

Beles and Beles Law Offices
Robert J. Beles Bar No. 41993
Emilio Parker Bar No. 276310
1 Kaiser Plaza, Suite 2300
Oakland, California 94612-3616
Tel. No. (510) 836-0100
Fax No. (510) 832-3690
emiliotparker@gmail.com

Attorneys for *Petitioner* Chilber Pedrozo Munoz

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

Chilber Pedrozo Munoz,

Petitioner,

v.

Christopher Chestnut, Warden, California
City Correctional Facility;

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

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

Pam BONDI, in her Official Capacity,
Attorney General of the United States;

Respondents - Defendants,

No.

PETITIONER'S NOTICE OF MOTION
AND EMERGENCY EX PARTE MOTION
FOR TEMPORARY RESTRAINING
ORDER

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF EX
PARTE MOTION FOR TEMPORARY
RESTRAINING ORDER

Challenge to Unlawful Incarceration;
Request for Declaratory and Injunctive
Relief

NOTICE OF MOTION AND EX PARTE MOTION

PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court for the Eastern District of California, that Petitioner, Chilber Pedrozo Munoz ("Mr. Pedrozo Munoz") will and hereby does move for a temporary restraining order pursuant to Federal Rules of Civil Procedure 65(b) and Civil Local Rule 65-1. Because Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the United States, Petitioner respectfully requests that this Court (1) orders Petitioner's immediate release from Respondent's custody pending these proceedings, without requiring bond or electronic monitoring, or, in the alternative, (2) orders Petitioner's immediate release from Respondents' custody and, within 14 days, order a pre-deprivation bond hearing before the Adelanto Immigration Court, where Respondents will have the burden of proof to show, by clear and convincing evidence, that Petitioner is a danger or a flight risk. To preserve this Court's jurisdiction, Petitioner further seeks an order (3) enjoining Respondents from deporting Petitioner during the pendency of this proceeding. Enjoins Respondents (1) from continuing to detain Petitioner based on an unlawful action by ICE, (2) orders his immediate release from Respondents' custody; and (3) from re-arresting Mr. Pedrozo Munoz until he is afforded a hearing before a neutral decisionmaker, as required by the Due Process clause of the Fifth Amendment, to determine whether circumstances have materially changed such that his re-incarceration would be justified because there is clear and convincing evidence establishing that he is a danger to the community or a flight risk.

Consistent with Civil L.R. 65-1, Petitioner seeks relief at the earliest possible opportunity. Petitioner filed this motion the same day he filed his Petition for Writ of Habeas Corpus. His Writ of Habeas Corpus stated that he would be filing this motion forthwith.

If the Court deems oral argument necessary, Petitioner requests to appear by video.

Dated: December 17, 2025 Respectfully submitted,

/s/ Emilio Parker
Emilio Parker
Attorney for Petitioner-Plaintiff
Chilber Pedrozo Munoz

1 **I. INTRODUCTION**

2 Respondents unlawfully detained Petitioner-Plaintiff Chilber Pedrozo Munoz on
3 December 9, 2025. Pedrozo Munoz is a native and citizen of Colombia. Mr. Pedrozo Munoz
4 entered the United States with inspection on May 9, 2024 seeking asylum with his wife and his
5 daughter. When Mr. Pedrozo Munoz arrived in the United States, federal agents briefly detained
6 him, determined that he was not a flight risk or danger to the community, and released him on
7 his own recognizance with a notice to appear for removal proceedings in immigration court on
8 October 1, 2024. Since arriving, Petitioner had appeared at two immigration court hearings in
9 the San Francisco Immigration Court. Since arriving, had done everything the government asked
10 him to do; he has diligently attended every Immigration and Customs Enforcement (“ICE”) and
11 United States Citizenship and Immigration Services (“USCIS”) appointments and check-ins.

12 On November 18, 2024, Mr. Pedrozo Munoz filed an asylum application with the
13 immigration court. On December 2, 2024, Mr. Pedrozo Munoz appeared in immigration court
14 with his immigration attorney.

15 The Department of Homeland Security (“DHS”) handed Mr. Pedrozo Munoz a Notice to
16 Appear with the immigration court however that noticed was never filed with the Immigration
17 Court. On June 9, 2022, Petitioner filed an asylum application with USCIS. On June 9, 2022,
18 Petitioner filed for work authorization with USCIS. On January 27, 2023, Petitioner was granted
19 legal authorization to work by USCIS. Since arriving to the United States, Mr. Pedrozo Munoz
20 has maintained steady employment, attended every immigration appointment that he was
21 required to attend. Mr. Pedrozo Munoz has no criminal history.

22 On December 6, 2025, Mr. Pedrozo Munoz, his spouse and daughter went to Disneyland
23 for his daughter’s seven-year-old birthday. On the way to Disneyland, ISAP called to inform
24 Mr. Pedrozo Munoz that he left his permitted area. When he informed ISAP that he was going
25 to Disneyland, ISAP informed him that it was okay and to keep contact with them. ISAP
26 continuously called him and he responded to indicate where he was located. On Sunday while
27 at Disneyland, he received another phone call and was informed that he had to present himself at
28 ISAP in San Francisco, California on December 8, 2025 before 4:00 PM. Mr. Pedrozo Munoz
presented himself to ISAP on December 8, 2025 and was informed to go to ICE on December 9,
2025 at 8:00 AM. On December 9, 2025, Mr. Pedrozo Munoz was detained by ICE at 630

1 Sansome Street in San Francisco, California. ICE informed him that he violated the terms of his
2 release by leaving the restricted area

3 Mr. Pedrozo Munoz is not an applicant for admission to the United States, Mr. Pedrozo
4 Munoz has lived in the United States for over one and a half years. He currently resides with his
5 wife and daughter in Hayward, California.

6 At the time of detention, Mr. Pedrozo Munoz was working full time in construction. His
7 work is still waiting for him to be released.

8 Mr. Pedrozo Munoz's summary arrest and indefinite detention flout the Constitution. The
9 only legitimate interests that civil immigration detention serves are mitigating the risk of flight
10 and preventing danger to the community. When those interests are absent, the Fifth Amendment's
11 Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and
12 detaining Mr. Pedrozo Munoz without making any affirmative showing of immigration
13 violations, flight risk or danger to the community, the government violated Petitioner's
14 procedural due process rights. At the very least, he was constitutionally entitled to a hearing
15 before a neutral decisionmaker at which the government should have justified his detention.

16 Mr. Pedrozo Munoz must be accorded his 5th amendment due process rights as affirmed
17 in the US Supreme Court case *Department of Homeland Security v. Thuraissigium*, 140 S.Ct.
18 1959 (2020), Specifically, in *Thuraissigium*, the Supreme Court Stated: "aliens who have
19 established connections in this country have due process rights in deportation proceedings,"

20 As a result of his arrest and detention, Mr. Pedrozo Munoz is suffering irreparable and
21 ongoing harm. The unconstitutional deprivation of "physical liberty" unquestionably constitutes
22 irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed,
23 "[f]reedom from imprisonment—from government custody, detention, or other forms of physical
24 restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v.*
25 *Davis*, 533 U.S. 678, 690 (2001). Mr. Pedrozo Munoz's arrest and detention have caused and
26 will cause immediate, tremendous, and ongoing harm, which include health problems that may
27 result in hospitalization and/or death due to his ongoing health issues, hygiene, sleep and nutrition
28 deprivation, family separation, emotional and economic harm, loss of employment, and
psychological harm.

In light of this irreparable harm, and because he is likely to succeed on the merits of his
due process claims, Mr. Pedrozo Munoz respectfully requests that this Court issue an Ex Parte

1 temporary restraining order (“TRO”) immediately releasing him from custody and enjoining the
2 government from re-arresting him absent the opportunity to contest that arrest at a hearing before
3 a neutral decision maker. Confronted with substantially identical facts and legal issues, this and
4 other courts in this circuit have recently granted the exact relief Petitioner seeks.

5 See *J.O.L.R. v Wofford*, 2025 WL 2718631 * 11 (E.D. Cal Sept. 23, 2025); *R.D.T.M. v Wofford*,
6 2025 WL 2617255 * 11 (E.D. Cal Sept. 9, 2025), *Garro Pinchi v. Noem*, 2025 WL 1853763, *4
7 (N.D. Cal. July 4, 2025), converted to preliminary injunction at __ F. Supp. 3d __, 2025 WL
8 2084921 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal. July
11, 2025) (granting preliminary injunction).

9 To maintain this Court’s jurisdiction, the Court should also prohibit the government from
10 transferring Mr. Pedrozo Munoz out of this District and removing him from the country until
11 these proceedings have concluded.

12 **II. STATEMENT OF FACTS AND CASE**

13 Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign
14 targeting people who are not in status, many of whom have pending applications for asylum or
15 other relief. This “coordinated operation” is “aimed at dramatically accelerating deportations” by
16 arresting people at the courthouse, USCIS interviews, or at the ICE office and placing them into
17 expedited removal. The Trump administration implemented a policy to drastically increase
18 immigration arrests to a target of at least 3,000 per day. According to White House officials, such
19 as Stephen Miller, this directive prioritized arrest numbers over individuals’ criminal history,
20 encouraging agents to conduct mass round-ups in public spaces rather than targeted
21 investigations.

22 As a result, arrests of non-citizens with no criminal record surged by over 800%, and two-
23 thirds of those deported had no criminal history. This focus on quantity over public safety led to
24 a new and aggressive tactic: systematically arresting immigrants at courthouses and ICE
25 appointments, regardless of the status of their legal cases. This has created a climate of fear,
26 discouraging people from attending their mandatory hearings or ICE appointments.

27 In addition, individuals are now held for extended periods, sometimes days, in temporary
28 holding cells that are not designed for overnight or prolonged detention, often under inhumane
conditions. Government officials have justified these harsh conditions not as a matter of

1 necessity, but as an intentional deterrent, which is not a constitutionally permissible reason for
2 detention.

3 Mr. Pedrozo Munoz has lived in the United States for over one and half years. He has
4 many friends and family members in the United States. At the time of detention, Mr. Pedrozo
5 Munoz was working full time. Mr. Pedrozo Munoz has no criminal history anywhere in the
6 world. He has established strong connections to the United States.

7 Mr. Pedrozo Munoz's arrest and detention have caused and will cause immediate,
8 tremendous, and ongoing harm, which includes serious health problems which could lead to
9 hospitalization and/or death, hygiene, sleep, and nutrition deprivation, family separation,
10 emotional and economic harm to his family and USC child, loss of employment, and
11 psychological harm. Mr. Pedrozo Munoz is not a flight risk, as evidenced by his deep ties to the
12 community, including his relatives in the US. He is not a danger to the community. He is a law-
abiding and gainfully employed person. His detention serves no legitimate purpose.

13 This case has substantial factual and legal support to be granted, resulting in Mr. Pedrozo
14 Munoz's release from custody, and enjoining DHS from detaining Mr. Pedrozo Munoz pending
15 a hearing before a neutral adjudicator, to substantiate a material change in circumstances
indicating that Mr. Pedrozo Munoz is either a flight risk or a danger to the community.

16 Intervention from this Court is therefore required to ensure that Mr. Pedrozo Munoz is
17 released from his current custody based on his unlawful arrest, returned to his home in Hayward,
18 California, where ICE can then provide him with a hearing before determining to re-arrest him
19 pursuant to the Due Process Clause of the Fifth Amendment.

20 **III. LEGAL STANDARD**

21 Mr. Pedrozo Munoz is entitled to a temporary restraining order if he establishes that he is
22 "likely to succeed on the merits...likely to suffer irreparable harm in the absence of preliminary
23 relief, that the balance of equities tips in [his] favor, and that an injunction is in the public
24 interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int'l Sales Co.*
25 *v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction
26 and temporary restraining order standards are "substantially identical"). Even if Mr. Pedrozo
27 Munoz does not show a likelihood of success on the merits, the Court may still grant a temporary
28 restraining order if he raises "serious questions" as to the merits of his claims, the balance of
hardships tips "sharply" in his favor, and the remaining equitable factors are satisfied. Alliance

1 for the *Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As set forth in more detail below,
2 Mr. Pedrozo Munoz overwhelmingly satisfies both standards.

3 Furthermore, the requirements for issuing a temporary restraining order without notice
4 are met here. See Fed. R. Civ. P. 65(b). Mr. Pedrozo Munoz has attempted to secure his release
5 from ICE but has received no response. Mr. Pedrozo Munoz also set out specific facts
6 demonstrating that immediate and irreparable injury, loss, or damage may result before
7 respondents can be heard in opposition. See *Pinchi v. Noem*, No. 25-cv-05632-RML, 2025 L
8 1853763, at *4 (N.D. Cal. July 4, 2025); *J.O.L.R. v Wofford*, 2025 WL 2718631 * 11 (E.D. Cal
9 Sept. 23, 2025); *R.D.T.M. v Wofford*, 2025 WL 2617255 * 11 (E.D. Cal Sept. 9, 2025)(granting
ex parte temporary restraining order in similar circumstances).

10 **IV. ARGUMENT**

11 **A. Chilber Pedrozo Munoz WARRANTS A TEMPORARY RESTRAINING ORDER**

12 A temporary restraining order should be issued if “immediate and irreparable injury, loss,
13 or irreversible damage will result” to the applicant in the absence of an order. Fed. R. Civ. P.
14 65(b). The purpose of a temporary restraining order is to prevent irreparable harm before a
15 preliminary injunction hearing is held. See *Granny Goose Foods, Inc. v. Bhd. Of Teamsters &*
16 *Auto Truck Drivers Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974). Mr. Pedrozo Munoz
17 is likely to remain in unlawful custody in violation of his due process rights without intervention
18 by this Court. Mr. Pedrozo Munoz will continue to suffer irreparable injury if he continues to be
detained without due process.

19 **1. Chilber Pedrozo Munoz is likely to succeed on the merits because his 20 detention violates substantive due process.**

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

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

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

21 Mr. Pedrozo Munoz is neither a danger nor a flight risk. Therefore, his detention is both
 22 punitive and not justified by a legitimate purpose, violating his substantive due process rights.
 23 Mr. Pedrozo Munoz's ongoing detention is unconstitutional, and substantive due process
 24 principles require his immediate release.

25 **2. Chilber Pedrozo Munoz is Likely to Succeed on the Merits of His Claim That
 26 in This Case the Constitution Requires a Hearing Before a Neutral
 27 Adjudicator Prior to Any Re-Incarceration by ICE.**

28 Chilber Pedrozo Munoz is likely to succeed on his claim that, in his particular
 circumstances, his current detention is unlawful because the Due Process Clause of the

1 Constitution prevents Respondents from detaining him without first providing a pre-deprivation
2 hearing before a neutral adjudicator where the government demonstrates by clear and convincing
3 evidence that he is a danger to the public or a flight risk.

4 Courts analyze procedural due process claims, such as this one, in two steps: the first asks
5 whether a protected liberty interest exists under the Due Process Clause, and the second examines
6 the procedures necessary to ensure that any deprivation of that protected liberty interest accords
7 with the Constitution. See *Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460 (1989).

a. Chilber Pedrozo Munoz Has a Protected Liberty Interest

8 The Due Process Clause protects Mr. Pedrozo Munoz's liberty from immigration
9 custody: "Freedom from imprisonment—from government custody, detention, or other forms of
10 physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."
11 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

12 Mr. Pedrozo Munoz has an established life in California. Mr. Pedrozo Munoz has lived
13 in the United States for over one and a half years. He resides with his wife and daughter in
14 Hayward, California. At the time of detention, Mr. Pedrozo Munoz worked full time. Mr.
15 Pedrozo Munoz has no criminal history anywhere in the world.

**b. Chilber Pedrozo Munoz's Liberty Interest Mandates His Release from
16 Unlawful Custody And A Hearing Before any Re-Arrest.**

17 Mr. Pedrozo Munoz asserts that, here, (1) where his detention would be civil; (2) where
18 he has viable immigration relief; (3) where no circumstances exist that would justify his lawful
19 detention; and (4) where ICE's move to arrest as many people as possible under the new
20 administration's initiative, due process mandates that he be released from his unlawful custody
21 and receive notice and a hearing before a neutral adjudicator before any re-arrest or revocation
22 of his custody release.

23 "Adequate, or due, process depends upon the nature of the interest affected. The more
24 important the interest and the greater the effect of its impairment, the greater the procedural
25 safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d
26 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey v. Brewer*, 408 U.S. 471, at 481-82
27 (1972)). This Court must "balance [Mr. Pedrozo Munoz's] liberty interest against the
28 [government's] interest in the efficient administration of" its immigration laws to determine what
process he is owed to ensure that ICE does not unconstitutionally deprive him of his liberty. *Id.*

1 at 1357. Under the test outlined in *Mathews v. Eldridge*, this Court must consider three factors in
2 conducting its balancing test: “first, the private interest that will be affected by the official action;
3 second, the risk of an erroneous deprivation of such interest through the procedures used, and the
4 probative value, if any, of additional or substitute procedural safeguards; and finally the
5 government’s interest, including the function involved and the fiscal and administrative burdens
6 that the additional or substitute procedural requirements would entail.” *Haygood*, 769 F.2d at
1357 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

7 The Supreme Court “usually has held that the Constitution requires some kind of a
8 hearing before the State deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S.
9 113, 127 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies
10 are “the only remedies the State could be expected to provide” can the post-deprivation process
11 satisfy the requirements of due process. *Zinerman*, 494 U.S. at 985. Moreover, only where “one
12 of the variables in the *Mathews* equation—the value of pre-deprivation safeguards—is negligible
13 in preventing the kind of deprivation at issue” such that “the State cannot be required
14 constitutionally to do the impossible by providing pre-deprivation process,” can the government
15 avoid providing pre-deprivation process. *Id.*

16 Because, in this case, the provision of a pre-deprivation hearing is both possible and
17 valuable to prevent an erroneous deprivation of liberty, ICE is required to provide Mr. Pedrozo
18 Munoz with notice and a hearing prior to any incarceration. See *Morrissey*, 408 U.S. at 481-82;
19 *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinerman*, 494 U.S. at 985; see also
20 *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982). Under *Mathews*, “the balance weighs heavily
21 in favor of [Mr. Pedrozo Munoz’s] liberty” and requires a pre-deprivation hearing before a
22 neutral adjudicator.

23 **i. Chilber Pedrozo Munoz’s Private Interest in His Liberty is Profound.**

24 What is at stake in this case for Mr. Pedrozo Munoz is one of the most profound individual
25 interests recognized by our legal system: whether ICE may unilaterally detain a non-citizen and
26 be able to take away his physical freedom, i.e., his “constitutionally protected interest in avoiding
27 physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)(internal quotation
28 omitted). “Freedom from bodily restraint has always been at the core of the liberty protected by
the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). See also *Zadvydas*, 533
U.S. at 690 (“Freedom from imprisonment—from government custody, detention, or other forms

of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

Thus, there is a profound private interest at stake in this case, which must be weighed heavily when determining what process he is owed under the Constitution. See *Mathews*, 424 U.S. at 334-35.

ii. The Government’s Interest in Incarcerating Chilber Pedrozo Munoz Without a Hearing is Low and the Burden on the Government to Refrain from Re-Arresting Him Unless and Until He is Provided a Hearing is Minimal

The government’s interest in maintaining an unlawful detention without a due process hearing is low, and when weighed against Mr. Pedrozo Munoz significant private interest in his liberty, the scale tips sharply in favor of enjoining Respondents (1) from keeping him in unlawful custody; (2) re-arresting Mr. Pedrozo Munoz unless and until the government demonstrates to a neutral adjudicator by clear and convincing evidence that he is a flight risk or danger to the community; and (3) removing him from the United States in violation of an agency order and district court injunction. It becomes abundantly clear that the *Mathews* test favors Mr. Pedrozo Munoz when the Court considers that the process he seeks—notice and a bond hearing before a neutral decision maker—is a standard course of action for the government. Providing Mr. Pedrozo Munoz with a hearing before this Court (or a neutral decision maker) to determine whether there is clear and convincing evidence that Mr. Pedrozo Munoz is a flight risk or danger to the community would impose only a de minimis burden on the government, because the government routinely provides this sort of hearing to individuals like Mr. Pedrozo Munoz.

As immigration detention is civil in nature, it cannot serve a punitive purpose. The government’s only interest in holding an individual in immigration detention can be to prevent danger to the community or to ensure a noncitizen’s appearance at immigration proceedings. See *Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any basis for detaining Mr. Pedrozo Munoz since he has lived at liberty with his community, without any criminal or civil traffic infractions and has attended all court hearings and ICE check-ins. The government’s interest in detaining Mr. Pedrozo Munoz currently is extremely low. That ICE has a new policy to make a minimum number of arrests each day under the new administration does not constitute a valid reason to detain him.

Moreover, the “fiscal and administrative burdens” that his immediate release and a lawful pre-detention hearing would impose is nonexistent in this case. See *Mathews*, 424 U.S. at 334-35. Mr. Pedrozo Munoz does not seek a unique or expensive form of process, but rather a routine hearing. As the Ninth Circuit noted in 2017, which remains true today, “[t]he costs to the public of immigration detention are ‘staggering’: \$158 each day per detainee, amounting to a total daily cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996. It is only fair to say these costs have increased in the past 8 years.

Alternatively, providing Mr. Pedrozo Munoz with a hearing before this Court (or a neutral decision-maker) regarding release from custody is a routine procedure that the government provides to those in immigration detention facilities daily. At that hearing, the Court would have the opportunity to determine whether circumstances justify his arrest and detention. But there is no justifiable reason to incarcerate Mr. Pedrozo Munoz before such a hearing takes place.

Releasing Mr. Pedrozo Munoz from unlawful custody and enjoining Mr. Pedrozo Munoz’s arrest until ICE (1) moves for a custody re-determination before an IJ and (2) demonstrates by clear and convincing evidence that Mr. Pedrozo Munoz is a flight risk or danger to the community is far less costly and burdensome for the government than keeping him detained to a total daily cost of over \$6.5 million. *Hernandez*, 872 F.3d at 996.

iii. Without a Due Process Hearing Prior to Any Arrest, the Risk of an Erroneous Deprivation of Liberty is High, and Process in the Form of a Constitutionally Compliant Hearing Where ICE Carries the Burden Would Decrease That Risk.

Releasing Mr. Pedrozo Munoz from unlawful custody and providing Mr. Pedrozo Munoz a pre-deprivation hearing would decrease the risk of him being erroneously deprived of his liberty. Before Mr. Pedrozo Munoz can be lawfully detained, he should have been provided with a hearing before a neutral adjudicator at which the government is held to show that there are sufficient circumstances to detain him. Clear and convincing evidence exists to establish that Mr. Pedrozo Munoz is not a danger to the community or a flight risk.

The procedure Mr. Pedrozo Munoz seeks—a hearing in front of a neutral adjudicator at which the government must prove by clear and convincing evidence to justify his detention. “A neutral judge is one of the most basic due process protections.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation of liberty

1 under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone, makes
2 custody determinations. *Diouf v. Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir.
3 2011).

4 Due process also requires consideration of alternatives to detention at any custody
5 redetermination hearing that may occur. The primary purpose of immigration detention is to
6 ensure a noncitizen’s appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697.

7 Detention is not reasonably related to this purpose if there are alternatives to incarceration
8 that could mitigate the risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly,
9 alternatives to detention must be considered in determining whether Mr. Pedrozo Munoz’s
10 reincarceration is warranted.

11 As the above-cited authorities show, Mr. Pedrozo Munoz is likely to succeed in his claim
12 that the current arrest and detention that ICE effected December 9, 2025, are unlawful. The Due
13 Process Clause requires notice and a hearing before a neutral decision-maker before any
14 reincarceration by ICE. And, at the very minimum, he clearly raises serious questions regarding
15 this issue, thus also meriting a TRO. See *Alliance for the Wild Rockies*, 632 F.3d at 1135.

16 **3. Mr. Pedrozo Munoz Will Suffer Irreparable Harm Absent Injunctive**
17 **Relief**

18 Mr. Pedrozo Munoz will suffer irreparable harm if he remains detained after being
19 deprived of his liberty and subjected to unlawful incarceration by immigration authorities without
20 being provided with the constitutionally adequate process that this motion for a temporary
21 restraining order seeks. Detainees in ICE custody are held in “prison-like conditions.” *Preap v.*
22 *Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, “[t]he time
23 spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job;
24 it disrupts family life; and it enforces idleness.” *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972);
25 accord *Nat’l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th Cir. 1984).

26 Moreover, the Ninth Circuit has recognized in “concrete terms the irreparable harms
27 imposed on anyone subject to immigration detention,” including “subpar medical and psychiatric
28 care in ICE detention facilities, the economic burdens imposed on detainees and their families as
a result of detention, and the collateral harms to children of detainees whose parents are
detained.” *Hernandez*, 872 F.3d at 995.

1 The government itself has documented alarmingly poor conditions in ICE detention
 2 centers. *See, e.g.,* DHS, Office of Inspector General (OIG), Summary of Unannounced
 3 Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024) (reporting violations
 4 of environmental health and safety standards; staffing shortages affecting the level of care
 5 detainees received for suicide watch, and detainees being held in administrative segregation in
 6 unauthorized restraints, without being allowed time outside their cell, and with no documentation
 7 that they were provided health care or three meals a day).

8 Conditions at the California City Detention Facility – where plaintiff is being held - are
 9 so inhumane that the ACLU recently filed a Class Action lawsuit detailing the grotesque,
 10 inhumane, and substandard conditions of the facility. *Gomez Ruiz v. U.S. Immigration and
 Customs Enforcement*, (N.D. Cal. Case 3:25-cv-09757, filed 11/12/25).

11 As detailed *supra*, Petitioner contends that his arrest, absent a hearing before a neutral
 12 adjudicator, violates his due process rights under the Constitution. It is clear that “the deprivation
 13 of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695
 14 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Thus, a
 15 temporary restraining order is necessary to prevent Mr. Pedrozo Munoz from suffering
 irreparable harm by being subject to unlawful and unjust detention.

16 **4. The Balance of Equities and the Public Interest Favor Granting the** 17 **Temporary Restraining Order.**

18 The balance of equities and the public interest undoubtedly favor granting this temporary
 19 restraining order. First, the balance of hardships strongly favors Mr. Pedrozo Munoz. The
 20 government cannot suffer harm from an injunction that prevents it from engaging in an unlawful
 21 practice. *See Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) (“[T]he INS cannot reasonably
 22 assert that it is harmed in any legally cognizable sense by being enjoined from constitutional
 23 violations.”). Therefore, the government cannot allege harm arising from a temporary restraining
 order or preliminary injunction ordering it to comply with the Constitution.

24 Further, any burden imposed by requiring the ICE to release Mr. Pedrozo Munoz from
 25 unlawful custody and refrain from re-arrest unless and until he is provided with a hearing before
 26 a neutral arbitrator is both *de minimis* and clearly outweighed by the substantial harm he will
 27 suffer as if he is detained. *See Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) (“Society’s
 28

1 interest lies on the side of affording fair procedures to all persons, even though the expenditure
2 of governmental funds is required.”).

3 A temporary restraining order is in the public interest. First and most importantly, “it
4 would not be equitable or in the public’s interest to allow [a party] . . . to violate the requirements
5 of federal law, especially when there are no adequate remedies available.” *Ariz. Dream Act Coal.*
6 *v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014) (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d
7 1006, 1029 (9th Cir. 2013)). If a temporary restraining order is not entered, the government would
8 effectively be granted permission to detain Mr. Pedrozo Munoz in violation of the requirements
9 of Due Process. “The public interest and the balance of the equities favor ‘prevent[ing] the
10 violation of a party’s constitutional rights.’” *Ariz. Dream Act Coal.*, 757 F.3d at 1069 (quoting
11 *Melendres*, 695 F.3d at 1002); see also *Hernandez*, 872 F.3d at 996 (“The public interest benefits
12 from an injunction that ensures that individuals are not deprived of their liberty and held in
13 immigration detention because of bonds established by a likely unconstitutional process.”); cf.
14 *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) (“Generally, public interest concerns
15 are implicated when a constitutional right has been violated, because all citizens have a stake in
16 upholding the Constitution.”).

17 Therefore, the public interest overwhelmingly favors entering a temporary restraining
18 order and preliminary injunction.

19 **V. CONCLUSION**

20 For all the above reasons, this Court should find:

21 (1) that Mr. Pedrozo Munoz warrants a temporary restraining order and a preliminary
22 injunction ordering that Respondents Declare that Petitioner’s detention violates the Due Process
23 Clause of the Fifth Amendment;

24 (2) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately
25 and schedule a bond hearing before an immigration judge;

26 (3) Declare immediately that Defendants are prohibited from moving Petitioner outside
27 of the jurisdiction of the Eastern District of California and enjoin Defendants from sending him
28 to any place outside of the United States;

(4) Enjoin defendant from re-detaining Petitioner without a pre-deprivation hearing
before an immigration judge where the Government bears the burden of proving that

1 circumstances have materially changed, rendering Petitioner a danger to the community or a
2 flight risk;

3 (5) Order Defendants to file a written declaration attesting to full compliance with these
4 obligations.

5 (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
6 on any other basis justified under law; and

7 (7) Grant any further relief this Court deems just and proper.

8 Dated: December 17, 2025

Respectfully submitted,

9 /s/ Robert Beles

10 Robert J Beles

11 Attorney for Petitioner

12 Chilber Pedrozo Munoz
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed the events described in the Petition with the Petitioner. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on December 17, 2025, in Oakland, CA.

/s/ Robert Beles
Robert J. Beles
Attorney for Chilber Pedrozo
Munoz