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5
6 **THE UNITED STATES DISTRICT COURT**
FOR THE WESTERN DISTRICT OF WASHINGTON
7 **SEATTLE, WASHINGTON**

8 Abel MARTINEZ ALEMAN
a/k/a Pedro RIVERA,

9 Petitioner,

10 v.

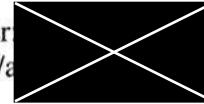
11 PAMELA BONDI, Attorney General;
KRISTI NOEM, Secretary of Homeland
12 Security;
TODD LYONS, Acting Director, U.S.
13 Immigration and Customs Enforcement;
CAMMILLA WAMSLEY, Field Office
14 Director, ICE Seattle Field Office; and
BRUCE SCOTT, Warden, Northwest ICE
15 Processing Center;

16 Respondents.

Case No.: 2:25-cv-2346

EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER
AND STAY OF REMOVAL

Agency File Number
a/k/a



ORAL ARGUMENT REQUESTED

17 **EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER**
18 **AND STAY OF REMOVAL**

19 **I. Motion**

20 Petitioner, Mr. Martinez Aleman, is a citizen and national of El Salvador. He resides in
21 Spokane, Washington, with his U.S. citizen wife. He was unlawfully detained under 8 U.S.C.
§ 1231(b)(3) because he has a pending motion to reopen based on his fear of return to El Salvador.

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 1

CRENSHAW/61436550.3/099509.0015

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1 Under Federal Rule of Civil Procedure 65 and 5 U.S.C. §705, Petitioner moves this Court for an
2 Emergency Temporary Restraining Order and Stay of Removal, preventing his removal from the
3 United States and his transfer to another detention facility while these proceedings are pending.

4 **II. Basis for Motion**

5 Petitioner, Abel Martinez Aleman, is a citizen of El Salvador who is presently detained at
6 the Northwest ICE Processing Center. He has been living in the United States since his entry into
7 the United States without inspection sometime in the year 1988. Mr. Martinez Aleman is married
8 to a U.S. citizen and has three U.S. citizen children and one child with Deferred Action for
9 Childhood Arrivals.

10 Mr. Martinez Aleman applied for asylum with the help of a non-attorney less than one
11 month after his entry to the U.S. He has never had the opportunity to learn how to read or write
12 in any language because he started working as soon as he was able to support his destitute family
13 in El Salvador. Unable to read his correspondence from the immigration court, Mr. Martinez
14 Aleman's neighbor advised him that if he showed up to court without an attorney, he would lose.
15 He did not attend.

16 Shortly thereafter, the immigration court administratively closed his case, and
17 Mr. Martinez Aleman was terrified that his family would become destitute if he was not able to
18 work. He bought a Salvadoran birth certificate from a family friend who needed money, so he
19 could apply for a work permit as Pedro Rivera. The Pedro Rivera born in El Salvador has never
20 been in the United States. All along, his goal has been to provide for his family; he has never
21 expressed malice in using the incorrect name. Later, he tried to rectify his status by applying for
asylum again in 1991 under the name Pedro Rivera and was assigned a new A number.

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 2

CRENSHAW/61436550.3/099509.0015

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1 He pursued his asylum case and immigration court proceedings under this name. An
2 immigration judge in Seattle, Washington, granted him voluntary departure in 2009. His attorney
3 at the time incorrectly advised him that, if he stayed in the United States, he would later be
4 approved for a waiver, even though his grant of voluntary departure converted into a removal
5 order. Additionally, this attorney advised Mr. Martinez Aleman to continue working in the United
6 States with an employment authorization document granted in conjunction with an application
7 for Temporary Protected Status filed under the name, Pedro Rivera.

8 Acting on the advice of his attorney, Mr. Martinez Aleman remained in the United States.
9 In May 2025, Petitioner disclosed this information to undersigned counsel, and it formed the basis
10 for his motion to reopen, so he could pursue his application for cancellation of removal based on
11 the exceptional and extremely unusual hardship that his U.S. citizen wife will face in his absence,
12 and his application for asylum based on changed country conditions.

13 In 2014, Petitioner was placed on an Order of Supervision (OSUP) with his local ICE
14 Field Office. He complied with his OSUP and ICE check-ins for the last ten years. On January 8,
15 2025, he received a letter from ICE terminating his OSUP, and on August 18, 2025, he was issued
16 a notice scheduling his removal. He immediately filed that motion to reopen based on ineffective
17 assistance of counsel on August 27, 2025, and filed an I-246, Request for Stay of Removal and
18 Reinstatement of Order of Supervision, with ICE on September 9, 2025. An immigration judge
19 denied the motion to reopen on October 9, 2025.

20 Mr. Martinez Aleman immediately appealed to the BIA and also filed an emergency
21 motion to stay removal while the BIA reviewed his appeal. The BIA denied this motion in its

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL**

(CASE NO.)

Page - 3

CRENSHAW/61436550.3/099509.0015

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1 discretion on November 14, 2025. At Mr. Martinez Aleman’s previously scheduled ICE check-
2 in for November 18, 2025, he was detained and scheduled to be taken to the Northwest Ice
3 Processing Center in Tacoma, Washington, to execute his removal order. He also learned on this
4 day that ICE had denied his I-246. This emergency motion for a temporary restraining order and
5 stay of removal and petition for a writ of habeas corpus follows.

6 **III. Argument**

7 Mr. Martinez Aleman has a pending motion to reopen before the Board of Immigration
8 Appeals. This motion is based in large part on his asylum application based upon his fear of return
9 to El Salvador. Therefore, Respondents’ detention and imminent removal of Petitioner under
10 8 U.S.C. § 1231 violates the carve-our provision in section 1231(b)(3). Moreover, because he was
11 detained in the interior, if any other detention is appropriate, it must be under 8 U.S.C. § 1226(a).
12 Finally, Mr. Martinez Aleman will be eligible to file an application for non-LPR cancellation of
13 removal if the Board of Immigration Appeals decides to reopen his case. However, he will lose
14 his right to apply for such relief if he is removed from the United States. 8 U.S.C. § 1229a(b)(1).

15 **A. *Standards for Temporary Restraining Order***

16 To grant a Temporary Restraining Order, the petitioner must meet one of two tests. The
17 more recent test, known as the *Winter* test, requires the petitioner to prove as follows:

- 18 [1] that he is likely to succeed on the merits,
19 [2] that he is likely to suffer irreparable harm in the absence of
preliminary relief,
20 [3] that the balance of equities tips in his favor, and
[4] that an injunction is in the public interest.

21 *Sherley v. Sibelius*, 644 F.3d 388, 392 (D.C. Cir. 2011) (alteration in original, quoting *Winter*
v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008)). “The same standard applies to both

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 4

CRENSHAW/61436550.3/099509.0015

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1 temporary restraining orders and to preliminary injunctions.” *Sterling Commercial Credit-*
2 *Michigan, LLC v. Phoenix Indus. I, LLC*, 762 F. Supp. 2d 8, 12 (D.D.C. 2011) (quoting *Hall v.*
3 *Johnson*, 599 F. Supp. 2d 1, 3 n.2 (D.D.C. 2009)). Under similar circumstances, courts within
4 this Circuit have granted petitions for a writ of habeas corpus pursuant to 28 U.S.C. § 2241
5 where, as here, the petitioner has been present in the United States for more than three years,
6 was unlawfully detained in the interior by the Department of Homeland Security under
7 §§ 1225(a)(1), (b)(2) and sought immediate release.

8 The traditional test, which remains viable in the Ninth Circuit, is known as the “sliding
9 scale” test and requires the petitioner to prove “serious questions going to the merits” and “a
10 hardship balance that tips sharply toward the petitioner.” *Alliance for the Wild Rockies v.*
11 *Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As under the *Winter* test, the petitioner must also show
12 a likelihood of irreparable injury and that the injunction is in the public interest. “Under this
13 approach, the elements of the preliminary injunction test are balanced, so that a stronger showing
14 of one element may offset a weaker showing of another.” *Alliance for the Wild Rockies*, 632 F.3d
15 at 1131.

16 Mr. Martinez Aleman meets both of these tests.

17 ***B. Petitioner is likely to succeed on the merits and has raised serious legal***
18 ***questions.***

19 i. Continued detention of Petitioner violates his right to due process.

20 The Due Process Clause of the Fifth Amendment forbids the government from depriving
21 any “person” of liberty “without due process of law.” U.S. CONST. amend. V. All people within
the territorial bounds of the United States enjoy due process rights, regardless of citizenship. *See*

1 *e.g.*, *Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (“[T]here are literally millions of [non-citizens]
2 within the jurisdiction of the United States . . . [and] the Fifth Amendment . . . protects every one
3 of these persons.”) (internal quotation marks omitted); *Yick Wo v. Hopkins*, 118 U.S. 356, 368–
4 69 (1886). These protections apply equally to non-citizens facing deportation proceedings.
5 *Demore v. Kim*, 538 U.S. 510, 523 (2003); see also *Zadvydas v. Davis*, 533 U.S. 678, 721
6 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [non-citizens] are entitled to be
7 free from detention that is arbitrary and capricious.”).

8 “Freedom from imprisonment—from government custody, detention, or other forms of
9 physical restraint—lies at the heart of the liberty” that the Due Process clause protects. *Id.* at
10 690. Due process thus requires “adequate procedural protections” to ensure that the
11 government’s asserted justification for incarceration “outweighs the individual’s constitutionally
12 protected interest in avoiding physical restraint.” *Id.* at 690. In *Tang v. Bondi*, the court explained
13 that “the burden on Respondents in releasing Mr. Tang is minimal, especially considering
14 Mr. Tang’s history of compliance with the conditions of his supervised release. *See Hoac*
15 [*v. Becerra*, No. 2:25-cv-01740-DC-JDP,] 2025 WL 2637751, at *6 [(E.D. Cal. July 16, 2025)].”

16 The court further explained that, absent any indication from the government that removal
17 is imminent, continued detention will likely be unreasonable. *Id.* at *5 (“There is no indication
18 when the request [for a travel document] will be submitted to Vietnam. This, in combination
19 with serious doubts about whether Vietnam will issue a travel document for Mr. Tang, supports
20 the likelihood that Mr. Tang’s current detention is unreasonably indefinite.”).

21
**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 6

CRENSHAW/61436550.3/099509.0015

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1 Similarly, Petitioner does not have a passport from any country, and there is no evidence
2 at this time that ICE has requested or made any other efforts to procure a travel document for his
3 removal. Indeed, there is no evidence that ICE has made any effort to do so since Petitioner's
4 grant of voluntary departure converted into a removal order in 2009. Instead, Petitioner has
5 faithfully complied with ICE check-ins for over ten years, since he was placed on an order of
6 supervision in 2014. Accordingly, it is likely that Petitioner's "current detention is unreasonably
7 definite." *Id*

8 ii. Removal of Petitioner would violate his right to due process.

9 Due Process protects a noncitizen's liberty and property interest in the adjudication of
10 applications for relief and benefits made available under the immigration laws. *See Arevalo v.*
11 *Ashcroft*, 344 F.3d 1, 15 (1st Cir. 2003) (recognizing protected interests in the "right to seek
12 relief" even when there is no "right to the relief itself"). Petitioner has a U.S. citizen wife and
13 minor son and, if the Board of Immigration Appeals determines that his case should be reopened,
14 he will be eligible to file for non-lawful permanent resident cancellation of removal under
15 8 U.S.C. § 1229a(b)(1).

16 Petitioner's pending motion to reopen before the BIA is based in large part on the
17 ineffective assistance of counsel that he received during his prior removal proceedings---in and
18 of itself a violation to his right to due process. But also, continued detention and removal violate
19 Petitioner's ability to pursue the relief underlying his motion to reopen because those applications
20 depend on his remaining in the United States. 8 U.S.C. §§ 1229a(c)(7)(B), 1158(a)(1).
21 Cancellation of removal requires the applicant to be physically present in the United States and
asylum requires the same and further prohibits the applicant from returning to the country where

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 7

CRENSHAW/61436550.3/099509.0015

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1 they fear harm. Petitioner's removal to El Salvador would invalidate his ability to apply for both
2 forms of relief, of which he will be eligible if the BIA determines that his removal order should
3 be reopened.

4 In 2009, the immigration judge granted him voluntary departure, and if he did not timely
5 depart, then he would be removed to El Salvador, or in the alternative, Mexico. Petitioner's
6 asylum claim is based on the changed country conditions in El Salvador since President Bukele
7 was elected, which occurred after Petitioner's grant of voluntary departure converted to a
8 removal order in 2009. Accordingly, he has never had an opportunity to express his fear of return
9 to El Salvador based on changed country conditions or a fear of removal to Mexico to any
10 immigration official. *See* 8 U.S.C. § 1231(b)(3)(A). Therefore, Petitioner faces not only a risk of
11 erroneous and unlawful removal from the United States but also significant threats to safety if
12 he is not released. This erroneous removal will effectively terminate his ability to seek relief
13 through a motion to reopen, of which he has a statutory right to pursue. 8 U.S.C. §
14 1229a(c)(7)(B). Taking away this statutory right from Petitioner is a violation of his right to due
15 process.

16 iii. In the event that Petitioner's motion to reopen is granted, he will likely
17 no longer be detained under section 1231, and he will not be subject to
mandatory detention under section 1226.

18 Mr. Martinez Aleman seeks immediate release now but if not released after his
19 motion to reopen is granted, then he will be unlawfully and unconstitutionally deemed
20 ineligible for bond based on an erroneous finding that he is subject to mandatory detention
21 under 8 U.S.C. §§ 1225(b)(2)(A). A plain reading of the statute makes clear that
Mr. Martinez Aleman, who had been apprehended in the interior, cannot be detained under

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 8

CRENSHAW/61436550.3/099509.0015

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1 8 U.S.C. § 1225(b)(2)(A), but rather, must be detained under § 1226(a). However, Petitioner
2 asserts that no arrest was lawful in this case because there was no violation of the conditions
3 initially placed upon release in 2014.

4 In examining the relevant provisions of sections 1225 and 1226, the Court considers
5 “whether the language at issue has a plain and unambiguous meaning with regard to the
6 particular dispute in the case.” *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). The
7 Court’s “job is to interpret the words consistent with their ‘ordinary meaning . . . at the time
8 Congress enacted the statute.’” *Wis. Cent. Ltd v. United States*, 585 U.S. 274, 277 (2018)
9 (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979)); see also *New Prime Inc. v.*
10 *Oliveira*, 586 U.S. 105, 113 (2019) (If courts could “freely invest old statutory terms with
11 new meanings, we would risk amending legislation” and “upsetting reliance interests in the
12 settled meaning of a statute[.]”) (internal quotations and citations omitted).

13 Of course, the words of a statute “cannot be construed in a vacuum. It is a fundamental
14 canon of statutory construction that the words of a statute must be read in their context and
15 with a view to their place in the overall statutory scheme.” *Roberts v. Sea-Land Servs., Inc.*,
16 566 U.S. 93, 101 (2012) (quoting *Davis v. Mich. Dep’t of Treasury*, 489 U.S. 803, 809
17 (1989)) (internal quotation marks omitted). In *Jennings v. Rodriguez*, the Supreme Court
18 analyzed the interplay between Section 1225 and Section 1226. 583 U.S. 281 (2018). The
19 Supreme Court noted that Section 1225(b) applies primarily to “[noncitizens] seeking entry
20 into the United States.” *Jennings*, 583 U.S. at 297. The statute itself contemplates “arriving,”
21 “seeking,” the present tense of someone at the port of entry, where the Government must
determine whether an alien seeking to enter the country is admissible. *Kostak v. Trump*,

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 9

CRENSHAW/61436550.3/099509.0015

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1 No. 3:25-cv-01093, slip op. at 6 (W.D. La. Aug. 27, 2025) (Edwards, J.) (citing *Jennings v.*
2 *Rodriguez*, 583 U.S. 281, 288–89 (2018)).

3 For non-citizens already present inside the United States, “[s]ection 1226(a) creates a
4 default rule for those [noncitizens] by permitting the Attorney General to release them on bond,
5 ‘except as provided in subsection (c) of this section.’” *See Jennings*, 583 U.S. at 303.

6 A line must be drawn between how sections 1225 and 1226 function when it comes to
7 detention of noncitizens, and it is straightforward: Detention authority under section 1225 is
8 exercised at or near the port of entry for those seeking admission, and detention authority under
9 section 1226 must be used when a non-citizen is arrested in the interior of the United States. *See*
10 *Martinez v. Hyde*, – F.Supp.3d –, 2025 WL 2084238 at *4 (D. Mass. July 24, 2025) (The line
11 historically drawn between these two sections, making sense of their text and overall statutory
12 scheme, is that section 1225 governs detention of non-citizens “seeking admission into the
13 country,” whereas action 1226 governs detention of non-citizens “already in the country.”); *see*
14 *also Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025) (“There
15 can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a
16 noncitizen who has resided in this country for over twenty-six years and was already within the
17 United States when apprehended and arrested during a traffic stop, and not upon arrival at the
18 border.”); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1261 (W.D. Wash. 2025) (holding that
19 section 1226(a), not section 1225(b)(2), governs detention of a noncitizen who had resided in the
20 United States for fifteen years).

21 At Mr. Martinez Aleman’s arrest on November 18, 2025, he was not apprehended while
seeking admission at the port of entry. Instead, he was arrested during an ICE check-in.

1 Therefore, if his motion to reopen is granted and he remains in ICE detention, Mr. Martinez
2 Aleman will be detained under section 1226(a).

3 iv. 8 U.S.C. § 1231(b)(3) prohibits removal of Petitioner to El Salvador or
4 any other country for which he has not had an opportunity to assess
whether he fears removal to that country.

5 In the event that this Court concludes that Petitioner is detained pursuant to section 1231,
6 he may not be removed to El Salvador or any other country where he fears harm because no
7 designee of the Attorney General has reviewed his asylum claim. With his motion to reopen,
8 Mr. Martinez Aleman filed an updated application for asylum based on the changed country
9 conditions and his renewed fear of harm since an immigration judge last reviewed the merits of
10 his asylum claim in 2009. El Salvador has changed dramatically in the last sixteen years and
11 Mr. Martinez Aleman fears unlawful and arbitrary detention and threats to his life based on
12 President Bukele's State of Exception. President Bukele was not a national politician, much less
13 elected as president of El Salvador, at the time of Mr. Martinez Aleman's previous immigration
14 court hearing, so he has not had an opportunity to present his asylum claim. Unlawful removal
15 not only prevents his opportunity from doing so but may also subject to him to significant harm,
16 unlawful detention, or even death. If Respondents instead choose to remove Mr. Martinez Aleman
17 to a different country, he must also have an opportunity to determine whether he has a fear of
18 removal to that country prior to actual removal.

19 ***C. Petitioner faces irreparable harm, and a hardship balance tips sharply***
20 ***toward him.***

21 The harm that flows from the violation of Petitioner's constitutional rights is
unquestionably irreparable. *See K.A. ex rel. Ayers v. Pocono Mountain Sch. Dist.*, 710 F.3d 99,

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 11

CRENSHAW/61436550.3/099509.0015

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1 113 (3d Cir. 2013). The deprivation of a noncitizen’s liberty is, in and of itself, irreparable harm.
2 *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting
3 *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Irreparable harm is virtually presumed in cases like
4 this one where an individual is detained without due process. *Torres-Jurado v. Biden*, No. 19
5 CIV. 3595 (AT), 2023 WL 7130898, at *4 (S.D.N.Y. Oct. 29, 2023) (“[B]efore the Government
6 unilaterally takes away that which is sacred, it must provide a meaningful process.”).

7 As noted above, Petitioner has a U.S. citizen wife and minor son and can file for non-
8 lawful permanent cancellation of removal if his immigration case is reopened. If he is removed,
9 he will lose this opportunity forever because 8 U.S.C. § 1229a(b)(1) requires him to be physically
10 present in the United States. Additionally, Petitioner fears threats and harm to his life if removed
11 to El Salvador or Mexico. Additionally, if ICE designates any additional country for removal,
12 Petitioner is entitled to a reasonable time to assess whether he fears particularized harm in that
13 country. As of the date of filing, Petitioner, has not had an opportunity to present his claim of
14 asylum based on changed country conditions---nor has “the Attorney General decide[d] that
15 [Petitioner’s] life or freedom would be threatened in that country[.]” 8 U.S.C. § 1231(b)(3).

16 Finally, the existence of ICE’s policy regarding third country removals is a constant
17 threat for Petitioner. As explained in *Nguyen*:

18 The policy explains that “[i]f the United States has received diplomatic assurances
19 from the country of removal that [noncitizens] removed from the United States
20 will not be persecuted or tortured, and if the Department of State believes those
21 assurances to be credible, the [noncitizen] may be removed without the need for
further procedures.” In those cases where ICE has not received diplomatic
assurances, an officer will serve the noncitizen with a notice of removal, including
the intended country of removal. The policy notes that ICE []
“will not affirmatively ask whether the [noncitizen] is afraid of being removed to

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 12

CRENSHAW/61436550.3/099509.0015

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1 the country of removal.” And ICE will “generally wait at least 24 hours following
2 service of the Notice of Removal before effectuating removal.” But in “exigent
3 circumstances,” ICE need wait only six hours. If the noncitizen “does not
affirmatively state a fear of persecution or torture if removed to the country on the
notice within 24 hours,” they will be removed.

4 *Nguyen*, 2025 WL 2419288, at *26 (internal citations omitted). This policy would bring
5 irreparable harm to Petitioner whose applications for relief---and his overall safety---require him
6 to be physically present in the United States.

7 ***D. The balance of equities tips in favor of Petitioner, and an injunction is in the***
8 ***public interest.***

9 The remaining two factors for an injunction are the same under both legal tests, and they
10 both favor Petitioner. The “public interest is best served by ensuring the constitutional rights of
11 persons within the United States are upheld.” See *Opulent Life Church v. City of Holly Springs*,
12 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). As
13 discussed above, the abrupt detention without bond of Petitioner likely violated federal law and
14 his due process. “There is generally no public interest in the perpetuation of unlawful agency
15 action,” and “there is a substantial public interest in having governmental agencies abide by the
16 federal laws that govern their existence and operations.” *League of Women Voters of United*
States v. Newby, 838 F.3d 1, 12 (D.C. Cir. 2016) (cleaned up).

17 In *Tang v. Bondi*, a court in the Western District of Washington explained that “[c]ourts
18 in this circuit have found a request to release a re-detained noncitizen seeks a prohibitory
19 injunction because it seeks ‘to preserve the status quo preceding [the] litigation---[the petitioner’s]
20 presence in the United States free from detention[.]’” 2025 WL 2637750, at *3 (quoting *Nguyen*,
21 2025 WL 2419288, at *10) (internal quotation marks omitted) (alterations original to *Tang*).

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 13

CRENSHAW/61436550.3/099509.0015

Fennemore Craig, P.C.
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1 Indeed, “several district courts have recently concluded that releasing a re-detained noncitizen
2 who had been on supervised release preserves rather than alters the status quo.” *Nguyen*, 2025
3 WL 2419288, at *10 (internal citations omitted); *see also Doe v. Becerra*, No. 2:25-CV-00647-
4 DJC-DMC, 2025 WL 691664, at *2 (E.D. Cal. Mar. 3, 2025) (Petitioner had remained out of
5 custody for over five years until his bond was suddenly revoked. It is questionable whether that
6 status quo is properly considered to be detention when the Government suddenly took an allegedly
7 unconstitutional action in rearresting Petitioner without a hearing[.]”).

8 The balance of equities and the public interest favor the issuance of a temporary
9 restraining order in the instant matter. As noted above, the hardship for Petitioner is concrete and
10 severe. Moreover, assuming that Petitioner’s removal would violate the Due Process Clause and
11 the Suspension Clause, the government cannot be harmed by a constitutionally-mandated
12 injunction. *See, e.g., Zepeda v. INS*, 753 F.2d 719, 729 (9th Cir. 1983) (noting that the government
13 “cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from
14 constitutional violations”). This Court has previously held that where a Petitioner has historically
15 and perfectly complied with an order of supervision, “there is no reason to think that he would
16 not comply now. . . . His release would not preclude ICE from re-detaining him if Respondents
17 prevail on the merits.” *Nguyen*, 2025 WL 2419288, at *11. The same is true here. Petitioner has
18 strictly complied with his order of supervision since ICE instituted it in 2009. If released, he will
19 presumably be placed on another order of supervision until his motion to reopen is resolved.
20 Additionally, there is no reason to believe that Petitioner would not comply as he has done for the
21 last eleven years.

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL**

(CASE NO.)

Page - 14

CRENSHAW/61436550.3/099509.0015

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1 Petitioner has set forth a valid APA claim in his Petition and faces irreparable harm if he
2 is not permitted to pursue that claim and seek redress before this Court because this is his only
3 opportunity to do so.

4 Finally, the public interest favors preserving Petitioner's legal rights as a spouse of a U.S.
5 citizen and father of a U.S. citizen minor child to pursue non-lawful permanent residence
6 cancellation of removal if his case is reopened, and as an asylum seeker. *Osorio-Martinez v. Att'y*
7 *Gen. of the U.S.*, 893 F.3d 153, 179 (3d Cir. 2018) ("And it is squarely in the public interest to
8 enable individuals to partake of statutory and constitutional rights and meaningful judicial review
9 where, as here, it is consistent with the process prescribed by Congress.").

10 **IV. Conclusion**

11 Under FRCP 65, Petitioner moves this Court to issue an Emergency Temporary
12 Restraining Order and Stay of Removal:

- 13 1. Enjoining and restraining the Respondents and all of their respective officers,
14 agents, servants, employees, attorneys and persons acting on their behalf in
15 concert or in participation with them from:
- 16 a. Removing or deporting Petitioner from the United States while these
17 proceedings are pending;
 - 18 b. Transferring Petitioner from the Northwest ICE Processing Center to
19 any other detention facility during the pendency of these proceedings.

20 WHEREFORE, for the reasons set forth in his Petition for Writ of Habeas Corpus and in
21 this Motion, Petitioner respectfully requests this Court:

**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL**

(CASE NO.)

Page - 15

CRENSHAW/61436550.3/099509.0015

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- 1 1. Grant this Emergency Motion for Temporary Restraining Order and Stay of Removal
- 2 today;
- 3 2. Enter the Proposed Order Granting Petitioner’s Emergency Motion for Temporary
- 4 Restraining Order and Stay of Removal today; and
- 5 3. Grant such other and further relief as justice may require.

6
7 Dated: November 21, 2025

8
9 By: /s/ Alycia T. Moss
10 ALYCIA MOSS, WSBA #56324
11 Attorney for Petitioner
12 Fennemore Craig, P.C.
13 P.O. Box 354
14 Coeur d’Alene, ID 83816
15 (208) 956-0150
16 amos@fennemorelaw.com

17
18 *Pro Hac Vice Application Forthcoming*

19
20
21
**EMERGENCY MOTION FOR TEMPORARY
RESTRAINING ORDER AND STAY OF
REMOVAL
(CASE NO.)**

Page - 16

CRENSHAW/61436550.3/099509.0015

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CERTIFICATE OF SERVICE

The undersigned hereby certifies I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

US Attorneys
Email: usawaw.habeas@usdoj.gov

Dated: November 21, 2025

By: /s/ Catherine M. Renshaw
Fennemore Craig, P.C.
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