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DETAINED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ARMAN NERSISYAN, an individual

Petitioner,

v.

TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement, MARCOS CHARLES, Acting Executive Associate Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General; and DOE 1, Warden of California City Corrections Center

Respondents.

Case no.: 1:25-CV-0178

MOTION FOR EMERGENT PRELIMINARY RELIEF AND A TEMPORARY RESTRAINING ORDER

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT

Petitioner makes this emergency ex parte application to this honorable Court to: (1) seek an Order of immediate release of petitioner to prevent continued irreparable harm; (2) ordering petitioner's immediate release within 24 hours from the date of the order, as well as a return of petitioner's property and providing for reasonable access to a telephone to arrange pick up; (3) enjoining respondents from re-arresting petitioner without proper due process; (4) enjoining respondents from transferring petitioner out of this jurisdiction; and (5) enjoining respondents from adding additional conditions to release that are not part and parcel of this court's orders.

These motions are made on an emergent basis because of the irreparable harm that will continue if time is allotted for a response from respondents, who have previously indicated they have no authority to stipulate to release and have made their objections already known. Such is incorporated into the affirmation of counsel that follows the request for relief.

Petitioner is suffering irreparable harm each and every day and the "immediate release" requested herein was recommended by the Report and Recommendation of Judge Boone. Waiting 14 days for the appeal time, plus ordinary "release processing time" (which in the relevant detention facility has been known to be obstructionist and unnecessarily prolonged) would be inconsistent with recognized violations of respondents herein, the ongoing irreparable harm, and the relief sought has been routinely granted by this court under indistinguishable circumstances.

If the Court deems oral argument necessary, Petitioner respectfully requests to appear by video as the undersigned is presently located in the State of New Jersey and travel time will result in further irreparable harm to this petitioner.

Dated: April 17, 2026

Respectfully submitted,
/s/ Stephanie Mc Clure, Esq.

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INTRODUCTION AND NATURE OF EMERGENT MATTER

Judge Boone issued a Report and Recommendation in this matter, relying on established case law and in-district precedent, and recommended "**immediate release**" of this petitioner who was unlawfully detained. Petitioner has been in custody nearly six months, since October of 2025. This matter presents a fact pattern with which this court is very familiar and has consistently ruled in favor of petitioners such as this. Waiting while detained for further adjudication will prolong the irreparable harm being suffered daily by this petitioner and his family.

STATEMENT OF BACKGROUND INDISPUTABLE FACTS

1.Petitioner is a native and citizen of Armenia. After fleeing Armenia and coming to America, he was initially arrested by immigration authorities on September 27, 2016. He was paroled into the country on that same date and provided with the attached parole document. Respondents admit throughout [DE 8] that Petitioner's pre-arrest status was that of one released and paroled. Petitioner was placed in 240 proceedings and released on September 27, 2016. See **Exhibit A**.

2. He has no criminal history whatsoever. He has no arrests, no convictions, and no pending criminal matters to speak of.

3. Petitioner had an approved I-130, filed by his U.S. citizen wife. A Form 485 was filed and a marriage interview was held October 30, 2025. He appeared on that date with his wife as scheduled.

4. Without notice, Petitioner was taken into custody while at his marriage interview.

5. He has been in custody since that day.

6. No change of circumstances occurred in his life between the time of his parole and the time of his marriage interview, other than having an approved I 130 filed by his U.S. citizen spouse, a filed I 485, and properly attending his marriage interview.
7. No notice of parole revocation was given to petitioner prior to his arrest. No pre-detention interview or pre-detention hearing was held in order to assess change of circumstances bearing upon his continued release.
8. A stay of removal is active under Appellate Case number 25-73.

LEGAL STANDARD

The standard for issuing a temporary restraining order is identical to the standard for issuing a preliminary injunction. *See Washington v. Trump*, 847 F.3d 1151, 1159 n.3 (9th Cir. 2017) ("[T]he legal standards applicable to TROs and preliminary injunctions are substantially identical." (internal quotation marks and citation omitted)). An injunction is a matter of equitable discretion and is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 22 (2008). And "a TRO 'should be restricted to . . . preserving the status quo and **preventing irreparable harm** just so long as is necessary to hold a [preliminary injunction] hearing and no longer.'" *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 779 (9th Cir. 2018) (quoting *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No.* 70, 415 U.S. 423, 439 (1974)). A plaintiff seeking preliminary injunctive relief must establish "[1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest." *Winter*, 555 U.S. at 20. "[I]f a plaintiff can only show that there are serious questions going to the merits—a lesser showing than likelihood of success on the merits—then a preliminary injunction may still issue if the balance of hardships tips sharply in the plaintiff's favor, and the

other two *Winter* factors are satisfied." *Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th Cir. 2014) (internal quotation marks and citations omitted). "[W]hen the Government is the opposing party," the final two factors "merge." *Nken v. Holder*, 556 U.S. 418, 435 (2009).

LEGAL ARGUMENT

This case seeks emergent ex parte relief for the same reasons presented and granted by the court in the matter of Garro Pinchi v. Noem, et al, N.D. Cal, 25-cv-05632, and DeSouza v. Chestnut, et al E.D. Cal 26-cv-00359.

The merits of the habeas petition have been reviewed by Judge Boone who in his Report and Recommendation, found for petitioner, and recommended his **immediate release.** In such circumstances there is a significant likelihood of success on the merits. This case is indistinguishable from the many cases out of this district in which immediate release was granted including the matter of J.L.R.P. v. Wofford, 1:25-cv-01464-KES-SKO, an Eastern District of California case decided November 14, 2025 and DeSouza v. Chestnut, supra. in which the identical emergent relief was warranted based upon the same exact type of unlawful arrest without notice in violation of due process and the petitioner's constitutional rights.

In both cases, as here,the court found that:

> (1) Specific regulations, 8 C.F.R. §§ 241.13(i) and 241.4(l), govern how and when ICE may revoke the release of a noncitizen who has been released or paroled. Section 241.13(i) permits revocation of release "if, on account of changed circumstances, [ICE] determines that there is a significant

likelihood that the alien may be removed in the reasonably foreseeable future."3 8 C.F.R. § 241.13(i)(2). As the *Nguyen, supra.* court explained, the regulations at 8 C.F.R. §§ 241.13(i) and 241.4(l) apply to non-citizens in petitioner's situation and outline the process to be followed. *Id.*; *Escalante*, 2025 WL 2206113, at *3 ("After *Zadvydas*, the immigration regulations were revised to implement administrative review procedures for . . . those who are re-detained upon revocation of their supervised release." (citing 8 C.F.R. § 241.13)). In *Escalante*, which also dealt with a noncitizen who had been ordered removed, released, and then re-detained, the court noted that:

> **Section 241.13(i)(2)[,] [which is] entitled "Revocation for removal[,]" provides that "the Service may revoke an alien's [supervised] release under this section and return the alien to custody if, on account of changed circumstances, *the Service determines* that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2) (emphasis added). Section 241.4(b)(4)[,] which is entitled "*Service determination under 8 C.F.R. 241.13*[,]" states that, after supervised release under section 241.13, "*if the Service subsequently determines*, because of a change of circumstances, that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future [to the country to which the alien was ordered removed or] a third county, the alien shall again be subject to the custody review procedures under this section." 8 C.F.R. § 241.4(b)(4) (emphasis added).**
> *Escalante*, 2025 WL 2206113, at *1–3.

Further:

The regulations at 8 C.F.R. §§ 241.13(i) and 241.4(l) set out the procedures to be followed in revoking release or parole, procedures that protect important due process rights. *See Nguyen v. Hyde*, 788 F. Supp. 3d 144, 152 (D. Mass. 2025) (noting that 8 C.F.R. § 241.13(i) was "promulgated to protect a fundamental right derived from the Constitution"). Those procedures include:

> **Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he [will] be removed in the reasonably foreseeable future, or that he [] has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.**
>
> 8 C.F.R. § 241.13(i)(3); *see also Yang v. Kaiser*, No. 2:25-CV-02205-DAD-AC (HC), 2025 WL 2791778, at *5 (E.D. Cal. Aug. 20, 2025).

Under the Due Process Clause of the Fifth Amendment to the United States Constitution, no person shall be "deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Courts have previously found that individuals released from immigration custody on bond have a protectable liberty interest in remaining out of custody on bond. *See Ortiz Vargas v. Jennings*, No. 20-cv5785, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) ("Just as people on preparole, **parole**, and probation status have a liberty interest, so too does Ortega have a liberty interest in remaining out of custody on bond."); *Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022) ("[T]his Court joins other courts of this district facing facts similar to the present case and finds Petitioner raised serious questions going to the merits of his claim that due process requires a hearing before an IJ prior to re-detention."); *Jorge M. F. v. Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021). Such was the finding and reasoning of this court in **J.L.R.P. v. Wofford, 1:25-cv-01464-KES-SKO.** This court also agreed that a pre-deprivation hearing was required; stating:

Due process "is a flexible concept that varies with the particular situation." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). The procedural protections required in a given situation are evaluated using the *Mathews v. Eldridge* factors:

The requirements for issuing a temporary restraining order without notice set out in Federal Rule of Civil Procedure 65(b)(1) are also met in this case. This motion has set out specific facts showing that immediate and irreparable injury, loss, or damage may result before the adverse party can be heard in opposition. Because Judge Boone's Report and Recommendation establishes the "serious questions going to the merits (in petitioner's favor)" - "the balance of hardships tips sharply" in petitioner's favor. *Weber*, 767 F.3d at 942.

Petitioner is also suffering and is likely to incur immediate and irreparable harm in the absence of the requested preliminary relief, in further satisfaction of the *Winter* factors. ***The Ninth Circuit has recognized "irreparable harms imposed on anyone subject to immigration detention," including "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). Moreover, "[i]t is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" Melendres v. Arpaio, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting Elrod v. Burns, 427 U.S. 347, 373 (1976)).*** Petitioner has a U.S. citizen wife and children who rely on him. He has family and roots in his community established over the last decade. He also has an approved I 130 and unobstructed pathway to adjustment of status. He has no admissibility issue or criminal matters. He has a properly filed I 485 and in fact was at his marriage interview (one of the last steps) prior to being granted permanent residency. His removal was ordered stayed by a Court of Appeals. His detention cannot be said to be lawful by any means. It was effected without due process, in

violation of the Fifth Amenment, and applicable regulations, and cannot be said to be in furtherance of removal because his removal is stayed. His continued incarceration is enough under Supreme Court precedent noted above to establish irreparable harm.

Finally, the balance of the equities and the public interest, which merge in light of the fact that the government is the opposing party, tip sharply in Petitioner-Plaintiff's favor. "[T]he public has a strong interest in upholding procedural protections against unlawful detention, and the Ninth Circuit has recognized that the costs to the public of immigration detention are staggering." *Jorge M. F.*, 2021 WL 783561, at *3 (quoting *Ortiz Vargas*, 2020 WL 5074312, at *4, and then quoting *Hernandez*, 872 F.3d at 996); **Moreover, a party "cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations."** ***Zepeda v. U.S. Immigr. & Nat. Serv.*****, 753 F.2d 719, 727 (9th Cir. 1983).**

We request that this court issue the same emergent relief it has offered other petitioners in the same exact circumstance; and do so ex parte as the court did in Garro Pinchi and DeSouza even under circumstances in which a Report and Recommendation from the Magistrate had not yet issued in petitioner's favor as here, making this petition even stronger in favor of immediate release. (See also Garro Pinchi, citing cases in which the Northern District Court granted temporary restraining orders barring the government from detaining noncitizens who have been on longstanding release in their immigration proceedings, without first holding a pre-deprivation hearing before a neutral decisionmaker. *See, e.g.*, *Diaz v. Kaiser*, No. 25-cv-05071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025); *Garcia v. Bondi*, No. 25-cv-05070, 2025 WL 1676855, at *3 (N.D. Cal. June 14, 2025). See also Desouza, supra, at DE 8, citing to Morales-Flores and stating **this court has repeatedly ruled on the issues in this** case, and granting ex parte release from detention. See also J.L.R.P. v. Wofford, 1:25-cv-01464-KES-SKO, also granting the

requested relief in the present circumstances.)

LEGAL ARGUMENTS

THE RE-DENTION OF THIS PETITIONER WAS UNLAWFUL BECAUSE PETITIONER IS NOT SUBJECT TO MANDATORY DETENTION AND HIS RE-DENTENTION VIOLATED EXISTING REGULATIONS

Respondents re-detained this petitioner, without notice required by 8 C.F.R. 241.13(i)(3), as briefed below, and did so because under the new DHS policy of July 2025, DHS believes petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). (See footnote number 4, page 5, within the Government's Motion at [DE 8] styled as a "motion to dismiss" under Rule 4.)

Until DHS changed its policy in July of 2025, the Government consistently applied § 1226(a), not § 1225(b)(2), to noncitizens present and residing in the United States who were detained by an immigration authorities and subject to removal. See *Morales-Flores v. Lyons, et al*, [1:25-CV-01640 – TLN – EFB] [DE 12] at p. 2. There, as here, petitioner resided in the interior of the United States long after being taken into custody and subsequently released by immigration authorities. Petitioner here is a native and citizen of Armenia. He entered the United States in 2016 and has remained continuously since that time. At the time of his entry, a custody decision was made to parole him into the country. He was provided with an Parole Card stating:

> "You are authorized to stay in the U.S. only until the date written on this form. (No date is written.) To remain past this date, without permission from Department of Homeland Security authorities is a violation of the law." A handwritten note indicates "Paroled into the U.S. per SND DFO D Flores Pending a Sec 240 Hearing before an IJ 212(d)(5)."

Over the ten years that transpired since that parole and release into the United States, he has made a life here. He has a U.S. citizen wife and children. He has an approved I 130. (Emphasis added). He has a properly filed I 485 and was in attendance at his USCIS marriage interview lawfully in pursuit of residency status. He has no criminal history whatsoever. He has no arrests,

1 no convictions, and no pending criminal matters to speak of. He was nevertheless arrested without
2 notice at this marriage interview.

3 Respondents claim, as they have many times before this court unsuccessfully, that under
4 their new policy, mandatory detention applies and that he has no protected liberty interest.

5 As stated clearly in *Morales-Flores*, supra.:

6 **"(S)ubstantial ink has been spilled on this issue. Courts nationwide,**
7 **including this one, have overwhelmingly rejected Respondents' arguments and found DHS's new policy unlawful. See e.g., Hortua v.**
8 **Chestnut, et al., No. 1:25-cv-01670-TLN-JDP, 2025 WL 3525916 (E.D. Cal. Dec. 9, 2025); Barco Mercado v. Francis, No. 25-CV-6582 (LAK),**
9 **2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) (estimating over 350**
10 **cases ruled DHS's July policy improper across 160 different judges sitting in about 50 different courts nationwide); Mirley Adriana Bautista Pico, et**
11 **al. v. Kristi Noem, et al., No. 25-CV-08002-JST, 2025 WL 3295382, at *2 (N.D. Cal. Nov. 26, 2025) (collecting cases); Armando Modesto Estrada-**
12 **Samayoa v. Orestes Cruz, et al., No. 1:25-CV-01565-EFB (HC), 2025 WL**
13 **3268280, at *4 (E.D. Cal. Nov. 24, 2025) (collecting cases). "These courts examined the text, structure, agency application, and legislative history of**
14 **1225(b)(2) and concluded that it applies only to noncitizens 'seeking admission,' a category that does not include noncitizens like [Petitioner],**
15 **living in the interior of the country." Salcedo Aceros v. Kaiser, No. 25-**
16 **CV-06924-EMC (EMC), 2025 WL 2637503, at *8 (N.D. Cal. Sept. 12, 2025) (collecting cases). In comparison, "[t]he government's proposed**
17 **reading of the statute (1) disregards the plain meaning of section 1225(b)(2)(A); (2) disregards the relationship between sections 1225 and**
18 **1226; (3) would render a recent amendment to section 1226(c)**
19 **superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice." Lepe v. Andrews, No. 1:25-CV-01163-KES-**
20 **SKO (HC), 2025 WL 2716910, at *4 (E.D. Cal. Sept. 23, 2025) (collecting cases).**
21

22 The new DHS policy has been deemed unlawful and petitioner is not subject to mandatory
23 detention.

24 In Morales-Flores, this court in materially indistinguishable circumstances, agreed *"with*
25 *the chorus of well-reasoned and compelling decisions and finds no reason to reconsider its prior*
26 *rulings. Particularly as the Maldonado Bautista court has already declared a statutory violation*
27 *on behalf of Petitioner as a class member."* *Morales-Flories, Supra.* For that reason, the court
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found petitioner not to be an applicant seeking admission subject to mandatory detention under § 1225(b)(2) and must respectfully do the same in the instant matter.

Furthermore,

POINT TWO

PETITIONER HAS A PROTECTED LIBERTY INTEREST

The Due Process Clause of the Fifth Amendment prohibits government from depriving an individual's life, liberty, or property without due process of law. *Hernandez v. Session*, 872 F.3d 976, 990 (9th Cir. 2017). The Due Process Clause applies to all "persons" within the borders of the United States, regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("[T]he Due Process Clause applies to all 'persons' within the United States, including noncitizens, whether their presence here is lawful, unlawful, temporary, or permanent."). These rights extend to immigration proceedings, including deportation proceedings. Id. at 693–94; *Demore v. Kim*, 538 U.S. 510, 523 (2003).

One's interest in liberty itself, that is the "freedom from imprisonment—from government custody, detention, or other forms of physical restrain—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. "Even individuals who face significant constraints on their liberty or over whose liberty the government wields significant discretion retain a protected interest in their liberty." *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. July 24, 2025).

This petitioner has a substantial liberty interest based on his parole ten years ago by immigration authorities in 2016, as established in *Morrissey v. Brewer*. (ECF No. 2-2 at 20–21 (citing 408 U.S. 471, 481–82 (1972) and relied upon by this court in *Morales-Flores*, supra. A

1 noncitizen release from custody pending immigration proceedings has a protected liberty interest
2 in remaining out of custody. *Salcedo Aceros*, 2025 WL 2637503, at *6, see also Morales-Flores,
3 supra. To determine whether an individual's conditional release rises to the level of a protected
4 liberty interest, this court has cited to *Morrisey* and "compar[ed] the specific conditional release
5 in the case before them with the liberty interest in parole as characterized by Morrissey." *R.D.T.M.*
6 *v. Wofford*, No. 1:25-cv-01141-KES-SKO, 2025 WL 2617255, at *3 (E.D. Cal. Sept 9, 2025).
7 Here, the Court must find, consistent with Morales-Flores, that this Petitioner has developed
8 "enduring attachments of normal life" as described in *Morrissey*, 409 U.S. at 482. Over the last
9 ten years, Petitioner has built a life, a marriage, a family, and a community in California. Petitioner
10 here, as in Morales-Flores was released from immigration authorities which created a reasonable
11 expectation that he would be entitled to retain his liberty, absent a material change in
12 circumstances. Just as in *Morales Flores*, this Petitioner has **not** been arrested or charged with any
13 crimes in violation of that release. Furthermore, Petitioner has an approved I-130, a properly filed
14 I 485, and was attending the last phase of his adjustment of status to lawful permanent resident by
15 attending his marriage interview at the time of his arrest.
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19 Pursuant to this court's prior holdings, the court must find this Petitioner, in a position
20 indistinguishable from that in Morales-Flores. Morales-Flores was living in America post-release
21 for 7 years; this petitioner has lived here peacefully post release for 10 years). The court must
22 therefore hold that Petitioner does in fact have a liberty interest in his release from immigration
23 detention (parole) protected by the Due Process Clause as it has for prior individuals before this
24 court so situated.
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26 The violation of this liberty interest, without a change of circumstance is unlawful and
27 unconstitutional.
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POINT THREE

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DHS POLICY UPDATES DO NOT ABROGATE THE EXISTING CODE OF FEDERAL REGULATIONS, SPECIFICALLY 8 C.F.R. § 241.13(i)(3) AND THE RE-DETENTION OF THIS PETITIONER WITHOUT THE SAFEGUARDS PROVIDED BY THIS STATUTE CONSTITUTE A VIOLATION OF DUE PROCESS

5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21
It is axiomatic to say that DHS policy changes do not override statutory regulation of its powers. The re-detention of individuals is addressed with specificity by 8 C.F.R. § 241.13(i)(3). Under that regulatory framework, if re-detention is sought by DHS, they must provide an individual with: (1) notice of revocation; (2) a pre-detention informal interview; and (3) an opportunity to present evidence. More specifically, the regulations provide that: **"Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he [will] be removed in the reasonably foreseeable future, or that [she] has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.**

22 23
8 C.F.R. § 241.13(i)(3); *see e.g. Yang v. Kaiser*, No. 2:25-CV-02205-DAD-AC (HC), 2025 WL 2791778, at *5 (E.D. Cal. Aug. 20, 2025).

24 25 26 27 28
The DHS policy that attempts to reclassify a certain group of persons is of no moment to the matter at hand, in instances of re-arrest and re-detention, because the regulation is still the law and must be followed. Unless and until this provision of the Code of Federal Regulations is changed, after notice and opportunity for public comment, and full compliance with the

Administrative Procedures Act, ICE is required to abide by the written code that provides for limits to its powers and for the Due Process of individuals subject to its power. That said the application of the "new policy" repeatedly struck down by the courts in effort to justify re-detention of individuals in Petitioner's circumstance is and will continue to be unlawful and a violation of due process. See J.L.R.P. v. Wofford, 1:25-cv-01464-KES-SKO.

ue process, in violation of their own duties under the Code of Federal Regulations briefed herein, and in violation of the Constitution of the United States is meritless. The position has repeatedly been denied by this court and courts around the country and a motion premised upon an arrest and re-detention made under this theory should be denied without need for further inquiry.

CONCLUSION

For these reasons, it is respectfully requested that the court:

1) Find a TRO is warranted and the *Winter* factors established; and
2) Issue an Order directing respondents to IMMEDIATELY RELEASE the petitioner; (returning his property forthwith and giving him reasonable access to a telephone to arrange pick-up transportation.); and
3) Issue an Order enjoining Respondents from transferring petitioner out of this jurisdiction; and
4) Issue an Order enjoining Respondents from re-arresting petitioner unless and until a change in circumstance occurs and petitioner is given at least 7 days notice of intent to revoke parole, and a full pre-detention hearing, where he is represented by counsel, and has an opportunity to be heard and present

evidence of a lack of change in circumstances and lack of flight risk; and

5) Issuing an Order requiring release within 24 hours and without additional conditions not contemplated by Your Honor's Order; and

6) Any other relief this court deems just and proper.

AFFIRMATION OF ATTORNEY

I, Stephanie Mc Clure, am an attorney at law, duly licensed to practice law before this honorable court. I hereby swear and affirm as follows under oath. I represent the petitioner in the within matter. The facts and circumstances of Petitioner's matter as contained herein are an accurate portrayal of the facts and circumstances revealed during my investigation and have been either directly related to me from an appropriate witness or gleaned from actual documentary evidence. I hereby represent that the copies of documents attached to the Petition incorporated herein are true and accurate copies of documents obtained by me during my investigation. I believe the facts as represented to the court to be true and accurate based on my personal observations and/or where based upon documentary evidence or third party information, I indeed believe them to be true. While this petition is made ex parte, I called counsel for respondent's as a courtesy and left a voicemail message and emailed requested a stipulated release. In the past in both this matter and others with this office, I have been told they do not have authority to stipulate to release, which would be consistent with their opposition filed herein.

1 I hereby swear and affirm these statements to be true and am aware that if any
2 statement made is willfully false I am subject to punishment.
3
4 Dated: 4/17/26

Respectfully submitted,
/s/Stephanie Mc Clure, Esq.
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