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8
9 **UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

10 ABDL MATINE SAMARI
Petitioner

11 v.

12 CASEY JEREMY, Warden, Imperial Regional
Adult Detention Facility, Calexico,
13 California in his official capacity, GREGORY
J. ARCHAMBEAULT, Field Office Director,
14 San Diego Field Office, U.S. Immigration and
Customs Enforcement, in his official capacity;
15 U.S. Immigration and Customs Enforcement;
KRISTI NOEM, Secretary, U.S. Department
16 of Homeland Security, in her official capacity;
TODD M. LYONS, Acting Director of U.S.
17 Immigration and Customs Enforcement, in his
official capacity
18 PAMELA BONDI, U.S. Attorney General, in her
official capacity,

19 *Respondents.*

Case No. 3:26-cv-00701-AGS-MSB

**EMERGENCY MOTION FOR
TEMPORARY RESTRAINING
ORDER IN SUPPORT OF
PENDING HABEAS PETITION**

INTRODUCTION

Petitioner seeks a temporary restraining order under Federal Rule of Civil Procedure 65 ordering his immediate release from immigration detention and enjoining Respondents from continuing to detain him absent constitutionally required process.

Petitioner was detained in December 2023 and released on his own recognizance after immigration officials completed background, national security, and criminal history checks and determined he was neither a danger to the community nor a flight risk. He was allowed to live in the community while pursuing immigration proceedings and, for nearly two years, fully complied with all conditions of release. He appeared at every immigration court hearing, reported to ICE as required, filed an asylum application in April 2024, amended it in 2025, and worked lawfully pursuant to employment authorization issued by U.S. Citizenship and Immigration Services (“USCIS”).

Despite this compliance, Respondents re-arrested and detained Petitioner without notice, without a hearing, and without identifying any change in circumstances.

Respondents now subject Petitioner to detention under INA § 1225, even though courts, including this Court, have repeatedly held that once a noncitizen is released into the community, detention is governed by INA § 1226(a), and liberty may not be revoked without due process. As the Eastern District explained in *Perez v. Albarran*, No. 1:25-cv-01540-DAD-CSK (HC), 2025 WL 3187578, at *5–6 (E.D. Cal. Nov. 14, 2025), re-detention without changed circumstances and without a hearing before a neutral decision-maker violates the Fifth Amendment and warrants immediate release to restore the status quo.

While the habeas petition remains pending, Respondents retain unilateral authority to

1 take actions that could materially alter Petitioner's detention posture, including continued
2 detention under the disputed statutory framework, transfer to another facility or judicial
3 district, or removal-related enforcement actions. Any such action could impair this Court's
4 ability to adjudicate the habeas petition and grant effective relief.

5 Petitioner therefore seeks a narrowly tailored Temporary Restraining Order preserving
6 the status quo during the pendency of habeas review. He does not seek review of removal
7 proceedings, does not challenge removability, and does not request adjudication of asylum or
8 any other immigration benefit. Absent interim relief, Petitioner faces irreparable harm, as
9 transfer or removal during these proceedings would risk mooted the case or substantially
10 impairing meaningful judicial review.

11 JURISDICTION AND AUTHORITY

12 This Court has jurisdiction over the habeas petition pursuant to 28 U.S.C. § 2241,
13 which authorizes federal courts to review the legality of executive detention. Habeas corpus is
14 the proper vehicle for challenging civil immigration detention imposed without statutory
15 authorization or in violation of the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

16 The Court also has authority to issue temporary, status-quo-preserving relief to protect
17 its jurisdiction and ensure effective review while the habeas petition is pending. *Nken v.*
18 *Holder*, 556 U.S. 418, 426–27 (2009).

19 Jurisdiction is not barred by 8 U.S.C. §§ 1252(b)(9) or 1252(g) because Petitioner
20 challenges only the legality of his detention, not a removal order or removal proceedings.
21 Detention challenges are collateral to removal and fall outside those provisions. *Nadarajah v.*
22 *Gonzales*, 443 F.3d 1069, 1075–76 (9th Cir. 2006); *Jennings v. Rodriguez*, 583 U.S. 281, 293
23 (2018)

FACTUAL BACKGROUND

Petitioner incorporates by reference the factual allegations set forth in the Petition for a Writ of Habeas Corpus.

Petitioner fled Togo and sought asylum and withholding of removal in the United States based on political persecution. Shortly after entering the United States, Petitioner encountered Border Patrol agents. On December 1, 2023, a detention and deportation officer determined on Form I-1220A that Petitioner should be released on his own recognizance pursuant to Immigration and Nationality Act (“INA”) § 236, after determining that he was neither a flight risk nor a danger to the community.

That same day, Petitioner was placed on an order of supervision requiring him to report to ICE within sixty days and thereafter comply with reporting requirements and appear for all immigration court hearings. DHS issued a Notice to Appear charging Petitioner as inadmissible under INA § 212(a)(6)(A)(i), completed inspection-stage processing, and released Petitioner into the United States pursuant to those conditions. Petitioner complied with all conditions of his release. He reported as required, appeared for his immigration court proceedings, filed his asylum application with the immigration court, and attended his master calendar hearing.

On October 2, 2025, while appearing for his scheduled immigration court hearing in compliance with the conditions imposed by DHS, Petitioner was summarily re-arrested by DHS without prior notice, explanation, or an opportunity to be heard. DHS thereafter asserted mandatory detention authority under INA § 235(b), notwithstanding its prior custodial determinations and Petitioner’s established presence in the interior of the United States. Petitioner has remained detained since that date without any individualized custody

determination.

LEGAL STANDARD

The standard governing the issuing of a temporary restraining order is “substantially identical” to the standard for issuing a preliminary injunction. *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). “The proper legal standard for preliminary injunctive relief requires a party to demonstrate ‘[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 that an injunction is in the public interest.’” *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).

The likelihood of success on the merits is the most important *Winter* factor. *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017)

ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits

Petitioner is likely to succeed on the merits because (1) INA § 1226(a), not § 1225, governs his detention, and (2) Respondents violated the Fifth Amendment by revoking his liberty without constitutionally adequate process. District courts addressing similar circumstances have rejected the government’s attempt to re-detain previously released noncitizens without notice, a hearing, or a showing of changed circumstances.

1. Serious Statutory Questions Regarding DHS’s Detention Authority

As a threshold matter, civil immigration detention must be authorized by statute, and DHS may detain a noncitizen only under the provision that corresponds to the noncitizen’s actual custodial posture. Detention imposed pursuant to an inapplicable statutory framework

1 exceeds the authority Congress conferred. *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001);
2 *Nadarajah v. Gonzales*, 443 F.3d 1069, 1079–80 (9th Cir. 2006).

3 Pursuant to INA § 1226(a), the statute “sets out the default rule for [the detention of]
4 noncitizens already present in the country.” *Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO
5 (HC), 2025 WL 2716910, at *3 (E.D. Cal. Sept. 23, 2025) (quoting *Jennings v. Rodriguez*,
6 583 U.S. 281, 289 (2018)). District courts apply this framework to noncitizens who are
7 physically present in the United States, including those present without admission or parole
8 under 8 U.S.C. § 1182(a)(6)(A), and who are not subject to mandatory detention under §
9 1226(c).

10 As the district court explained in *Maldonado Bautista v. Ernesto Santacruz*, the default
11 discretionary bond procedures in § 1226(a) apply to noncitizens who are “present in the
12 United States without being admitted or paroled” and who have not been implicated in crimes
13 listed in § 1226(c). *Maldonado Bautista v. Ernesto Santacruz*, No. 5:25-cv-01873-SSS-BFM,
14 2025 WL 3289861, at *16–17 (C.D. Cal. Dec. 18, 2025) (citing *Rodriguez v. Bostock*, No.
15 3:25-CV-05240-TMC, 2025 WL 2782499, at *17 (W.D. Wash. Sept. 30, 2025)).

16 Consistent with that statutory framework, Petitioner was detained in December 2023,
17 processed by DHS, and released on his own recognizance after immigration officials
18 determined that he was not a danger to the community and not a flight risk. Following that
19 release, Petitioner lived freely in the community for approximately two years while appearing
20 in immigration court, reporting to ICE, and pursuing asylum relief. Under these facts,
21 Petitioner was no longer an arriving noncitizen subject to INA § 1225.

22 Courts have repeatedly held that once a noncitizen is released into the community,
23 detention is governed by § 1226(a). See *Polo v. Chestnut*, No. 1:25-cv-01342-JLT-HBK, 2025

1 WL 2959346 (E.D. Cal. Oct. 17, 2025); *Morales-Flores v. Lyons*, No.

2 1:25-CV-01640-TLN-EFB, 2025 WL 3552841, at *3 (E.D. Cal. Dec. 11, 2025). District
3 courts confronting materially indistinguishable facts have likewise rejected DHS's effort to
4 revert to § 1225 after release into the interior of the United States. See *Doe v. Becerra*, 787 F.
5 Supp. 3d 1083, 1093 (E.D. Cal. 2025); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal.
6 2025).

7 In addition, courts have recognized that where release is granted by DHS rather than an
8 immigration judge, the government's own practice has been to require a showing of changed
9 circumstances before re-arrest. As the court explained in *Salcedo Aceros v. Kaiser*, "[w]here
10 the release decision was made by a DHS officer, not an immigration judge, the Government's
11 practice has been to require a showing of changed circumstances before re-arrest." 2025 WL
12 2637503, at *1 (N.D. Cal. Sept. 12, 2025) (citing *Seravia v. Sessions*, 280 F. Supp. 3d 1168,
13 1197 (N.D. Cal. 2017)).

14 Here, Respondents have not identified any changed circumstances. Since his release,
15 Petitioner has lived in the community under the same conditions imposed by DHS and has
16 complied with those conditions throughout. He was re-detained while attending an
17 immigration court hearing, which he attended in compliance with the terms of his release. He
18 has not violated any condition of release and has not committed any crime. As the court held
19 in *Perez v. Albarran*, once a petitioner "was released from custody and permitted to live in the
20 community," the government may not later "re-detain her without demonstrating a change in
21 circumstances and without providing constitutionally required process." *Perez v. Albarran*,
22 No. 1:25-cv-01540-DAD-CSK (HC), 2025 WL 3187578, at *5–6 (E.D. Cal. Nov. 14, 2025).

23 Accordingly, because INA § 1226(a) governs Petitioner's detention, DHS's reliance on

1 any other detention provision raises a serious question as to whether Petitioner's detention is
2 authorized by statute.

3 2. Petitioner is also likely to succeed on his claim that DHS violated the Fifth Amendment's
4 Due Process Clause when it summarily revoked liberty it had affirmatively conferred.

5 Separately and independently, Petitioner seeks immediate release because DHS
6 violated procedural due process under the Fifth Amendment by revoking Petitioner's
7 long-standing liberty without notice or a meaningful opportunity to be heard, rendering the
8 resulting detention procedurally unlawful from the outset.

9 The Fifth Amendment provides the governing framework. "The Due Process Clause of
10 the Fifth Amendment prohibits the Government from depriving individuals of their life,
11 liberty, or property, without due process of law." *Hernandez v. Sessions*, 872 F.3d 976, 990
12 (9th Cir. 2017). That protection applies to "all persons within the United States, including
13 aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v.*
14 *Davis*, 533 U.S. 678, 679 (2001). At its core, "freedom from imprisonment, from government
15 custody, detention, or other forms of physical restraint, lies at the heart of the liberty that
16 Clause protects." *Id.* at 690.

17 Against that backdrop, courts analyze procedural due process claims in two steps. "The
18 first asks whether there exists a protected liberty interest under the Due Process Clause, and
19 the second examines the procedures necessary to ensure any deprivation of that protected
20 liberty interest accords with the Constitution." *Garcia v. Andrews*, No.
21 2:25-cv-01884-TLN-SCR, 2025 WL 1927596, at *2 (E.D. Cal. July 14, 2025). Both steps are
22 satisfied here.

23 a. Initial Release Created a Protected Liberty Interest.

1 First, Petitioner had a protected liberty interest. Even where the initial decision to
2 release a noncitizen is discretionary, the act of release itself gives rise to constitutional
3 protection. As the court explained: “[E]ven when an initial decision to detain or release an
4 individual is discretionary, the government’s subsequent release of the individual from
5 custody creates ‘an implicit promise’ that the individual’s liberty will be revoked only if they
6 fail to abide by the conditions of their release.” *Calderon v. Kaiser*, No. 25-cv-06695-AMO,
7 2025 WL 2430609, at *2 (N.D. Cal. Aug. 22, 2025) (quoting *Morrissey v. Brewer*, 408 U.S.
8 471, 482 (1971)).

9 Accordingly, “a noncitizen released from custody pending removal proceedings has a
10 protected liberty interest in remaining out of custody.” *Salcedo Aceros*, 2025 WL 2637503, at
11 *6–7.

12 Courts applying this principle have reached the same conclusion in the re-detention
13 context. In *Perez v. Albarran*, the court adopted this reasoning and held that a petitioner’s
14 release created a protected liberty interest that could not be revoked arbitrarily. *Perez v.*
15 *Albarran*, No. 1:25-cv-01540-DAD-CSK (HC), 2025 WL 3187578, at *5–6 (E.D. Cal. Nov.
16 14, 2025).

17 Here, DHS released Petitioner after completing background checks, national security
18 screening, and criminal history review, and after determining that detention was unnecessary.
19 Petitioner then lived in the community for approximately two years in reliance on that release.
20 Courts have recognized that such a government-authorized release creates a protected liberty
21 interest under the Fifth Amendment. See *Perez v. Albarran*, No. 1:25-cv-01540-DAD-CSK
22 (HC), 2025 WL 3187578, at *5–6 (E.D. Cal. Nov. 14, 2025) (holding that a petitioner’s
23 release from custody created a protected liberty interest that could not be revoked arbitrarily).

1 b. the Procedures Necessary to Ensure Any Deprivation of That Protected Liberty Interest

2 Second, the procedures used to revoke that liberty failed to satisfy due process. What
3 process is due is governed by *Mathews v. Eldridge*, which requires courts to consider “[1] the
4 private interest that will be affected by the official action; [2] the risk of an erroneous
5 deprivation of such interest through the procedures used, and the probable value, if any, of
6 additional or substitute procedural safeguards; and [3] the Government’s interest, including
7 the function involved and the fiscal and administrative burdens that the additional or substitute
8 procedural requirement would entail.” 424 U.S. 319, 335 (1976). Applying that framework,
9 courts have concluded, including in *Perez v. Albarran*, that each factor weighs in favor of
10 requiring notice and a hearing before re-detention. *Perez*, 2025 WL 3187578, at *7–8.

11 i. Private Interest

12 First, the private interest affected by the government’s action weighs heavily in
13 Petitioner’s favor. Petitioner’s interest in remaining free from physical confinement is
14 substantial. As the Supreme Court has recognized, “freedom from imprisonment, from
15 government custody, detention, or other forms of physical restraint, lies at the heart of the
16 liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

17 Here, that interest is especially strong because DHS affirmatively released Petitioner
18 after completing background checks, national security screening, and criminal history review,
19 and determining that continued detention was unnecessary. Instead of continuing custody or
20 seeking a bond determination, DHS exercised its discretion under INA § 236(a) to release
21 Petitioner on his own recognizance, reflecting its assessment that he was neither a flight risk
22 nor a danger to the community. See *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011).

23 Following that release, Petitioner lived freely in the community for approximately two

1 years pursuant to government authorization. As courts have recognized, such
2 government-sanctioned liberty strengthens the private interest at stake. As one court
3 explained, “when the government affirmatively authorizes a person’s release and permits them
4 to live freely in the community, that government-sanctioned liberty substantially heightens the
5 private interest protected by the Due Process Clause.” *Doe v. Becerra*, 787 F. Supp. 3d 1083,
6 1093 (E.D. Cal. 2025).

7 Finally, DHS has identified no violation of release conditions and no material change in
8 circumstances that would justify revoking that liberty. Accordingly, the private interest factor
9 weighs strongly in Petitioner’s favor.

10 ii. Risk of Erroneous Deprivation and Value of Additional Safeguards

11 Second, the risk of erroneous deprivation is substantial. When Petitioner was initially
12 detained, DHS conducted screening and determined that he was not a danger to the
13 community or a flight risk. Respondents later disregarded that determination without
14 identifying any change in circumstances and without providing a hearing.
15 Courts have repeatedly held that where a noncitizen is re-detained without a bond hearing or
16 custody redetermination, “the risk of an erroneous deprivation of liberty is high.” *Calderon v.*
17 *Kaiser*, 2025 WL 2430609, at *3; *Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at *12;
18 *Pinchi v. Noem*, No. 25-cv-05632-RMI-RFL, 2025 WL 1853763, at *2 (N.D. Cal. July 4,
19 2025).

20 As the court explained in *Perez v. Albarran*, allowing DHS to disregard its own prior
21 custody determination without notice and a hearing creates a constitutionally impermissible
22 risk of erroneous deprivation. *Perez v. Albarran*, No. 1:25-cv-01540-DAD-CSK (HC), 2025
23 WL 3187578, at *7–8 (E.D. Cal. Nov. 14, 2025).

1 That risk is present here. DHS re-detained Petitioner without advance notice, without a
2 written explanation, and without any opportunity to be heard. DHS did not assert a violation
3 of release conditions, did not identify changed circumstances, and did not conduct any
4 individualized custody assessment before imposing detention. Re-detention occurred
5 summarily at a scheduled immigration court appearance while Petitioner was complying with
6 the conditions imposed on him.

7 Courts have recognized that re-detention following a prolonged period of compliant
8 release, without notice or process, presents a substantial risk of erroneous deprivation. See
9 *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1322–23 (W.D. Wash. 2025); *Ortega v. Bonnar*,
10 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

11 Finally, the value of additional safeguards is significant. Even minimal procedures,
12 including notice of the basis for re-detention and a prompt, individualized custody
13 determination, would reduce the risk that liberty is withdrawn based on error rather than an
14 informed assessment. Accordingly, this factor weighs in Petitioner's favor.

15 iii. Government's Interest

16 Third, the government's interest does not outweigh the need for basic process on these
17 facts. The government's interests include ensuring appearance at proceedings and protecting
18 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Those interests are not
19 meaningfully advanced by summary re-detention here.

20 Here, DHS previously determined that Petitioner could be safely managed in the
21 community and relied on that assessment for an extended period. Petitioner complied with
22 supervision and appeared as required. At the time of re-detention, there was no imminent
23 removal and no allegation that Petitioner posed a flight risk or a danger to the community.

1 By contrast, the burden of providing additional process is minimal. As courts have
2 recognized, “in immigration court, custody hearings are routine and impose a minimal cost.”
3 *Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at *12. Ninth Circuit precedent already requires
4 individualized custody determinations and allocation of the burden of proof in discretionary
5 detention cases. *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011).

6 Consistent with these principles, the court in *Perez v. Albarran* rejected the
7 government’s argument that immediate detention without process was justified, noting the
8 absence of exigent circumstances. *Perez v. Albarran*, No. 1:25-cv-01540-DAD-CSK (HC),
9 2025 WL 3187578, at *8 (E.D. Cal. Nov. 14, 2025).

10 Accordingly, the government’s interest does not outweigh the private interest at stake
11 or justify dispensing with notice and an opportunity to be heard. Balancing the *Mathews*
12 factors, Petitioner has shown a likelihood of success on his procedural due process claim.

13 **B. Petitioner Will Suffer Irreparable Harm Absent Immediate Relief**

14 Unlawful detention constitutes irreparable harm. As the Ninth Circuit has explained,
15 “[u]nlawful detention certainly constitutes extreme or very serious damage, and that damage is
16 not compensable in damages.” *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017).
17 Likewise, “[t]he deprivation of constitutional rights unquestionably constitutes irreparable
18 injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

19 That harm is ongoing here. Petitioner remains detained without constitutionally
20 adequate process. As a result of that detention, he has been unable to work and has lost
21 income necessary to support himself. He has also been separated from his family and from the
22 community ties he developed over approximately two years while living at liberty pursuant to
23 DHS authorization.

1 Courts addressing similar re-detention under § 1226(a) have recognized that continued
2 detention under these circumstances constitutes irreparable harm warranting immediate
3 injunctive relief. See *Perez v. Albarran*, No. 1:25-cv-01540-DAD-CSK (HC), 2025 WL
4 3187578, at *9 (E.D. Cal. Nov. 14, 2025). Absent immediate relief, Petitioner will continue to
5 suffer the loss of liberty and attendant harms that cannot be remedied through monetary
6 damages or later court action.

7 **C. The Balance of Equities and the Public Interest Favor Relief**

8 When the government is a party, “the balance of equities and the public interest
9 merge.” *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). Those
10 considerations favor relief here.

11 The public has a strong interest in ensuring that immigration detention complies with
12 constitutional limits. As courts have recognized, “the public interest is served by preventing
13 the violation of constitutional rights.” *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025
14 WL 1993771, at *6 (E.D. Cal. July 16, 2025). That interest is implicated where, as here,
15 detention was imposed without notice or an opportunity to be heard.

16 By contrast, Respondents face little hardship from providing relief. DHS previously
17 determined that Petitioner could be safely managed in the community and allowed him to
18 remain at liberty for approximately two years under supervision. Ordering temporary release
19 on the same conditions that previously governed Petitioner’s liberty preserves existing
20 supervisory mechanisms while allowing constitutional questions to be resolved.

21 Courts addressing similar re-detention have concluded that temporary release is
22 appropriate at the TRO stage to maintain the status quo where detention is likely unlawful. See
23 *Perez v. Albarran*, No. 1:25-cv-01540-DAD-CSK (HC), 2025 WL 3187578, at *8–9 (E.D.

1 Cal. Nov. 14, 2025).

2 Accordingly, the balance of equities and the public interest favor granting temporary
3 relief.

4 CONCLUSION

5 For the reasons set forth above, Petitioner has satisfied the requirements for temporary
6 restraining order relief. Petitioner has raised serious statutory and constitutional questions
7 regarding DHS's detention authority, demonstrated irreparable harm from continued
8 detention, and shown that the balance of equities and the public interest favor interim relief
9 while the Court adjudicates the pending Petition for Writ of Habeas Corpus.

10 District courts have authority to order release as interim relief where detention is likely
11 unlawful. In *Perez v. Albarran*, No. 1:25-cv-01540-DAD-CSK (HC), 2025 WL 3187578, at
12 *8–9 (E.D. Cal. Nov. 14, 2025), under materially similar circumstances, the court ordered
13 immediate release at the TRO stage to restore the status quo ante pending further proceedings.
14 This Court has likewise addressed materially similar detention issues arising under INA §
15 1226(a). See, e.g., *Morales-Flores v. Lyons*, No. 1:25-CV-01640-TLN-EFB, 2025 WL
16 3552841, at *3 (E.D. Cal. Dec. 11, 2025).

17 Here, Petitioner's last uncontested custodial status was release into the community
18 under DHS supervision, a status that remained in place for approximately two years. DHS
19 altered that status through summary re-detention while Petitioner was complying with the
20 conditions of his release. Temporary release restores the status quo ante and preserves this
21 Court's ability to adjudicate the pending habeas petition and grant effective relief.

22

23

PRAYER FOR RELIEF

Petitioner respectfully requests that the Court issue a Temporary Restraining Order for the period permitted by Federal Rule of Civil Procedure 65(b)(2), or until further order of the Court, and set an expedited schedule for further proceedings as appropriate. Good cause exists for interim relief because the considerations supporting temporary relief will continue to apply while the Court adjudicates the pending Petition for Writ of Habeas Corpus, and habeas proceedings are intended to proceed expeditiously.

Specifically, Petitioner requests that the Court:

1. Issue a Temporary Restraining Order preserving the status quo ante pending adjudication of the Petition for Writ of Habeas Corpus, including ordering Petitioner's immediate release from immigration custody under the same conditions of supervision imposed prior to his October 2, 2025 re-detention;
2. Enjoin Respondents, during the pendency of this habeas action, from re-arresting or re-detaining Petitioner absent compliance with applicable statutory and constitutional requirements or further order of this Court;
3. Enjoin Respondents, during the pendency of this habeas action, from transferring Petitioner from the current district of confinement, including transfer between facilities or to a facility outside this judicial district, in any manner that would materially impair this Court's ability to adjudicate the habeas petition, maintain jurisdiction, or grant effective relief;
4. Enjoin Respondents, during the pendency of this habeas action, from effecting removal or any other custody-altering enforcement action that would moot or defeat this Court's jurisdiction over the pending habeas petition; and

1 5. Grant such other temporary and narrowly tailored relief as the Court deems necessary
2 to preserve its jurisdiction and ensure meaningful judicial review pending resolution of
3 the Petition for Writ of Habeas Corpus.

4 Dated: February 5, 2026

Respectfully Submitted,

5 /s/ Theodora E. Adoghe

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CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2026, I caused a true and correct copy of the foregoing Petitioner's Motion for Temporary Restraining Order to be served on all counsel of record by electronic means through the Court's CM/ECF system. Such service effectuated electronic notice to all CM/ECF-registered counsel for Respondents.

/s/ Theodora E. Adoghe

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