UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

VICTOR HUGO DIRCIO PARRA

Petitioner,

v.

Samuel J. Olson, Field Office Director of Enforcement and Removal Operations, St. Paul Field Office, Immigration and Customs Enforcement; Kristi Noem, in her official capacity as Secretary of the U.S. Department of Homeland Security; Todd Lyons, in his official capacity as acting director of U.S. Immigration and Customs Enforcement; Pam Bondi, in her official capacity as Attorney General of the United States; Joel Brott, Sherburne County Jail Sheriff.

Respondents.

Case No.

PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

EMERGENCY HANDLING REQUESTED

I. INTRODUCTION

Petitioner Victor Hugo Dircio Parra brings the instant motion for Temporary Restraining Order ("TRO") and Preliminary Injunction ("Motion") seeking injunctive relief and challenging Respondents' actions in detaining Petitioner. He was arrested by Respondents on November 18, 2025, and remains in detention. Despite arresting and charging the Petitioner pursuant to INA § 236, and declining to designate him as an arriving alien, Respondents have alleged he is properly detained under INA § 235. Respondents cannot lawfully detain someone without facts to support the underlying charge and further deny them an opportunity to review their custody on the basis of that illegal putative charge.

Courts across the country have granted Temporary Restraining Orders to non-citizens like Mr. Dircio Parra who have been unlawfully detained. In light of these developments, and the special concerns Petitioner faces as a diabetic, emergency relief is necessary. Petitioner seeks injunctive relief to prevent Respondents from continuing to unlawfully detain him. Petitioner seeks declaratory and injunctive relief to remedy violations of his constitutional and statutory rights. Finally, Mr. Dircio Parra's petition is properly before this Court.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Petitioner unlawfully denied a custody redetermination hearing and remains detained despite being owed a discretionary bond determination.

On November 18, 2025, Petitioner was arrested and taken into Immigration and Customs Enforcement ("ICE") custody. The NTA lists his charge as INA 212(a)(6)(A)(i) – being present in the United States without being admitted or paroled – and INA 212(a)(7)(A)(i)(I) – being an applicant for admission not in possession of a valid entry document. The NTA did not check the box identifying the Petitioner as an arriving alien, but rather as an alien present in the United States who has not been admitted or paroled. The I-213 lists his charge of inadmissibility as INA 212(a)(6)(A)(i) and INA 212(a)(7)(A)(i)(I). The form I-213 provides a factual basis for only the charge under INA 212(a)(6)(A)(i). On December 9, 2025, Immigration Judge (IJ) Carr determined that the Respondent was detained under INA § 235(b)(2) and she lacked jurisdiction under Board precedent set in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). IJ Carr noted in her decision denying bond that on November 25, 2025, the District Court in *Maldonado Bautista v. Santacruz* granted class certification. IJ Carr characterized that decision as "not final" and found that *Matter of Yajure Hurtado* still deprived the Court of jurisdiction over the bond request.

Petitioner is the partner of a lawful permanent resident and has helped raise her USC son as if he was her own. Petitioner is also a diabetic who has dietary needs ill-served by detention. DHS continues to hold him in custody, separating him from his family, interfering with his health, and preventing him from providing for their basic needs. As long as he remains detained, he has suffered and will continue to suffer significant, irreparable harm.

III. ARGUMENT

A. Mr. Dircio Parra is entitled to a temporary restraining order and preliminary injunction.

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

(1) the probability that the moving party will succeed on the merits;

(2) the threat of irreparable harm to the moving party;

(3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and

(4) whether the issuance of a TRO is in the public interest.

See Dataphase Sys., Inc. v. C.L. Sys., Inc., 640 F.2d 109, 114 (8th Cir. 1981); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Consideration of these four factors does not require mathematical precision but rather should be flexible enough to encompass the particular circumstances of each case. *See*

Dataphase, 640 F.2d at 113. The basic question is whether the balance of equities so favors the moving party "that justice requires the court to intervene to preserve the status quo until the merits are determined." *Id.* Although the probability of success on the merits is the predominant factor, the Eighth Circuit has "repeatedly emphasized the importance of a showing of irreparable harm." *Caballo Coal Co. v. Ind. Mich. Power Co.*, 305 F.3d 796, 800 (8th Cir. 2002). Here, all four factors weigh heavily in favor of injunctive relief.

1. Mr. Dircio Parra is likely to succeed on the merits of his petition for writ of habeas corpus.

Writs of habeas corpus "may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions." 28 U.S.C. § 2241(a). "The writ of habeas corpus shall not extend to a prisoner unless...He is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(2).

a. Mr. Dircio Parra's detention is in violation of Due Process.

i. Noncitizens like Mr. Dircio Parra are protected by the Fifth Amendment.

The federal courts have held that noncitizens are entitled to guarantees of the Fifth Amendment. *Sanchez-Velasco v. Holder*, 593 F.3d 733, 737 (8th Cir. 2010); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) ("all aliens[] are clearly protected by the Fifth and Fourteenth Amendments"). Courts treat Equal Protection and Due Process rights under the Fifth Amendment in the

same manner as Equal Protection Claims under the Fourteenth Amendment. *Weinberger v. Wiesenfeld*, 420 U.S. 636, 638 n.2 (1975). Due process is only implicated when governmental decisions deprive an individual of "liberty" or "property" interests within the meaning of the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67, 78 (1976); *see also Rusu v. INS*, 296 F.3d 316, 321-22 (4th Cir. 2002).

The Due Process Clause of the Fifth Amendment provides that "[n]o person shall be...deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. *See Zadvydas*, 533 U.S. at 690 ("A statute permitting indefinite detention of an alien would raise a serious constitutional problem"); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10, 413 (D.N.J. 1999) (holding that, in analyzing due process in the immigration

context, the first factor in the procedural due process analysis, "the petitioner's private interest in his physical liberty, must be accorded the utmost weight.").

ii. Respondents continue holding Petitioner in detention in violation of Due Process and without any legitimate basis.

Immigration detention is civil and must "bear a reasonable relation to the purpose for which the individual [is detained]" so that it is "nonpunitive in purpose and effect." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (cleaned up). There are only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Id.*; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017).

Civil detention cannot be a "mechanism for retribution," *Kansas v. Crane*, 534 U.S. 407, 412 (2002) (internal quotation marks omitted), because "[r]etribution and deterrence are not legitimate nonpunitive governmental objectives," *Bell v. Wolfish*, 441 U.S. 520, 539 n.20 (1979). And unlawful detention necessarily harms Petitioner. *See Barker v. Wingo*, 407 U.S. 514, 532 (1972) (detention has a "serious," "detrimental impact on the individual"); *Hernandez*, 872 F.3d at 994 (unconstitutional detention for an indeterminate period is irreparable harm); *Doe v. Becerra*, 704 F. Supp. 3d 1006, 1017 (N.D. Cal. 2023), *abrogated on other grounds by Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024) ("'Liberty is the norm; every moment of [detention] should be justified.'") (alteration in original) (citation omitted).

Civil confinement of non-citizens must be limited to the underlying purpose justifying the detention. *Zadvydas*, 533 U.S. at 690. "Once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699. *Zadvydas* held that civil detention violates due process unless special, nonpunitive circumstances outweigh an individual's interest in avoiding restraint. 533 U.S. at 690 (**immigration detention must remain "nonpunitive in purpose and effect"**) (emphasis added).

The government's detention of Petitioner is punitive. First, DHS has expressed and vocalized an intent to use civil detention punitively against noncitizens for the dual purposes of: (1) encouraging self-deportation, and (2) coercing foreign recalcitrant governments to issue travel documents for its citizens ordered deported from the United States by demonstrating through a systematic campaign of abuse and terror that the recalcitrant government's citizens detained in post-removal-order custody will suffer immensely in the absence of such travel documents being issued. *100 Days of Fighting Fake News*, Department of Homeland Security (Apr. 30, 2025) ("The reality is that prison isn't supposed to be fun. It's a necessary measure to protect society and punish bad guys. It is not meant to be comfortable. What's more: prison can be avoided by self-deportation. CBP Home makes it simple and easy. If you are a criminal alien and we have to deport you, you could end up in Guantanamo

Bay or CECOT. Leave now.");[1] *Mohammed H. v. Trump*, No.: 25-CV-1576-JWB-DTS, --- F.Supp.3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) ("Punishing Petitioner for protected speech or **using him as an example to intimidate other students into self-deportation is abusive and does not reflect legitimate immigration detention purposes**.") (emphasis added). Whether detained domestically or overseas, a policy of punitive civil detention is improper.

The foregoing contentions are buttressed by the realization that Petitioner is detained in Sherburne County Jail, a facility designed to house and punish convicted criminals. Petitioner's conditions of confinement are indistinguishable from those of convicted criminals, further demonstrating that Petitioner's detention is punitive.

The procedural history of Petitioner's case further demonstrates that DHS is acting in a manner meant to keep him detained for as long as possible, despite knowing there is no legitimate evidence to support his detention. The original I-213 lists facts supporting the charge of removability under 212(a)(6)(A)(i), but no facts supporting the charge of removability under 212(a)(7)(A)(i)(I). I-213. The NTA designates the Petitioner as "an alien present in the United States who has not been admitted or paroled" and not "an

[1] Found at https://www.dhs.gov/news/2025/04/30/100-days-fighting-fake-news

arriving alien." NTA. Respondents have presented no evidence to justify subjecting Petitioner to § 1225(b)(2) detention and rely solely on legal arguments based on DHS policy and the *Yajure Hurtado* decision.

Yajure Hurtado is a purely legal analysis with minimal references to factual determinations and thus is ripe for Court review. In *Yajure Hurtado*, the BIA makes several arguments as to the interpretation of §§ 1225 and 1226. The BIA posited without explanation that limiting the reach of § 1225, as the agency had for decades, would render that provision superfluous. *Matter of Yajure Hurtado,* 29 I&N Dec. 216, 221-22 (BIA 2025). The Board also claimed that the legislative history supported its construction of § 1225, because in enacting IIRIRA Congress sought to remedy the inequity of the prior statutory scheme, which provided greater procedural and substantive rights to noncitizens who entered without inspection (and were placed in deportation proceedings) than those who presented themselves to authorities for inspection (and were placed in exclusion proceedings). However, the BIA did not cite any legislative history specifically addressing detention statutes or custody determinations that would support its interpretation. *Id.* at 223-25.

Lastly, the BIA attempted to distinguish its recent case law on custody matters. Regarding *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025), which stated that the noncitizen's custody determination was governed by § 1226(a)

even though he was present in the United States without inspection, the Board observed that the IJ's authority to grant bond was not an issue presented to the Board in the case. *Yajure Hurtado*, 29 I&N Dec. at 226. Regarding *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board claimed it resulted in a narrow holding that noncitizens detained without a warrant while arriving in the United States are held pursuant to § 235(b); under the Board's reading, *Q. Li* did not conversely imply that all noncitizens detained with a warrant while in the United States are held pursuant to § 236(a). *Yajure Hurtado*, 29 I&N Dec. at 227.

Other Courts have rejected *Yajure Hurtado*'s reasoning as unpersuasive. Federal courts have identified flaws in the reasoning the BIA employed, including its departure from three decades of consistent statutory interpretation. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *6-7 (E.D. Mich. Sept. 9, 2025). Additionally, the BIA's reasoning was inconsistent with the text of §§ 1225 and 1226. *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924, at *8, Fn. 11 (D. Mass. Sept. 9, 2025).

Reading the INA considering canons of construction – namely canons to read the statute as a whole and to give effect to all their provisions – support reading INA § 1226 and § 1225 as referring to different classes of migrants. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1246–47 (W.D. Wash. 2025); *see also United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 143

S. Ct. 1720, 1723, 216 L. Ed. 2d 370 (2023). This interpretation of the statutory scheme is entirely consistent with the Supreme Court's construction of §§ 1225 and 1226. *Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411, at *12 (D. Minn. Aug. 15, 2025). In *Jennings*, the Supreme Court explained that § 1225(b) covers "aliens seeking admission *into* the country," while § 1226 covers "aliens *already in* the country" who are subject to "removal proceedings." *Jennings*, 583 U.S. at 288–89. (emphasis added). DHS impermissibly contravenes the text and intent of the INA by miscategorizing Petitioner as removable under § 1225.

This miscategorization is a violation of Petitioner's Fifth Amendment rights. Courts throughout the country have similarly rejected the illegal miscategorization of citizens properly subject to § 1226 as instead subject to § 1225. *See, e.g.*, *Jose J.O.E.*, 2025 WL 2466670; *Maldonado*, 2025 WL 2374411; *Ferrera Bejarano v. Bondi*, 25-cv-03236 (D. Minn. Aug 18, 2025); *Aguilar Vazquez v. Bondi*, 25-cv-03162 (D. Minn. Aug 19, 2025); *Tiburcio Garcia v. Bondi*, 25-CV-03219 (D. Minn. Aug. 29, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Cortes Fernandez v. Lyons*, No. 8:25CV506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025) ; *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *Jacinto v. Trump*, No. 4:25CV3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Garcia Jimenez v. Kramer*, No. 4:25CV3162, 2025 WL 2374223 (D.

Neb. Aug. 14, 2025); *Anicasio v. Kramer*, No. 4:25CV3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Arce v. Trump*, No. 8:25CV520, 2025 WL 2675934 (D. Neb. Sept. 18, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Jimenez v. FCI Berlin*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Doe v. Moniz*, No. 1:25-CV-12094-IT, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Romero*, 2025 WL 2403827; *Martinez*, 2025 WL 2084238; *dos Santos v. Noem*, No. 1:25-CV-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Choglio Chafla v. Scott*, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 2:25-CV-00479-SDN, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Lopez Benitez*, 2025 WL 2371588; *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 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-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Beltran Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Singh v. Lewis*, No. 4:25-CV-96-RGJ, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-

12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Cuevas Guzman v. Andrews*, No. 1:25-CV-01015-KES-SKO (HC), 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Caicedo Hinestroza v. Kaiser*, No. 25-CV-07559-JD, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921-LB, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Garcia v. Noem*, No. 25-CV-02180-DMS-MMP, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-CV-01789-ODW (DFMX), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025) ; *Jabara Oliveros v. Kaiser*, 2025 WL 2677125 (N.D. Cal. Sept. 18, 2025); *Castellanos v. Kaiser*, No. 25-CV-07962, 2025 WL 2689853 (N.D. Cal. Sept. 18, 2025); *Leon Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 WL 2675785 (E.D. Cal. Sept. 18, 2025); *Rosado*, 2025 WL 2337099. Over one-hundred federal judges in hundreds of decisions have come to the same conclusion. *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065 (NJC), 2025 WL 3314420, at *23 (E.D.N.Y. Nov. 28, 2025) (citing to *Barco Mercado v. Francis*, No. 25-cv-6582, at 9–10 (S.D.N.Y. Nov. 26, 2025) and noting 160

different judges in 350 out of 362 cases have agreed with Petitioners on a preliminary or final basis).

Where there is no factual basis for detention, there is no link between the deprivation of a protected Fifth Amendment liberty interest and a non-punitive state purpose. Courts have granted release for similarly situated non-citizens under similar facts. Where non-citizens were already in the interior, it was appropriate for them to be placed in proceedings under INA § 1226(a), which affords them discretionary relief from deportation based on the findings of an IJ. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1256–57 (W.D. Wash. 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025); *see also Doe v. Moniz*, 2025 WL 2576819, at*1 (D. Mass. Sept. 5, 2025); *see also Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924, at *8 (D. Mass. Sept. 9, 2025). In *Pizarro Reyes,* the Court granted the Petitioner's *habeas* petition and required he be granted a bond redetermination hearing. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025). In *Lopez-Campos*, the Court ordered the Petitioner either to be released or granted a bond redetermination hearing. *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *10 (E.D. Mich. Aug. 29, 2025). In *Guzman*, the Court required the Petitioner to be released and enjoined the Respondents from re-detaining him without a pre-deprivation

hearing. *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *8 (E.D. Cal. Sept. 9, 2025). Permitting the government to indefinitely detain non-citizens under INA § 1225(b) would frustrate the Congressional scheme for regulating immigration and deprive non-citizens of their Congressionally prescribed procedure for adjudicating their Fifth Amendment liberty interests.

While other counsel for the government has made a "policy argument, projected onto Congress," thirty years of practice have shown Congress has intended to maintain a long-held distinction between persons inside the US and persons outside the US. *Romero v. Hyde*, No. CV 25-11631-BEM, 2025 WL 2403827, at *12–13 (D. Mass. Aug. 19, 2025). Indeed, *Romero* noted while DHS adopted their new policy mere months ago, this interpretation contravenes the agency's implementing regulations, published guidance, years of decisions of IJs, decades of practice, the Supreme Court's gloss on the statute, and the overall logic of the immigration system. *Id.*, at *9. "Respondents' novel position would expand § 1225(b) far beyond how it has been enforced historically, potentially subjecting millions more undocumented immigrants to mandatory detention, while simultaneously narrowing § 1226(a) such that it would have extremely limited (if any) application." *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025). Respondents would contravene the

demonstrated intent of Congress to safeguard the Fifth Amendment Rights of non-citizen persons within the United States.

Further, Petitioner is entitled to release pursuant to the declaratory judgment in *Maldonado Bautista v. Santacruz*. Petitioner is a class member in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). On November 25, 2025 the court in *Maldonado Bautista* certified the Bond Eligible Class, defined as:

> All non-citizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

*Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).* Petitioner is a non-citizen without lawful status detained at the Sherburne County Jail who (1) entered the United States without inspection, (2) was not apprehended upon arrival, and (3) is not subject to mandatory detention pursuant to 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. Accordingly, as a member of the Bond

Eligible Class, Petitioner is entitled to the application of the law as stated in the *Maldonado Bautista* orders granting summary judgment and class certification. *See* 2025 WL 3288403, at *9 ("When considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.").

This Court is obligated to apply the law to all class members, as determined in the binding, final judgment issued in *Maldonado Bautista*. The Executive Office for Immigration Review is a Defendant in *Maldonado Bautista*, and is thus bound by the ruling there, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). It is a "basic proposition that all orders and judgments of courts must be complied with promptly," *Maness v. Meyers*, 419 U.S. 449, 458 (1975), and thus, in "suits against government officials and departments, [courts] assume that they will comply with declaratory judgments." *United Aeronautical Corp. v. United States Air Force*, 80 F.4th 1017, 1031 (9th Cir. 2023). This is because declaratory judgments like the one in *Maldonado Bautista* have "the same effect as an injunction in fixing the parties' legal entitlements." *Florida ex rel. Bondi v. U.S. Dep't of Health & Hum. Servs.*, 780 F. Supp. 2d 1307, 1316 (N.D. Fla. 2011). This understanding of declaratory judgments—and thus this court's obligation to comply with the declaratory judgment in *Maldonado Bautista* —is consistent

with the decisions of many courts. *See, e.g.*, *Sanchez-Espinoza v. Reagan*, 770 F.2d 202, 208 n.8 (D.C. Cir. 1985) (Scalia, J.) ("[T]he discretionary relief of declaratory judgment is, in a context such as this where federal officers are defendants, the practical equivalent of specific relief such as injunction or mandamus, since it must be presumed that federal officers will adhere to the law as declared by the court."), *abrogated on other grounds by*, *Schieber v. United States*, 77 F.4th 806 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 688 (2024); *Smith v. Reagan*, 844 F.2d 195, 200 (4th Cir. 1988) (describing declaratory relief as "the functional equivalent of a writ of mandamus"); *Pub. Citizen v. Carlin*, 2 F. Supp. 2d 18, 20 (D.D.C. 1998) ("The government's decision to appeal this Court's ruling does not affect the validity of the declaratory judgment unless and until the judgment is reversed on appeal or the government seeks and is granted a stay pending appeal."), *rev'd on other grounds*, 184 F.3d 900 (D.C. Cir. 1999).

The court in *Maldonado Bautista* was unequivocal in its order: it certified a nationwide class and explicitly extended "the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." This declaratory relief established that class members are detained under the discretionary framework of 8 U.S.C. § 1226(a), not the mandatory detention provision of 8 U.S.C. § 1225(b)(2) as the government would have them

detained under. Crucially, however, a declaratory judgment is not self-executing. It declares a legal right but does not, in itself, provide a coercive remedy like an injunction or a writ of habeas corpus ordering release. In *Trump v. J.G.G.*, the Supreme Court underscored that challenges to removal under statutes that largely preclude judicial review must be brought in habeas, emphasizing its role in vindicating due process rights. *Trump v. J.G.G.*, 604 U.S. 670, 672 (U.S. 2025). The *Maldonado Bautista* declaratory order establishes the legal right; this individual habeas petition is the proper and necessary vehicle to enforce it.

Despite this binding ruling, the Petitioner remains unlawfully detained. On December 9, 2025, IJ Carr took note that the District Court in *Maldonado Bautista* granted class certification. IJ Carr characterized that decision as "not final" and found that *Matter of Yajure Hurtado* still deprived the Court of jurisdiction over the bond request. This mischaracterization of the effect of the declaratory relief granted in *Maldonado Bautista* deprived the Petitioner of the discretionary bond hearing to which he was entitled. Respondents thus illegally detained the Petitioner and in knowing defiance of a binding Court order.

As a result, Mr. Dircio Parra's detention is for illegitimate, punitive purposes—not in accordance with the lawful, Congressional purposes of civil immigration detention—and should be enjoined. For the aforementioned

reasons, it is likely that Petitioner will succeed on the merits of the instant petition.

iii. All *Mathews* factors weigh in Petitioner's favor and he is thus likely to succeed on the merits of his petition for writ of habeas corpus.

A *Mathews* analysis supports finding Mr. Dircio Parra's Fifth Amendment rights and fundamental liberty interests outweigh any putative governmental interests and are owed additional procedural protections. *Mathews* requires weighing

> First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews v. Eldridge, 424 U.S. 319, 335, 96 S. Ct. 893, 903, 47 L. Ed. 2d 18 (1976).

The private interest here includes Petitioner's Fifth Amendment rights. Petitioner has participated in immigration proceedings in good faith and was prepared to present new factual grounds for release before a neutral magistrate. Depriving him of the opportunity to continue his proceedings and

indefinitely detaining him is a violation of his right to fair proceedings. Additionally, while there is no Constitutional right to counsel in a civil proceeding, detention inherently interferes with a detainee's access to counsel and deprivation of access to counsel is plainly harmful to litigant since it handicaps his ability to present his case to the court. *See In re Guantanamo Bay Detainee Continued Access to Couns.*, 892 F. Supp. 2d 8, 15 (D.D.C. 2012) (finding deprivation of access to counsel seriously handicaps detainees seeking to prosecute habeas claims); *see also Al Odah v. United States*, 346 F. Supp. 2d 1, 8–9 (D.D.C. 2004) (holding that government procedures may not inappropriately burden a habeas petitioner's attorney-client relationship). This injury hinders the exercise of Mr. Dircio Parra's Fifth Amendment rights.

Further, Petitioner's liberty interest in caring for his family has been violated. Mr. Dircio Parra's detention has interfered with his ability to financially support his partner and her child. This separation from family is a deprivation of incarceration that burdens a substantial private interest and supports finding the Petitioner's conditions are indistinguishable from criminal detainees. *Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411, at *9 (D. Minn. Aug. 15, 2025); *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *7 (D. Minn. May 21, 2025); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 33 (1st Cir. 2021) (noting the harm in

separating a non-citizen from her fiancé and general harms attending to removing "breadwinners, caregivers" [...]). The first *Mathews* factor thus weighs heavily in favor of Petitioner.

The Respondent's course of action has substantially increased the risk of erroneous deprivation of rights, and a return to standard proceedings would significantly mitigate that risk. The deprivation of the opportunity to appeal and present new evidence for analysis of whether Petitioner posed a flight risk or danger to public safety is a procedural deficit that necessarily increases the risk of erroneous deprivation. The second *Mathews* factor thus weighs heavily in favor of the Petitioner.

The Respondents have no articulable interest in subjecting the Petitioner to mandatory detention. Finding the IJ has jurisdiction and must consider new evidence to re-evaluate this determination that the Petitioner warrants detention provides both the Petitioner and the government a fair opportunity to persuade a neutral arbiter as to their case. The third *Mathews* factor thus does not counterbalance Petitioner's weighty interests, and the sum of the *Mathews* factors weigh in his favor.

Courts have concluded similarly situated habeas petitioners were entitled to emergency relief. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025); *see also Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *10 (E.D. Mich. Aug. 29, 2025); *see also Cuevas*

Guzman v. Andrews, 2025 WL 2617256, at *8 (E.D. Cal. Sept. 9, 2025). A District Court granted immediate release to an illegally detained Bond Eligible Class Member pending his bond hearing. *Mendes v. Hyde*, No. 25-CV-627-JJM-AEM, 2025 WL 3496546, at *3 (D.R.I. Dec. 5, 2025). The Court noted that immediate release was appropriate given the government put forth "no evidence" that the non-citizen posed a danger to the community or a flight risk. *Id.*, at *2 (citing to *Tomas Elias v. Hyde*, No. 25-CV-540-JJM-AEM, 2025 WL 3004437, at *5 (D.R.I. Oct. 27, 2025)). A Court similarly granted immediate release reasoning that the Petitioner's detention under INA § 235 was illegal "from its inception" and the proper remedy to illegal detention was release. *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065 (NJC), 2025 WL 3314420, at *31–33 (E.D.N.Y. Nov. 28, 2025). The Court noted that a "post-deprivation bond hearing [...] would provide no genuine opportunity to relief because the detention without adequate pre-deprivation procedures has already been carried out." *Id.*, at *32. Given the established Fifth Amendment violations embedded in recategorization of non-citizens without evidence, these analysis in these cases further support a grant of immediate relief for Petitioner.

iv. Petitioner has been and continues to be prejudiced by the government violating his due process rights.

In order to prevail on a claim asserting the deprivation of due process, a petitioner must also show "actual prejudice." *Puc-Ruiz v. Holder*, 629 F.3d 771,

782 (8th Cir. 2010) (citation omitted). Actual prejudice occurs if "an alternate result may well have resulted without the violation." *Id.* (citation omitted) (internal quotations omitted); *see also Lazaro v. Mukasey*, 527 F.3d 977, 981 (9th Cir. 2008) (explaining that prejudice is not necessary where agency action was *ultra vires*). "To show prejudice, [a petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate process were provided." *Morales Izquierdo v. Gonzales*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal quotations omitted). Petitioner is clearly prejudiced by his continued, unjustified detention. He will soon have been detained for a month, and his bond redetermination hearing was improperly frustrated by this erroneous recategorization.

The Courts granting each of these TROs across the country are holding specifically that the non-citizens face irreparable injury and are enjoining the government from detaining them and/or requiring a bond hearing. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025); *see also Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *10 (E.D. Mich. Aug. 29, 2025); *see also Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *8 (E.D. Cal. Sept. 9, 2025). The Courts have noted the irreparable harm petitioners suffer including by virtue of the length of detention they are threatened with. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *3 (E.D. Mich. Sept. 9, 2025) (noting the indefinite detention "would result in the very

harm that the bond hearing was designed to prevent) (*citing to Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) *and Gomes v. Hyde*, No. 1:25-cv-11571, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025)).

1. Petitioner will continue to face irreparable harm if emergency relief is not granted.

It is well established that deprivation of constitutional rights constitutes "irreparable injury" and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976). *See also Planned Parenthood of Minnesota, Inc. v. Citizens for Community Action*, 558 F.2d 861, 867 (8th Cir. 1977). When an alleged deprivation of constitutional rights is involved, no further showing of irreparable injury is necessary. *Planned Parenthood of Minnesota*, 558 F.2d at 867 (citing 11 C. Wright & A. Miller, *Federal Practice & Procedures: Civil* § 2948 at 439 (1973)); *Ng v. Bd. of Regents of the Univ. of Minn.*, 64 F.4th 992, 998 (8th Cir. 2023) ("[T]he denial of a constitutional right is a cognizable injury and an irreparable harm."); *Hernandez*, 872 F.3d at 994–95; *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) ("When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary."). Further, Petitioner is irreparably harmed because indefinite detention bears no "reasonable relation" to its purpose. *Deqa M. Y.*, 2020 WL 4928321, at *3; *see Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing "[a]ny amount of actual jail time is significant and has exceptionally severe consequences for

the incarcerated individual" (cleaned up) (internal quotation marks omitted) (citation omitted)).

In the present case, Petitioner's Fifth Amendment rights are being violated because of on-going detention after the wrongful denial of his right to a pre-deprivation hearing on the merits. *See, supra,* section II.A. Courts across the country have held that DHS detention constitutes irreparable injury where it deprives non-citizens of their liberty, access to counsel, and access to their families. *See* section III.A.a.iii, supra.

Following the rulings in *Elrod* and *Planned Parenthood of Minnesota,* these Fifth Amendment violations involving deprivations of due process constitute irreparable injury to the Petitioner and justify issuance of a temporary restraining order. Petitioner's liberty has been and continues to be restricted in violation of his constitutional rights.

2. Respondents will face no injury or harm if emergency relief is granted.

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City,* 414 F.3d 1221, 1236-7 (10th Cir. 2005).

Petitioner's harms, discussed above, are weighty; these harms are the direct result of Respondents' conduct in denying Petitioner due process as

required under the Constitution. In fact, Petitioner's continued detention is actually a burden for Respondents in that his unnecessary and unexplained detention is costly to the U.S. government.

Possible injuries to the government, should the restraining order be granted, are minimal and possibly nonexistent. Petitioner is seeking to be released from custody back to his home in the United States so that he can continue his work and care for his family. The Respondent's charging documents confirm the Petitioner has a no criminal record subjecting him to detention, and the record shows he has otherwise been a diligent and supportive member of the community and his family.

For the aforementioned reasons, the irreparable harm to Petitioner that will occur should ICE fail to release him clearly outweighs any burden to Respondents in indefinitely keeping him detained. As this Court held in *Morrison*, 602 F.Supp. at 1484, the balance of harms supports the release of Petitioner even though the federal or state government may not be able to recover lost custodial time should Respondents' constitutional interpretation prevail. This insignificant harm is outweighed by the substantial harm facing Petitioner. Petitioner's harms include deprivations of due process and the wrongful extended detention by ICE depriving Petitioner of liberty. Because Petitioner is in Respondents' custody, he faces the extreme hardship of

deprivation of his due process rights and liberty, and separation from his family and community unless this Motion is granted.

3. The issuance of a TRO is in the public interest.

The public—and therefore the government—has an interest in protecting the rights of people in detention and ensuring the rule of law. *See Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) ("[T]he public has an interest in the orderly administration of justice[.]"). "It is always in the public interest to prevent the violation of a party's constitutional rights." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). The public has a "substantial" interest "in having governmental agencies abide by the federal laws that govern their existence and operations." *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (citation omitted). Respondents "cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations." *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). Respondents "cannot suffer harm from an injunction that merely ends," at least temporarily, a likely "unlawful practice." *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 191 (D.D.C. 2015). Under law, an immigration judge ought to consider Petitioner's history on the merits,

in light of new evidence, to make an individualized determination if he should be released on bond.

The protection of individuals' constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government's power to skew, alter, or improperly affect legal proceedings related to an individual's property or liberty interest(s). To ensure the protection of Mr. Dircio Parra's constitutional rights, and to protect against overzealous federal government intrusion of constitutional rights of others in similar situations, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from continuing to detain him.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country's legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

b. Mr. Dircio Parra has complied with the requirements of Rule 65.

Finally, as set forth *supra*, Petitioner asks this Court to find that he has complied with the requirements of Rule 65, Fed.R.Civ.P., for the purpose of

granting a temporary restraining order. Respondents have been provided with a copy of the instant motion and supporting documents and are on notice. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Under the circumstances of this case, however, Petitioner respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from continuing to detain Petitioner, and/or to refrain from giving Respondents' unlawful actions legal effect, should not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

IV. CONCLUSION

For all of the foregoing reasons, Petitioner asks this Court to grant his Motion for a Temporary Restraining Order and Preliminary Injunction to:

1. Declare that the actions of Respondents as set forth in Mr. Dircio Parra's Petition, Motion, and Memorandum of Law violated the

Fifth Amendment of the United States Constitution, 28 U.S.C. § 2241, and the APA.

2. Enjoin Respondents from continuing to detain Mr. Dircio Parra in their custody during the pendency of his petition for writ of habeas corpus before this Court.
3. Declare Mr. Dircio Parra is a member of the Bond Eligible Class and order his immediate release.
4. If Mr. Dircio Parra is not immediately released from Respondents' custody, enjoin Respondents from transferring him to a detention facility out of this District where he would lose access to his counsel and support network.
5. If Mr. Dircio Parra is not immediately released from Respondents' custody, order Respondents grant him a bond redetermination hearing on the merits of his release.
6. Grant Mr. Dircio Parra such other relief as the Court deems appropriate and just.

DATED: December 11, 2025

Respectfully submitted,

/s/ Gloria Contreras Edin

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