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

FERNANDO ANGUIANO GARCIA

PETITIONER,

vs.

TODD LYONS, ACTING DIRECTOR, IMMIGRATION
CUSTOMS AND ENFORCEMENT; AND CHRISTPHER
CHESTNUT, WARDEN, CALIFORNIA CITY
CORRECTIONAL FACILITY

RESPONDENTS.

CASE No.: 1:25-cv-01925-KES-SKO

**MOTION AND MEMORANDUM IN
SUPPORT OF APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE RE: PRELIMINARY
INJUNCTION**

NOTICE OF MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court for the Eastern District of California, that Petitioner Fernando Anguiano Garcia will and hereby does move for a temporary restraining order pursuant to Federal Rule of Civil Procedure 65(b). Because Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the United States, Petitioner respectfully request that this Court (1) order Petitioner's immediate release from Respondents' custody pending these proceedings, without requiring additional bond or electronic monitoring, or, in the alternative, (2) order Petitioner's immediate release from Respondents' custody and, within 14 days, order a pre-deprivation bond hearing before the San Francisco Immigration Court, where Respondents shall bear the burden of proof to show, by clear and convincing evidence that changed circumstances now make Petitioner a danger or a flight risk. To preserve this Court's jurisdiction, Petitioner further seeks an order enjoining Respondents from transferring Petitioner out of this District or deporting him during the pendency of the underlying proceedings.

This motion is based on this Notice of Motion and Motion; the accompanying Memorandum of Points and Authorities; the supporting declarations, the papers, evidence, and records on file in this action; and any other written or oral evidence or argument as may be presented at or before the time this motion is heard by the Court. This motion is also supported by the Petition for Writ of Habeas Corpus (ECF No. 1).

Consistent with Civil L.R. 134(d), Petitioner seeks relief at the earliest possible opportunity. As detailed further in the Declaration of Nicole A. Gorney, Counsel for Petitioner emailed Respondents and advised that a Motion for TRO would be forthcoming. Petitioner also

1 emailed Counsel for Respondents a copy of the Memorandum of Points and Authorities shortly
2 before filing it. As of this filing, Respondents have not stipulated to a TRO.

3
4 DATED: December 20, 2025

VIDAS Legal Services

5 By: /s/ Nicole A. Gorney

6 Nicole A. Gorney

Pro Bono Attorney for Petitioner

TABLE OF CONTENTS

1	<u>NOTICE OF MOTION</u>	<u>i</u>
2	<u>MEMORANDUM OF POINTS AND AUTHORITIES</u>	<u>1</u>
3	<u>I. INTRODUCTION</u>	<u>1</u>
4	<u>II. FACTUAL BACKGROUND</u>	<u>2</u>
5	<u>III. ARGUMENT</u>	<u>3</u>
6	<u>a. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS OF HIS</u>	
7	<u>FIFTH AMENDMENT CLAIM</u>	<u>3</u>
8	<u>1. Petitioner Has a Strong Private Interest</u>	<u>8</u>
9	<u>2. Risk of Erroneous Deprivation is High</u>	<u>9</u>
10	<u>3. Government's interest is minimal</u>	<u>8</u>
11	<u>c. PETITIONER WILL SUFFER IRREPARABLE HARM IN THE ABSENCE</u>	
12	<u>OF A TRO</u>	<u>11</u>
13	<u>d. THE BALANCE OF EQUITIES AND PUBLIC INTEREST WEIGHS IN</u>	
14	<u>PETITIONER'S FAVOR</u>	<u>12</u>
15	<u>IV. CONCLUSION</u>	<u>13</u>

TABLE OF AUTHORITIES

Cases

<i>Baird v. Bonta</i> , 81 F.4th 1036 (9th Cir. 2023)	9
<i>Barker v. Wingo</i> , 407 U.S. 514 (1972)	8
<i>Bautista v. Santacruz</i> , No. 5:25-cv-01873-SSS-BFM, 2025 U.S. Dist. LEXIS 171364 (C.D. Ca. Jul. 28, 2025)	5, 8
<i>Cruz v. Lyons</i> , 2025 WL 3443146, at *1 (C.D.Cal., 2025)2025 WL 3443146, at *1 (C.D.Cal., 2025).....	4, 11
<i>Doe v. Becerra</i> , 787 F. Supp. 3d 1083 (E.D. Cal. 2025)	6
<i>Friends of the Wild Swan v. Weber</i> , 767 F.3d 936 (9th Cir. 2014)	3
<i>Frontline Med. Assocs., Inc. v. Coventry Healthcare Workers Comp., Inc.</i> , 620 F. Supp. 2d 1109 (C.D. Cal. 2009)	2
<i>Hernandez v. Sessions</i> , 872 F.3d 976 (9th Cir. 2017)	8
<i>Hogarth v. Santacruz</i> , 2025 WL 3211461, at *15 (C.D.Cal., 2025).....	2, 11
<i>Index Newspapers LLC v. U.S. Marshals Serv.</i> , 977 F.3d 817 (9th Cir. 2020)	9
<i>Lepe v. Andrews</i> , F. Supp. 3d —, No. 1:25-cv-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025)	4
<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976)	6
<i>Melendres v. Arpaio</i> , 695 F.3d 990 (9th Cir. 2012)	7

1	<i>Moreno Galvez v. Cuccinelli</i> , 387 F. Supp. 3d 1208 (W.D. Wash. 2019)	9
2	<i>Moreno Galvez v. Cuccinelli</i> , 492 F. Supp. 3d 1169 (W.D. Wash. 2020)	8
3		
4	<i>Moreno Galvez v. Jaddou</i> , 52 F.4th 821 (9th Cir. 2022)	8, 9
5		
6	<i>Ortega v. Bonnar</i> , 415 F.Supp.3d 963 (N.D.Cal., 2019)	2, 8, 11
7	<i>Perez v. Albarran</i> , No. 1:25-cv-01540-DAD-CSK (HC), 2025 U.S. Dist. LEXIS 224966 (E.D. Cal. Nov. 14, 2025)	4
8		
9	<i>Perez-Mendez v. Lyons</i> , No. 2:25-cv-07727-VBF-RAO, 2025 U.S. Dist. LEXIS 207266 (C.D. Cal. Sept. 11, 2025)	4, 5
10		
11	<i>Pinchi v. Noem</i> , No. 25-cv-05632-RMI-RFL, 2025 WL 1853763 (N.D. Cal. July 4, 2025)	7
12		
13	<i>Polo v. Chestnut</i> , No. 1:25-CV-01342 JLT HBK, 2025 WL 2959346 (E.D. Cal. Oct. 17, 2025)	5
14		
15	<i>Rodriguez v. Bostock</i> , No. 3:25-CV-05240-TMC, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025)	5
16		
17	<i>Salcedo Aceros v. Kaiser</i> , No. 25-cv-06924-EMC, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025)	3, 7
18		
19	<i>Simon v. City & Cnty. of San Francisco</i> , 135 F.4th 784 (9th Cir. 2025)	2
20		
21	<i>Singh v. Andrews</i> , No. 1:25-cv-00801-KES-SKO (HC), 2025 WL 1918679 (E.D. Cal. July 11, 2025)	6
22		
23	<i>Sun v. Santacruz</i> , No. 5:25-cv-02198-JLS-JC, 2025 WL 2730235 (C.D. Cal. Aug. 26, 2025)	6
24		
25		
26		
27		
28		

1	<i>Valle del Sol Inc. v. Whiting</i> , 732 F.3d 1006 (9th Cir. 2013)	9
2	<i>Warsoldier v. Woodford</i> , 418 F.3d 989, 1001-02 (9th Cir. 2005)	8
3		
4	<i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008)	2
5		
6	<i>Zadvydas v. Davis</i> , 533 U.S. 678 (2001)	3, 8

9 **Statutes**

10	8 U.S.C. § 1225(b)(2)	4, 5, 9
11	8 U.S.C. § 1226(a)	4,

Text

MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

Petitioner Fernando Anguiano Garcia has been in the United States since 2016 to seek asylum. He was detained by Department of Homeland Security (DHS) officials at the border and released into the United States after being granted immigration bond. Since his release in 2016, Petitioner has been awaiting adjudication of his asylum claim with the immigration court.

On around December 3, 2025, Petitioner went to the ICE facility at 630 Sansome Street in San Francisco after receiving a message from ICE to present for an ICE check-in appointment. ICE detained him at that check-in without prior warning, or revocation of his immigration bond and Petitioner is now in ICE custody.

Petitioner's case is one of a growing number of cases where ICE unlawfully re-arrests individuals at their ICE check-ins. These arrests are often based on allegations of minor, technical violations of release conditions.

Petitioner's summary arrest and indefinite detention flout the Constitution. The only legitimate interests that civil immigration detention serves are mitigating flight risk and preventing danger to the community. When those interests are absent, the Fifth Amendment's Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and detaining Petitioner without making any affirmative showing of changed circumstances, the government violated Petitioner's procedural due process rights. At the very least, he was constitutionally entitled to adequate notice and a hearing in Immigration Court to determine whether his bond should be revoked or altered. Petitioner has a liberty interest since being released on bond in 2016.

As a result of his arrest and detention, Petitioner is suffering irreparable and ongoing harm. The unconstitutional deprivation of "physical liberty" "unquestionably constitutes

irreparable injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed,
“[f]reedom 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.”
Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

In light of this irreparable harm, and because he is likely to succeed on the merits of his
due process claims, Petitioner respectfully requests that this Court issue a temporary restraining
order (“TRO”) immediately releasing from his custody and enjoining the government from
re-arresting him absent sufficient notice and a bond redetermination hearing. Confronted with
similar facts and legal issues, numerous courts in this circuit have recently granted the exact
relief Petitioner seeks. *See Hogarth v. Santacruz*, 2025 WL 3211461, at *15 (C.D.Cal., 2025);
Cruz v. Lyons, 2025 WL 3443146, at *1 (C.D.Cal., 2025) (both TROs converted to preliminary
injunctions after initial release on immigration bond) and *Ortega v. Bonnar*, 415 F.Supp.3d 963
(N.D.Cal., 2019) (writ of habeas corpus granted).

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

FACTUAL BACKGROUND

Petitioner is an asylum seeker from Mexico. Petitioner was briefly detained by federal
agents after appearing at the border of the United States in 2016 to seek entry to apply for
asylum. Declaration of Nicole A. Gorney (“Gorney Dec.”) 2.

After a bond hearing where it was determined that he was not a flight risk or a danger to
the community, Petitioner was released from immigration detention on bond while he remained
in immigration removal proceedings.

Petitioner went to live in Sonoma, California. Gorney Dec. 4. He has been living at liberty since 2016. He has strong family ties in Sonoma, California, including US Citizen parents, a Partner, and a three-year old US Citizen son.

Petitioner's application for asylum, withholding of removal and relief under applied for the Convention Against Torture remains pending with the Immigration Court. Gorney Dec. 4.

Petitioner made a good faith effort to comply with all bond release and supervision terms, attendance at check-ins, and court dates. Petitioner also did not commit any crimes. Gorney Dec.

5.

On either December 2 or December 3, 2025, Petitioner went to the ICE facility in San Francisco for an ICE check-in. He had received a message from ICE to appear. Without prior notice or a bond revocation hearing, ICE suddenly arrested him at that check-in. Gorney Dec.

5.

Nothing has transpired since Petitioner's release on bond in 2016 that makes him a flight risk or danger. His detention is thus not authorized under the Due Process Clause.

Petitioner suffers serious and ongoing harm every moment he remains in detention.

ARGUMENT

To warrant a TRO, a movant must show (1) they are "likely to succeed on the merits," (2) they are "likely to suffer irreparable harm in the absence of preliminary relief," (3) "the balance of equities tips in [their] favor," and that (4) "an injunction is in the public interest." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011)(quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)); see *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)(noting the analysis for issuing a temporary restraining order and a preliminary injunction is substantially the same). Even if the movant

1 raises only “serious questions” as to the merits of their claims, the court can grant relief if the
2 balance of hardships tips “sharply” in their favor. *All. for the Wild Rockies*, 632 F.3d at 1135.
3 All factors here weigh decisively in Petitioner’s favor.

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

5 **A. Petitioner’s detention violates substantive due process because he is neither a**
6 **flight risk nor a danger to the community.**

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

15 To comply with substantive due process, the government’s deprivation of an individual’s
16 liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is
17 “civil, not criminal,” and “nonpunitive in purpose and effect,” must be justified by either
18 (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d at 994
19 (“[T]he government has no legitimate interest in detaining individuals who have been determined
20 not to be a danger to the community and whose appearance at future immigration proceedings
21 can be reasonably ensured by a lesser bond or alternative conditions.”). When these rationales
22 are absent, immigration detention serves no legitimate government purpose and becomes
23 impermissibly punitive, violating a person’s substantive due process rights. *See Jackson v.*
24 *Indiana*, 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the
25 government’s interests in preventing flight and danger); *see also Mahdawi v. Trump*, No.
26
27
28

2:25-CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding petitioner may “succeed on his Fifth Amendment claim if he demonstrates *either* that the government acted with a punitive purpose *or* that it lacks any legitimate reason to detain him”).

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

Petitioner is neither a danger nor a flight risk. Therefore, his detention is both punitive and not justified by a legitimate purpose, violating his substantive due process rights.

When Respondents released Petitioner from custody on immigration bond, that bond represented findings that he was neither dangerous nor a flight risk. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.”).

Once a noncitizen is released from custody, federal agents are prohibiting from re-arresting them without “evidence of materially changed circumstances — namely, evidence that the noncitizen is in fact dangerous or has become a flight risk, or is now subject to a final order of removal.” *Saravia v. Sessions*, 280 F. Supp. 3d at 1197; *Panosyan v. Mayorkas*, 854 F.

1 App'x 787, 788 (9th Cir. 2021) (“Thus, absent changed circumstances ... ICE cannot redetain
2 Panosyan.”); *Rodriguez Diaz v. Kaiser*, No. 25-CV-05071-TLT, 2025 WL 3011852, at *29-30
3 (N.D. Cal. Sept. 16, 2025).

4 The mere allegation of changed circumstances by ICE alone is not enough to justify
5 re-arrest, absent urgent concerns. *See Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1036
6 (N.D. Cal. 2025); *see also Rodriguez v. Kaiser*, No. 1:25-CV-01111-KES-SAB (HC), 2025 WL
7 2855193, at *7 (E.D. Cal. Oct. 8, 2025)(concluding that, “given the absence of evidence of
8 urgent concerns . . . a pre-deprivation hearing [was] required to satisfy due process,” and
9 collecting cases). Numerous decisions reach this conclusion.¹

10 For example, a court in the Northern District recently analyzed Respondents’ arguments
11 for the re-detention of a 60-year-old grandmother of seven who was accused of “minor, technical
12 violations” of her release on own recognizance. *Bernal v. Albarran*, No. 25-cv-09772-RS, 2025
13 U.S. Dist. LEXIS 232122, at *19 (N.D. Cal. Nov. 25, 2025). The court found “detention is
14 permitted under section 1226(a) only if [petitioner] is dangerous or a flight risk,” and that
15 Respondents had alleged only “minor, technical violations” of her release conditions, rather than
16 suggesting that she was a danger or flight risk. *Id.* The court granted injunctive relief, concluding
17 that “Respondents have not come close to showing that [petitioner is a danger or flight risk], and
18 in fact, have hardly even tried.” *Id.* Courts thus analyze the sufficiency of the evidence
19 Respondents present to determine whether the re-arrest was pretextual.

20 Here, Petitioner is not a danger. He has no criminal history or any intervening criminal
21 arrests since his release on bond.

22 As to flight risk, the question is whether custody is reasonably necessary to secure a
23 person’s appearance at immigration court hearings and related check-ins. *See Hernandez*, 872

24 ¹ *See Jocop v. Albarran*, No. 25-cv-09059-JD, 2025 U.S. Dist. LEXIS 209368, at *5-6 (N.D. Cal. Oct. 23, 2025)
25 ; *Rodriguez Diaz v. Kaiser*, No. 25-CV-05071-TLT, 2025 WL 3011852, at *43 (N.D. Cal. Sept. 16, 2025);
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F.3d at 990-91. Petitioner has made a good faith effort to comply with all the terms of his bond and release for almost ten years. Any concerns about flight risk would be mitigated by the fact that Petitioner was arrested *while complying with an ordered ICE check-in*. Although Respondents have not yet stated their reason for the re-arrest, any allegation that Petitioner missed an ICE check-in or otherwise violated a “minor, technical” term of his release would be insufficient to justify his re-detention. *See Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 U.S. Dist. LEXIS 232122, at *19.

Moreover, Petitioner has a viable path toward immigration relief and a pathway to lawful permanent residence through his asylum application, potential application for cancellation of removal and a potential family petition, further mitigating any risk of flight. *See Padilla v. U.S. Immigr. and Customs Enf’t*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023) (holding that there is not a legitimate concern of flight risk where plaintiffs have bona fide asylum claims and desire to remain in the United States).

In sum, Petitioner’s actions since released on bond in 2016 confirm that he is neither a danger nor flight risk. Indeed, his ongoing compliance for almost ten years and community ties compel the conclusion that he is even *less* of a danger or flight risk than when he was originally released. Accordingly, Petitioner’s ongoing detention is unconstitutional, and substantive due process principles require his immediate release.

B. The government violated procedural due process by depriving Petitioner of notice and a bond re-determination hearing in Immigration Court.

Noncitizens living in the United States like Petitioner have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. The Supreme Court “usually has held that the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d 671, 683

(D.C. Cir. 2017)(citing *Young v. Harper*, 520 U.S. 143, 152 (1997)(holding that re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (holding the same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context).

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

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

First, the private interest affected in this case is profound. When considering this factor, courts look to “the degree of potential deprivation.” *Nozzi v. Hous. Auth. of City of Los Angeles*, 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341).

The degree of deprivation here is high. Petitioner has been completely deprived of his physical liberty. Petitioner’s detention has ripped from him the “free[dom] to be with family and friends and to form the . . . enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482. Cutting someone off from the “core values of unqualified liberty”—for Petitioner creates a “grievous loss.” *Id.* Moreover, because Petitioner faces *civil detention*, “h[is] liberty interest is arguably greater than the interest of the parolees in *Morrissey*.” *See Ortega*, 415 F. Supp. 3d at 970. As someone in civil detention, therefore, “it stands to reason that [Petitioner] is entitled to protections at least as great as those afforded to a[n] . . . individual . . . accused but not convicted of a crime.” *See Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004).

Second, “the risk of an erroneous deprivation [of liberty] is high” where, as here, “[the petitioner] has not received any bond or custody redetermination hearing.” *A.E. v. Andrews*, No. 1:25-cv-00107, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*, No. 19-cv-07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020)); *see also Diep v. Wofford*, No. 1:24-cv-01238, 2025 WL 6047444, at *5 (E.D. Cal. Feb. 25, 2025). Respondents grabbed Petitioner by surprise as he appeared for an ordered ICE check-in, detaining him with no notice and no opportunity to contest his re-detention before a neutral arbiter. In such circumstances, when Respondents have provided *no* procedural safeguards, “the probable value of additional procedural safeguards, i.e., a bond hearing, is high.” *A.E.*, 2025 WL 1424382, at *5. This is especially true here, where there is no material change in Petitioner’s circumstances suggesting that Petitioner now poses a flight risk or danger to the community. His re-detention instead appears to be motivated instead by the government’s new and implausible interpretation of 8 U.S.C. § 1225(b)(2). *See Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC, 2025 U.S. Dist. LEXIS 179594, at *20-32 (Sept. 12, 2025). This does not constitute a lawful justification to re-detain a person who does not pose a flight risk or danger to the community.

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

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

immigration court proceedings” and “established ties” through his work and volunteering with the church).

In similar cases, courts in this Circuit regularly hold that re-detaining noncitizens after release on bond without notice and a bond hearing in which the government bears the burden of proof violates due process, and grant the emergency relief Petitioner seeks here. *See Hogarth v. Santacruz*, 2025 WL 3211461, at *15 (C.D.Cal., 2025); *Cruz v. Lyons*, 2025 WL 3443146, at *1 (C.D.Cal., 2025) (both TROs converted to preliminary injunctions after initial release on immigration bond) and *Ortega v. Bonnar*, 415 F.Supp.3d 963 (N.D.Cal., 2019) (writ of habeas corpus granted).

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

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

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

Without a temporary restraining order, Petitioner will suffer immense irreparable injury.

Indeed, he faces such injury every day he remains in detention in violation of his Fifth Amendment rights. “It is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (internal quotation marks omitted). And the unlawful deprivation of physical liberty is the quintessential irreparable harm. *See Hernandez*, 872 F.3d at 994 (holding that plaintiffs were irreparably harmed “by virtue of the fact that they [we]re likely to be unconstitutionally detained for an indeterminate period of time”); *see also, e.g., Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018)(recognizing that “[a]ny amount of actual jail time is significant, and has exceptionally severe consequences for the incarcerated individual” (cleaned up)).

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

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

The public interest likewise weighs strongly in Petitioner’s favor. As another California district court recently concluded, “[t]he public has a strong interest in upholding procedural

1 protections against unlawful detention, and the Ninth Circuit has recognized that the costs to
2 the public of immigration detention are staggering.” *Diaz*, 2025 WL 1676854, at *3 (citing
3 *Jorge M. F.*, 2021 WL 783561, at *3). More fundamentally, “[i]t is always in the public interest
4 to prevent the violation of a party’s constitutional rights.” *Index Newspapers LLC v. U.S.*
5 *Marshals Serv.*, 977 F.3d 817, 838 (9th Cir. 2020) (citing *Padilla v. Immigr. & Customs Enf’t*,
6 953 F.3d 1134, 1147-48 (9th Cir. 2020) (internal quotation marks omitted)).

7
8 **CONCLUSION**

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

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