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

Juan Carlos Hidalgo Solis,

Petitioner,

v.

Warden of the Golden State Annex;

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, Juan Carlos Hidalgo Solis ("Mr. Hidalgo Solis") 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. Hidalgo Solis 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 18, 2025 Respectfully submitted,

/s/ Robert Beles
Robert Beles
Attorney for Petitioner-Plaintiff
Juan Carlos Hidalgo Solis

1 **I. INTRODUCTION**

2 Respondents unlawfully detained Petitioner-Plaintiff Juan Carlos Hidalgo Solis on
3 November 13, 2025. Mr. Hidalgo Solis was detained during a routine check-in at the ICE
4 Enforcement and Removal Center at 630 Sansome Street in San Francisco, California. Mr.
5 Hidalgo Solis was informed that his ISAP uploads were not done properly.

6 Mr. Hidalgo Solis entered the United States without inspection in October of 2023. Mr.
7 Hidalgo Solis was detained upon entering the United States. Shortly after Mr. Hidalgo Solis was
8 released from custody on his own recognizance after a determination was made that Mr. Hidalgo
9 Solis was not a flight risk nor a danger to society.

10 The Department of Homeland Security (“DHS”) handed Mr. Hidalgo Solis a Notice to
11 Appear with the immigration court indicating that he had to appear in immigration court before
12 an immigration judge. In February of 2024, Petitioner retained an immigration attorney and filed
13 an asylum application with the Immigration Court. Since arriving to the United States, Mr.
14 Hidalgo Solis has maintained steady employment, attended every immigration appointment that
15 he was required to attend. Mr. Hidalgo Solis has no criminal history.

16 Mr. Hidalgo Solis is not an applicant for admission to the United States, Mr. Hidalgo
17 Solis has lived in the United States for over two years. He currently resides with his wife and
18 four children in Livermore, California including a five-month-old baby who requires constant
19 attention.

20 At the time of detention, Mr. Hidalgo Solis was working full-time as a school janitor at
21 an elementary school in Antioch, California to provide for his wife and four children.

22 Mr. Hidalgo Solis’ summary arrest and indefinite detention flout the Constitution. The
23 only legitimate interests that civil immigration detention serves are mitigating the risk of flight
24 and preventing danger to the community. When those interests are absent, the Fifth Amendment’s
25 Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and
26 detaining Mr. Hidalgo Solis without making any affirmative showing of immigration violations,
27 flight risk or danger to the community, the government violated Petitioner’s procedural due
28 process rights. At the very least, he was constitutionally entitled to a hearing before a neutral
decision maker at which the government should have justified his detention.

Mr. Hidalgo Solis must be accorded his 5th amendment due process rights as affirmed in
the US Supreme Court case *Department of Homeland Security v. Thuraissigium*, 140 S.Ct. 1959

(2020), Specifically, in *Thuraissigium*, the Supreme Court Stated: “aliens who have established connections in this country have due process rights in deportation proceedings,”

As a result of his arrest and detention, Mr. Hidalgo Solis 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). Mr. Hidalgo Solis’s arrest and detention have caused and will cause immediate, tremendous, and ongoing harm, which include health problems that may result in hospitalization and/or death due to his ongoing health issues, hygiene, sleep and nutrition 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. Hidalgo Solis respectfully requests that this Court issue an Ex Parte temporary restraining order (“TRO”) immediately releasing him from custody and enjoining the government from re-arresting him absent the opportunity to contest that arrest at a hearing before a neutral decision maker. Confronted with substantially identical facts and legal issues, this and other courts in this circuit have recently granted the exact relief Petitioner seeks.

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

To maintain this Court’s jurisdiction, the Court should also prohibit the government from transferring Mr. Hidalgo Solis out of this District and removing him from the country until these proceedings have been completed.

II. STATEMENT OF FACTS AND CASE

Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign targeting people who are not in status, many of whom have pending applications for asylum or other relief. This “coordinated operation” is “aimed at dramatically accelerating deportations” by arresting people at the courthouse, USCIS interviews, or at the ICE office and placing them into

1 expedited removal. The Trump administration implemented a policy to drastically increase
2 immigration arrests to a target of at least 3,000 per day. According to White House officials, such
3 as Stephen Miller, this directive prioritized arrest numbers over individuals' criminal history,
4 encouraging agents to conduct mass round-ups in public spaces rather than targeted
5 investigations.

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

11 In addition, individuals are now held for extended periods, sometimes days, in temporary
12 holding cells that are not designed for overnight or prolonged detention, often under inhumane
13 conditions. Government officials have justified these harsh conditions not as a matter of
14 necessity, but as an intentional deterrent, which is not a constitutionally permissible reason for
15 detention.

16 Mr. Hidalgo Solis has lived in the United States for over two years. He has many family
17 members in the United States. At the time of detention, Mr. Hidalgo Solis was working full-time
18 to provide for his wife and four children in the United States. Mr. Hidalgo Solis has no criminal
19 history anywhere in the world. He has established strong connections to the United States.

20 Mr. Hidalgo Solis' arrest and detention have caused and will cause immediate,
21 tremendous, and ongoing harm, which includes serious health problems which could lead to
22 hospitalization and/or death, hygiene, sleep, and nutrition deprivation, family separation,
23 emotional and economic harm to his family and USC child, loss of employment, and
24 psychological harm. Mr. Hidalgo Solis is not a flight risk, as evidenced by his deep ties with the
25 community, including his relatives in the US. He is not a danger to the community. He is a law-
26 abiding, tax paying, and gainfully employed person. His detention serves no legitimate purpose.

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

1 Intervention from this Court is therefore required to ensure that Mr. Hidalgo Solis is
2 released from his current custody based on his unlawful arrest, returned to his home in Livermore,
3 California, where ICE can then provide him with a hearing before determining to re-arrest him
4 pursuant to the Due Process Clause of the Fifth Amendment.

5 **III. LEGAL STANDARD**

6 Mr. Hidalgo Solis is entitled to a temporary restraining order if he establishes that he is
7 “likely to succeed on the merits...likely to suffer irreparable harm in the absence of preliminary
8 relief, that the balance of equities tips in [his] favor, and that an injunction is in the public
9 interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int’l Sales Co.*
10 *v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction
11 and temporary restraining order standards are “substantially identical”). Even if Mr. Hidalgo
12 Solis does not show a likelihood of success on the merits, the Court may still grant a temporary
13 restraining order if he raises “serious questions” as to the merits of his claims, the balance of
14 hardships tips “sharply” in his favor, and the remaining equitable factors are satisfied. Alliance
15 for the *Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As set forth in more detail below,
16 Mr. Hidalgo Solis overwhelmingly satisfies both standards.

17 Furthermore, the requirements for issuing a temporary restraining order without notice
18 are met here. See Fed. R. Civ. P. 65(b). Mr. Hidalgo Solis has attempted to secure his release
19 from ICE but has received no response. Mr. Hidalgo Solis also set out specific facts
20 demonstrating that immediate and irreparable injury, loss, or damage may result before
21 respondents can be heard in opposition. See *Pinchi v. Noem*, No. 25-cv-05632-RML, 2025 L
22 1853763, at *4 (N.D. Cal. July 4, 2025); *J.O.L.R. v Wofford*, 2025 WL 2718631 * 11 (E.D. Cal
23 Sept. 23, 2025); *R.D.T.M. v Wofford*, 2025 WL 2617255 * 11 (E.D. Cal Sept. 9, 2025)(granting
24 ex parte temporary restraining order in similar circumstances).

25 **IV. ARGUMENT**

26 **A. Juan Carlos Hidalgo Solis WARRANTS A TEMPORARY RESTRAINING ORDER**

27 A temporary restraining order should be issued if “immediate and irreparable injury, loss,
28 or irreversible damage will result” to the applicant in the absence of an order. Fed. R. Civ. P.
65(b). The purpose of a temporary restraining order is to prevent irreparable harm before a
preliminary injunction hearing is held. See *Granny Goose Foods, Inc. v. Bhd. Of Teamsters &*
Auto Truck Drivers Local No. 70 of Alameda City, 415 U.S. 423, 439 (1974). Mr. Hidalgo Solis

1 is likely to remain in unlawful custody in violation of his due process rights without intervention
 2 by this Court. Mr. Hidalgo Solis will continue to suffer irreparable injury if he continues to be
 3 detained without due process.

4 **1. Juan Carlos Hidalgo Solis is likely to succeed on the merits because his**
detention violates substantive due process.

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

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

27 The Supreme Court has recognized that noncitizens may bring as-applied challenges to
 28 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

1 detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but
2 to incarcerate for other reasons.”); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019) (“Our decision
3 today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—that is,
4 constitutional challenges to applications of the statute as we have now read it.”).

5 Mr. Hidalgo Solis is neither a danger nor a flight risk. Therefore, his detention is both
6 punitive and not justified by a legitimate purpose, violating his substantive due process rights.
7 Mr. Hidalgo Solis’ ongoing detention is unconstitutional, and substantive due process principles
8 require his immediate release.

9 **2. Juan Carlos Hidalgo Solis is Likely to Succeed on the Merits of His Claim**
10 **That in This Case the Constitution Requires a Hearing Before a Neutral**
11 **Adjudicator Prior to Any Re-Incarceration by ICE.**

12 Mr. Hidalgo Solis is likely to succeed on his claim that, in his particular circumstances,
13 his current detention is unlawful because the Due Process Clause of the Constitution prevents
14 Respondents from detaining him without first providing a pre-deprivation hearing before a
15 neutral adjudicator where the government demonstrates by clear and convincing evidence that he
16 is a danger to the public or a flight risk.

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

21 **a. Juan Carlos Hidalgo Solis Has a Protected Liberty Interest**

22 The Due Process Clause protects Mr. Hidalgo Solis’s liberty from immigration custody:
23 “Freedom 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).

26 Mr. Hidalgo Solis has an established life in California. Mr. Hidalgo Solis has lived in the
27 United States for over two years. He resides with his wife and four children in Antioch,
28 California. At the time of detention, Mr. Hidalgo Solis worked full time as a janitor. Mr. Hidalgo
Solis has no criminal history anywhere in the world.

b. Juan Carlos Hidalgo Solis’s Liberty Interest Mandates His Release from
Unlawful Custody And A Hearing Before any Re-Arrest.

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

7 "Adequate, or due, process depends upon the nature of the interest affected. The more
8 important the interest and the greater the effect of its impairment, the greater the procedural
9 safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d
10 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey v. Brewer*, 408 U.S. 471, at 481-82
11 (1972)). This Court must "balance [Mr. Hidalgo Solis'] liberty interest against the
12 [government's] interest in the efficient administration of" its immigration laws to determine what
13 process he is owed to ensure that ICE does not unconstitutionally deprive him of his liberty. *Id.*
14 at 1357. Under the test outlined in *Mathews v. Eldridge*, this Court must consider three factors in
15 conducting its balancing test: "first, the private interest that will be affected by the official action;
16 second, the risk of an erroneous deprivation of such interest through the procedures used, and the
17 probative value, if any, of additional or substitute procedural safeguards; and finally the
18 government's interest, including the function involved and the fiscal and administrative burdens
19 that the additional or substitute procedural requirements would entail." *Haygood*, 769 F.2d at
20 1357 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

21 The Supreme Court "usually has held that the Constitution requires some kind of a
22 hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S.
23 113, 127 (1990) (emphasis in original). Only in a "special case" where post-deprivation remedies
24 are "the only remedies the State could be expected to provide" can the post-deprivation process
25 satisfy the requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where "one
26 of the variables in the *Mathews* equation—the value of pre-deprivation safeguards—is negligible
27 in preventing the kind of deprivation at issue" such that "the State cannot be required
28 constitutionally to do the impossible by providing pre-deprivation process," can the government
avoid providing pre-deprivation process. *Id.*

Because, in this case, the provision of a pre-deprivation hearing is both possible and
valuable to prevent an erroneous deprivation of liberty, ICE is required to provide Mr. Hidalgo

Solis with notice and a hearing prior to any incarceration. See *Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985; see also *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982). Under *Mathews*, “the balance weighs heavily in favor of [Mr. Hidalgo Solis’] liberty” and requires a pre-deprivation hearing before a neutral adjudicator.

i. Juan Carlos Hidalgo Solis’ Private Interest in His Liberty is Profound.

What is at stake in this case for Mr. Hidalgo Solis is one of the most profound individual interests recognized by our legal system: whether ICE may unilaterally detain a non-citizen and be able to take away his physical freedom, i.e., his “constitutionally protected interest in avoiding physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)(internal quotation 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 Juan Carlos Hidalgo Solis 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. Hidalgo Solis 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. Hidalgo Solis 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. Hidalgo Solis 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.

1 Hidalgo Solis with a hearing before this Court (or a neutral decision maker) to determine whether
2 there is clear and convincing evidence that Mr. Hidalgo Solis is a flight risk or danger to the
3 community would impose only a de minimis burden on the government, because the government
4 routinely provides this sort of hearing to individuals like Mr. Hidalgo Solis.

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

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

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

26 Releasing Mr. Hidalgo Solis from unlawful custody and enjoining Mr. Hidalgo Solis'
27 arrest until ICE (1) moves for a custody re-determination before an IJ and (2) demonstrates by
28 clear and convincing evidence that Mr. Hidalgo Solis 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.

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

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

10 The procedure Mr. Hidalgo Solis seeks—a hearing in front of a neutral adjudicator at
11 which the government must prove by clear and convincing evidence to justify his detention. “A
12 neutral judge is one of the most basic due process protections.” *Castro-Cortez v. INS*, 239 F.3d
13 1037, 1049 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548
14 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation of liberty
15 under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone, makes
16 custody determinations. *Diouf v. Napolitano* (“*Diouf IF*”), 634 F.3d 1081, 1091-92 (9th Cir.
17 2011).

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

21 Detention is not reasonably related to this purpose if there are alternatives to incarceration
22 that could mitigate the risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly,
23 alternatives to detention must be considered in determining whether Mr. Hidalgo Solis’
24 reincarceration is warranted.

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

1 **3. Mr. Hidalgo Solis Will Suffer Irreparable Harm Absent Injunctive**
2 **Relief**

3 Mr. Hidalgo Solis will suffer irreparable harm if he remains detained after being deprived
4 of his liberty and subjected to unlawful incarceration by immigration authorities without being
5 provided with the constitutionally adequate process that this motion for a temporary restraining
6 order seeks. Detainees in ICE custody are held in “prison-like conditions.” *Preap v. Johnson*,
7 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, “[t]he time spent in
8 jail awaiting trial has a detrimental impact on the individual. It often means loss of a job; it
9 disrupts family life; and it enforces idleness.” *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972);
accord *Nat’l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th Cir. 1984).

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

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

21 Conditions at the California City Detention Facility – where plaintiff is being held - are
22 so inhumane that the ACLU recently filed a Class Action lawsuit detailing the grotesque,
23 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).

24 As detailed supra, Petitioner contends that his arrest, absent a hearing before a neutral
25 adjudicator, violates his due process rights under the Constitution. It is clear that “the deprivation
26 of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695
27 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Thus, a
28

temporary restraining order is necessary to prevent Mr. Hidalgo Solis from suffering irreparable harm by being subject to unlawful and unjust detention.

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

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

Further, any burden imposed by requiring the ICE to release Mr. Hidalgo Solis from unlawful custody and refrain from re-arrest unless and until he is provided with a hearing before a neutral arbitrator is both de minimis and clearly outweighed by the substantial harm he will suffer as if he is detained. See *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) (“Society’s interest lies on the side of affording fair procedures to all persons, even though the expenditure of governmental funds is required.”).

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

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

3 **V. CONCLUSION**

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

5 (1) that Mr. Hidalgo Solis warrants a temporary restraining order and a preliminary
6 injunction ordering that Respondents Declare that Petitioner's detention violates the Due Process
7 Clause of the Fifth Amendment;

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

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

13 (4) Enjoin defendant from re-detaining Petitioner without a pre-deprivation hearing
14 before an immigration judge where the Government bears the burden of proving that
15 circumstances have materially changed, rendering Petitioner a danger to the community or a
16 flight risk;

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

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

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

22 Dated: December 18, 2025

Respectfully submitted,

23 /s/ Robert Beles

24 Robert J. Beles

25 Attorney for Petitioner

26 Juan Carlos Hidalgo Solis

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 18, 2025, in Oakland, CA.

/s/ Robert J. Beles
Robert Beles
Attorney for Juan Carlos
Hidalgo Solis