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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
CALIFORNIA

J.A.M.C.,
Petitioner-Plaintiff,

v.

Sergio ALBARRAN, Acting Field Office Director of the San Francisco Immigration and Customs Enforcement Office

Todd M. LYONS, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;

Kristi NOEM, in her Official Capacity, Secretary, U.S. Department of Homeland Security; and

Pam BONDI, in her Official Capacity, Attorney General of the United States;

Respondents-Defendants.

Case No. 3:25-cv-09649

REPLY TO RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE

Date: November 21, 2025
Time: 11:00 AM
Place: Courtroom 2, 17th Floor
Hon. William H. Orrick

INTRODUCTION

Petitioner, J.A.M.C., by and through his undersigned counsel, hereby files his response to the Respondents' Response to Order to Show Cause.

Respondents argue that J.A.M.C. is an "applicant for admission" under 8 U.S.C. § 1225, subject to mandatory detention under 8 U.S.C. § 1225(b) when J.A.M.C. has been residing in the United States for over thirty years. He was released on bond in February of 2025. *See* ECF 2-3. Respondents assert that they have the *absolute* right to mandatorily detain J.A.M.C. without a pre-deprivation hearing under 8 U.S.C. § 1225(b)(1)(B)(ii), even though (1) Respondents released J.A.M.C. on bond; (2) Respondents placed J.A.M.C. in removal proceedings under 8 U.S.C. § 1229a(a)(1), Immigration and Nationality Act ("INA") § 240 proceedings; and, (3) J.A.M.C.'s 8 U.S.C. § 1229a(a)(1), INA § 240 proceedings are currently pending. ECF 2-3. Respondents admit that "on or around February 19, 2025, ICE Enforcement and Removal Operations ("ERO") placed Petitioner in custody pursuant to INA § 236(a)," 8 USC § 1226(a). ECF 14 at 34. But now Respondents seek to reverse course and claim that J.A.M.C. is suddenly detained under 8 U.S.C. § 1225. Id. at 33. *Pablo Sequen v. Kaiser*, No. 25-CV-06487-PCP, 2025 WL 2650637, at *8 (N.D. Cal. Sept. 16, 2025) (concludes similarly situated petitioner is subject to 8 USC § 1226(a) and that a petitioner would retain a protected liberty interest even if detention is under 8 USC § 1225).

In addition, Respondents argue that *Matter of Sugay* permits ICE to redetermine or revoke bond, even when an Immigration Judge previously redetermined the bond, and that Petitioner's violations of the conditions of his participation in the Alternatives to Detention ("ATD") program would constitute such changed circumstances. ECF 14 *9. *See Matter of Sugay*, 17 I&N Dec. 637, 639-40 (BIA 1981). However, *Matter of Sugay*'s facts are distinguishable and the procedural history supports J.A.M.C.'s due process interests. In *Matter of Sugay*, after the immigration

judge's redetermination of bond, the respondent was: 1. ordered deported; 2. denied relief at a deportation hearing; 3. shown he had no fixed address, no stable employment, no close family ties; 4. had been convicted of murder in the Philippines and had fled while the case was on appeal; 5. had been arrested in the United States for wielding a knife; 6. had jumped from a window to avoid apprehension by INS. *Id.* at 637. The BIA found that there was a sufficient change of circumstances to justify the District Director and ultimately the immigration judge to increase the bond amount. *Id.* at 637. Here, the allegations, namely, violating a zone boundary after asking for permission, are *de minimis* and do not establish flight risk or danger. And even in light of the finding of changed circumstances, there was due process in *Sugay*: there, an immigration judge had to uphold the district director's proposed increase in the bond amount. *Id.* at 638.[1] The government did not afford such due process here. *See Guillermo M. R. v. Kaiser*, No. 25-CV-05436-RFL, 2025 WL 1983677, at *9 (N.D. Cal. July 17, 2025) ("absent evidence of urgent concerns, a *pre*-deprivation hearing is required to satisfy due process, particularly where an individual has been released on bond by an IJ").

Respondents' arguments are unpersuasive. First, the mandatory detention provision of 8 U.S.C. § 1225(b) is inapplicable to J.A.M.C. He is an individual who has lived in the United

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[1] *Matter of Sugay* states:

> "As a result of the deportation order the District Director elected to revoke the respondent's release on $20,000 bond and subsequently set bond at $30,000. In his decision dated December 19, 1980, the immigration judge upheld this determination by means of an order that any change in the custody status of the respondent be denied. The judge based his decision on the following factors: the Service had presented a proper conviction record for the respondent; the respondent had been ordered deported from the United States; and his application for relief under section 243(h) had been denied. The judge concluded that the likelihood that the respondent would abscond was far greater than it had been at the prior bond redetermination hearing." *Sugay*, 17 I&N Dec.638.

States for over thirty years. When he was encountered by the Department of Homeland Security ("DHS"), he was granted a bond post-encounter and has since resided in the United States; thus, he is no longer "seeking admission" within the meaning of that provision. In fact, the government's contrary position that 8 U.S.C. § 1225(b) categorically authorizes mandatory detention for all noncitizens who were not lawfully admitted but have been present in the country after being released has been overwhelmingly rejected by district courts nationwide. *See Salcedo Aceros v Kaiser*, 2025 WL 2637503, at *8* (N.D. Cal. Sept. 12, 2025) (collecting cases).

In addition, Respondents' arguments imply that J.A.M.C. has no rights under the U.S. Constitution. Their position defies the Fifth Amendment of the U.S. Constitution and well-established precedent from the U.S. Supreme Court, Circuit Courts of Appeal, and district courts. Respondents acknowledged that at least one case in the district recently rejected similar arguments to those set forth by Respondents. See ECF 14 at 20, citing to *See Salcedo Aceros v. Kaiser*, 3:25-cv-06924-EMC; see also *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) (citing *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)); *Ramirez Clavijo v. Kaiser,* No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025)*; Garcia v. Kaiser,* No. 4:25-cv-06916-YGR (N.D. Cal. Aug. 29, 2025)*; Hernandez Nieves v. Kaiser, Jimenez* No. 25-CV-06921-LB, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025)*; Caicedo Hinestroza et al. v. Kaiser,* No. 25-CV-07559- JD, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Pinchi v. Noem*, Slip Copy, 2025 WL 1853763 (N.D. Cal. July 4, 2025).

J.A.M.C. qualifies for a preliminary injunction because he demonstrated a likelihood of success in his Fifth Amendment claims and that he would suffer irreparable harm from unconstitutional detention. J.A.M.C. has shown that there are, at the very least, "serious questions" going to the merits of her claims, that he is likely to suffer irreparable harm in the

absence of preliminary injunctive relief, and that the balance of hardships tips sharply in his favor. *See Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). The Court, therefore, should grant J.A.M.C.'s motion for a preliminary injunction

ARGUMENT

I. The Court Should Grant the Preliminary Injunction

A. J.A.M.C. is likely to succeed on the merits

i. Respondents' alleged ISAP violations do not support the finding that J.A.M.C. does not have a right to due process

Respondents argue that the J.A.M.C. has sporadically failed to comply with the terms of his GPS monitoring. ECF 14. Respondents state that, on November 7, 2025, Petitioner was brought to the attention of ERO during a scheduled immigration check-in appointment due to multiple ATD violations. ECF 14 * 15, citing to Declaration of Deportation Officer Michael Silva ("Silva Decl.") ¶ 15. Respondents allege J.A.M.C. had "violated the conditions of his release on May 10, August 16, and August 19" after his GPS monitoring device indicated that, "on these dates, he violated a zone boundary." *Id.* J.A.M.C. recalls an instance where he requested permission to exceed the boundaries of his GPS monitoring. J.A.M.C. does not have access to his records, and the government has not provided them either.

In any event, any evidence of alleged compliance or non-compliance with monitoring requirements would be evidence for the neutral adjudicator to consider in a pre-deprivation hearing that comports with due process requirements. Here, there was no indication that Respondents complied with the due process requirement of showing that the detention was justified by either (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690. The record here demonstrates the opposite: a. The government previously determined J.A.M.C. was not a danger to the community and that a $10,000 bond would offset any flight risk; b. J.A.M.C. subsequently

validated that assessment by attending all of his court hearings and ICE appointments. Regardless, the fact "that the Government may believe it has a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process." *See Ramirez Tesara v. Wamsley*, No. 2:25-CV-01723-MJP-TLF, 2025 WL 2637663, at *4 (W.D. Wash. Sept. 12, 2025). Respondents did not seek to re-detain J.A.M.C. after his alleged ATD violation on August 19, 2025. This diminishes any argument that an arrest was so urgently necessary that it would override the government's obligation to provide due process.

Assuming arguendo that facts support the above allegations by Respondents, the question regarding flight risk is whether custody is reasonably necessary to secure a person's appearance at immigration court hearings and related check-ins. *See Hernandez*, 872 F.3d at 990-91. Here, there is no basis to argue that J.A.M.C., who was arrested by Respondents *while appearing at a scheduled in-person ICE appointment and has never missed a court hearing*, is a flight risk. Finally, J.A.M.C. has a viable path to immigration relief and lawful permanent residence through his U visa petition; he is supported by family ties, access to legal counsel, which further mitigates any risk of flight. *See Padilla v. U.S. Immigr. and Customs Enf't*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023) (holding that there is not a legitimate concern of flight risk where plaintiffs have bona fide asylum claims and desire to remain in the United States).

ii. J.A.M.C. is not an applicant for admission under 8 U.S.C. § 1225(b)

Respondents assert that J.A.M.C. is mandatorily detained during his removal proceedings under 8 U.S.C. § 1225(b)(1). See ECF 14. 8 U.S.C. § 1225(b)(1) lays out the expedited removal process applied to applicants for admission. The plain meaning of the term "seeking admission" or being an applicant for admission does not refer to individuals who have been in the country for a period of time. *See Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2741654, at

*10 (N.D. Cal. Sept. 26, 2025). J.A.M.C. has been living in the United States since 2008. Therefore, he cannot possibly be seeking admission at the moment. The government claims that J.A.M.C. is "subject to the mandatory detention framework of 8 U.S.C. § 1225(b)" but does not offer a reasoned explanation for such classification. J.A.M.C. maintains that, because he was released on an order of supervision and was placed into § 1229a removal proceedings, his detention is governed under the general provisions of 8 U.S.C. § 1226(a), because he is not subject to expedited removal proceedings. S*ee Martinez Hernandez v. Andrews*, No. 1:25-CV-01035 JLT HBK, 2025 WL 2495767, at *6 (E.D. Cal. Aug. 28, 2025).

Respondents' arguments also rely on *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) ("Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded."). Respondents fail to acknowledge that *Jennings* was a statutory interpretation case, where the Supreme Court found that the statute (§ 1225(b)) did not grant bond hearings. It explicitly did not rule on the constitutional question and remanded it, stating, "we leave the Ninth Circuit's constitutional holding to be resolved on remand" Id. at 284. *Jennings* therefore did not rule on the question of whether re-detention without a bond hearing violates due process, and it did not preclude as-applied challenges.

iii. Even if 8 U.S.C. § 1225(b)(1) proceedings applied here, this is a constitutional question, not a statutory one.

The Due Process Clause of the Fifth Amendment guarantees that the government may not deprive any person of liberty without due process of law. *See* U.S. Const. amend. V. "Freedom from imprisonment -- from government custody, detention, or other forms of physical constraint -- lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The guarantee applies in full force to "all persons' in the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent, and to "an alien subject to a final

deportation order." *Id.* at 693. The due process required by the Fifth Amendment typically entails a pre-deprivation hearing. *See Zinermon v. Burch*, 494 U.S. 113, 127 (1990) ("the Constitution requires some kind of hearing *before* the State deprives a person of liberty or property" (emphasis in original)). See *Hinestroza v. Kaiser*, No. 25-CV-07559-JD, 2025 WL 2606983, at *2 (N.D. Cal. Sept. 9, 2025). Therefore, regardless of the specific statute, the core issue is constitutional, not statutory. The Fifth Amendment protects the profound liberty interest of individuals who have been previously released from custody, placing a constitutional limit on the government's authority to re-detain them without due process. Individuals released from custody, even conditionally, retain a profound liberty interest protected by the Fifth Amendment, which limits the government's broad authority to detain. *See Morrissey v. Brewer, 408 U.S. 471 (1972).*

Respondents assert that J.A.M.C. lacks any constitutional due process rights. ECF 14. For the reasons stated *supra*, the Respondents' position misapprehends the law. The government's reliance on *Landon v. Plasencia*, 459 U.S. 21, 32 (1982); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) and *DHS v. Thuraissigiam*, 591 U.S. 103, 139–40 (2020) is also misplaced. Those cases dealt with admission into the United States and individuals currently stopped at the border, not with the unlawful re-detention of an individual who is already inside the United States. Other cases relied upon by the government, namely *Barrera-Echavarria v. Rison*, *infra*, and *Angov v. Lynch, infra*, equally fail to support their arguments. ECF 14. *Barrera-Echavarria v. Rison*, *infra*, deals with an individual detained under 8 U.S.C. § 1231, which pertains to noncitizens who were previously ordered removed. ECF 11. The text on page 1450 of *Barrera-Echavarria*, *infra*, refers to "excludable aliens," who are detained under a different statutory authority than the Petitioner here, who has never been ordered deported from the United States. *Barrera-Echavarria v. Rison*, 44 F.3d 1441, 1450 (9th Cir. 1995). *Barrera-Echavarria v.*

Rison, *infra*, has been superseded by statute, as Respondents admitted and as stated in *Rodriguez v. Robbins,* 715 F.3d 1127, 1140-41 (9th Cir. 2013). *Angov v. Lynch, infra*, deals with whether the admission of certain documents violated an "arriving alien's" statutory and constitutional rights, which is distinguishable from the case at hand, which is regarding the deprivation of liberty. *Angov v. Lynch*, 788 F.3d 893, 897 (9th Cir. 2015).

ICE's power to re-arrest a noncitizen who is at liberty following a release from custody is constrained by the demands of due process. *See Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process"). *See also Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (Due Process requires pre-deprivation hearing before revocation of probation); *Morrissey,* 408 U.S. at 482 (same, in the parole context). J.A.M.C.'s release on bond and ties to his community provide him with a protected liberty interest. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. Nov. 22, 2019)

To comply with substantive due process, a sufficient purpose must justify the government's deprivation of an individual's liberty. Therefore, immigration detention, which is "civil, not criminal," and "nonpunitive in purpose and effect," must be justified by either (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d at 994 ("[T]he government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions."). When these rationales are absent, immigration detention serves no legitimate government purpose and becomes impermissibly punitive, violating a person's substantive due process rights. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (detention must have a "reasonable relation" to the

government's interests in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding petitioner may "succeed on her Fifth Amendment claim if he demonstrates *either* that the government acted with a punitive purpose *or* that it lacks any legitimate reason to detain him"). As explained *supra*, Respondents have not made such a showing here.

The government also cites *Rodriguez Diaz v. Garland,* 53 F.4th 1189 (9th Cir. 2022), a distinguishable case. Unlike the petitioner in *Rodriguez Diaz*, J.A.M.C. was released on a bond.

Contrary to the Respondents' position, several federal district courts in California have repeatedly recognized that the demands of due process and the limitations on DHS's authority to revoke a noncitizen's release from custody, as set out in DHS's stated practice and *Matter of Sugay*, 17 I&N Dec. 637, 639-40 (BIA 1981) both require a pre-deprivation hearing for a noncitizen on bond, like J.A.M.C., *before* ICE re-detains him. *See, e.g.*, *Meza v. Bonnar*, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega*, 415 F. Supp. 3d at 963; *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at *3-4 (N.D. Cal. May 6, 2022) (Petitioner would suffer irreparable harm if re-detained, and required notice and a hearing before any re-detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing re-arrest at plaintiff's ICE interview when he had been on bond for more than five years). *See also Doe v. Becerra*, at *4 (holding the Constitution requires a hearing before any re-arrest); *Arzate v. Andrews,* Slip Copy, 2025 WL 2230521 (E.D. Cal. Aug. 4, 2025) (The court found Mr. Arzate was likely to succeed on her claim that her re-detention without a new bond hearing violated the Due Process Clause; the court enjoined the government

from re-detaining him without first providing a bond hearing where it must prove by clear and convincing evidence that he is a flight risk or a danger to the community); *Pinchi v. Noem*, Slip Copy, 2025 WL 1853763 (N.D. Cal. July 4, 2025).

Further, the Supreme Court has recognized that noncitizens may bring as-applied challenges to detention, including so-called "mandatory" detention. *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring) ("Were there to be an unreasonable delay by the INS in pursuing and completing deportation proceedings, it could become necessary then to inquire whether the detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons."); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019) ("Our decision today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges, that is, constitutional challenges to applications of the statute as we have now read it.").

J.A.M.C. has been out of custody for over one year, during which time she has established himself as an exemplary resident and a valuable asset to her community. Therefore, the court should follow its own recent, persuasive precedents, and release J.A.M.C.

The proper remedy for this due process violation is a return to the *status quo ante*. The inception of his current detention was unlawful, and a return to the *status quo* requires J.A.M.C.'s freedom.

B. J.A.M.C. has established the requisite Irreparable Harm

The government claims that there was no irreparable harm. The government seeks to disturb the well-established precedent under *Hernandez*, 872 F.3d at 976, where the Ninth Circuit held that the conditions experienced in immigration detention constitute irreparable harm. 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.

C. Balance of interests/public interest

When "the impact of an injunction reaches beyond the parties, carrying with it a potential for public consequences, the public interest will be relevant to whether the district court grants the preliminary injunction." *Hernandez*, 872 F.3d at 996 (quoting *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1139 (9th Cir. 2009)). "[I]n addition to [evaluating] the potential hardships facing Plaintiff[ ] in the absence of the injunction, the court may consider ... the indirect hardship to their friends and family members.' " Id. (quoting *Golden Gate Rest. Ass'n v. City & Cty. of San Francisco*, 512 F.3d 1112, 1126 (9th Cir. 2008). Finally, the Ninth Circuit has recognized that "neither equity nor the public's interest is furthered by allowing violations of federal law to continue." *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022) (holding that the district court did not abuse its discretion in weighing the balance of hardships in favor of plaintiffs who credibly alleged that the government was violating the INA). The government argues that there is a significant interest in exercising its enforcement authority. However, as shown *supra*, the government's interest in detention "without a bond hearing" is outweighed by J.A.M.C.'s liberty interest. *Abdul-Samed v. Warden*, 2025 WL 2099343, at *8 (E.D. Cal. July 25, 2025).

The hardships faced by J.A.M.C., his community, and the public interest in granting injunctive relief weigh strongly in his favor. Here, the balance of equities "tips sharply towards" J.A.M.C.

D. Should the Court Order a Bond Hearing, the Burden is on the Government

When there is a substantial liberty interest at stake, the government should have the burden of proof by clear and convincing evidence that an individual is a flight risk or danger before depriving the individual of that liberty. The Ninth Circuit has also held that an individual's private interest in "freedom from prolonged detention" is "unquestionably substantial." *See Diep v. Wofford*, No. 1:24-CV-01238-SKO (HC), 2025 WL 604744, at *4 (E.D. Cal. Feb. 25, 2025), quoting *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011).

J.A.M.C. has established a substantial liberty interest at stake. In addition, because there is a high risk of erroneous deprivation, and the government's interest is low, "the Due Process Clause requires a pre-deprivation bond hearing where the government bears the burden of proving by clear and convincing evidence that the petitioner is a flight risk or danger to the community." *See Singh v. Andrews*, at *9. Numerous district courts have reached a similar conclusion. *Id*, citing to *Pinchi*, 2025 WL 1853763, at *3–4; *Ortega*, 415 F. Supp. 3d at 970; *Doe*, 2025 WL 691664, at *6; Diaz v. Kaiser, No. 3:25-cv-05071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025); Garcia, 2025 WL 1676855, at *3; *Romero v. Kaiser* at *4 (N.D. Cal. May 6, 2022); *Vargas v. Jennings* at *4. The government rests on the argument that Section 1225(b)(2) "mandate[s] detention of applicants for admission until certain proceedings have concluded," which is purely a legal question. *Id.* Because the government has no evidence not does the government claim that J.A.M.C. poses a risk of flight or poses a danger to the community, the appropriate remedy here is J.A.M.C.'s immediate release. *Ortiz Donis v. Chestnut,* No. 1:25-CV-01228-JLT-SAB, 2025 WL 2879514, at *15 (E.D. Cal. Oct. 9, 2025) ("Because the government has no evidence that Mr.

Ortiz poses a risk of flight or poses a danger to the community, Mr. Ortiz **SHALL** be released **IMMEDIATELY** from DHS custody. DHS **SHALL NOT** impose any additional restrictions on him, such as electronic monitoring, unless that is determined to be necessary at a later custody hearing."); *See also J.C.L.A. v. WOFFORD et al*, No. 1:25-CV-01310-KES-EPG (HC), 2025 WL 2959250, at *8 (E.D. Cal. Oct. 17, 2025)[2] (Petitioner's immediate release is required to return him to the *status quo ante* - "the last uncontested status which preceded the pending controversy" citing to *Pinchi*, 2025 WL 1853763, at *3; *Kuzmenko v. Phillips*, No. 2:25-cv-00663-DJC-AC, 2025 WL 779743, at *2 (E.D. Cal. Mar. 10, 2025); *see also Valdez v. Joyce*, 25 Civ. 4627, 2025 WL 1707737, at *5 (S.D.N.Y. June 18, 2025) (ordering immediate release of unlawfully detained noncitizen); *Ercelik v. Hyde*, No. 1:25-CV-11007-AK, 2025 WL 1361543, at *15–16 (D. Mass. May 8, 2025) (same); *Günaydin v. Trump*, No. 25-CV-01151, 2025 WL 1459154, at *10–11 (D. Minn. May 21, 2025) (same)).

J.A.M.C. also requests that no security be required in connection with his release. *See Zest Anchors, LLC v. Geryon Ventures, LLC*, 2022 WL 16838806, at *4 (S.D. Cal. Nov. 9,

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[2] *J.C.L.A.*, No. 1:25-CV-01310-KES-EPG (HC) states:

> Respondents do not argue that petitioner's two late check-ins mean that he is a flight risk or danger to the community. *See* Doc. 12. Rather, respondents assert that ICE arrested petitioner for those two technical violations. . . Given the time he spent at liberty following her initial release from detention upon a determination that he was not a flight risk or danger, as well as the government's implicit promise that any custody redetermination would be based on those same criteria, petitioner has a protected "interest in remaining at liberty unless [he] no longer meets those criteria." *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *13 (E.D. Cal. Sept. 5, 2025) (quoting *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal. July 24, 2025)).[7] If respondents believe that petitioner's two late check-ins mean that he is a flight risk, they can make that argument at any future bond hearing. *J.C.L.A.*, No. 1:25-CV-01310-KES-EPG * 4.

2022) ("[T]he party affected by the injunction bears the obligation of presenting evidence that a bond is needed.").

CONCLUSION

For the foregoing reasons, J.A.M.C. respectfully requests that the Court grants a Preliminary Injunction.

Dated: November 18, 2025

Respectfully submitted,
/s/ Natalia Santanna
Natalia Vieira Santanna
Attorney for Petitioner-Plaintiff