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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Hany Kamal Abdelalim-Elmetaher,

Petitioner,

Case No.

v.

SA25CA1608 XR

ROSE THOMPSON, Warden, Karnes County
Immigration Processing Center; **MIGUEL
VERGARA**, Field Office Director of Enforcement and
Removal Operations, San Antonio Field Office,
Immigration and Customs Enforcement; **TODD M.
LYONS**, Acting Director of Immigration and Customs
Enforcement; **KRISTI NOEM**, Secretary, U.S.
Department of Homeland Security; **UNITED STATES
DEPARTMENT OF HOMELAND SECURITY;
PAMELA BONDI**, U.S. Attorney General;
**EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW**; *in their official capacities,*

Respondents.

MOTION FOR PRELIMINARY INJUNCTION ORDERING
RELEASE PENDING FINAL JUDGMENT

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I. INTRODUCTION

This case arises amidst an onslaught of litigation resulting from Respondents' recent attempt to advance an interpretation of the Immigration and Nationality Act ("INA") that would require the government to detain without bond any noncitizen who ever entered without inspection. *See Roa v. Albarran*, No. 25-CV-07802-RS, 2025 WL 2732923, at *1 (N.D. Cal. Sept. 25, 2025).

Petitioner Hany Kamal Abdelalim-Elmetaher entered the United States without inspection in 2022, fleeing his native Egypt [REDACTED]

[REDACTED] Pet. For Writ of Habeas Corpus and Compl., Dkt. 1, ¶¶ 42, 45 ("Pet." Or "Verified Pet."). In December 2022, he timely applied for asylum. *Id.* ¶ 45. He received parole to leave detention in December 2022, and since then, he has attended all required appointments with Immigration Customs and Enforcement ("ICE"), attended all Immigration Court hearings, maintained a clean record, and renewed his employment authorization. *Id.* ¶¶ 45, 46. In November 2025, he attended his scheduled ICE check-in in San Antonio, as he has diligently done with every check-in since his release from detention. *Id.* While Mr. Abdelalim-Elmetaher was at his ICE check-in, ICE agents detained him. *Id.* The government has since denied Mr. Abdelalim-Elmetaher a bond hearing under a novel interpretation of section 1225(b)(2)(A) of the INA that has been squarely rejected by federal courts across the United States, including in the Fifth Circuit. *See id.*, Ex. 3 at 3.

Mr. Abdelalim-Elmetaher is likely to succeed on the merits of his statutory and constitutional claims and will suffer irreparable harm for every moment that he is deprived of liberty without sufficient procedure or justification. Therefore, Mr. Abdelalim-Elmetaher respectfully requests that this Court exercise its inherent equitable authority to order Respondents

Immigration Processing Center. *Id.* ¶ 48. Mr. Abdelalim-Elmetaher has remained detained at Karnes Immigration Processing Center without an opportunity to seek release on bond before the Immigration Court. *Id.* ¶ 48.

III. NATURE AND STAGE OF PROCEEDINGS

Mr. Abdelalim-Elmetaher filed his Petition for Writ of Habeas Corpus and Complaint, Dkt. 1 (the Petition), on November 20, 2025.

IV. STANDARD OF REVIEW

“The Framers viewed freedom from unlawful restraint as a fundamental precept of liberty, and they understood the writ of habeas corpus as a vital instrument to secure that freedom.” *Boumediene v. Bush*, 553 U.S. 723, 739 (2008). “[C]ommon-law habeas corpus was, above all, an adaptable remedy. Its precise application and scope changed depending upon the circumstances.” *Id.* at 779. Thus, as codified in 28 U.S.C. § 2241, habeas corpus has “never been a static, narrow, formalistic remedy.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963). Rather, its “scope has grown to achieve its grand purpose[:] the protection of individuals against erosion of their right to be free from wrongful restraint[.]” *Id.*

This court has the inherent authority to release Mr. Abdelalim-Elmetaher during the adjudication of his habeas petition. *Calley v. Callaway*, 496 F.2d 701, 702 (5th Cir. 1974); *see also Mapp v. Reno*, 241 F.3d 221, 230 (2d. Cir. 2001). This expansive authority ensures that the writ remains an effective remedy. *See Mapp*, 241 F.3d at 230; *Jones*, 371 U.S. at 243 (stating that habeas relief must adjust to effectively serve “its grand purpose”). District courts within the Fifth Circuit have recognized that such expansive authority includes the authority to release noncitizens from immigration detention pending the disposition of habeas petitions challenging

immigration confinement. *See, e.g., Singh v. Gillis*, No. 5:20-CV-96, 2020 WL 4745745, at *2 (S.D. Miss. June 4, 2020) (collecting cases).

Similarly, under Federal Rule of Civil Procedure 65, this Court can issue a preliminary injunction (“PI”). To enter a PI, the Court must that find four factors, on balance, weigh in Petitioner’s favor:

- (1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction is not issued, (3) that the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted, and (4) that the grant of an injunction will not disserve the public interest.

Speaks v. Kruse, 445 F.3d 396, 399–400 (5th Cir. 2006) (quoting *Concerned Women for Am. Inc. v. Lafayette Cnty.*, 883 F.2d 32, 34 (5th Cir. 1989)). In cases against the government, the third and fourth factors merge. *Texas v. United States*, 809 F.3d 134, 187 (5th Cir. 2015) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)).

Thus, this Court has significant power to issue an interim remedy. First, the Court may issue preliminary injunctive relief ordering Respondents to immediately release Mr. Abdelalim-Elmetaher pending final judgment. *Basank v. Decker*, 613 F. Supp. 3d 776, 795 (S.D.N.Y. 2020). In the alternative, the Court may issue a preliminary injunction ordering Respondents to release Mr. Abdelalim-Elmetaher on bond. *Suri v. Trump*, No. 1:25-CV-480 (PTG/WBP), 2025 WL 1392143 (E.D. Va. May 14, 2025) (ordering release on bond). Finally, the Court may order Respondents to grant Mr. Abdelalim-Elmetaher a bond hearing pending final disposition of this case. *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *4 (W.D. La. Aug. 27, 2025) (ordering a bond hearing within seven days).

V. ARGUMENT

Mr. Abdelalim-Elmetaher satisfies the standard for a preliminary injunction ordering his release pending the Court's resolution of this case, or in the alternative, ordering that Respondents grant him a bond hearing. First, he is likely to succeed on the merits of his statutory and constitutional claims. Second, he is likely to face irreparable harm if the injunction is not granted. Finally, granting the injunction is in the public interest.

A. Mr. Abdelalim-Elmetaher Raises Substantial Statutory and Constitutional Claims That Are Likely to Succeed on the Merits.

1. The government's novel reading of 8 U.S.C. § 1225(b)(2)(A) flies in the face of the plain meaning of the INA.

Mr. Abdelalim-Elmetaher is likely to succeed on Claim One, which alleges that his ongoing detention under section 1225(b)(2)(A) violates the INA. The IJ rejected Mr. Abdelalim-Elmetaher's request for a bond hearing based on a recently issued precedential BIA decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Verified Pet., Ex. 3 at 3. There, the Board advanced the novel interpretation that the mandatory detention clause of section 1225(b)(2)(A) of the INA applies to all noncitizens who have entered without inspection because they are "applicants for admission." *Yajure Hurtado*, 29 I&N Dec. at 216. The decision flies in the face of the plain reading of the INA, goes against over twenty years of agency interpretation and practice, and has been universally rejected by the dozens of federal courts to address the issue. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Rivera Zumba v. Bondi*, No. 25-CV-14626 (KSH), 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Pizarro Reyes v.*

Raycraft, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Campos Leon v. Forestal*, No. 1:25-CV-01774-SEB-MJD, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025); *Barrajas v. Noem*, No. 4:25-CV-00322-SHL-HCA, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Salazar v. Dedos*, No. 1:25-CV-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Lopez v. Hardin*, No. 2:25-CV-830-KCD-NPM, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025).

Yajure Hurtado is plainly incorrect because, as a person who is already present in the United States, Mr. Abdelalim-Elmetaher is properly detained under section 1226(a) and is thus eligible for a bond hearing. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d); *see also Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018). The structure of the INA demonstrates that this reading is correct. Courts have long recognized that section 1225(b) “applies primarily to aliens seeking entry into the United States,” while section 1226 “applies to aliens already present in the United States.” *Jennings*, 583 U.S. at 303; *see also Lopez Santos*, 2025 WL 2642278, at *4 (explaining that both statutes are necessary because they “differentiate between the detention of arriving aliens who are seeking entry into the United States under § 1225 and the detention of those who are already present in the United States under § 1226.”). Indeed, the idea “that a different detention scheme would apply to non-citizens ‘already in the country,’ as compared to those ‘seeking admission into the country,’ is consonant with the core logic of our immigration system.” *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (citing *Jennings*, 583 U.S. at 289). The text of section 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection, undercutting Respondents’ argument that

section 1225(b)(2)(A) governs the detention of people who are inadmissible because they entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E) states that people who are “inadmissible under paragraph (6)(A) . . . section 1182(a)”—*i.e.*, noncitizens who have previously entered without inspection—and are charged with, arrested for, or convicted of certain crimes must be detained. *Id.* The explicit reference to such people in this specific exception makes clear that, by default, such people are afforded a bond hearing under section 1226(a). “When Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez*, 779 F. Supp. 3d at 1256–57 (quoting *Shady Grove Orthopedic Assocs. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). Therefore, noncitizens like Mr. Coulibaly, who are present in the United States and charged as inadmissible because they entered without inspection, are subject to detention under section 1226.

Meanwhile, section 1225(b) applies to people arriving at ports of entry or those who very recently entered the United States. The section’s title refers to “[i]nspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.” 8 U.S.C. § 1225. As several courts have noted, “[t]he added word of ‘arriving’ indicates that the statute governs ‘arriving’ noncitizens, not those present already.” *Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025) (citing *Pizarro Reyes*, 2025 WL 2609425 at *5).

The use of the present participle in section 1225 further demonstrates that its applicability does not extend to people already present in the United States. *See United States v. Wilson*, 503 U.S. 329, 333 (1992) (“Congress’ use of verb tense is significant in construing statutes.”). The present participle “denotes an ongoing process” that “necessarily implies some sort of present tense action.” *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025) (citations and internal quotations omitted) (concluding that noncitizen

was not subject to detention under section 1225(b)(2)(A) because they were not seeking admission).

Section 1225(b)(2)(A) applies to noncitizens “seeking admission.” The use of present participle in the phrase “seeking admission” implies a “present-tense action” and does not apply to a person who has been living in the country for a decade. *Martinez v. Hyde*, 2025 WL 2084238, at *6; *Lopez Benitez*, 2025 WL 2371588, at *7 (“someone who enters a movie theater without purchasing a ticket and then proceeds to sit through the first few minutes of a film would not ordinarily then be described as ‘seeking admission’ to the theater.”). The regulations enacting section 1225(b)(2) similarly use the present participle to refer to “arriving aliens.” 8 C.F.R. 235.2(c). These regulations define “arriving alien” as “an applicant for admission coming or attempting to come into the United States at a port-of-entry.” 8 C.F.R. § 1.2. A person who has been living in the United States for a decade is plainly not “coming or attempting to come into the United States.”

The text structure of the INA, longstanding agency practice, and dozens of recent federal court decisions all affirm that Mr. Abdelalim-Elmetaher is likely to succeed on the merits of his claim that his detention is contrary to the INA.

2. Mr. Abdelalim-Elmetaher is likely to succeed on his claim that his detention violates agency regulations.

Mr. Abdelalim-Elmetaher is also likely to succeed on Claim Two, which alleges that his ongoing detention violates agency regulations. An administrative agency is required to adhere to its regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Shortly after Congress enacted sections 1225 and 1226 of the INA via the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the Executive Office of Immigration Review (EOIR) and then-Immigration and Naturalization Service enacted regulations that require the

government to grant bond hearings to people detained under section 1226(a) at the outset of their detention. 8 C.F.R. § 1236.1(d)(1); *see Jennings*, 583 U.S. at 306. The interim rule explained that “[d]espite being applicants for admission, *aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination.*” Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (emphasis added).

Despite this clear statement, Respondents now have a policy and practice, pursuant to *Matter of Yajure Hurtado*, of applying the mandatory detention provision of section 1225(b)(2)(A) to individuals such as Mr. Abdelalim-Elmetaher who are present after having been paroled. As Mr. Abdelalim-Elmetaher is properly detained under section 1226(a), *see* Section V(A)(1) *supra*, Respondents are violating longstanding regulations by refusing to grant him a bond hearing.

Accordingly, Mr. Abdelalim-Elmetaher is likely to succeed on his claim that his ongoing detention violates agency regulations.

3. Mr. Abdelalim-Elmetaher is likely to succeed on the merits of his substantive due process claim under the Fifth Amendment.

Mr. Abdelalim-Elmetaher is similarly likely to succeed on the merits of his substantive due process claim under the Fifth Amendment.

Substantive due process rights under the Fifth Amendment protect a substantive liberty interest in “[f]reedom from imprisonment.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). That freedom “lies at the heart of the liberty that [the Due Process] Clause protects.” *Id.* Indeed, because “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *U.S. v. Salerno*, 481 U.S. 739, 755 (1987)).

Immigration detention is civil and must “bear[] a reasonable relation to the purpose for which the individual [is] [detained],” so that it remains “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (cleaned up); *see also Schall v. Martin*, 467 U.S. 253, 264 (1984) (requiring detention to be a proportional—not excessive—response to a legitimate state objective).

Where immigration detention is not mandated by statute, its only legitimate purposes are mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *see also Addington v. Texas*, 441 U.S. 418, 426 (1979) (“The [government] has no interest in confining individuals involuntarily if they . . . do not pose some danger.”).

Mr. Abdelalim-Elmetaher’s detention serves neither purpose as he is neither a flight risk nor danger to the community. Mr. Abdelalim-Elmetaher has lived in Austin for the past three years and has deep community ties and ongoing stable employment that preclude any risk of flight. He has worked as a chef and security guard in Austin, developed a strong community of friends, and complied with all the conditions of the parole ICE granted him in December 2022. He has attended all court hearings and ICE check-ins, and has never missed an appointment with the government. He has no criminal arrests or conviction history and has diligently renewed his employment authorization.

Mr. Abdelalim-Elmetaher is likely to succeed on his Fifth Amendment substantive due process claim because he has a cognizable liberty interest that is being restricted without justification.

4. Mr. Abdelalim-Elmetaher is likely to succeed on the merits of his Fifth Amendment procedural due process claim.

Mr. Abdelalim-Elmetaher is also likely to succeed on his constitutional claim that meritless detention violates his procedural due process rights under the Fifth Amendment.

Even “[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner.” *Salerno*, 481 U.S. at 746. The sufficiency of any process afforded is determined by weighing three factors: (i) the private interest that will be affected by the official action, (ii) the risk of erroneous deprivation of that interest through the available procedures, and (iii) the government’s interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedures would entail. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Each factor weighs heavily in favor of Mr. Coulibaly’s immediate release.

First, Mr. Abdelalim-Elmetaher has a strong interest in freedom from arbitrary civil imprisonment. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (noting that “[t]he interest in being free from physical detention” is “the most elemental of liberty interests.”). “[C]ivil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protections.” *Addington*, 441 U.S. at 425; *see also Zadvydas*, 533 U.S. at 690 (freedom “from government...detention...lies at the heart of the liberty [the Due Process] Clause protects.”). This is especially so when, as articulated above, Mr. Abdelalim-Elmetaher’s ongoing detention has no basis in law. At least one Court in this District has already found that individuals in Mr. Abdelalim-Elmetaher’s position are entitled to a bond hearing and that an individual’s entitlement to due process under the Fifth Amendment is not capped by the statute governing his detention. *See Vieira v. Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880 at *4 (W.D. Tex. Oct. 16, 2025) (rejecting the argument that an immigration detainee “is not entitled to more process than what Congress provided him by statute, regardless of whether the applicable statute is § 1225(b) or § 1226(a),” when that detainee is challenging their detention rather than removal, and was detained after living in the U.S. for years rather than on arrival).

Second, the risk of erroneous deprivation under existing procedures is extreme. Respondents have offered no evidence that Mr. Abdelalim-Elmetaher's current detention is justified to prevent flight or mitigate the risks of danger to the community. *See Zadvydas*, 533 U.S. at 690. Mr. Abdelalim-Elmetaher has strong community and economic ties to Austin and has demonstrated since his arrival in 2022 that he is a law-abiding member of his community. Accordingly, in the absence of any evidence to justify Petitioner's detention, there is a grave risk of erroneous deprivation of Petitioner's liberty. That is especially true where, as here, there has been no individualized explanation for Mr. Abdelalim-Elmetaher's continued detention. *See Santiago*, 2025 WL 2792588, at *12. But "absent some change in [Petitioner's] personal circumstances, the decision to incarcerate [them] after many years at liberty gives rise to an elevated concern that [they have] been detained without a valid reason." *Santiago*, 2025 WL 2792588, at *12 (citing *Valdez v. Joyce*, No. 25-cv-4627, 2025 WL 1707737, at *3–4 (S.D.N.Y. June 18, 2025)).

Finally, Respondents' interests in continuing to detain Mr. Abdelalim-Elmetaher are minimal at best. Providing him with a hearing to evaluate whether the circumstances of his detention were warranted would not impair any legitimate interests that Respondents may have. *See, e.g., Lopez v. Sessions*, 2018 WL 2932726 (S.D.N.Y. June 12, 2018). Providing such process merely comports with the requirements of the INA and the constitutional protections guaranteed by the Fifth Amendment. Nor do the limited administrative burdens placed on Respondents weigh against a pre-deprivation hearing; respondents have routinely performed the type of custody hearing sought here. *Lopez-Arevalo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *12 (W.D. Tex. Sept. 22, 2025) (finding that "the incremental cost" of performing such hearings must

be minimal given that “the Government conducted them for decades until its reinterpretation of the law earlier this year.”).

By denying Mr. Abdelalim-Elmetaher even an opportunity to advocate for his eligibility for bond at a hearing, the government is stripping him of his liberty without sufficient procedures to satisfy the protections of the Fifth Amendment. Therefore, Mr. Abdelalim-Elmetaher, like other petitioners across the nation, is likely to succeed on the merits of his procedural due process claim.

B. Absent This Court’s Intervention, Mr. Coulibaly Will Continue to Suffer Irreparable Harm

Mr. Abdelalim-Elmetaher faces an immediate and ongoing threat of irreparable injury in the absence of preliminary injunctive relief. In the Fifth Circuit, irreparable injury is defined as “harm for which there is no adequate remedy at law.” *Kostak*, 2025 WL 2472136, at *3 (citing *Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013)). Deprivation of a constitutional right “for even minimal periods of time” is an immediate and irreparable harm as soon as it occurs. *See Kostak*, 2025 WL 2472136, at *3 n.43 (quoting *Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012)).

Courts considering cases that present the same statutory question as Mr. Abdelalim-Elmetaher’s have found that when a petitioner is denied “a hearing that would likely result in his release,” it is sufficient to establish irreparable harm based on deprivation of liberty. *Rodriguez*, 779 F. Supp. 3d at 1261–62); *see also Kostak*, 2025 WL 2472136 at *3–4 (agreeing that petitioner erroneously detained under section 1225(b)(2)(A) faces threat of irreparable harm and ordering bond hearing). “In the immigration context, unlawful detention is a sufficient irreparable injury.” *Arias Gudino v. Lowe*, No. 1:25-CV-00571, 2025 WL 1162488, at *13 (M.D. Pa. Apr. 21, 2025). This is because of the “evidence of subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the

collateral harms to children of detainees whose parents are detained.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

People detained under section 1226(a)—like Mr. Coulibaly—are eligible for bond hearings before an IJ. Because the only legitimate purposes for non-mandatory immigration detention are mitigating flight risk and preventing danger to the community, *see Zadvydas*, 533 U.S. at 690, Mr. Abdelalim-Elmetaher’s deep community ties in Austin and clean record make him an excellent candidate for release. Therefore, Mr. Abdelalim-Elmetaher is immediately, continuously, and irreparably harmed by his unlawful and unconstitutional detention and by the denial of a hearing that would result in his release.

C. The Balance of the Equities and Public Interest Weigh in Mr. Abdelalim-Elmetaher’s Favor.

Both the balance of the equities and the public interest weigh in favor of Mr. Abdelalim-Elmetaher’s case. The hardships and public interest “factors merge when the Government is the opposing party.” *Nken*, 556 U.S. at 435. The government “cannot suffer harm from an injunction that merely ends an unlawful practice or reads a statute as required to avoid constitutional concerns.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). Indeed, the public interest weighs in favor of protecting constitutional rights and limiting government overreach. *See Valley v. Rapides Par. Sch. Bd.*, 118 F.3d 1047, 1056 (5th Cir. 1997) (“public interest is enhanced” when procedure comports with basic constitutional due process protections). Additionally, it is in the public interest to “require the Government to ensure compliance with its own laws.” *Kostak*, 2025 WL 2472136, at *4.

Here, the threatened ongoing deprivation of Mr. Abdelalim-Elmetaher’s constitutional rights “far outweighs the burden to Respondents of conducting a bond hearing.” *Id.* Moreover,

such hearings are routine and the cost to hold them is minimal. *Lopez-Arevelo*, 2025 WL 2691828, at *12.

The government may argue that, despite the minimal burden of a hearing, a preliminary injunction will harm its interest in enforcing immigration laws. While the government does possess such an interest, it hardly weighs in favor of the government's position here. "Granting preliminary injunctive relief will simply require Respondents to comply with their legal obligations and afford Petitioners procedural protections in connection with Respondents' exercise of discretion." *Abdi v. Duke*, 280 F. Supp. 3d 373, 410 (W.D.N.Y. 2017), *order vacated in part*, *Abdi v. McAleenan*, 405 F. Supp. 3d 467 (W.D.N.Y. 2019). Nor is the government losing its ability to enforce immigration laws. Respondents can release Mr. Abdelalim-Elmetaher and he would still be subject to his ongoing immigration proceedings and the federal government's enforcement of immigration law. Indeed, Mr. Abdelalim-Elmetaher wants to participate in his immigration proceedings to pursue the relief that would allow him to permanently remain in Austin with his community.

Moreover, "unnecessary detention imposes substantial societal costs." *Hernandez-Lara v. Lyons*, 10 F.4th 19, 33 (1st Cir. 2021). The needless detention of individuals not only causes those individuals to suffer but "removes from the community breadwinners, caregivers, parents, siblings and employees." *Id.* (citing *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020)). "Those ruptures in the fabric of communal life impact society in intangible ways that are difficult to calculate in dollars and cents." *Id.* And while those costs are hard to quantify, twenty states made clear in *Hernandez-Lara* that "States' revenues drop because of reduced economic contributions and tax payments by detained immigrants, and their expenses rise because of increased social welfare payments in response to the harms caused by unnecessary detention." *Id.*

(quotation omitted). Mr. Abdelalim-Elmetaher's case presents exactly these concerns: his detention has removed a dedicated worker from the community. Verified Pet., ¶ 46. The public interest thus weighs against Mr. Abdelalim-Elmetaher's ongoing detention.

VI. CONCLUSION

For the foregoing reasons the Court should grant this motion and order Respondents to immediately release Petitioner pending resolution of his habeas petition on the merits, or, in the alternative, provide constitutionally adequate procedural protections, including a bond hearing.

If this Court determines that a hearing is necessary prior to granting preliminary relief, Petitioner respectfully requests an expedited hearing to address the immediate and ongoing nature of the harm.

Dated: November 20, 2025

Respectfully submitted,

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** Application for admission pro hac vice pending*

CERTIFICATE OF SERVICE

I certify that on November 20, 2025, I served this document via certified mail to the Respondents.

/s/ Meredith Hoffman

Meredith Hoffman