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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Johnson Jose GUERRERO-
MEDINA,

Petitioner,

v.

Daniel A. BRIGHTMAN, in his
official capacity as Field Office
Director of the Immigration and
Customs Enforcement, Enforcement
and Removal Operations San Diego
Field Office; **Kristi NOEM**, in her
official capacity as Secretary of the
U.S. Department of Homeland
Security, or her successor; **U.S.
DEPARTMENT OF HOMELAND
SECURITY**; **Pamela J. BONDI**, in
her official capacity as U.S. Attorney
General; **EXECUTIVE OFFICE
FOR IMMIGRATION
REVIEW**; **Jeremy CASEY**, in his
official capacity as Warden of the
Imperial Regional Detention Facility

Respondents.

Case No. 3:26-cv-01433-AGS-DEB

**MOTION FOR TEMPORARY
RESTRAINING ORDER AND
MEMORANDUM OF POINTS
AND AUTHORITIES**

**ORAL ARGUMENT
REQUESTED**

Expedited Consideration Requested

I. INTRODUCTION

Petitioner Johnson Jose GUERRERO-MEDINA (“Petitioner”) respectfully moves this Court for a temporary restraining order (“TRO”) ordering his immediate release from immigration detention pending adjudication of his petition for writ of habeas corpus filed concurrently with this motion.

Petitioner had been living peacefully in the United States for several years after the Department of Homeland Security exercised its discretion to release him on humanitarian parole following his entry in August 2022 (See Ex. D). During that time, Petitioner complied with U.S. immigration law, filed an affirmative application for asylum (See Ex. C), obtained employment authorization (See Ex. B), and established strong ties within the community while pursuing lawful protection under the Immigration and Nationality Act (“INA”).

Despite this history of compliance, immigration authorities abruptly re-detained Petitioner on February 23, 2026, during a routine vehicle stop while he was traveling within the United States. Petitioner possessed a valid driver’s license, and no allegation of unlawful or reckless driving was made. He was taken into immigration custody and transferred to the Imperial Regional Detention Facility in Calexico, California. At no point before or after this sudden revocation of liberty was Petitioner provided with any individualized custody determination.

Petitioner now faces ongoing physical confinement despite having

previously been released into the community by the government and despite the absence of any intervening conduct suggesting that he poses a danger to the community or a flight risk. Courts have increasingly recognized that the re-detention of noncitizens who were previously released into the United States raises serious constitutional concerns where liberty is revoked without meaningful procedural safeguards.

Because Petitioner is currently subjected to ongoing detention that deprives him of his fundamental liberty without constitutionally adequate process, emergency relief is necessary to prevent continuing irreparable harm while this Court considers the merits of his habeas petition.

II. LEGAL STANDARD

The standard for a temporary restraining order is the same as for a preliminary injunction. *See New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977). A TRO is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008).

To obtain preliminary relief, a party must show (1) a likelihood of success on the merits, (2) a likelihood of irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in the party’s favor, and (4) that an

injunction is in the public interest. *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing *Winter*, 555 U.S. at 20).

An alternative test permits relief where “serious questions going to the merits” are raised and the balance of hardships tips sharply in the plaintiff’s favor, thereby allowing preservation of the status quo when complex legal questions require further inspection or deliberation. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011).

III. ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits

Petitioner is likely to succeed on the merits of his habeas petition because his current detention violates the Due Process Clause of the Fifth Amendment.

The Fifth Amendment prohibits the government from depriving any person of liberty without due process of law. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Id.* Noncitizens physically present in the United States are entitled to due process protections in immigration detention proceedings. *See Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).

Here, the government previously exercised its discretion to release Petitioner into the United States on humanitarian parole following his entry in 2022. That

decision permitted Petitioner to live at liberty in the community while pursuing lawful immigration relief, including his pending asylum application. During the several years that followed, Petitioner complied with U.S. immigration law, filed his application for asylum, obtained employment authorization, and established substantial ties within the community. He also remained in contact with immigration authorities and updated his address information with ICE as required.

Despite this history of compliance, immigration authorities abruptly re-detained Petitioner in February 2026 without providing any meaningful individualized custody determination demonstrating that detention is necessary to mitigate a particularized risk of flight or danger to the community. The government's decision to revoke Petitioner's previously granted liberty without providing notice, an opportunity to be heard, or any individualized justification violates fundamental principles of procedural due process.

Multiple courts in this District have recently recognized the serious constitutional concerns raised when immigration authorities re-detain noncitizens who were previously released into the United States without providing an individualized custody determination. *See, e.g., Gil v. Warden, Otay Mesa Detention Center*, No. 3:25-cv-03279-DMS-VET, 2025 WL 3675153, at *3 (S.D. Cal. Dec. 17, 2025); *Makarova v. Brightman*, No. 3:26-cv-00373-DMS-JLB (S.D. Cal. Feb. 18, 2026); *Alegria Palma v. LaRose*, No. 3:25-cv-01942-BJC-MMP (S.D.

Cal. Aug. 11, 2025); *Vicky v. Casey*, No. 3:26-cv-00949-JLS-JLB (S.D. Cal. Mar. 4, 2026); *Singh v. Archambeault*, No. 3:26-cv-01072-JES-MSB (S.D. Cal. Feb. 27, 2026). These decisions recognize that when the government permits a noncitizen to live in the community for a significant period of time and then abruptly revokes that liberty without adequate procedural safeguards or individualized justification, the resulting detention raises serious due process concerns. Where the government has already exercised its discretion to release an individual into the community and no intervening conduct demonstrates that the individual poses a danger or flight risk, continued detention bears no reasonable relationship to the limited purposes of civil immigration detention and warrants prompt judicial intervention to restore the liberty previously granted.

Because Respondents have deprived Petitioner of his liberty without constitutionally adequate procedures or individualized justification, Petitioner is likely to succeed on the merits of his habeas claims.

B. Petitioner Will Suffer Irreparable Harm Absent Emergency Relief

Petitioner will suffer immediate and irreparable harm, absent emergency relief from this Court. Petitioner is currently subjected to ongoing physical detention that violates the Due Process Clause of the Fifth Amendment. The loss of liberty

resulting from unlawful detention constitutes irreparable harm because each additional day of confinement represents a continuing constitutional injury.

Courts have repeatedly recognized that the deprivation of constitutional rights constitutes irreparable harm warranting injunctive relief. *See Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017); *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Indeed, the loss of constitutional freedoms, even for minimal periods of time, unquestionably constitutes irreparable injury.

Petitioner had previously been released into the United States by the government and had been living at liberty in the community for several years while pursuing lawful immigration relief. Despite this history of compliance, immigration authorities abruptly re-detained him without providing any meaningful individualized custody determination. As a result, Petitioner is now subjected to continuing detention that deprives him of his fundamental liberty without constitutionally adequate process.

Absent immediate intervention by this Court, Petitioner will remain unlawfully detained while the ordinary habeas briefing process unfolds. Because the loss of liberty cannot be remedied retroactively, a temporary restraining order is necessary to prevent ongoing and irreparable harm while the Court considers the merits of the petition.

C. The Balance of Equities and Public Interest Favor Emergency

Relief

The balance of equities strongly favors Petitioner. Petitioner faces the ongoing loss of his physical liberty because of unconstitutional detention. Each additional day of confinement compounds the deprivation of his fundamental liberty interests. By contrast, Respondents suffer no legally cognizable harm from being required to comply with the Constitution and provide Petitioner with the process that is due.

The public interest likewise favors injunctive relief where constitutional rights are at stake. “It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Ensuring that the government does not deprive individuals of liberty without due process serves the public interest and promotes confidence in the rule of law.

Restoring Petitioner to the liberty previously granted by the government merely preserves the status quo while the Court considers the merits of the habeas petition.

Accordingly, the balance of equities and the public interest weigh strongly in favor of granting the requested temporary restraining order.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant his Motion for Temporary Restraining Order and order Respondents to immediately release Petitioner from immigration detention pending adjudication of the petition for writ of habeas corpus. In the alternative, Petitioner requests that the Court order Respondents to refrain from transferring Petitioner outside the jurisdiction of this Court while this petition is pending and grant such other and further relief as the Court deems just and proper. Petitioner has provided notice of this motion to the United States Attorney's Office for the Southern District of California.

Date: March 5, 2026

Respectfully submitted,

/s/ Rose M. Thompson

Rose M. Thompson

Attorney at Law

Attorney for Petitioner