

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION
4

VALERII DMITRIYEVICH PRIIMOV,

PETITIONER,

v.

KRISTI NOEM, et al.,

RESPONDENTS.

Civil Case No. 3:25-cv-3555

5
6 **PETITIONER'S EMERGENCY MOTION FOR**
7 **TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION**
8

TABLE OF CONTENTS

9

10 TABLE OF AUTHORITIES.....3

11 INTRODUCTION.....5

12 STATEMENT CONCERNING THE NEED FOR PROMPT REVIEW AND

13 ADJUDICATION.....6

14 STATEMENT OF FACTS.....7

15 LEGAL STANDARD.....9

16 I. Petitioner Is Likely to Succeed on the Merits of His Claim.....10

17 i. His Detention Violates Due Process.....10

18 ii. His Detention Violates Relevant Regulations.....13

19 II. Petitioner Faces Immediate and Irreparable Harm.....14

20 III. The Balance of Equities and Public Interest Weighs in Petitioner’s Favor...15

21 CONCLUSION.....16

22

23

24

25

26

27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

TABLE OF AUTHORITIES

Cases

Aransas Project v. Shaw, 775 F.3d 641 (5th Cir. 2014)..... 14

Demore v. Kim, 538 U.S. 510 (2003) 10

Duong v. Charles, No. 1:25-cv-01375 (E.D. Cal. Nov. 14, 2025).....6

Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty., 415 U.S. 423 (1974)..... 9

Günaydin v. Trump, No. 25-cv-01151 (JMB/DLM), 2025 WL 1459154 (D. Minn. May 21, 2025)..... 11

Hamdi v. Rumsfeld, 542 U.S. 507 (2004) 11

Madrazo Rodriguez v. Noem, 5:25-cv-01657, 2025 WL 3654332 (W.D. Tex. Dec. 2025)..5

Matthews v. Eldridge, 424 U.S. 319 (1976) 10, 11, 12

Morrissey v. Brewer, 408 U.S. 471 (1972).....14

Nken v. Holder, 556 U.S. 418 (2009) 15

Roble v. Bondi, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025).....5-6

Rosa v. McAleenan, 583 F. Supp. 3d 840 (S.D. Tex. 2019)..... 15

Santamaria Orellana v. Baker, No. CV 25-1788-TDC, 2025 WL 2444087 (D. Md. Aug. 25, 2025)..... 13

Sarail A. v. Bondi, File No 25-cv-2144 (ECT/JFD), 2025 WL 2533673 (D. Minn. Sept. 3, 2025).....5

Villanueva Herrera v. Tate, 5:25-cv-03364, 2025 WL 2774610 (S.D. Tex. Sept. 26, 2025)..5

Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7 (2008) 9

Zadvydas v. Davis, 533 U.S. 678 (2001) 14

51 **Statutes**

52 28 U.S.C. § 2241.....6

53 28 U.S.C. § 2243.....6

54 **Regulations**

55 8 C.F.R. § 241.4.....11, 13

56

57 INTRODUCTION

58 Petitioner, VALERII DMITRIYEVICH PRIIMOV, by and through undersigned
59 counsel, files this emergency motion for a Temporary Restraining Order (“TRO”) and/or a
60 Preliminary Injunction. Petitioner seeks an immediate order compelling Respondents to
61 release him from the custody of U.S. Immigration and Customs Enforcement (“ICE”).
62 Petitioner is a citizen and native of Russia who last entered the United States at the Dallas
63 Fort Worth International Airport on November 13, 2022. Petitioner was deemed not to be
64 a flight risk or a danger, and so was released on his own recognizance in order to proceed
65 with removal proceedings before the Executive Office for Immigration Review (EOIR).
66 On November 20, 2025, Petitioner's release was revoked without notice, and he was re-
67 detained by ICE. His re-detention without proper notice or the access to a re-detention
68 hearing before a neutral decisionmaker *prior* to his re-detention violates the Due Process
69 Clause of the U.S. Constitution. The instant petition is being filed seeking this Court's
70 urgent intervention in the form of an order enjoining ICE from continuing to unlawfully
71 detain him.

72 District Courts across the country have been ruling that the government's failure to
73 follow the regulations regarding when and how a noncitizen can be re-detained violates the
74 due Process Clause, and have been granting habeas petitions of individuals similarly
75 situated to Petitioner.¹ In so finding, they are ordering that ICE immediately release the

¹ See e.g., *Villanueva Herrera v. Tate*, 5:25-cv-03364, 2025 WL 2774610 (S.D. Tex. Sept. 26, 2025); *Madrazo Rodriguez v. Noem*, 5:25-cv-01657, 2025 WL 3654332 (W.D. Tex. Dec. 2025); *Sarail A. v. Bondi*, File No. 25-cv-2144 (ECT/JFD), 2025 WL 2533673 (D. Minn. Sept. 3, 2025); *Roble v. Bondi*, No. 25-cv-

76 noncitizens from ICE custody. Petitioner respectfully requests that this Court join the
77 rapidly growing list of courts finding such re-detention unlawful and expeditiously order
78 the government to remedy it.

79 **STATEMENT CONCERNING THE NEED FOR PROMPT REVIEW AND**
80 **ADJUDICATION**

81 This Motion is predicated on a petition for a Writ of Habeas Corpus under 28 U.S.C.
82 § 2241, a remedy that Congress and the courts have long recognized demands swift judicial
83 review. Indeed, 28 U.S.C. § 2243 mandates an expedited show-cause response precisely
84 because the petition's central claim is an ongoing, unlawful deprivation of liberty. It is
85 axiomatic that the loss of liberty, even for a single day, constitutes profound and irreparable
86 harm. Therefore, the failure to rule on the requested injunction within 14 days is not mere
87 delay; it is a constructive denial of the motion itself. Each day of inaction inflicts the very
88 irreparable injury the petition seeks to prevent, rendering the extraordinary remedy of
89 habeas functionally meaningless and frustrating the "swift" relief that § 2243 requires.

90 The irreparable harm of Petitioner's unlawful re-detention is particularly
91 unnecessary when one considers that there was no reason provided for Petitioner's re-
92 detention. Rather, it appears the only reasons for his re-detention are the political whims
93 of the current administration. In Petitioner's case, the Department of Homeland Security
94 (DHS) has not alleged that Petitioner violated any conditions of his release, or that he poses

3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025); *Duong v. Charles*, No. 1:25-cv-01375 (E.D. Cal. Nov. 14, 2025).

95 any sort of flight risk or danger to the community. On the contrary, no justification for his
96 re-detention has been provided. He has been compliant with all conditions of his release,
97 has no criminal history, and has abided by all the laws of the United States while present
98 herein. His arbitrary re-detention without due process continues to cause him irreparable
99 harm each day that he remains in ICE custody.

100 Delays in the adjudication of this habeas petition and those brought by aliens like
101 Petitioner facilitates exactly what the government is trying to achieve: the arbitrary
102 detention of noncitizens purely on the basis of their not having status in the United States.
103 Accordingly, the failure to promptly address Petitioner's motion (in no more than 10-days)
104 effectively acts as a constructive denial of it.

105 **STATEMENT OF FACTS**

106 The Petitioner, Valerii Dmitriyevich Primov, is a citizen of Russia who arrived at
107 the United States on November 13, 2022 at the Dallas Fort Worth International Airport.
108 Petitioner sought admission into the United States using his valid Russian passport and
109 B1/B2 tourist visa. Petitioner was encountered at the airport by CBP and interviewed by
110 same. Petitioner stated to CBP officers that he came to the United States to request asylum
111 and expressed a fear of persecution should he return to Russia.

112 Based upon his statement to CBP, Petitioner was detained at the airport and given a
113 credible fear interview. An asylum officer completed the credible fear interview via
114 telephone on the same date as Petitioner's arrival, November 13, 2022. Upon completion

115 of the interview, the asylum officer determined that Petitioner had established a credible
116 fear of return to Russia.

117 Upon completion of the credible fear interview, and a positive finding of having
118 established a credible fear of return to Russia, Respondent was released from CBP custody
119 at the airport on November 13, 2022. Respondent was determined not to be a flight risk or
120 a danger to the community, and so was released on his own recognizance. The conditions
121 of his release included a duty to report to ICE as instructed, the duty to keep his address
122 and contact information current with ICE, and the requirement to attend any/all future court
123 hearings.

124 Petitioner was then served via mail with a Notice to Appear (NTA) dated November
125 23, 2022 placing him in removal proceedings before the Executive Office for Immigration
126 Review (EOIR).

127 Petitioner remained out of ICE custody, released on his own recognizance, from
128 November 13, 2022 until November 20, 2025. During that time, he complied with any/all
129 conditions of his release, had no encounters with law enforcement, sought out legal
130 counsel, and filed for asylum with EOIR.

131 On November 20, 2025, Petitioner reported to ICE for his scheduled check-in and
132 was taken into ICE custody and then transferred to the Prairieland Detention Facility.
133 Petitioner was not provided with any notice as to the reason for the revocation of his release
134 and was not provided with a re-detention hearing before a neutral decisionmaker prior to
135 his being taken back into ICE custody.

136 Petitioner remains in ICE custody at the Bluebonnet Detention Facility. To date,
137 ICE has not alleged, nor provided notice of, any change of circumstances that would cause
138 Petitioner's prior conditions of release to be revoked, any basis on which to argue he is a
139 flight risk or danger to the community, nor have they provided Petitioner with the
140 opportunity to appear at a re-detention hearing before a neutral decisionmaker allowing
141 him to challenge the basis of his re-detention.

142 Because Petitioner is being detained in ICE custody without having been afforded
143 the due process required under the law, he now seeks this Court's urgent intervention.

144 LEGAL STANDARD

145 The purpose of a TRO is to preserve the status quo and prevent irreparable harm
146 until the court makes a final decision on injunctive relief.² To obtain a TRO, an applicant
147 must establish four elements: (1) substantial likelihood of success on the merits; (2)
148 substantial threat of irreparable harm; (3) the threatened injury outweighs any harm the
149 order might cause the defendant; and (4) the injunction will not disserve the public
150 interest.³

151 **I. Petitioner Is Likely to Succeed on the Merits of his Claims.**

152 *Petitioner Is Likely to Succeed on the Merits of His Claim that His Detention Without a*
153 *Bond Hearing Based on Nothing More than Being EWI is Unconstitutional and Unlawful.*
154

² *Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974).

³ *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); see *Enrique Bernat F., S.A. v. Guadalajara, Inc.*, 210 F.3d 439, 442 (5th Cir. 2000).

155 Petitioner is substantially likely to succeed on the merits of his claims because his
156 detention is unlawful under the Due Process Clause of the Fifth Amendment. Respondents'
157 practice of arbitrarily re-detaining noncitizens who were previously released from ICE
158 custody without following the proper regulations and procedures is an egregious violation
159 of noncitizens' due process rights. As numerous federal district courts have already
160 concluded, this practice is legally indefensible. The multitude of detailed legal reasons with
161 citations to supporting authority demonstrating a strong likelihood of success are included
162 in the Habeas Petition filed immediately before the instant motion, and are hereby
163 incorporated by reference.

164 i. *His Detention Violates Due Process.*

165 Noncitizens are entitled to due process of the law under the Fifth Amendment.⁴ To
166 determine whether a civil detention violates a detainee's due process rights, courts apply
167 the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Pursuant to
168 *Mathews*, courts weight the following factors:

- 169 (1) the private interest that will be affected by the official action;
- 170 (2) the risk of an erroneous deprivation of such interest through the
171 procedures used, and the probable value, if any, of additional or substitute
172 procedural safeguards; and
- 173
174 (3) the Government's interest, including the function involved and the fiscal
175 and administrative burdens that the additional or substitute procedural
176 requirement would entail.⁵
177

⁴ *Demore v. Kim*, 538 U.S. 510, 523 (2003).

⁵ *Mathews*, 424 U.S. at 335.

178 Petitioner addresses the *Mathews* factors in turn.

179 *Private interest.* It is undisputed Petitioner has a significant private interest in being
180 free from detention. “The interest in being free from physical detention” is “the most
181 elemental of liberty interests.”⁶ Moreover, when assessing the private interest, courts
182 consider the detainee’s conditions of confinement, namely, “whether a detainee is held in
183 conditions indistinguishable from criminal incarceration.”⁷

184 Petitioner has been held in ICE detention without access to a re-detention hearing
185 or the possibility of obtaining. As in *Günaydin*, “he is experiencing all the deprivations of
186 incarceration, including loss of contact with friends and family, loss of income earning, . .
187 . lack of privacy, and, most fundamentally, the lack of freedom of movement.”⁸ The first
188 *Mathews* factor supports Petitioner’s claim of a Fifth Amendment violation.

189 *Risk of erroneous deprivation.* Under this factor, courts must “assess whether
190 the challenged procedure creates a risk of erroneous deprivation of individuals’ private
191 rights and the degree to which alternative procedures could ameliorate these risks.”⁹

192 There are procedures in place on when and how to revoke a noncitizen’s release.¹⁰
193 The DHS is merely choosing not to follow them. In so doing, they are affirmatively

⁶ *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

⁷ *Günaydin v. Trump*, No. 25-cv-01151 (JMB/DLM), 2025 WL 1459154, at *7 (D. Minn. May 21, 2025) (citing *Hernandez-Lara v. Lyons*, 10 F.4th 19, 27 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)).

⁸ *Id.*

⁹ *Id.* at *8.

¹⁰ See 8 C.F.R. §§ 241.4(1)(1), (1)(2)(ii), (1)(2)(iii), (1)(2)(iv).

194 depriving Petitioner, and those similarly situated, of access to the regulations whose
195 intended purpose are to protect his due process rights. Thus, this *Mathews* factor weighs in
196 favor of Petitioner, too.

197 *Respondents' competing interests.* Under this factor, the court weighs the private
198 interests at stake and the risk of erroneous deprivation of those interests against
199 Respondents' interests.¹¹ Petitioner does not dispute that the government and the public
200 have a strong interest in the enforcement of the immigration laws. Ironically, it is Petitioner
201 who is asking the Court to enforce such laws as they currently exist; meanwhile, the
202 government is asking everyone to ignore multiple regulations regarding the detention and
203 re-detention of noncitizens. Petitioner is not a flight risk nor a danger to the community,
204 and he has fully complied with the conditions of his prior release. Accordingly, the
205 government's interest in upholding the Constitution and immigration laws is fulfilled
206 through the relief sought by Petitioner's habeas petition.

207 Because all three *Mathews* factors favor Petitioner's position, this Court should
208 determine that Petitioner is likely to succeed in demonstrating that his re-detention without
209 proper notice and a re-determination hearing a bond hearing contravenes his due process
210 rights under the Fifth Amendment.

¹¹ *Mathews*, 424 U.S. at 335.

211 ii. *His Detention Violates the Relevant Regulations.*

212 The government's re-detention of Petitioner without proper notice and a re-
213 determination hearing before a neutral decisionmaker, is contrary to the plain text of the
214 regulations governing same.

215 Pursuant to regulation, an order of release may be revoked if a noncitizen violates
216 the conditions of his release, when it is required to enforce a removal order, or when a
217 change in circumstances indicates that the noncitizen's release is no longer appropriate. 8
218 C.F.R. §§ 241.4(1)(1), (1)(2)(ii), (1)(2)(iii), (1)(2)(iv). Only the Executive Associate
219 Commissioner of ICE has the authority to revoke a noncitizen's release, unless
220 impracticable, then the authority may be delegated to the district director of ICE. 8 C.F.R.
221 § 241.4(1)(2). Regulations require that the noncitizen be provided with notice of the reason
222 for the revocation of his release and with an opportunity to challenge those reasons. 8
223 C.F.R. § 241.4(1)(1).

224 In Petitioner's case, ICE failed to follow these regulations, thereby resulting in the
225 loss of his personal liberty which is subject to due process protections.¹²

226 To date, Petitioner has not been provided with a reason for the revocation of his
227 prior release. For almost three years, he was fully compliant with all conditions of his
228 release: he reported for all scheduled check-ins and he kept his address and contact

¹² *Santamaria Orellana v. Baker*, No. CV 25-1788-TDC, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025).

229 information updated with ICE. He has not been arrested or encountered by law enforcement
230 in the United States and has otherwise been compliant with any/all applicable laws.

231 Here, Petitioner is likely to succeed on his claim that his re-detention violates the
232 aforementioned regulations for all the reasons discussed above.

233 **II. Petitioner Faces Immediate and Irreparable Harm.**

234 A movant “must show a real and immediate threat of future or continuing injury
235 apart from any past injury.”¹³ Continued unlawful detention is, by its very nature, an
236 irreparable injury. The Supreme Court has affirmed that “[f]reedom from imprisonment . .
237 . lies at the heart of the liberty” protected by the Due Process Clause.¹⁴ Each day Petitioner
238 remains in custody, he is irreparably harmed by the loss of his fundamental liberty.
239 Additionally, Individuals released on parole or other forms of conditional release have a
240 liberty interest in their “continued liberty.”¹⁵ This “continued liberty” is protected by the
241 Fifth Amendment because “it includes many of the core values of unqualified liberty....
242 And its termination inflicts a ‘grievous loss’ on the [released individual] and often on
243 others.”¹⁶

244

¹³ *Aransas Project v. Shaw*, 775 F.3d 641, 648 (5th Cir. 2014).

¹⁴ *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

¹⁵ *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

¹⁶ *Id.*

245 Absent relief from this Court, Petitioner will remain detained and denied his liberty,
246 removed from his livelihood and freedom.

247 **III. The Balance of Equities and Public Interest Weighs in Petitioner's**
248 **Favor.**

249 The final two factors for a preliminary injunction—the balance of hardships and
250 public interest—“merge when the Government is the opposing party.”¹⁷ Here, the balance
251 of hardships weighs overwhelmingly in Petitioner’s favor. The injury to Petitioner—
252 unconstitutional detention and risk to his well-being—is severe and immediate. Moreover,
253 it is always in the public interest to prevent violations of the U.S. Constitution and ensure
254 the rule of law.¹⁸

256 Conversely, the harm to Respondents is nonexistent. Petitioner does not pose a
257 danger to the community or a flight risk. Furthermore, the public interest is served by
258 preserving “life, liberty, and happiness” and by preventing the waste of taxpayer resources
259 on unlawful and unnecessary detention.

260 **IV. Petitioner Seeks the Same Injunctive Relief Being Granted to Nearly**
261 **Every Similarly Situated Habeas Petitioner.**

262 Petitioner seeks injunctive relief to maintain the status quo by requiring ICE to
263 immediately release him and reinstate the prior conditions of his release. The status quo
264 ante litem is “the last uncontested status which preceded the pending controversy.” Petitioner
265

¹⁷ *Nken v. Holder*, 556 U.S. 418, 435 (2009).

¹⁸ *Id.* at 436 (describing public interest in preventing noncitizens “from being wrongfully removed, particularly to countries where they are likely to face substantial harm”); see also *Rosa v. McAleenan*, 583 F. Supp. 3d 840 (S.D. Tex. 2019).

266 was previously released from DHS custody on his own recognizance after they determined
267 that he did not pose a danger or a flight risk. For three years, from November 13, 2022 to
268 November 20, 20225, Petitioner complied with the conditions of his release: he attended
269 scheduled ICE check-ins, he kept his address and contact information current with DHS, and
270 he was complying with any/all requirements of his removal proceedings before EOIR. He
271 has not been arrested or charged with any crime while in the United States. His release and
272 constant compliance with the terms of his release was the status quo. Injunctive relief is,
273 therefore, appropriate in Petitioner's case so that he may be returned to same.

274 **CONCLUSION**

275 For the foregoing reasons, Petitioner respectfully requests that the Court
276 immediately grant his petition and this motion and issue a Temporary Restraining Order
277 and/or Preliminary Injunction ordering his immediate release from ICE custody. Petitioner
278 further requests that he be released within the Northern District of Texas, and that his
279 attorney be provided with notice of the date, time, and location of his release. Lastly,
280 Petitioner requests that DHS be enjoined from re-detaining him again in the future unless
281 they follow the regulations in affording him notice and a re-determination hearing before
282 a neutral decisionmaker *prior* to any future re-detention.

283 RESPECTFULLY SUBMITTED,

284 /s/ Dan Gividen

285 Dan Gividen

286 Texas State Bar No. 24075434

287 18208 Preston Rd., Ste. D9-284

288 Dallas, TX 75252

289 972-256-8641

290 Dan@GividenLaw.com