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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

A.A.,

Petitioner,

v.

KRISTI NOEM, Secretary of U.S.
Homeland Security; PAMELA
BONDI, Attorney General of the
United States, TODD M. LYONS,
Acting Director, U.S. Immigration and
Customs Enforcement; SERGIO
ALBARRAN, Field Office Director,
U.S. Immigration and Customs
Enforcement; CHRISTOPHER
CHESNUT, Warden, California City
Detention Facility,

Respondents.

Case No.:

PETITIONER'S EX PARTE
EMERGENCY APPLICATION
FOR TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION

NOTICE OF MOTION

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2 For the reasons explained in the accompanying Memorandum of
3
4 Points and Authorities, Petitioner hereby makes this Application for
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6 Temporary Restraining Order and Order to Show Cause Re: Preliminary
7
8 Injunction pursuant to Federal Rule of Civil Procedure 65 and 5 U.S.C. §
9
10 705. Petitioner moves for a temporary restraining order enjoining
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12 Respondents from violating Petitioner’s due process rights and violating
13
14 statutory and regulatory requirements for arrest and detention under the INA.
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16 Specifically, the Petitioner seeks an order (i) enjoining Respondents from
17
18 continuing to detain Petitioner and ordering his immediate release from
19
20 detention, (ii) enjoining Respondents from re-detaining Petitioner subject to
21
22 further order, and (iii) enjoining Respondents from keeping the documents
23
24 confiscated from Petitioner, including his passport, drivers license, EAD
25
26 card, mobile phone, money, and any other IDs, documents, or possessions
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28 that are the property of Petitioner. This motion is based upon Federal Rule of
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30 Civil Procedure 65, the incorporated memorandum of points and authorities,
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32 and the simultaneously filed Petition for Writ of Habeas Corpus and
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34 exhibits.

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Dated: January 14, 2026

Respectfully submitted,

/s/ Cara Jobson

/s/ Joye Wiley

Wiley & Jobson, LLP
Attorneys for Petitioner

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TABLE OF AUTHORITIES

Cases

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Fed. Defs. of New York, Inc. v. Fed. Bureau of Prisons, 954 F.3d 118, 130 (2d Cir. 2020)..... 19

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PETITIONER'S EX PARTE EMERGENCY APPLICATION FOR TEMPORARY RESTRACTIONING
ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION

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I. INTRODUCTION

Petitioner, A.A., after filing a petition for writ of habeas corpus, brings this emergency ex parte application for a temporary restraining order and order to show cause re: preliminary injunction seeking relief pursuant to statutory, regulatory, and due process protections after being detained by Respondents without notice and in violation of the law.

Petitioner meets all factors for emergency relief. First, Petitioner is likely to succeed on his due process, statutory, and APA claims because Respondents' detention of Petitioner exceeds Respondents' authority, is procedurally flawed, and violates due process. Second, Petitioner faces irreparable harm if a TRO is not granted, including continued detention. Third, the balance of interests sharply favors Petitioner, since enjoining Respondents merely preserves the status quo while imposing little burden on the government. Fourth, the public interest is served by ensuring that the government complies with the law, and that taxpayers are not burdened with unnecessary expense of detaining individuals who do not pose a flight risk or danger to the community.

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1 **II. STATEMENT OF FACTS**

2 All facts herein are taken from the habeas petition and its attachments.

3
4 Petitioner is a 23-year-old native and citizen of India. He entered the United
5 States without inspection on August 2, 2024, seeking asylum. Shortly
6 thereafter, U.S. Customs and Border Protection (“CBP”) detained him,
7 issued a Notice to Appear (“NTA”) and released Petitioner on his own
8 recognizance. (See Exhibit 1 Habeas petition). The NTA placed Petitioner in
9 regular removal proceedings and charged him as an alien present without
10 admission or parole.
11

12
13 Petitioner subsequently filed a Form I-589, Application for Asylum and
14 Withholding, with the Executive Office for Immigration Review.
15 Petitioner’s asylum claim is based on his political activities in opposition to
16 the nationalist policies in India that led to his mistreatment. That application
17 remains pending. Respondents issued Petitioner a work permit valid for five
18 years. (Exhibit 2 Habeas petition). On information and belief, Petitioner has
19 no criminal record and has complied with all ICE check-in requirements.
20

21
22 On December 23, 2025, nearly a year and ½ after Respondents released
23 Petitioner, after his asylum application had been pending for over a year, and
24 while legally authorized to work by USCIS, ICE arrested Petitioner.
25

1 Petitioner was provided no notice or opportunity to be heard on his re-
2 detention.

3
4 This Court is the only neutral arbiter for Petitioner.

5 **LEGAL STANDARD**

6
7 Under Ninth Circuit law, courts employ identical standards to evaluate
8 whether to issue a temporary restraining order or a preliminary injunction.

9 See *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, n. 7 (9th
10 Cir. 2001), and *McCarthy v. Servis One, Inc.* 2017 WL 89422, *4 (N.D. Cal.
11 Mar, 7, 2017). Accordingly, a movant must demonstrate (1) a likelihood of
12 success on the merits--or, alternatively, raise serious questions regarding the
13 merits under a sliding-scale approach; (2) a likelihood of harm to the
14 movant in the absence of preliminary relief; (3) that the balance of equities
15 tips in the movant's favor; and (4) that granting the TRO is in the public
16 interest. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-32
17 (9th Cir. 2011); *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir.
18 2009); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7 (2008). Moreover,
19 when the government is the opposing party, the assessment of harm to the
20 opposing party and weighing the public interest merge and are considered
21 together. *Nken v. Holder*, 556 U.S. 418, 435 (2009).
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1 instead detained under § 1226(a). See Inspection and Expedited Removal of
2 Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
3 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
4

5 Thus, in the decades that followed, most people who entered without
6 inspection—unless they were subject to some other detention authority—
7 received bond hearings. That practice was consistent with many more
8 decades of prior practice, in which noncitizens who were not deemed
9 “arriving” were entitled to a custody hearing before an IJ or other hearing
10 officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt.
11 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention
12 authority previously found at § 1252(a)).
13
14

15 Section 1226(a) was most recently amended earlier this year by the
16 Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025). The LRA
17 amendments mandate detention for noncitizens charged as inadmissible
18 under sections 1182(a)(6)(A)(present in the U.S. without being admitted or
19 paroled); 1182(a)(6)(C)(the inadmissibility ground for misrepresentation), or
20 1182(a)(7)(the admissibility ground for lacking valid documentation) *and* if
21 the noncitizen has been arrested for, charged with, or convicted of certain
22 crimes. *Id.*
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1 On July 8, 2025, ICE, “in coordination with” DOJ, announced a new
2 policy that rejected well-established understanding of the statutory
3 framework and reversed decades of practice. The new policy, entitled
4 “Interim Guidance Regarding Detention Authority for Applicants for
5 Admission,” claims that all persons who entered the United States without
6 inspection shall now be subject to mandatory detention provision under §
7 1225(b)(2)(A). The policy applies regardless of when a person is
8 apprehended and affects those who have resided in the United States for
9 months, years, and even decades.
10
11

12 On September 5, 2025, the BIA adopted this same position in a
13 published decision, *Matter of Yajure Hurtado*, 29 I&N Dec 216 (BIA 2025).
14 There, the Board held that all noncitizens who entered the United States
15 without admission or parole are subject to detention under § 1225(b)(2)(A)
16 and are ineligible for IJ bond hearings.
17
18

19 Since Respondents adopted their new policies, hundreds of federal
20 courts have rejected their new interpretation of the INA’s detention
21 authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which
22 adopts the same reading of the statute as ICE. *Matter of Yajure Hurtado*, 29
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1 I&N Dec. 216 (BIA 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
2 1239 (W.D. Wash. 2025).¹
3

4 Courts have uniformly rejected DHS's and EOIR's new interpretation
5 because it defies the INA. The plain text of the statutory provisions
6 demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.
7 Section 1226(a) applies by default to all persons "pending a decision on
8

9
10 ¹ See also, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July
11 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL
12 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR
13 (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted,
14 No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025);
15 *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug.
16 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D.
17 Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789- ODW (DFMx),
18 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631- BEM,
19 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
20 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-
21 06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*,
22 No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*,
23 No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E.*
24 *v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn.
25 Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL
2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-
MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No.
5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes*
v. Raycraft, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao*
v. Hyde, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); see also,
e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *29 (D. Neb. Sept. 3,
2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not §1225(b)(2)
authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-
JFB- RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025); *Cortez-Hernandez v.*
Noem, 3:25-cv-03112-JES-DDL(S.D. Cal. November 21, 2025) (same).

1 whether the [noncitizen] is to be removed from the United States.” These
2 removal hearings are held under § 1229a, which “decid[e] the
3 inadmissibility or deportability of a[] [noncitizen].”
4

5 The text of § 1226 also explicitly applies to people charged as being
6 inadmissible, including those who entered without inspection. See 8 U.S.C.
7 § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear
8 that, by default, such people are afforded a bond hearing under subsection
9 (a). “Except as provided in subsection (c),” when a noncitizen is arrested
10 under Section 1226(a), the Attorney General may detain him or release him
11 on bond or conditional parole. 8 U.S.C. § 1226(a)(1)–(2). Section 1226
12 therefore leaves no doubt that it applies to people who face charges of being
13 inadmissible to the United States, including those who are present without
14 admission or parole.
15

16
17 By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
18 who recently entered the United States. The statute’s entire framework is
19 premised on inspections at the border of people who are “seeking
20 admission” to the United States. 8 U.S.C. § 1225(b)(2)(A).
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1 Accordingly, the mandatory detention provision of § 1225(b)(2) does not
2 apply to people like Petitioner who are alleged to have entered the United
3 States without admission or parole.
4

5 Petitioner’s only relief for this statutory violation is through this habeas
6 petition due to *Matter of Yajure Hurtado* and executive branch policy.
7

8 *2. Petitioner is Likely to Succeed on the Merits as Respondents’ Re-*
9 *Detention Policy is Arbitrary and Capricious Under the APA.*

10 Respondents’ re-detention policy is “arbitrary and capricious” because
11 Respondents provided no explanation for it when implementing it, any
12 subsequent rationalizations ignore an “important aspect of the problem” and
13 violate noncitizens’ reliance interests and liberty interests. *Garro Pinchi v.*
14 *Noem*, No. 25-cv-05632-PCP, 2025 WL 3691938 (N.D. Cal. Dec. 19, 2025)
15 (staying Respondents’ re-detention policy in the San Francisco ICE area of
16 jurisdiction as likely violative of the APA).
17
18

19 *3. Petitioner is Likely to Succeed on the Merits Due to Respondents’*
20 *Violation of the Constitutional Right to Due Process by Re-Detaining*
21 *Petitioner without Any Notice and With No Change in Circumstances.*

22 The Due Process Clause applies to all persons in the United States,
23 including noncitizens. “Freedom from imprisonment – from government
24 custody, detention, or other forms of physical restraint – lies at the heart of
25

1 the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690
2 (2001).

3
4 The *Mathews v. Eldridge*, 424 U.S. 319 (1976) three-part balancing
5 test considers: (1) “the private interest that will be affected by the official
6 action”; (2) “the risk of an erroneous deprivation of such interest through the
7 procedures used, and the probative value, if any, of additional or substitute
8 procedural safeguards”; and (3) the [g]overnment’s interest, including the
9 function involved and the fiscal or administrative burdens that the additional
10 or substitute procedural requirement would entail.”

11
12 *Liberty Interest*

13
14 When the government releases an individual from physical restraint,
15 that individual gains a constitutionally protected interest in his “continued
16 liberty.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). The government
17 may not unilaterally take that liberty away, but rather typically the
18 Constitution “requires some kind of a hearing *before* the [government]
19 deprives a person of liberty. *Zinermon v. Burch*, 494 U.S. 113, 127
20 (1990)(emphasis in the original). While “the initial decision to detain or
21 release and individual may be within the government’s discretion, the
22 government’s decision to release an individual from custody creates ‘an
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1 implicit promise,' upon which that individual may rely, that their liberty
2 'will be revoked only if they fail to live up to the conditions of release.'"
3
4 *Pinchi v. Noem*, 792 F.Supp.3d 1025, 1032 (N.D. Cal. 2025)(alteration
5 marks omitted.)

6 Here, Petitioner's release was a promise that his liberty would not be
7 revoked unless he failed to live up to the conditions of her release. Petitioner
8 has a protected liberty interest in remaining out of custody absent a showing
9 that he poses a flight risk or danger to the community. Moreover, his liberty
10 interest strengthened with time and reliance. He had been released from
11 custody for nearly a year and a half. He had filed an application for asylum
12 and anticipated having his claim heard. He also received work authorization
13 valid for five years. Petitioner's liberty interest was a protected private
14 interest warranting due process protection.
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17
18 *Risk of an Erroneous Deprivation*

19 Respondents have provided no process at all for Petitioner to
20 challenge his detention. Respondents arrested Petitioner and refused him any
21 forum to challenge his re-detention. The risk of erroneous deprivation is
22 extremely high under these circumstances where there were no procedural
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1 safeguards whatsoever. Petitioner, who is not a flight risk nor a danger to
2 the community, has been erroneously detained.

3
4 *Government Interest*

5 The government's interest is in ensuring that someone who is a danger
6 to the community or a flight risk is not at liberty. That has not even been
7 evaluated here.

8
9 Petitioner has no criminal record and is not a flight risk. Any valid
10 government interest is not served by detaining Petitioner without due
11 process.

12
13 B. Petitioner Will Suffer Irreparable Harm Without a TRO.

14 The unlawful deprivation of liberty "is a severe form of irreparable
15 injury." *Ferrara v. United States*, 370 F. Supp 2d 351, 360 (D. Mass 2005).
16 The misapplication of section 1225(b) causes "immediate and irreparable
17 injury." *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01874-SSS-BFM
18 (C.D. Cal. July 28, 2025).

19
20 In addition, violations of due process rights *per se* constitute
21 irreparable harm. *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017)
22 ("It is well established that the deprivation of constitutional rights
23 unquestionably constitutes irreparable injury." (interior citations omitted).
24
25

1 Because Petitioner demonstrates a likely due process violation, irreparable
2 harm is presumed.

3
4 C. The Balance of Equities and Public Interest Tip Sharply in Petitioner's Favor.

5
6 When the government is the nonmoving party, “the last two Winter
7 factors merge.” *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023) (internal
8 citations omitted).

9
10 On Petitioner's side, the harm of continued and indefinite detention is
11 drastic. On Respondents' side, a TRO imposes minimal burden. Returning
12 Petitioner to the original status quo does not pose a hardship to the
13 Respondents.

14
15 The public interest also weighs in Petitioner's favor, as the public “has
16 a strong interest in upholding procedural protections...and the Ninth Circuit
17 has recognized that the costs to the public of immigration detention are
18 staggering.” *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3
19 (N.D. Cal. June 14, 2025) (citing *Jorge M.F. v. Wilkinson*, No. 21-CV-
20 01434-JST, 2021 WL 783561, at *3) (N.D. Cal. Mar. 1, 2021).

21
22 D. Petitioner Should be Returned to the Status Quo Ante Litem.

23
24 The Petitioner by way of this motion seeks to restore the status quo
25 *ante litem*, or “the last uncontested status which preceded the pending

1 controversy[.]” *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th
2 Cir. 2000). See also, *Doe v. Noem*, 781 F.Supp.3d. 1055, 1064 (E.D. Cal
3 2025) (Finding the last uncontested status was before ICE terminated
4 plaintiff’s SEVIS record.); *Pablo Sequen v. Kaiser*, 793 F.Supp.3d 1114
5 (N.D. Cal 2025) (Ordering immediate release to return petitioner to status
6 quo). The last uncontested status was before Respondents revoked
7 Petitioner’s parole. Petitioner therefore should be replaced to the last
8 uncontested status, which was under supervised release and in possession of
9 his identifications and possessions, including his passport, driver’s license,
10 EAD card, mobile phone, money, or any other identifications and property.
11 Without these items he will have difficulties resuming his work, showing
12 that he is work authorized, driving, and resuming his daily life in the same
13 uncontested status as he was before detention.

14 E. No Security Bond or a Nominal Bond Is Appropriate.

15 Under Federal Rule of Civil Procedure 65(c), courts have wide
16 discretion in setting the security amount. Where, as here, the litigation
17 enforces important constitutional rights, courts often waive or impose only
18 nominal bond. Respondents face no financial harm here, and \$0 bond is
19 appropriate.

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IV. CONCLUSION

For all the foregoing reasons, Petitioner respectfully requests that the Court grant this Motion for a Temporary Restraining Order and:

1. Enjoin Respondents from moving Petitioner from this Court's jurisdiction;
2. Enjoin Respondents from continued incarceration of Petitioner;
3. Order Respondents to immediately release Petitioner;
4. Alternatively, order a bond hearing before a neutral arbiter within 3 days of the Order.
5. Enjoin Respondents from keeping Petitioner's documents and possessions, including passport, driver's license, EAD, mobile phone, and any other items belonging to Petitioner, in order to return him to status quo prior to Respondents' unlawful re-detention of Petitioner;
4. Enjoin the Respondents from re-detaining Petitioner without providing at least seven (7) days' notice and a pre-deprivation bond hearing before a neutral arbiter pursuant to section 1226(a) and its implementing regulations for which petitioner's eligibility for bond must be considered.

1 Dated: January 14, 2026

Respectfully submitted,

2 /s/ Cara Jobson

3 /s/ Joye Wiley

4 Attorneys for Petitioner

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