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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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SAGASTEGUI-RONCEROS LUIGUIE
MARTIN

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Petitioner,

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v.

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FERETI SEMAIA, in official capacity, Facility
Administrator of Adelanto ICE Processing
Center, et al.,

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Respondents.

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CASE NO. **5:25-CV-03324-SVW-BFM**

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PETITIONER'S EX PARTE
MOTION FOR TEMPORARY
RESTRAINING ORDER**

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5 *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719 (C.D. Cal. 1996).....16

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27 *Martinez v. Clark*, 124 F. 4th 775 (9th Cir. 2024).....12

1 *Mathews v. Eldridge*, 424 U.S. 319 (1976).....11

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10 *Rosales-Mireles v. United States*, 585 U.S. 129 (2018).....15

11 *Saravia v. Sessions*, 280 F. Supp. 3D 1168 (N.D. Cal. 2017).....10

12 *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).....12

13 *Stuhlberg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832 (9th Cir. 2001).....9

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17 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7 (2008).....9

18 *Wolff v. McDonnell*, 418 U.S. 539 (1974).....9

19 *Young v. Harper*, 520 U.S. 143 (1997).....10

20 *Zadvydas v. Davis*, 533 U.S. 678 (2001).....7, 9, 10

21 *Zinerman v. Burch*, 494 U.S. 113 (1990).....10

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1 **INTRODUCTION**

2 Petitioner Sagastegui-Ronceros Luigie Martin is a young man and a professional mechanical
3 engineer of the University of Engineering and Technology from Lima, Peru. He has two sisters
4 residing in the United States of America, their names are Melissa Vega Sagastegui (she is an American
5 citizen from San Francisco, CA) and Shirley Sagastegui (she is a permanent resident from Houston,
6 TX). Petitioner entered the United States in 2022 to seek asylum. He was released by immigration
7 officials into the United States to wait for his immigration court date. There, he obtained the assistance
8 of counsel, timely filed an asylum application, and attended his last court hearing with his attorney.
9 Throughout this period, Respondents allowed Petitioner to litigate his case from freedom of the non-
10 detained docket.

11 On October 22, 2025, Respondents abruptly deprived Petitioner of his freedom without holding
12 a hearing or showing any changed circumstance. Between 11 a.m. and 1 p.m. on that date,
13 Respondents unlawfully detained him inside of the ATD's office ("Alternative to Detention Program"
14 by ICE) in the city of Santa Ana, Orange County. He was requested to enroll in the ATD program and
15 the ATD's officer requested him to use the ankle monitor as an alternative for electronic monitoring
16 and Petitioner asked him if there were another options of electronic monitoring instead of the ankle
17 monitor and the officer called ICE officers and they arrested him.

18 Petitioner has never been convicted of any crime and he never missed any immigration court
19 date and any ICE check-ins proving that he is not a danger to the community and he is willing to obey
20 the immigration laws under any circumstances.

21 Petitioner's immigration counsel says that assertion by ICE is incorrect – ICE have different
22 options of electronic monitoring for asylum seekers such government cellphones, mobile app, and
23 others. No evidence has been presented to Petitioner to document the grounds for that detention and no
24 evidence for his arrest. Nor was there any pre-deprivation hearing where he could confront the facts
25 that supposedly justify his detention.

26 The only legitimate interests that civil immigration detention serves are mitigating flight risk
27 and preventing danger to the community. When those interest are absent, the Fifth Amendment's Due
28 Process Clause squarely prohibits detention.

1 As a result of his arrest and detention, Petitioner is suffering irreparable and ongoing harm. The
2 unconstitutional deprivation of “physical liberty” “unquestionably constitutes irreparable injury”.
3 *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017). Indeed, “freedom from imprisonment – from
4 government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that
5 the Due Process Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678 (2001).

6 In light of this irreparable harm, and because he is likely to succeed on the merits of his due
7 process claims, Petitioner respectfully requests that this Court issue a temporary restraining order
8 (“TRO”) immediately releasing from his custody and enjoining the government from re-arresting him
9 absent the opportunity to contest that arrest at a hearing before a neutral decision maker.

10 Confronted with substantially similar facts and legal issues, courts in this circuit have
11 repeatedly granted the preliminary relief Petitioner seeks – including in the ICE check-in context. *See*,
12 *e.g.*, *J.A.E.M. v. Wofford*, No. 1:25-CV-01380-KES-HBK, 2025 U.S. Dist. LEXIS 211728 (E.D. Cal.,
13 Oct. 27, 2025 (arrested at ICE check-in)); *J.C.L.A. v. Wofford*, No. 1:25-CV-01310-KES-EPG, 2025
14 U.S. Dist. LEXIS 205300 (E.D. Cal., Oct. 17, 2025) (same); *J.S.H.M. v. Wofford*, 1:25-CV-01309 JLT
15 SKO, 2025 U.S. Dist. LEXIS 204422 (E.D. Cal., Oct. 16, 2025) (same); *J.O.L.R. v. Wofford*, No. 1:25-
16 CV-01241-KES-SKO, 2025 U.S. Dist. LEXIS 202706 (E.D. Cal., Oct. 14, 2025) (same); *see also*
17 *Garro Pinchi v. Noem*, 2025 WL 1853763, *4 (N.D. Cal. July 4, 2025); *Singh v. Andrews*, 2025 WL
18 1918679, *10 (E.D. Cal. July 11, 2025) (granting preliminary injunction). To maintain this Court’s
19 jurisdiction, the Court should also prohibit the government from transferring Petitioner out of this
20 District and removing him from the country until these proceedings have concluded.

21 BACKGROUND

22 Petitioner is a young man and a professional mechanical engineer of the University of
23 Engineering and Technology from Lima, Peru. He has two sisters residing in the United States of
24 America, their names are Melissa Vega Sagastegui (she is an American citizen from San Francisco,
25 CA) and Shirley Sagastegui (she is a permanent resident from Houston, TX). Petitioner entered the
26 United States in May 2022. He was detained by federal agents in an Immigration Detention Center in
27 Texas, USA and then released to pursue his immigration case.

1 Petitioner applied for asylum, withholding removal, and relief under the Convention Against
2 Torture.

3 There is no legitimate reason for ICE to detain Petitioner. Petitioner suffers serious and
4 ongoing harm every day he remains in detention.

5 **ARGUMENT**

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

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

16 **A. Petitioner’s detention violates due process**

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

25 To comply with substantive due process, the government’s deprivation of an individual’s
26 liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is “civil, not
27 criminal” and “non-punitive in purpose and effect,” must be justified by either (1) dangerousness or

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

11 The Supreme Court has recognized that non-citizens may bring as-applied challenges to
12 detention, including so-called “mandatory” detention. *Demore v. Kim*, 538 U.S. 510, 532-33 (2003)
13 (Kennedy, J., concurring) (“Were there to be an unreasonable delay by the INS in pursuing and
14 completing deportation proceedings, it could become necessary then to inquire whether the detention
15 is not to facilitate deportation proceedings, or to protect against risk of flight or dangerousness, but to
16 incarcerate for other reasons.”); *Nielsen v. Preap*, 586 U.S. 32, 420 (2019) (“Our decision today on the
17 meaning of §1226(c) does not foreclose as-applied challenges – that is, constitutional challenges to
18 applications of the statute as we have now read it.”).

19 In 2022, when Respondents chose to release Petitioner after apprehending him at the border,
20 that decision represented their finding that he was neither dangerous nor a flight risk. See *Saravia v.*
21 *Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*,
22 905 F.3d 1137 (9th Cir. 2018) (“Release reflects a determination by the government that the non-
23 citizen is not a danger to the community or a flight risk.”). At that point, Petitioner gained a protected
24 liberty interest in his ongoing freedom from confinement. See *Zadvydas*, 533 U.S. at 690. The
25 Supreme Court “usually has held that the Constitution requires some kind of a hearing *before* the State
26 deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even
27 in cases where that freedom is lawfully revocable. See *Hurd v. D.C., Gov’t*, 864 F.3d 671, 683 (D.C.
28 Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that re-detention after pre-
29 parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778,

1 782 (1973) (holding the same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)
2 (same, in parole context).

3 According, the Supreme Court has repeatedly held that individuals released from custody on
4 bond, parole, or other forms of conditional release have a protected interest in their ongoing liberty,
5 because “the parole has relied on at least an implicit promise that parole will be revoked only if he
6 fails to live up to the parole conditions.” *Morrissey*, 408 U.S. at 482. “By whatever name, their liberty
7 is valuable and must be seen within the protection of the Due Process Clause”. *Id.* This Liberty interest
8 also applies to non-citizens, including those who have been conditionally released from immigration
9 custody. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

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

17 *First*, the private interest affected in this case is profound. When considering this factor, courts
18 look to “the degree of potential deprivation” *Nozzi v. Hous. Auth. of City of Los Angeles*, 806 F.3d
19 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). The degree of deprivation here is high.
20 Petitioner has been completely deprived of his physical liberty. Petitioner’s detention has ripped from
21 him the “freedom to be with family and friends and to form the enduring attachments of normal life.”
22 *Morrissey*, 408 U.S. at 482. Cutting someone off from the “core values of unqualified liberty” – for
23 Petitioner creates a “grievous loss.” *Id.* Moreover, because Petitioner faces *civil detention*, “his liberty
24 interest is arguably greater than civil detention, therefore, “it stands to reason that Petitioner is entitled
25 to protections at least as great as those afforded to an individual accused but not convicted of a crime.”
26 *See Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004).

27 *Second*, “the risk of an erroneous deprivation of liberty is high” where, as here, “the petitioner
28 has not received any bond or custody redetermination hearing.” *A.E. v. Andrews*, No. 1:25-CV-00107,
29 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*, No. 19-CV-07996-NC,

1 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020)); *see also Diep v. Wofford*, No. 1:24-CV-01238,
2 2025 WL 6047444, at *5 (E.D. Cal. Feb. 25, 2025). ICE arrested Petitioner by surprise mainly because
3 he just requested another option of electronic monitoring instead of the ankle monitor. He had no
4 notice and no opportunity to contest his re-detention before a neutral arbiter. In such circumstances,
5 when Respondents have provided *no* procedural safeguards, “the probable value of additional
6 procedural safeguards, i.e., a bond hearing, is high.” *A.E.*, 2025 WL 1424382, at *5. This is especially
7 true here, where there is no change in Petitioner’s circumstances suggesting that Petitioner now poses
8 a flight risk or danger to the community. This does not constitute a lawful justification to re-detain a
9 person.

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

18 Third, the government’s interest in detaining Petitioner without first providing notice and
19 submitting to a custody hearing is minimal. Immigration courts routinely conduct custody hearings,
20 which impose a “minimal” cost to the government. *See Doe*, 2025 WL 691664, at *6; *A.E.*, 2025 WL
21 1424382., at *5. Petitioner has a strong record of attending his immigration proceedings; there is no
22 reason to believe that between the date of his release and his custody hearing, his compliance will
23 change. Indeed, courts regularly hold that the government’s interest in re-detention without a custody
24 hearing is low when the petitioner “has long complied with this reporting requirements.” *Diaz v.*
25 *Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3-*4 (N.D. Cal. June 14, 2025) (granting TRO
26 prohibiting re-detention of non-citizen without a pre-deprivation bond hearing); *Jorge M.F. v.*
27 *Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *3-*4 (N.D. Cal. Mar. 1, 2021) (same);
28 *Ortega*, 415 F. Supp. 3d at 970 (granting habeas petition ordering the same); *see also Valdez v. Joyce*,
29 No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *4-*5 (S.D.N.Y. June 18, 2025) (granting habeas
30 petition and immediately releasing petitioner who had been detained without process, who has

1 “voluntarily attended his scheduled immigration court proceedings” and “established ties” through his
2 work and volunteering with the church).

3 In similar cases, courts in this Circuit regularly hold that re-detaining non-citizens without a
4 pre-deprivation hearing in which the government bears the burden of proof violates due process, and
5 grant the emergency relief Petitioner seeks here. *See, e.g. Garro Pinchi v. Noem*, __ F. Supp. 3d __,
6 2025 WL 2084921, at *7 (converting TRO requiring release of asylum seeker arrested at his
7 immigration court hearing into preliminary injunction prohibiting the government from re-detaining
8 him without a hearing). This includes cases where petitioners were arrested at ICE check-ins and their
9 supervision programs. *See, e.g., C.A.R.V. v. Wofford*, No. 1:25-CV-01395 JLT SKO2025 U.S. Dist.
10 LEXIS 216277, at *27 (E.D. Cal., Nov. 1, 2025).

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

19 **B. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2)**

20 To the extent that Respondents argue Petitioner is subject to mandatory detention under 8
21 U.S.C. § 1225(b)(2), due process prevents the unilateral reclassification of his detention authority
22 years after he was released at the border. For decades, when immigration authorities arrested and
23 released people on an Order of Recognizance at the border, those people were subject to discretionary
24 detention under 8 U.S.C. § 1226(a). In the last few months, however, Respondents have reversed
25 course and now take the dramatic and implausible new position that these individuals are subject to
26 mandatory detention under 8 U.S.C. § 1226(b). *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220
27 (B.I.A. 2025). District courts in recent months have thoroughly rejected the government’s new
28 position. *See, e.g. Salcedo Aceros v. Kaiser*, No. 3:25-CV-06924-EMC (N.D. Cal. Sept. 21, 2025) at
29 *13-21; *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO, 2025 U.S. Dist. LEXIS 187233, at *n.5

1 (E.D. Cal., Sept. 23, 2025) (finding *Matter of Yajure Hurtado* unpersuasive); *Cuevas Guzman v.*
2 *Andrews*, No. 1:25-CV-01015-KES-SKO at *6-9 (E.D. Cal. Sept. 9, 2025); *Vasquez Garcia et al. v.*
3 *Noem*, 2025 WL 2549431 at *10-13 (S.D. Cal. Sept. 3, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-
4 06248-BLF, 2025 WL 2419263, at *4 (N.D. Cal. Aug. 21, 2025); *Garcia v. Kaiser*, No. 4:25-CV-
5 06916-YGR at *9 (N.D. Cal. Aug. 29, 2025); *Lopez Benitez v. Francis*, No. 25-CV-5937, 2025 WL
6 2371588, at *11-12 (S.D.N.Y. Aug. 13, 2025); *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM,
7 2025 LX 341363, at *15 (E.D. Cal. July 28, 2025); *Martinez v. Hyde*, No. 25-CV-11613, 2025 WL
8 2084238, at *4 (D. Mass. July 24, 2025). Respondents cannot switch tracks mid litigation and
9 suddenly reclassify Petitioner under a different detention authority. *See Salcedo Aceros v. Kaiser*, No.
10 3:25-CV-06924-EMC (N.D. Cal. Sept. 21, 2025).

11 *****

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

17 **II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE INJURY**
18 **ABSENT A TRO**

19 Without a temporary restraining order, Petitioner will suffer immense irreparable injury.
20 Indeed, he faces such injury every day he remains in detention in violation of his Fifth Amendment
21 rights. “It is well established that the deprivation of constitutional rights ‘unquestionably constitutes
22 irreparable injury.’” *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695 F.3d 990, 1002
23 (9th Cir. 2012)). “When an alleged deprivation of a constitutional right is involved, most courts hold
24 that no further showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989,
25 1001-02 (9th Cir. 2005) (internal quotation marks omitted). And the unlawful deprivation of physical
26 liberty is the quintessential irreparable harm. *See Hernandez*, 872 F.3d at 994 (holding that plaintiffs
27 were irreparably harmed “by virtue of the fact that they were likely to be unconstitutionally detained
28 for and indeterminate period of time”); *see also, e.g., Rosales-Mireles v. United States*, 585 U.S. 129,
29 139 (2018) (recognizing that “any amount of actual jail time is significant, and has exceptionally
30 severe consequences for the incarcerated individual” (cleaned up)).

1 **III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST WEIGH**
2 **STRONGLY IN PETITIONER’S FAVOR**

3 When the government is the party opposing the request for emergency relief, the balance of the
4 equities and the public interest merge. *Env’t Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991 (9th Cir.
5 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)). Here, the balance of equities
6 overwhelmingly favors Petitioner, who faces irreparable injury in the form of ongoing constitutional
7 violations and continued additional suffering if the TRO is not granted. *See section II, supra*;
8 *Hernandez*, 872 F.3d at 996 (when “faced with ... preventable human suffering, ... ‘the balance of
9 hardships tips decidedly in plaintiffs’ favor”) (internal citation omitted).

10 The public interest likewise weighs strongly in Petitioner’s favor. As another California district
11 court recently concluded, “the public has a strong interest in upholding procedural protections against
12 unlawful detention, and the Ninth Circuit has recognized that the costs to the public of immigration
13 detention are staggering.” *Diaz*, 2025 WL 167854, at *3 (citing *Jorge M. F.*, 2021 WL 783561, at *3).
14 More fundamentally, “it is always in the public interest to prevent the violation of a party’s
15 constitutional rights.” *Index Newspapers LLC v. U.S. Marshals Serv.*, 977 F.3d 817, 838 (9th Cir. 2020)
16 (citing *Padilla v. Immigr. & Custom Enf’t*, 953 F.3d 1134, 1147-48 (9th Cir. 2020) (internal quotation
17 marks omitted)).

18 **SECURITY**

19 None or some security is necessary here. Courts “may dispense with the filing of a bond
20 when,” as here, “there is no realistic likelihood of harm to the defendant from enjoining his or her
21 conduct.” *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003). It is also proper to waive the bond
22 requirement in cases raising constitutional claims, because “to require bond would have a negative
23 impact on plaintiff’s constitutional rights, as well as the constitutional rights of other member of the
24 public.” *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 738 (C.D. Cal. 1996). As an
25 alternative, it is less proper a minimum bond if it is necessary in this case according to the honorable
26 Judge. Finally, Plaintiff’s showing of a high likelihood of success on the merits supports the court’s
27 offers to waive a bond in this case. *See, e.g. People of State of Cal. ex rel. Van de Kamp v. Tahoe Reg’l*
28 *Plan. Agency* 766 F.2d 1319, 1326 (9th Cir.), amended, 775 F.2d 998 (9th Cir. 1985).

CONCLUSION

1
2 For the foregoing reasons, Petitioner respectfully requests the Court grant a TRO to restore the
3 status quo ante that (1) immediately releases him from Respondent's custody and enjoins Respondents
4 from re-detaining him absent further order of this Court; (2) in the alternative, immediately releases
5 him from Respondent's custody and enjoins Respondents from re-detaining him unless they
6 demonstrate at a pre-deprivation bond hearing, by clear and convincing evidence, that Petitioner is a
7 flight risk or danger to the community such that his physical custody is required; and (3) prohibits the
8 government from transferring him out of this District and/or removing him from the country until
9 these habeas proceedings have concluded.

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11 Date: December 04, 2025,

Respectfully submitted,

Name: Sagastegui-Ronceros Luigie Martin

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