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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Manuel Garcia Ugalde,

Petitioner,

v.

David Venturella, *et al.*,

Respondents.

Case No. 2:26-cv-01243-APG-EJY

Motion for Temporary Restraining Order

INTRODUCTION

Petitioner, through undersigned counsel, respectfully moves for a temporary restraining order requiring Respondents to immediately release him from immigration detention or, in the alternative, to provide a prompt constitutionally adequate bond hearing with safeguards sufficient to cure the procedural violations described below.

Petitioner faces immediate and irreparable harm because Respondents continue to detain him without the constitutionally adequate custody process required by 8 U.S.C. § 1226(a), due process, and *Jacobo-Ramirez*. Petitioner is a *Jacobo-Ramirez* class member who requested bond, followed the Immigration Judge's

instructions to submit sponsor, address, and employment evidence, and then had that custody request diverted into the removal proceeding rather than adjudicated. The immigration court later treated the request as moot based on a nonfinal removal order. And when the immigration court finally held a bond hearing months later, it did so on same-day notice and set a $15,000 bond despite Petitioner's inability to pay and the imposition of ankle monitoring.

Petitioner also faces ongoing harm from the coercive and punitive conditions imposed during his hunger strike, when Respondents allegedly conditioned basic bedding and access to appeal paperwork on his agreement to eat. Those facts do not stand alone. They form part of the same urgent detention record: Petitioner's custody process has repeatedly failed, and he remains detained while his BIA appeal remains pending under a bond amount he cannot pay.

This Court should issue a temporary restraining order because "immediate and irreparable injury . . . or damage" is occurring and will continue in the absence of an order. Fed. R. Civ. P. 65(b). The requested temporary restraining order would address the irreparable injury Petitioner is suffering by ordering Respondents to immediately release him from custody. In the alternative, the Court should order Respondents to provide a prompt constitutionally adequate bond hearing before an Immigration Judge, require release if the hearing is not timely held, and require Respondents to file a status report within three days of any hearing attaching the resulting order, audio, and/or transcript so that the Court may assess whether the hearing complied with due process.

Granting this relief would not break new ground. Courts have granted temporary restraining orders or preliminary injunctions ordering release or constitutionally adequate bond hearings where immigration detention violates due process. *See, e.g.*, *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969–70 (N.D. Cal. 2019); *Villalta Salazar v. Robbins*, 2025 U.S. Dist. LEXIS 206683, at *5–8 (C.D. Cal. June

18, 2025). Courts have also granted temporary relief where individuals are being unlawfully detained without the process required by law. *See, e.g.*, *Qin Li v. Krist Noem*, No. 5:26-CV-00878-JWH-PVC, 2026 WL 638652, at *1 (C.D. Cal. Mar. 4, 2026) (granting TRO and ordering release where petitioner was detained "[w]ithout an initial justification for re-detention or a bond hearing on the merits"); *Gopal B. v. Albarran*, No. 1:26-CV-01083-TLN-CKD, 2026 WL 504736, at *5 (E.D. Cal. Feb. 24, 2026) (granting TRO and enjoining continued detention without a bond hearing); *Singh v. Noem*, No. 2:26-CV-01738-ODW (DSRX), 2026 WL 483049, at *3 (C.D. Cal. Feb. 20, 2026) (granting TRO and ordering respondents to release petitioner or provide an individualized bond hearing).

POINTS AND AUTHORITIES

Petitioner incorporates by reference the factual allegations set forth in his Second Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.[1].

To obtain a TRO, a plaintiff "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def Council*, Inc., 555 U.S. 7, 20 (2008); accord Stuhlbarg *Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve "substantially identical" analysis). A "variant[] of the same standard" is the "sliding scale": "if a plaintiff can only show that there are 'serious questions going to the merits'—a lesser showing than likelihood of success on the merits—then a preliminary injunction may still issue if the balance of hardships tips sharply in the plaintiff's favor, and the other two Winter factors are satisfied." *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025) (internal quotation marks omitted). Under this

[1] *See* ECF No. 23.

approach, the four Winter elements are "balanced, so that a stronger showing of one element may offset a weaker showing of another." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). A TRO may be granted where there are "'serious questions going to the merits' and a hardship balance ... tips sharply toward the plaintiff," and so long as the other Winter factors are met. Id. at 1132.

Here, this Court should issue an emergency temporary restraining order because "immediate and irreparable injury . . . or damage" is occurring and will continue in the absence of an order. Fed. R. Civ. P. 65(b).

I. Petitioner will likely succeed on the merits, or at a minimum, he raises serious merits questions.

In his Second Amended Petition, Petitioner raises claims that Respondents violated his Fifth Amendment right to procedural due process by continuing to detain him without the constitutionally adequate § 1226(a) custody process required by law. He also alleges that Respondents subjected him to punitive and coercive civil detention conditions during his hunger strike. Petitioner addresses the merits of each claim below.

A. Petitioner is likely to succeed because he is a Jacobo-Ramirez class member governed by § 1226(a).

In *Jacobo-Ramirez*, the court rejected Respondents' policy of treating noncitizens arrested in the interior, but alleged to have entered without inspection, as subject to mandatory detention under § 1225(b)(2)(A). *Jacobo-Ramirez v. Mullin*, No. 2:25-cv-02136-RFB-MDC, 2026 U.S. Dist. LEXIS 67643, at *3–6, *33–35 (D. Nev. Mar. 30, 2026). The court certified a class of noncitizens in the United States without lawful status who are or will be arrested or detained by ICE, who are or will be in removal proceedings before an Immigration Court within the District of Nevada, whom DHS alleges entered without inspection or parole, who are not subject to detention under §§ 1226(c), 1225(b)(1), or 1231 at the time they are scheduled for or

request a bond hearing, and whose most recent arrest by ICE occurred inside the United States and not while arriving in the United States. Id. at *12–13.

Petitioner falls squarely within that class. He is detained by ICE at Nevada Southern Detention Center. He is in removal proceedings before the Las Vegas Immigration Court. DHS alleges that he entered the United States without inspection or parole. His most recent ICE detention occurred inside the United States after a state arrest in Las Vegas, not while he was arriving at the border. At the time he requested a bond hearing, he was not subject to § 1225(b)(1), § 1226(c), or § 1231. Because Petitioner is a *Jacobo-Ramirez* class member, his detention is governed by § 1226(a), and he was entitled to the custody process provided by that statute and its implementing regulations.

B. Petitioner is likely to succeed because the immigration court failed to timely adjudicate his bond request, treated his custody filing as merits evidence, and treated the request as moot based on a nonfinal removal order.

Under § 1226(a) and its implementing regulations, a detained noncitizen may seek custody redetermination before an immigration judge. 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d), 1236.1(d), 1003.19. That custody process is distinct from the removal proceeding itself. The regulations provide that "[c]onsideration by the Immigration Judge of an application or request of a respondent regarding custody or bond . . . shall be separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding." 8 C.F.R. § 1003.19(d). The Ninth Circuit has enforced that separation, explaining that bond proceedings and removal proceedings serve different purposes and are governed by different procedural protections. *Joseph v. Holder*, 600 F.3d 1235, 1241–42 (9th Cir. 2010) (holding that Immigration Judge erred by relying on bond hearing notes in removal proceeding because 8 C.F.R. § 1003.19(d) requires custody and bond determinations to remain "separate and apart" from removal proceedings).

Petitioner requested a bond hearing. After the Immigration Judge instructed him to submit address, sponsor, and employment information in support of bond, Petitioner did so. But the immigration court did not timely conduct a bond hearing or issue a custody redetermination. Instead, the record indicates that the filing was treated as part of the merits proceeding rather than as a custody request. The immigration court received a bond filing, used it in the removal proceeding, and left Petitioner without any custody redetermination for months.

The June 17 bond hearing confirmed the error. At that hearing, the Immigration Judge stated that he did not know why Petitioner had not been scheduled for a bond hearing, that the court had realized the error only that morning, and that Petitioner had been brought in that day for that reason. The Immigration Judge further indicated that Petitioner's renewed March 2026 bond request appeared to have been entered in the system as "moot" because the Immigration Judge had ordered Petitioner removed and denied relief on March 27, 2026.

That mootness rationale was legally wrong. An Immigration Judge's removal order does not become administratively final merely because it is issued. An order of removal becomes final upon a determination by the BIA affirming the order or upon expiration of the period for seeking BIA review. 8 U.S.C. § 1101(a)(47)(B). The regulations likewise provide that an Immigration Judge's removal order becomes final upon dismissal of an appeal by the BIA, waiver of appeal, or expiration of the time to appeal if no appeal is filed. 8 C.F.R. § 1241.1. A noncitizen has thirty days to file a notice of appeal to the BIA. 8 C.F.R. § 1003.38(b). Until the order becomes administratively final, detention remains governed by the pre-final-order framework, not § 1231. *See* 8 U.S.C. § 1226(a).

The regulations governing bond confirm the point. Under 8 C.F.R. § 1236.1(d)(1), an immigration judge may exercise custody authority under § 236 "at any time before an order under . . . becomes final." 8 C.F.R. § 1236.1(d)(1); *see also In*

re Jose Alfredo Reyes, File A071-571-047, 2011 Immig. Rptr. LEXIS 1046 ("[A]uthority of an Immigration Judge to set bond conditions ceases at the entry of a final administrative order in proceedings under 8 C.F.R. Part 1240."). The premise of that rule is that before finality, the Immigration Judge retains custody authority. Petitioner's removal order was not final when the immigration court treated his bond request as moot, and Petitioner timely appealed to the BIA. His custody request therefore remained live.

This error was not harmless. Petitioner remains detained while his BIA appeal remains pending, which may take more than one year. Treating his bond request as moot based on a nonfinal removal order deprived him of custody process during precisely the period when § 1226(a) continued to govern his detention.

C. Petitioner is likely to succeed because the belated June 17 bond hearing did not cure the due process violation.

A federal habeas court can review whether an immigration judge's bond determination complies with due process. *See Martinez v. Clark*, 124 F.4th 775, 784 (9th Cir. 2024) (concluding a dangerousness determination was reviewable in certain respects); *see also Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("[T]he government's discretion to incarcerate non-citizens is always constrained by the requirements of due process."). Thus, claims that the bond process itself was constitutionally flawed are cognizable. *See Hernandez*, 872 F.3d at 987–88; *Perez v. Wolf*, 445 F. Supp. 3d 275, 283–84 (N.D. Cal. 2020).

In immigration bond proceedings, due process requires more than a nominal opportunity to request release. "Due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal citation omitted). And when release is conditioned on monetary bond, the

Immigration Judge must consider the detainee's financial circumstances and alternatives to detention. *Hernandez*, 872 F.3d at 990–91. "A bond determination process that does not include consideration of financial circumstances and alternative release conditions is unlikely to result in a bond amount that is reasonably related to the government's legitimate interests." *Id.* at 991. Indeed, "[s]etting a bond amount without considering financial circumstances or alternative conditions of release undermines the connection between the bond and the legitimate purpose of ensuring the non-citizen's presence at future hearings." *Id.*

That principle matters especially where, as here, the Immigration Judge found Petitioner was not a danger and ordered electronic monitoring. By setting bond, the Immigration Judge necessarily determined that Petitioner was not categorically ineligible for release. *See Perez*, 445 F. Supp. 3d at 290–91 (explaining that an Immigration Judge must consider alternative conditions once the detainee is "neither dangerous nor so great a flight risk as to require detention without bond" (quoting *Hernandez*, 872 F.3d at 991)). The question was therefore whether a $15,000 bond, in addition to ankle monitoring, was reasonably necessary to secure Petitioner's appearance despite his financial circumstances. The Immigration Judge did not meaningfully answer that question.

The June 17 hearing was flawed from the outset. Respondents notified undersigned counsel shortly before their response to the First Amended Petition was due that Petitioner would receive a bond hearing that same day at approximately 3:00 p.m. Counsel then contacted Nevada Southern Detention Center and learned that facility staff had notified Petitioner around 1:00 p.m. that he would have a bond hearing sometime that day. The Immigration Judge acknowledged at the hearing that Petitioner had "just got notice of this hearing" and that the court had only realized that morning that no bond hearing had been scheduled. Yet the hearing

proceeded without counsel, after Petitioner expressed confusion about whether he needed an attorney if the Immigration Judge was going to "give [him] a bond."

That process was insufficient to cure months of unlawful detention, particularly where Petitioner had no meaningful opportunity to prepare evidence regarding ability to pay, alternatives to detention, or release conditions. The proceeding also included discussion of an unverified DUI entry in the I-213, even though Petitioner stated he did not have a DUI conviction, DHS could not confirm one, and DHS later acknowledged that the rap sheet reflected only the domestic-violence matter. The record is unclear what weight, if any, the Immigration Judge gave that erroneous allegation, but it could not support a $15,000 bond where the Immigration Judge found Petitioner was not a danger and purported to base the bond decision on flight risk.

In making a bond determination, an Immigration Judge may consider factors such as fixed address, length of residence, family ties, employment history, record of appearance in court, criminal record, immigration history, attempts to flee, and manner of entry. *See Sales v. Johnson*, 323 F. Supp. 3d 1131, 1135–36 (N.D. Cal. 2017) (citing *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006)). A legally insufficient flight-risk determination can violate due process. See Alfaro Cruz v. Bernacke, No. 2:26-cv-00080-RFB-BNW, 2026 WL 1414096, at *3 (D. Nev. May 20, 2026) ("The government's sole argument that Petitioner is a flight risk was based on the status of his removal proceedings—and the Immigration Judge adopted that argument in determining Petitioner was a flight risk. That fact alone, however, was, as a matter of law, insufficient to justify the denial of bond.").

Here, the Immigration Judge relied in part on the fact that he had previously ordered Petitioner removed, even though Petitioner's BIA appeal remained pending. But because the removal order was not administratively final, the order did not eliminate bond authority or transform Petitioner into a post-final-order detainee. Nor

could the nonfinal removal order, standing alone, justify treating Petitioner as a significant flight risk. The Immigration Judge also referenced what he characterized as "unfavorable" information in the record. Yet the Immigration Judge found Petitioner was not a danger. The record does not show why any remaining "unfavorable" information justified a $15,000 bond as reasonably necessary to secure appearance, particularly where Petitioner had identified a Florida address, family support, employment history, and no established history of absconding.

The Immigration Judge also failed to meaningfully consider Petitioner's inability to pay. Petitioner explained that he had been unable to work while detained, asked the Immigration Judge to set the minimum amount, and answered that he had nothing in the bank. Petitioner stated that if the Immigration Judge set an amount, he could ask his grandfather for help, but his grandfather was not working because of a heart condition and would have to find a way to help him. Despite that answer, and despite ordering ankle monitoring, the Immigration Judge set bond at $15,000.

This is the kind of inadequate process *Hernandez* forbids. Asking a detainee how much money he has does not satisfy due process if the answer is not meaningfully considered. Nor does a bond amount become reasonably related to ensuring appearance merely because the Immigration Judge recites flight risk. Where an Immigration Judge finds a person is not dangerous and orders electronic monitoring, due process requires some explanation why an unaffordable monetary bond remains necessary to secure appearance despite the person's financial circumstances and available alternatives. Otherwise, the monetary bond continues to operate as detention based on poverty rather than as a condition reasonably related to ensuring appearance. *See Hernandez*, 872 F.3d at 991–92.

The court's decision in *Portillo Portillo* is instructive. There, after the court ordered a bond hearing, the Immigration Judge set bond at $15,000. Portillo v. Bondi, No. 2:26-cv-00155-CDS-NJK, 2026 U.S. Dist. LEXIS 78409, at *1–2 (D. Nev. Apr. 10,

2026). The court ordered further review because the Immigration Judge's findings did "not provide sufficient evidence as to why the bond was set for $15,000.00," and relied on *Hernandez* to require consideration of financial circumstances and alternative release conditions. *Id.* at *2–4. The same concern exists here. Petitioner was granted bond in name, but the $15,000 amount—imposed after Petitioner said he had nothing in the bank and alongside ankle monitoring—continues to operate as detention.

The same principle appears in other cases recognizing that the government has no legitimate interest in detaining someone who is not dangerous and whose appearance can be reasonably ensured by lesser bond or alternative conditions. *See Ernesto R.A. v. Cruz*, No. 1:26-cv-00138-TLN-EFB, 2026 U.S. Dist. LEXIS 8631, at *5–7 (E.D. Cal. Jan. 15, 2026) (finding serious questions where petitioner's appearance could reasonably be ensured by participation in ICE's Alternative to Detention Program, including phone check-ins, in-person check-ins, ankle monitor, or other alternative conditions including bond). And a reviewing court need not accept a bond decision that gives only "mere lip service" to the required legal standard while failing to apply it in substance. *See Calderon-Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 1035–36 (W.D. Wash. 2019).

Thus, the June 17 hearing did not cure the earlier due process violation. It confirmed that Petitioner's renewed bond request had been received but treated as moot after the March 27 merits decision, leaving Petitioner detained for months without a custody determination. And when a bond hearing was finally held, it occurred on same-day notice, without meaningful opportunity for Petitioner to prepare, and resulted in a $15,000 bond despite Petitioner's statement that he had no money in the bank and despite the imposition of ankle monitoring. Petitioner therefore remains detained without the timely and constitutionally adequate custody process required by § 1226(a) and due process.

D. Petitioner is likely to succeed in showing that his detention without constitutionally adequate custody process violates due process under Mathews v. Eldridge.

To determine whether civil detention violates procedural due process, courts apply the three-part balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Courts in this District have repeatedly applied the Mathews framework in evaluating immigration detention claims. *See De Leon v. Mayorkas*, No. 2:23-cv-02073-GMN-VCF, 2024 WL 343437 (D. Nev. Jan. 29, 2024); *Ortiz-Castillo v. United States*, No. 2:23-cv-01485-RFB-MDC, 2024 WL 756075 (D. Nev. Feb. 23, 2024); *Arechiga v. Archambeault*, No. 2:23-cv-00600-CDS-VCF, 2023 WL 5207589 (D. Nev. Aug. 11, 2023). Under *Mathews*, courts consider: (1) the private interest affected by the official action; (2) the risk of erroneous deprivation through the procedures used and the probable value of additional safeguards; and (3) the government's interest, including the administrative burden of additional procedures. *Mathews*, 424 U.S. at 334–35.

The first Mathews factor weighs heavily in Petitioner's favor. Petitioner was previously released from immigration custody on his own recognizance and was living in the community while his removal proceedings remained pending. He was later re-detained after an interior arrest in Las Vegas, not while seeking admission at the border. As a *Jacobo-Ramirez* class member, his detention is governed by § 1226(a), which provides for individualized custody review and release on bond or conditional parole. Petitioner also has family ties in the United States, including a United States citizen child, and other family members lawfully in the United States that he intends to live with.

The second factor likewise favors Petitioner because the record shows repeated failures in the custody process. First, Petitioner's custody filing was treated as part of the removal merits proceeding rather than adjudicated as a bond request. Second, the immigration court later treated the renewed bond request as moot because the

Immigration Judge had ordered Petitioner removed, even though that removal order was not administratively final and Petitioner's BIA appeal remained pending. Third, when the immigration court finally held a bond hearing on June 17, it did so on same-day notice and set bond at $15,000 despite Petitioner's statement that he had no money in the bank and despite ordering ankle monitoring.

The third factor does not weigh in Respondents' favor because providing an individualized custody determination imposes minimal administrative burden and merely requires compliance with existing statutory and constitutional requirements. Accordingly, Petitioner is likely to succeed in demonstrating that his continued detention without an individualized custody determination violates due process.

E. Petitioner is likely to succeed in showing that Respondents subjected him to punitive and coercive civil detention conditions during his hunger strike.

Civil immigration detainees may not be subjected to punitive conditions of confinement. A civil detainee's confinement violates the Fifth Amendment when the conditions "amount to punishment." *Bell v. Wolfish*, 441 U.S. 520, 535 (1979); *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004). Punitive conditions may be shown where restrictions are expressly intended to punish, or where they serve a nonpunitive purpose but are excessive in relation to that purpose or are employed to achieve objectives that could be accomplished through alternative and less harsh means. Jones, 393 F.3d at 932. That standard applies in immigration detention. *Rosas v. Becerra*, No. 23-cv-04058-LB, 2023 U.S. Dist. LEXIS 181182, at *9–10 (N.D. Cal. Oct. 6, 2023).

Here, after the Immigration Judge ordered Petitioner removed on March 27, 2026, Petitioner began a hunger strike. During that same period, medical records reflect that Petitioner's hunger strike created serious medical concerns, including refusal of water, emergency medical evaluation, and later refeeding-related concerns. Petitioner's appeal was not marked received by the Board of Immigration Appeals

until April 27, 2026, the deadline for filing the notice of appeal. That timing corroborates Petitioner's account that access to appeal paperwork was delayed during the same period when he was medically vulnerable from the hunger strike.

Facility records also show that Respondents used other restrictions as leverage to end the hunger strike. On April 3, after Petitioner became upset that his mattress had been taken away, facility staff told him that if he ate a small amount of food or drank a nutritional supplement, he could get his mattress back. That restriction supports the inference that Respondents were not merely monitoring Petitioner for medical safety, but were conditioning basic confinement conditions on his agreement to eat.

To the extent Respondents contend that actions taken during the hunger strike were justified by a legitimate interest in preserving Petitioner's health and life, even a legitimate medical objective does not permit restrictions that are excessive in relation to that purpose or that use unnecessarily harsh means to accomplish it. *See Jones*, 393 F.3d at 932. If Respondents believed Petitioner's hunger strike required intervention, the appropriate response was medical monitoring, treatment, and, if necessary, judicial authorization for involuntary medical intervention. *See Ex parte Prins*, No. 3:24-mc-05006-TMC, 2024 U.S. Dist. LEXIS 95521, at *2–6 (W.D. Wash. May 29, 2024) (addressing request for court authorization to conduct involuntary medical monitoring, testing, examinations, and hydration for a hunger-striking immigration detainee). It was not constitutionally permissible to condition access to appeal paperwork on Petitioner's agreement to eat.

Withholding or delaying legal paperwork necessary to preserve appellate rights, and conditioning the return of basic bedding on Petitioner's agreement to eat, does not serve the asserted medical objective in a lawful way. It uses a civil detainee's medical vulnerability as leverage. On Petitioner's allegations, Respondents did not merely encourage him to resume eating or drinking; they conditioned access to the

paperwork needed to pursue administrative review on his compliance with their demand that he eat. Such a condition was arbitrary, excessive, and punitive in relation to any legitimate medical or detention-management purpose.

Because punitive civil immigration detention violates the Fifth Amendment, habeas relief, including release, may be appropriate where the challenged conduct renders custody unlawful. *See Tavurov v. Noem*, No. 2:26-cv-00138-TLF, 2026 U.S. Dist. LEXIS 25425, at *23–27 (W.D. Wash. Feb. 6, 2026) (distinguishing ordinary conditions claims from punitive civil immigration detention, which violates due process and may support habeas relief, including release).

F. Release is the appropriate remedy.

Immediate release is the appropriate remedy. A federal habeas court "is free to fashion the remedy as law and justice require." *Sanders v. Ratelle*, 21 F.3d 1446, 1461 (9th Cir. 1994). Although a constitutionally adequate bond hearing may be sufficient in some cases, this is not a case where Petitioner merely awaits an initial hearing. Petitioner is a *Jacobo-Ramirez* class member who requested § 1226(a) custody process, submitted the materials the Immigration Judge instructed him to provide, and then had that custody request diverted into the merits proceeding and later treated as moot based on a nonfinal removal order. When a bond hearing finally occurred months later, it was held on same-day notice and resulted in a $15,000 bond despite Petitioner's inability to pay and the imposition of ankle monitoring.

Under these circumstances, another post hoc hearing would not fully remedy the violation. In *Melendez Paz*, this Court ordered immediate release for a *Jacobo-Ramirez* class member who had endured prolonged detention without constitutionally adequate custody process, recognizing that a later hearing may improperly permit the government to transform unlawful detention into lawful detention through post hoc justification. *Melendez Paz v. Mullin*, No. 2:26-cv-00296-RFB-MDC, 2026 U.S. Dist. LEXIS 96025, at *18–21 (D. Nev. May 1, 2026). The same

principle applies here. Petitioner has already been detained for months without timely and adequate § 1226(a) process, and the belated hearing did not cure the deprivation. Immediate release is therefore necessary to restore the liberty interest Respondents unlawfully withheld and to prevent continued detention under a bond amount Petitioner cannot pay.

At minimum, if the Court declines to order immediate release, it should require a prompt constitutionally adequate bond hearing with safeguards sufficient to cure the prior violations. Respondents should bear the burden of proving by clear and convincing evidence that continued detention is justified, the Immigration Judge should be required to make individualized findings regarding danger and flight risk and to meaningfully consider Petitioner's ability to pay and alternatives to detention, and Petitioner should be released if the hearing is not timely held. Given the procedural errors that have already occurred, Respondents should also be required to file a status report within three days of any hearing attaching the written order, audio, and transcript, or advising the Court of the status of obtaining those materials.

II. Petitioner continues to suffer irreparable harm absent injunctive relief.

Petitioner also meets the second factor: irreparable harm. "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) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the "alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., Federal Practice and Procedure, § 2948.1 (2d ed. 2004)). Furthermore, unlawful detention itself "constitutes extreme or very serious damage, and that damage is not compensable in damages." *Hernandez v. Sessions*, 872 F.3d at 999 (internal citations omitted).

Additionally, the Ninth Circuit recognizes that the irreparable harms imposed on individuals subject to immigration detention include the economic burdens placed on detainees and their families, as well as collateral harms to family relationships. *Ajay v. Warden California City Corrections Facility*, No. 1:26-CV-00562-TLN-AC, 2026 WL 638445, at *5 (E.D. Cal. Mar. 6, 2026) (quoting *Hernandez*, 872 F.3d at 995). Petitioner meets this standard here. He remains detained despite being a *Jacobo-Ramirez* class member entitled to § 1226(a) custody process. He requested bond, submitted the materials the Immigration Judge instructed him to provide, and then remained detained for months after his custody request was diverted into the merits proceeding and treated as moot based on a nonfinal removal order. The belated June 17 hearing did not cure that harm because it resulted in a $15,000 bond that Petitioner cannot pay. Petitioner is therefore granted bond in name but remains detained in fact.

The urgency is heightened by the pattern of procedural failures in Petitioner's custody process. The immigration court failed to adjudicate his renewed bond request, treated that request as moot based on a nonfinal removal order, held the belated hearing on same-day notice, and imposed an unaffordable bond despite Petitioner's statement that he had no money in the bank and despite the availability of ankle monitoring. Petitioner also alleges that during his hunger strike Respondents used his medical vulnerability as leverage, including by conditioning basic bedding and access to appeal paperwork on his agreement to eat. These events show that Petitioner's continued custody is not a technical deprivation. It is an ongoing physical restraint resulting from a detention process that has repeatedly failed to provide constitutionally adequate protection.

Continued detention also separates Petitioner from his family, prevents him from returning to his proposed residence in Florida, and prevents him from working or supporting his family. Irreparable harm has already occurred through the

deprivation of Petitioner's constitutional right to timely and adequate custody process. Continued detention risks creating further harm each day that Petitioner remains detained under an unaffordable bond that operates as continued detention. Accordingly, Petitioner has demonstrated that he faces ongoing and irreparable harm in the absence of immediate relief.

III. The balance of hardships and the public interest weigh heavily in Petitioner's favor.

The final two factors for a TRO—the balance of hardships and public interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418,435 (2009). That balance tips decidedly in Petitioner's favor.

The government "cannot reasonably assert that it is harmed in any legally cognizable sense" by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S. at 436 (describing public interest in preventing noncitizens "from being wrongfully removed, particularly to countries where they are likely to face substantial harm"); *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (when government's treatment "is inconsistent with federal law, . . . the balance of hardships and public interest factors weigh in favor of a preliminary injunction.").

Petitioner faces significant hardships including continued detention without constitutionally adequate custody process, separation from family, inability to work, and continued confinement under a $15,000 bond that he cannot pay. His hardship is heightened by the fact that the Immigration Judge found he was not a danger and ordered ankle monitoring, yet the bond amount continues to operate as detention. By contrast, Respondents face minimal hardship from providing the relief required by law. Releasing Petitioner would restore him to the community under appropriate conditions while his administrative proceedings continue. Alternatively, requiring a

constitutionally adequate bond hearing would merely require Respondents to comply with the statutory and constitutional requirements governing detention under § 1226(a). The balance of equities therefore favors preventing the violation of "requirements of federal law." *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014). Accordingly, the balance of hardships and public interest weigh strongly in favor of granting emergency relief.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court issue a temporary restraining order and grant the following relief:

1. Order Respondents to immediately release Petitioner from custody on his own recognizance or under reasonable non-monetary conditions of supervision;
2. Alternatively, order Respondents to provide Petitioner with a constitutionally adequate bond hearing within seven days, or sooner if the Court deems appropriate;
3. Order that, at any such bond hearing, Respondents bear the burden of proving by clear and convincing evidence that continued detention is justified;
4. Order that the Immigration Judge make individualized findings regarding danger and flight risk and meaningfully consider Petitioner's ability to pay and alternatives to detention, including non-monetary conditions and electronic monitoring;
5. Order that Petitioner be released if Respondents fail to provide a constitutionally adequate bond hearing within the time set by the Court;
6. Order that, if a bond hearing is held, Respondents file a status report within three days of the hearing attaching the Immigration Judge's written bond

order, the hearing audio, and/or the transcript, or advising the Court of the status of obtaining those materials; and

7. Grant any further relief that law and justice require.

Dated June 30, 2026.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Jennifer Joseph
Jennifer Joseph
Assistant Federal Public Defender