UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

ROBERTO MATA FUENTES

Petitioner,

v.

Samuel J. Olson, Field Office Director of Enforcement and Removal Operations, St. Paul Field Office, Immigration and Customs Enforcement; Kristi Noem, in her official capacity as Secretary of the U.S. Department of Homeland Security; Todd Lyons, in his official capacity as acting director of U.S. Immigration and Customs Enforcement; Pam Bondi, in her official capacity as Attorney General of the United States; Joel Brott, Sherburne County Jail Sheriff.

Respondents.

Case No. 0:25-cv-4456

PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

EMERGENCY HANDLING REQUESTED

I. INTRODUCTION

Petitioner Roberto Mata Fuentes brings the instant motion for Temporary Restraining Order ("TRO") and Preliminary Injunction ("Motion") seeking injunctive relief and challenging Respondents' actions in detaining Petitioner. He was arrested by Respondents on October 30, 2025, and remains in detention. Despite arresting and charging the Petitioner pursuant to INA § 236, and declining to designate him as an arriving alien, Respondents have alleged he is properly detained under INA § 235. Respondents cannot lawfully detain someone without facts to support the underlying charge and further deny them an opportunity to review their custody on the basis of that illegal putative charge.

Courts across the country have granted Temporary Restraining Orders to non-citizens like Mr. Mata Fuentes who have been unlawfully detained. In light of these developments, and the special concerns Petitioner faces as a father and Non-Immigrant U Visa applicant, emergency relief is necessary. Petitioner seeks injunctive relief to prevent Respondents from continuing to unlawfully detain him. Petitioner seeks declaratory and injunctive relief to remedy violations of his constitutional and statutory rights. Finally, Mr. Mata Fuentes's petition is properly before this Court.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Petitioner unlawfully denied a custody redetermination hearing and remains detained despite being owed a discretionary bond determination.

On May 14, 2024, Petitioner was granted deferred action pursuant to his Bona Fide Determination (BFD) of his I-918 Petition for U Non-Immigrant Status. On October 30, 2025, Petitioner was arrested and taken into Immigration and Customs Enforcement ("ICE") custody. The NTA lists his charge as INA 212(a)(6)(A)(i) – being present in the United States without being admitted or paroled – and INA 212(a)(7)(A)(i)(I) – being an applicant for admission not in possession of a valid entry document. The NTA did not check the box identifying the Petitioner as an arriving alien, but rather as an alien present in the United States who has not been admitted or paroled. The I-213 lists his charge of inadmissibility as INA 212(a)(6)(A)(i) and INA 212(a)(7)(A)(i)(I). The form I-213 provides a factual basis for only the charge under INA 212(a)(6)(A)(i). On November 18, 2025, Immigration Judge (IJ) Sardelli determined that the Respondent was detained under INA § 235(b)(2) and he lacked jurisdiction under Board precedent set in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

Petitioner is the father of four children, three of whom are U.S. citizens. DHS continues to hold him in custody, separating him from his family and

preventing him from providing for their basic needs. As long as he remains detained, he has suffered and will continue to suffer significant, irreparable harm.

III. ARGUMENT

A. Mr. Mata Fuentes is entitled to a temporary restraining order and preliminary injunction.

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

(1) the probability that the moving party will succeed on the merits;

(2) the threat of irreparable harm to the moving party;

(3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and

(4) whether the issuance of a TRO is in the public interest.

See Dataphase Sys., Inc. v. C.L. Sys., Inc., 640 F.2d 109, 114 (8th Cir. 1981); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Consideration of these four factors does not require mathematical precision but rather should be flexible enough to encompass the particular circumstances of each case. *See Dataphase*, 640 F.2d at 113. The basic question is whether the balance of equities so favors the moving party "that justice requires the court to intervene to preserve the status quo until the merits are determined." *Id.* Although the

probability of success on the merits is the predominant factor, the Eighth Circuit has "repeatedly emphasized the importance of a showing of irreparable harm." *Caballo Coal Co. v. Ind. Mich. Power Co.*, 305 F.3d 796, 800 (8th Cir. 2002). Here, all four factors weigh heavily in favor of injunctive relief.

1. **Mr. Mata Fuentes is likely to succeed on the merits of his petition for writ of habeas corpus.**

Writs of habeas corpus "may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions." 28 U.S.C. § 2241(a). "The writ of habeas corpus shall not extend to a prisoner unless...He is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(2).

a. Mr. Mata Fuentes's detention is in violation of Due Process.

i. Noncitizens like Mr. Mata Fuentes are protected by the Fifth Amendment.

The federal courts have held that noncitizens are entitled to guarantees of the Fifth Amendment. *Sanchez-Velasco v. Holder*, 593 F.3d 733, 737 (8th Cir. 2010); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) ("all aliens[] are clearly protected by the Fifth and Fourteenth Amendments"). Courts treat Equal Protection and Due Process rights under the Fifth Amendment in the same manner as Equal Protection Claims under the Fourteenth Amendment. *Weinberger v. Wiesenfeld*, 420 U.S. 636, 638 n.2 (1975). Due process is only implicated when governmental decisions deprive an individual of "liberty" or

"property" interests within the meaning of the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67, 78 (1976); *see also Rusu v. INS*, 296 F.3d 316, 321-22 (4th Cir. 2002).

The Due Process Clause of the Fifth Amendment provides that "[n]o person shall be...deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. *See Zadvydas*, 533 U.S. at 690 ("A statute permitting indefinite detention of an alien would raise a serious constitutional problem"); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10, 413 (D.N.J. 1999) (holding that, in analyzing due process in the immigration context, the first factor in the procedural due process analysis, "the petitioner's private interest in his physical liberty, must be accorded the utmost weight.").

ii. Respondents continue holding Petitioner in detention in violation of Due Process and without any legitimate basis.

Immigration detention is civil and must "bear a reasonable relation to the purpose for which the individual [is detained]" so that it is "nonpunitive in purpose and effect." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (cleaned up). There are only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Id.*; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017).

Civil detention cannot be a "mechanism for retribution," *Kansas v. Crane*, 534 U.S. 407, 412 (2002) (internal quotation marks omitted), because "[r]etribution and deterrence are not legitimate nonpunitive governmental objectives," *Bell v. Wolfish*, 441 U.S. 520, 539 n.20 (1979). And unlawful detention necessarily harms Petitioner. *See Barker v. Wingo*, 407 U.S. 514, 532 (1972) (detention has a "serious," "detrimental impact on the individual"); *Hernandez*, 872 F.3d at 994 (unconstitutional detention for an indeterminate period is irreparable harm); *Doe v. Becerra*, 704 F. Supp. 3d 1006, 1017 (N.D. Cal. 2023), *abrogated on other grounds by Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024) ("'Liberty is the norm; every moment of [detention] should be justified.'") (alteration in original) (citation omitted).

Civil confinement of non-citizens must be limited to the underlying purpose justifying the detention. *Zadvydas*, 533 U.S. at 690. "Once removal is

no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699. *Zadvydas* held that civil detention violates due process unless special, nonpunitive circumstances outweigh an individual's interest in avoiding restraint. 533 U.S. at 690 (**immigration detention must remain "nonpunitive in purpose and effect"**) (emphasis added).

The government's detention of Petitioner is punitive. First, DHS has expressed and vocalized an intent to use civil detention punitively against noncitizens for the dual purposes of: (1) encouraging self-deportation, and (2) coercing foreign recalcitrant governments to issue travel documents for its citizens ordered deported from the United States by demonstrating through a systematic campaign of abuse and terror that the recalcitrant government's citizens detained in post-removal-order custody will suffer immensely in the absence of such travel documents being issued. *100 Days of Fighting Fake News*, Department of Homeland Security (Apr. 30, 2025) ("The reality is that prison isn't supposed to be fun. It's a necessary measure to protect society and punish bad guys. It is not meant to be comfortable. What's more: prison can be avoided by self-deportation. CBP Home makes it simple and easy. If you are a criminal alien and we have to deport you, you could end up in Guantanamo Bay or CECOT. Leave now.");[1] *Mohammed H. v. Trump*, No.: 25-CV-1576-JWB-

[1] Found at https://www.dhs.gov/news/2025/04/30/100-days-fighting-fake-news

DTS, --- F.Supp.3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) ("Punishing Petitioner for protected speech or **using him as an example to intimidate other students into self-deportation is abusive and does not reflect legitimate immigration detention purposes**.") (emphasis added).

The foregoing contentions are buttressed by the realization that Petitioner is detained in Sherburne County Jail, a facility designed to house and punish convicted criminals. Petitioner's conditions of confinement indistinguishable from those of convicted criminals, further demonstrating that Petitioner's detention is punitive.

The procedural history of Petitioner's case further demonstrates that DHS is acting in a manner meant to keep him detained for as long as possible, despite knowing there is no legitimate evidence to support his detention. The original I-213 lists facts supporting the charge of removability under 212(a)(6)(A)(i), but no facts supporting the charge of removability under 212(a)(7)(A)(i)(I). I-213. The NTA designates the Petitioner as "an alien present in the United States who has not been admitted or paroled" and not "an arriving alien." NTA. Respondents have presented no evidence to justify subjecting Petitioner to § 1225(b)(2) detention and rely solely on legal arguments based on DHS policy and the *Yajure Hurtado* decision.

Yajure Hurtado is a purely legal analysis with minimal references to factual determinations and thus is ripe for Court review. In *Yajure Hurtado*,

the BIA makes several arguments as to the interpretation of §§ 1225 and 1226. The BIA posited without explanation that limiting the reach of § 1225, as the agency had for decades, would render that provision superfluous. *Matter of Yajure Hurtado,* 29 I&N Dec. 216, 221-22 (BIA 2025). The Board also claimed that the legislative history supported its construction of § 1225, because in enacting IIRIRA Congress sought to remedy the inequity of the prior statutory scheme, which provided greater procedural and substantive rights to noncitizens who entered without inspection (and were placed in deportation proceedings) than those who presented themselves to authorities for inspection (and were placed in exclusion proceedings). However, the BIA did not cite any legislative history specifically addressing detention statutes or custody determinations that would support its interpretation. *Id.* at 223-25.

Lastly, the BIA attempted to distinguish its recent case law on custody matters. Regarding *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025), which stated that the noncitizen's custody determination was governed by § 1226(a) even though he was present in the United States without inspection, the Board observed that the IJ's authority to grant bond was not an issue presented to the Board in the case. *Yajure Hurtado*, 29 I&N Dec. at 226. Regarding *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board claimed it resulted in a narrow holding that noncitizens detained without a warrant

while arriving in the United States are held pursuant to § 235(b); under the Board's reading, *Q. Li* did not conversely imply that all noncitizens detained with a warrant while in the United States are held pursuant to § 236(a). *Yajure Hurtado*, 29 I&N Dec. at 227.

Other Courts have rejected *Yajure Hurtado*'s reasoning as unpersuasive. Several federal courts have identified flaws in the reasoning the BIA employed, including its departure from three decades of consistent statutory interpretation. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *6-7 (E.D. Mich. Sept. 9, 2025). Additionally, the BIA's reasoning was inconsistent with the text of §§ 1225 and 1226. *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924, at *8, Fn. 11 (D. Mass. Sept. 9, 2025).

Reading the INA considering canons of construction – namely canons to read the statute as a whole and to give effect to all their provisions – support reading INA § 1226 and § 1225 as referring to different classes of migrants. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1246–47 (W.D. Wash. 2025); *see also United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 143 S. Ct. 1720, 1723, 216 L. Ed. 2d 370 (2023). This interpretation of the statutory scheme is entirely consistent with the Supreme Court's construction of §§ 1225 and 1226. *Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411, at *12 (D. Minn. Aug. 15, 2025). In *Jennings*, the Supreme Court explained that § 1225(b) covers "aliens seeking admission *into* the country," while § 1226

covers "aliens *already in* the country" who are subject to "removal proceedings." *Jennings*, 583 U.S. at 288–89. (emphasis added). DHS impermissibly contravenes the text and intent of the INA by miscategorizing Petitioner as removable under § 1225.

This miscategorization is a violation of Petitioner's Fifth Amendment rights. Courts throughout the country have similarly rejected the illegal miscategorization of citizens properly subject to § 1226 as instead subject to § 1225. *See, e.g.*, *Jose J.O.E.*, 2025 WL 2466670; *Maldonado*, 2025 WL 2374411; *Ferrera Bejarano v. Bondi*, 25-cv-03236 (D. Minn. Aug 18, 2025); *Aguilar Vazquez v. Bondi*, 25-cv-03162 (D. Minn. Aug 19, 2025); *Tiburcio Garcia v. Bondi*, 25-CV-03219 (D. Minn. Aug. 29, 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) ; *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *Jacinto v. Trump*, No. 4:25CV3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Garcia Jimenez v. Kramer*, No. 4:25CV3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, No. 4:25CV3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Arce v. Trump*, No. 8:25CV520, 2025 WL 2675934 (D. Neb. Sept. 18, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Jimenez v. FCI Berlin*, No.

25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Doe v. Moniz*, No. 1:25-CV-12094-IT, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Romero*, 2025 WL 2403827; *Martinez*, 2025 WL 2084238; *dos Santos v. Noem*, No. 1:25-CV-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Choglio Chafla v. Scott*, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 2:25-CV-00479-SDN, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Lopez Benitez*, 2025 WL 2371588; *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Beltran Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Singh v. Lewis*, No. 4:25-CV-96-RGJ, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Cuevas Guzman v. Andrews*, No. 1:25-CV-01015-KES-SKO (HC), 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Caicedo Hinestroza v. Kaiser*, No. 25-CV-07559-JD,

2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921-LB, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Garcia v. Noem*, No. 25-CV-02180-DMS-MMP, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-CV-01789-ODW (DFMX), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025) ; *Jabara Oliveros v. Kaiser*, 2025 WL 2677125 (N.D. Cal. Sept. 18, 2025); *Castellanos v. Kaiser*, No. 25-CV-07962, 2025 WL 2689853 (N.D. Cal. Sept. 18, 2025); *Leon Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2675785 (E.D. Cal. Sept. 18, 2025); *Rosado*, 2025 WL 2337099.

Where there is no factual basis for detention, there is no link between the deprivation of a protected Fifth Amendment liberty interest and a non-punitive state purpose. Courts have granted release for similarly situated non-citizens under similar facts. Where non-citizens were already in the interior, it was appropriate for them to be placed in proceedings under INA § 1226(a), which affords them discretionary relief from deportation based on the findings of an IJ. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1256–57 (W.D. Wash. 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025); *see also Doe v. Moniz*, 2025 WL 2576819, at*1 (D. Mass.

Sept. 5, 2025); *see also Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924, at *8 (D. Mass. Sept. 9, 2025). In *Pizarro Reyes,* the Court granted the Petitioner's *habeas* petition and required he be granted a bond redetermination hearing. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025). In *Lopez-Campos*, the Court ordered the Petitioner either to be released or granted a bond redetermination hearing. *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *10 (E.D. Mich. Aug. 29, 2025). In *Guzman*, the Court required the Petitioner to be released and enjoined the Respondents from re-detaining him without a pre-deprivation hearing. *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *8 (E.D. Cal. Sept. 9, 2025). Permitting the government to indefinitely detain non-citizens under INA § 1225(b) would frustrate the Congressional scheme for regulating immigration and deprive non-citizens of their Congressionally prescribed procedure for adjudicating their Fifth Amendment liberty interests.

While other counsel for the government has made a "policy argument, projected onto Congress," thirty years of practice have shown Congress has intended to maintain a long-held distinction between persons inside the US and persons outside the US. *Romero v. Hyde*, No. CV 25-11631-BEM, 2025 WL 2403827, at *12–13 (D. Mass. Aug. 19, 2025). Indeed, *Romero* noted while DHS adopted their new policy mere months ago, this interpretation contravenes the agency's implementing regulations, published guidance,

years of decisions of IJs, decades of practice, the Supreme Court's gloss on the statute, and the overall logic of the immigration system. *Id.*, at *9. "Respondents' novel position would expand § 1225(b) far beyond how it has been enforced historically, potentially subjecting millions more undocumented immigrants to mandatory detention, while simultaneously narrowing § 1226(a) such that it would have extremely limited (if any) application." *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025). Respondents would contravene the demonstrated intent of Congress to safeguard the Fifth Amendment Rights of non-citizen persons within the United States.

Further, on May 14, 2024, Mr. Mata Fuentes was granted deferred action status pursuant to his BFD determination for his U Visa application. I-918 BFD Notice. "The Supreme Court described deferred action in *AADC* as meaning 'no action will thereafter be taken to proceed against an apparently deportable alien, even on grounds normally regarded as aggravated." *Sepulveda Ayala v. Bondi*, No. 2:25-CV-01063-JNW-TLF, 2025 WL 2084400, at *7 (W.D. Wash. July 24, 2025) (quoting *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484, 119 S. Ct. 936, 943, 142 L. Ed. 2d 940 (1999)). The process of granting deferred action pursuant to a Non-Immigrant U visa petition was that "USCIS solicited applications from

eligible aliens, instituted a standardized review process, and sent formal notices indicating whether the alien would receive the two-year forbearance." *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1906, 207 L. Ed. 2d 353 (2020). "These proceedings are effectively adjudications." *Id.* (cleaned up). "[T]he result of these adjudications—DHS's decision to 'grant deferred action' ...—is an 'affirmative act of approval' ... conferring affirmative immigration relief." *Id.* Thus, "the grant of [deferred action] constitutes a conferred benefit that requires procedural safeguards before it can be terminated." *Inland Empire - Immigrant Youth Collective v. Nielsen*, No. EDCV172048PSGSHKX, 2018 WL 4998230, at *20 (C.D. Cal. Apr. 19, 2018). Automatic termination of deferred action by detaining beneficiaries without an opportunity to be heard "creates an unacceptably high risk of erroneous deprivation." *Id.*, at *19. Due process requires a pre-detention hearing at which Petitioner received notice and had the opportunity to be heard regard the revocation of deferred action, and if revoked, a subsequent opportunity to argue he is not sufficiently dangerous or a flight risk that requires detention.

As a result, Mr. Mata Fuentes's detention is for illegitimate, punitive purposes—not in accordance with the lawful, Congressional purposes of civil immigration detention—and should be enjoined. For the aforementioned

reasons, it is likely that Petitioner will succeed on the merits of the amended petition.

iii. All *Mathews* factors weigh in Petitioner's favor and he is thus likely to succeed on the merits of his petition for writ of habeas corpus.

A *Mathews* analysis supports finding Mr. Mata Fuentes's Fifth Amendment rights and fundamental liberty interests outweigh any putative governmental interests and are owed additional procedural protections. *Mathews* requires weighing

> First, the private interest that will be affected by the official action; second, 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 finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews v. Eldridge, 424 U.S. 319, 335, 96 S. Ct. 893, 903, 47 L. Ed. 2d 18 (1976).

The private interest here includes Petitioner's Fifth Amendment rights. Petitioner has participated in immigration proceedings in good faith and was prepared to present new factual grounds for release before a neutral magistrate. Depriving him of the opportunity to continue his proceedings and

indefinitely detaining him is a violation of his right to fair proceedings. Additionally, while there is no Constitutional right to counsel in a civil proceeding, detention inherently interferes with a detainee's access to counsel and deprivation of access to counsel is plainly harmful to litigant since it handicaps his ability to present his case to the court. *See In re Guantanamo Bay Detainee Continued Access to Couns.*, 892 F. Supp. 2d 8, 15 (D.D.C. 2012) (finding deprivation of access to counsel seriously handicaps detainees seeking to prosecute habeas claims); *see also Al Odah v. United States*, 346 F. Supp. 2d 1, 8–9 (D.D.C. 2004) (holding that government procedures may not inappropriately burden a habeas petitioner's attorney-client relationship). This injury hinders the exercise of Mr. Mata Fuentes's Fifth Amendment rights.

Further, Petitioner's liberty interest in caring for his family has been violated. The parental right to care for one's child without undue state interference has long been recognized. *Pierce v. Soc'y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 534–35, 45 S. Ct. 571, 573, 69 L. Ed. 1070 (1925) ("The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."); *see also Santosky v. Kramer*, 455 U.S. 745, 758–59, 102 S. Ct. 1388, 1397, 71 L. Ed. 2d 599 (1982); *see also Lassiter v. Dep't of Soc. Servs. of Durham Cnty., N. C.,*

452 U.S. 18, 27, 101 S. Ct. 2153, 2159–60, 68 L. Ed. 2d 640 (1981) (This Court's decisions have by now made plain beyond the need for multiple citation that a parent's desire for and right to 'the companionship, care, custody and management of his or her children' is an important interest that 'undeniably warrants deference and, absent a powerful countervailing interest, protection.'") (internal quotation modified). Mr. Mata Fuentes's detention has interfered with his ability to financially support his children and care for them. This separation from family is a deprivation of incarceration that burdens a substantial private interest and supports finding the Petitioner's conditions are indistinguishable from criminal detainees. *Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411, at *9 (D. Minn. Aug. 15, 2025); *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *7 (D. Minn. May 21, 2025). The first *Mathews* factor thus weighs heavily in favor of Petitioner.

The Respondent's course of action has substantially increased the risk of erroneous deprivation of rights, and a return to standard proceedings would significantly mitigate that risk. The deprivation of the opportunity to appeal and present new evidence for analysis of whether Petitioner posed a flight risk or danger to public safety is a procedural deficit that necessarily increases the risk of erroneous deprivation. The second *Mathews* factor thus weighs heavily in favor of the Petitioner.

The Respondents have no articulable interest in subjecting the Petitioner to mandatory detention. Indeed, detaining a BFD beneficiary runs directly contrary to Congress's purpose in creating the U-visa program. The BFD process requires a background check that screens for national security and public safety concerns before deferred action is granted. USCIS Policy Manual, Vol. 3, Pt. C, Ch. 5. Because Petitioner has already been vetted and deemed suitable for deferred action, DHS would bear the burden of overcoming this evidence to justify continued detention. While DHS would have to overcome the evidence the Petitioner warrants discretionary release, the existing bond determination hearing procedures are adequate to protect any legitimate government interest in Petitioner's case. Finding the IJ has jurisdiction and must consider new evidence to re-evaluate this determination that the Petitioner warrants detention provides both the Petitioner and the government a fair opportunity to persuade a neutral arbiter as to their case. The third *Mathews* factor thus does not counterbalance Petitioner's weighty interests, and the sum of the *Mathews* factors weigh in his favor.

Courts have concluded similarly situated habeas petitioners were entitled to emergency relief. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025); *see also Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *10 (E.D. Mich. Aug. 29, 2025); *see also Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *8 (E.D. Cal. Sept. 9, 2025). Given

the established Fifth Amendment violations embedded in recategorization of non-citizens without evidence, these analysis in these cases further support a grant of immediate relief for Petitioner.

iv. Petitioner has been and continues to be prejudiced by the government violating his due process rights.

In order to prevail on a claim asserting the deprivation of due process, a petitioner must also show "actual prejudice." *Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010) (citation omitted). Actual prejudice occurs if "an alternate result may well have resulted without the violation." *Id.* (citation omitted) (internal quotations omitted); *see also Lazaro v. Mukasey*, 527 F.3d 977, 981 (9th Cir. 2008) (explaining that prejudice is not necessary where agency action was *ultra vires*). "To show prejudice, [a petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate process were provided." *Morales Izquierdo v. Gonzales*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal quotations omitted). Petitioner is clearly prejudiced by his continued, unjustified detention. He has been detained for nearly two months, and his bond redetermination hearing was improperly frustrated by this erroneous recategorization.

The Courts granting each of these TROs across the country are holding specifically that the non-citizens face irreparable injury and are enjoining the government from detaining them and/or requiring a bond hearing. *Pizarro*

Reyes v. Raycraft, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025); *see also Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *10 (E.D. Mich. Aug. 29, 2025); *see also Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *8 (E.D. Cal. Sept. 9, 2025). The Courts have noted the irreparable harm petitioners suffer including by virtue of the length of detention they are threatened with. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *3 (E.D. Mich. Sept. 9, 2025) (noting the indefinite detention "would result in the very harm that the bond hearing was designed to prevent) (*citing to Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) *and Gomes v. Hyde*, No. 1:25-cv-11571, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025)).

1. Petitioner will continue to face irreparable harm if emergency relief is not granted.

It is well established that deprivation of constitutional rights constitutes "irreparable injury" and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976). *See also Planned Parenthood of Minnesota, Inc. v. Citizens for Community Action*, 558 F.2d 861, 867 (8th Cir. 1977). When an alleged deprivation of constitutional rights is involved, no further showing of irreparable injury is necessary. *Planned Parenthood of Minnesota*, 558 F.2d at 867 (citing 11 C. Wright & A. Miller, *Federal Practice & Procedures: Civil* § 2948 at 439 (1973)); *Ng v. Bd. of Regents of the Univ. of Minn.*, 64 F.4th 992, 998 (8th Cir. 2023) ("[T]he denial of a constitutional right is a cognizable injury and an irreparable harm."); *Hernandez*, 872 F.3d at 994–

95; *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) ("When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary."). Further, Petitioner is irreparably harmed because indefinite detention bears no "reasonable relation" to its purpose. *Deqa M. Y.*, 2020 WL 4928321, at *3; *see Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing "[a]ny amount of actual jail time is significant and has exceptionally severe consequences for the incarcerated individual" (cleaned up) (internal quotation marks omitted) (citation omitted)).

In the present case, Petitioner's Fifth Amendment rights are being violated because of on-going detention after the wrongful denial of his right to a pre-deprivation hearing on the merits. *See, supra*, section II.A. Courts across the country have held that DHS detention constitutes irreparable injury where it deprives non-citizens of their liberty, access to counsel, and access to their families. *See* section III.A.a.iii, supra. Courts have affirmed that injury to the family relationship and to the welfare of the detainees children can constitute irreparable harm. *Martinez v. Sec'y of Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *5 (W.D. Tex. Sept. 8, 2025) (noting a finding of irreparable harm was supported by facts that the Petitioner's son was experience mental health distress and would further suffer from a lack of stability and financial support if his father remained detained.) Petitioner is the father of three USC

children, Brasil Mata Castillo (DOB: 01/24/2006), Grecia Yareli Mata Castillo (DOB: 08/30/2009), and Iran Mata Castillo (DOB: 07/31/2013). Brasil Mata Castillo Birth Certificate; Grecia Yareli Mata Castillo Birth Certificate; Iran Mata Castillo Birth Certificate. Forcible separation from a parent is damaging to a child, and that damage is highly distressing to a parent. Mental Health and Immigration. Mr. Mata Fuentes is an involved father and is deeply engaged with his children, providing transportation to school and medical appointments, and handling daily responsibilities inherent to raising a family, including providing emotional support. Affidavit of Roberto Mata Fuentes ¶ 5. Mr. Mata Fuentes is the principal financial support of his family and his absence puts the family in jeopardy of losing their home. *Id.*, ¶ 4. Petitioner is situated similar to *Martinez* and on-going harm to his children is an irreparable injury the Court ought to intervene to cease.

As noted above, Petitioner's interests as a father are a weighty Constitutional right. The parental right to care for one's child without undue state interference has long been recognized. *Pierce v. Soc'y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 534–35, 45 S. Ct. 571, 573, 69 L. Ed. 1070 (1925) ("The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."); *see also Santosky v. Kramer*, 455 U.S. 745, 758–59, 102 S. Ct. 1388, 1397, 71 L. Ed. 2d 599 (1982);

see also Lassiter v. Dep't of Soc. Servs. of Durham Cnty., N. C., 452 U.S. 18, 27, 101 S. Ct. 2153, 2159–60, 68 L. Ed. 2d 640 (1981) (This Court's decisions have by now made plain beyond the need for multiple citation that a parent's desire for and right to 'the companionship, care, custody and management of his or her children' is an important interest that 'undeniably warrants deference and, absent a powerful countervailing interest, protection.'") (internal quotation modified). Petitioner's separation from his children with no definite date for reunification or clear termination is punitive and without rational relationship to any legitimate state interest.

Following the rulings in *Elrod* and *Planned Parenthood of Minnesota,* these Fifth Amendment violations involving deprivations of due process constitute irreparable injury to the Petitioner and justify issuance of a temporary restraining order. Petitioner's liberty has been and continues to be restricted in violation of his constitutional rights.

2. Respondents will face no injury or harm if emergency relief is granted.

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City,* 414 F.3d 1221, 1236-7 (10th Cir. 2005).

Petitioner's harms, discussed above, are weighty; these harms are the direct result of Respondents' conduct in denying Petitioner due process as required under the Constitution. In fact, Petitioner's continued detention is actually a burden for Respondents in that his unnecessary and unexplained detention is costly to the U.S. government.

Possible injuries to the government, should the restraining order be granted, are minimal and possibly nonexistent. Petitioner is seeking to be released from custody back to his home in the United States so that he can continue his work and care for his family. The Petitioner has a negligible criminal record consisting solely of traffic-related citations that have been resolved, and has otherwise been a diligent and supportive member of the community and his family. The Petitioner's cooperation with police certified as part of his Non-Immigrant U Visa petition further demonstrates his positive engagement with the community and his willingness to assist public safety efforts.

For the aforementioned reasons, the irreparable harm to Petitioner that will occur should ICE fail to release him clearly outweighs any burden to Respondents in indefinitely keeping him detained. As this Court held in *Morrison*, 602 F.Supp. at 1484, the balance of harms supports the release of Petitioner even though the federal or state government may not be able to recover lost custodial time should Respondents' constitutional interpretation

prevail. This insignificant harm is outweighed by the substantial harm facing Petitioner. Petitioner's harms include deprivations of due process and the wrongful extended detention by ICE depriving Petitioner of liberty. Because Petitioner is in Respondents' custody, he faces the extreme hardship of deprivation of his due process rights and liberty, and separation from his family and community unless this Motion is granted.

3. The issuance of a TRO is in the public interest.

The public—and therefore the government—has an interest in protecting the rights of people in detention and ensuring the rule of law. *See Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) ("[T]he public has an interest in the orderly administration of justice[.]"). "It is always in the public interest to prevent the violation of a party's constitutional rights." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). The public has a "substantial" interest "in having governmental agencies abide by the 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) (citation omitted). Respondents "cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations." *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). Respondents "cannot suffer harm

from an injunction that merely ends," at least temporarily, a likely "unlawful practice." *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 191 (D.D.C. 2015). Under law, an immigration judge ought to consider Petitioner's history on the merits, in light of new evidence, to make an individualized determination if he should be released on bond.

The protection of individuals' constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government's power to skew, alter, or improperly affect legal proceedings related to an individual's property or liberty interest(s). To ensure the protection of Mr. Mata Fuentes's constitutional rights, and to protect against overzealous federal government intrusion of constitutional rights of others in similar situations, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from continuing to detain him.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country's legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

b. Mr. Mata Fuentes has complied with the requirements of Rule 65.

Finally, as set forth *supra*, Petitioner asks this Court to find that he has complied with the requirements of Rule 65, Fed.R.Civ.P., for the purpose of granting a temporary restraining order. Respondents have been provided with a copy of the instant motion and supporting documents and are on notice. *See* Decl. at ¶. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Under the circumstances of this case, however, Petitioner respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from continuing to detain Petitioner, and/or to refrain from giving Respondents' unlawful actions legal effect, should not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

IV. CONCLUSION

For all of the foregoing reasons, Petitioner asks this Court to grant his Motion for a Temporary Restraining Order and Preliminary Injunction to:

1. Declare that the actions of Respondents as set forth in Mr. Mata Fuentes's Petition, Motion, and Memorandum of Law violated the Fifth Amendment of the United States Constitution, 28 U.S.C. § 2241, and the APA.
2. Enjoin Respondents from continuing to detain Mr. Mata Fuentes in their custody during the pendency of his petition for writ of habeas corpus before this Court.
3. If Mr. Mata Fuentes is not immediately released from Respondents' custody, enjoin Respondents from transferring him to a detention facility out of this District where he would lose access to his counsel and support network.
4. If Mr. Mata Fuentes is not immediately released from Respondents' custody, order Respondents grant him a bond redetermination hearing on the merits of his release.
5. Grant Mr. Mata Fuentes such other relief as the Court deems appropriate and just.

DATED: November 25, 2025

Respectfully submitted,

/s/ Gloria Contreras Edin

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