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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA

9 H.J.G.G.,

10 Petitioner,

11 v.

12 Minga WOFFORD, Field Office Director, Mesa
13 Verde, Office of Detention and Removal, U.S.
14 Immigration and Customs Enforcement, U.S.
Department of Homeland Security;

15 Sergio ALBARRAN, Acting Field Office
16 Director of the San Francisco Immigration and
17 Customs Enforcement Office, U.S. Department
of Homeland Security;

18 Todd M. LYONS, Acting Director, Immigration
19 and Customs Enforcement, U.S. Department of
Homeland Security;

20 Kristi NOEM, in her Official Capacity,
21 Secretary, U.S. Department of Homeland
Security; and

22 Pam BONDI, in her Official Capacity, Attorney
23 General of the United States.

24 Respondents.
25

No. 1:25-CV-01718-JLT-EPG

**REPLY TO RESPONDENTS'
OPPOSITION TO PETITIONER'S
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION,
AND ANSWER TO PETITION FOR
WRIT OF HABEAS CORPUS**

INTRODUCTION

Petitioner, H.J.G.G., by and through his undersigned counsel, hereby files this response to the Respondents’ Motion to Dismiss Petition for Habeas Corpus; Response to Petition for Writ of Habeas Corpus; Opposition to Preliminary Injunction and Opposition to Temporary Restraining Order.

Respondents argue that H.J.G.G. is an “applicant for admission” under 8 U.S.C. § 1225, subject to mandatory detention under 8 U.S.C. § 1225 (b) when H.J.G.G. has been residing in the United States for over two years pursuant to a release on his own recognizance and an order of supervision. Respondents assert that they have the absolute right to mandatorily detain H.J.G.G. without a pre-deprivation hearing under 8 U.S.C. § 1225(b)(1)(B)(ii), even though (1) Respondents released H.J.G.G. on his own recognizance; (2) Respondents placed H.J.G.G. in removal proceedings under 8 U.S.C. § 1229 a(a)(1), Immigration and Nationality Act (“INA”) § 240 proceedings; and (3) H.J.G.G.’s § 1229 (a)(1), INA § 240 proceedings are currently pending.

Respondents’ arguments are unpersuasive. First, the mandatory detention provision of 8 U.S.C. § 1225(b) is inapplicable to H.J.G.G. 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).

1 On November 20, 2025, the district court granted partial summary judgment on behalf of
2 individual plaintiffs and on November 25, 2025, certified a nationwide class and extended
3 declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-
4 01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order
5 granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v.*
6 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D.
7 Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible
8 Class, incorporating and extending declaratory judgment from Order Granting Petitioners'
9 Motion for Partial Summary Judgment). The declaratory judgment held that the Bond Denial
10 Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration
11 for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.
12

13 H.J.G.G. qualifies for a TRO because he demonstrated a likelihood of success in his Fifth
14 Amendment claims and that he would suffer irreparable harm from unconstitutional detention.
15 H.J.G.G. has shown that there are, at the very least, "serious questions" going to the merits of his
16 claims, that he is likely to suffer irreparable harm in the absence of preliminary injunctive relief,
17 and that the balance of hardships tips sharply in his favor. *See Winter v. Natural Resources*
18 *Defense Council, Inc.*, 555 U.S. 7, 20 (2008). The Court, therefore, should grant H.J.G.G.'s
19 petition.

20 Respondents, in a footnote, purport to move to "dismiss all unlawfully named officials."
21 H.J.G.G. opposes such a motion because the named respondents are not tangentially related to
22 H.J.G.G.'s detention; they form a direct chain of command legally responsible for it. The warden's
23 role is to follow the directives issued by the Attorney General, the Department of Homeland
24 Security, and ICE. Therefore, a TRO and writ of habeas corpus directed only at the warden would
25

1 be ineffective, as the warden lacks the power to provide the ultimate relief sought. The
2 government's reliance on *Rumsfeld v. Padilla* and *Doe v. Garland* is misplaced, as those cases are
3 factually and legally distinguishable from the circumstances here. The "immediate custodian"
4 rule from *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), which typically points to a warden, does not
5 create an inflexible jurisdictional requirement. The Supreme Court established this rule in the
6 context of a U.S. citizen military detainee, where the chain of command and the nature of custody
7 are fundamentally different from immigration detention. In the immigration context, the
8 "custodians" are the entity with legal, dispositive control over the detention. That entity
9 necessarily includes ICE and its leadership, and they are the ones who can order H.J.G.G.
10 released. Likewise, *Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024), does not preclude naming
11 the respondents listed here. While *Doe* held that a warden of a private facility must be named as
12 a proper respondent, it does not hold that the warden is the *only* proper respondent. In addition,
13 the Respondents' request is procedurally improper because a "request for court order must be
14 made by motion." *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 2243616, at *4 (N.D. Cal.
15 Aug. 6, 2025). "[A] request for affirmative relief is not proper when raised for the first time in an
16 opposition." *Id.*

18 ARGUMENT

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

20 **A. H.J.G.G. is likely to succeed on the merits**

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

22 Respondents assert that H.J.G.G. is mandatorily detained during his removal proceedings
23 under 8 U.S.C. § 1225(b)(1). 8 U.S.C. § 1225(b)(1) lays out the expedited removal process applied
24 to applicants for admission. The plain meaning of the term "seeking admission" or being an
25

1 applicant for admission does not refer to individuals who have been in the country for a period of
2 time. *See Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2741654, at *10 (N.D.
3 Cal. Sept. 26, 2025). H.J.G.G. has been living in the United States since 2022, when the
4 Respondents released him on his recognizance, and placed him on 8 U.S.C. § 1229a(a)(1)
5 proceedings. *See* ECF 1-2. Therefore, he cannot possibly be seeking admission at this moment.
6 *See Pinchi v Noem*, 2025 WL 3691938 * 6, 30 (N.D.Cal. Dec. 19, 2025) (granting a preliminary
7 injunctions and certifying a class which consists of all noncitizens in the jurisdiction of ICE's San
8 Francisco field office who (1) “entered or will enter the United States without inspection”; (2)
9 “have been or will be charged with inadmissibility under 8 U.S.C. § 1182 and have been or will
10 be released from DHS custody”; (3) “are in removal proceedings under 8 U.S.C. § 1229a”; and (4)
11 “are not subject to detention under 8 U.S.C. § 1226(c).”
12

13 Respondents’ arguments also rely on *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018)
14 (“Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for
15 admission until certain proceedings have concluded.”). Respondents fail to acknowledge that
16 *Jennings* was a statutory interpretation case, where the Supreme Court found that the statute (§
17 1225(b)) did not grant bond hearings. It explicitly did not rule on the constitutional question and
18 remanded it, stating, “we leave the Ninth Circuit’s constitutional holding to be resolved on remand”
19 *Id.* at 284. *Jennings* therefore did not rule on the question of whether re-detention without a bond
20 hearing violates due process, and it did not preclude as-applied challenges. *Doe v. Becerra*, 787 F.
21 Supp. 3d 1083, 1093 (E.D. Cal. 2025) (“Petitioner has established a strong likelihood of success
22 in showing that he has an interest in his continued liberty and that mandatory detention under
23 section 1225(b)(1)(B)(ii) would violate his due process rights unless he is afforded adequate
24 process”).
25

1 ii. **Even if 8 U.S.C. § 1225(b)(1) proceedings applied here, this is a constitutional**
2 **question, not a statutory one.**

3 The Due Process Clause of the Fifth Amendment guarantees that the government may not
4 deprive any person of liberty without due process of law. *See* U.S. Const. amend. V. “Freedom
5 from imprisonment -- from government custody, detention, or other forms of physical constraint
6 - lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
7 The guarantee applies in full force to “all persons’ in the United States, including aliens, whether
8 their presence here is lawful, unlawful, temporary, or permanent, and to “an alien subject to a final
9 deportation order.” *Id.* at 693. The due process required by the Fifth Amendment typically entails
10 a pre-deprivation hearing. *See Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (“the Constitution
11 requires some kind of hearing *before* the State deprives a person of liberty or property” (emphasis
12 in original)). *See Hinestroza v. Kaiser*, No. 25-CV-07559-JD, 2025 WL 2606983, at *2 (N.D. Cal.
13 Sept. 9, 2025).

14 Therefore, regardless of the specific statute, the core issue is constitutional, not statutory.
15 The Fifth Amendment protects the profound liberty interest of individuals who have been
16 previously released from custody, placing a constitutional limit on the government's authority to
17 re-detain them without due process. Individuals released from custody, even conditionally, retain
18 a profound liberty interest protected by the Fifth Amendment, which limits the government's broad
19 authority to detain. *See Morrissey v. Brewer*, 408 U.S. 471 (1972); *Hernandez v. Wofford*, No.
20 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at *5 (E.D. Cal. Aug. 21, 2025) (finding that
21 petitioner had a protected liberty interest in his release; allowing for an as-applied constitutional
22 challenge arguing that the Due Process Clause barred the government from re-detaining him
23 without first providing a bond hearing).
24

1 Respondents assert that H.J.G.G. lacks any constitutional due process rights. For the
2 reasons stated *supra*, the Respondents' position misapprehends the law. The government's
3 reliance on *Landon v. Plasencia*, 459 U.S. 21, 32 (1982); *Shaughnessy v. United States ex rel.*
4 *Mezei*, 345 U.S. 206, 212 (1953) and *DHS v. Thuraissigiam*, 591 U.S. 103, 139–40 (2020) is also
5 misplaced. Those cases dealt with admission into the United States and individuals currently
6 stopped at the border, not with the unlawful re-detention of an individual who is already inside
7 the United States.

8 Other cases relied upon by the government, namely *Barrera-Echavarria v. Rison, infra*,
9 and *Angov v. Lynch, infra*, equally fail to support their arguments. ECF 11. *Barrera-Echavarria*
10 *v. Rison, infra*, deals with an individual detained under 8 U.S.C. § 1231, which pertains to
11 noncitizens who were previously ordered removed. ECF 11 * 3. The text on page 1450 of
12 *Barrera-Echavarria, infra*, refers to “excludable aliens,” who are detained under a different
13 statutory authority than the Petitioner here, who has never been ordered deported from the United
14 States. *Barrera-Echavarria v. Rison*, 44 F.3d 1441, 1450 (9th Cir. 1995). *Barrera-Echavarria v.*
15 *Rison, infra*, has been superseded by statute, as Respondents admitted and as stated in *Rodriguez*
16 *v. Robbins*, 715 F.3d 1127, 1140-41 (9th Cir. 2013). *Angov v. Lynch, infra*, deals with whether
17 the admission of certain documents violated an “arriving alien’s” statutory and constitutional
18 rights, which is distinguishable from the case at hand, which is regarding the deprivation of
19 liberty. *Angov v. Lynch*, 788 F.3d 893, 897 (9th Cir. 2015). Lastly, in *Gonzalez-Fuentes v.*
20 *Molina*, 607 F.3d 864 (1st Cir. 2010), the court recognized the substantial costs of undoing liberty
21 and found a procedural due process violation, even though the outcome there rested on
22 case-specific grounds. *See Gonzalez-Fuentes v. Molina*, 607 F.3d 864 (1st Cir. 2010) (“Prisoners
23 convicted of murder, who had been released for several years pursuant to electronic supervision
24
25

1 program (ESP), had a protected due process liberty interest in their continued participation in the
2 ESP program”).

3 8 U.S.C. § 1182(d)(5)(A) creates an exception for § 1225(b) detention at the border,
4 namely, that an individual “may be temporarily paroled ‘for urgent humanitarian reasons or
5 significant public benefit.’ *Id.*; 8 U.S.C. § 1182(d)(5)(A). 8 C.F.R. § 212(a)(5)(a) grants authority
6 to ICE officers to grant parole. 8 CFR § 212(a)(5)(b) explains that such parole could be granted
7 to individuals identified under that section “on a case-by-case basis for ‘urgent humanitarian
8 reasons’ or ‘significant public benefit,’ **provided the aliens present neither a security risk nor
9 a risk of absconding.**” 8 CFR § 212(a)(5)(b) (emphasis added). *See Ortega-Cervantes v.*
10 *Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007).

11
12 Further, in *Y-Z-H-L v. Bostock*, 2025 WL 1898025, at *10–12 (D. Or. July 9, 2025), the
13 court explained the parole process in immigration cases and noted that before parole may be
14 revoked, the parolee must be given written notice of the impending revocation, which must
15 include a cogent description of the reasons supporting the revocation decision. The INA requires
16 a case-by-case analysis as to the decision to revoke humanitarian parole: *Mata Velasquez v.*
17 *Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *11 (W.D.N.Y. July 16, 2025). Such an
18 individualized analysis never happened here. *See J.E.H.G. v Wofford*, 1:25-cv-01673-JLT-SKO
19 (E.D. Cal Dec. 9 2025).

20 ICE’s power to re-arrest a noncitizen who is at liberty following a release from custody is
21 constrained by the demands of due process. *See Hernandez v. Sessions*, 872 F.3d 976, 981 (9th
22 Cir. 2017) (“the government’s discretion to incarcerate non-citizens is always constrained by the
23 requirements of due process”). *See also Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (Due
24 Process requires pre-deprivation hearing before revocation of probation); *Morrissey*, 408 U.S. at
25

1 482 (same, in the parole context). H.J.G.G.'s release from custody in 2022 and ties to his
2 community provide him with a protected liberty interest. *See Ortega v. Bonnar*, 415 F. Supp. 3d
3 963 (N.D. Cal. Nov. 22, 2019); *See e.g. J.O.L.R. v. Wofford*, No. 1:25-CV-01241-KES-SKO
4 (HC), 2025 WL 2908740, at *3 (E.D. Cal. Oct. 14, 2025) (“The Due Process Clause protects
5 petitioner, a person inside the United States, from unlawful detention”); *Pinchi v. Noem*, Slip
6 Copy, 2025 WL 1853763 (N.D. Cal. July 4, 2025).

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

23
24 The government also cites *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022), a
25 distinguishable case. *Rodriguez Diaz* addressed whether due process requires a second bond

1 hearing for a noncitizen facing prolonged detention under § 1226(a). Here, the challenge is not to
2 prolonged detention, but to the very inception of detention. Unlike the petitioner in *Rodriguez*
3 *Diaz*, H.J.G.G. had not previously received a bond hearing for this period of detention. Because
4 he was unlawfully taken into custody from a state of liberty, the proper remedy was an immediate
5 return to the *status quo ante* - his release - not a determination of what process is due after months
6 or years of confinement.

7
8 Contrary to the Respondents' position, several federal district courts in California have
9 repeatedly recognized that the demands of due process and the limitations on DHS's authority to
10 revoke a noncitizen's release from custody, as set out in DHS's stated practice and *Matter of Sugay*,
11 17 I&N Dec. 637, 639-40 (BIA 1981) both require a pre-deprivation hearing for a noncitizen on
12 bond, like H.J.G.G., *before* ICE re-detains her. *See, e.g., Meza v. Bonnar*, 2018 WL 2554572 (N.D.
13 Cal. June 4, 2018); *Ortega*, 415 F. Supp. 3d at 963; *Vargas v. Jennings*, No. 20-CV-5785-PJH,
14 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-
15 JST, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Romero v. Kaiser*, No. 22-cv-02508-TSH,
16 2022 WL 1443250, at *3-4 (N.D. Cal. May 6, 2022) (Petitioner would suffer irreparable harm if
17 re-detained, and required notice and a hearing before any re-detention); *Enamorado v. Kaiser*, No.
18 25-CV-04072-NW, 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025) (temporary injunction
19 warranted preventing re-arrest at plaintiff's ICE interview when he had been on bond for more
20 than five years). *See also Doe v. Becerra*, at *4 (holding the Constitution requires a hearing before
21 any re-arrest); *Arzate v. Andrews*, Slip Copy, 2025 WL 2230521 (E.D. Cal. Aug. 4, 2025) (The
22 court found Mr. Arzate was likely to succeed on his claim that his re-detention without a new bond
23 hearing violated the Due Process Clause; the court enjoined the government from re-detaining him
24 without first providing a bond hearing where it must prove by clear and convincing evidence that
25

1 he is a flight risk or a danger to the community); *Pinchi v. Noem*, Slip Copy, 2025 WL 1853763
2 (N.D. Cal. July 4, 2025).

3 Respondents cite contract authority, namely *Oliveria v. Albarran*, 2025 U.S. Dist. LEXIS
4 254870 (E.D. Cal. Dec. 9, 2025); however, this case contain reasoning unsupported by the
5 overwhelming majority of cases i which decided to the contrary in this district and sister districts
6 nationwide. Therefore, the precedent cited by the government should not be persuasive to this
7 court. Instead, this court should follow its own recent, persuasive case law, and release H.J.G.G.
8 *See Singh v. Andrews*, No. 1:25-cv-00801-KES-
9 SKO, 2025 WL 1918679, at *7 (E.D. Cal. July 11, 2025) (analogizing to *Morrissey*) and *Arzate v.*
10 *Andrews* at *7 (enjoining and restraining Respondents from re-detaining petitioner without first
11 providing petitioner with a bond hearing before an immigration judge at which the government
12 must prove by clear and convincing evidence that petitioner is a flight risk or danger to the
13 community such that his re-detention is warranted.).

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

23 The proper remedy for this due process violation is a return to the *status quo ante*. The
24 inception of his current detention was unlawful, and a return to the *status quo* requires H.J.G.G.’s
25

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

3 **B. H.J.G.G. has established the requisite Irreparable Harm**
4

5 The government claims that there was no irreparable harm. The government seeks to disturb
6 the well-established precedent under *Hernandez*, 872 F.3d at 976, where the Ninth Circuit held
7 that the conditions experienced in immigration detention constitute irreparable harm. Detainees
8 in ICE custody are held in “prison-like conditions.” *Preap v. Johnson*, 831 F.3d 1193, 1195 (9th
9 Cir. 2016). As the Supreme Court has explained, “[t]he time spent in jail awaiting trial has a
10 detrimental impact on the individual. It often means loss of a job; it disrupts family life; and it
11 enforces idleness.” *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972); accord *Nat’l Ctr. for*
12 *Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th Cir. 1984). Moreover, the Ninth
13 Circuit has recognized in “concrete terms the irreparable harms imposed on anyone subject to
14 immigration detention,” including “subpar medical and psychiatric care in ICE detention
15 facilities, the economic burdens imposed on detainees and their families as a result of detention,
16 and the collateral harms to children of detainees whose parents are detained.” *Hernandez*, 872
17 F.3d at 995.

18 **C. Balance of interests/public interest**
19

20 When “the impact of an injunction reaches beyond the parties, carrying with it a potential
21 for public consequences, the public interest will be relevant to whether the district court grants
22 the preliminary injunction.” *Hernandez*, 872 F.3d at 996 (quoting *Stormans, Inc. v. Selecky*, 586
23 F.3d 1109, 1139 (9th Cir. 2009)). “[I]n addition to [evaluating] the potential hardships facing
24 Plaintiff[] in the absence of the injunction, the court may consider ... the indirect hardship to their
25 friends and family members.’ ” *Id.* (quoting *Golden Gate Rest. Ass’n v. City & Cty. of San*

1 *Francisco*, 512 F.3d 1112, 1126 (9th Cir. 2008). Finally, the Ninth Circuit has recognized that
2 “neither equity nor the public's interest is furthered by allowing violations of federal law to
3 continue.” *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022) (holding that the district court did
4 not abuse its discretion in weighing the balance of hardships in favor of plaintiffs who credibly
5 alleged that the government was violating the INA). The government argues that there is a
6 significant interest in exercising its enforcement authority. However, as shown *supra*, the
7 government's interest in detention “without a bond hearing” is outweighed by H.J.G.G.’s liberty
8 interest. *Abdul-Samed v. Warden*, 2025 WL 2099343, at *8 (E.D. Cal. July 25, 2025). The
9 hardships faced by H.J.G.G., his community, and the public interest in granting injunctive relief
10 weigh strongly in his favor. Here, the balance of equities “tips sharply towards” H.J.G.G.

11 **D. The appropriate remedy here is immediate release**

12
13 The government rests on the argument that Section 1225(b)(2) “mandate[s] detention of
14 applicants for admission until certain proceedings have concluded,” which is purely a legal
15 question. *Id.* Because the government has no evidence not does the government claim that
16 H.J.G.G. poses a risk of flight or poses a danger to the community, the appropriate remedy here
17 is H.J.G.G.’s immediate release. *Ortiz Donis v. Chestnut*, No. 1:25-CV-01228 JLT SAB, 2025
18 WL 2879514, at *15 (E.D. Cal. Oct. 9, 2025) (“Because the government has no evidence that Mr.
19 Ortiz poses a risk of flight or poses a danger to the community, Mr. Ortiz SHALL be released
20 IMMEDIATELY from DHS custody. DHS SHALL NOT impose any additional restrictions on
21 him, such as electronic monitoring, unless that is determined to be necessary at a later custody
22 hearing.”); *See also J.C.L.A. v. WOFFORD et al*, No. 1:25-CV-01310-KES-EPG (HC), 2025 WL
23 2959250, at *8 (E.D. Cal. Oct. 17, 2025) (Petitioner's immediate release is required to return him
24 to the *status quo ante* - “the last uncontested status which preceded the pending controversy”
25

1 citing to *Pinchi*, 2025 WL 1853763, at *3). H.J.G.G. also requests that no security be required in
2 connection with his release. *See Zest Anchors, LLC v. Geryon Ventures, LLC*, 2022 WL
3 16838806, at *4 (S.D. Cal. Nov. 9, 2022) (“[T]he party affected by the injunction bears the
4 obligation of presenting evidence that a bond is needed.”).

5 **E. Should the Court Order a Bond Hearing, the Burden is on the Government**

6 When there is a substantial liberty interest at stake, the government should have the burden
7 of proof by clear and convincing evidence that an individual is a flight risk or danger before
8 depriving the individual of that liberty. The Ninth Circuit has also held that an individual's private
9 interest in “freedom from prolonged detention” is “unquestionably substantial.” *See Diep v.*
10 *Wofford*, No. 1:24-CV-01238-SKO (HC), 2025 WL 604744, at *4 (E.D. Cal. Feb. 25, 2025),
11 quoting *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011). H.J.G.G. has established a
12 substantial liberty interest at stake. In addition, because there is a high risk of erroneous
13 deprivation, and the government's interest is low, “the Due Process Clause requires a pre-
14 deprivation bond hearing where the government bears the burden of proving by clear and
15 convincing evidence that the petitioner is a flight risk or danger to the community.”
16 *See Singh v. Andrews*, at *9. Numerous district courts have reached a similar conclusion. *Id.*,
17 citing to *Pinchi*, 2025 WL 1853763, at *3–4; *Ortega*, 415 F. Supp. 3d at 970; *Doe*, 2025 WL
18 691664, at *6; *Diaz v. Kaiser*, No. 3:25-cv-05071, 2025 WL 1676854, at *2 (N.D. Cal. June 14,
19 2025); *Garcia*, 2025 WL 1676855, at *3; *Romero v. Kaiser* at *4 (N.D. Cal. May 6, 2022); *Vargas*
20 *v. Jennings* at *4.
21

22 **CONCLUSION**

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

4 Dated: December 28, 2025

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6 Respectfully submitted,

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8 /s/ Natalia Santanna
9 Natalia Vieira Santanna
Attorney for Petitioner

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