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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
CALIFORNIA

J.S.,
Petitioner-Plaintiff,

v.

Tonya ANDREWS, et al

Respondents-Defendants.

Case No. 1:25-CV-1693-DAD-JDP
EPG

REPLY TO RESPONDENTS' OPPOSITION TO PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER AND HABEAS RESPONSE

INTRODUCTION

Petitioner, J.S., by and through his undersigned counsel, hereby files this response to the Respondents' Opposition to J.S.'s Request for Temporary Restraining Order and habeas corpus.

Respondents argue that J.S. is an "applicant for admission" under 8 U.S.C. § 1225, subject to mandatory detention under 8 U.S.C. § 1225(b) when J.S. has been residing in the United States for over one year pursuant to a release on his own recognizance and an order of supervision. *See* ECF 18 at 1. Respondents assert that they have the *absolute* right to mandatorily detain J.S. without a pre-deprivation hearing under 8 U.S.C. § 1225(b)(1)(B)(ii), even though (1)

Respondents released J.S. on his own recognizance; (2) Respondents placed J.S. in removal proceedings under 8 U.S.C. § 1229a(a)(1), Immigration and Nationality Act ("INA") § 240 proceedings; and, (3) J.S.'s 8 U.S.C. § 1229a(a)(1), INA § 240 proceedings are currently pending. ECF 2.

Respondents' arguments are unpersuasive. First, the mandatory detention provision of 8 U.S.C. § 1225(b) is inapplicable to J.S. As an individual who was released by the Department of Homeland Security ("DHS") on an order of supervision and has since resided in the United States, 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).

On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

In addition, Respondents' arguments imply that J.S. 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 other judges in this district recently rejected similar arguments to those set forth by Respondents. See ECF 10,, citing to *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). *Arzate v. Andrews,* Slip Copy, 2025 WL 2230521 (E.D. Cal. Aug. 4, 2025) (The court found Mr. Arzate was likely to succeed on his claim that his 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).

Respondents, in a footnote, purport to move to "dismiss all unlawfully named officials." ECF 10 * 6 fn 5. J.S. opposes such a motion because the named respondents are not tangentially related to J.S.'s detention; they form a direct chain of command legally responsible for it. The warden's role is to follow the directives issued by the Attorney General, the Department of Homeland Security, and ICE. Therefore, a TRO and writ of habeas corpus directed only at the warden would be ineffective, as the warden lacks the power to provide the ultimate relief sought. The government's reliance on *Rumsfeld v. Padilla* and *Doe v. Garland* is misplaced, as those cases are factually and legally distinguishable from the circumstances here. The "immediate custodian" rule from *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), which typically points to a warden, does not

create an inflexible jurisdictional requirement. The Supreme Court established this rule in the context of a U.S. citizen military detainee, where the chain of command and the nature of custody are fundamentally different from immigration detention. In the immigration context, the "custodians" are the entity with legal, dispositive control over the detention. That entity necessarily includes ICE and its leadership, and they are the ones who can order J.S. released. Likewise, *Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024), does not preclude naming the respondents listed here. While *Doe* held that a warden of a private facility must be named as a proper respondent, it does not hold that the warden is the *only* proper respondent. In addition, the Respondents' request is procedurally improper because a "request for court order must be made by motion." *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 2243616, at *4 (N.D. Cal. Aug. 6, 2025). "[A] request for affirmative relief is not proper when raised for the first time in an opposition." *Id.*

J.S. qualifies for a TRO because he demonstrated a likelihood of success in his Fifth Amendment claims and that he would suffer irreparable harm from unconstitutional detention. J.S. has shown that there are, at the very least, "serious questions" going to the merits of his 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.S.'s motion for a preliminary injunction

ARGUMENT

I. The Court Should Grant the TRO and the Preliminary Injunction

A. J.S. is likely to succeed on the merits

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

Respondents assert that J.S. is mandatorily detained during his removal proceedings under 8 U.S.C. § 1225(b)(1). See ECF 18. 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.S. has been living in the United States since August 30, 2024, when the Respondents released him on his recognizance, and placed him on 8 U.S.C. § 1229a(a)(1) proceedings. *See* ECF 1-2. Therefore, he cannot possibly be seeking admission at this moment.

The government claims that J.S. 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.S. maintains that, because he was paroled 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.

ii. 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.S. lacks any constitutional due process rights. ECF 18. 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.

Another relied upon by the government, namely *Angov v. Lynch, infra*, equally fail to support their arguments. ECF 18. *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). Lastly, this matter is distinguishable from petitioner in *Cortes Alonzo v. Noem*, --- F. Supp. 3d ---, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025), *who had never been encountered, let alone* processed, by immigration officials, and had not been released on recognizance pending completion of Section 240 removal proceedings. See *J.E.H.G. v. CHESNUT et al*, No. 1:25-CV-01673-JLT SKO, 2025 WL 3523108, at *9 (E.D. Cal. Dec. 9, 2025). See also *See Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *9 (W.D.N.Y. July 16, 2025)("Because DHS chose to place Mata Velasquez in section 240 proceedings instead of pursuing expedited removal in the first instance—even though it was not required to do that—the government vested Mata Velasquez with the rights that Congress guaranteed non-citizens in those proceedings."); See also *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at *4 (N.D. Cal. Aug. 21, 2025) ("Having elected to proceed with full removal proceedings under § 1226, Respondents cannot now reverse course and institute § 1225 expedited removal proceedings.).

8 U.S.C. § 1182(d)(5)(A) creates an exception for § 1225(b) detention at the border, namely, that an individual "may be temporarily paroled 'for urgent humanitarian reasons or significant public benefit.' *Id.*; 8 U.S.C. § 1182(d)(5)(A). It appears that the government position is that factors such as flight risk and danger are not considered at border parole determinations.

Aside from the fact that it would be illogical to believe the government would release an individual it believed to be a flight risk or a danger from the border into the United States, the regulations do not support the government's position. 8 C.F.R. § 212(a)(5)(a) grants authority to ICE officers to grant parole. 8 CFR § 212(a)(5)(b) explains that such parole could be granted to individuals identified under that section "on a case-by-case basis for 'urgent humanitarian reasons' or 'significant public benefit,' **provided the aliens present neither a security risk nor a risk of absconding.**" 8 CFR § 212(a)(5)(b) (emphasis added). *See Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007).

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.S.'s release from custody in 2024 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 his 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.

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.S., *before* ICE re-detains her. *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 his claim that his 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.S. has been out of custody for over one year, during which time he has established himself as an exemplary resident and a valuable asset to his community. Therefore, the court should follow its own recent, persuasive precedents, and release J.S. *See Singh v. Andrews*, No. 1:25-cv-00801-KES-SKO, 2025 WL 1918679, at *7 (E.D. Cal. July 11, 2025) (analogizing to *Morrissey*) and *Arzate v. Andrews* at *7 (enjoining and restraining Respondents from re-detaining petitioner without first providing petitioner with a bond hearing before an immigration judge at which the government must prove by clear and convincing evidence that petitioner is a flight risk or danger to the community such that his re-detention is warranted.).

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.S.'s

freedom without any additional restrictions, such as GPS monitor devices, and the return of his confiscated property.

B. J.S. 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. J.S.'s motion for a TRO detailed the appalling conditions of his detention. ECF 3 at 9-11. J.S.'s arrest and detention have caused him tremendous and ongoing harm. *Id.* Since being detained, J.S. has suffered from sleep deprivation, hygiene issues, and food deprivation. Every additional day J.S. spends in unlawful detention subjects him and others to further irreparable harm. See ECF 1-1.

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.S.'s liberty interest. *Abdul-Samed v. Warden*, 2025 WL 2099343, at *8 (E.D. Cal. July 25, 2025).

The hardships faced by J.S., his community, and the public interest in granting injunctive relief weigh strongly in his favor. Detention separated J.S. from his community, harmed his mental and physical health, his professional prospects. In addition to J.S.'s hardships, his family and community have experienced emotional burdens in the wake of his detention. Here, the balance of equities "tips sharply towards" J.S.

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.S. 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.S. poses a risk of flight or poses a danger to the community, the appropriate remedy here is J.S.'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)[1] (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.S. 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, 2022) ("[T]he party affected by the injunction bears the obligation of presenting evidence that a bond is needed.").

J.S. does not request an evidentiary hearing but welcomes the opportunity should this Court have any additional questions.

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[1] *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 his 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.

CONCLUSION

For the foregoing reasons, J.S. respectfully requests that the Court grants a Temporary Restraining Order, a Preliminary Injunction pending a final disposition of this matter and decide in favor of J.S. on the merits of this case.

Dated: December 21, 2025

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