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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

Jasbir (also known as Jasbir, No Name), an adult,

Petitioner/Plaintiff,

v.


WARDEN, Imperial Regional Adult Detention Facility, **FIELD OFFICE DIRECTOR**, San Diego Field Office, U.S. Immigration and Customs Enforcement (ICE); **TODD M. LYONS**, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement (ICE); **KRISTI NOEM**, in her official capacity as Secretary of the U.S. Department of Homeland Security (DHS); **PAMELA BONDI**, in her official capacity as Attorney General of the United States,

Respondents.

Case No. '26CV0579 JES BJW

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTIVE RELIEF (Fed. R. Civ. P. 65)**

I. INTRODUCTION

1. Petitioner Jasbir (also known as Jasbir, No Name),  respectfully moves this Court for a Temporary Restraining Order (“TRO”) and injunctive relief pursuant to Federal Rule of Civil Procedure 65. Petitioner seeks emergency relief to prevent continued unlawful detention and to preserve this Court’s jurisdiction pending adjudication of his Petition for Writ of Habeas Corpus.
2. As set forth below, Petitioner faces ongoing and irreparable harm in the form of unlawful detention without any meaningful opportunity for bond consideration. Administrative remedies have been exhausted and foreclosed by binding agency action. Immediate judicial intervention is therefore necessary.

II. PETITIONER DID NOT UNDULY DELAY IN SEEKING A TEMPORARY RESTRAINING ORDER AND HAD NO ALTERNATIVE AVENUE FOR RELIEF

3. Petitioner acted diligently and without undue delay in seeking emergency relief. Petitioner was taken into the custody of the Department of Homeland Security (“DHS”) and U.S. Immigration and Customs Enforcement (“ICE”) on December 25, 2025. Petitioner did not immediately seek a Temporary Restraining Order because, at that time, she reasonably believed the final decision in *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal.) (“Maldonado Bautista”), which was issued on December 18, 2025, would result in her being issued a fair bond hearing in which the Immigration Judge would exercise jurisdiction. Petitioner acted in good faith relying on the Maldonado Bautista judgment—declaring that Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and not subject to mandatory detention under § 235(b)—would be implemented by immigration judges, thereby restoring access to bond hearings within the administrative system.

4. Petitioner's reasonable reliance on administrative relief was foreclosed by intervening nationwide EOIR guidance.
5. Following the issuance of the *Maldonado Bautista* final judgment, Petitioner promptly pursued administrative relief by filing a Motion for a Bond Hearing on January 16, 2026. That motion was denied by the Immigration Judge on January 22, 2026, based on the conclusion that Petitioner was subject to mandatory detention under INA § 235(b) and that *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), remained controlling. Any remaining expectation that immigration courts would correct course was definitively extinguished on January 13, 2026, when the Chief Immigration Judge issued nationwide guidance instructing immigration judges that *Maldonado Bautista* does not constitute a nationwide injunction and does not vacate, stay, or enjoin *Yajure Hurtado*. In direct reliance on that guidance, immigration judges—including the Immigration Judge in Petitioner's case—categorically refused to exercise jurisdiction over bond hearings, thereby eliminating any meaningful administrative avenue for relief.
6. Petitioner promptly pursued judicial relief once it became clear that no administrative remedy existed. Once EOIR's nationwide guidance made clear that immigration courts would not provide relief notwithstanding *Maldonado Bautista*, Petitioner acted with all reasonable speed to pursue federal judicial intervention. These efforts necessarily required time to consult with counsel, assess rapidly evolving legal developments, and coordinate the resources needed to prepare and file emergency pleadings, all while Petitioner remained detained in ICE custody. Detention significantly restricted Petitioner's ability to communicate freely, access legal assistance, and coordinate financial and logistical arrangements necessary to retain

counsel. Under these constrained circumstances, Petitioner acted diligently, in good faith, and as expeditiously as reasonably possible.

7. No alternative remedy exists, and continued detention constitutes irreparable harm.

Because immigration judges categorically refused to exercise bond jurisdiction following EOIR's nationwide guidance, Petitioner was left without any available administrative remedy. Petitioner therefore had no viable alternative but to seek emergency judicial relief. Petitioner remains subject to ongoing detention without any meaningful opportunity for bond consideration, a deprivation that constitutes irreparable harm as a matter of law. Absent immediate injunctive relief, Petitioner will continue to suffer unlawful and indefinite detention in violation of the INA and the Due Process Clause.

II. LEGAL STANDARD

8. The legal standard for issuing a TRO is essentially identical to the standard for issuing a preliminary injunction. See *Stuhlberg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001); see also *Zamfir v. Casperlabs, LLC*, 528 F. Supp. 3d 1136, 1142 (S.D. Cal. 2021). "A party seeking a preliminary injunction must meet one of two variants of the same standard." *All. for the Wild Rockies v. Pena*, 865 F.3d 1211, 1217 (9th Cir. 2017). Under the *Winter* standard, a party is entitled to a preliminary injunction if he demonstrates (1) that he is likely to succeed on the merits, (2) that he is likely to suffer 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). A party must make a showing on all four prongs. *A Woman's Friend Pregnancy Res. Clinic v. Becerra*, 901 F.3d 1166, 1167 (9th Cir. 2018) (cleaned up).

9. Under the Ninth Circuit's "serious questions" test, "a 'sliding scale' variant of the *Winter* test," a party is "entitled to a preliminary injunction if it demonstrates (1) serious questions going to the merits, (2) a likelihood of irreparable injury, (3) a balance of hardships that tips sharply towards the [petitioner], and (4) the injunction is in the public interest." *Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024) (internal quotation marks omitted). "[I]f a [petitioner] can only show that there are serious questions going to the merits—a lesser showing than likelihood of success on the merits—then a preliminary injunction may still issue if the balance of hardships tips sharply in the [petitioner's] favor, and the other two *Winter* factors are satisfied. “*All. for the Wild Rockies*, 865 F.3d at 1217(internal quotation marks omitted).
10. In immigration habeas cases, courts need to grant temporary injunctive relief to prevent irreparable loss of liberty and to preserve jurisdiction pending adjudication of the petition.

III. LIKELIHOOD OF SUCCESS ON THE MERITS

- A. **Jasbir is likely to succeed on the merits of her argument that her detention is unlawful because she was not afforded a pre-deprivation hearing.**
11. Due process requires Respondents to afford Petitioner a hearing before a neutral decisionmaker where ICE is required to justify re-detention before it occurs. In recent weeks, as DHS has detained other noncitizens in similar situations, courts in this district have so held in multiple separate cases and ordered the immediate release of noncitizens who had been re-detained by DHS without a pre-deprivation hearing.

12. Many other courts across the country have similarly ordered the immediate release of persons with ongoing proceedings who are re-detained without hearing. See, e.g., *Valdez v. Joyce*, 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Mata Velasquez v. Kurzdorfer*, -- F.Supp.3d --, 2025 WL 1953796 (W.D.N.Y. July 16, 2025); *Pinchi v. Noem*, -- F. Supp. 3d --, 2025 WL 2084921, at *7 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, 2025 WL 2299376, at *10 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, 2025 WL 2420068, at *13 (E.D. Cal. Aug. 21, 2025) (similar); *Hernandez v. Wofford*, 2025 WL 2420390 (E.D. Cal. Aug. 21, 2025).
13. As demonstrated by these many cases rejecting similar arrests, Petitioner is likely to succeed on her claim and the Court should order her immediate release. Notably, if Respondents continue to assert that her detention is justified after Petitioners' release, they may thereafter schedule a hearing where they bear the burden of presenting clear and convincing evidence that her re-detention is warranted.
14. Prior to her re-detention, Petition had lived in this country for nearly three years as she built a new life, was employed and proceeded with her application for asylum. She was granted a work permit, which provided her with the means to support herself while she goes through the lengthy process of immigration proceedings. These facts demonstrate that Petitioner had a significant due process interest in not being re-detained without notice and hearing, and that she is in fact entitled to freedom from confinement, other than complying with his immigration proceedings and conditions of release.

B. Jasbir is likely to succeed on the merits of her argument that she is entitled to a bond hearing under *Maldonado Bautista* Bond Class.

15. Petition here argues that she is a class member under order issued in *Bautista v. Santacruz*, No. 5:25-cv01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025), in which the district court certified a class of noncitizens regarding bond eligibility.
16. In *Bautista*, the district court certified the following class:
 - (1) Bond Eligible Class: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.
17. Subsequently, the court entered final judgment against the respondents and declared that all Bond Eligible Class members “are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2)” and accordingly “are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.” *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025).
18. Similarly, the Immigration judge issued a bond denial order in this case stating that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). The Respondents here are claiming that the Petitioner is an applicant for

admission. However, Petitioner in this case is not subject to such mandatory detention and is eligible for a bond hearing under 8 U.S.C. § 1226(a).

19. As these facts demonstrate that she is likely to succeed on the merits as a Bond class member under *Maldonado Bautista*, the temporary restraining order should be granted.

IV. IRREPARABLE HARM

20. Petitioner is currently suffering ongoing and irreparable harm as a result of unlawful detention. Loss of physical liberty, even for a brief period, constitutes irreparable injury. Absent immediate relief, Petitioner faces continued detention without process and the risk of transfer that would frustrate this Court's jurisdiction.

V. BALANCE OF EQUITIES

21. The balance of equities weighs sharply in Petitioner's favor. Petitioner seeks only to preserve the status quo and prevent unlawful detention. Respondents will suffer no cognizable harm from a temporary order restraining transfer or removal.

VI. PUBLIC INTEREST

22. The public interest is served by ensuring that executive detention complies with constitutional guarantees, statutory limits, and fundamental principles of due process. Preserving judicial review promotes respect for the rule of law.

VII. NECESSITY OF IMMEDIATE RELIEF

23. Immediate relief is necessary to prevent ongoing unlawful detention and to preserve this Court's ability to provide effective habeas relief. Petitioner

therefore respectfully requests that the Court issue a Temporary Restraining Order or alternatively set an expedited hearing.

VIII. REQUESTED TRO RELIEF

24. Petitioner respectfully requests that the Court issue an order:

- (1) Temporarily restraining Respondents from transferring Petitioner out of this District;
- (2) Temporarily restraining Respondents from removing Petitioner from the United States;
- (3) Preserving this Court's jurisdiction pending adjudication of the habeas petition; and
- (4) Granting such other and further relief as the Court deems just and proper.

A proposed order accompanies this Motion.

Petitioner respectfully requests that the Court grant his Emergency Motion for a Temporary Restraining Order and Preliminary Injunction.

Respectfully submitted,

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Dated: January 29, 2026

/s/ Prince Girn

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[PROPOSED ORDER GRANTING TEMPORARY RESTRAINING ORDER]

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

Jasbir (aka Jasbir, No Name)

Petitioner,

v.

WARDEN, Imperial Regional Adult Detention Facility,
FIELD OFFICE DIRECTOR, San Diego Field Office, U.S. Immigration and Customs
Enforcement (ICE);

TODD M. LYONS, in his official capacity as Acting Director of U.S. Immigration and
Customs Enforcement (ICE);

KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland
Security (DHS);

PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

Case No. _____

ORDER GRANTING TEMPORARY RESTRAINING ORDER

Upon consideration of Petitioner's Petition for Writ of Habeas Corpus, Emergency Motion for Temporary Restraining Order and Injunctive Relief, the supporting papers, declarations, and the record before the Court, and for good cause shown, the Court finds as follows:

1. Likelihood of Success on the Merits

Petitioner has demonstrated a likelihood of success on the merits of his claims that his continued detention without a meaningful fair opportunity for bond consideration exceeds statutory authority under the Immigration and Nationality Act and violates the Due Process Clause of the Fifth Amendment.

2. Irreparable Harm

Petitioner is currently suffering ongoing and irreparable harm as a result of continued detention. The loss of physical liberty constitutes irreparable injury as a matter of law. Absent immediate injunctive relief, Petitioner faces continued unlawful detention and the risk of transfer or other actions that could frustrate this Court's jurisdiction.

3. Balance of Equities

The balance of equities tips sharply in Petitioner's favor. Petitioner seeks only to preserve the status quo and prevent continued unlawful detention. Respondents will suffer no cognizable harm from a temporary order restraining transfer or removal pending adjudication of Petitioner's habeas claims.

4. Public Interest

The public interest is served by ensuring that executive detention complies with

constitutional guarantees, statutory limits, and fundamental principles of due process, and by preserving meaningful judicial review.

5. Necessity of Immediate Relief

Immediate relief is necessary to preserve this Court's jurisdiction and prevent irreparable harm before Respondents can be heard.

IT IS HEREBY ORDERED, pursuant to Federal Rule of Civil Procedure 65(b), that:

1. Temporary Restraining Order Granted

Respondents, their officers, agents, servants, employees, and all persons acting in concert with them are TEMPORARILY RESTRAINED from:

- a.* Transferring Petitioner Jasbir (A# 246-614-021) out of this judicial district; and
- b.* Removing Petitioner from the United States,

pending further order of this Court.

2. Preservation of Jurisdiction

This Order is necessary to preserve the Court's jurisdiction and the status quo pending adjudication of Petitioner's Petition for Writ of Habeas Corpus.

3. Release

Ordering an immediate release of Petitioner

4. Bond

The Court finds that no security is required under Federal Rule of Civil Procedure 65(c), or alternatively sets bond in the nominal amount of \$_____, as this action concerns unlawful detention and the protection of constitutional rights.

5. Duration

This Temporary Restraining Order shall remain in effect until _____ at _____, unless extended by the Court.

6. Preliminary Injunction Hearing

A hearing on Petitioner's Motion for Preliminary Injunction is set for _____ at _____.

7. Briefing Schedule

Respondents shall file any opposition by _____.
Petitioner may file a reply by _____.

8. Notice

Respondents may apply to this Court for modification or dissolution of this Order on two (2) days' notice, or on such shorter notice as the Court may allow.

IT IS SO ORDERED.

Dated: _____

UNITED STATES DISTRICT JUDGE