands of due process and the limitations on DHS's authority to revoke a  
28 noncitizen's bond or parole set out in DHS's stated practice and *Matter of Sugay*

1 both require a pre-deprivation hearing for a noncitizen on bond, like Mr. Rowshandel  
2 before ICE re-detains him. *See, e.g., Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D.  
3 Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at \*3  
4 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021  
5 WL 783561, at \*2 (N.D. Cal. Mar. 1, 2021); ); *Romero v. Kaiser*, No. 22-cv-02508-  
6 TSH, 2022 WL 1443250, at \*3-4 (N.D. Cal. May 6, 2022) (Petitioner would suffer  
7 irreparable harm if re-detained, and required notice and a hearing before any re-  
8 detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 1382859, at \*3  
9 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing re-arrest at  
10 plaintiff's ICE interview when he had been on bond for more than five years). *See*  
11 *also Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, \*4 (E.D.  
12 Cal. Mar. 3, 2025) (holding the Constitution requires a hearing before any re-arrest).

13 Courts analyze procedural due process claims such as this one in two steps:  
14 the first asks whether there exists a protected liberty interest under the Due Process  
15 Clause, and the second examines the procedures necessary to ensure any  
16 deprivation of that protected liberty interest accords with the Constitution. *See*  
17 *Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460 (1989).

18  
19 **a. Mr. Rowshandel Has a Protected Liberty Interest in His**  
20 **Conditional Release**

21 Mr. Rowshandel's liberty from immigration custody is protected by the Due  
22 Process Clause: "Freedom from imprisonment—from government custody,  
23 detention, or other forms of physical restraint—lies at the heart of the liberty that  
24 [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

25 Since 2003, Mr. Rowshandel has lived continuously in the community under  
26 lifetime probationary supervision that was terminated in 2016. For more than  
27 twenty years, he has complied with all conditions of his release, incurred no new  
28 convictions, where he has worked, supported his family, and built enduring

1 community ties. Despite this history of compliance, ICE re-arrested him on June  
2 22, 2025, without notice, without a showing of changed circumstances, and without  
3 affording him a hearing. Accordingly, he retains a profound liberty interest under  
4 the Fifth Amendment in avoiding arbitrary re-incarceration. See *Young v. Harper*,  
5 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973);  
6 *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972).

7 In *Morrissey*, the Supreme Court examined the “nature of the interest” that a  
8 parolee has in “his continued liberty.” 408 U.S. at 481-82. The Court noted that,  
9 “subject to the conditions of his parole, [a parolee] can be gainfully employed and  
10 is free to be with family and friends and to form the other enduring attachments of  
11 normal life.” *Id.* at 482. The Court further noted that “the parolee has relied on at  
12 least an implicit promise that parole will be revoked only if he fails to live up to the  
13 parole conditions.” *Id.* The Court explained that “the liberty of a parolee, although  
14 indeterminate, includes many of the core values of unqualified liberty and its  
15 termination inflicts a grievous loss on the parolee and often others.” *Id.* In turn,  
16 “[b]y whatever name, the liberty is valuable and must be seen within the protection  
17 of the [Fifth] Amendment.” *Morrissey*, 408 U.S. at 482.

18 This basic principle—that individuals have a liberty interest in their  
19 conditional release—has been reinforced by both the Supreme Court and the circuit  
20 courts on numerous occasions. See, e.g., *Young v. Harper*, 520 U.S. at 152 (holding  
21 that individuals placed in a pre-parole program created to reduce prison  
22 overcrowding have a protected liberty interest requiring pre-deprivation process);  
23 *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released on felony  
24 probation have a protected liberty interest requiring pre-deprivation process). As  
25 the First Circuit has explained, when analyzing the issue of whether a specific  
26 conditional release rises to the level of a protected liberty interest, “[c]ourts have  
27  
28

1 resolved the issue by comparing the specific conditional release in the case before  
2 them with the liberty interest in parole as characterized by *Morrissey*.” *Gonzalez-*  
3 *Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and  
4 citation omitted). *See also, e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683  
5 (D.C. Cir. 2017) (“a person who is in fact free of physical confinement—even if  
6 that freedom is lawfully revocable—has a liberty interest that entitles him to  
7 constitutional due process before he is re-incarcerated”) (citing *Young*, 520 U.S. at  
8 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

9 In fact, it is well-established that an individual maintains a protectable liberty  
10 interest even where the individual obtains liberty through a mistake of law or fact.  
11 *See id.*; *Gonzalez-Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873  
12 (9th Cir. 1982) (noting that due process considerations support the notion that an  
13 inmate released on parole by mistake, because he was serving a sentence that did  
14 not carry a possibility of parole, could not be re-incarcerated because the mistaken  
15 release was not his fault, and he had appropriately adjusted to society, so it “would  
16 be inconsistent with fundamental principles of liberty and justice” to return him to  
17 prison) (internal quotation marks and citation omitted).

18 Here, when this Court compares Mr. Rowshandel’s release to the liberty  
19 interest in parole as characterized by *Morrissey*, the similarities are unmistakable.  
20 For more than two decades, Mr. Rowshandel has lived at home, worked, and  
21 complied with all conditions of release. His liberty has enabled him to “be with  
22 family and friends and to form the other enduring attachments of normal life.”  
23 *Morrissey*, 408 U.S. at 482. This liberty interest is protected by the Fifth  
24 Amendment and cannot be extinguished absent constitutionally adequate process.  
25

26  
27 **b. Mr. Rowshandel’s Liberty Interest Mandates His**  
28 **Release from Unlawful Custody**

1 “Adequate, or due, process depends upon the nature of the interest affected.  
2 The more important the interest and the greater the effect of its impairment, the  
3 greater the procedural safeguards the government must provide to satisfy due  
4 process.” *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc)  
5 (citing *Morrissey*, 408 U.S. at 481-82). This Court must “balance [Mr.  
6 Rowshandel’s] liberty interest against the government’s interest in the efficient  
7 administration of” its immigration laws to determine what process he is owed to  
8 ensure that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357.  
9 Under the test set forth in *Mathews v. Eldridge*, this Court must consider three  
10 factors in conducting its balancing test: “first, the private interest that will be  
11 affected by the official action; second, the risk of an erroneous deprivation of such  
12 interest through the procedures used, and the probative value, if any, of additional  
13 or substitute procedural safeguards; and finally the government’s interest, including  
14 the function involved and the fiscal and administrative burdens that the additional  
15 or substitute procedural requirements would entail.” *Haygood*, 769 F.2d at 1357  
16 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).  
17

18 The Supreme Court “usually has held that the Constitution requires some  
19 kind of a hearing *before* the State deprives a person of liberty or property.”  
20 *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a  
21 “special case” where post-deprivation remedies are “the only remedies the State  
22 could be expected to provide” can post-deprivation process satisfy the requirements  
23 of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where “one of the  
24 variables in the *Mathews* equation—the value of deprivation safeguards—is  
25 negligible in preventing the kind of deprivation at issue” such that “the State cannot  
26 be required constitutionally to do the impossible by providing deprivation process,”  
27 can the government avoid providing pre-deprivation process. *Id.*  
28

1 Because, in this case, the provision of a hearing is both possible and essential  
2 to preventing an erroneous deprivation of liberty, ICE is required to provide Mr.  
3 Rowshandel with notice and the opportunity for an individualized determination  
4 before a neutral adjudicator. See *Morrissey*, 408 U.S. at 481–82; *Haygood*, 769 F.2d  
5 at 1355–56; *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004); *Zinermon*, 494 U.S.  
6 at 985; see also *Youngberg v. Romeo*, 457 U.S. 307, 321–24 (1982); *Lynch v.*  
7 *Baxley*, 744 F.2d 1452 (11th Cir. 1984). Under *Mathews*, “the balance weighs  
8 heavily in favor of Mr. Rowshandel’s liberty” and requires a pre-deprivation  
9 hearing before a neutral adjudicator.

10 **i. Mr. Rowshandel’s Private Interest in His Liberty**  
11 **is Profound**

12 The private interest at stake, freedom from physical restraint, is “at the core  
13 of the liberty protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S.  
14 71, 80 (1992); see also *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom  
15 from imprisonment—from government custody, detention, or other forms of  
16 physical restraint—lies at the heart of the liberty that [the Due Process] Clause  
17 protects.”).

18 Mr. Rowshandel completed his custodial sentence on July 8, 2003, and since  
19 that time has lived continuously in the community under lifetime probationary  
20 supervision which was then terminated in 2016. For more than twenty years, he has  
21 complied fully with all conditions of release, incurred no new convictions, and  
22 maintained stable ties through family, work, and community life. His record reflects  
23 complete adjustment to lawful living outside of confinement.

24 As the Supreme Court recognized in *Morrissey v. Brewer*, 408 U.S. 471,  
25 482–83 (1972), even conditional liberty carries profound constitutional  
26 significance. A person who is free in the community “can be gainfully employed  
27 and is free to be with family and friends and to form the other enduring attachments  
28

1 of normal life.” Id. The Court further noted that terminating such liberty “inflicts a  
2 grievous loss on the parolee and often others,” and emphasized that “[b]y whatever  
3 name, the liberty is valuable and must be seen within the protection of the [Fifth]  
4 Amendment.” Id.

5 So too here. Mr. Rowshandel’s decades of lawful life in the community, his  
6 family responsibilities, and his deep community ties reflect a profound liberty  
7 interest that cannot lawfully be extinguished through ICE’s unilateral action. By  
8 detaining him without notice or an opportunity for a pre-deprivation hearing before  
9 a neutral adjudicator, Respondents have arbitrarily deprived him of the very liberty  
10 the Constitution protects.

11 **ii. The Government’s Interest in Continued**  
12 **Incarceration of Mr. Rowshandel is Low and the**  
13 **Burden on the Government to Refrain from**  
14 **Releasing Him is Minimal**

15 The government’s interest in maintaining Mr. Rowshandel’s detention  
16 without affording him a hearing is low, and when weighed against his significant  
17 private interest in liberty, the scale tips sharply in favor of enjoining Respondents  
18 from keeping him in unlawful custody. The *Mathews* test plainly favors Mr.  
19 Rowshandel when the Court considers that the process he seeks—notice and a  
20 hearing before a neutral adjudicator to determine whether there is clear and  
21 convincing evidence that he is a flight risk or a danger to the community—is the  
22 standard course of action the government routinely provides in immigration  
23 proceedings. Providing Mr. Rowshandel with such a hearing would impose only a  
24 de minimis burden on the government.

25 As immigration detention is civil, it can have no punitive purpose. The  
26 government’s only lawful interests in detention are to prevent danger to the  
27 community or to ensure appearance at immigration proceedings. *Zadvydas v. Davis*,

1 533 U.S. 678, 690 (2001). In this case, the government cannot plausibly assert that  
2 it has a lawful basis for detaining Mr. Rowshandel. For over two decades, he lived  
3 at liberty without any conviction, or evidence of risk. ICE has made no showing  
4 that he is a danger or flight risk.

5 Moreover, the “fiscal and administrative burdens” that his immediate release  
6 is nonexistent in this case. *See Mathews*, 424 U.S. at 334-35. Mr. Rowshandel does  
7 not seek a unique or expensive form of process, but rather release from unlawful  
8 detention, where removal is not reasonably foreseeable.

9 As the Ninth Circuit noted in 2017, which remains true today, “[t]he costs to  
10 the public of immigration detention are ‘staggering’: \$158 each day per detainee,  
11 amounting to a total daily cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996.

12 Releasing Mr. Rowshandel from unlawful custody and enjoining Mr.  
13 Rowshandel’s continued detention is far *less* costly and burdensome for the  
14 government than keeping him detained. *Hernandez*, 872 F.3d at 996.

15 Due process also requires consideration of alternatives to detention at any  
16 custody redetermination hearing that may occur. The primary purpose of  
17 immigration detention is to ensure a noncitizen’s appearance during removal  
18 proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this  
19 purpose if there are alternatives to detention that could mitigate risk of flight. *See*  
20 *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention  
21 must be considered in determining whether Mr. Rowshandel’s continued  
22 incarceration is warranted.

23  
24 As the above-cited authorities show, Mr. Rowshandel is likely to succeed on  
25 his claim that the current detention is unlawful. And, at the very minimum, he clearly  
26 raises serious questions regarding this issue, thus also meriting a TRO. *See Alliance*  
27 *for the Wild Rockies*, 632 F.3d at 1135.  
28

## 2. Mr. Rowshandel Will Suffer Irreparable Harm Absent Injunctive Relief

Mr. Rowshandel will suffer irreparable harm were he to remain detained after being deprived of his liberty and subjected to unlawful incarceration by immigration authorities without being provided the constitutionally adequate process that this motion for a temporary restraining order seeks. Detainees in ICE custody are held in “prison-like conditions.” *Preap v. Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, “[t]he time spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job; it disrupts family life; and it enforces idleness.” *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972); accord *Nat’l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th Cir. 1984). Moreover, the Ninth Circuit has recognized in “concrete terms the irreparable harms imposed on anyone subject to immigration detention” including “subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained.” *Hernandez*, 872 F.3d at 995. The government itself has documented alarmingly poor conditions in ICE detention centers. *See, e.g.*, DHS, Office of Inspector General (OIG), Summary of Unannounced Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024) (reporting violations of environmental health and safety standards; staffing shortages affecting the level of care detainees received for suicide watch, and detainees being held in administrative segregation in unauthorized restraints, without being allowed time outside their cell, and with no documentation that they were provided health care or three meals a day).<sup>1</sup>

As detailed *supra*, Mr. Rowshandel contends that his continued detention

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<sup>1</sup> Available at <https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf> (last accessed Feb. 6, 2024).

1 violates his due process rights under the Constitution. It is clear that “the deprivation  
2 of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres*  
3 *v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S.  
4 347, 373 (1976)). Thus, a temporary restraining order is necessary to prevent Mr.  
5 Rowshandel from suffering irreparable harm by being subject to unlawful and  
6 unjust detention.

7  
8 **3. The Balance of Equities and the Public Interest Favor**  
9 **Granting the Temporary Restraining Order**

10 The balance of equities and the public interest undoubtedly favor granting  
11 this temporary restraining order.

12 First, the balance of hardships strongly favors Mr. Rowshandel. The  
13 government cannot suffer harm from an injunction that prevents it from engaging  
14 in an unlawful practice. *See Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983)  
15 (“[T]he INS cannot reasonably assert that it is harmed in any legally cognizable  
16 sense by being enjoined from constitutional violations.”). Therefore, the  
17 government cannot allege harm arising from a temporary restraining order or  
18 preliminary injunction ordering it to comply with the Constitution.

19 Further, any burden imposed by requiring the ICE to release Mr. Rowshandel  
20 from unlawful custody is both *de minimis* and clearly outweighed by the substantial  
21 harm he will suffer as if he is detained. *See Lopez v. Heckler*, 713 F.2d 1432, 1437  
22 (9th Cir. 1983) (“Society’s interest lies on the side of affording fair procedures to  
23 all persons, even though the expenditure of governmental funds is required.”).

24 A temporary restraining order is in the public interest. First and most  
25 importantly, “it would not be equitable or in the public’s interest to allow [a party]  
26 . . . to violate the requirements of federal law, especially when there are no adequate  
27 remedies available.” *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th  
28 Cir. 2014) (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir.

1 2013)). If a temporary restraining order is not entered, the government would  
2 effectively be granted permission to detain Mr. Rowshandel in violation of the  
3 requirements of Due Process. “The public interest and the balance of the equities  
4 favor ‘prevent[ing] the violation of a party’s constitutional rights.’” *Ariz. Dream*  
5 *Act Coal.*, 757 F.3d at 1069 (quoting *Melendres*, 695 F.3d at 1002); *see also*  
6 *Hernandez*, 872 F.3d at 996 (“The public interest benefits from an injunction that  
7 ensures that individuals are not deprived of their liberty and held in immigration  
8 detention because of bonds established by a likely unconstitutional process.”); *cf.*  
9 *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) (“Generally, public  
10 interest concerns are implicated when a constitutional right has been violated,  
11 because all citizens have a stake in upholding the Constitution.”).

12 Therefore, the public interest overwhelmingly favors entering a temporary  
13 restraining order and preliminary injunction.

14 **IV. CONCLUSION**

15 For all the above reasons, this Court should find that Mr. Rowshandel warrants  
16 a temporary restraining order and a preliminary injunction ordering that Respondents  
17 (1) release him from his unlawful custody; and (2) refrain from sending him to any  
18 place outside of the United States.

20 Dated: September 22, 2025

Respectfully submitted,

21  
22 /s/ Siovhana Ayala

23 Siovhana Ayala  
24 Attorney for Petitioner-Plaintiff  
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27  
28