Carolyn A. Marks (0092899)
9378 Mason Montgomery Road
#385
Mason, OH 45040
Phone: 513-494-6795
marksverdelaw@gmail.com
Counsel for Petitioner
Admitted Pro Hac Vice

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

RONALDO V.,

Petitioner

-against-

Pam BONDI, in her official capacity as the Attorney General of the United States; Kristi NOEM, in her official capacity as Secretary for the United States Department of Homeland Security; Joseph EDLOW, in his capacity as Director for United States Citizenship and Immigration Services, Robert Lynch, in his capacity as Field Office Director, ERO Detroit and Kevin GRATHWOHL, in his capacity as warden at Butler County Jail.

Respondents.

Agency File No. [redacted]
Case No. 1:25-cv-00747

PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND EMERGENCY RELIEF

U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO
PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Petitioner respectfully moves this Court for emergency relief in the form of an order directing Respondents to release Petitioner from custody immediately and enjoin his re-detention. In the alternative, Petitioner requests an order that instructs the immigration judge to redetermine bond upon Petitioner's request, directing that she has jurisdiction and authority to redetermine Petitioner's bond, and such bond should be granted unless Respondents prove by clear and convincing evidence that Petitioner is a danger to the community or a flight risk.

Petitioner also seeks a temporary restraining order enjoining Respondents from relocating Petitioner from Butler County Jail pending final resolution of this case.

This application is supported by a Memorandum of Points and Authorities as well as any additional submissions that may be considered by the Court. As set forth in the Points and Authorities in support of this Motion, RBV merits a temporary restraining order in light of his unlawful redetention without bond and his continued detention, in violation of his Due Process rights under the Fifth Amendment and his statutory rights under the Immigration and Nationality Act.

WHEREFORE, Petitioner prays that this Court grant his request for a temporary restraining order (1) enjoining Respondents to release Petitioner immediately from custody and not re-detain him without a hearing before a neutral arbiter in which the government proves by clear and convincing evidence that Petitioner is a danger or flight risk, (2) enjoining Respondents from transferring Petitioner outside of this District pending these proceedings, and (3) grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Mechelle Zarou (0073028)
Trial Attorney
6832 Convent Blvd.
#385
Sylvania, OH 43560
Phone: 419.517.8433
MZarou@sistersosf.org

Carolyn A. Marks (0092899)
9378 Mason Montgomery Rd
#385
Mason, OH 45040
Phone: 513-494-6795
marksverdelaw@gmail.com
Counsel for Petitioner
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Respondents.

Agency File No [redacted]
Case No. 1:25-cv-00747

PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND EMERGENCY RELIEF

U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

Table of Contents

TABLE OF AUTHORITIES.....2

STATUTES.....3

INTRODUCTION.....4

LEGAL STANDARD.....4

ARGUMENT.....4

A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIMS.....4

1. The Re-Detention of Petitioner Violated His Due Process Rights.....5

2. The Continued Detention of Petitioner, Without a Meaningful Bond Hearing, Violates the Immigration and Nationality Act and the Trafficking Victims' Protection Reauthorization Act.....8

B. IMMEDIATE RELEASE IS NECESSARY TO ENSURE THAT ANY DEPRIVATION OF PETITIONER'S PROTECTED LIBERTY INTEREST ACCORDS WITH THE CONSTITUTION.....9

C. PETITIONER WILL FACE IRREPARABLE HARM IN THE ABSENSE OF A TRO.....10

D. THE BALANCE OF EQUITIES AND THE PUBLIC INTEREST FAVOR GRANTING THE TEMPORARY RESTRAINING ORDER.....11

CONCLUSION AND PRAYER FOR RELIEF.....11

TABLE OF AUTHORITIES

Portillo Martinez v. Patricia Hyde, et al., 25-11909-BEM (Dist. of Mass.) (Nov. 12, 2025)..... 4

Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008) (bracketed numbers added)..... 4

Alvarez Varela v. Dedos et al, 1:25-cv-01085-DHU-KK (Nov. 11, 2025)..... 5

Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025)..... 5

Rodriguez Vasquez v. Bostock, 779 F. Supp. 3d 1239 (W.D. Wash. 2025)..... 6

Leal-Hernandez v. Noem, No. 1:25- cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025)..... 6

Sampiao v. Hyde, -- F. Supp. 3d --, 2025 WL 2607924 (D. Mass. Sept. 9, 2025)..... 6

Lopez Santos v. Noem, No. 3:25-cv- 1193-TAD-KDM (W.D. La. Sept. 11, 2025)..... 6

Pizarro Reyes v. Raycraft, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025)... 6

Cuevas Guzman v. Andrews, No. 1:25- cv-01015-KES-SKO (HC), 2025 WL 2617256, (E.D. Cal. Sept. 9, 2025)..... 6

Caicedo Hinestroza v. Kaiser, No. 25-cv-07559-JD, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025)..... 6

Jimenez v. FCI Berlin, Warden, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025)..... 6

Zaragoza Mosqueda v. Noem, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025)..... 6

Doe v. Moniz, No. 1:25-cv-12094-IT, 2025 WL 2576819 (D. Mass. Sept. 5, 2025)..... 6

Hernandez Marcelo v. Trump, No. 3:25-cv-94-RGE-WPK (S.D. Iowa Sept. 10, 2025)..... 6

Carmona-Lorenzo v. Trump, No. 4:25CV3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025)..... 6

Cortes Fernandez v. Lyons, No. 8:25CV506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025)..... 6

Hernandez Nievas v. Kaiser, No. 25-cv-06921-LB, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025)..... 6

Vasquez Garcia v. Noem, No. 25-cv-02180-DMS- MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025)..... 6

Francisco T. v. Bondi, -- F. Supp. 3d -- , 2025 WL 2629838 (D. Minn. Aug. 29, 2025)..... 6

Matter of Sugay, 17 I&N Dec. 637, 640 (BIA 1981).....6

Saravia v. Sessions, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017).....6

Panosyan v. Mayorkas, 854 F. App'x 787, 788 (9th Cir. 2021).....6

Hernandez v. Sessions, 872 F.3d 976, 981 (9th Cir. 2017).....7

Guillermo M. R. v. Kaiser, No. 25-CV-05436-RFL, 2025 WL 1983677 (N.D. Cal. July 17, 2025).....7

Garro Pinchi v. Noem, 2025 WL 2084921.....7

Berto Mendez v. Noem et al, 2:25-cv-02062-RFB-MDC.....9

Mathews v. Eldridge, 424 U.S. 319 at 335 (1976).....9

Barker v. Wingo, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972).....10

Free the Nipple-Fort Collins v. City of Fort Collins, Colorado, 916 F.3d 792 (10th Cir. 2019)..11

Nken v. Holder 556 U.S. 418 (2009).....11

Zepeda v. INS, 753 F.2d 719 (9th Cir. 1983).....11

STATUTES

8 U.S.C. § 1226(b).....6

8 C.F.R. § 236.1(c)(9).....6

8 U.S.C. § 1232(c)(2)(A).....7

45 C.F.R. § 410.1201.....7

INTRODUCTION

> [T]his case presents only a minor variation on a recent-but-widespread pattern of non-citizens' being improperly detained under the mandatory detention statute, which courts across the country have overwhelmingly rejected. See, e.g., Aguiriano Romero v. Hyde, — F. Supp. 3d —, 2025 WL 2403827, at *1 (D. Mass. Aug. 19, 2025) (collecting cases); Diaz Martinez v. Hyde, — F. Supp. 3d —, 2025 WL 2084238, *2–8 (D. Mass. July 24, 2025). Indeed, "[m]ore than 100 federal judges," appointed by every president since Ronald Reagan, "have now ruled at least 200 times" that the practice is illegal.[1] Having received near-universal rebuke on that starter theory for sweeping detention, it seems Respondents now seek to move the goalpost in a new way, by redefining "arriving alien."2 **But words have meaning**, and there is no sense in which Petitioner has been "arriving" since [his entry into the United States].[2]

In violation of Due Process and the Immigration and Nationality Act, Petitioner is being detained by Respondents at the Butler County Jail pursuant to an Immigration and Customs Enforcement ("ICE") detainer. He respectfully asks this Court for a Temporary Restraining Order requiring his immediate release, and barring his re-detention unless and until Respondents prove by clear and convincing evidence that he is either a danger or flight risk.[3]

LEGAL STANDARD

Petitioner is entitled to a temporary restraining order if he establishes that he is "[1] likely to succeed on the merits … [2] likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in [his] favor, and [4] that an injunction is in the public interest."[4] Petitioner satisfies this standard.

ARGUMENT

A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIMS

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[1] Kyle Cheney, More Than 100 Judges Have Ruled Against the Trump Admin's Mandatory Detention Policy, POLITICO (Oct. 31, 2025, 4:29 PM), https://www.politico.com/news/2025/10/31/trump-administration-mandatorydetention- deportation-00632086 [https://perma.cc/4NXW-GDM8].

[2] Portillo Martinez v. Patricia Hyde, et al., 25-11909-BEM (Dist. of Mass.) (Nov. 12, 2025) (emphasis added).

[3] A complete statement of facts is found in Petitioner's Petition for Writ of Habeas Corpus, filed with the Court on October 20, 2025.

[4] Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008) (bracketed numbers added).

Petitioner is likely to succeed on his Due Process claim[5] and his Immigration and Nationality Act ("INA") claim. The discussion deals with them in turn.

1. The Re-Detention of Petitioner Without Meaningful Bond Hearing Violated His Due Process Rights.

The Due Process Clause of the Constitution makes it unlawful for Respondents to arrest Petitioner, years after they released him, without first providing a pre-deprivation hearing in which an immigration judge determine whether circumstances have so materially changed since his release that a re-detention hearing is necessary. In Petitioner's case, the immigration judge denied Petitioner's bond request finding that she did "not have the authority" to redetermine bond.[6] The IJ did not state anything more than, "The Court does not have the authority to redetermine bond in this case," leaving the Court to speculate as to the IJ's reasoning.

However, given the nationwide trend in bond denials across the country since *Matter of Hurtado* was issued, the IJ presumably applied *Matter of Yajure Hurtado*[7] to Petitioner's case, finding that she did not have jurisdiction to consider Petitioner's release on bond because he was detained pursuant to 8 U.S.C. § 1225(b). Federal courts across the country have overwhelmingly rejected Respondents' assertion that a non-citizen detained *inside* the United States can be, in any

[5] Alvarez Varela v. Dedos et al, 1:25-cv-01085-DHU-KK (Nov. 11, 2025).

[6] Exhaustion not being required to prevail on a habeas petition, Petitioner nevertheless asserts that exhaustion would be futile, given the Board's decision in Matter of Hurtado. Appealing his bond denial to both the Board and the Sixth Circuit can take years, and would continue Petitioner's detention in violation of his due process rights. See, e.g. Rodriguez Vazquez v. Bostock et al, No. 3:2025cv05240 - Document 29 (W.D. Wash. 2025) ("The BIA appeals process is long and generally moots pending bond appeals before they are adjudicated...In 2024, EOIR data showed an average processing time of 204 days for bond appeals…EOIR data also showed that 200 bond appeal cases "took a year or longer to resolve."…During the time it takes the BIA to resolve an appeal, most detainees' claims are mooted. … Some detainees are released because ICE exercises its own authority to place detainees on bond. See id…Other detainees are ordered removed from the United States during their bond appeal…And still others not captured in the EOIR data elect not to appeal a negative bond determination..." (internal citations omitted).

[7] Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025) (holding that "aliens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings," and that therefore immigration judges do "not have authority over the bond request" of detained individuals).

"sense imaginable,"[8] deemed "arriving." Federal courts have therefore concluded that individuals in Petitioner's position are rather detained under 8 U.S.C. § 1226(a).[9]

However, this denial on jurisdictional grounds left Petitioner detained and in active removal proceedings (despite his approved Special Immigrant Juvenile Status) with no meaningful review of ICE's redetention of Petitioner. Respondents were not held to the proper standard (or any standard) to redetain Petitioner.

By statute and regulation, ICE may revoke a noncitizen's immigration bond and re-arrest the noncitizen.[10] However, in Matter of Sugay, the BIA recognized an implicit limitation: "[W]here a previous bond determination has been made by an immigration judge, no change should be made by [the DHS] absent a change of circumstance."[11] In practice, the Department of Homeland Security ("DHS") "requires a showing of changed circumstances both where the prior bond determination was made by an immigration judge and where the previous release decision was made by a DHS officer."[12] The Ninth Circuit has assumed that, under *Matter of Sugay*, ICE has no authority to re-detain an individual absent changed circumstances.[13]

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[8] See e.g., Rodriguez Vasquez v. Bostock, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); Leal-Hernandez v. Noem, No. 1:25- cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); Sampiao v. Hyde, -- F. Supp. 3d --, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); Lopez Santos v. Noem, No. 3:25-cv- 1193-TAD-KDM (W.D. La. Sept. 11, 2025); Pizarro Reyes v. Raycraft, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); Cuevas Guzman v. Andrews, No. 1:25- cv-01015-KES-SKO (HC), 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025); Caicedo Hinestroza v. Kaiser, No. 25-cv-07559-JD, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); Jimenez v. FCI Berlin, Warden, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); Zaragoza Mosqueda v. Noem, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); Doe v. Moniz, No. 1:25-cv-12094-IT, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); Hernandez Marcelo v. Trump, No. 3:25-cv-94-RGE-WPK (S.D. Iowa Sept. 10, 2025); Carmona-Lorenzo v. Trump, No. 4:25CV3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); Cortes Fernandez v. Lyons, No. 8:25CV506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); Hernandez Nievas v. Kaiser, No. 25-cv-06921-LB, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); Vasquez Garcia v. Noem, No. 25-cv-02180-DMS- MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); Francisco T. v. Bondi, -- F. Supp. 3d -- , 2025 WL 2629838 (D. Minn. Aug. 29, 2025).

[9] Id.

[10] 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9).

[11] Matter of Sugay, 17 I&N Dec. 637, 640 (BIA 1981).

[12] Saravia v. Sessions, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), aff'd sub nom. Saravia for A.H. v. Sessions, 905 F.3d 1137 (9th Cir. 2018).

[13] Panosyan v. Mayorkas, 854 F. App'x 787, 788 (9th Cir. 2021) ("Thus, absent changed circumstances … ICE cannot redetain Panosyan.").

ICE has further limited its authority as described in *Sugay*, and "generally only re-arrests [noncitizens] pursuant to § 1226(b) after a material change in circumstances."[14] Thus, under BIA case law and stated ICE practice, ICE may re-arrest a noncitizen who had been previously released on bond **only after a material change in circumstances.**[15]

This rule applies with even more force in a case like Petitioner's, where the government released Petitioner, then an unaccompanied minor, without the need for any bond at all. In making this release decision, the Office of Refugee Resettlement ("ORR") was required to—and did—determine that Petitioner was not a flight risk or a danger to the community. Indeed, in requiring an unaccompanied child to be placed "in the least restrictive setting that is in the best interest of the child," the statute directs the government to "consider danger to self, danger to the community, and risk of flight."[16] The implementing regulations confirm that the decision to release a child to a sponsor—as was done in Petitioner's case back in March of 2022— requires a determination about danger and flight risk:

> [W]hen ORR determines that the detention of the unaccompanied child is not required either to secure the child's timely appearance before DHS or the immigration court, or to *ensure the child's safety or that of others*, ORR shall release a child from its custody without unnecessary delay . . .[17]

Thus, the government has already made a determination about flight risk and risk of danger in Petitioner's case and found that there was no risk. As a result, re-detention is not permitted without demonstrating to a neutral arbiter that there has been a material change in circumstances. Unfortunately for Petitioner, he was re-detained without any meaningful pre-deprivation hearing being held in his case. Respondents were not even required to argue that Petitioner's guilty plea to

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[14] Saravia, 280 F. Supp. 3d at 1197 (quoting Defs.' Second Supp. Br. at 1, Dkt. No. 90) (emphasis added).
[15] See id. at 1176; Matter of Sugay, 17 I. & N. Dec. at 640.
[16] 8 U.S.C. § 1232(c)(2)(A)
[17] 45 C.F.R. § 410.1201

a driving without a license charge was changed circumstances—in fact, Respondents were not held to any standard at all, as the IJ instead simply denied bond on jurisdictional grounds.

ICE's power to re-arrest a noncitizen who is at liberty is constrained, not only by regulation and statute, but also by the demands of due process.[18] In this case, due process prohibits Respondents from taking away Petitioner's weighty interest in his freedom in the peremptory manner that occurred.

Indeed, federal district courts have repeatedly recognized that noncitizens released from immigration custody retain a strong liberty interest in their release, and that DHS's authority to revoke a noncitizen's bond or parole is subject to the constraints of due process; these courts have repeatedly granted temporary restraining orders requiring a pre-deprivation hearing for a noncitizen released from custody, like Petitioner, before ICE re-detains him. As the court in *Guillermo M.R.* recently noted, the court could not "identify any other context in which government agents could permissibly take someone who has been released by a judge, lock up that person, and have no hearing either beforehand or promptly thereafter."[19] The courts have made clear that DHS does not get a free pass from the requirements of due process.[20]

2. <u>The Continued Detention of Petitioner, Without a Meaningful Bond Hearing, Violates the Immigration and Nationality Act and the Trafficking Victims Protection Reauthorization Act.</u>

"The overwhelming majority of district courts across the country…that have considered the government's new statutory interpretation have found it incorrect and unlawful."[21]

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[18] See Hernandez v. Sessions, 872 F.3d 976, 981 (9th Cir. 2017) ("[T]he government's discretion to incarcerate non-citizens is always constrained by the requirements of due process").
[19] Guillermo M. R. v. Kaiser, No. 25-CV-05436-RFL, 2025 WL 1983677, at *7 (N.D. Cal. July 17, 2025).
[20] See e.g. Garro Pinchi v. Noem, 2025 WL 2084921, at *3 ("[T]he liberty [of a person released from government custody] is valuable and must be seen as within the protection of the [Due Process Clause].") (citing Morrissey, 408 U.S. at 482)).
[21] Berto Mendez v. Noem et al, 2:25-cv-02062-RFB-MDC.

a. The Immigration and Nationality Act ("INA")

In the alternative to due process, Petitioner argues that Respondents have violated the INA by detaining him without the possibility of a meaningful and substantive bond hearing under 8 U.S.C. § 1226(a). Petitioner is substantially likely to succeed on his claim that he is entitled to a meaningful bond hearing under § 1226(a). Unlike noncitizens subject to mandatory detention under 8 U.S.C. § 1225, Petitioner was not re-arrested at or near the border or while seeking entry into the United States, and rather had been present in the country for over three years.[22]

b. The Trafficking Victims Protection Reauthorization Act ("TVPRA")

The Trafficking Victims' Protection and Reauthorization Act provides additional protections to Unaccompanied Alien Children:

> UACs in HHS custody shall be placed in the least restrictive setting that is in the "best interest of the child." Children may not be placed in a secure facility absent "a determination that the child poses a danger to self or others or has been charged with having committed a criminal offense." The placement of a child in a secure facility shall be reviewed at least on a monthly basis. See Section 235(c)(2).

B. IMMEDIATE RELEASE IS NECESSARY TO ENSURE THAT ANY DEPRIVATION OF PETITIONER'S PROTECTED LIBERTY INTEREST ACCORDS WITH THE CONSTITUTION.

Under *Mathews v. Eldridge*, the courts weigh the following three factors: (1) "the private interest that will be affected by the official action"; (2) "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 (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail."[23]

Here, as in *Alvarez Varela v. Dedos*:

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[22] Docket at Doc. 13.
[23] Mathews v. Eldridge, 424 U.S. 319 at 335 (1976).

> Petitioner can show a significant private interest in remaining free from detention after being released from ORR custody. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." Zadvydas v. Davis, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001). Petitioner's interest in freedom is particularly weighty after spending four years out of custody, during which he went to school, worked to support himself and his family, and developed meaningful bonds with friends and family. [24]

Similarly, on the second Mathews factor, Petitioner can show a considerable risk of erroneous deprivation. Petitioner's initial conviction for driving without a license was highly questionable, as he was sentenced at an arraignment with no access to counsel or to an interpreter In fact, a bond hearing on the merits, and not on jurisdictional grounds, could have helped ensure that Petitioner's detention was lawful and appropriate. Even if Petitioner's re-detention was not erroneous, he received improper procedure to ensure that was the case.

On the third Mathews factor, Petitioner shows a substantial likelihood of success that the government's interest in re-detaining him without a bond hearing on the merits is low. Petitioner has no criminal record other than driving without a license, and has an approved petition for Special Immigrant Juvenile Status, a lawful path to legal permanent residency and citizenship. In addition, pre- or post-detention hearings are relatively routine and do not impose a heavy burden on the government. While Petitioner was afforded a bond hearing, his bond hearing (as previously discussed) was decided on erroneous jurisdictional grounds and did not hold the government to its burden.

C. PETITIONER WILL FACE IRREPARABLE HARM IN THE ABSENSE OF A TRO.

The Supreme Court has recognized that incarceration "has a detrimental impact on the individual" because it, among other things, "disrupts family life."[25] Petitioner's motion describes

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[24] Alvarez Varela at 7-8.

[25] Barker v. Wingo, 407 U.S. 514, 532, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972).

how he suffers physically and mentally each day of his detention.[26] Petitioner's detention has had a negative physical and psychological impact on Petitioner, as well as his expulsion from high school due to absences while in detention.[27]

Petitioner will face irreparable injury in the absence of immediate release. The infringement of a constitutional right is enough to establish irreparable injury.[28] Having demonstrated a substantial likelihood of success on the merits of Petitioner's due process claim, Petitioner has established irreparable injury deriving from the violation of his due process rights. "[N]o further showing of irreparable injury" is necessary.[29]

D. THE BALANCE OF THE EQUITIES AND PUBLIC INTEREST WEIGH IN PETITIONER'S FAVOR.

Petitioner has demonstrated that the balance of the equities and the public interest favor issuing the requested injunction.

> When the government is the party opposing an injunction, the balance of equities and public interest merge.[30] First, the government has no interest in engaging in an unlawful practice.[31] In addition, any burden imposed by requiring DHS to release Petitioner from custody until he is provided a hearing is minimal compared to the weighty liberty interests at stake for him and his family while he sits in detention. These considerations are persuasive and demonstrate that Petitioner's liberty interest in his conditional release outweighs any burden on the government of providing a hearing. Release further promotes the public interest by promoting the government's compliance with our Constitution and laws.[32]

CONCLUSION

Petitioner has met the requirements for the Court to issue the requested Temporary Restraining Order. WHEREFORE, Petitioner prays that this Court grant his request for a

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[26] Docket at Doc. 13.
[27] Id.
[28] Free the Nipple-Fort Collins v. City of Fort Collins, Colorado, 916 F.3d 792, 805 n. 3 (10th Cir. 2019).
[29] Id.
[30] Nken v. Holder 556 U.S. 418 at 435 (2009).
[31] See, e.g., Zepeda v. INS, 753 F.2d 719, 727 (9th Cir. 1983).
[32] Alvarez Varela at 9-10.

temporary restraining order (1) enjoining Respondents to release Petitioner immediately from custody and not re-detain him without a hearing before a neutral arbiter in which the government proves by clear and convincing evidence that Petitioner is a danger or flight risk, (2) enjoining Respondents from transferring Petitioner outside of this District pending these proceedings, and (3) grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Mechelle Zarou (0073028)
Trial Attorney
6832 Convent Blvd.
#385
Sylvania, OH 43560
Phone: 419.517.8433
MZarou@sistersosf.org

/s/ Carolyn A. Marks
Carolyn A. Marks (0092899)
9378 Mason Montgomery Rd
#385
Mason, OH 45040
Phone: 513-494-6795
marksverdelaw@gmail.com
Counsel for Petitioner
Admitted Pro Hac Vice

CERTIFICATE OF SERVICE

I, Carolyn A. Marks, hereby certify that the foregoing pleading was electronically filed on November 25, 2025, and will automatically be served on all the parties for whom counsel has entered an appearance.

Carolyn A. Marks (0092899)
Counsel for Petitioner
Admitted Pro Hac Vice