

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

_____	)	
ALEX ARMANDO MARTINEZ-	)	
ORELLANA,	)	
	)	1:26-cv-355
<i>Petitioner,</i>	)	
	)	MEMORANDUM IN SUPPORT OF
v.	)	MOTION FOR A TEMPORARY
	)	RESTRAINING ORDER AND/OR A
ROBERT HAGAN, et al.,	)	PRELIMINARY INJUNCTION
	)	
<i>Respondents.</i>	)	
_____	)	

On January 29, 2026, Petitioner Alex Armando Martinez-Orellana (“Mr. Martinez-Orellana”) filed a petition for a writ of habeas corpus on the basis that his immigration detention violates the Immigration and Nationality Act as well as his substantive and procedural due process rights and the Administrative Procedure Act. *See* ECF No. 1. This case presents a new iteration of a claim that has resulted in district court grants of habeas petitions in over fifteen hundred cases across the country. Notably, the Department of Homeland Security (“DHS”) Immigration and Customs Enforcement (“ICE”) continues to insist in immigration court at custody determination proceedings that noncitizens, like Mr. Martinez-Orellana, who entered the United States without inspection years ago are subject to mandatory detention. This position is contrary to the statute, due process principles, historical practice, and a class action declaratory judgment from the Central District of California. Here, ICE has again asserted this position, but in doing so has provided contradictory documentation that it *also* considers Mr. Martinez-Orellana detained under a different detention statute. Moreover, the immigration court has made matters worse, in refusing

to grant a bond absent order from this Court. Respondents' continued refusal to follow the law absent order from this Court justifies swift action in this case in the form of immediate release.

### **RELEVANT FACTS**

Mr. Martinez-Orellana is a native and citizen of El Salvador who has resided in the United States for many years. Prior to his detention, he lived in Colorado with his family, including two U.S. citizen children, and was an active member in his community. He has no criminal history and poses no flight risk. Yet, the government's position is that he is subject to mandatory detention because he should be considered a noncitizen who is "seeking admission" to the United States, despite the fact that he came to the United States more than two decades ago and he was not in the process of seeking inspection for admission at the time he was arrested. This position is even contradicted by the government's own documentary evidence in this case.

The immigration judge has also refused to follow the declaratory judgment in *Maldonado Bautista v. Noem*, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025), instead refusing to consider the bond arguments based on an alleged procedural deficiency. This procedural ruling allowed the immigration judge to avoid ruling on the applicability of *Maldonado Bautista* and its tension with the Board of Immigration Appeals's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). And in reaching this conclusion, the immigration judge signaled that the only way Mr. Martinez-Orellana would receive consideration of his challenges to detention would be upon order of this Court.

### **ARGUMENT**

Mr. Martinez-Orellana seeks a temporary restraining order and/or preliminary injunction pursuant to Federal Rule of Civil Procedure 65 and the All Writs Act seeking his immediate release from custody.

This Court has the authority to issue this injunction under the All Writs Act. The All Writs Act, 28 U.S.C. § 1651(a), empowers the federal courts to “issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” Courts in this district have recently invoked the All Writs Act to prevent the transfer of individuals detained within the judicial district unless and until the Court issues a contrary order. *Arostegui-Maldonado v. Baltazar*, 794 F. Supp. 3d 926, 948 (D. Colo. 2025) (citing *Batooie v. Ceja*, 2025 WL 1836695, at \*2 (D. Colo. July 3, 2025)); *see also Rivero Busto v. Lyons*, 1:25-cv-3143, ECF Nos. 21, 28 (D. Colo. Jan. 20, 2026), *D.B.U. v. Trump*, 2025 WL 11065556 (D. Colo. Apr. 14, 2025); *Vizguerra-Ramirez v. Choate*, No. 1:25-cv-881 (D. Colo. Mar. 21, 2025).

To obtain a preliminary injunction, the moving party must demonstrate: (1) a substantial likelihood of success on the merits of the case; (2) that they are likely to suffer irreparable harm in the absence of the requested relief; (3) that the harm outweighs a harm to the opposing party; and (4) that the injunction would not adversely affect the public interest. *Rocky Mountain Gun Owners v. Polis*, 121 F.4th 96, 112 (10th Cir. 2024); *Arostegui-Maldonado*, 794 F. Supp. 3d at 936. The third and fourth factors, harm to the opposing party and the public interest, “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). Mr. Martinez-Orellana easily meets this standard.

**A. Mr. Martinez-Orellana is likely to succeed on the merits**

*1. Detention Authority under the INA*

Mr. Martinez-Orellana is likely to succeed on the merits of his claim that his continued detention violates his substantive and procedural due process rights as well as the Immigration and Nationality Act (“INA”) and the Administrative Procedure Act (“APA”). In mid-2025, the government changed its interpretation and application of the INA’s detention scheme, now

detaining individuals who have spent decades in the United States under the supposed authority of 8 U.S.C. § 1225(b)(2). This interpretation is contrary to almost thirty years of interpretation of the law.

Section 1225(a) provides that a noncitizen “present in the United States who has not been admitted or who arrives in the United States ... shall be deemed for purposes of this chapter an applicant for admission.” 8 U.S.C. § 1225(a)(1). The INA defines an applicant for admission as a noncitizen “present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including a [noncitizen] who is brought to the United States after having been interdicted in international or United States waters).” 8 U.S.C. § 1225(a)(1). Applicants for admission are divided into two categories: those covered by § 1225(b)(1) and those covered by § 1225(b)(2). *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

An applicant for admission is subject to expedited removal under § 1225(b)(1) if the individual is initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation, 8 U.S.C. § 1225(b)(1)(A)(i), or he (1) “lacks a valid entry document; (2) has not ‘been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility’; and (3) is among those whom the Secretary of Homeland Security has designated for expedited removal.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109 (2020) (citing 8 U.S.C. § 1225(b)(1)(A)(iii)(I)-(II)); *see also* Notice, Designating Aliens for Expedited Removal, 90 Fed. Reg. 8139, 8139 (Jan. 24, 2025) (designating the entire subset of noncitizens described in 8 U.S.C. § 1225(b)(1)(A)(iii)(II) subject to expedited removal: i.e., noncitizens “determined to be inadmissible under [8 U.S.C. §§ 1182(a)(6)(C) or (a)(7)] who have not been admitted or paroled into the United States and who

have not affirmatively shown . . . that they have been physically present in the United States continuously for the two-year period immediately preceding the date of the determination of inadmissibility”). When a noncitizen meets the criteria of this subsection, the immigration “officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum.” 8 U.S.C. § 1225(b)(1)(A)(i).

Applicants for admission can avoid expedited removal by either indicating “an intention to apply for asylum” or “a fear of persecution,” in which case that individual is referred to an asylum officer. 8 U.S.C. § 1225(b)(1)(A)(i)–(ii). “If an immigration officer determines after that interview that the alien has a credible fear of persecution, ‘the alien shall be detained for further consideration of the application for asylum.’” *Jennings*, 583 U.S. at 287 (quoting 8 U.S.C. § 1225(b)(1)(B)(ii)). Persons who make no such claims or are “found not to have such a fear” “shall be detained ... until removed.” 8 U.S.C. § 1225(b)(1)(A)(ii), (B)(iii)(IV).

The INA also provides for mandatory detention for certain applicants for admission who are subject to inspection at or near the border but who do not fall under the expedited removal provisions of 8 U.S.C. § 1225(b)(1). Specifically, if an inspecting immigration officer determines that the noncitizen “seeking admission is not clearly and beyond doubt entitled to be admitted” into the United States, the individual “shall be detained for a [removal] proceeding.” 8 U.S.C. § 1225(b)(2)(A); *Mendoza Gutierrez v. Baltasar*, No. 25-CV-2720-RMR, 2025 WL 2962908, at \*6 (D. Colo. Oct. 17, 2025) (recognizing that § 1252(b)(2)(A) is “a catchall provision” that applies to noncitizens seeking admission who are not otherwise covered by § 1252(b)(1), but concluding that such “catch-all” status “does not mean that § 1225(b)(2) applies to all other noncitizens in the United States who have not been admitted.”); *Hasan v. Crawford*, 800 F. Supp. 3d 641, 652 (E.D. Va. 2025).

However, for those individuals with an established presence in the United States, the INA mandates that “an immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of a [noncitizen].” 8 U.S.C. § 1229a(a)(1). Removal proceedings under 8 U.S.C. § 1229a(a)(1) “shall be the sole and exclusive procedure” for consideration of admission to or removal from the United States unless otherwise specified in the INA. 8 U.S.C. § 1229a(a)(3). During the pendency of these standard removal proceedings under 8 U.S.C. § 1229a, § 1226 provides for the detention of noncitizens already in the United States, even those who entered illegally or without inspection. While § 1226(c) mandates the detention of certain classes of criminal noncitizens, § 1226(a) sets forth a discretionary detention scheme, allowing that a noncitizen “may be arrested and detained pending a decision on whether the alien is to be removed from the United States[.]” 8 U.S.C. § 1226(a). After an arrest, the noncitizen may continue to be detained, released on conditional parole, or released on a bond of at least \$1,500. *Id.* Once a noncitizen is detained, DHS makes an initial custody determination. 8 C.F.R. § 236.1(g). The noncitizen may have the initial custody determination reviewed by an immigration judge, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), and ultimately by the Board, *see* 8 C.F.R. § 1236.1(d)(3).

The Supreme Court recognized the distinction between these two statutory detention schemes, explaining that § 1225 applies primarily to aliens seeking entry into the United States (“applicants for admission” in the language of the statute), while § 1226(a) “applies to aliens already present in the United States.” *Jennings*, 583 U.S. at 303; *Mendoza Gutierrez*, 2025 WL 2962908, at \*6; *Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729, at \*3 (D.N.M. Sept. 17, 2025) (“The INA contemplates two detention regimes for noncitizens pending removal proceedings.”).

2. *DHS's Application of 8 U.S.C. § 1225(b)(2) to Mr. Martinez-Orellana is Not Statutorily Authorized and it Violates his Due Process Rights.*

Mr. Martinez-Orellana is likely to succeed in his claim that the government is unlawfully detaining him pursuant to 8 U.S.C. § 1225(b)(2). Mr. Martinez-Orellana is not an applicant for admission who is seeking admission to the United States. Rather, he has lived, worked and raised his family in the United States for many years. Respondents are unlawfully holding him pursuant 8 U.S.C. § 1225(b)(2), which is not a valid source for his detention. This Court should order his release. *Martinez v. Noem*, 2025 WL 3471575, at \*6 (W.D. Tex. Nov. 26, 2025) (“Respondents do not assert any other basis for detaining Petitioner. . . . Absent an assertion by Respondents that they are detaining Petitioner under § 1226, the Court has no need to consider whether § 1226 is a valid basis for Petitioner’s current detention.”).

Critically, 8 U.S.C. § 1225(b)(2)(A) contains three “criteria”: (1) that the noncitizen is an “applicant for admission”; (2) that the noncitizen is actively “seeking admission”; and (3) that the “examining immigration officer determines ‘is not clearly and beyond a doubt entitled to be admitted.’” *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 487 (S.D.N.Y. 2025) (quoting *Martinez v. Hyde*, 792 F. Supp. 3d 211, 214 (D. Mass. 2025), and 8 U.S.C. § 1225(b)(2)(A)). All three criteria are not met in this case.

First, in the context of 8 U.S.C. § 1225(b)(2)(A), the INA clarifies that “[t]he term ‘application for admission’ has reference to the application for admission into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa,” making clear that the term applies primarily to those applying to enter the United States, not those who have been in the United States for years. *Mendoza Gutierrez*, 2025 WL 2962908, at \*6; 8 U.S.C. § 1101(a)(4). Second, the phrase “seeking admission” in 8 U.S.C. § 1225(b)(2)(A), is not “mere surplusage” and has independent meaning in § 1225(b)(2)(A). *Lopez Benitez*, 795 F. Supp. 3d at

488 (citing *Martinez v. Hyde*, 792 F. Supp. 3d at 217 (describing respondents as treating the phrase “seeking admission” as mere surplusage of the “applicant” requirement in § 1225(b)(2)(A)); *see also Mendoza Gutierrez*, 2025 WL 2962908, at \*7. The government’s interpretation equating “applicant for admission” to one who is also “seeking admission” reads the phrase “seeking admission” out of the statute and controverts the plain language of the statute. *Martinez*, 792 F. Supp. 3d at 217; *Lopez Benitez*, 2795 F. Supp. 3d at 488 (“[R]ather than stating that mandatory detention is required for any ‘applicant for admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted,’ § 1225(b)(2)(A) (emphasis added), the statute would instead provide for mandatory detention for any ‘applicant for admission, if the examining immigration officer determines that [the] alien ~~seeking admission~~ is not clearly and beyond a doubt entitled to be admitted.’”) (strikethrough in original); *see also Hasan*, 800 F. Supp. 3d at 656 (“In *Jennings*, the Court explained that § 1225(b) governs “aliens seeking admission into the country” whereas § 1226(a) governs “aliens already in the country” who are subject to removal proceedings.) (citing *Jennings*, 583 U.S. at 289)). Third, when Mr. Martinez-Orellana was arrested and taken into custody by ICE, he was not being examined for inspection into the United States, and thus no officer has deemed him “clearly and beyond a doubt entitled to be admitted” to the United States. 8 U.S.C. § 1225(b)(2)(A). Accordingly, the plain text of the statute clearly indicates that Mr. Martinez-Orellana is not an individual subject to § 1225(b)(2)(A).

Respondents’ interpretation and application of § 1225(b)(2) would also nullify the recent amendments to the INA in the Laken Riley Act, now codified within 8 U.S.C. § 1226(c). *Mendoza Gutierrez*, 2025 WL 2962908, at \*7. Among other things, the Laken Riley Act mandates detention for noncitizens who are subject to certain inadmissibility grounds the same grounds that

Respondents argue mandatory detention under § 1225(b)(2) – and meet certain criminal criteria. 8 U.S.C. § 1226(c)(1)(E). Such a statute would be entirely redundant if a noncitizen’s inadmissibility alone rendered him subject to mandatory detention under § 1225(b)(2)(A). *Id.* (citing *Romero v. Hyde*, No. CV 25-11631-BEM, 2025 WL 2403827, at \*11 (D. Mass. Aug. 19, 2025); *see also Ortiz Donis v. Chestnut*, 1:25-CV-01228 JLT SAB, 2025 WL 2879514, at \*9 (E.D. Cal. Oct. 9, 2025) (“[T]he Government’s interpretation would ‘nullify’ a recent amendment to the immigration statutes.”)). “When Congress adopts a new law against the backdrop of a longstanding administrative construction, [the] court generally presumes the new provision should be understood to work in harmony with what came before.” *Monsalvo v. Bondi*, 145 S. Ct. 1232, 1242 (2025); *see also Lopez Benitez*, 795 F.Supp.3d at 490 (citing *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013) (“[T]he canon against surplusage is strongest when an interpretation,” such as this one, “would render superfluous another part of the same statutory scheme.”)). Thus, it is “presumptively dubious” that Congress would intend the 2025 amendments to have no effect. *Martinez*, 792 F. Supp. 3d at 221 (citing *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G. 2019) (“[S]ection [1225] (under which detention is mandatory) and section [1226] (under which detention is permissive) can be reconciled only if they apply to different classes of aliens.”)). Mr. Martinez-Orellana’s detention under 8 U.S.C. § 1225(b)(2) is contrary to law. This Court should join the hundreds of courts throughout the country and hold that the government is unlawfully detaining Mr. Martinez-Orellana without legal justification.

This case presents an added twist insofar as ICE remained steadfast before the immigration judge that Mr. Martinez-Orellana was detained under 8 U.S.C. § 1225(b)(2). At the same time, however, ICE submitted documentary evidence to the immigration court (in Mr. Martinez-Orellana’s removal proceedings, not his bond proceedings) that he had been processed under 8

U.S.C. § 1226(a), as he was served with a Warrant of Arrest and a Notice of Custody Determination pursuant to that statute. *See* ECF Nos. 1-4, 1-5. Either not knowing of these documents or refusing to acknowledge them in bond proceedings, the immigration judge found no jurisdiction to hold a bond redetermination proceeding, a decision which was contrary to the INA and also was arbitrary and capricious and a violation of the APA. Because Respondents collectively have made every attempt to eliminate his right to due process as provided for under the statute, this Court should order immediate release. *J.U. v. Maldonado*, -- F. Supp. 3d --, 2025 WL 2772765, at \*10 (E.D.N.Y. Sept. 29, 2025) (“Given the deprivation of Petitioner’s liberty, formerly granted and approved by Respondent, the absence of any deliberative process prior to or contemporaneous with the deprivation, and the statutory and constitutional rights implicated, a writ of habeas corpus is the only form of relief and the most appropriate remedy.”); *see generally* *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

Critically, in a procedural due process claim, it is not the deprivation of liberty that is unconstitutional; it is the deprivation of liberty without adequate procedural safeguards. In procedural due process claims, the deprivation by [government] action of a constitutionally protected interest in “life, liberty, or property” is not in itself unconstitutional; what is unconstitutional is the deprivation of such an interest without due process of law. *Zinermon v. Burch*, 494 U.S. 113, 125 (1990). “The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). While the Supreme Court has been clear that for noncitizens “on the threshold of initial entry . . . [w]hatever the procedure authorized by Congress is, it is due process.” *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953), it is well established that noncitizens who

“once passed through our gates, even illegally” are entitled to greater constitutional protections. *Id.*; see also *Zadvydas*, 553 U.S. at 693.

After living in this country for many years, Mr. Martinez-Orellana is not on the threshold of initial entry and is entitled to greater constitutional protection than those at the threshold of initial entry. Thus, the court should engage in the three-factor balancing test to determine a procedural due process violation, weighing: (1) “the private interest that will be affected by the official action;” (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, or additional or substitute procedural safeguards”; and (3) “the Government’s interest.” *Mathews*, 424 U.S. at 335.

Here, each of these factors weigh in Mr. Martinez-Orellana’s favor and support a finding that he may not be detained without an opportunity to seek release on bond before an immigration judge. First, Mr. Martinez-Orellana has a strong private interest in remaining free from detention. Indeed, the Supreme Court has affirmed that even for noncitizens, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690. And the Supreme Court, recognizing the strong private interest in remaining free from detention, has held “that detention violates the [Due Process] Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, or, in certain special and narrow non-punitive circumstances where a special justification, such as harm-threatening mental illness, outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (cleaned up).

Second, this case demonstrates the high risk of erroneous deprivation that would result from allowing DHS to detain noncitizens like Mr. Martinez-Orellana without any opportunity to challenge his detention before the administrative agency. The immigration judge explicitly stated

that she would only consider the merits of the bond request upon order from this Court and ICE has made clear it has no intention on releasing Mr. Martinez-Orellana absent an order requiring such action. Without release or a bond hearing, there is a high probability that Mr. Martinez-Orellana will remain detained even though his continued detention serves no non-punitive purpose as it is unnecessary to protect the community or to ensure his appearance at removal proceedings. Mr. Martinez-Orellana has been present in the United States for close to twenty years and has no significant criminal history. He has a family and community connections. His detention is both erroneous and wholly unnecessary.

Finally, while the government has an interest in ensuring Mr. Martinez-Orellana's appearance at any future removal proceedings and protecting the community, there is no indication that Mr. Martinez-Orellana would be a flight risk. The immigration judge even noted that she would have granted his release on a \$3,000 bond with no additional restrictions or conditions on his liberty. *See* ECF No. 1-3. Moreover, the cost to keep Mr. Martinez-Orellana detained weighs against any government interest in this case.

**B. Mr. Martinez-Orellana will suffer irreparable injury absent an injunction.**

“The second preliminary-injunction factor asks whether irreparable injury will befall the movants without an injunction.” *Arostegui-Maldonado*, 794 F. Supp. 3d at 942 (citing *Free the Nipple—Fort Collins v. City of Fort Collins, Colorado*, 916 F.3d 792, 805 (10th Cir. 2019)). Mr. Martinez-Orellana suffers irreparable harm each day that he remains detained and separated from his family. “Federal courts have long recognized that the infringement of a constitutional right is an irreparable injury.” *Mendoza Gutierrez*, 2025 WL 2962908, at \*9 (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“The loss of First Amendment freedoms, even for minimal periods of time, unquestionably constitutes irreparable injury.”)); *Free the Nipple—Fort Collins*, 916 F.3d at 805

“Most courts consider the infringement of a constitutional right enough and require no further showing of irreparable injury.”); *Awad v. Ziriox*, 670 F.3d 1111, 1131 (10th Cir. 2012) (“When an alleged constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.” (citation omitted)). Respondents’ decision to subject Mr. Martinez-Orellana to mandatory detention absent order from this Court violates the INA, the APA, and his procedural and substantive due process rights. Without this Court’s intervention, Respondents will continue to infringe upon Mr. Martinez-Orellana’s Fifth Amendment rights. Thus, Mr. Martinez-Orellana easily meets the second preliminary injunction factor.

### **C. Balance of Equities and Public Interest**

The final two factors of the preliminary injunction test “merge when the Government is the opposing party.” *Nken*, 556 U.S. at 435. Here the balance of equities and public interest tilt sharply in favor of the issuance of a preliminary injunction because “the public has a significant stake in the Government’s compliance with the law.” *League of Women Voters v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016)). While there is a recognized “public interest in prompt execution of removal orders,” *Nken*, 556 U.S. at 436; *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1185 (D. Colo. 2024) (noting a public interest “in ensuring removable noncitizens appear for their scheduled removal proceedings and an interest in protecting the community”), “that does not mean that Respondents enjoy an unfettered right to detain noncitizens in contravention of the law or in violation of the noncitizens’ Fifth Amendment rights.” *Mendoza Gutierrez*, 2025 WL 2962908, at \*10 (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003) (“It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.” (internal quotation marks omitted)). Moreover, “the public has no interest in incarcerating people who have no basis to be detained.” *Martinez v. Trump*, No. 25-1445, 2025 WL 3124847, at \*3 (W.D. La. Oct. 22, 2025). Mr.

Martinez-Orellana has established a likelihood of success on all of the claims raised in his petition. Thus, there is no public interest to be served here where the government seeks to hold a noncitizen individual who has lived in the United States for nearly two decades, has no criminal history, and provides for his family without any chance for a neutral arbitrator to review his case.

For the foregoing reasons, Mr. Martinez-Orellana requests that the Court enter a temporary restraining order, or in the alternative a preliminary injunction, directing Respondents to release him from detention, either without any conditions of his release or on the payment of the \$3,000 bond (but no additional conditions imposed by ICE) as discussed in the immigration judge's order.

**NO BOND IS WARRANTED UNDER RULE 65(c)**

Finally, the Court should not require Mr. Martinez-Orellana to provide security prior to issuing an injunction. Federal Rule of Civil Procedure 65(c) provides that “[t]he court may issue a preliminary injunction or 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.” As in *Arosegui-Maldonado*, Respondents will not be harmed by this order nor would they suffer harm if the order was overturned. 794 F. Supp. 3d at 950. “[G]iven the important constitutional rights at issue in this case,” no bond should be required.

**CONCLUSION**

For the foregoing reasons, Mr. Martinez-Orellana requests the Court issue an order requiring his immediate release.

January 29, 2026

Respectfully submitted,

/s/ Jessica A. Dawgert  
JESSICA A. DAWGERT  
Ariela Lake Law & Consulting PLLC  
3355 Hudson St., #7098  
Denver, CO 80207  
(303) 535-2203  
jess@allc.law