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IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

GURPREET GIR, Petitioner V. Warden, Imperial Regional Detention Facility, Calexico; GREGORY ARCHAMBEAULT, San Diego, Field Office Director, Immigration and Customs Enforcement and Removal Operations (ICE/) ERO); U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the Department of Homeland Security; U.S. Department of Homeland Security (DHS); PAMELA BONDI, Attorney General of the United States, and TODD LYONS, Director, Immigration and Customs Enforcement. Respondents	)	PETITIONER'S *EXPARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION

1. For the reasons explained in the accompanying Memorandum of Points, Petitioner hereby makes this *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re: Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65 and 5 U.S.C. § 705.

2. Petitioner is a 32 year-old native and citizen of India.

3. On or about February 25, 2022, Petitioner entered the US. *See Ex. A.*

4. He affirmatively filed an I-589, Application for Asylum with the USCIS. *See Ex. B.*

5. Petitioner was interviewed by the USCIS and his decision is still pending with the USCIS.

6. On February 27, 2026, the Petitioner was arrested by the ICE while he was filling gas in his truck at a gas station in San Bernardino, CA. Petitioner had no violations or crimes despite he was arrested with his pending I-589 applications.

7. On February 28, 2026, the Department of Homeland Security ("DHS") issued a Notice to Appear ("NTA") under section 212(a)(6) (A)(i). *See Ex. C.*

8. He was unlawfully arrested and detained by the ICE on February 27, 2026.

9. As of the date of this Petition, petitioner has been detained by Immigration and Customs Enforcement ("ICE"), with no end to petitioner's detention in the reasonably foreseeable future without him committing any crime or fraud.

10. He is presently detained at the direction of Respondents at Imperial Retional Detention Facility, 1572 Gateway Road, Calexico, CA 92231. *See Ex. D.*

11. Petitioner's detention violates the Immigration and Nationality Act and its implementing regulations, and Petitioner's right to due process. Petitioner requests that the Court issue a temporary restraining order and order to show case re: preliminary injunction in the form of the proposed order submitted concurrently with this Application.

12. This Application is based on the Petition for Writ of Habeas Corpus, Memorandum of Points and Authorities, and the declaration and exhibits in support thereof.

13. If the Court believes that an *Ex Parte* Application for Temporary Restraining Order is not properly before the Court due to any delay in filing, he respectfully requests that the Court convert the Application to an Application for Preliminary Injunction pursuant to Local Rule 65-1 and set a hearing without regard to the notice requirement of Local Rule 6-1.

14. Respondents were advised on March 12, 2026 that Petitioner would be filing this *ex parte* application and of the contents of this application. Nneka Jackson Decl. ¶ 4. See Local Rule 17-19.1.

Counsel for Respondents is as follows:

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Dated: March 12, 2026

/s/ Nneka Jackson
Nneka Jackson

PETITIONER'S APPLICATION FOR TEMPORARY RESTRAINING ORDER

I. INTRODUCTION

1. Petitioner is a 32 year-old native and citizen of India.

2. On or about February 25, 2022, Petitioner entered the US. *See Ex. A.*

3. He affirmatively filed an I-589, Application for Asylum with the USCIS. *See Ex. B.*

4. Petitioner was interviewed by the USCIS and his decision is still pending with the USCIS.

5. On February 27, 2026, the Petitioner was arrested by the ICE while he was filling gas in his truck at a gas station in San Bernardino, CA. Petitioner had no violations or crimes despite he was arrested with his pending I-589 applications.

6. On February 28, 2026, the Department of Homeland Security ("DHS") issued a Notice to Appear ("NTA") under section 212(a)(6) (A)(i). *See Ex. C.*

7. He was unlawfully arrested and detained by the ICE on February 27, 2026.

8. As of the date of this Petition, petitioner has been detained by Immigration and Customs Enforcement ("ICE"), with no end to petitioner's detention in the reasonably foreseeable future without him committing any crime or fraud.

9. He is presently detained at the direction of Respondents at Imperial Retional Detention Facility, 1572 Gateway Road, Calexico, CA 92231. *See Ex. D.*

10. If the Court believes that an *Ex-Parte* Application for Temporary Restraining Order is not properly before the Court due to any delay in filing, he respectfully requests that the Court convert the Application to an Application for Preliminary Injunction pursuant to Local Rule 65-1 and set a hearing without regard to the notice requirement of Local Rule 6-1.

II. ARGUMENT

11. The requirements for granting a Temporary Restraining Order are "substantially identical" to those for granting a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

12. Petitioner must demonstrate that (1) he is likely to succeed on the merits of their claims; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). A sliding scale test may be applied and an injunction should be issued when there is a stronger showing on the balance of hardships, even if there are "serious questions on the merits … so long as the plaintiff also shows a likelihood of irreparable harm and that the injunction is in the public interest." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011); *see also Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024).

13. Petitioner's immediate release is required to return him to the status quo ante—"the last uncontested status which preceded the pending controversy." *Hernandez v. Wofford*, No.

1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at *8 (E.D. Cal. Aug. 21, 2025). Petitioner satisfies the criteria for an injunction and the TRO should be granted.

A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIMS

14. Petitioner is a citizen of India who entered the United States on or about February 25, 2022, and affirmatively filed an I-589, Application for Asylum with the USCIS.

15. Petitioner was interviewed and his case is pending. On February 28, 2026, the Department of Homeland Security ("DHS") issued a Notice to Appear ("NTA") under section 212(a)(6) (A)(i).

16. He has resided in the United States for more than three years before he was re-arrested without any basis.

17. This Court must look to Petitioner's 2026 arrest. He does not fall under the definition of an applicant for admission, when he has been residing in the United States for three years. *See Garcia-Zamora v. Jamison*, No. CV 25-6656, 2025 WL 3642088, at *4 (E.D. Pa. Dec. 16, 2025) ("Petitioner entered the country in December 2022. He was shortly thereafter charged with being an inadmissible alien, subjected to removal proceedings. Since 2019, he has resided in the country. The detention of noncitizens like Petitioner who have been long-present in the United States is governed by the discretionary framework of § 1226(a).").

1. Due Process Requires a Hearing Before a Neutral Decisionmaker

18. Petitioner has resided in the United States for more than three years. Petitioner is a *person* within the United States. The Due Process clause to individuals who entered without inspection and now detained. *See J.S.H.M, v. Wofford*, No. 1:25-CV-01309 JLT SKO, 2025 WL 2938808, at *14 (E.D. Cal. Oct. 16, 2025); *Hernandez v. Wofford,* No. 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at *3 (E.D. Cal. Aug. 21, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *8 (W.D. Tex. Sept. 22, 2025); *Mata Velasquez v. Kurzdorfer,* No. 25-CV-493-LJV, 2025 WL 1953796, at *15 (W.D.N.Y. July 16, 2025*); Noori v. Larose,* No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *10 (S.D. Cal. Oct. 1, 2025).

19. The Supreme Court in *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020), found that an applicant for admission detained at or near the port of entry in "has only those rights regarding admission that Congress has provided by statute." However, *Thuraissigiam* addressed a case where the noncitizen challenged his removal order, not his detention status, *and* had never been released into the United States. This distinction is important because once a noncitizen is released from custody into the United States, they become a "person" within the meaning of the Due Process Clause. *Zadvydas v. Davis,* 533 U.S. at 690. They are a person whose liberty interest is affected by detention, unlike when they are challenging a removal order of whose procedural intricacies is designed by Congress.

20. Courts have held that *Thuraissigiam* does not preclude the application of the Due Process clause to applicants for admission who have been released and then re-detained. *See Paz Aguilera v. Albarran*, No. 1:25-CV-01619 JLT SAB, 2025 WL 3485016, at *14 (E.D. Cal. Dec. 4, 2025); *E.A.P.C. v. Wofford.*, No. 1:25-CV-01546-JLT-CDB, 2025 WL 3289185, at *10 (E.D. Cal. Nov. 25, 2025); *Acosta v. Bondi.*, No. 25-CV-09601-HSG,

2025 WL 3229097, at *3 (N.D. Cal. Nov. 19, 2025); *Perez v. LaRose,* No. 3:25-CV-02620-RBM- JLB, 2025 WL 3171742, at *4 (S.D. Cal. Nov. 13, 2025); *M.V.I. v. Andrews,* No. 1:25-CV-01440-JLT-SKO, 2025 WL 3154403, at *10 (E.D. Cal. Nov. 12, 2025); *Hernandez v. Wofford,* No. 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at *3 (E.D. Cal. Aug. 21, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25- CV-337-KC, 2025 WL 2691828, at *8 (W.D. Tex. Sept. 22, 2025); *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *15 (W.D.N.Y. July 16, 2025); *Noori v. Larose,* No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *10 (S.D. Cal. Oct. 1, 2025).

21. Petitioner pursued asylum in removal proceedings. His being in the United States for more than three years without any violation or crime reflects that his detention is not in the public interest.

22. On approximately February 27, 2026, he was arrested by immigration authorities. An individual released from immigration custody has a liberty interest in remaining free from detention. *Morrissey v. Brewer*, 408 U.S. 471, 482, 92 S. Ct. 2593, 2601, 33 L. Ed. 2d 484 (1972). This liberty interest applies to individuals who are released into the United States like Petitioner who has been in the United States in order to attend removal proceedings.

23. Petitioner had a reasonable expectation that he would continue at liberty if he did not commit any violation or crime. *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2578207, at *3 (N.D. Cal. Sept. 5, 2025) ("ICE had previously determined Petitioners not to pose a risk under those criteria, and communicated no basis under those statutory purposes for arresting Petitioners. In these circumstances, the risk of erroneous

deprivation appears high."); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025) ("even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody.").

24. Here, there was no reason asserted for the revocation of release at all. So does due process. *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 320, 70 S. Ct. 652, 660, 94 L. Ed. 865 (1950). Further, the failure to follow the regulations themselves constitutes a violation of due process when the regulation was meant to protect a fundamental right. *Accardi v. Shaughnessy*, 347 U.S. 260, 267, 74 S.Ct. 499, 98 L.Ed. 681 (1954); *Sameena Inc. v. U.S. Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998). *See Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025) ("Respondents offer no evidence that any authorized official found Petitioner to be a flight risk or a danger to the public. Nor is there evidence that such an official found that humanitarian reasons do not warrant Petitioner's presence in the United States. Thus, Respondents fail to show that they complied with either clause of 8 C.F.R. § 212.5(e)(2)(i).")

25. Petitioner has resided in the United States for more than three years and has done everything that has been required. He has not committed any crime or fraud. As such, notice was required before he was to be arrested.

B. PETITIONER WILL SUFFER IRREPARABLE HARM IN THE ABSENCE OF A TRO.

26. In the absence of a TRO, Petitioner will suffer a restriction on his liberty, a fundamental right. "Freedom 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 v. Davis*, 533 U.S. 678, 690 (2001).

27. Detention constitutes "a loss of liberty that is . . . irreparable." *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff'd in part, vacated in part on other grounds, remanded sub nom. Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir. 2022). It "is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (citation modified); *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005). *See also Hernandez v. Sessions*, 872 F.3d 976, 994–95 (9th Cir. 2017) ("Thus, it follows inexorably from our conclusion that the government's current policies [which fail to consider financial ability to pay immigration bonds] are likely unconstitutional—and thus that members of the plaintiff class will likely be deprived of their physical liberty unconstitutionally in the absence of the injunction—that Plaintiffs have also carried their burden as to irreparable harm.").

28. Petitioner clearly demonstrates irreparable harm. *Garcia-Ayala v. Andrews*, No. 2:25-CV-02070-DJC-JDP, 2025 WL 2597508, at *4 (E.D. Cal. Aug. 8, 2025); *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 2243616, at *7 (N.D. Cal. Aug. 6, 2025).

C. THE BALANCE OF EQUITIES TIPS IN PETITIONER'S FAVOR AND A TRO IS IN THE PUBLIC INTEREST

29. Because the government is a party, the balance of equities and whether the injunction is in the public interest are considered together. *Nken v. Holder*, 556 18 U.S. 418, 435

(2009). Petitioner has established that the public interest factor weighs in his favor because his claims assert violations of federal laws. *See Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013).

30. Because detention after Petitioner has been released on parole "is inconsistent with federal law, the balance of hardships and public interest factors weigh in favor of a preliminary injunction." *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (*Moreno I*); *see also Moreno Galvez*, 52 F.4th 821, 832 (9th Cir. 2022) (affirming in part permanent injunction issued in *Moreno II* and quoting approvingly district judge's declaration that "it is clear that neither equity nor the public's interest are furthered by allowing violations of federal law to continue").

31. This is because "it would not be equitable or in the public's interest to allow the [government] . . . to violate the requirements of federal law, especially when there are no adequate remedies available." *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013) (second alteration in original) (citation omitted). Indeed, Respondents "cannot suffer harm from an injunction that merely ends an unlawful practice." *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013).

32. The Court has discretion to set the amount of security required for a temporary restraining order or preliminary injunction under Rule 65(c), if any. *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009) Indeed, "'[t]he district court may dispense with the filing of a bond when it concludes there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.'" *Id.* (quoting *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003)).

33. Here, it is unlikely any harm will come to Respondents as a result of a grant of temporary relief and Respondents will incur negligible or zero financial costs.

34. Petitioner asks the Court to exercise its discretion to waive the bond requirement.

III. CONCLUSION

35. For the foregoing reasons, the Court should grant Petitioner's *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause and

i) Order that Petitioner be immediately released from custody or, alternatively, that he be provided a bond hearing within seven days before an immigration judge;

ii) Order that Petitioner may not be re-detained absent proper notice of the reasons that form the basis for revocation of release; and

iii) Order that Petitioner is entitled to a bond hearing before immigration judge if DHS revokes release with proper notice.

Dated: March 12, 2026

Respectfully Submitted,

/s/ Nneka Jackson
Nneka Jackson
Counsel for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 12, 2026 I served a copy of PETITIONER'S *EX PARTE*_ APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION; DECLARATION OF NNEKA JACKSON; AND [PROPOSED] ORDER by email

to the following individual:

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