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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NAEIM RABI-VARZALI


Petitioner,

v.

GREGORY J. ARCHAMBEAULT, Field
Office Director, U.S. Immigration and
Customs Enforcement, Enforcement and
Removal Operations, San Diego; TODD M.
LYONS, Acting Director, U.S. Immigration
and Customs Enforcement; U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT; MARKWAYNE
MULLIN, Secretary of the U.S. Department
of Homeland Security; CHRISTOPHER
LAROSE, Warden, Otay Mesa Detention
Center; PAM BONDI, Attorney General of the
United States,

Respondents.

Case No.: '26CV2604 JLS SBC

Agency No. 

**EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE
RE: PRELIMINARY INJUNCTION
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
MICHAEL H. MOGHTADER IN
SUPPORT OF EX PARTE
APPLICATION**

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1 **I. INTRODUCTION**

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3 This case presents a straightforward and urgent violation of the Fifth Amendment's
4 guarantee of due process. On January 12, 2024, immigration authorities granted Petitioner parole
5 after determining that he posed neither a danger to the community nor a flight risk. For
6 approximately twenty-six months thereafter, Petitioner fully complied with every condition
7 imposed, appeared at all required proceedings, and remained entirely law-abiding.

8
9 Nevertheless, on March 19, 2026, the government abruptly re-detained Petitioner without
10 identifying any violation of his parole conditions, without citing any material change in
11 circumstances, and without presenting any new evidence that could justify the extraordinary
12 deprivation of liberty.

13 This is not a typical prolonged-detention case. It is a case about the government's arbitrary
14 re-imprisonment of a person it had already determined could be safely released, and whose two
15 years of undisputed compliance confirmed that detention served no legitimate purpose.

16 **II. EX PARTE APPLICATION**

17
18 Ex parte relief is necessary because Petitioner is suffering ongoing and irreparable harm
19 each day because he remains unlawfully detained. Petitioner therefore respectfully applies for a
20 Temporary Restraining Order and an Order to Show Cause why a Preliminary Injunction should
21 not issue directing his immediate release or, at minimum, a prompt bond hearing.

22
23 As set forth in the Verified Petition, the government previously determined that Petitioner
24 was neither a danger to the community nor a flight risk and was therefore appropriate for release.
25 Petitioner then confirmed that determination through approximately twenty-six months of
26 complete compliance with all release conditions, full attendance at proceedings, and entirely
27 lawful conduct. Yet ICE abruptly re-detained him without identifying any violation, without
28 pointing to any changed circumstance, and without presenting any new evidence that could
justify re-imprisonment.

1 This is not merely a prolonged-detention case. It is a case of arbitrary re-detention
2 following a prior release determination that Petitioner's own conduct proved to be correct. The
3 government's unexplained revocation of that conditional liberty presents an acute due process
4 violation and warrants immediate intervention by this Court.

5
6 **III. NOTICE TO THE UNITED STATES**

7 Pursuant to Civil Local Rule 83.3(g)(2), Petitioner gave notice to the United States Attorney's
8 Office. Specifically, on April 22, 2026, counsel emailed Erin Dimbleby of the United States
9 Attorney's Office for the Southern District of California at erin.dimbleby@usdoj.gov, advising
10 that Petitioner intended to file an emergency habeas petition and application for a Temporary
11 Restraining Order arising from his unlawful re-detention after a prior grant of parole, and that he
12 would seek immediate release or, in the alternative, a prompt bond hearing. Counsel also advised
13 that she was available to meet and confer regarding the requested relief. Counsel requested
14 Respondents' position on the requested relief but did not receive a response. As of the filing of
15 this application, no response or opposition has been received.

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17
18 **IV. POINTS AND AUTHORITIES**

19 A temporary restraining order is governed by Federal Rule of Civil Procedure 65. A petitioner
20 seeking such relief must demonstrate that he is likely to succeed on the merits, that he is likely
21 to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in
22 his favor, and that an injunction is in the public interest. *Winter v. NRDC*, 555 U.S. 7 (2008).
23 Petitioner satisfies each of these requirements.

24 **A. Petitioner Easily Satisfies the Standard for Emergency Injunctive Relief**

25 Petitioner is entitled to emergency injunctive relief because he is likely to succeed on the
26 merits, he is suffering ongoing irreparable harm, the balance of equities tips sharply in his favor,
27 and the public interest is served by preventing unlawful detention.
28

1 First, Petitioner is likely to succeed on the merits because civil immigration detention must
2 remain reasonably related to its regulatory purpose and may not be imposed arbitrarily. The
3 Supreme Court has made clear that immigration detention, as a civil restraint, is constitutionally
4 limited and cannot continue to be absent adequate justification. *Zadvydas v. Davis* 533 U.S. 678
5 (2001).

6 Here, the government has offered none. It granted Petitioner parole after determining he
7 was neither a danger nor a flight risk, and that determination was confirmed by over twenty-six
8 months of full compliance. Yet ICE re-detained him without identifying any violations, changed
9 circumstance, or new evidence.

10 Due process does not permit the government to imprison first and justify later. At
11 minimum, due process requires that the government articulate a current, individualized
12 justification for detention before depriving Petitioner of his liberty a second time.
13

14 Ninth Circuit authority reinforces that continued civil detention requires meaningful
15 safeguards. *Casas-Castrillon v. DHS* 535 F.3d 942 (9th Cir. 2008), and *Singh v. Holder* 638
16 F.3d 1196 (9th Cir. 2011) make clear that detention must be justified through adequate
17 procedures, including a meaningful opportunity to challenge confinement.
18

19 Petitioner has received no such process.
20

21 **B. Petitioner Is Suffering Irreparable Harm**

22 Petitioner is suffering irreparable harm now, and that harm increases with each day of
23 unlawful detention. The loss of physical liberty is a paradigmatic irreparable injury. Time spent
24 in unconstitutional custody cannot be returned, compensated, or meaningfully repaired by a later
25 judgment. Every additional day Petitioner remains detained inflicts a fresh and irreversible
26 constitutional injury.
27

28 Moreover, Petitioner's harm is not limited to confinement itself. His re-detention has
caused the loss of employment, separation from his community and support network, substantial

1 interference with his ability to prepare and participate in his immigration proceedings and
2 continuing psychological and emotional harm. These injuries are neither speculative nor remote;
3 they are present, ongoing, and severe. Because no award of money damages can restore
4 Petitioner's lost liberty or undo the cascading personal and legal consequences of his detention,
5 the irreparable-harm factor weighs overwhelmingly in favor of immediate relief.

6 **C. The Balance of Equities Strongly Favors Petitioner**

7 The balance of equities tips sharply and overwhelmingly in Petitioner's favor. On one side
8 of the scale is Petitioner's continuing loss of physical liberty, along with the cascading personal,
9 legal, and emotional harms caused by his unexplained re-detention. On the other side, the
10 government can identify no legitimate countervailing hardship from being required to release a
11 person it previously determined could be safely at liberty and who then proved that determination
12 correct through more than two years of complete compliance.

13 Absent any identified violation, material change in circumstances, or new evidence
14 supporting detention, the government's abstract and generalized interests cannot outweigh
15 Petitioner's concrete and ongoing constitutional injury. Requiring the government to respect due
16 process does not impose an inequity on Respondents; it merely requires them to do what the
17 Constitution already demands. The balance of equities therefore strongly favors immediate
18 injunctive relief.

19 **D. The Public Interest Supports Relief**

20 The public interest strongly favors relief. Courts evaluating emergency injunctive relief
21 must consider whether an injunction serves the public interest, and that factor weighs heavily in
22 Petitioner's favor here.

23 The public has no legitimate interest in the arbitrary deprivation of liberty. To the contrary,
24 public interest is always served by requiring the government to act within constitutional limits
25 and by preventing detention that lacks adequate individualized justification. Granting relief here
26 would reinforce the basic principle that executive detention must be justified by lawful and
27 articulable grounds, not simply assumed or imposed without explanation.
28

1 That is especially true in this case, where the government previously determined that
2 Petitioner could be released and then re-detained him without identifying any violation, any
3 material change in circumstances, or any new evidence supporting renewed confinement. Under
4 those circumstances, the public interest is not harmed by judicial intervention; it is vindicated by
5 it. The requested relief would protect the integrity of the legal system, preserve public confidence
6 in the fair administration of justice, and ensure that civil detention remains tethered to the
7 constitutional limits that govern it.

8
9 **V. ADDITIONAL SHOWING OF LIKELIHOOD OF SUCCESS**

10 **A. Detention is Arbitrary**

11 Petitioner is likely to succeed because his re-detention is arbitrary and untethered to any
12 current, individualized justification. Civil immigration detention must bear a reasonable
13 relationship to its regulatory purpose and may not rest on unexplained executive fiat. The
14 Supreme Court has emphasized that freedom from imprisonment lies at the heart of the liberty
15 protected by the Due Process Clause, and that civil detention requires a sufficiently strong
16 justification tied to its lawful purpose.

17
18 Petitioner's detention arises under 8 U.S.C. § 1226(a), which authorizes discretionary civil
19 detention only for legitimate regulatory purposes and does not permit arbitrary or unjustified
20 confinement. Where, as here, the government has already determined that release is appropriate
21 and no new circumstances justify re-detention, continued confinement falls outside the statute's
22 permissible scope.

23
24 That principle is especially compelling here. The government previously determined that
25 Petitioner was releasable when it granted parole, necessarily finding that he did not present a
26 danger to the community or a flight risk. That determination was not speculative. It was
27 confirmed over approximately twenty-six months of actual compliance, during which Petitioner
28 obeyed all release conditions, appeared as required, and remained law-abiding.

1 Ninth Circuit authority likewise recognizes that immigration detention must be supported
2 by an individualized justification and procedures reasonably related to the government's asserted
3 interests. In *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017), the court explained that release
4 conditions in the immigration-detention context must be reasonably related to ensuring
5 appearance and protecting the community, and that consideration of alternative conditions is
6 necessary to ensure that restraints on liberty are not excessive.

7 Here, the government has identified no violation of parole, no material change in
8 circumstances, and no new evidence justifying Petitioner's renewed confinement. On these facts,
9 the government's decision to re-detain Petitioner after first finding him releasable—and after
10 Petitioner proved that determination correct through more than two years of compliance—cannot
11 be characterized as a reasoned exercise of civil detention authority. It is arbitrary. Absent
12 materially changed circumstances supported by specific facts, the government's unexplained
13 revocation of Petitioner's conditional liberty violates due process.

14 One caution on your original wording: "*Absent materially changed circumstances, re-*
15 *detention is arbitrary*" is a strong line and works well rhetorically, but it is better framed as a
16 due-process argument drawn from the facts and governing principles, rather than as though it
17 were a direct quotation from a case.

18
19 **B. Due Process Requires a Meaningful Bond Hearing**

20 Due process requires a meaningful, individualized hearing before a neutral decisionmaker
21 when the government seeks to continue civil immigration detention, and in that setting Ninth
22 Circuit authority has required the government to justify detention by clear and convincing
23 evidence. In *Singh v. Holder*, the Ninth Circuit held that, given the substantial liberty interest at
24 stake, the government must prove by clear and convincing evidence that continued detention is
25 warranted.

26
27 Petitioner has received no such hearing here. He has not been able to afford any meaningful
28 process at which the government was required to present current, individualized evidence
showing that he now poses a danger to the community or a flight risk sufficient to justify re-

1 detention. Instead, after previously determining that Petitioner was appropriate for release, and
2 after approximately twenty-six months of full compliance, the government re-detained him
3 without providing the constitutionally adequate process that due process demands. On that basis
4 alone, the legality of his continued detention is highly suspect, and immediate relief is warranted.

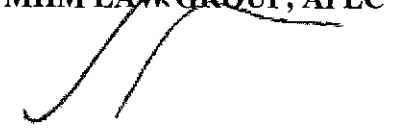
5 **VI. RELIEF REQUESTED**

6 Petitioner respectfully requests that this Court:

- 7 1. Issue a temporary restraining order directing Petitioner's immediate release forthwith
8 pending final adjudication of the Petition.
9 2. In the alternative, Petitioner requests that the Court order Respondents to provide, within
10 seven (7) days, a bond hearing before a neutral adjudicator at which Respondents bear the
11 burden of establishing by clear and convincing evidence that continued detention is
12 necessary, the adjudicator considers Petitioner's ability to pay, and the adjudicator
13 meaningfully evaluates less restrictive alternatives to detention.
14 3. Issue an Order to Show Cause; and
15 4. Grant such further relief as the Court deems just and proper.

16 Dated: April 23, 2026

MHM LAW GROUP, APLC



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20 Michael H. Moghtader, Esq.
21 Attorney for Petitioner,
22 Naeim Rabi-Varzali
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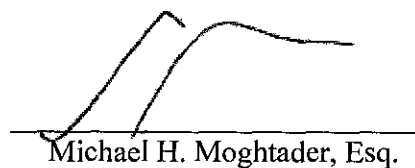
DECLARATION OF MICHAEL H. MOGHTADER IN SUPPORT OF EX-PARTE APPLICATION

I, Michael H. Moghtader, declare:

1. I am an attorney licensed to practice law in the State of California and am counsel of record for Petitioner in this matter.
2. On January 12, 2024, Petitioner was granted parole by U.S. Immigration and Customs Enforcement pursuant to 8 U.S.C. § 1182(d)(5)(A).
3. For approximately twenty-six months following his release, Petitioner fully complied with all conditions imposed, appeared at all required proceedings, and remained entirely law-abiding.
4. On March 19, 2026, Petitioner was re-detained by ICE. No violation of conditions, no changed circumstances, and no new evidence were identified at the time of re-detention.
5. Since his re-detention, Petitioner has not been provided with a meaningful explanation or a constitutionally adequate hearing justifying continued detention.
6. As a result of his detention, Petitioner has suffered irreparable harm, including the loss of physical liberty, loss of employment and income, disruption of community and family ties, and impairment of his ability to prepare for his immigration proceedings.
7. Each additional day of detention compounds these harms.
8. Absent immediate intervention, Petitioner will remain detained without any prompt mechanism for constitutionally adequate review.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: April 23, 2026



Michael H. Moghtader, Esq.

EXHIBITS

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- **Exhibit A** – Entry Documents / Notice to Appear
- **Exhibit B** – ICE Parole Grant (January 12, 2024)
- **Exhibit C** – Immigration Hearing Notice
- **Exhibit D** – Evidence of Re-Detention (March 19, 2026)
- **Exhibit E** – Petitioner’s employee ID Card