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9 *Attorney for Petitioner*

10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA
12 SAN DIEGO DIVISION

13 Moaz Adam
14
15 Petitioner,

Case No: 3:26-cv-01611-RBM-DDL

16 v.

**PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT**

17 Gregory J. Archambeault, Field Office
18 Director, ICE Enforcement and Removal
19 Operations, San Diego Field Office,

20 Warden, Otay Mesa Detention Center,

21 Kristi Noem, Secretary of the United
22 States, Department of Homeland Security,

23 Todd M. Lyons, Acting Director
24 U.S. Immigration and Customs
25 Enforcement.

26 and

27 Pamela Bondi, U.S. Attorney
28 General Department of Justice

Respondents.

1 The Petitioner, Moaz Adam (“Petitioner”), through undersigned counsel respectfully moves
2 this Court for a temporary restraining order (“TRO”) pending its adjudication of his Petition for
3 Writ of Habeas Corpus and Complaint for Injunctive Relief. Specifically, Petitioner requests the
4 Court to order Respondents to immediately release Petitioner from immigration detention and cease
5 any ongoing actions and refrain from taking any additional actions toward effectuating Petitioner’s
6 removal from the United States until the Court has adjudicated his petition and complaint.
7

8 Petitioner, a citizen of Sudan, is not subject to a final order of removal. On February 3,
9 2024, Petitioner entered the United States without admission or inspection. He is currently in
10 removal proceedings, and has timely filed Form I-589, Application for Asylum with the
11 Immigration Court. Subsequently, Department of Homeland Security (“DHS”) issued Petitioner a
12 Notice to Appear (“NTA”) initiating removal proceedings.
13

14 Petitioner has no arrests, no convictions, and no criminal history. He maintained full-time
15 employment, complied with all immigration requirements, and demonstrated consistent good moral
16 character. Despite this, DHS detained Petitioner on December 2, 2025, and continues to detain him
17 without any individualized determination that his detention is necessary to ensure appearance or
18 prevent danger. Petitioner is currently suffering from a serious medical condition, and his health
19 continues to deteriorate without adequate medical evaluation or treatment while in
20 detention.[Exhibit A].
21

22 Petitioner is not subject to mandatory detention under INA § 236(c) because he has no
23 criminal history and was not transferred from criminal custody. Petitioner poses no danger to the
24 community and has demonstrated his willingness to comply with all immigration requirements. His
25 detention does not further any legitimate governmental purpose.
26

27 Multiple federal courts have rejected DHS’s recent interpretation of 8 U.S.C.
28 § 1225(b)(2)(A), holding that the statute does not authorize the mandatory detention of individuals

1 who have lived in the interior of the United States for extended periods and were previously
2 released under 8 U.S.C. § 1226(a). Instead, courts consistently conclude that such individuals
3 remain detained under § 1226(a) and are entitled to an individualized custody determination. See
4 *Rodriguez Vazquez v. Bostock* (W.D. Wash. Sept. 30, 2025); *J.Y.L.C. v. Bostock*, (D. Or. Nov. 12,
5 2025); *Guerrero Lepe v. Andrews*, (E.D. Cal. Sept. 23, 2025). These decisions emphasize that
6 DHS's reinterpretation conflicts with the statutory text, the structure of the INA, and decades of
7 agency practice.

8
9 Courts have also held that re-detaining long-term residents without a bond hearing violates
10 the Due Process Clause, which protects individuals from arbitrary deprivation of liberty. See
11 *Hernandez v. Sessions*, 872 F.3d 976, 993 (9th Cir. 2017); *Zadvydas v. Davis*, 533 U.S. 678, 690
12 (2001). Individuals who have been released into the community acquire a protected liberty interest
13 that cannot be revoked without adequate procedural safeguards. See *Morrissey v. Brewer*, 408 U.S.
14 471, 482 (1972); *Young v. Harper*, 520 U.S. 143, 147–49 (1997). Under the balancing test set forth
15 in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), courts have repeatedly found that re-detention
16 without a hearing presents a high risk of erroneous deprivation and is constitutionally
17 impermissible. See, e.g., *A E. v Andrews* (E.D. Cal. May 16, 2025). Applying that same framework
18 to Petitioner's facts, he easily satisfies the *Winter* standard for a temporary restraining order. *Winter*
19 *v. Natural Resources Def Council, Inc.*, 555 U.S. 7, 20 (2008). He is likely to succeed on the merits
20 of his statutory and due process claims, he is suffering ongoing irreparable harm, the balance of
21 equities is in his favor, and the public interest strongly supports immediate judicial intervention to
22 prevent arbitrary and unlawful detention.

23 PROCEDURAL BACKGROUND

24
25
26 Petitioner filed a Petition for Writ of Habeas Corpus and Complaint under 28 U.S.C. §
27 2241 and 28 U.S.C. § 1331, challenging his ongoing detention and seeking immediate release or,
28

1 in the alternative, a prompt individualized custody hearing before a neutral decision maker. (FCF
2 No. [1]). The Petition alleges that Petitioner is in removal proceedings, is not subject to a final
3 order of removal, and has a pending asylum claim. The Petition further alleges that DHS
4 continues to detain him without any individualized determination that detention is necessary to
5 ensure appearance or protect the community.
6

7 Petitioner has exhausted, or is excused from exhausting, administrative remedies. The
8 Petition explains that any appeal to the BIA would be futile in light of *Matter of Yajure Hurtado*,
9 29 I. & N. Dec. 216 (BIA 2025), in which the BIA adopted DHS's interpretation of the INA as
10 mandating detention without bond for broad categories of noncitizens, and held that immigration
11 judges lack jurisdiction to grant bond to individuals charged with entering without inspection.
12 The futility of administrative relief parallels the reasoning in *Vasquez-Rodriguez v. Garland* 7
13 F.4th 888, 896 (9th Cir. 2021), where the Ninth Circuit recognized that exhaustion is not required
14 when the agency's position is already fixed and recourse to administrative remedies would be
15 futile.
16

17 Petitioner now seeks emergency relief in the form of a temporary restraining order.
18 Petitioner seeks immediate, time-sensitive relief because he is suffering from a serious medical
19 condition, and each day of detention inflicts irreparable harm and further entrenches an unlawful
20 deprivation of liberty.
21

22 **FACTUAL BACKGROUND**

23 Petitioner is a native and citizen of Sudan. He was apprehended by U.S. immigration
24 officers upon his entry into the United States on February 3, 2024. Petitioner was subsequently
25 paroled into the United States and released from custody pursuant to INA § 212(d)(5).
26

27 Shortly thereafter, DHS issued Petitioner NTA, hereby initiating removal proceedings
28 against him in immigration court. Following the issuance of the NTA, Petitioner timely filed his

1 application for asylum, Form I-589, complied with all requirements imposed upon him, including
2 providing a valid address, appearing as required, and otherwise engaging with the immigration
3 process in good faith. At no time during the pendency of those proceedings did DHS allege that
4 Petitioner posed a danger to the community or a risk of flight.
5

6 On December 2, 2025, ICE arrested Petitioner and placed him in ICE detention facility at
7 Otay Mesa Detention Center. Petitioner is not subject to mandatory detention under INA § 236(c)
8 because he has no criminal history and was not transferred from criminal custody. ICE arrested
9 Petitioner without identifying any material change in circumstances that could justify detention.
10 DHS did not allege that Petitioner had violated any conditions, committed any crime, failed to
11 appear, or otherwise engaged in conduct warranting arrest.
12

13 DHS continues to detain Petitioner at the Otay Mesa Detention Center. Petitioner is
14 currently suffering from a serious medical condition, including abdominal illness and a back
15 injury. Prior to his detention, he was under the care of a physician. His medical condition
16 continues to deteriorate while he remains in detention without adequate medical evaluation or
17 treatment. Additionally, continued detention severely impairs his ability to pursue asylum and
18 communicate with counsel. DHS has never found, and does not contend, that Petitioner poses a
19 danger to the community or a risk of flight. He has no criminal history, has consistently complied
20 with all immigration requirements, and has demonstrated his willingness to appear for all
21 proceedings and comply with any conditions of release.
22

23 NOTICE TO RESPONDENTS

24 Undersigned counsel, Maisoun Sulfab, contacted the U.S. Attorney's Office for the
25 Southern District of California on March 19th, 2026, to provide notice of Petitioner's intent to
26 seek a temporary restraining order. Counsel has continued to communicate with the government
27 regarding this application and stands ready to confer about an expedited briefing schedule and
28

1 hearing date. Petitioner submits that immediate relief is necessary to prevent ongoing irreparable
2 harm, and that any additional time Respondents may require to respond can be accommodated
3 through preliminary-injunction briefing while temporary relief is in place.

4
5 **ARGUMENT**

6 The standards for granting a TRO and a preliminary injunction pursuant to Rule 65 of the
7 Federal Rules of Civil Procedure are identical. When a party requests a TRO that enjoins
8 governmental action, the party must demonstrate that “he is likely to succeed on the merits, that
9 he is likely to suffer irreparable harm in the absence of the preliminary relief, that the balance of
10 equities tip in his favor, and that an injunction is in the public interest.” *Winter v. Natural*
11 *Resources Def. Council, Inc.*, 555 U.S. 7, 20 (2008). To obtain such relief, a plaintiff must
12 demonstrate: (1) a likelihood of success on the merits; (2) a likelihood of suffering irreparable
13 harm in the absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4)
14 that an injunction is in the public interest. *Id.* at 20. A deficiency in any element precludes relief.
15 *Id.* at 23. However, under Ninth Circuit precedent, if a plaintiff can show “serious questions going
16 to the merits” a lesser showing than likelihood of success, then a preliminary injunction or TRO
17 may still issue if the balance of hardships tips sharply in the plaintiff’s favor and the other two
18 *Winter* factors are satisfied. *Friends of the Wild Swan v Weber*, 767 F.3d 936, 942 (9th Cir.
19 2014). The standard for a TRO and a preliminary injunction is the same, as recognized in
20 *Stuhlberg Int’l Sales Co. v. John D. Bush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

21
22
23 **1. Petitioner Is Likely to Succeed on the Merits**

24 Petitioner is likely to succeed on both his statutory and constitutional claims. Numerous
25 Federal Courts have rejected DHS’s recent interpretation of 8 U.S.C. § 1225(b)(2)(A), holding
26 that the statute does not authorize the mandatory detention of individuals who have lived in the
27 interior of the United States for extended periods and were previously released under 8 U.S.C.
28

1 § 1226(a). Instead, these courts consistently conclude that such individuals remain detained under
2 § 1226(a) and are entitled to an individualized custody determination. See *Rodriguez Vazquez v.*
3 *Bostock*, (W.D. Wash. Sept. 30, 2025); *J.Y.L.C. v. Bostock* (D. Or. Nov. 12, 2025); *Guerrero*
4 *Lepe v. Andrews* (E.D. Cal. Sept. 23, 2025). These decisions explain that DHS’s reinterpretation
5 conflicts with the statutory text, the structure of the INA, and decades of agency practice, and that
6 § 1225(b)(2)(A) applies only to noncitizens “seeking admission” at the border, not to individuals
7 who have resided in the interior for years and whom DHS previously treated as subject to
8 discretionary detention under § 1226(a). In *Guerrero Lepe*, the Eastern District of California
9 undertook a detailed analysis of the relationship between §§ 1225 and 1226 and held that DHS’s
10 new reading of § 1225(b)(2)(A) “disregards the plain meaning of section 1225(b)(2)(A),
11 disregards the relationship between sections 1225 and 1226, would render a recent amendment to
12 section 1226(c) superfluous, and is inconsistent with decades of prior statutory interpretation and
13 practice.” Courts nationwide, including in *Rodriguez Vazquez, Morales-Flores v. Lyons, No. 1:25-*
14 *CV-01640-TLN-EFB, 2025 WL 3552841, at 3 (E.D. Cal. Dec. 11, 2025), and Salcedo Aceros v.*
15 *Kaiser, No. 25-CV-06924-EMC, 2025 WL 2637503, at 8 (N.D. Cal. Sept. 12, 2025), have*
16 *overwhelmingly rejected DHS’s new policy as unlawful.*

17
18
19 Pctitioner’s situation fits squarely within this line of authority. Petitioner was allowed to
20 live in the community while pursuing asylum. He remained in the interior, for an extended period,
21 complying with all requirements. When ICE later arrested him, DHS did not identify any
22 statutory basis for mandatory detention. Under the reasoning of *Guerrero Lepe*, Petitioner is
23 detained, if at all, under § 1226(a), which provides for discretionary detention and requires an
24 individualized custody determination.
25

26 In assessing whether a protected liberty interest exists, courts have long recognized that
27 individuals who are released from physical custody into the community, whether through parole,
28

1 probation, or similar conditional release, acquire a liberty interest protected by the Due Process
2 Clause. See *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (explaining that parole permits an
3 individual to “live at home and work,” maintain family and community ties, and form the
4 “enduring attachments of normal life,” and that revocation of parole inflicts a “grievous loss”
5 requiring due process); *Young v. Harper*, 520 U.S. 143, 147–49 (1997) (holding that preparole
6 release creates a protected liberty interest because it closely resembles parole); *Gagnon v.*
7 *Scarpelli*, 411 U.S. 778, 781–82 (1973) (probation revocation triggers due process protections
8 because it results in the loss of conditional liberty).

10 Federal courts applying these principles in the immigration context have held that
11 noncitizens who have been released into the community under 8 U.S.C. § 1226(a) similarly
12 possess a constitutionally protected liberty interest that cannot be revoked without adequate
13 procedural safeguards. See, e.g., *W V S M v. Wofford* (E.D. Cal. Nov. 19, 2025) (finding a
14 protected liberty interest when the petitioner lived in the community for years under § 1226(a)
15 supervision); *F.M.V v. Wofford* (E.D. Cal. Nov. 4, 2025). Courts have further recognized that
16 when the government affirmatively represents that an individual is being released under
17 § 1226(a), and the individual relies on that representation while living in the community, a
18 legitimate claim of entitlement to continued liberty arises. See *Perry v. Sindermann*, 408 U.S.
19 593, 601 (1972) (a “legitimate claim of entitlement” may arise from governmental representations
20 and established practices); *Guillermo M.R. v. Kaiser* (N.D. Cal. July 17, 2025) (finding reliance
21 on DHS’s prior release decision relevant to the liberty-interest analysis); *Ortega v. Kaiser* (N.D.
22 Cal. July 24, 2025). Taken together, this authority established that individuals who have been
23 released into the community under § 1226(a), lived freely for an extended period, and relied on
24 the government’s representations regarding their release possess a protected liberty interest that
25 cannot be extinguished through sudden re-detention without due process.
26
27
28

1 Petitioner’s circumstances are analogous, and in some respects even more compelling. He
2 entered the United States, allowed to live in the community, and permitted to pursue asylum. He
3 remained at liberty, complied with all requirements, and continued to seek protection. Under the
4 reasoning of *Morrissey*, *Young*, *Gagnon*, *Perry*, *Guillermo M.R.*, *Ortega v. Kaiser*, *W.V.S.M.*, and
5 *F.M.V.*, Petitioner acquired a protected liberty interest in his continued release. DHS’s decision to
6 arrest and detain him without any individualized findings and without initiating new proceedings.
7 is a paradigmatic example of the arbitrary deprivation of conditional liberty that those cases
8 forbid.
9

10 Courts evaluating the procedural protections required before the government may revoke a
11 noncitizen’s conditional liberty apply the familiar balancing test from *Mathews v. Eldridge*, 424
12 U.S. 319, 335 (1976), as the Ninth Circuit has done in *Rodriguez Diaz v. Garland*, 53 F.4th 1189,
13 1197–98 (9th Cir. 2022), and *Hernandez v. Sessions*, 872 F.3d 976, 990–93 (9th Cir. 2017).
14 Under *Mathews*, courts consider three factors: the private interest at stake, the risk of erroneous
15 deprivation under existing procedures, and the government’s asserted interests.
16

17 On the first factor, courts consistently recognize that freedom from physical restraint lies
18 at the core of the liberty protected by the Due Process Clause. See *Zadvydas v. Davis*, 533 U.S. at
19 678, 690; *Foucha v. Louisiana*, 504 U.S. 71, 80–83 (1992); *Hernandez*, 872 F.3d at 990. Courts
20 have further emphasized that when a noncitizen has lived in the community for an extended
21 period, maintained employment, and complied with supervision, the stability and duration of that
22 release significantly heighten the individual’s liberty interest. See, e.g., *Pinchi v. Noem* (D.S.D.
23 Aug. 29, 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969–70 (N.D. Cal. 2019).
24

25 Petitioner’s private interest is at least as strong. He lived in the community for over one
26 year, complied with all requirements, pursued asylum, he has no criminal history, no record of
27 noncompliance, and no history of dangerousness. His detention disrupts his ability to live freely,
28

1 to maintain relationships, to pursue asylum, and to communicate with counsel. Thus, his liberty
2 interest is substantial.

3 On the second *Mathews* factor the risk of erroneous deprivation, courts have repeatedly
4 found that the risk is substantial when a noncitizen is re-detained without any bond hearing or
5 custody redetermination. See *A.E. v. Andrews*, (E.D. Cal. May 16, 2025). Civil immigration
6 detention is nonpunitive in purpose and effect and is justified only when the government
7 demonstrates that a noncitizen poses a risk of flight or danger to the community. See *Zadvydas v.*
8 *Davis, Padilla v. ICE*, 953 F.3d 1134, 1143–44 (9th Cir. 2020). Courts have emphasized that
9 individuals who consistently report to ICE, maintain community ties, and have no criminal
10 history do not present such risks, and that the absence of any government showing heightens the
11 danger of erroneous detention.
12

13
14 Even when a noncitizen is alleged to have violated a condition of release, such as failing
15 to obtain permission before changing an address, courts have held that due process requires a
16 pre-detention hearing rather than automatic re-detention. See *E.A.T.-B. v. Wamsley* (W.D. Wash.
17 Oct. 3, 2025) (the government’s belief that it has grounds to detain someone “does not eliminate
18 its obligation to effectuate detention in a manner consistent with due process”). Consistent with
19 this principle, multiple courts have ordered release or bond hearings where DHS re-detained
20 individuals without adequate process, including in cases involving alleged DUI conduct. See
21 *Rodriguez Diaz v. Kaiser* (N.D. Cal. Aug. 28, 2025; and *Tinoco v. Noem* (D.S.D. Nov. 21, 2025).
22

23 Petitioner has never been alleged to have violated any condition, committed any crime, or
24 failed to appear. He was abruptly arrested solely because DHS chose to exercise its enforcement
25 authority in a new way. He has never received a bond hearing or any individualized custody
26 determination. Thus, the risk of erroneous deprivation in his case is extremely high, and the
27 absence of any neutral adjudication renders his detention constitutionally suspect.
28

1 On the third *Mathews* factor, the government’s interest, courts recognize that while the
2 government has a legitimate interest in enforcing the immigration laws, its interest in detaining a
3 noncitizen without a hearing is minimal. See *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 975 (N.D.
4 Cal. 2019) (explaining that the government’s interest in bypassing a custody hearing is “low”
5 because such hearings are routine and impose little administrative burden); *Doe v. Becerra*, (N.D.
6 Cal. Sept. 12, 2025). Courts further hold that the government’s interest is especially weak when
7 the individual has previously been released, has lived in the community for years, has no criminal
8 history, and has complied with all conditions of supervision. See *Pinchi v. Noem* (D.S.D. Aug.
9 29, 2025). The same considerations apply here, the government’s interest in detaining Petitioner
10 without a hearing is minimal given his long record of compliance.
11

12 Balancing the *Mathews* factors, courts consistently conclude that individuals in
13 Petitioner’s position are entitled to a bond hearing before being re-detained. See *Cleveland Bd. of*
14 *Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (due process requires notice and an opportunity to
15 be heard before deprivation of a protected interest); *Morrissey v. Brewer*, 408 U.S. 471, 482
16 (1972) (conditional liberty cannot be revoked without appropriate procedural safeguards). The
17 same conclusion follows here, Petitioner is entitled to release or, at minimum, a prompt
18 individualized custody hearing before a neutral decisionmaker, with the government bearing the
19 burden of justifying continued detention.
20

21
22 In sum, the statutory framework and fundamental principles of due process make clear
23 that DHS’s new detention policy is unlawful, and that individuals in Petitioner’s position cannot
24 be re-detained without proper authority or meaningful procedural protections.

25 **2. Petitioner Is Suffering Irreparable Harm**

26 Irreparable harm is inherent in unlawful detention. The Supreme Court has repeatedly
27 recognized that “[f]reedom from imprisonment—from government custody, detention, or other
28

1 forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects.”
2 *Zadvydas v. Davis*, 533 U.S. at 678, 690. That principle applies with full force here. Petitioner has
3 been detained since January 2026, without any individualized custody determination, despite his
4 prior release, and his consistent compliance with all supervision requirement.
5

6 The irreparable nature of Petitioner’s harm is further underscored by the fact that he
7 previously lived in the community for an extended period, established relationships, and pursued
8 asylum. As the Supreme Court explained in *Morrissey v. Brewer*, conditional liberty allows
9 individuals to live at home, work, and form the “enduring attachments of normal life,” and the
10 revocation of that liberty inflicts a “grievous loss.” 408 U.S. 471, 482 (1972). Petitioner’s re-
11 detention and compliance inflicts precisely this kind of grievous loss, one that cannot be remedied
12 by monetary damages or *post-hoc* review.
13

14 Additionally, Petitioner is currently suffering from a serious medical condition, including
15 abdominal illness and a back injury. Prior to his detention, he was under the care of a physician.
16 His medical condition continues to deteriorate while he remains in detention without adequate
17 medical evaluation or treatment. [Exhibit A].
18

19 Petitioner’s detention also interferes with his ability to pursue asylum and to communicate
20 with counsel. Detention imposes substantial barriers to preparing an asylum claim, gathering
21 evidence, and maintaining regular attorney-client communication. Here, Petitioner had asylum
22 application pending with the Immigration Court. Continued detention no longer reasonably
23 related to any legitimate governmental purpose and instead obstructs the exercise of his statutory
24 and constitutional rights. This interference with the asylum process constitutes an additional form
25 of irreparable harm.
26

27 Moreover, the harm is ongoing and immediate. Each day Petitioner remains detained is
28 another day of unlawful confinement, another day of separation from his community, and another

1 day of impaired access to counsel and the asylum process. Courts have consistently recognized
2 that such ongoing detention, particularly where it is not supported by individualized findings of
3 danger or flight risk, constitutes irreparable harm warranting emergency relief. Petitioner's
4 circumstances are no different. The irreparable-harm factor strongly supports granting a
5 temporary restraining order.
6

7 **3. The Balance of Equities Tips Sharply in Petitioner's Favor**

8 The balance of equities in this case is not close. On Petitioner's side of the scale is his
9 fundamental liberty interest, recognized in *Zadvydas*, *Hernandez*, and *Morrissey*, has been
10 detained without a bond hearing, despite having no criminal history, no record of noncompliance,
11 and no pending removal proceedings. The deprivation of his liberty is severe, ongoing, and
12 unsupported by any individualized findings.
13

14 On the government's side of the scale, the interest in detaining Petitioner without a
15 hearing is minimal. Detention hearings in immigration courts are routine and impose minimal
16 administrative burdens. The government's interest is further diminished where, as here, the
17 individual has previously been released, has lived in the country for over one year, has no
18 criminal record, and has complied with all conditions. The government has not alleged that
19 Petitioner is a danger or a flight risk, and it has not articulated any specific reason why detention
20 is necessary in his case.
21

22 Petitioner's case presents even fewer equities in favor of the government. He has no
23 criminal history and no alleged violations. The government's interest in detaining him without a
24 hearing is negligible, while his interest in freedom from unlawful confinement is profound. The
25 balance of equities thus tips sharply in his favor, satisfying the traditional *Winter* standard.
26

27 **4. The Public Interest Strongly Supports Granting a TRO**
28

1 The public interest is served when the government is required to comply with the
2 Constitution and the Immigration and Nationality Act. Courts across the country, including in
3 *Rodriguez Vazquez, J.Y.L.C., Morales Flores, Salcedo Aceros, Guerrero Lepe, W.V.S.M., F.M.V.,*
4 *Guillermo M.R.*, and *Ortega v. Kaiser*, have consistently recognized that preventing arbitrary and
5 unlawful detention promotes the rule of law and ensures that civil detention remains a narrow
6 exception rather than a default governmental response.
7

8 The public has a strong interest in ensuring that noncitizens are not detained arbitrarily,
9 without statutory authority or due process. Supreme Court precedent makes clear that
10 immigration detention must be tied to legitimate governmental purposes, such as ensuring
11 appearance or protecting the community, and that detention untethered from those purposes is
12 unconstitutional. The growing body of re-detention decisions reflects a broad judicial consensus
13 that DHS's recent practice of re-detaining long-term residents under § 1225(b)(2)(A) is unlawful
14 and inconsistent with longstanding statutory interpretation. Enjoining such practices in
15 Petitioner's case promotes consistency with that consensus and reinforces the public's interest in
16 lawful, accountable government.
17

18 The public interest is also served by ensuring that asylum seekers like Petitioner can
19 meaningfully pursue protection claims. Continued detention without a hearing impedes his ability
20 to seek medical care, consult with counsel, gathers evidence, and present his case. Protecting the
21 integrity of the asylum process and ensuring that individuals with credible fear findings are not
22 arbitrarily detained is a matter of significant public concern.
23

24 Finally, granting a TRO in this case does not undermine any legitimate enforcement
25 interest. The government remains free to pursue removal proceedings, to impose reasonable
26 conditions of release, and to seek detention when it can demonstrate danger or flight risk in an
27 individualized hearing. What the public interest does not support is the continued detention of a
28

1 compliant, non-dangerous asylum seeker without any individualized custody determination. The
2 public interest factor therefore strongly favors granting a temporary restraining order.

3
4 **CONCLUSION AND REQUESTED RELIEF**

5 For the reasons set forth above, and based on the well-established statutory and
6 constitutional principles governing civil immigration detention, Petitioner has demonstrated a
7 strong likelihood of success on the merits. The governing legal framework makes clear that
8 individuals in Petitioner's position are entitled to meaningful due process protections and may not
9 be subjected to detention without lawful authority or an individualized custody determination.

10 Petitioner respectfully requests that this Court:

- 11 1. Issue a Temporary Restraining Order directing Respondents to immediately
12 release Petitioner from immigration detention; or, in the alternative,
13
- 14 2. Order Respondents to provide Petitioner with an individualized custody hearing
15 before a neutral decision maker within seven (7) days, under 8 U.S.C. § 1226(a), at
16 which the government bears the burden of proving by clear and convincing
17 evidence that continued detention is necessary to ensure appearance or protect the
18 community; and
- 19 3. Enjoin Respondents from re-detaining Petitioner absent a material change in
20 circumstances and a pre-deprivation hearing before a neutral adjudicator.
21

22
23 Respectfully submitted this 19th day of March 2026.

24 /s/ Maisoun Sulfab

25
26 _____
27 Maisoun Sulfab
28 *Counsel for the Petitioner*

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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
11 SAN DIEGO DIVISION

12 Moaz Adam
13 Petitioner,
14 v.
15 Gregory J. Archambeault, Field
16 Office Director, ICE Enforcement and
17 Removal Operations, San Diego Field
18 Office, et al.,
19 Respondents.

Case No: 3:26-cv-01611-RBM-DDL
**[PROPOSED] ORDER GRANTING
TEMPORARY RESTRAINING ORDER**

20 Petitioner Moaz Adam filed a Motion for Temporary Restraining Order seeking
21 immediate release from immigration detention, or, in the alternative, an individualized custody
22 hearing before a neutral decision maker pursuant to 8 U.S.C. § 1226(a). The Court has reviewed
23 the motion, the Petition for Writ of Habeas Corpus and the applicable law.

24 Having considered the record and the arguments presented, the Court finds as follows:

- 25 1. Petitioner has demonstrated a **likelihood of success** on the merits of his statutory and
26 constitutional claims. The record reflects that Petitioner entered the United States on or
27 about February 3, 2024, lived in the community for more than one year, and fully
28

1 complied with all DHS and Immigration Court requirements. Under the weight of
2 authority, including numerous district court decisions addressing DHS's July 2025
3 interpretation of 8 U.S.C. § 1225(b)(2)(A), Petitioner is detained under 8 U.S.C. § 1226(a)
4 and is therefore entitled to immediate release, or at minimum, an individualized custody
5 determination before a neutral decision maker.
6

7 2. Petitioner has shown that he is suffering **irreparable harm**. Unlawful detention
8 constitutes a significant deprivation of liberty, and Petitioner's continued confinement,
9 without a bond hearing, inflicts ongoing constitutional injury that cannot be remedied after
10 the fact. Petitioner is currently suffering from a serious medical condition, and his health
11 continues to deteriorate without adequate medical evaluation or treatment while in
12 detention.
13

14 3. The **balance of equities** tips sharply in Petitioner's favor. Petitioner has no criminal
15 history, has complied with all immigration requirements, and poses no danger or flight
16 risk. The government's interest in detaining him without a hearing is minimal, particularly
17 where DHS previously allowed him to live freely in the community.
18

19 4. The **public interest** favors granting relief. The public has a strong interest in ensuring that
20 the government complies with the Constitution and the Immigration and Nationality Act,
21 and in preventing arbitrary detention of individuals who pose no risk to the community.
22

23 Accordingly, the Court finds that Petitioner has satisfied the requirements for a temporary
24 restraining order under *Winter v. NRDC*, 555 U.S. 7 (2008).

25 **IT IS HEREBY ORDERED THAT:**

26 1. Petitioner Moaz Adam shall be IMMEDIATELY RELEASED from ICE custody, unless
27 Respondents elect to provide the relief described in Paragraph 2 below.
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2. In the alternative, Respondents shall provide Petitioner with an individualized custody hearing before a neutral decision maker within seven (7) days of this Order.

a. At that hearing, the government shall bear the burden of proving, by clear and convincing evidence, that Petitioner’s continued detention is lawful and necessary to ensure appearance or protect the community.

b. The decision maker shall consider all relevant factors, including Petitioner’s history of compliance and lack of criminal history.

3. Respondents are ENJOINED from re-detaining Petitioner absent:

a. a **material change in circumstances**, and

b. an **individualized determination**, made by a neutral adjudicator **before any re-detention occurs**, that Petitioner poses a danger or flight risk.

4. This Order shall remain in effect until further order of the Court.

IT IS SO ORDERED

Hon _____

United States District Judge

Dated: _____, 2026