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O. MARTIN QUIROZ, (SBN 313895)
Martin@QuiroLawFirm.com
QUIROZ LAW FIRM, APC
333 South Grand Avenue, Suite 3310
Los Angeles, CA 90071
Telephone: (213) 340-0010
Attorney For Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

David Hoyos Amado,
Plaintiff,
v.

UNITED STATES DEPARTMEN OF JUSTICE,
Todd Lyons,
Immigration and Customs Enforcement,
Christopher J. LaRose, Senior Warden of Otay
Mesa Detention Center; **and**
PAM BONDI, Attorney General,
Defendants

COMPLAINT
*MOTION FOR TEMPORARY
RESTRAINING ORDER*
'25CV2687 LL DDL

**EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER PURSUANT
TO FED. R. CIV. P. 65 AND LOCAL RULE 65.1**

Petitioner David Hoyos Amado, by and through undersigned counsel, respectfully moves this Court ex parte for a Temporary Restraining Order (“TRO”) pursuant to Federal Rule of Civil Procedure 65 and Local Rule 65.1 of the Southern District of California, ordering Respondents to immediately release Petitioner from custody or, alternatively, to provide an immediate bond hearing before an Immigration Judge.

1 **I. INTRODUCTION AND STATEMENT OF EMERGENCY**

2 Petitioner entered the United States without inspection on September 14, 2024, fleeing
3 credible persecution threats in Colombia. Since apprehension, Petitioner has been detained
4 continuously at Otay Mesa Detention Center. On September 24, 2025, after a merits hearing
5 before Immigration Judge Eugene Robinson, Petitioner’s claims for relief were denied in a
6 decision containing multiple factual and legal errors. Counsel timely filed a notice of appeal to
7 the Board of Immigration Appeals (“BIA”) on October 3, 2025. As of today, no briefing
8 schedule or hearing date has been set, and Petitioner remains detained indefinitely.
9

10 The delay inherent in the BIA appellate process (averaging 12 to 18 months or more (see
11 EOIR FY 2024 Statistical Yearbook)¹ means Petitioner faces prolonged detention without any
12 opportunity for bond or release. ICE has not provided a bond hearing or individualized custody
13 review, relying solely on Petitioner’s entry without inspection. This prolonged detention without
14 procedural safeguards violates Petitioner’s constitutional rights under the Fifth Amendment Due
15 Process Clause and established Ninth Circuit precedent.
16

17 Moreover, Petitioner suffers from severe anxiety and psychological distress caused by
18 indefinite detention, separation from family, and uncertainty about his future. Petitioner is a
19 young man with a medical doctor degree, whose professional background, lack of criminal
20 record, and community ties underscore both his low flight risk and the disproportionate harm
21 caused by continued detention. The irreparable mental and emotional harm inflicted by
22 prolonged detention without review demands immediate judicial intervention.
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25 **II. LEGAL STANDARD**

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¹ <https://www.justice.gov/eoir/workload-and-adjudication-statistics>

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Under Federal Rule of Civil Procedure 65, a court may issue a temporary restraining order or preliminary injunction to prevent irreparable harm and preserve the status quo pending a full hearing. Local Rule 65.1 of the Southern District of California requires that motions for TROs be supported by a declaration establishing the factual basis for the emergency relief and that the moving party demonstrate immediate and irreparable injury, loss, or damage will result before the adverse party can be heard.

To obtain a TRO or preliminary injunction, Petitioner must show: (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm in the absence of relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest.

Pursuant to Federal Rule of Civil Procedure 65(b)(1)(A) and (B) a court may issue a Temporary Restraining Order (“TRO”) without notice to the adverse party or its attorney only if:

1. Specific facts in an affidavit or verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and
2. The movant’s attorney certifies in writing the efforts, if any, made to give notice and the reasons why it should not be required.

Here, Petitioner respectfully submits that the extraordinary circumstances of his prolonged detention without bond hearing. His initial attorney Jason A Roni, Esq submitted a bond redetermination request on 01/09/2025 but it was withdrew on 01/17/2025 the pending BIA appeal with no foreseeable resolution date, and the severe and irreparable mental and emotional harm he is suffering justify issuance of a TRO without prior notice to Respondents.

The purpose of a temporary restraining order or preliminary injunction is to "preserve rights pending resolution of the merits of the case by the trial." E. & J. Gallo Winery v. Adina Licores

1 S.A., 446 F.3d 984, 990 (9th Cir. 2006) (citation omitted). To qualify for a preliminary
2 injunction, a plaintiff must demonstrate: (1) a likelihood of success on the merits, (2) a likelihood
3 of irreparable harm, (3) the balance of hardships favors plaintiff, and (4) an injunction is in the
4 public interest.

5 Winters v. Natural Res. Def. Council, Inc.

6 , 555 U.S. 7, 20 (2008).

7
8 **Coley v. Sisto, 2:07-CV-934-PMP-GWF (E.D. Cal. Apr 16, 2012)**

9 **1. Likelihood of Success on the Merits**

10 Petitioner is highly likely to succeed on the merits of his habeas corpus claim challenging
11 prolonged detention without a bond hearing. Detention under 8 U.S.C. § 1226(c) exceeding six
12 months triggers due process protections requiring an individualized bond hearing where the
13 government must prove by clear and convincing evidence that the detainee poses a flight risk or
14 danger to the community. Petitioner has been detained for over ten months without such a
15 hearing, and ICE has failed to meet its burden. Moreover, Petitioner’s timely appeal to the Board
16 of Immigration Appeals (filed October 3, 2025) remains pending with no briefing schedule or
17 hearing date, rendering removal non-final and detention indefinite, further supporting
18 Petitioner’s constitutional claim.
19

20 While *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015) (“Rodriguez III”) primarily
21 addresses § 1226(a) detention, the Ninth Circuit has extended similar due process protections to
22 § 1226(c) detainees in *Singh*. The Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S.
23 281 (2018), rejected statutory mandates for periodic bond hearings but expressly left open
24 constitutional due process claims, which the Ninth Circuit reaffirmed on remand. See *Rodriguez*
25 *v. Barr*, 978 F.3d 1262, 1276–88 (9th Cir. 2020). Thus, Petitioner’s constitutional claim is well
26 supported.
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2. Likelihood of Irreparable Harm

Petitioner faces immediate and irreparable harm from continued detention. The psychological and emotional toll of prolonged immigration detention is well documented and recognized by courts as irreparable. Petitioner is a young professional medical doctor, and the indefinite nature of his detention, compounded by separation from family and uncertainty about his future, causes severe anxiety and mental distress that cannot be remedied by monetary damages or later release.

3. Balance of Hardships

The balance of hardships clearly favors Petitioner. The government’s interest in detaining Petitioner to ensure appearance and public safety is minimal given his lack of criminal history, strong family and community ties, and credible claims for relief. Conversely, Petitioner’s liberty interest and mental health are severely burdened by continued detention without procedural safeguards. The government can impose reasonable conditions of release to mitigate any risk.

4. Public Interest

The public interest favors protecting constitutional rights and preventing unnecessary harm to vulnerable individuals. Upholding due process and preventing arbitrary detention aligns with the public’s interest in a fair and just immigration system.

III. ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits Because His Prolonged Detention Without a Bond Hearing Violates Due Process

1 The Fifth Amendment guarantees that no person shall be deprived of liberty without due
2 process of law. This protection applies to all persons within the United States, including
3 noncitizens detained pending removal. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

4 *"the legal circumstance changes, for the Due Process Clause applies to all*
5 *persons within the United States, including aliens, whether their presence is lawful,*
6 *unlawful, temporary, or permanent"*
7

8 The Ninth Circuit has held that prolonged detention under 8 U.S.C. § 1226(c) without an
9 individualized bond hearing violates due process. *Rodriguez v. Robbins*, 804 F.3d 1060, 1089
10 (9th Cir. 2015) (*Rodriguez III*), cert. granted sub nom. *Jennings v. Rodriguez*, — U.S. —,
11 136 S.Ct. 2489, 195 L.Ed.2d 821 (2016), the court ruled that after six months of detention, the
12 government must provide a bond hearing where it bears the burden of proving by clear and
13 convincing evidence that the detainee is a flight risk or danger to the community. Similarly,
14 in *Rodriguez v. Robbins* ("*Rodriguez III*"), 804 F.3d 1060, 1089 (9th Cir. 2015), the court
15 mandated periodic bond hearings every six months for detainees under § 1226(a), requiring the
16 government to justify continued detention. Although the Supreme Court in *Jennings v.*
17 *Rodriguez*, 583 U.S. 281 (2018), held that the INA does not statutorily require such periodic
18 hearings, it expressly left open constitutional due process claims, which the Ninth Circuit
19 reaffirmed on remand. See *Rodriguez v. Barr*, 978 F.3d 1262, 1276–88 (9th Cir. 2020).

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21 ⁸ *Under our precedent, the government may not detain a non-citizen under § 1226(a) for "a*
22 *prolonged period without providing him a neutral forum in which to contest the necessity of his*
23 *continued detention." Casas-Castrillon*, 535 F.3d at 949. *Therefore, we have held that the*
24 *government "must provide periodic bond hearings every six months so that noncitizens may*
25 *challenge their continued detention as the period of... confinement grows.*
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1 Petitioner has been detained for over 13 months without a bond hearing or individualized
2 custody review. ICE has not met its burden to justify continued detention by clear and
3 convincing evidence. Petitioner has no criminal history, strong family and community ties, and a
4 credible claim for relief under asylum and the Convention Against Torture. Thus, Petitioner is
5 likely to succeed on the merits of his due process claim.
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8 *The panel majority distinguishes Singh based on the initial statutory authority*
9 *under which a noncitizen is detained, a technicality on which Singh's constitutional*
10 *holding does not rest. Singh, who was detained under 8 U.S.C. § 1226(c), did not*
11 *receive an initial bond hearing. At the time we decided Singh, we understood the*
12 *government's detention authority to shift to § 1226(a) once proceedings before the*
13 *Board of Immigration Appeals were complete, and we construed that statute to*
14 *require a bond hearing. See Casas-Castrillon, 535 F.3d at 947-948, 951.*
15 *Intervening caselaw clarified that noncitizens initially detained under § 1226(c) do*
16 *not have a statutory right to a bond hearing. Avilez v. Garland, 69 F.4th 525 (9th*
17 *Cir. 2022) (abrogating in part Casas-Castrillon, 535 F.3d at 950-52). Because*
18 *Singh was initially detained under § 1226(c), the portion of Singh premised on that*
19 *implied statutory right is no longer good law.*
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22
23 *Singh's constitutional holding, however, remains binding law of our court.*
24 *As the panel majority noted, Singh "relied on the Due Process clause in*
25 *determining the procedural rights available" to noncitizens challenging their*
26 *prolonged detention. Rodriguez Diaz, 53 F.4th at 1202. The panel majority*
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distinguishes Singh on the basis that Singh did not have an initial bond hearing, while Rodriguez Diaz did.

Diaz v. Garland, 83 F.4th 1177 (9th Cir. 2023)

B. Petitioner Will Suffer Irreparable Harm Without Immediate Relief

The psychological and emotional toll of prolonged immigration detention is well documented and constitutes irreparable harm. The Ninth Circuit has recognized that extended detention causes severe anxiety, depression, and other mental health problems.

Petitioner is a young professional medical doctor, whose professional background and personal circumstances make the mental health consequences of indefinite detention particularly acute. The uncertainty and isolation inherent in prolonged detention exacerbate anxiety and psychological distress, which cannot be remedied by monetary damages or later release.

Without immediate relief, Petitioner faces ongoing and irreparable mental health injury. This factor strongly supports issuance of a TRO or preliminary injunction.

C. The Balance of Equities and Public Interest Favor Immediate Relief

The government’s interest in detaining Petitioner to ensure appearance and public safety is minimal given his lack of criminal history, strong community ties, and pending appeal. The government can impose reasonable conditions of release to mitigate any risk.

Conversely, Petitioner’s liberty interest and mental health are severely burdened by continued detention. The public interest favors upholding constitutional rights and preventing unnecessary harm to vulnerable individuals. See *Nken v. Holder*, 556 U.S. 418, 435 (2009) (public interest favors protecting constitutional rights).

D. Petitioner's Prolonged Detention Under 8 U.S.C. § 1226(c) Violates Due Process

1 The Fifth Amendment guarantees that no person shall be deprived of liberty without due
2 process of law. This protection applies to all persons within the United States, including
3 noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Petitioner has been detained for over
4 ten months pursuant to 8 U.S.C. § 1226(c). While this statute mandates detention without a bond
5 hearing initially, the Constitution imposes a critical limit on this authority as detention becomes
6 prolonged.
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8 The Ninth Circuit has explicitly held that prolonged detention under the immigration statutes
9 without a bond hearing raises serious constitutional concerns. Although the Supreme Court
10 in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), held that the INA does not *statutorily* require
11 periodic bond hearings, it expressly left open constitutional due process claims. The Ninth
12 Circuit, on remand, reaffirmed the viability of these constitutional challenges. *Rodriguez v. Barr*,
13 978 F.3d 1262, 1276-88 (9th Cir. 2020).
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15 Critically, the constitutional core of the Ninth Circuit's precedent remains binding. In *Diaz v.*
16 *Garland*, 83 F.4th 1177 (9th Cir. 2023), the court clarified that while the *statutory* reasoning of
17 some earlier cases was abrogated, the constitutional holding of *Singh*—that the Due Process
18 Clause provides procedural rights to noncitizens challenging prolonged detention "remains
19 binding law of our court." *Id.*
20

21 Petitioner's situation is constitutionally indistinguishable in its essence: he faces a potentially
22 indefinite period of detention without any individualized assessment of whether his continued
23 imprisonment is justified.

24 Detention for over ten months, with no end in sight due to a pending BIA appeal that may
25 take years to resolve, is precisely the type of "prolonged" detention that triggers due process
26 protections. The government's interest in detaining Petitioner without a hearing diminishes over
27 time, while his liberty interest remains paramount. Due process requires, at a minimum, a
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1 hearing where the government must justify his continued detention by clear and convincing
2 evidence.

3
4 **IV. CONCLUSION**

5 For the foregoing reasons, and pursuant to Federal Rule of Civil Procedure 65 and Local
6 Rule 65.1, Petitioner respectfully requests that this Court:
7

- 8 1. Grant this ex parte motion for a Temporary Restraining Order
9 2. Order Respondents to immediately release Petitioner from custody or, alternatively, to
10 provide an immediate bond hearing before an Immigration Judge where the government
11 must prove by clear and convincing evidence that he is a flight risk or danger to the
12 community; and
13 3. Grant such other relief as the Court deems just and proper.

14 Respectfully submitted,

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17 Respectfully submitted,

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20
21 O. Martin Quiroz, Esq.

22 Attorney for Plaintiff

23
24 I, O. Martin Quiroz, Esq., attorney for Petitioner, hereby certify that no notice of this ex
25 parte application has been provided to Respondents. Notice is not required under Fed. R. Civ. P.
26 65(b)(1)(B) because any delay caused by providing notice would result in the immediate and
27 irreparable harm of Petitioner's continued unconstitutional detention, which this motion seeks to
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1 prevent. Providing notice to federal agency respondents would inevitably lead to a delay in
2 resolving this urgent matter, thereby exacerbating the ongoing violation of Petitioner's due
3 process rights and the severe psychological harm he is suffering.
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