**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF TEXAS**
**LAREDO DIVISION**

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| **SHAHROKH RAHIMI,**<br><br>*Petitioner,*<br><br>v.<br><br>**PERRY GARCIA,** Warden, La Salle County Regional Detention Center; **MIGUEL VERGARA,** Field Office Director, San Antonio Field Office, United States Immigration and Customs Enforcement; **TODD M. LYONS**, Acting Director, United States Immigration and Customs Enforcement; **KRISTI NOEM**, Secretary of United States Department of Homeland Security; **UNITED STATES DEPARTMENT OF HOMELAND SECURITY**; **PAMELA BONDI,** United States Attorney General; **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**; *in their official capacities,*<br><br>*Respondents.* | ) | CASE NO. 5:25-cv-00170 |

**MOTION FOR PRELIMINARY INJUNCTION ORDERING RELEASE PENDING FINAL JUDGMENT**

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## I. INTRODUCTION

This case arises amidst of "tsunami" of litigation resulting from Respondents' recent attempt to advance a novel interpretation of the Immigration and Nationality Act (INA) that would require the government to detain without bond any noncitizen who ever entered without inspection. *See Roa v. Albarran*, No. 25-CV-07802-RS, 2025 WL 2732923, at *1 (N.D. Cal. Sept. 25, 2025).

Petitioner Shahrokh Rahimi entered the United States without inspection in 2003, escaping the Iranian regime that had murdered his family members and imprisoned and tortured him for his political activities. Pet. For Writ of Habeas Corpus and Compl., Dkt. 1, ¶¶ 29–33 ("Pet." Or "Verified Pet."). In 2010, an immigration judge (IJ) granted Mr. Rahimi withholding of removal to Iran and he was released on an order of supervision. *Id.* ¶ 34. For over fifteen years, he has attended regular check-ins with U.S. Immigration and Customs Enforcement (ICE) and maintained a clean record. *Id.* Despite no change in these circumstances, ICE agents detained Mr. Rahimi on June 22, 2025, in front of his wife, Brandi, and their eleven-year-old daughter. *Id.* ¶ 39. The government has since denied Mr. Rahimi a bond hearing under a novel interpretation of section 1225(b)(2)(A) of INA that has been squarely rejected by federal courts across the United States, including in the Fifth Circuit. *See Id.*, Ex. 3 at 3.

Mr. Rahimi is likely to succeed on the merits of his statutory and constitutional claims and will suffer irreparable harm for every moment that he is deprived of liberty without sufficient procedure or justification. Therefore, Mr. Rahimi respectfully requests that this Court exercise its inherent equitable authority to order Respondents to release him during the pendency of these proceedings or, in the alternative, order Respondents to provide constitutionally-mandated procedures, such as a prompt bond hearing before an Immigration Judge (IJ).

## II. FACTUAL BACKGROUND

Until July 22, 2025, Petitioner Shahrokh Rahimi was living a quiet life in San Antonio with his wife and eleven-year-old daughter who are both U.S. citizens. Verified Pet. ¶ 28. Mr. Rahimi entered the United States without inspection in 2003, having fled Iran in 2001 after two of his brothers were murdered for political reasons, and he himself was jailed and tortured by the government for his political activities. *Id.* ¶ 29–32.

Mr. Rahimi settled in San Antonio, Texas, and in 2007, he formally converted to Christianity and met his now-wife, Brandi. *Id.* ¶ 33. In 2010, an IJ granted Mr. Rahimi withholding of removal to Iran and he was released an order of supervision. *Id.* ¶ 34. For the past fifteen years, he has attended every check-in and complied with all other conditions of his release. *Id.*

Through these fifteen years, Mr. Rahimi has built a life in San Antonio. In 2013, Mr. Rahimi and his wife welcomed a baby girl into their lives. *Id.*, Ex. 1, ¶ 35. Their daughter is now eleven and very close with her father. *See id.*, Ex. 1, ¶ 6. She is a straight-A student who recently began attending a magnet school to pursue aeronautical engineering. *Id.*, Ex. 1, ¶ 14. Until his detention, Mr. Rahimi contributed significantly with childcare, picking his daughter up from school, helped her with school projects, attended parent-teacher conferences, provided spiritual instruction, and cared her over summer break. *Id.*, Ex. 1, ¶¶ 17, 9–10.

Mr. Rahimi works as a professional caretaker, and he was previously employed by the Veteran's Affairs Caretaker Program. Verified Pet. ¶ 36. His detention comes as Texas is "on the brink of a caregiving emergency" driven by a shortage of professional home health care workers. "America's Unseen Workforce: The State of Family Caregiving," Otsuka & Columbia University Mailman School of Public Health (Apr. 2025), https://www.otsuka-

us.com/media/static/01US25EUC0183_Columbia_Caregiving_State_Level_Data_Report_FINAL.pdf.

Mr. Rahimi is also a dedicated Christian and devoted member of his church. Verified Pet., Ex. 1, ¶ 20. His life demonstrates that is not a flight risk nor a danger to his community. He has been well-settled with his family in San Antonio for decades, consistently attends his immigration appointments, and helps his community. *Id.* ¶¶ 20–21

However, on June 22, 2025, ICE agents arrived at Mr. Rahimi's home, placed him in handcuffs, and arrested him in front of his wife, daughter, and neighbors. Verified Pet. ¶ 39. Watching her father's arrest inflicted significant emotional distress on Mr. Rahimi's eleven-year-old daughter, who experienced a panic attack at the time and is now in weekly therapy. *Id.*, Ex. 1, ¶¶ 11, 16. She remains frightened by every knock at the front door and asked her mom to purchase a camera and a doorbell, stating that she no longer feels safe in her own home. *Id.* at ¶ 11.

On July 15, 2025, Brandi Rahimi filed an I-130 application on Mr. Rahimi's behalf. Verified Pet. ¶ 41. On July 24th, Mr. Rahimi moved to reopen his immigration proceedings and requested asylum and cancellation of removal before the EOIR Immigration Court of San Antonio, Texas. *Id.* An IJ granted that motion on August 11, 2025. *Id.*, Ex. 2. Mr. Rahimi no longer has a pending order of removal. *Id.* ¶ 41.

On August 27, 2025, Mr. Rahimi requested that DHS release him on parole. *Id.* ¶ 42. Mr. Rahimi then applied for a bond hearing on September 4. *Id.* The IJ denied the request, stating that "the Court lacks authority to hear bond requests or to grant bond to aliens who are present in the United States without admission," under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See id.*, Ex. 3 at 3.

Mr. Rahimi's ongoing detention has been extremely detrimental to Mr. Rahimi's mental state and his family who rely on him. His wife believes that his detention is exacerbating mental health concerns caused by the detention and torture he experienced at the hands of the Iranian government. *See id.*, Ex. 1, ¶ 13. His family is also struggling. Brandi cannot pay their mortgage on her income alone. She is trying to sell the family's truck to cover the expenses, and has contemplated selling their home. *See id.* ¶ 19. Brandi is "mentally and physically exhausted" as she tries to care for her daughter, handle lawyer calls, schedule doctor visits, pay bills, and work. *Id.* ¶ 12. She reports that she is experiencing symptoms of depression and sleeplessness but has not had time to schedule treatment. *Id.* Their daughter is suffering emotional distress in the absence of her father. *Id.* ¶¶ 11, 16. She needs to speak to him each morning or she does not have a good day. *Id.* ¶ 16. While she once loved school, she now says that she does not want to go. *Id.* With her father in detention and her mother working, "there is no one to assist her with projects, follow up with teachers, and make sure she is caught up in her classes." *Id.* ¶ 17.

Worse still, Brandi's thirty-three-year-old niece, who was a caregiver for their daughter, recently had a stroke and is relearning how to walk and talk. *Id.* ¶ 18. Further exacerbating the family's separation, on October 6, Mr. Rahimi was without warning transferred from the South Texas Ice Processing Center to the La Salle County Regional Detention Center. That detention center is much farther away from his family and will make visitation even more difficult. Mr. Rahimi's family is in crisis and they "desperately need him back." *Id.* ¶ 21.

## III. NATURE AND STAGE OF PROCEEDINGS

Mr. Rahimi filed his Petition for Writ of Habeas Corpus and Complaint, Dkt. 1 (the Petition), on October 8, 2025.

## IV. STANDARD OF REVIEW

"The Framers viewed freedom from unlawful restraint as a fundamental precept of liberty, and they understood the writ of habeas corpus as a vital instrument to secure that freedom." *Boumediene v. Bush*, 553 U.S. 723, 739 (2008). "[C]ommon-law habeas corpus was, above all, an adaptable remedy. Its precise application and scope changed depending upon the circumstances." *Id.* at 779. Thus, as codified in 28 U.S.C. § 2241, habeas corpus has "never been a static, narrow, formalistic remedy." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963). Rather, its "scope has grown to achieve its grand purpose[:] the protection of individuals against erosion of their right to be free from wrongful restraint[]." *Id.*

This court has the inherent authority to release Mr. Rahimi during the adjudication of his habeas petition. *Calley v. Callaway*, 496 F.2d 701, 702 (5th Cir. 1974); *see also Mapp v. Reno*, 241 F.3d 221, 230 (2d. Cir. 2001). This expansive authority ensures that the writ remains an effective remedy. *See Mapp*, 241 F.3d at 230; *Jones v. Cunningham,* 371 U.S. 236, 243 (1963) (stating that habeas relief must adjust to effectively serve "its grand purpose"). District Courts within the Fifth Circuit have recognized that such expansive authority includes the authority to release noncitizens from immigration detention pending the disposition of habeas petitions challenging immigration confinement. *See, e.g.*, *Singh v. Gillis*, No. 5:20-CV-96, 2020 WL 4745745, at *2 (S.D. Miss. June 4, 2020) (collecting cases).

Similarly, under Federal Rule of Civil Procedure 65, this Court can issue a preliminary injunction (PI). To enter a PI, the Court must that find four factors, on balance, weigh in Petitioner's favor:

> (1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction is not issued, (3) that the threatened injury if the injunction is denied

outweighs any harm that will result if the injunction is granted, and (4) that the grant of an injunction will not disserve the public interest.

*Speaks v. Kruse*, 445 F.3d 396, 399–400 (5th Cir. 2006) (quoting *Concerned Women for Am. Inc. v. Lafayette Cnty.*, 883 F.2d 32, 34 (5th Cir. 1989). In cases against the government, the third and fourth factors merge. *Texas v. United States*, 809 F.3d 134, 187 (5th Cir. 2015) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)).

Thus, this Court has significant power to issue an interim remedy. First, the Court may issue preliminary injunctive relief ordering Respondents to immediately release Mr. Rahimi pending final judgment. *Basank v. Decker*, 613 F. Supp. 3d 776, 795 (S.D.N.Y. 2020). In the alternative, the Court may issue a preliminary injunction ordering Respondents to release Mr. Rahimi on bond. *Suri v. Trump*, No. 1:25-CV-480 (PTG/WBP), 2025 WL 1392143 (E.D. Va. May 14, 2025) (ordering release on bond). Finally, the court may order Respondents grant Mr. Rahimi a bond hearing pending final disposition of this case. *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *4 (W.D. La. Aug. 27, 2025) (ordering a bond hearing within seven days).

## V. ARGUMENT

Mr. Rahimi satisfies the standard for a preliminary injunction ordering his release pending the Court's resolution of this case, or in the alternative, ordering that Respondents grant him a bond hearing. First, he is likely to succeed on the merits of his statutory and constitutional claims. Second, he is likely to face irreparable harm if the injunction is not granted. Finally, granting the injunction is in the public interest.

### A. Mr. Rahimi Raises Substantial Statutory and Constitutional Claims That Are Likely to Succeed on the Merits.

*1. The government's novel reading of 8 U.S.C. § 1225(b)(2)(A) flies in the face of the plain meaning of the INA.*

Mr. Rahimi is likely to succeed on Claim One, which alleges that his ongoing detention under section 1225(b)(2)(A) violates the INA. The IJ rejected Mr. Rahimi's request for a bond hearing based on a recently issued precedential BIA decision, *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025). Verified Pet., Ex. 3 at 3. There, the Board advanced the novel interpretation that the mandatory detention clause of § 1225(b)(2)(A) of the INA applies to all noncitizens who have entered without inspection because they are "applicants for admission." *Yajure Hurtado,* 29 I&N Dec. at 216. The decision flies in the face of the plain reading of the INA, goes against over twenty years of agency interpretation and practice, and has been universally rejected by the dozens of federal courts to address the issue. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Rivera Zumba v. Bondi*, No. 25-CV-14626 (KSH), 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Campos Leon v. Forestal*, No. 1:25-CV-01774-SEB-MJD, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025); *Barrajas v. Noem*, No. 4:25-CV-00322-SHL-HCA, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025) ((granting summary judgment holding detention under section 1225(b)(2)(A) unlawful local class of people who ("1) have entered or will enter the United States without inspection, (2) are not

apprehended upon arrival, (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231")); *Salazar v. Dedos*, No. 1:25-CV-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Lopez v. Hardin*, No. 2:25-CV-830-KCD-NPM, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025).

*Yajure Hurtado* is plainly incorrect because, as a person who is already present in the United States, Mr. Rahimi is properly detained under section 1226(a) and is thus eligible for a bond hearing. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d); *see also Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018). The structure of the INA demonstrates that this reading is correct. Courts have long recognized that section 1225(b) "applies primarily to aliens seeking entry into the United States," while section 1226 "applies to aliens already present in the United States." *Jennings*, 583 U.S. at 303; *see also Lopez Santos*, 2025 WL 2642278, at *4 (explaining that both statutes are necessary because they "differentiat[e] between the detention of arriving aliens who are seeking entry into the United States under § 1225 and the detention of those who are already present in the United States under § 1226."). Indeed, the idea "that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system." *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (citing *Jennings*, 583 U.S. at 289).

The text of section 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection, undercutting Respondents' argument that section 1225(b)(2)(A) governs the detention of people who are inadmissible because they entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E) states that people who are "inadmissible under paragraph (6)(A) . . . section 1182(a)"—*i.e.*, noncitizens who have previously entered without inspection—and are charged with, arrested for, or convicted of certain crimes must

be detained. The explicit reference to such people in this specific exception makes clear that, by default, such people are afforded a bond hearing under section 1226(a). "When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez*, 779 F. Supp. 3d at 1256–57 (quoting *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). Therefore, noncitizens like Mr. Rahimi, who are present in the United States and charged as inadmissible because they entered without inspection, are subject to detention under section 1226.

Meanwhile, section 1225(b) applies to people arriving at ports of entry or those who very recently entered the United States. The section's title refers to "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing." 8 U.S.C. § 1225. As several courts have noted, "[t]he added word of 'arriving' indicates that the statute governs 'arriving' noncitizens, not those present already." *Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025) (citing *Pizarro Reyes*, 2025 WL 2609425 at *5.

The use of the present participle in section 1225 further demonstrates that its applicability does not extend to people already present in the United States. *See United States v. Wilson*, 503 U.S. 329 (1992) ("Congress' use of verb tense is significant in construing statutes."). The present participle "denotes an ongoing process" that "necessarily implies some sort of present-tense action." *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025) (citations and internal quotations omitted) (concluding that noncitizen was not subject to detention under section 1225(b)(2)(A) because they were not seeking admission)."

Section 1225(b)(2)(A) applies to noncitizens "seeking admission." The use of present participle in the phrase "seeking admission" implies a "present-tense action" and does not apply to a person who has been living in the country for decades. *Martinez v. Hyde*, 2025 WL 2084238

at *6; *Lopez Benitez*, 2025 WL 2371588 at *7 ("someone who enters a movie theater without purchasing a ticket and then proceeds to sit through the first few minutes of a film would not ordinarily then be described as 'seeking admission' to the theater."). The regulations enacting section 1225(b)(2) similarly use the present participle to refer to "arriving aliens." 8 C.F.R. 235.2(c). These regulations define "arriving alien" as "an applicant for admission coming or attempting to come into the United States at a port-of-entry." 8 C.F.R.§ 1.2. A person who has been living in the United States for decades is plainly not "coming or attempting to come into the United States."

The text structure of the INA, longstanding agency practice, and dozens of recent federal court decisions all affirm that Mr. Rahimi is likely to succeed on the merits of his claim his detention is contrary to the INA.

*2. Mr. Rahimi is likely to succeed on his claim that his detention violates agency regulations.*

Mr. Rahimi is also likely to succeed on Claim Two, which alleges that his ongoing detention violates agency regulations. An administrative agency is required to adhere to its regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)). Shortly after Congress enacted sections 1225 and 1226 of the INA via the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the Executive Office of Immigration Review (EOIR) and then-Immigration and Naturalization Service enacted regulations that require the government to grant bond hearings to people detained under section 1226(a) at the outset of their detention. 8 C.F.R. § 1236.1(d)(1); *see Jennings*, 583 U.S. at 306. The interim rule explained that "[d]espite being applicants for admission, *aliens who are present without having been admitted or paroled* . . . will be eligible for bond and bond redetermination." Inspection and Expedited Removal of

Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (emphasis added).

Despite this clear statement, Respondents now have a policy and practice, pursuant to *Matter of Yajure Hurtado*, of applying the mandatory detention provision of section 1225(b)(2)(A) to individuals such as Mr. Rahimi who are present without having been admitted or paroled. As Mr. Rahimi is properly detained under section 1226(a), *see* Section V(A)(1) *supra*, Respondents are violating longstanding regulations by refusing to grant him a bond hearing.

Accordingly, Mr. Rahimi is likely to succeed on his claim that his ongoing detention violates agency regulations.

*3. Mr. Rahimi is likely to succeed on the merits of his substantive due process claim under the Fifth Amendment*

Mr. Rahimi is similarly likely to succeed on the merits of his substantive due process claim under the Fifth Amendment.

Substantive due process rights under the Fifth Amendment protect a substantive liberty interest in "[f]reedom from imprisonment." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). That freedom "lies at the heart of the liberty that [the Due Process] Clause protects." *Id.* Indeed, because "liberty is the norm, and detention prior to trial or without trial is the carefully limited exception," the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *U.S. v. Salerno*, 481 U.S. 739, 755 (1987)). Immigration detention is civil and must "bear[] a reasonable relation to the purpose for which the individual [is] [detained]," so that it remains "nonpunitive in purpose and effect." *Zadvydas*, 533 U.S. at 690 (cleaned up); *see also Schall v. Martin*, 467 U.S. 253, 264 (1984) (detention must be a proportional—not excessive—response to a legitimate state objective). Courts have recognized that immigrants like Mr. Rahimi, for whom the government granted a limited form of immigration

relief and allowed to live in the country for years "under the understanding that [they are] unlikely to be subject to enforcement proceedings," possess a cognizable liberty interest. *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588 at *10–11 (W.D. Tex. Oct. 2, 2025) (quoting *Gamez Lira v. Noem*, No. 1:25-CV-00855-WJ-KK, 2025 WL 2581710 at *3 (D.N.M. Sept. 5, 2025)).

Where immigration detention is not mandated by statute, its only legitimate purposes are mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *see also, Addington v. Texas*, 441 U.S. 418, 426 (1979) ("The [government] has no interest in confining individuals involuntarily if they . . . do not pose some danger.").

Mr. Rahimi's detention serves neither purpose. Mr. Rahimi has lived in San Antonio for over twenty years and has deep familial and economic ties there that preclude any risk of flight. First and foremost are his wife Brandi, who works as assistant director of a local daycare, and his eleven-year-old daughter, who recently started attending a specialized local magnet school program. Pet., Ex. 1, ¶¶ 19, 15. Mr. Rahimi is a devoted father who has read countless stories to his daughter, drives her to school, and speaks with her teachers. *Id.* ¶ 6. Mr. Rahimi's thirty-three-year-old niece recently experienced a stroke and faces a long recovery. *Id.* ¶ 18. Mr. Rahimi and his wife are homeowners and active members of their community, including through their Church. *See id.* ¶¶ 7, 20. Mr. Rahimi knows no other life than the one he has built in San Antonio and poses no risk of flight.

Furthermore, Mr. Rahimi's behavior over the last twenty years demonstrates the low risk posed by release on bond. He has no criminal record and has followed every condition the government imposed on his release. Verified Pet. ¶¶ 1, 34. In fact, he is active contributor to his community, helping to mow neighbor's lawns and paying for meals for servicemembers. *Id.*, Ex. 1, ¶ 20.

Mr. Rahimi is likely to succeed on his Fifth Amendment substantive due process claim because he has a cognizable liberty interest that is being restricted without justification.

*4. Mr. Rahimi is likely to succeed on the merits of his Fifth Amendment procedural due process claim.*

Mr. Rahimi is also likely to succeed on his constitutional claim that meritless detention violates his procedural due process rights under the Fifth Amendment.

Even "[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner." *Salerno*, 481 U.S. at 746. The sufficiency of any process afforded is determined by weighing three factors: (i) the private interest that will be affected by the official action, (ii) the risk of erroneous deprivation of that interest through the available procedures, and (iii) the government's interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedures would entail. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Each factor weighs heavily in favor of Mr. Rahimi's immediate release.

First, Mr. Rahimi has a strong interest in freedom from arbitrary civil imprisonment. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (Noting that "[t]he interest in being free from physical detention" is "the most elemental of liberty interests."). "[C]ivil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protections." *Addington v. Texas*, 441 U.S. at 425; *see also Zadvydas*, 533 U.S. at 690 (freedom "from government . . . detention . . . lies at the heart of the liberty [the Due Process] Clause protects."). This is especially so when, as articulated above, Mr. Rahimi's ongoing detention has no basis in law.

Second, the risk of erroneous deprivation under existing procedures is extreme. Respondents have offered no evidence that Mr. Rahimi's current detention is justified to prevent flight or mitigate the risks of danger to the community. *See Zadvydas*, 533 U.S. at 690. Mr. Rahimi

has strong familial, economic, and community ties to San Antonio and has demonstrated over the course of twenty years that he is a law-abiding member of his community. Accordingly, in the absence of any evidence to justify Petitioner's detention, there is a grave risk of erroneous deprivation of Petitioner's liberty. That is especially true where, as here, there has been no individualized explanation for Mr. Rahimi's continued detention. *See Santiago*, 2025 WL 2792588, at *12. But "absent some change in [Petitioner's] personal circumstances, the decision to incarcerate [them] after many years at liberty gives rise to an elevated concern that [they have] been detained without a valid reason." *Santiago*, 2025 WL 2792588, at *12 (citing *Valdez v. Joyce*, No. 25-cv-4627, 2025 WL 1707737, at *3–4 (S.D.N.Y. June 18, 2025)).

Finally, Respondents' interests in continuing to detain Mr. Rahimi are minimal at best. Providing him with a hearing to evaluate whether the circumstances of his detention were warranted would not impair any legitimate interests that Respondents may have. *See, e.g.*, *Lopez v. Sessions*, 2018 WL 2932726 (S.D.N.Y. June 12, 2018). Providing such process merely comports with the requirements of the INA and the constitutional projections guaranteed by the Fifth Amendment. Nor do the limited administrative burdens placed on Respondents weigh against a pre-deprivation hearing; federal district courts routinely perform the type of custody hearing sought here. *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *12 (W.D. Tex. Sept. 22, 2025) (finding that "the incremental cost" of performing such hearings must be minimal given that "the Government conducted them for decades until its reinterpretation of the law earlier this year.").

By denying Mr. Rahimi even an opportunity to advocate for his eligibility for bail at a hearing, the government is stripping him of his liberty without sufficient procedures to satisfy the

protections of the Fifth Amendment. Therefore, Mr. Rahimi, like other petitioners across the nation, is likely to succeed on the merits of his procedural due process claim.

### B. Absent This Court's Intervention, Mr. Rahimi will Continue to Suffer Irreparable Harm

Mr. Rahimi faces an immediate and ongoing threat of irreparable injury in the absence of preliminary injunctive relief.

In the Fifth Circuit, irreparable injury is defined as "harm for which there is no adequate remedy at law." *Kostak*, 2025 WL 2472136, at *3 (citing *Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013)). Deprivation of a constitutional right "for even minimal periods of time" is an immediate and irreparable harm as soon as it occurs. *See Kostak*, 2025 WL 2472136, at *3 n.43 (quoting *Opulent Life Church v. City of Holly Springs, Miss.*, 697 F.3d 279, 295 (5th Cir. 2012)).

Courts considering cases that present the same statutory question as Mr. Rahimi's have found that when a petitioner is denied "a hearing that would likely result in his release," it is sufficient to establish irreparable harm based on deprivation of liberty. *Rodriguez*, 779 F. Supp. 3d at 1261–62); *see also Kostak*, 2025 WL 2472136 at *3–4 (agreeing that petitioner erroneously detained under section 1225(b)(2)(A) faces threat of irreparable harm and ordering bond hearing). "In the immigration context, unlawful detention is a sufficient irreparable injury." *Arias Gudino v. Lowe*, No. 1:25-CV-00571, 2025 WL 1162488, at *13 (M.D. Pa. Apr. 21, 2025). This is because of the "evidence of 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 v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

People detained section 1226(a)—like Mr. Rahimi—are eligible for bond hearings before an IJ. Because the only legitimate purposes for non-mandatory immigration detention are mitigating flight risk and preventing danger to the community, *see Zadvydas*, 533 U.S. at 690, Mr. Rahimi's deep familial and community ties in San Antonio and clean record make him an excellent candidate for release. Therefore, Mr. Rahimi is immediately, continuously, and irreparably harmed by his unlawful and unconstitutional detention and by the denial of a hearing that would result in his release.

**C. The Balance of the Equities and Public Interest Weigh in Mr. Rahimi's Favor.**

Both the balance of the equities and the public interest weigh in favor of Mr. Rahimi's case. The hardships and public interest "factors merge when the Government is the opposing party." *Nken*, 556 U.S. at 435. The Government "cannot suffer harm from an injunction that merely ends an unlawful practice or reads a statute as required to avoid constitutional concerns." *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). Indeed, the public interest weighs in favor of protecting constitutional rights and limiting government overreach. *See Valley v. Rapides Par. Sch. Bd.*, 118 F.3d 1047, 1056 (5th Cir. 1997) ("public interest is enhanced" when procedure comports with basic constitutional due process protections). Additionally, it is in the public interest to "require the Government to ensure compliance with its own laws." *Kostak*, 2025 WL 2472136, at *4.

Here, the threatened ongoing deprivation of Mr. Rahimi's constitutional rights "far outweighs the burden to Respondents of conducting a bond hearing." *Id.* at *4. Moreover, such hearings are routine and the cost to hold them is minimal. *Lopez-Arevelo*, 2025 WL 2691828, at *12.

The government may argue that, despite the minimal burden of a hearing, a preliminary injunction will harm its interest in enforcing immigration laws. While the government does possess such an interest, it hardly weighs in favor of the government's position here. "Granting preliminary injunctive relief will simply require Respondents to comply with their legal obligations and afford Petitioners procedural protections in connection with Respondents' exercise of discretion." *Abdi v. Duke*, 280 F. Supp. 3d 373, 410 (W.D.N.Y. 2017), *order vacated in part, Abdi v. McAleenan*, 405 F. Supp. 3d 467 (W.D.N.Y. 2019). Nor is the government losing its ability to enforce immigration laws. Respondents can release Mr. Rahimi and he would still be subject to his ongoing immigration proceedings and the federal government's enforcement of immigration law. Indeed, Mr. Rahimi wants to participate in his immigration proceedings to pursue the relief that would allow him to permanently remain in San Antonio with his family.

Moreover, "unnecessary detention imposes substantial societal costs." *Hernandez-Lara v. Lyons*, 10 F.4th 19, 33 (1st Cir. 2021). The needless detention of individuals not only causes those individuals to suffer but "removes from the community breadwinners, caregivers, parents, siblings and employees." *Id.* (citing *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020)). "Those ruptures in the fabric of communal life impact society in intangible ways that are difficult to calculate in dollars and cents." *Id.* And while those costs are hard to quantify, twenty states made clear in *Hernandez-Lara* that "States' revenues drop because of reduced economic contributions and tax payments by detained immigrants, and their expenses rise because of increased social welfare payments in response to the harms caused by unnecessary detention." *Id.* (quotation omitted). Mr. Rahimi's case presents exactly these concerns: his detention has removed a professional caretaker from the San Antonio community and caused his family to struggle to cover

their living expenses such that his wife may be forced to sell the family home. Pet., Ex. 1, ¶ 19. The public interest thus favors against Mr. Rahimi's ongoing detention.

## VI. CONCLUSION

For the foregoing reasons the Court should grant this motion and order Respondents to immediately release Petitioner pending resolution of his habeas petition on the merits, or, in the alternative, provide constitutionally adequate procedural protections, including a bond hearing.

If this Court determines that a hearing is necessary prior to granting preliminary relief, Petitioner respectfully requests an expedited hearing to address the immediate and ongoing nature of the harm.

Dated October 8, 2025

Respectfully submitted,

*/s/ Daniel Hatoum*
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**Pro Hac Vice Application Forthcoming*

**CERTIFICATE OF CONFERENCE**

I certify that on October 7, 2025, Daniel Woodward for Petitioner and Daniel Hu for Respondents conferred via email and Respondents are opposed to this motion.

*/s/ Daniel Hatoum*
Daniel Hatoum

**CERTIFICATE OF SERVICE**

I certify that on October 8, 2025, I filed this document through CM/ECF, and, at the express request Assistant United States Attorney for the Southern District of Texas, served it to Respondent's counsel by sending to their civil service email address.

*/s/ Daniel Hatoum*
Daniel Hatoum