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8 UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

10 Christian Komezi Tembo,
11
12 Petitioner-Plaintiff,

13 v.

14 Kristi Noem, in her Official Capacity,
15 Secretary of the Department of Homeland
16 Security; et al.

17 Respondents-Defendants.
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Case No.



**MOTION FOR
TEMPORARY
RESTRAINING ORDER**

**POINTS AND
AUTHORITIES IN
SUPPORT OF EX PARTE
MOTION FOR
TEMPORARY
RESTRAINING ORDER
AND MOTION FOR
PRELIMINARY
INJUNCTION**

Challenge to Unlawful Incarceration
Request for Declaratory and
Injunctive Relief

1 **I. INTRODUCTION**

2 Respondents unlawfully detain Petitioner, Christian Komezi Tembo, in
3 violation of the Immigration and Nationality Act and the Constitution. Mr. Tembo
4 was released from criminal custody in 2013, after being granted protection under
5 the Convention Against Torture, by Immigration Judge Sean Keenan.

6 Since then, he has lived freely in the community, incurring two DUI charges,
7 the latest one being from 2022, which is still pending. He is neither a flight risk nor
8 a danger to the community

9 On July 11, 2025, without prior notice or explanation, ICE agents re-arrested
10 Mr. Tembo and placed him in custody. He is currently detained at the Florence
11 Correctional Center, in Florence, Arizona. ICE did not demonstrate any change in
12 circumstances that would justify revoking his long-standing release, nor did it
13 provide him with an opportunity to be heard before depriving him of his liberty.
14 The agency acted unilaterally, contrary to statute, regulation, and due process.

15 *Matter of Sugay*, 17. I&N Dec. 637 (BIA 1981), and its progeny, as well as
16 decisions from the Ninth Circuit and this District, make clear that ICE cannot
17 revoke a noncitizen's release absent a material change in circumstances. Federal
18 courts have consistently held that due process requires notice and a hearing before
19 the government may revoke liberty and impose incarceration. ICE's sudden re-
20 arrest of Mr. Tembo, after more than twelve years of compliance, violates those
21 principles.

22 Mr. Tembo meets the TRO standard. He is likely to succeed on the merits of
23 his claims, he faces immediate and irreparable harm from unlawful detention, and
24 the balance of equities and public interest weigh heavily in his favor

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

1 Petitioner Mr. Tembo is a native and citizen of the Democratic Republic of
2 the Congo. He entered the United States in 2000 at the age of 10, and he has resided
3 here since.

4 Mr. Tembo has had various criminal arrests and convictions. Mr. Tembo has
5 had numerous criminal arrests and convictions. Based on his recollection, he has
6 been convicted of possession of marijuana and robbery in 2009 in Phoenix, Arizona.
7 He has also been charged with two Driving while under the influence, one in 2019
8 and one in 2022 in Avondale, Arizona, which is still pending. These convictions
9 represent the sole criminal basis for ICE's enforcement action.

10 Mr. Tembo works in the construction field and is engaged to a U.S. Citizen. He
11 is a contributing member of society.

12 Nevertheless, on July 11, 2025, ICE agents apprehended him and brought him
13 eventually to the Florence Correctional Center, where he is currently detained. No
14 court order authorized this re-arrest. ICE officers provided no explanation. Nor did
15 they demonstrate that Mr. Tembo suddenly posed a flight risk, constituted a danger
16 to the community, or violated the conditions of any probationary release.

17 At no time did ICE provide him with notice or a hearing prior to re-
18 incarceration. He remains detained solely on ICE's unilateral assertion of authority,
19 without a showing of changed circumstances or lawful justification.
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21 **LEGAL STANDARD**
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23 Mr. Tembo is entitled to a temporary restraining order if he establishes that
24 he is "likely to succeed on the merits, . . . likely to suffer irreparable harm in the
25 absence of preliminary relief, that the balance of equities tips in [his] favor, and that
26 an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555
27 U.S. 7, 20 (2008); *Stuhlberg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832,
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1 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and temporary
2 restraining order standards are “substantially identical”). Even if Mr. Tembo does
3 not show a likelihood of success on the merits, the Court may still grant a temporary
4 restraining order if he raises “serious questions” as to the merits of his claims, the
5 balance of hardships tips “sharply” in his favor, and the remaining equitable factors
6 are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir.
7 2011). As set forth in more detail below, Mr. Tembo overwhelmingly satisfies the
8 standards for a temporary restraining order.

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10 **III. ARGUMENT**

11 **A. PETITIONER WARRANTS A TEMPORARY RESTRAINING
12 ORDER**

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

22 **1. Petitioner is Likely to Succeed on the Merits of His Claim That
23 He be Released from Detention**

24 Petitioner is likely to succeed in his claim that, in his particular
25 circumstances, his current detention is unlawful because the Due Process Clause
26 and the statute.

27 The District of Arizona has recognized that when the government seeks to
28 revoke or stay a noncitizen’s release from custody, due process under the Fifth

1 Amendment requires a meaningful opportunity to be heard before the deprivation
2 occurs. *See Organista v. Sessions*, No. CV-18-00285-PHX-GMS (D. Ariz. Feb. 8,
3 2018). Applying the familiar three-factor test from *Mathews v. Eldridge*, 424 U.S.
4 319 (1976), the court weighed 1) the private liberty interest at stake; 2) the risk of
5 erroneous deprivation; and 3) the burden on the government – “the fundamental
6 requirement of due process – the opportunity to be heard at a meaningful time and
7 manner.” *Organista*, No. CV-18-00285-PHX-GMS, at 4.; *City of Los Angeles v.*
8 *David*, 538 U.S. 715, 717 (2003). In weighing the *Mathews* factors, the court
9 declared that “there is no meaningful dispute that Petitioner has a liberty interest in
10 being heard before the BIA can prolong his detention.” *Organista*, No. CV-18-
11 00285-PHX-GMS, at 4.

12 Likewise, federal district courts in California have repeatedly recognized
13 that the demands of due process and the limitations on DHS’s authority to revoke a
14 noncitizen’s bond or parole set out in DHS’s stated practice and *Matter of Sugay*
15 both require a pre-deprivation hearing for a noncitizen on bond, like Petitioner
16 before ICE re-detains him. *See, e.g., Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D.
17 Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *3
18 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021
19 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021);); *Romero v. Kaiser*, No. 22-cv-
20 02508-TSH, 2022 WL 1443250, at *3-4 (N.D. Cal. May 6, 2022) (Petitioner would
21 suffer irreparable harm if re-detained, and required notice and a hearing before any
22 re-detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 1382859, at
23 *3 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing re-arrest
24 at plaintiff’s ICE interview when he had been on bond for more than five years).
25 *See also Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, *4
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1 (E.D. Cal. Mar. 3, 2025) (holding the Constitution requires a hearing before any re-
2 arrest).

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

8 **a. Petitioner Has a Protected Liberty Interest in His**
9 **Conditional Release**

10 Petitioner's liberty from immigration custody is protected by the Due Process
11 Clause: "Freedom from imprisonment—from government custody, detention, or
12 other forms of physical restraint—lies at the heart of the liberty that [the Due
13 Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

14 Despite being granted protection under the Convention Against Torture in
15 2013, ICE re-arrested Mr. Tembo on July 11, 2025, without notice, without a
16 showing of changed circumstances, and without affording him a hearing.
17 Accordingly, he retains a profound liberty interest under the Fifth Amendment in
18 avoiding arbitrary re-incarceration. *See Young v. Harper*, 520 U.S. 143, 146–47
19 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*,
20 408 U.S. 471, 482–83 (1972).

21 In *Morrissey*, the Supreme Court examined the "nature of the interest" that a
22 parolee has in "his continued liberty." 408 U.S. at 481-82. The Court noted that,
23 "subject to the conditions of his parole, [a parolee] can be gainfully employed and
24 is free to be with family and friends and to form the other enduring attachments of
25 normal life." *Id.* at 482. The Court further noted that "the parolee has relied on at
26 least an implicit promise that parole will be revoked only if he fails to live up to the
27 parole conditions." *Id.* The Court explained that "the liberty of a parolee, although
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1 indeterminate, includes many of the core values of unqualified liberty and its
2 termination inflicts a grievous loss on the parolee and often others.” *Id.* In turn,
3 “[b]y whatever name, the liberty is valuable and must be seen within the protection
4 of the [Fifth] Amendment.” *Morrissey*, 408 U.S. at 482.

5 This basic principle—that individuals have a liberty interest in their
6 conditional release—has been reinforced by both the Supreme Court and the circuit
7 courts on numerous occasions. *See, e.g., Young v. Harper*, 520 U.S. at 152 (holding
8 that individuals placed in a pre-parole program created to reduce prison
9 overcrowding have a protected liberty interest requiring pre-deprivation process);
10 *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released on felony
11 probation have a protected liberty interest requiring pre-deprivation process). As
12 the First Circuit has explained, when analyzing the issue of whether a specific
13 conditional release rises to the level of a protected liberty interest, “[c]ourts have
14 resolved the issue by comparing the specific conditional release in the case before
15 them with the liberty interest in parole as characterized by *Morrissey*.” *Gonzalez-*
16 *Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and
17 citation omitted). *See also, e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683
18 (D.C. Cir. 2017) (“a person who is in fact free of physical confinement—even if
19 that freedom is lawfully revocable—has a liberty interest that entitles her to
20 constitutional due process before he is re-incarcerated”) (citing *Young*, 520 U.S. at
21 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

22 In fact, it is well-established that an individual maintains a protectable liberty
23 interest even where the individual obtains liberty through a mistake of law or fact.
24 *See id.*; *Gonzalez-Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873
25 (9th Cir. 1982) (noting that due process considerations support the notion that an
26 inmate released on parole by mistake, because he was serving a sentence that did
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1 not carry a possibility of parole, could not be re-incarcerated because the mistaken
2 release was not his fault, and he had appropriately adjusted to society, so it “would
3 be inconsistent with fundamental principles of liberty and justice” to return her to
4 prison) (internal quotation marks and citation omitted).

5 Here, when this Court “compares the release in Petitioner’s case, with the
6 liberty interest in parole as characterized by *Morrissey*,” the similarities are
7 unmistakable. His liberty has enabled him to “be with family and friends and to
8 form the other enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482.
9 This liberty interest is protected by the Fifth Amendment and cannot be
10 extinguished absent constitutionally adequate process.

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12 **b. Petitioner’s Liberty Interest Mandates His Release from**
13 **Unlawful Custody**

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

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

13 Because, in this case, the provision of a bond hearing is both possible and
14 essential to preventing an erroneous deprivation of liberty, ICE is required to
15 provide Petitioner the opportunity for an individualized bond determination before
16 a neutral decisionmaker. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at
17 1355-56; *Jones*, 393 F.3d at 932; *Zinerman*, 494 U.S. at 985; *see also Youngberg v.*
18 *Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir.
19 1984) (holding that individuals awaiting involuntary civil commitment proceedings
20 may not constitutionally be held in jail pending the determination as to whether they
21 can ultimately be recommitted). Under *Mathews*, “the balance weighs heavily in
22 favor of [Petitioner’s] liberty” and requires a deprivation hearing before a neutral
23 adjudicator.
24

25 **i. Petitioner’s Private Interest in His Liberty is**
26 **Profound**
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1 The private interest at stake, freedom from physical restraint, is “at the core
2 of the liberty protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S.
3 71, 80 (1992); see also *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom
4 from imprisonment—from government custody, detention, or other forms of
5 physical restraint—lies at the heart of the liberty that [the Due Process] Clause
6 protects.”).

7 Mr. Tembo has lived peacefully in the United States since the grant of his
8 relief under the Convention Against Torture. He has had run ins with the law
9 related to two DUIs. However, the second DUI charge was from three years ago,
10 and is still pending. It is not clear why Respondents now decided to place him in
11 custody.

12 As the Supreme Court recognized in *Morrissey v. Brewer*, 408 U.S. 471,
13 482–83 (1972), even conditional liberty carries profound constitutional
14 significance. A person who is free in the community “can be gainfully employed
15 and is free to be with family and friends and to form the other enduring attachments
16 of normal life.” *Id.* The Court further noted that terminating such liberty “inflicts a
17 grievous loss on the parolee and often others,” and emphasized that “[b]y whatever
18 name, the liberty is valuable and must be seen within the protection of the [Fifth]
19 Amendment.” *Id.*

20
21 So too here. Mr. Tembo’s decades of lawful life in the community, his family
22 responsibilities, and his deep community ties reflect a profound liberty interest that
23 cannot lawfully be extinguished through ICE’s unilateral action. By detaining him
24 without notice or an opportunity for a pre-deprivation hearing before a neutral
25 adjudicator, Respondents have arbitrarily deprived him of the very liberty the
26 Constitution protects.
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1 **ii. The Government’s Interest in Continued**
2 **Incarceration of Petitioner is Low and the Burden**
3 **on the Government to Refrain from Releasing Him**
 is Minimal

4 The government’s interest in maintaining Mr. Tembo’s detention without
5 affording him a hearing is low, and when weighed against his significant private
6 interest in liberty, the scale tips sharply in favor of enjoining Respondents from
7 keeping him in unlawful custody. The *Mathews* test plainly favors Mr. Tembo when
8 the Court considers that the process he seeks—notice and a hearing before a neutral
9 adjudicator to determine whether there is clear and convincing evidence that he is a
10 flight risk or a danger to the community—is the standard course of action the
11 government routinely provides in immigration proceedings. Providing Mr. Tembo
12 with such a hearing would impose only a *de minimis* burden on the government.

13 As immigration detention is civil, it can have no punitive purpose. The
14 government’s only lawful interests in detention are to prevent danger to the
15 community or to ensure appearance at immigration proceedings. See *Zadvydas*, 533
16 U.S. at 690. In this case, the government cannot plausibly assert that it has a lawful
17 basis for detaining Mr. Tembo. ICE has made no showing that he is a danger or
18 flight risk.

19 Moreover, the “fiscal and administrative burdens” that his immediate release
20 is nonexistent in this case. See *Mathews*, 424 U.S. at 334-35. Mr. Tembo does not
21 seek a unique or expensive form of process, but rather release from unlawful
22 detention, where removal is not reasonably foreseeable.

23 As the Ninth Circuit noted in 2017, which remains true today, “[t]he costs to
24 the public of immigration detention are ‘staggering’: \$158 each day per detainee,
25 amounting to a total daily cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996.

26 Releasing Mr. Tembo from unlawful custody and enjoining Mr. Tembo’s
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1 continued detention is far less costly and burdensome for the government than
2 keeping him detained. *Hernandez*, 872 F.3d at 996.

3 Due process also requires consideration of alternatives to detention at any
4 custody redetermination hearing that may occur. The primary purpose of
5 immigration detention is to ensure a noncitizen's appearance during removal
6 proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this
7 purpose if there are alternatives to detention that could mitigate risk of flight. *See*
8 *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention
9 must be considered in determining whether Petitioner's continued incarceration is
10 warranted.

11 As the above-cited authorities show, Petitioner is likely to succeed on his
12 claim that the current detention is unlawful. And, at the very minimum, he clearly
13 raises serious questions regarding this issue, thus also meriting a TRO. *See*
14 *Alliance for the Wild Rockies*, 632 F.3d at 1135.

15 16 **2. Petitioner Will Suffer Irreparable Harm Absent 17 Injunctive Relief**

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

1 “subpar medical and psychiatric care in ICE detention facilities, the economic
2 burdens imposed on detainees and their families as a result of detention, and the
3 collateral harms to children of detainees whose parents are detained.” *Hernandez*,
4 872 F.3d at 995. The government itself has documented alarmingly poor conditions
5 in ICE detention centers. *See, e.g.*, DHS, Office of Inspector General (OIG),
6 Summary of Unannounced Inspections of ICE Facilities Conducted in Fiscal Years
7 2020-2023 (2024) (reporting violations of environmental health and safety
8 standards; staffing shortages affecting the level of care detainees received for
9 suicide watch, and detainees being held in administrative segregation in
10 unauthorized restraints, without being allowed time outside their cell, and with no
11 documentation that they were provided health care or three meals a day).¹

12 As detailed *supra*, Petitioner contends that his continued detention violates
13 his due process rights under the Constitution. It is clear that “the deprivation of
14 constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v.*
15 *Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347,
16 373 (1976)). Thus, a temporary restraining order is necessary to prevent Petitioner
17 from suffering irreparable harm by being subject to unlawful and unjust detention.
18

19 **3. The Balance of Equities and the Public Interest Favor** 20 **Granting the Temporary Restraining Order**

21 The balance of equities and the public interest undoubtedly favor granting
22 this temporary restraining order.

23 First, the balance of hardships strongly favors Petitioner. The government
24 cannot suffer harm from an injunction that prevents it from engaging in an unlawful
25 practice. *See Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) (“[T]he INS cannot
26 reasonably assert that it is harmed in any legally cognizable sense by being enjoined

27 ¹ Available at <https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf>
28 (last accessed Feb. 6, 2024).

1 from constitutional violations.”). Therefore, the government cannot allege harm
2 arising from a temporary restraining order or preliminary injunction ordering it to
3 comply with the Constitution.

4 Further, any burden imposed by requiring the ICE to release Petitioner from
5 unlawful custody is both *de minimis* and clearly outweighed by the substantial harm
6 he will suffer as if he is detained. *See Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th
7 Cir. 1983) (“Society’s interest lies on the side of affording fair procedures to all
8 persons, even though the expenditure of governmental funds is required.”).

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

25
26 Therefore, the public interest overwhelmingly favors entering a temporary
27 restraining order and preliminary injunction.
28

1 **IV. CONCLUSION**

2 For all the above reasons, this Court should find that Petitioner warrants a
3 temporary restraining order and a preliminary injunction ordering that Respondents
4 (1) release him from his unlawful custody; and (2) ensure that Respondents
5 provide Petitioner with a lawful process to challenge his removal to a third
6 country.

7 Dated: December 29, 2025

Respectfully submitted,

8
9 /s/ Siovhan Ayala

10 Siovhan Ayala
11 Attorney for Petitioner-Plaintiff
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