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

10  
11 Carlos Jesus Colina-Meira

12 Petitioner,

13 v.

14 Todd Lyons, Acting Director, Immigration  
15 Customs and Enforcement; and  
16 Christopher Chestnut, Warden, California  
17 City Correctional Facility

18 Respondents.

Case No. 1:25-cv-01716-DC-CSK

**MOTION AND MEMORANDUM  
IN SUPPORT OF APPLICATION  
FOR TEMPORARY  
RESTRAINING ORDER AND  
ORDER TO SHOW CAUSE RE:  
PRELIMINARY INJUNCTION**

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**NOTICE OF MOTION**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Petitioner Carlos Jesus Colina-Meira (“Petitioner”) hereby applies pursuant to Federal Rule of Civil Procedure 65, seeking an Application for a Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction. The present motion is necessary, as detailed below and in the Memorandum of Points and Authorities to prevent further irreparable injury before a hearing on a preliminary injunction may be held.

Petitioner has resided in the United States since 2022. Around September 29, 2022 Petitioner crossed into the United States and was apprehended near El Paso, TX. Petitioner was then released on parole by U.S. Border Patrol and upon the determination that he posed neither a danger to the community or a flight risk. On October 7, 2025, Petitioner was arrested and detained at the Los Angeles Field Office after reporting to the ICE office for a check-in appointment. He was arrested without a pre-deprivation hearing. Because Petitioner was not afforded a pre-deprivation hearing, and has not subsequently had a custody redetermination hearing, his Fifth Amendment due process rights are being violated.

Petitioner requests that the Court issue a temporary restraining order and order to show cause regarding the preliminary injunction in the form of the proposed order submitted concurrently herewith. This Application is based on the Petition for Writ of Habeas Corpus, Memorandum of Points and Authorities in support of the Application for a TRO and the declaration and exhibits in support thereof.

Respondents were advised on December 3, 2025 that Petitioner would be filing this Application and the contents of this Application. Declaration of Sarah S. Brooks (“Brooks Decl.”) at ¶ 7, Ex. B.

Counsel for Respondents is:

1 Assistant United States Attorney

2 United States Attorney's Office, Eastern District of California

3 Email: usacae.ecf2241@usdoj.gov

4  
5  
6 DATED: December 3, 2025

VENABLE LLP

7 By: /s/ Sarah S. Brooks

8 Sarah S. Brooks

9 Attorney for Carlos Jesus Colina-Meira

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Petitioner Carlos Jesus Colina-Meira (“Petitioner” or “Colina-Meira”) brings the present Application for a Temporary Restraining Order (“TRO”) and asks the Court to grant his TRO and Order to Show Cause regarding Preliminary Injunction and order his release under the same conditions he was subject to immediately prior to his detention on October 7, 2025.

Petitioner meets all the requirements that would merit the grant of the present application for a TRO. First, as discussed further below, Petitioner is likely to succeed on the merits of his Fifth Amendment claim. Around September 29, 2022, Petitioner crossed into the United States and was apprehended near El Paso, TX. Petitioner was released by U.S. Border Patrol on parole and upon the determination that he posed neither a danger to the community or a flight risk. On October 7, 2025, Petitioner was arrested at the Los Angeles Field Office when reporting to ICE for a check in appointment. He was arrested without a pre-deprivation hearing. Because Petitioner was not afforded a pre-deprivation hearing, and has not subsequently had a custody redetermination hearing, his Fifth Amendment due process rights are being violated. Petitioner is likely to prevail on his claim that his re-arrest on October 7, 2025 was unlawful because procedural due process requires that he be provided with the opportunity to contest his re-detention before a neutral decision-maker.

Next, the other TRO factors also weigh in favor of Petitioner. There is ample case law supporting that Petitioner’s continued detention without a pre-deprivation hearing or a bond hearing on the merits would and is causing immediate and irreparable injury. Lastly, the balance of hardships and public interest factors weigh in favor of the TRO because the government’s position is inconsistent with federal law.

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1 Petitioner respectfully requests that the Court grant his Application for a  
2 Temporary Restraining Order ordering his release under the same conditions he  
3 was subject to immediately prior to his detention on October 7, 2025 and enjoining  
4 Respondents from re-detaining him unless he is provided with a pre-deprivation  
5 hearing before an immigration Judge.

## 6 II. FACTUAL BACKGROUND

7 Petitioner Carlos Jesus Colina-Meira has lived in the United States since  
8 2022. (Brooks Decl. at ¶ 2, Ex. A). On September 29, 2022, Petitioner entered the  
9 United States and was apprehended near El Paso, TX. (Brooks Decl. at ¶ 3, Ex. A).  
10 U.S. Border Patrol then released Petitioner on parole and upon the determination  
11 that he posed neither a danger to the community or a flight risk. (Brooks Decl. at ¶  
12 3. Ex. A).

13 On October 7, 2025, Petitioner was arrested at the Los Angeles Field Office  
14 when reporting to ICE for a check in appointment. (Brooks Decl. at ¶ 4, Ex. A).  
15 Petitioner was detained and transferred to the California City Detention facility in  
16 California City, CA where he remains in detention. (Brooks Decl. at ¶ 5, Ex. A).

17 Petitioner was not afforded a pre-detention hearing or a custody  
18 redetermination hearing. (Brooks Decl. at ¶ 6).

## 19 III. ARGUMENT

### 20 a. Legal Standard

21 “A plaintiff seeking a preliminary injunction must establish that he is likely  
22 to succeed on the merits, that he is likely to suffer irreparable harm in the absence  
23 of preliminary relief, that the balance of equities tips in his favor, and that an  
24 injunction is in the public interest.”<sup>1</sup> *Winter v. Nat. Res. Def. Council, Inc.*, 555  
25 U.S. 7, 20 (2008) (citing *Munaf v. Geren*, 553 U.S. 674, 689–90 (2008); *Amoco*  
26 *Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 542 (1987); *Weinberger v. Romero-*

27  
28 <sup>1</sup> The standards for issuing a temporary restraining order and a preliminary  
injunction are “substantially identical. *Frontline Med. Assocs., Inc. v. Coventry*  
*Healthcare Workers Comp., Inc.*, 620 F. Supp. 2d 1109, 1110 (C.D. Cal. 2009).

1 *Barcelo*, 456 U.S. 305, 311–12 (1982)). “Likelihood of success on the merits is a  
2 threshold inquiry and is the most important factor.” *Simon v. City & Cnty. of San*  
3 *Francisco*, 135 F.4th 784, 797 (9th Cir. 2025) (quoting *Env’t Prot. Info. Ctr. v.*  
4 *Carlson*, 968 F.3d 985, 989 (9th Cir. 2020)). “[I]f a plaintiff can only show that  
5 there are serious questions going to the merits—a lesser showing than likelihood of  
6 success on the merits—then a preliminary injunction may still issue if the balance  
7 of hardships tips sharply in the plaintiff’s favor, and the other two Winter factors  
8 are satisfied.” *Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th Cir.  
9 2014) (internal quotation marks and citations omitted).

10 Here, as discussed further below, Petitioner is likely to succeed on the  
11 merits, is currently suffering irreparable harm, and the balance of equities and  
12 public interest weigh in Petitioner’s favor.

13 **b. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS OF**  
14 **HIS FIFTH AMENDMENT CLAIM**

15 The likelihood of success factor weighs in Petitioner’s favor because  
16 Petitioner is likely to succeed on his claim that his Fifth Amendment due process  
17 rights are being violated because he should have been afforded a pre-deprivation  
18 hearing prior to being re-detained.

19 Here, as discussed above, on September 29 2022, Petitioner was  
20 apprehended near El Paso, TX and then released by U.S. Border Patrol on parole  
21 upon the determination that he posed neither a danger to the community or a flight  
22 risk. (Brooks Decl. at ¶ 3, Ex. A). Case law is clear that “[w]here the release  
23 decision was made by a DHS officer, not an immigration judge, the Government’s  
24 practice has been to require a showing of changed circumstances before re-arrest.”  
25 *Aceros v. Kaiser*, No. 25-cv-06924-EMC, 2025 U.S. Dist. LEXIS 179594 at \*1  
26 (N.D. Cal. Sept. 12, 2025) (citing *Seravia v. Sessions*, 280 F. Supp. 3d 1168, 1197  
27 (N.D. Cal. 2017)).

1 The facts in *Aceros* are nearly identical to the facts in this case. In *Aceros*,  
2 the Petitioner was arrested at the border in 2024 and released on her own  
3 recognizance. *Id.* Petitioner was then arrested at the San Francisco Immigration  
4 Court when she appeared for a scheduled hearing. Like the present case, the  
5 Petitioner in *Aceros* was not afforded a pre-deprivation hearing. *Id.* at \*12. The  
6 Court in *Aceros* granted Petitioner’s motion for preliminary injunction and ordered  
7 that the government not re-detain Petitioner without a pre-deprivation hearing. *Id.*  
8 at \*39.

9 Further, Petitioner possesses a protected liberty interest under the Fifth  
10 Amendment. The due process clause of the Fifth Amendment applies to all  
11 “persons” within the United States, including aliens, whether their presence is  
12 lawful, unlawful, temporary, or permanent. *Zadvydas v. Davis*, 533 U.S. 678, 693  
13 (2001). *see also Perez-Mendez v. Lyons*, Case No. 2:25-cv-07727-VBF-RAO,  
14 2025 U.S. Dist. LEXIS 207266 (C.D. Cal. Sept. 11, 2025)(finding that “Petitioner  
15 is likely to prevail on his claims because he has shown that his freedom from re-  
16 detention is a protected liberty interest under the Due Process Clause of the Fifth  
17 Amendment.”) Thus, Petitioner’s continued detainment violates his due process  
18 rights.

19 Petitioner also has not had a custody redetermination hearing. (Brooks Decl.  
20 at ¶6). Title 8 U.S.C. § 1226(a) “sets out the ‘default rule’ for [detention of]  
21 noncitizens already present in the country.” *Lepe v. Andrews*, — F. Supp. 3d —,  
22 No. 1:25-cv-01163-KES-SKO (HC), 2025 WL 2716910, at \*3 (E.D. Cal. Sept. 23,  
23 2025) (*quoting Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)). Section 1226(a)  
24 provides that “an alien may be arrested and detained pending a decision on whether  
25 the alien is to be removed from the United States. . . . [T]he Attorney General (1)  
26 may continue to detain the arrested alien; and (2) may release the alien on [bond or  
27 conditional parole].” 8 U.S.C. § 1226(a). The § 1226(a) framework is  
28 discretionary and requires that “[a]n immigration officer make[] the initial

1 determination to either detain or release that 8 U.S.C. § 1226(a) governs his  
2 detention, not 8 U.S.C. § 1225(b)(2) and that his ongoing detention by  
3 Respondents under 8 U.S.C. § 1225(b)(2) and the denial of a bond hearing on the  
4 merits is unlawful. he noncitizen, but after that decision has been made, the  
5 noncitizen may request a bond hearing before an immigration judge.” *Lepe*, 2025  
6 WL 2716910, at \*3.

7 The same issues presented in the present Application for TRO have been  
8 addressed in Federal Courts in this district, in the Central District of California, the  
9 Western District of Washington and across the nation.: *Perez v. Albarran*, No.  
10 1:25-cv-01540-DAD-CSK (HC), 2025 U.S. Dist. LEXIS 224966, at \*9 (E.D. Cal.  
11 Nov. 14, 2025) (granting Petitioner’s application for a preliminary injunction and  
12 concluding that Respondents are enjoined and restrained from re-detaining  
13 Petitioner for any purpose, absent exigent circumstances, without providing  
14 petitioner notice and a pre-detention hearing before an immigration judge where  
15 respondents will have the burden to demonstrate a change in circumstances by  
16 clear and convincing evidence.); *Polo v. Chestnut*, No. 1:25-CV-01342 JLT HBK,  
17 2025 WL 2959346, at \*39-40 (E.D. Cal. Oct. 17, 2025)(granting a preliminary  
18 injunction in favor of Petitioner and permanently enjoining Respondents from re-  
19 arresting Petitioner without constitutional protections, which “include at a  
20 minimum, predeprivation notice of at least seven days before a deprivation hearing  
21 at which the government will bear the burden of demonstrating by clear and  
22 convincing evidence that [Petitioner] is likely to flee or pose a danger to the  
23 community if not arrested and at which Petitioner may be represented by her  
24 counsel.” Respondents were also ordered to not impose further additional  
25 restrictions on Petitioner, like electronic monitoring, unless that is determined to be  
26 necessary at a later custody hearing.); *Perez-Mendez v. Lyons*, 2:25-cv-07727-  
27 VBF-RAO, 2025 U.S. Dist. LEXIS 207266, at \*2 (C.D. Cal. Oct 21, 2025).  
28 (granting Petitioner’s application for preliminary injunction and finding

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1 “Respondents may not re-detain Petitioner without a bond hearing on the merits  
2 where the government must prove by clear and convincing evidence that Petitioner  
3 is a danger to the community and a flight risk such that physical custody is  
4 required.”); *see also Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL  
5 1193850, at \*16 (W.D. Wash. Apr. 24, 2025)(granting Petitioner’s preliminary  
6 injunction, and finding that petitioner is likely to succeed on the merits, that his  
7 detention should be governed under Section 1226(a), ordering a bond hearing, and  
8 enjoining Respondents from denying bond on the basis that he is detained pursuant  
9 to 8 U.S.C. § 1225(b)(2)).; *See also Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-  
10 BFM, 2025 U.S. Dist. LEXIS 171364, \*24 (C.D. Ca. Jul. 28, 2025) (Ordering that  
11 “Respondents are enjoined from continuing to detain Petitioners unless they are  
12 provided an individualized bond hearing before an immigration judge pursuant to 8  
13 U.S.C. § 1226(a) within 7 days of the date of this Order”); *Bautista v. Santacruz*,  
14 No. 5:25-cv-01873-SSS-BFM, 2025 U.S. Dist. LEXIS 233085 (C.D. Cal.  
15 November 20, 2025)(granting partial summary judgment and finding that 8 U.S.C.  
16 §1226(a) applies to Petitioners); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-  
17 BFM, 2025 U.S. Dist. LEXIS 231977, \*26-27 (C.D. Cal. Nov. 25, 2025)(certifying  
18 the following class: “All noncitizens in the United States without lawful status who  
19 (1) have entered or will enter the United States without inspection; (2) were not or  
20 will not be apprehended upon arrival; and (3) are not or will not be subject to  
21 detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the  
22 Department of Homeland Security makes an initial custody determination”).

23 The same result is warranted here.

24 **1. Petitioner Has a Strong Private Interest**

25 “Due process ‘is a flexible concept that varies with the particular situation.’”  
26 *Singh v. Andrews*, No. 1:25-cv-00801-KES-SKO (HC), 2025 WL 1918679, at \*6  
27 (E.D. Cal. July 11, 2025) (*quoting Zinermon v. Burch*, 494 U.S. 113, 127 (1990)).  
28 The Supreme Court has identified three factors that the court must consider in

1 determining what process is constitutionally required: (1) “the private interest that  
2 will be affected by the official action;” (2) “the risk of an erroneous deprivation of  
3 such interest through the procedures used, and the probable value, if any, of  
4 additional or substitute procedural safeguards;” and (3) “the Government’s interest,  
5 including the function involved and the fiscal and administrative burdens that the  
6 additional or substitute procedural requirement would entail.” *Mathews v.*  
7 *Eldridge*, 424 U.S. 319, 335 (1976).

8 As to the first factor, as noted above, Petitioner was released on parole in  
9 2022 prior to being re-detained in 2025. (Brooks Decl. at ¶3, Ex. A). Petitioner has  
10 a strong interest in remaining free of detention. The length of time of the release  
11 strengthens petitioner’s interest in his continued release. *Doe v. Becerra*, 787 F.  
12 Supp. 3d 1083, 1093 (E.D. Cal. 2025) (“Moreover, the actions of the Government  
13 in allowing Petitioner to remain in the community for over five years strengthen  
14 Petitioner’s liberty interest. Governmental actions may create a liberty interest  
15 entitled to the protections of the Due Process Clause.”); *see also Sun v. Santacruz*,  
16 No. 5:25-cv-02198-JLS-JC, 2025 WL 2730235, at \*5 (C.D. Cal. Aug. 26, 2025)  
17 (finding that the petitioner had a substantial interest in remaining out of  
18 immigration custody because of the eight year length of her release).

19 The first factor therefore weighs in favor of granting petitioner the requested  
20 relief.

## 21 **2. Risk of Erroneous Deprivation is High**

22 As to the second factor, the risk of erroneous deprivation is high without a  
23 bond or custody redetermination hearing. Several courts have already found that  
24 such a risk is high in cases similar to petitioner’s. *See, e.g., Aceros*, 2025 U.S.  
25 Dist. LEXIS 179594 at \*33 (finding that the petitioner’s risk of erroneous  
26 deprivation was high because a bond hearing would likely reveal that the petitioner  
27 still presented no public safety or flight risk); *see also Calderon*, 2025 WL  
28 2430609, at \*3 (“Where an individual has not received a bond or redetermination

1 hearing, the risk of an erroneous deprivation of liberty is high.”); *Pinchi v. Noem*,  
2 No. 25-cv-05632-RMI-RFL, 2025 WL 1853763, at \*2 (N.D. Cal. July 4, 2025)  
3 (finding a risk of erroneous deprivation without a bond hearing pre-detention  
4 where the petitioner was re-detained after having been released on her own  
5 recognizance at the border by immigration officials).

6 Accordingly, this factor also weighs in favor of granting petitioner the relief  
7 he seeks.

### 8 3. Government’s interest in minimal

9 “In immigration court, custody hearings are routine and impose a minimal  
10 cost.” *Aceros*, 2025 U.S. Dist. LEXIS 179594, at \*34 (internal quotation marks  
11 omitted) (*quoting Singh*, 2025 WL 1918679, at \*7). Respondents interest in  
12 detaining petitioner should not outweigh the cost of providing the additional  
13 process to which petitioner is due.

14 Accordingly, the final factor weighs in favor of granting petitioner the relief  
15 he seeks.

### 16 c. PETIONER WILL SUFFER IRREPERABLE HARM IN THE 17 ABSENCE OF A TRO

18 In the absence of a TRO, Petitioner will continue to be unlawfully detained.  
19 Petitioner has now been detained for more than a month.

20 It “is well established that the deprivation of constitutional rights  
21 unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990,  
22 1002 (9th Cir. 2012) (citation modified); *Warsoldier v. Woodford*, 418 3d 989,  
23 1001-02 (9th Cir. 2005). *See also Hernandez v. Sessions*, 872 F.3d 976, 994–95  
24 (9th Cir. 2017) (“Thus, it follows inexorably from our conclusion that the  
25 government’s current policies [which fail to consider financial ability to pay  
26 immigration bonds] are likely unconstitutional—and thus that members of the  
27 plaintiff class will likely be deprived of their physical liberty unconstitutionally in  
28 the absence of the injunction—that Plaintiffs have also carried their burden as to

1 irreparable harm.”); *Bautista*, No. 2025 U.S. Dist. LEXIS 171364, \*24 (“[T]he  
2 Court finds that the potential for Petitioners’ continued detention without an initial  
3 bond hearing would cause immediate and irreparable injury, as this violates  
4 statutory rights afforded under § 1226(a)).

5 “When an alleged deprivation of a constitutional right is involved, most  
6 courts hold that no further showing of irreparable injury is necessary.” *Warsoldier*  
7 *v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (quoting Wright, Miller, &  
8 Kane, Federal Practice and Procedure, § 2948.1 (2d ed. 2004)). As the Supreme  
9 Court has recognized, incarceration “has a detrimental impact on the individual”  
10 because “it often means loss of a job” and “disrupts family life.” *Barker v. Wingo*,  
11 407 U.S. 514, 532–33 (1972).

12 “Freedom from imprisonment—from government custody, detention, or  
13 other forms of physical restraint—lies at the heart of the liberty” that the Due  
14 Process Clause protects. *Zadvydas*, 533 U.S. at 690. Detention constitutes “a loss  
15 of liberty that is . . . irreparable.” *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d  
16 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff’d in part, vacated in part on other*  
17 *grounds, remanded sub nom. Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir.  
18 2022).

19 Thus, due to Petitioner’s continued detention, he faces irreparable harm  
20 absent a temporary restraining order.

21 **d. THE BALANCE OF EQUITIES AND PUBLIC INTEREST**  
22 **WEIGHS IN PETITIONER’S FAVOR**

23 When the government is the nonmoving party, “the last two Winter factors  
24 merge.” *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023). Petitioner has  
25 established that the public interest factor weighs in his favor because classifying  
26 Petitioner under § 1225(b)(2) deprives him of due process and is in violation of  
27 federal laws. *Index Newspapers LLC v. U.S. Marshals Serv.*, 977 F.3d 817, 838  
28

1 (9th Cir. 2020) (“It is always in the public interest to prevent the violation of a  
2 party’s constitutional rights.”) (citing *Padilla*, 953 F.3d at 1147–48).

3 Because detaining Petitioner in violation of his Fifth Amendment due  
4 process rights “is inconsistent with federal law, . . . the balance of hardships and  
5 public interest factors weigh in favor of a preliminary injunction.” *Moreno Galvez*  
6 *v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (Moreno I); *see also*  
7 *Moreno Galvez*, 52 F.4th at 832 (affirming in part permanent injunction issued in  
8 Moreno II and quoting approvingly district judge’s declaration that “it is clear that  
9 neither equity nor the public’s interest are furthered by allowing violations of  
10 federal law to continue”). This is because “it would not be equitable or in the  
11 public’s interest to allow the [government] . . . to violate the requirements of  
12 federal law, especially when there are no adequate remedies available.” *Valle del*  
13 *Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013) (second alteration in  
14 original) (citation omitted).

15 Thus, the balance of equities and public interest weigh in Petitioner’s favor.

16 **IV. CONCLUSION**

17 For the foregoing reasons, Petitioner respectfully asks the Court to grant the  
18 Application for a Temporary Restraining Order and order Petitioner’s release.

19 DATED: December 3, 2025

VENABLE LLP

20  
21 By: /s/ Sarah S. Brooks

Sarah S. Brooks

22 Attorney for Carlos Jesus Colina-Meira  
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