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7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**

9 GURPARTAP SINGH,

10  
11 Petitioner,

12 v.

13 WARDEN OF THE GOLDEN STATE  
14 ANNEX DETENTION FACILITY, OR  
15 ACTING FIELD OFFICE DIRECTOR, SAN  
16 FRANCISCO FIELD OFFICE, UNITED  
17 STATES IMMIGRATION AND CUSTOMS  
18 ENFORCEMENT, CURRENT OR ACTING  
19 DIRECTOR UNITED STATES  
20 IMMIGRATION AND CUSTOMS  
21 ENFORCEMENT, CURRENT OR ACTING  
22 SECRETARY, UNITED STATES  
23 DEPARTMENT OF HOMELAND  
24 SECURITY, CURRENT OR ACTING  
25 UNITED STATES ATTORNEY GENERAL,

26 Respondents.

Case No. 1:25-CV-01689-KES-EPG

**PETITIONER'S NOTICE OF  
MOTION AND REQUEST FOR  
PRELIMINARY INJUNCTION**

**NOTICE OF MOTION AND MOTION**

1 PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court  
2  
3 for the Eastern District of California, that Gurpartap Singh (“Petitioner”) will and hereby does  
4 move and apply for relief in the form of a preliminary injunction pursuant to Federal Rule of  
5 Civil Procedure 65(b) and Rule 231 of the Local Rules of this Court. Because Petitioner’s  
6 detention violates the Due Process Clause of the Fifth Amendment to the United States and his  
7 statutory rights under the Immigration and Nationality Act, Petitioner respectfully requests that  
8 this Court (1) order Petitioner’s immediate release from Respondents’ custody pending these  
9 proceedings, without requiring bond or electronic monitoring, or, in the alternative, (2) order  
10 Petitioner’s immediate release from Respondents’ custody and barring his re-detention unless  
11 Respondents prove at a hearing before a neutral arbiter by clear and convincing evidence that  
12 Petitioner is a flight risk or danger to others. To preserve this Court’s jurisdiction, Petitioner  
13 further seeks an order enjoining Respondents from transferring Petitioner out of this District or  
14 deporting him from the United States during the pendency of the underlying proceedings.  
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17 This motion is based on this Notice of Motion and Application For a Preliminary  
18 Injunction; the accompanying Memorandum of Points and Authorities; the supporting  
19 declarations, the papers, evidence, and records on file in this action; and any other written or oral  
20 evidence or argument as may be presented at or before the time this motion is heard by the Court.  
21 This motion is also supported by the First Amended Petition for Writ of Habeas Corpus. ECF 15.  
22

23 WHEREFORE, Petitioner prays that this Court grant his request and issue a preliminary  
24 injunction (1) requiring Petitioner’s immediate release from Respondents’ custody pending these  
25 proceedings, without requiring bond or electronic monitoring, or, in the alternative, (2) order  
26 Petitioner’s immediate release from Respondents’ custody and barring his re-detention unless  
27 Respondents prove by clear and convincing evidence at a hearing before a neutral arbiter that  
28

1 Petitioner is a flight risk or danger to others and (3) enjoining Respondents from transferring  
2 Petitioner out of this District or deporting him from the United States during the pendency of the  
3 underlying proceedings.

4 Date: December 31, 2025

5 Respectfully Submitted,

6 /s/Carrie LeRoy

7 Carrie LeRoy

8 Attorney for Petitioner  
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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

GURPARTAP SINGH,  
  
Petitioner,  
  
v.  
  
WARDEN OF THE GOLDEN STATE ANNEX  
DETENTION FACILITY, OR ACTING FIELD  
OFFICE DIRECTOR, SAN FRANCISCO FIELD  
OFFICE, UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT, CURRENT OR  
ACTING DIRECTOR UNITED STATES  
IMMIGRATION AND CUSTOMS  
ENFORCEMENT, CURRENT OR ACTING  
SECRETARY, UNITED STATES DEPARTMENT  
OF HOMELAND SECURITY, CURRENT OR  
ACTING UNITED STATES ATTORNEY  
GENERAL,  
  
Respondents.

Case No. 1:25-CV-01689-KES-EPG

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
PETITIONER'S REQUEST FOR  
PRELIMINARY INJUNCTION**

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## INTRODUCTION

Gurpartap Singh (“Petitioner”) is a refugee from India who has been unlawfully detained by Respondents for over seven months. After fleeing the country in 2023 to escape [REDACTED] [REDACTED] he sought asylum in the United States. *See* the Declaration of Carrie LeRoy at ¶ 3.<sup>1</sup> Since May 26, 2025, Petitioner has been detained by Respondents in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution, the Fourth Amendment to the United States Constitution and his statutory rights under the Immigration and Nationality Act (“INA”) and the Administrative Procedure Act (“APA”).

Petitioner was initially apprehended and detained by immigration officials in Arizona on May 6, 2023. A Notice to Appear was issued to Petitioner on May 9, 2023, indicating that he was charged with being “an alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General,” in violation of Section 212(a)(6)(a)(i) of the INA. Ex. C; LeRoy Decl. at ¶ 3. After it was determined that he posed no flight risk or danger to the community, on May 9, 2023, Petitioner was released on his own recognizance. Ex. D; LeRoy Decl. at ¶ 4.

Thereafter, Petitioner timely filed an I-589 Application for Asylum and Withholding of Removal (“I-589”), applied for and received work authorization from DHS, began building a productive life for himself in Manteca, California, adhering to the law, the conditions of his parole and maintained steady employment at an order fulfillment center for a large online retailer. Exs. A, F; LeRoy Decl. at ¶¶ 5, 6, 8.

Petitioner has never been arrested for, charged with, or otherwise accused of a crime. LeRoy Decl. at ¶ 7. Petitioner has not received any notice from DHS or otherwise suggesting that he has committed any crimes or presented a national security risk. LeRoy Decl. at ¶ 7. When Petitioner appeared for his last ICE check-in appointment at the ICE field office in

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<sup>1</sup> Facts asserted in this Request for a Preliminary Injunction are drawn from the attached declaration of Carrie LeRoy, counsel for Petitioner, and from exhibits to that declaration. Further citation will be made directly to the individual exhibits attached to the declaration, or to the declaration itself, hereinafter “LeRoy Decl.”

1 Stockton, California on May 26, 2025, DHS officials re-arrested Petitioner without providing  
2 him with any clear notice or explanation of the basis for his re-arrest or re-detention. Petitioner  
3 reports that he did experience some technical difficulties with a DHS GPS-enable reporting  
4 application, but does not believe that such issues resulted in a violation of the conditions of his  
5 parole. LeRoy Decl. at ¶¶ 8 -10. Upon his re-arrest, Petitioner was not afforded an opportunity  
6 to contest the basis of the revocation of his parole and re-detention and he has been detained for  
7 over seven months without a bond hearing. LeRoy Decl. at ¶¶ 9, 10.

8 Following Petitioner's re-arrest on May 26, 2025, Petitioner was served with a Notice  
9 and Order of Expedited Removal, citing for the first time his alleged violation of Section  
10 212(a)(7)(i)(I) of the INA for not having valid travel documents and omitting any reference to  
11 the original May 9, 2023 charge of violating Section 212(a)(6)(a)(i) of the INA. Ex. H; LeRoy  
12 Decl. at ¶ 11. Petitioner does not understand why the charge against him changed or why he was  
13 suddenly placed into expedited removal proceedings. LeRoy Decl. at ¶ 11. On June 5, 2025,  
14 DHS sent Petitioner a letter notifying him that his I-589 was dismissed, given that he had been  
15 placed into expedited removal proceedings. Ex. B; LeRoy Decl. at ¶ 12.

16 On or around June 20, 2025, an asylum officer determined that Petitioner has a credible  
17 fear of persecution in India because of XXXXXXXXXX Ex. E; LeRoy Decl. at ¶ 13.


18 On or around June 21, 2025, a Notice to Appear was served on Petitioner alleging that he  
19 violated both Section 212(a)(7)(i)(I) and 212(a)(6)(a)(i) of the INA. Specifically, the Notice to  
20 Appear states that Petitioner "entered the United States at an unknown location on or about May  
21 7, 2023" and that he "was not then admitted or paroled by an immigration officer." Petitioner  
22 reports that he was confused by the allegation that he had not been inspected or "paroled," given  
23 the fact that on May 9, 2023, he had indeed been paroled—released by an immigration officer  
24 on his own recognizance. Ex. C; LeRoy Decl. at ¶ 14.

25 Petitioner did not have counsel to advise him on procedure in immigration court and  
26 reports that his asylum case has not been reviewed by the immigration judge assigned to his  
27 case. Petitioner has stated that he is willing to comply with all obligations relating to his asylum  
28

1 case, that he has no intention of fleeing or engaging in any unlawful conduct and does not  
2 understand why he has been detained for over seven months without any clear explanation for  
3 his re-arrest and revocation of parole on May 26, 2025 and Respondents' decision to place him  
4 in expedited removal proceedings after he had previously been paroled. LeRoy Decl. at ¶ 15.

5 Petitioner is suffering irreparable and ongoing harm. Petitioner is experiencing extreme  
6 hardship and exacerbated health issues as a result of his prolonged detention at the Golden State  
7 Annex Facility, 611 Frontage Road, McFarland, California 93250 ("Golden State Annex").  
8 LeRoy Decl. at ¶ 16. He is unable to practice his religion or to fully adhere to its requirements in  
9 detention, including dietary restrictions. Petitioner has lost over seven pounds since his  
10 detention commenced because he cannot eat most of the food that is provided to Golden State  
11 Annex detainees. In addition, prior to his detention, Petitioner was being evaluated for  
12 hypertension and severe breathing issues relating to a potential deviated septum or nose bone  
13 malformation for which surgery may be required. Petitioner has sought but not received  
14 adequate medical treatment in detention. Ex. I; LeRoy Decl. at ¶ 16. For example, he was  
15 referred to an ear, nose and throat specialist to evaluate his breathing difficulties, but was  
16 thereafter only permitted to make an appointment with a nurse, who could not provide the  
17 necessary medical evaluation or treatment. As a result of his breathing issues, Petitioner has  
18 considerable difficulty resting and sleeping in detention. Ex. I; LeRoy Decl. at ¶ 16.

19 Petitioner has significant and meaningful connections to his community in the United  
20 States. Since arriving in the United States in 2023, he has befriended neighbors and members of

21  Prior to his re-detention, he had maintained steady  
22 employment at an order fulfillment center for a large online retailer, paid taxes and integrated  
23 into his community, including a Sikh temple where he volunteered. His local supporters praise  
24 his good character and commitment to serving and helping others. Ex. G; LeRoy Decl. at ¶ 17.

25 As a result of his arrest and prolonged detention,

26 Petitioner's compliance with U.S. law and efforts to build a peaceful and productive life  
27 for himself in the United States did not matter to Respondents. Rather than seeking to determine

1 whether Petitioner posed a flight risk or danger to the community, federal immigration agents  
2 re-arrested him pursuant to Respondents' sweeping, and unlawful policy targeting people for  
3 arrest at immigration courthouses and ICE check-in appointments for the purpose of fast-  
4 tracking deportations by arbitrarily reclassifying noncitizens under the INA and placing them  
5 into expedited removal proceedings. Respondents' current quota-driven policy amounts to:  
6 arrest and detain now, ask questions later and deport as soon as possible to deny legitimate  
7 asylum seekers their right to due process.

8 Petitioner's summary arrest and indefinite detention flout the Constitution. The only  
9 legitimate interests that civil immigration detention serves are mitigating flight risk and  
10 preventing danger to the community. When those interests are absent, the Fifth Amendment's  
11 Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and  
12 detaining Petitioner without a bond hearing and without making any affirmative showing of  
13 changed circumstances, Respondents violated Petitioner's procedural due process rights. At the  
14 very least, prior to his re-detention, he was constitutionally entitled to a hearing before a neutral  
15 arbiter at which the government should have justified his re-detention—or been ordered to release  
16 him.

17 The Due Process Clause applies to "all 'persons' within the United States, including  
18 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent."  
19 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from bodily restraint has always been at  
20 the core of the liberty protected by the Due Process Clause from arbitrary governmental action."  
21 *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Immigration detention is civil and thus is  
22 permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and  
23 to prevent danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, there is  
24 no credible argument that Petitioner, *who was arrested while attending his ICE check-in*, is a  
25 flight risk or danger.

26 Respondents also violated Petitioner's statutory rights by attempting to arbitrarily  
27 reclassify him on June 21, 2025 as being subject to both Section 212(a)(7)(i)(I)

1 and 212(a)(6)(a)(i) of the INA and by thereafter improperly placing him in expedited removal  
2 proceedings. Specifically, the 2025 Notice to Appear states that Petitioner “entered the United  
3 States at an unknown location on or about May 7, 2023” and that he “was not then admitted or  
4 paroled by an immigration officer.” That charge on its face is factually inaccurate, as Petitioner  
5 had been apprehended by an immigration officer and released on his own recognizance on May  
6 9, 2023. Exs. C, D; LeRoy Decl. at ¶ 14. The premise of Petitioner’s placement in expedited  
7 removal proceedings and that Petitioner was not previously paroled thus was inaccurate,  
8 resulting in a violation of Petitioner’s due process rights and rights under the INA.

9 To qualify for expedited removal, a non-citizen must either lack entry documentation or  
10 seek admission through fraud or misrepresentation. *See* INA § 235(b)(1)(A)(i); INA §  
11 212(a)(6)(C), (a)(7)). In addition, the non-citizen must either be “arriving in the United States”  
12 or within a class that the Secretary of Homeland Security has designated for expedited removal.  
13 *Id.* Petitioner was originally charged in 2023 not with lacking documentation or engaging in  
14 fraud, but rather under Section 212(a)(6)(A)(i) as an alien “not then admitted or paroled after  
15 inspection by an Immigration Officer.” Ex. C. Thus, Petitioner was placed into expedited  
16 removal proceedings in May 2025 in violation of the INA. *See Coalition For Humane*  
17 *Immigrant Rights, v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at \*5 (D.D.C. Aug. 1,  
18 2025) (holding that a person who has been paroled without first having been placed in expedited  
19 removal cannot be designated for expedited removal); *see also, Espinoza, et al., v. Kaiser, et al.*,  
20 2025 WL 2675785, at \*8-9 (E.D. Cal. Sep. 18, 2025).

21 Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b), as he was not  
22 paroled “for urgent humanitarian reasons or significant public benefit.” Rather, he was paroled  
23 and released on his own recognizance in accordance with 8 U.S.C. § 1226(a). *See* Ex. D; LeRoy  
24 Decl. at ¶ 4. Respondents failed to adhere to the statutory requirements for re-detaining  
25 Petitioner pursuant to 8 U.S.C. § 1226(a)(2)(B) and thus violated the INA. Petitioner has not  
26 conceded that he is deportable to India and an asylum officer determined that he has a credible  
27 fear of persecution if forced to return to India. Ex. E.

1 Respondents failed to comply with the minimal amount of process contemplated by the  
2 relevant statutes and regulations. Respondents did not provide Petitioner with written notice prior  
3 to his parole revocation as is required by § 1182(d)(5)(A)'s implementing regulations. See 8  
4 C.F.R. § 212.5(e)(2)(i) (“[P]arole shall be terminated upon written notice to the alien and he or he  
5 shall be restored to the status that he or he had at the time of parole.”).

6 Petitioner’s arbitrary re-arrest follows a pattern in recent months of ICE re-arresting  
7 noncitizens at their ICE check-ins without cause or for alleged minor violations of conditions of  
8 release. In many of these cases, ICE does not argue that the noncitizens are flight risks or dangers  
9 to the community. Instead, ICE claims that purported technical violations – often based on vague  
10 and unsupported allegations - are a sufficient justification for re-detention. Courts have rejected  
11 this contention. *See Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 U.S. Dist. LEXIS 232122, at  
12 \*19 (N.D. Cal. Nov. 25, 2025) (granting injunctive relief and holding that “detention is permitted  
13 under section 1226(a) only if [petitioner] is dangerous or a flight risk,” and that “minor, technical  
14 violations” of his release conditions are insufficient to establish danger or flight risk).

15 Generally, “the Constitution requires some kind of a hearing *before* the State deprives a  
16 person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (emphasis added).  
17 Consistent with this principle, a growing number of district courts have held that noncitizens re-  
18 arrested at ICE check-in appointments were entitled to pre-deprivation bond hearings and ordered  
19 their immediate release. *See, e.g., See Vilela v. Robbins*, No. 1:25-cv-01393-KES-HBK, 2025  
20 U.S. Dist. LEXIS 219172, at \*20 (E.D. Cal., Nov. 6, 2025).

21 ICE is under intense pressure by the current presidential administration to meet arrest  
22 quotas.<sup>2</sup> As of December 7, 2025, “more than a third of the roughly 220,000 people arrested by  
23 ICE officers in the first nine months of the Trump administration had no criminal histories,  
24 according to new data.”<sup>3</sup> The risk of erroneous deprivation without process is thus particularly  
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26 <sup>2</sup> See José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under Trump*, The  
Guardian, June 14, 2025, <https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures>.

27 <sup>3</sup> See Laura Strickler and Julia Ainsley, *ICE has Arrested Nearly 75,000 People with no Criminal Records, Data Shows*, NBC News, Dec. 7, 2025, <https://www.nbcnews.com/politics/immigration/ice-arrested-nearly-75000-people-no-criminal-records-data-shows-rcna247377>

1 high in the current political context. Pre-deprivation bond hearings are the only means of  
2 safeguarding against pretextual, quota-driven arrests, arbitrary, indefinite detention and to protect  
3 the due process rights of law-abiding refugees such as Petitioner.

4 Detention under 8 U.S.C. § 1226 without a bond hearing is presumptively  
5 unconstitutional when it exceeds six months. *See Demore v. Kim*, 538 U.S. 510, 529-30 (2003).  
6 As a result of his re-arrest and prolonged unlawful detention, Petitioner is suffering irreparable  
7 and ongoing harm. The unconstitutional deprivation of “physical liberty” “unquestionably  
8 constitutes irreparable injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017).  
9 Indeed, “[f]reedom from imprisonment—from government custody, detention, or other forms of  
10 physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”  
11 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner is also suffering from physical pain that  
12 has not been adequately treated at Golden State Annex. LeRoy Decl. at ¶16.

13 Considering substantially similar facts and legal issues, courts in this circuit have  
14 repeatedly granted the preliminary injunctive relief Petitioner seeks – including in the context of  
15 the re-arrest of individuals appearing for ICE check-in appointments. *See, e.g., Vilela v.*  
16 *Robbins*, No. 1:25-cv-01393-KES-HBK, 2025 U.S. Dist. LEXIS 219172, at \*20 (E.D. Cal.,  
17 Nov. 6, 2025); *J.A.E.M. v. Wofford*, No. 1:25-cv-01380-KES-HBK, 2025 U.S. Dist. LEXIS  
18 211728, at \*21 (E.D. Cal., Oct. 27, 2025); *J.C.L.A. v. Wofford*, No. 1:25-cv-01310-KES-EPG,  
19 2025 U.S. Dist. LEXIS 205300, at \*20-21 (E.D. Cal., Oct. 17, 2025); *J.O.L.R. v. Wofford*, No.  
20 1:25-cv-01241-KES-SKO, 2025 U.S. Dist. LEXIS 202706, at \*15-16 (E.D. Cal., Oct. 14, 2025);  
21 *M.R.R. v. Chestnut*, 1:25-cv-01517-JLT-SKO (E.D. Cal. Nov. 24, 2025); *see also Pinchi v.*  
22 *Noem*, 792 F.Supp.3d 1025, 1032 (N.D. Cal. 2025), *converted to preliminary injunction at* \_\_ F.  
23 *Supp. 3d* \_\_, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, 2025 WL  
24 1918679, \*10 (E.D. Cal. July 11, 2025) (granting preliminary injunction); *Maklad v. Murray*,  
25 No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376, at \*2, 10 (E.D. Cal. Aug. 8, 2025) (same).

26 Petitioner’s compliance with U.S. law and efforts to build a peaceful and productive life  
27 for himself in the United States for over four years did not matter to Respondents. Rather than  
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1 seeking to determine whether Petitioner posed a flight risk or danger to the community, federal  
2 immigration agents re-arrested him pursuant to Respondents' sweeping, and unlawful policy  
3 targeting people for arrest at immigration courthouses and ICE check-in appointments for the  
4 purpose of fast-tracking deportations. Respondents' current quota-driven policy amounts to:  
5 arrest and detain now, ask questions later and deport as soon as possible to deny legitimate asylum  
6 seekers their right to due process.

7 Petitioner's summary arrest and indefinite detention flout the Constitution. The *only*  
8 legitimate interests that civil immigration detention serves are mitigating flight risk and  
9 preventing danger to the community. When those interests are absent, the Fifth Amendment's  
10 Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and  
11 detaining Petitioner without a bond hearing and without making any affirmative showing of  
12 changed circumstances, Respondents violated Petitioner's procedural due process rights. At the  
13 very least, prior to his re-detention, he was constitutionally entitled to a hearing before a neutral  
14 arbiter at which the government should have justified his re-detention—or been ordered to release  
15 him. Moreover, Respondents failed to adhere to the statutory requirements for re-detaining  
16 Petitioner pursuant to 8 U.S.C. §1226(a)(2)(B) or placing him into expedited removal proceedings  
17 and thus violated the INA.

18 Thus, Petitioner respectfully requests the Court issue a preliminary injunction to restore  
19 the *status quo ante* that (1) orders Petitioner's immediate release from Respondents' custody  
20 pending these proceedings, without requiring bond or electronic monitoring, or, in the  
21 alternative, (2) orders Petitioner's immediate release from Respondents' custody and barring his  
22 re-detention unless Respondents prove at a hearing before a neutral arbiter by clear and  
23 convincing evidence that Petitioner is a flight risk or danger to others. To preserve this Court's  
24 jurisdiction, Petitioner further seeks an order enjoining Respondents from transferring Petitioner  
25 out of this District or deporting him from the United States during the pendency of these  
26 proceedings.

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**BACKGROUND**

After fleeing persecution in India in 2023, Petitioner sought asylum in the United States. See LeRoy Decl. at ¶ 3. Since May 26, 2025, Petitioner has been arbitrarily detained by Respondents in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution, the Fourth Amendment to the United States Constitution and his statutory rights under the INA and APA. Petitioner was initially apprehended and detained by immigration officials in Arizona on May 6, 2023. A Notice to Appear was issued to Petitioner on May 9, 2023, indicating that he was charged with being “an alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General,” in violation of Section 212(a)(6)(a)(i) of the INA. Ex. C; LeRoy Decl. at ¶ 3.

After it was determined that he posed no flight risk or danger to the community, on May 9, 2023, Petitioner was released on his own recognizance. Ex. D; LeRoy Decl. at ¶ 4. Thereafter, Petitioner timely filed an application for applied for Asylum and for Withholding of Removal, received work authorization from DHS, began building a productive life for himself in Manteca, California, adhering to the law, the conditions of his parole and maintaining steady employment at an order fulfillment center for a large online retailer. Exs. A, F; LeRoy Decl. at ¶¶ 5, 6, 8.


Petitioner has never been arrested for, charged with, or otherwise accused of a crime. LeRoy Decl. at ¶ 7. Petitioner has not received any notice from DHS or otherwise suggesting that he has committed any crimes or presented a national security risk. LeRoy Decl. at ¶ 7. When Petitioner appeared for his last ICE check-in appointment at the ICE field office in Stockton, California on May 26, 2025, DHS officials re-arrested Petitioner without providing him with any clear notice or explanation of the basis for his re-arrest or re-detention. Petitioner reports that he did have some technical difficulties with a DHS GPS-enable reporting application, but does not believe that such issues resulted in a violation of the conditions of his

1 parole. LeRoy Decl. at ¶¶ 8, 9, 10. Upon his re-arrest, Petitioner was not afforded an opportunity  
2 to contest the basis of the revocation of his parole and re-detention and he has been detained for  
3 over seven months without a bond hearing. LeRoy Decl. at ¶¶ 9, 10.

4 Following Petitioner's re-arrest on May 26, 2025, Petitioner was served with a Notice  
5 and Order of Expedited Removal, citing his alleged violation of Section 212(a)(7)(i)(I) of the  
6 INA for not having valid travel documents and omitting any reference to the original May 9,  
7 2023 charge of violating Section 212(a)(6)(a)(i) of the INA. Ex. H; LeRoy Decl. at ¶ 11.

8 Petitioner does not understand why the charge against him changed or why he was suddenly  
9 placed into expedited removal proceedings. LeRoy Decl. at ¶ 11.

10 On June 5, 2025, DHS sent Petitioner a letter notifying him that his I-589 was dismissed,  
11 given that he had been placed into expedited removal proceedings. Ex. B; LeRoy Decl. at ¶ 12.

12 On or around June 20, 2025, an asylum officer determined that Petitioner has a credible fear of  
13 persecution in India because of  Ex. E; LeRoy Decl. at ¶ 13. Given  
14 such finding, Petitioner is not deportable to India.

15 On or around June 21, 2025, a Notice to Appear was served on Petitioner alleging that  
16 he violated both Section 212(a)(7)(i)(I) and 212(a)(6)(a)(i) of the INA. Specifically, the Notice  
17 to Appear states that Petitioner “entered the United States at an unknown location on or about  
18 May 7, 2023” and that he “was not then admitted or paroled by an immigration officer.”

19 Petitioner reports that he was confused by the allegation that he had not been inspected or  
20 “paroled,” given the fact that on May 9, 2023, he was indeed paroled—released on his own  
21 recognizance by an immigration officer. Exs. C, D; LeRoy Decl. at ¶¶ 4, 14.

22 Petitioner did not have counsel to advise him on procedure in immigration court and  
23 reports that his asylum case has not been reviewed by the immigration judge assigned to his  
24 case. Petitioner has stated that he is willing to comply with all obligations relating to his asylum  
25 case, that he has no intention of fleeing or engaging in any unlawful conduct and does not  
26 understand why he has been detained for over seven months without any explanation for his re-  
27 arrest and revocation of parole on May 26, 2025 and decision to place him in expedited removal  
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1 proceedings. LeRoy Decl. at ¶ 15.

2 Petitioner is experiencing extreme hardship, weight loss and exacerbated health issues as  
3 a result of his prolonged detention at the Golden State Annex. LeRoy Decl. at ¶ 16. He is unable  
4 to practice his religion or to fully adhere to its requirements in detention, including dietary  
5 restrictions. Petitioner has lost over seven pounds since his detention commenced because he  
6 cannot eat most of the food that is provided to Golden State Annex detainees. In addition, prior  
7 to his detention, Petitioner was being evaluated for hypertension and severe breathing issues  
8 relating to a potential deviated septum or nose bone malformation for which surgery may be  
9 required. Petitioner has sought but not received adequate medical treatment in detention. Ex. I;  
10 LeRoy Decl. at ¶ 16. For example, he was referred to an ear, nose and throat specialist to  
11 evaluate his breathing difficulties, but was thereafter only permitted to make an appointment  
12 with a nurse, who could not provide the necessary medical evaluation or treatment. As a result  
13 of his breathing issues, Petitioner has considerable difficulty resting and sleeping in detention.  
14 Ex. I; LeRoy Decl. at ¶ 16.

15 Petitioner has significant and meaningful connections to his community in the United  
16 States. Since coming to the United States in 2023, he has befriended neighbors and members of  
17 [REDACTED] He maintained steady employment, paid taxes and integrated  
18 into his community, including [REDACTED] His local supporters  
19 praise his good character and commitment to serving and helping others. Ex. G; LeRoy Decl. at  
20 ¶ 17.

21 As a result of his arrest and prolonged detention, Petitioner is suffering irreparable and  
22 ongoing harm. Petitioner is being deprived of his liberty without any permissible  
23 justification. The government previously released him on his own recognizance because he did  
24 not pose sufficient risk of flight or danger to the community to warrant detention.  
25 None of that has changed. Upon information and belief, Petitioner has no criminal record, and  
26 there is no basis to believe that he poses any public-safety risk. Nor is Petitioner, who was  
27 arrested while appearing for an ICE check-in, a flight risk. To the contrary, Petitioner is actively  
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1 and diligently seeking to comply with his ICE and immigration obligations, and he has  
2 demonstrated a commitment to full compliance since his arrival in the United States. LeRoy Decl.  
3 at ¶¶ 8, 15.

## 4 ARGUMENT

5 To warrant a preliminary injunction, a movant must show (1) they are “likely to succeed  
6 on the merits,” (2) they are “likely to suffer irreparable harm in the absence of preliminary  
7 relief,” (3) “the balance of equities tips in [their] favor,” and that (4) “an injunction is in the  
8 public interest.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011)  
9 (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)); see *Stuhlbarg Int’l Sales*  
10 *Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the analysis for  
11 issuing a temporary restraining order and a preliminary injunction is substantially the same).  
12 Even if the movant raises only “serious questions” as to the merits of their claims, the court can  
13 grant relief if the balance of hardships tips “sharply” in their favor. *All. for the Wild Rockies*,  
14 632 F.3d at 1135. All factors here weigh decisively in Petitioner’s favor.

### 15 I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.

#### 16 A. Petitioner’s Detention Violates Due Process.

17 The Due Process Clause applies to “all ‘persons’ within the United States, including  
18 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.”  
19 *Zadvydas*, 533 U.S. at 693. “The touchstone of due process is protection of the individual against  
20 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the  
21 exercise of power without any reasonable justification in the service of a legitimate government  
22 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). “Freedom from  
23 imprisonment—from government custody, detention, or other forms of physical restraint—lies at  
24 the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690.

25 To comply with substantive due process, the government’s deprivation of an individual’s  
26 liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is  
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1 “civil, not criminal,” and “nonpunitive in purpose and effect,” must be justified by either  
2 (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d at 994  
3 (“[T]he government has no legitimate interest in detaining individuals who have been determined  
4 not to be a danger to the community and whose appearance at future immigration proceedings can  
5 be reasonably ensured by a lesser bond or alternative conditions.”). When these rationales are  
6 absent, immigration detention serves no legitimate government purpose and becomes  
7 impermissibly punitive, violating a person’s substantive due process rights. *See Jackson v.*  
8 *Indiana*, 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the  
9 government’s interests in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-  
10 CV-389, 2025 WL 1243135, at \*11 (D. Vt. Apr. 30, 2025) (ordering release from custody after  
11 finding Petitioner may “succeed on his Fifth Amendment claim if he demonstrates *either* that the  
12 government acted with a punitive purpose *or* that it lacks any legitimate reason to detain him.”).

13 The Supreme Court has recognized that noncitizens may bring as-applied challenges to  
14 detention, including so-called “mandatory” detention. *Demore v. Kim*, 538 U.S. 510, 532-33  
15 (2003) (Kennedy, J., concurring) (“Were there to be an unreasonable delay by the INS in  
16 pursuing and completing deportation proceedings, it could become necessary then to inquire  
17 whether the detention is not to facilitate deportation, or to protect against risk of flight or  
18 dangerousness, but to incarcerate for other reasons.”); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019)  
19 (“Our decision today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—  
20 that is, constitutional challenges to applications of the statute as we have now read it.”).

21 When Respondents chose to release Petitioner from custody in 2023 on his own  
22 recognizance, that decision represented their finding that he was neither dangerous nor a flight  
23 risk. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom.*  
24 *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“Release reflects a determination by  
25 the government that the noncitizen is not a danger to the community or a flight risk.”); *see also,*  
26 *Fernandez Lopez v. Wofford*, 2025 WL 2959319, \*2 (E.D. Cal. 2025). At that point, he gained a  
27 protected liberty interest in his ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at  
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1 690; *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376, at \*2, 7–8 (E.D. Cal.  
2 Aug. 8, 2025) (explaining that a protected due process liberty interest is created upon a  
3 noncitizen’s parole). The Supreme Court “usually has held that the Constitution requires some  
4 kind of a hearing *before* the State deprives a person of liberty or property.” *Zinerman v. Burch*,  
5 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See*  
6 *Hurd v. D.C., Gov’t*, 864 F.3d 671, 683 (D.C. Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143,  
7 152 (1997) (holding that re-detention after pre-parole conditional supervision requires pre-  
8 deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (holding the same, in  
9 probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context).

10 Accordingly, the Supreme Court has repeatedly held that individuals released from  
11 custody on bond, parole, or other forms of conditional release have a protected interest in their  
12 ongoing liberty, because “[t]he parolee has relied on at least an implicit promise that parole will  
13 be revoked only if he fails to live up to the parole conditions.” *Morrissey*, 408 U.S. at 482. “By  
14 whatever name, the[ir] liberty is valuable and must be seen within the protection of the [Due  
15 Process Clause].” *Id.* This liberty interest also applies to noncitizens, including those who have  
16 been conditionally released from immigration custody. *See Ortega v. Bonnar*, 415 F. Supp. 3d  
17 963, 970 (N.D. Cal. 2019); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL  
18 2299376, at \*2, 10 (E.D. Cal. Aug. 8, 2025) (explaining that a protected due process liberty  
19 interest is created upon a noncitizen’s parole).

20 In this case, Petitioner’s liberty interest has strengthened with time and reliance. More  
21 than two years elapsed between Petitioner’s release on parole and his re-arrest on May 26, 2025.  
22 During that time, Petitioner was fully compliant with the conditions of his release. *See* LeRoy  
23 Decl. at ¶ 8. During his time on parole, Petitioner began to build a life in the United States. He  
24 applied for and received a work permit from DHS that is valid through 2029 (Ex. F), timely  
25 filed an I-589 (Ex. A), was gainfully employed and had become a valued member of   
26  and friend to others. LeRoy Decl. at ¶ 17. These community ties “underscore  
27 the high stakes of his liberty.” *See Pinchi*, 792 F.Supp.3d at 1033.

1           Once a Petitioner has established a protected liberty interest, as Petitioner has done here,  
2 courts in this circuit apply the *Mathews* test to determine what procedural protections are due. *See*  
3 *Johnson v. Ryan*, 55 F.4th 1167, 1179-80 (9th Cir. 2022) (citing *Mathews v. Eldridge*, 424 U.S.  
4 319, 335 (1976)). Under that test, the court weighs: (1) the private interest affected; (2) the risk  
5 of erroneous deprivation and probable value of procedural safeguards; and (3) the government’s  
6 interest. *Id.* In this case, the factors weigh heavily in favor of releasing Petitioner and prohibiting  
7 his re-detention without a custody hearing.

8           *First*, the private interest affected in this case is profound. When considering this factor,  
9 courts look to “the degree of potential deprivation.” *Nozzi v. Hous. Auth. of City of Los Angeles*,  
10 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). The degree of  
11 deprivation here is high. Petitioner has been completely deprived of his physical liberty.  
12 Petitioner’s detention has ripped from him the “free[dom] to be with family and friends and to  
13 form the . . . enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482. Cutting someone  
14 off from the “core values of unqualified liberty”—for Petitioner creates a “grievous loss.” *Id.*

15           Moreover, because Petitioner faces *civil detention*, his “liberty interest is arguably greater  
16 than the interest of the parolees in *Morrissey*.” *See Ortega*, 415 F. Supp. 3d at 970. As someone  
17 in civil detention, therefore, “it stands to reason that [Petitioner] is entitled to protections at least  
18 as great as those afforded to a[n] . . . individual . . . accused but not convicted of a crime.” *See*  
19 *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004).

20           *Second*, “the risk of an erroneous deprivation [of liberty] is high” where, as here, “[the  
21 Petitioner] has not received any bond or custody redetermination hearing.” *A.E. v. Andrews*, No.  
22 1:25-cv-00107, 2025 WL 1424382, at \*5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*,  
23 No. 19-cv-07996-NC, 2020 WL 510347, at \*3 (N.D. Cal. Jan. 30, 2020)); *see also Diep v.*  
24 *Wofford*, No. 1:24-cv-01238, 2025 WL 6047444, at \*5 (E.D. Cal. Feb. 25, 2025). ICE arrested  
25 Petitioner by surprise as he appeared for his ICE check-in appointment, detaining him with no  
26 notice or opportunity to contest his re-detention before a neutral arbiter and he has not received  
27 any bond or custody redetermination hearing. LeRoy Decl. at ¶¶ 9, 10. In such circumstances,  
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1 when Respondents have provided *no* procedural safeguards, “the probable value of additional  
2 procedural safeguards, i.e., a bond hearing, is high.” *A.E.*, 2025 WL 1424382, at \*5. This is  
3 especially true here, where there is no change in Petitioner’s circumstances suggesting that  
4 Petitioner now poses a flight risk or danger to the community. This does not constitute a lawful  
5 justification to re-detain a noncitizen.

6 Because the private interest in freedom from immigration detention is substantial, due  
7 process also requires that in cases like this one, the government bears the burden of proving “by  
8 clear and convincing evidence that the [noncitizen] is a flight risk or danger to the community.”  
9 *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); *see Martinez v. Clark*, 124 F.4th 775,  
10 785-86 (9th Cir. 2024) (holding that government properly bore burden by clear and convincing  
11 evidence in court-ordered bond hearing); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025  
12 WL 691664, at \*8 (E.D. Cal. Mar. 3, 2025) (ordering pre-deprivation bond hearing in which the  
13 government bears burden by clear and convincing evidence).

14 *Third*, the government’s interest in detaining Petitioner without first providing notice  
15 and submitting to a custody hearing is minimal. Immigration courts routinely conduct custody  
16 hearings, which impose a “minimal” cost to the government. *See Doe*, 2025 WL 691664, at \*6;  
17 *A.E.*, 2025 WL 1424382, at \*5. For two years, Petitioner has complied with his ICE check-in  
18 obligations, notwithstanding minor technical issues created by the DHS GPS-enable application  
19 DHS provided to him. *See LeRoy Decl.* at ¶¶ 8, 9. There is no reason to believe that between the  
20 date of his release and his custody hearing, his compliance will change. Indeed, courts regularly  
21 hold that the government’s interest in re-detention without a custody hearing is low when the  
22 Petitioner “has long complied with his reporting requirements.” *Diaz v. Kaiser*, No. 3:25-CV-  
23 05071, 2025 WL 1676854, at \*3-\*4 (N.D. Cal. June 14, 2025) (issuing preliminary injunction  
24 prohibiting re-detention of noncitizen without a pre-deprivation bond hearing); *Jorge M. F. v.*  
25 *Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at \*3-\*4 (N.D. Cal. Mar. 1, 2021) (same);  
26 *Ortega*, 415 F. Supp. 3d at 970 (granting habeas petition ordering the same); *see also Valdez v.*  
27 *Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at \*4-\*5 (S.D.N.Y. June 18, 2025)

1 (granting habeas petition and immediately releasing Petitioner who had been detained without  
2 process, who had “voluntarily attended his scheduled immigration court proceedings.”).

3 In similar cases, courts in this Circuit regularly hold that re-detaining noncitizens  
4 without a pre-deprivation hearing in which the government bears the burden of proof violates  
5 due process, and grant the relief Petitioner seeks here. *See, e.g., Pinchi*, 792  
6 F.Supp.3d at 1032 (converting preliminary injunction requiring release of asylum seeker  
7 arrested at his immigration court hearing into preliminary injunction prohibiting the government  
8 from re-detaining him without a hearing). This includes cases where Petitioners were arrested at  
9 ICE check-ins. *See, e.g., C.A.R.V. v. Wofford*, No. 1:25-CV-01395 JLT SKO2025 U.S. Dist.  
10 LEXIS 216277, at \*27 (E.D. Cal., Nov. 1, 2025) and where ICE alleged a minor non-  
11 compliance with a condition of release. *See Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 U.S.  
12 Dist. LEXIS 232122, at \*19 (N.D. Cal. Nov. 25, 2025) (granting injunctive relief and holding  
13 that “detention is permitted under section 1226(a) only if [petitioner] is dangerous or a flight  
14 risk,” and that “minor, technical violations” of his release conditions are insufficient to establish  
15 danger or flight risk). *Id.*

16 In short, Respondents violated Petitioner’s due process rights when they detained him  
17 without notice and without a custody hearing before a neutral arbiter. Here, only an order  
18 releasing Petitioner and enjoining re-detention—unless Respondents provide Petitioner with a  
19 custody hearing where the government bears the burden of proof—would return the parties to  
20 the “last uncontested status which preceded the pending controversy.” *Doe v. Noem*, \_\_\_ F. Supp.  
21 3d \_\_\_, 2025 WL 1141279, at \*9 (W.D. Wash. Apr. 17, 2025) (quoting *GoTo.com, Inc. v. Walt*  
22 *Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); *see also Valdez*, 2025 WL 1707737, at \*4-\*5  
23 (ordering Petitioner’s immediate release as remedy for procedural due process violation).

24  
25 **B. Petitioner is Not Subject to Mandatory Detention under 8 USC § 1225(b)(2)**

26 To the extent that Respondents argue Petitioner is subject to mandatory detention under 8 USC  
27 § 1225(b)(2), due process prevents the unilateral reclassification of his detention authority two  
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1 years after he was released at the border. For decades, when immigration authorities arrested  
2 and released people on an Order of Recognizance at the border, those people were subject to  
3 discretionary detention under 8 USC § 1226(a). Moreover, there is no evidence in the record of  
4 this case that Petitioner was paroled “for urgent humanitarian reasons or significant public  
5 benefit” under § 1225. He was paroled and released on his own recognizance in accordance  
6 with 8 U.S.C. § 1226(a). *See* Ex. D; LeRoy Decl. at ¶ 4.

7 Respondents failed to adhere to the statutory requirements for re-detaining Petitioner  
8 pursuant to 8 U.S.C. § 1226(a)(2)(B) and thus violated the INA. In the last few months,  
9 however, Respondents have reversed course and now take the implausible position that these  
10 individuals are subject to mandatory detention. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216,  
11 220 (B.I.A. 2025). District courts in recent months have thoroughly rejected the government’s  
12 new position. *See, e.g., Salcedo Aceros v. Kaiser*, No. 3:25-cv-06924-EMC (N.D. Cal Sept. 21,  
13 2025) at \*13-21; *Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO, 2025 U.S. Dist. LEXIS  
14 187233, at \*n.5 (E.D. Cal., Sept. 23, 2025) (finding *Matter of Yajure Hurtado* unpersuasive);  
15 *Cuevas Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO at \*6-9 (E.D. Cal. Sep. 9, 2025);  
16 *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 LX 341363, at \*15 (E.D. Cal. July  
17 28, 2025). Respondents cannot properly switch tracks and suddenly reclassify Petitioner under a  
18 different detention authority. *See Salcedo Aceros v. Kaiser*, No. 3:25-cv-06924-EMC (N.D. Cal  
19 Sept. 21, 2025).

20  
21 **C. Respondents Violated Petitioner’s Rights Under 8 USC § 1226(a).**

22 Petitioner is subject to the discretionary detention framework of 8 U.S.C. § 1226(a).  
23 Pursuant to 8 U.S.C. § 1226(b), “[t]he Attorney General at any time may revoke a bond or  
24 parole authorized under subsection (a), rearrest the alien under the original warrant, and detain  
25 the alien.” 8 U.S.C. § 1226(b). The implementing regulations elaborate that “such release [under  
26 § 1226] may be revoked at any time in the discretion of” various DHS officials, “in which event  
27 the alien may be taken into physical custody and detained.” 8 C.F.R. § 1236.1(c)(9). However,  
28

1 DHS may not re-arrest that noncitizen absent a change in circumstance. *See Saravia v. Sessions*,  
2 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905  
3 F.3d 1137 (9th Cir. 2018) (“[w]here the release decision was made by a DHS officer, not an  
4 immigration judge, the Government’s practice has been to require a showing of changed  
5 circumstances before re-arrest.”).

6 In addition to being constitutionally deficient, Respondents failed to comply with the  
7 limited amount of process contemplated by 8 U.S.C. § 1226(a) and its implementing  
8 regulations. Upon his re-arrest, Petitioner was not afforded an opportunity to contest the basis of  
9 the revocation of his parole and re-detention and he has been detained for over seven months  
10 without a bond hearing. LeRoy Decl. at ¶¶ 9, 10. Respondents’ failure to comply with even  
11 these limited process requirements underscores the risk of erroneous deprivation in his case.

12 For the foregoing reasons, Petitioner is likely to succeed on the merits of his claims. But  
13 even if the Court disagrees, he presents at least “serious question[s] going to the merits,”  
14 alongside a “balance of hardships” tipping decidedly in his favor. *All. for the Wild Rockies*, 632  
15 F.3d at 1135. Indeed, the constitutional concerns delineated above are of the weightiest order  
16 and beyond colorable. This Court should therefore issue the requested preliminary injunction.

17  
18 **D. Respondents Violated the INA by Placing Petitioner into Expedited Removal Proceedings.**

19 To qualify for expedited removal, a non-citizen must either lack entry documentation or  
20 seek admission through fraud or misrepresentation. *See* INA § 235(b)(1)(A)(i) (referring to *id.* §  
21 212(a)(6)(C), (a)(7)). In addition, the non-citizen must either be “arriving in the United States”  
22 or within a class that the Secretary of Homeland Security has designated for expedited removal.  
23 *Id.* Petitioner was originally charged in 2023 not with lacking documentation or engaging in  
24 fraud, but rather under Section 212(a)(6)(A)(i) as an alien “not then admitted or paroled after  
25 inspection by an Immigration Officer.” Ex. C. On May 9, 2023, Petitioner was released on his  
26 own recognizance. Ex. D; LeRoy Decl. at ¶ 4.

27 There is no evidence in this case that Petitioner qualified for a designation of expedited  
28

1 removal when he was re-arrested in May of 2025. A noncitizen cannot be placed into expedited  
2 removal proceedings after being paroled into the United States. *See Coalition For Humane*  
3 *Immigrant Rights, v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at \*5 (D.D.C. Aug. 1,  
4 2025) (holding that a person who has been paroled without first having been placed in expedited  
5 removal cannot be designated for expedited removal); *see also, Espinoza, et al., v. Kaiser, et al.*,  
6 2025 WL 2675785, at \*8-9 (E.D. Cal. Sep. 18, 2025).

7 Thus, Petitioner was placed into expedited removal proceedings in May 2025 in  
8 violation of the INA.

9  
10 **II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE**  
11 **INJURY ABSENT A PRELIMINARY INJUNCTION.**

12 Without a preliminary injunction, Petitioner will suffer immense irreparable injury.  
13 Indeed, he faces such injury every day he remains in detention in violation of the INA and his  
14 Fifth Amendment rights. “It is well established that the deprivation of constitutional rights  
15 ‘unquestionably constitutes irreparable injury.’” *Hernandez*, 872 F.3d at 994-95 (citing  
16 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged deprivation of a  
17 constitutional right is involved, most courts hold that no further showing of irreparable injury is  
18 necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (internal quotation  
19 marks omitted). And the unlawful deprivation of physical liberty is the quintessential irreparable  
20 harm. *See Hernandez*, 872 F.3d at 994 (holding that plaintiffs were irreparably harmed “by  
21 virtue of the fact that they [we]re likely to be unconstitutionally detained for an indeterminate  
22 period of time”); *see also, e.g., Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018)  
23 (recognizing that “[a]ny amount of actual jail time is significant, and has exceptionally severe  
24 consequences for the incarcerated individual” (cleaned up)).

25 Moreover, immigration court judges are now consistently taking the position that *Matter*  
26 *of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA Sept. 5, 2025) deprives them of jurisdiction to  
27 conduct post-deprivation bond hearings for detainees such as Petitioner. Although Petitioner is  
28 not subject to mandatory detention as an arriving alien who has not entered and been paroled

1 within the interior of the United States, immigration courts have also taken the position that an  
2 arriving alien is not eligible for bond. *See Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025).  
3 Further, Petitioner received a notice of expedited removal and thus an immigration judge would  
4 take the position that he is ineligible for bond. *See Matter of M-S-*, 27 I&N Dec. 509, 512 (A.G.  
5 2019). Regardless of the statutory basis for his current detention, it would be futile for Petitioner  
6 to seek a bond hearing and release in immigration court. Only an order of this Court could  
7 effectively grant Petitioner relief. *See Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM),  
8 2025 WL 2591530, at \*5; (C.D. Cal. Sept. 8, 2025).

9 Finally, Petitioner is suffering additional ongoing irreparable harm. He has lost his  
10 community, work, place of worship, the ability to fully practice his religion and to see his  
11 friends. Ex. G; LeRoy Decl. at ¶¶ 16, 17. He also suffers from serious health issues that have  
12 not been adequately treated in detention. Ex. I; LeRoy Decl. at ¶ 16. Without a preliminary  
13 injunction to prevent Respondents' ongoing violation of Petitioner's due process rights and  
14 statutory rights, he reasonably fears that Respondents will keep him detained indefinitely and  
15 then deport him to India—even after an asylum officer determined that he has a credible fear of  
16 persecution in India. Ex. E; LeRoy Decl. at ¶ 13.

17 **III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST WEIGH**  
18 **STRONGLY IN PETITIONER'S FAVOR.**

19 When the government is the party opposing the request for injunctive relief, the balance  
20 of the equities and the public interest merge. *Env't Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991  
21 (9th Cir. 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)). Here, the balance  
22 of equities overwhelmingly favors Petitioner, who faces irreparable injury in the form of  
23 ongoing constitutional and statutory violations and continued additional suffering if the  
24 preliminary injunction is not granted. *See Hernandez*, 872 F.3d at 996 (when “[f]aced with ...  
25 preventable human suffering, ... the balance of hardships tips decidedly in plaintiffs' favor”)  
26 (internal citation omitted).

27 The public interest likewise weighs strongly in Petitioner's favor. As another California  
28

1 district court recently concluded, “[t]he public has a strong interest in upholding procedural  
2 protections against unlawful detention, and the Ninth Circuit has recognized that the costs to the  
3 public of immigration detention are staggering.” *Diaz*, 2025 WL 1676854, at \*3 (citing *Jorge*  
4 *M. F.*, 2021 WL 783561, at \*3). More fundamentally, “[i]t is always in the public interest to  
5 prevent the violation of a party’s constitutional rights.” *Index Newspapers LLC v. U.S. Marshals*  
6 *Serv.*, 977 F.3d 817, 838 (9th Cir. 2020) (citing *Padilla v. Immigr. & Customs Enf’t*, 953 F.3d  
7 1134, 1147-48 (9th Cir. 2020) (internal quotation marks omitted)).

### 8 SECURITY

9 No security is necessary here. Courts “may dispense with the filing of a bond when,” as  
10 here, “there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.”  
11 *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003). It is also proper to waive the bond  
12 requirement in cases raising constitutional claims, because “to require a bond would have a  
13 negative impact on plaintiff’s constitutional rights, as well as the constitutional rights of other  
14 members of the public.” *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 738 (C.D.  
15 Cal. 1996). Finally, Petitioner’s showing of a high likelihood of success on the merits supports  
16 the court’s waiving of bond. *See, e.g., People of State of Cal. ex rel. Van De Kamp v. Tahoe Reg’l*  
17 *Plan. Agency*, 766 F.2d 1319, 1326 (9th Cir.), *amended*, 775 F.2d 998 (9th Cir. 1985).

### 18 CONCLUSION

19 For the foregoing reasons, Petitioner respectfully requests the Court grant a preliminary  
20 injunction to restore the *status quo ante* that (1) orders Petitioner’s immediate release from  
21 Respondents’ custody pending these proceedings, without requiring bond or electronic  
22 monitoring, or, in the alternative, (2) orders Petitioner’s immediate release from Respondents’  
23 custody and barring his re-detention unless Respondents prove at a hearing before a neutral  
24 arbiter by clear and convincing evidence that Petitioner is a flight risk or danger to others. To  
25 preserve this Court’s jurisdiction, Petitioner further seeks an order enjoining Respondents from  
26 transferring Petitioner out of this District or deporting him from the United States during the  
27 pendency of these proceedings.

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Date: December 31, 2025

Respectfully submitted,

/s/Carrie LeRoy

Carrie LeRoy  
Attorney for Petitioner