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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JIANQIANG WANG, MEIKUN ZHENG, [redacted] WANG, [redacted] WANG, [redacted] WANG,

Petitioners,

vs.

UNITED STATES DEPARTMENT OF HOMELAND SECURITY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, FIELD OFFICE DIRECTOR, ICE ENFORCEMENT AND REMOVAL OPERATIONS, Honolulu, HI, in an official capacity,

Respondents.

Case No. CV26-00009 MWJS-KJM

RESPONDENTS' RETURN TO PETITION FOR WRIT OF HABEAS CORPUS AND SUPPLEMENTAL PETITION IN SUPPORT OF AN EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION [ECF Nos. 6 & 11]; DECLARATION OF STERLING KALANI OHIA; EXHIBITS "A"–"H"; CERTIFICATE OF SERVICE

No trial date.

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I. INTRODUCTION

The Petition for Writ of habeas corpus ("the Petition") [ECF No. 6] requests extraordinary and unwarranted injunctive relief. Rather than request release from custody, as required for habeas litigation, Petitioners[1] request that this Court *prevent* Respondents[2] from taking them into custody. They do so while inviting this Court to step into the shoes of Respondents and the immigration court and determine that, even if arrested, they would be entitled to release. The Court should reject this attempt to transform habeas corpus into a preventative tool that would allow litigants fearing lawful arrest to bypass the process provided by 8 U.S.C. § 1226(a) and its implementing regulations.

Before reaching the question of whether to grant the relief sought, this Court should determine that it lacks jurisdiction to consider the Petition. Petitioners are

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[1] Petioners are a family of five – Jianqiang Wang, his spouse, Meikun Sheng, and their three sons, Bailin, Baifeng, and Baishen Wang.

[2] Habeas petitions must name the person who has custody over the petitioner as a respondent. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004). Following *Padilla*, the Ninth Circuit recently observed that when an alien's habeas petition does not present a core habeas challenge – a challenge to present physical custody – the Attorney General *may* be a proper respondent. *Doe v. Garland*, 109 F.4th 1188, 1196 (9th Cir. 2024) (citing *Padilla*, 542 U.S. at 435 n. 8). Here, however, Petitioners have not named *any* official, including the Attorney General.

not "in custody," nor are they subject to a final order of removal that would satisfy the custody requirement. And even if the Court reaches the merits of Petitioners' claims, the balancing of equities weighs in Respondents' favor. Moreover, Petitioners will not succeed on the merits of their claims, and they cannot satisfy the requirements for the "extraordinary remedy" of injunctive relief. Injunctive relief is thus unwarranted.

The Court should determine that it lacks jurisdiction, decline to grant Petitioners the requested relief, and dismiss this action.

II. BACKGROUND

Petitioners are natives of the People's Republic of China who were lawfully admitted to the United States on April 12, 2016. Declaration of Sterling Kalani Ohia ("Ohia Dec.") at ¶¶ 7, 9. Petitioners were admitted for conditional permanent residence as alien entrepreneurs, 8 U.S.C. § 1186b; 8 C.F.R. § 212.19. Ohia Dec. at ¶ 9. Petitioners were required to continually satisfy certain conditions to maintain their status as lawful permanent residents.[3] Petitioner Jianqiang Wang filed a petition to remove the conditions on his permanent residence on March 5,

[3] Though not relevant to the proceedings before this Court, it appears that the requirements to establish (1) that $500,000.00 was at risk; and (2) that the proposed project create 10 jobs for American citizens or lawful permanent residents, per investor, may have been compromised by what Petitioners refer to as a failed "regional center project." ECF No. 6 at PageID.17 ¶ 7; PageID.18 ¶ 11.

2018. *See id.* at ¶ 10, Exhibit "B". On January 18, 2024, United States Citizenship and Immigration Services denied the petition. *Id.*

On February 15, 2025, Petitioners were each served with a Notice to Appear and were placed in removal proceedings pursuant to 8 U.S.C. § 1229a. *Id.* at ¶ 11. The removal proceedings are based on 8 U.S.C. § 1227(a)(1)(D), which relates to the deportation of aliens, such Petitioners, who were conditionally granted permanent residence as entrepreneurs. *Id.* at ¶ 12. On December 1, 2025, a warrant for arrest was issued for Petitioner Jianqiang Wang, the only petitioner for whom an arrest warrant has been issued. *Id.* at ¶¶ 17; 20. To date, he has not been arrested. If arrested, detention of any of the Petitioners would be governed by 8 U.S.C. § 1226(a). *Id.* at ¶ 23.

The immigration court proceedings remain ongoing, with a full merits hearing scheduled for May 22, 2026, before an immigration judge. ECF No. 6 PageID.18. Petitioners allege that they are challenging the basis for removal in those parallel proceedings. *See* ECF No. 6 at PageID.18 ¶¶ 11–15. Despite never having been arrested, detained, or otherwise taken into custody, Petitioners filed the operative Petition on January 14, 2026. ECF No. 6.

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III. STATUTORY FRAMEWORK

Though Petitioners are not in custody – and only one arrest warrant has been issued – the relevant detention authority is 8 U.S.C. § 1226, which "provides the general process for arresting and detaining aliens who are present in the United States and eligible for removal." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022). The statute authorizes the Attorney General to, *inter alia*, arrest and detain aliens "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). After an individualized detention determination, a person detained under 8 U.S.C. § 1226(a) may request a bond hearing before an immigration judge any time before a final removal order is issued. *Rodriguez Diaz*, 53 F.4th at 1197 (citing 8 C.F.R. §§ 236.1(d)(1); 1003.19). At the bond hearing, immigration judges consider various factors to determine whether bond or other conditions on release are warranted. *Id.* (citation omitted). Detainees may be represented by counsel at this hearing, and any adverse decision can be appealed to the Board of Immigration Appeals. *Id.* (citations omitted).

IV. THE PETITION FOR WRIT OF HABEAS CORPUS MUST BE DENIED.

The Petition must be denied because Petitioners cannot establish that they are in physical custody or subject to a final removal order, which is required to invoke habeas jurisdiction. 28 U.S.C. § 2241.

Even if the Court reaches the merits, it should conclude that Petitioners are not entitled to relief or additional due process. The relevant detention authority provides layers of due process, and if Petitioners are at some point detained, the appropriate relief is an individualized detention determination and then an opportunity to request a bond hearing – process already provided by statute and regulation, which is available to Petitioners in immigration court. *See Rodriguez Diaz*, 53 F.4th at 1202–03.

A. The Claims Are Insufficient to Invoke Habeas Jurisdiction Because the Petitioners Are Not in Custody.

Petitioners' claims fail because they are not "in custody." Courts are empowered to issue writs of habeas corpus by statute, but a writ of habeas corpus "shall not extend to a prisoner" unless or she is "in custody". 28 U.S.C. §§ 2241(c)(1)–(4).

In the Ninth Circuit, "aliens who are removable, *but not yet subject to a removal order*" are not "in custody" for purposes of 28 U.S.C. § 2241. *Veltmann-Barragan v. Holder*, 717 F.3d 1086, 1087 (9th Cir. 2013) (emphasis added). Contrary to Petitioners' assertions, the final order of removal – not the fear of arrest – is the event that triggers the right to invoke habeas jurisdiction. *See id.; see also Nakaranurack v. United States*, 68 F.3d 290, 293 (9th Cir. 1995) (noting that the Ninth Circuit construes custody to include "situations in which an alien is

not suffering any actual physical custody, *i.e.*, *so long as* he is subject to *a final order of deportation*[.]") (emphasis added); *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (reiterating *Nakaranurack*'s holding that "[i]mplicit in our holding [in *Toma v. Turnage*, 825 F.2d 1400 (9th Cir. 1987)] was the requirement that any alien may petition for habeas review of a deportation order *only if* the issues raised concerning the validity of that deportation order had not and could not have been determined in a prior judicial proceeding.") (citation omitted and emphasis added).

Veltmann-Barragan controls here. In that case, the petitioner lied during her naturalization interview about having never been removed from the United States. *Veltmann-Barragan*, 717 F.3d at 1087. Her application for naturalization was denied on that basis and her status as a lawful permanent resident was terminated. *Id.* She filed a habeas petition two years later. *Id.* The district court determined that it had jurisdiction and denied the petition on the merits. *Id.* The Ninth Circuit reversed the district court and held that it lacked jurisdiction because the petitioner was not "in custody". *Id.* It reasoned that the removal proceedings had not been reinstated against the petitioner, and that being "potentially removable" did not equate to being "in custody" for purposes of 28 U.S.C. § 2241. *Id.* at 1088 (citing *Maleng v. Cook*, 490 U.S. 488, 492 (1989) ("While we have very liberally construed the 'in custody' requirement for purposes of federal habeas, we have

never extended it to the situation where a habeas petitioner suffers not present restraint from conviction.")).

Petitioners here are not in custody, nor are they subject to final removal orders. They are accordingly unable to invoke this Court's jurisdiction and seek habeas relief. *Veltman-Barragan*, 717 F.3d at 1087–88. Petitioners have conflated their fear of arrest and desire to avoid detention with being "in custody." But they have presented no authority to support this expansive view of 28 U.S.C. § 2241, and binding precedent contradicts their position.

Petitioners rely on *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011)[4] and *Arce v. United States*, 899 F.3d 796, 801–03 (9th Cir. 2018) to establish jurisdiction. ECF No. 16 at PageID.51. Neither applies here. In *Singh*, the Ninth Circuit held that the district court had jurisdiction to hear the petitioner's habeas petition and that the district court had misinterpreted the REAL ID Act to preclude habeas review. *Singh*, 638 F.3d at 1210–11. The Ninth Circuit also emphasized that jurisdictional determinations require case-by-case inquiries that turn on practical analysis and cautioned against interpretations that would allow a petitioner to challenge the substance of the removal proceedings, beyond the basis for his or her custody. *Id.* at 1211–12. *Arce* is even further removed from the facts of this case.

[4] The Ninth Circuit has since questioned whether *Singh* remains good law in certain contexts. *See Rodriguez Diaz*, 53 F.4th at 1210.

In *Arce*, a wrongfully deported individual sued the United States under the Federal Tort Claims Act, 28 U.S.C. § 1346, alleging false imprisonment and arrest, intentional infliction of emotional distress, and negligence. *Arce*, 899 F.3d at 798–99. The Ninth Circuit held that 28 U.S.C. § 1252(g) did not bar the FTCA claim because the FTCA claims did not "arise from" the decision to commence removal proceedings. *Id.* at 801. The jurisdictional question resolved in that case was the FTCA – wholly unrelated to 28 U.S.C. § 2241.

B. Due Process Does Not Require That Respondents Be Prohibited from Arresting Petitioners Throughout the Entirety of the Immigration Court Proceedings.

If the Court reaches the merits of Petitioners claims, it should conclude that they are not entitled to additional process beyond what 8 U.S.C. § 1226(a) already provides. It is well-established that individuals in removal proceedings are entitled to due process of law. *See Rodriguez Diaz*, 53 F.4th at 1205. Detention during removal proceedings is "a constitutionally valid aspect of the deportation process." *Id.* at 1206 (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)). To determine whether due process has been afforded, courts apply the three-part *Mathews* test and evaluate: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and

administrative burdens that the additional or substitute procedural requirement would entail. *Rodriguez Diaz*, 53 F.4th at 1207 (citing *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976)).

i. The Private Interest to be Affected Weighs in Respondents' Favor.

The first *Mathews* prong weighs in Respondents' favor because Petitioners are not in custody and their interests are not being affected. Evaluation of this prong requires courts to consider the process a petitioner has received during the relevant time, the further process available to him, and whether the detention is "prolonged." *Rodriguez Diaz*, 53 F.4th at 1207–08. And while Respondents acknowledge the significant liberty interests at stake in this litigation and the deportation process generally, evaluation of Petitioners' specific circumstances should result in a balance that weighs in Respondents' favor.[5]

None of the petitioners are in custody, nor were they at any point during the relevant time. Moreover, the process available to Petitioners is significant – indeed, they remain in ongoing immigration court proceedings and are challenging the basis for their removal. And even if detained, they would be entitled to an

[5] Respondents acknowledge that this factor would weigh in Petitioners' favor if they were in physical custody or subject to a final order of removal. *See, e.g.*, *Bridges v. Wixon*, 326 U.S. 135, 154 (1945) (removal "visits a great hardship on the individual and deprives him of the right to stay and live and work in this land of freedom.").

initial determination, and if necessary, a bond hearing. *See Rodriguez Diaz*, 53 F.4th at 1202.

ii. The Risk of Erroneous Deprivation and Value of Safeguards Weighs Heavily in the Respondents' Favor.

The second *Mathews* factor weighs heavily in Respondents' favor because the risk of erroneous deprivation of Petitioners' rights is minimal. The relevant detention authority provides ample process for any detainee, the facts of this case do not demand any additional procedural safeguards.

a. The risk of erroneous deprivation of Petitioners' rights is minimal under 8 U.S.C. § 1226(a).

The risk of erroneous deprivation of Petitioner's rights is minimal because the relevant detention authority, 8 U.S.C. § 1226(a) provides multiple layers of review for a detainee, and indeed has been described by the Ninth Circuit as a "reference point" for due process. *Rodriguez Diaz*, 53 F.4th at 1202. There is no authority for Petitioners' position that due process requires *prohibiting* authorities from effectuating *lawful* arrests, and they cite none.

The Ninth Circuit has observed that 8 U.S.C. § 1226(a) "stands out from other immigration detention provisions" because it includes "several layers of review of the agency's initial custody determination, an initial bond hearing before a neutral decisionmaker, the opportunity to be represented by counsel and to present evidence, the right to appeal, and the right to seek a new hearing where

circumstances materially change." *Rodriguez Diaz*, 53 F.4th at 1202 (citations omitted). In *Rodriguez Diaz*, unlike here, the petitioner was detained, but then he received an individualized custody determination, and within two months, received a bond hearing before an immigration judge. *Id.* And the procedures still "ensured the risk of erroneous deprivation [was] relatively small." *Id.* at 1210 (internal citation marks omitted).

Recognizing that due process is flexible and can be contoured to the situation at hand, *see Ching v. Mayorkas*, 725 F.3d 1149, 1157 (9th Cir. 2013) (citing *Mathews*, 424 U.S. at 334)), some district courts have evaluated whether due process in the immigration context required *pre-detention* notice and an opportunity to be heard. *See Valencia Zapata v. Kaiser*, 801 F. Supp. 3d 919 (N.D. Cal. 2025); *Nak Kim Chhoeun v. Marin*, 442 F. Supp. 3d 1233 (C.D. Cal. 2020). Both are easily distinguishable from this case, and importantly, Petitioners are not seeking this extraordinary and unusual relief – they are seeking to go *even further* and prevent any lawful arrest in perpetuity, so long as they remain in litigation regarding their removal.

In *Valencia Zapata*, the petitioners were briefly detained at the border in 2023 and 2024 and subsequently released into the United States after immigration authorities determined they did not present a risk of flight or danger to the community. *Valencia Zapata*, 801 F. Supp. 3d at 925. Then, in 2025, the

petitioners were arrested and subjected to mandatory detention and expedited removal under 8 U.S.C. § 1225, following a change in immigration policy. *Id.* at 926, 929. The district court observed that the petitioners had already been determined to not be flight risks or dangers to their community, accordingly, subjecting them to civil immigration detention "would lack a valid basis[.]" *Id.* at 939. These facts informed the district court's holding that the petitioners were entitled to a pre-detention hearing prior to future detention. *Id.* at 941. The district court also reasoned that "the reason for requiring pre-detention hearings in this case *mirrors the reason for having section 1226(a)* hearings[,]" namely, individualized determinations regarding discretionary detention. *Id.* (emphasis added).

Chhoeun involved a certified class of roughly 900 Cambodian nationals, many of whom had been living in the United States for decades. *Chhoeun*, 442 F. Supp. 3d at 1236. In 2017, immigration authorities began conducting raids that "would have removed them without any notice and opportunity to be heard beyond what they received decades ago . . . in connection with the issuance of their removal orders." *Id.* at 1237. There, the district court held that the government was required to provide petitioners notice before detaining them for removal purposes due to "access the system that has been constructed to prevent erroneous

removals – a system that includes the thorough exhaustion of an administrative process and judicial review by the appropriate court of appeals." *Id.* at 1251

Petitioner's circumstances are even less acute than those in *Rodriguez Diaz*, and this case does not present any of the circumstances described in *Valencia Zapata* or *Chhoeun* that resulted in additional due process. Petitioners here have not yet had a neutral decision maker determine that they are not threats to public safety or present a flight risk, simply, because they have not been detained. And even if they are detained, they would be entitled to the robust process provided by 8 U.S.C. § 1226(a).

b. The value of additional procedural safeguards is minimal.

Further weighing in Respondents' favor, there is minimal value in additional procedural safeguards. As discussed, § 1226(a) provides ample review of any adverse detention determination. Further, the appropriate remedy, should any of the Petitioners be detained, is an individualized detention determination, and if necessary, a bond hearing. *See J.R.M.J. v. Wofford*, No. 1:25-CV-01567-DC-SCR, 2025 WL 3295593, at *6 (E.D. Cal. Nov. 26, 2025) (collecting cases and holding that, even where DHS has failed to follow its own procedures, courts have declined to impose a pre-deprivation hearing and instead ordered a post-deprivation hearing); *cf. O.F.C. v. Almodovar*, No. 25-CV-9816 (LJL), 2026 WL 74262, at *11–*12 (S.D.N.Y. Jan. 9, 2026) (noting that even in the criminal context, due

process requires a "prompt post-arrest hearing at which the individual can contest his detention"). If any of the Petitioners are detained in the future, they will be entitled to the process outlined in § 1226(a) and its implementing regulations. They are not, however, entitled to a blanket preventative order that prohibits Respondents from executing lawful arrest warrants in perpetuity.

iii. The Respondents' Interest in Retaining the Authority Delegated by Congress is Substantial.

The third *Mathews* factor weighs in the Respondents' favor because the Respondents' interest in faithfully applying § 1226(a), reserving their ability to execute lawful arrest warrants, and maintaining the integrity and uniformity of the removal process – and challenges to it – is significant. Congress granted the Attorney General authority to issue and execute arrest warrants, and Petitioners have provided no compelling reason to support their request that the Court enjoin Respondents from reserving that authority. *See* 8 U.S.C. § 1226(a).

Petitioners aver that they are not flight risks and do not present dangers to the community. ECF No. 6 at PageID.19 ¶ 17. This is an inappropriate forum for such determinations. An arrest warrant has been issued for one petitioner, though it has not been executed. *See* Ohia Dec. at ¶¶ 17; 20. And even if it were to be executed, that petitioner would be entitled to an individualized determination, and if resolved unfavorably for him, a bond hearing. *See id.* at ¶ 23. Under the guise of habeas corpus, Petitioners are seeking to have this Court step into the shoes of

Respondents and the immigration court and determine that Petitioners do not present any risk, and that, if detained, they would be entitled to release.

The third *Mathews* factor weighs in Respondents' favor, and should the Court reach the merits of Petitioners' claims, it should deny the Petition and dismiss the action.

V. PETITIONERS ARE NOT ENTITLED TO INJUNCTIVE RELIEF.

Temporary restraining orders and preliminary injunctions serve fundamentally different purposes. "'The purpose of a temporary restraining order to preserve an existing situation in status quo until the court has an opportunity to pass upon the merits of the demand for a preliminary injunction.'" *All. for Wild Rockies v. Higgins*, 690 F. Supp. 3d 1177, 1185 (D. Idaho 2023) (quoting *W. Watersheds Project v. Bernardt*, 391 F.Supp.3d 1002, 1008–09 (D. Or. 2019)). The critical difference between the two is the duration of relief. Preliminary injunctions enjoin certain actions throughout the course of the litigation, while temporary restraining orders "serv[e] their underlying purpose of preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing and no longer." *Id.* at 1186 (quoting *Granny Goose Foods, Inc. v. Teamsters*, 415 U.S. 423, 438–39 (1974)). And further, injunctive relief must be narrowly tailored and "no more burdensome to the defendant than necessary to

provide complete relief" to the moving party. *E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 680 (9th Cir. 2021) (citation omitted).

Though the purposes are different, the standards for evaluating whether to issue temporary restraining orders and preliminary injunctions are substantially identical. *O'Hailpin v. Hawaiian Airlines, Inc.*, 583 F. Supp. 3d 1294, 1301 (D. Haw. 2022) (citing *Washington v. Trump*, 847 F.3d 1151, 1159 n. 3 (9th Cir. 2017)). "In either case, the relief is an extraordinary remedy never awarded as of right." *Id.* (internal quotation and citation omitted). The party seeking relief must show (1) a likelihood of success on the merits; (2) a likelihood of suffering irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). And "[w]hen the government is a party, these last two factors merge." *All. for Wild Rockies*, 690 F. Supp. 3d at 1185 (citing *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)). The movant must carry its burden of persuasion by a "clear showing" of the four required elements. *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). A preliminary injunction or TRO may also issue upon a showing that there are "serious questions going to the merits" – a lesser showing than likelihood of success on the merits – if the "balance of hardships [. . .] tips sharply in the plaintiff's favor," and the other two *Winter* factors (irreparable harm and public

interest) are satisfied. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011).

A. Petitioners Do Not Have Any Likelihood of Success on the Merits.

Petitioners are not entitled to injunctive relief, just as they are not entitled to habeas relief. "The first *Winter* factor, likelihood of success, is a threshold inquiry and the most important factor in any motion for a preliminary injunction." *Baird v. Bonta*, 81 F.4th 1036, 1042 (9th Cir. 2023) (internal citation marks and citation omitted). As Respondents have explained, *supra*, the Court lacks jurisdiction over Petitioners' claims because they are not in custody, and their remarkable request for a permanent injunction prohibiting the lawful arrest of any petitioner for the entirety of their immigration court proceedings is baseless. Notably, Petitioners have failed to provide even a single case where a court entered an order similar to what they seek here.

B. Petitioners Cannot Show a Likelihood of Suffering Irreparable Harm in the Absence of Injunctive Relief.

While deprivation of constitutional rights unquestionably constitutes irreparable harm, Petitioners cannot carry their burden that such a deprivation will likely occur here. *See Elrod v. Burns*, 427 U.S. 347, 373 (1976). A lawful arrest warrant has been issued for only one Petitioner, and even if executed, that petitioner would be afforded due process to challenge any detention. In any event,

the argument that Petitioners will not be able to prepare for the merits hearing if incarcerated should be disregarded. As this Court is aware, detained individuals regularly proceed with hearings and trials while incarcerated as they have access to their documents and the ability to meet with their counsel while in custody.

C. The Balance of Equities and Public Interest Factors Favors Respondents.

The final two factors – considered jointly where the government is a party – look to the equities involved and the public interest in the issuance of an injunction. Here, both factors weigh against granting injunctive relief.

Respondents have a strong interest in uniformly applying immigration policy as part of a comprehensive and unified system. *See, e.g., E. Bay Sanctuary Covenant*, 993 F.3d at 681; *Kahn v. I.N.S.*, 36 F.3d 1412, 1415 (9th Cir. 1994). Likewise, the government has an interest in pursuing immigration policies it chooses. *See New York v. United States Dep't of Homeland Sec.*, 969 F.3d 42, 87 (2d Cir. 2020).

An injunction in this case would harm the federal government's ability to rely on its congressionally mandated authority to fulfill its statutory mission of enforcing immigration law. And the practical effect of Petitioners' position should not be ignored. If Petitioners' interpretation of habeas corpus is adopted, every individual subject to deportation, regardless of whether they are in custody, would

be able to seek an order preventing immigration officials from executing lawful arrest warrants. This would gut 8 U.S.C. § 1226(a), induce a flood of litigation that seeks equitable relief under the guise of habeas corpus, and result in the district courts holding the equivalent of immigration court bond hearings. *See* 8 C.F.R. § 1003.19(d).

This case does not present such unique circumstances to warrant the drastic relief sought. The third and fourth factors weigh in favor of the Respondents, and the request for injunctive relief should be denied.

D. If the Court Grants Injunctive Relief, Petitioners Should be Required to Provide a Nominal Bond.

Finally, if the Court decides to grant injunctive relief, it should order a bond pursuant to Fed. R. Civ. P. 65(c), which states that "[t]he court may issue a preliminary injunction or a temporary restraining order *only if the movant gives security* in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." (emphasis added).

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VI. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court deny the Petition and dismiss the action.

DATED: February 6, 2026, at Honolulu, Hawaii.

KENNETH M. SORENSON
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/s/ *Joseph M. McGinley*
By_____
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CERTIFICATE OF SERVICE

I hereby certify that, on this date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at their last known address:

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/s/ *Joseph M. McGinley*

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