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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 DAVINDER SINGH,

11 Petitioner,

12 v.

13 WARDEN, Facility Administrator of Imperial
14 Regional Adult Detention Facility;

15 SERGIO ALBARRAN, Acting Field Office
16 Director of the San Francisco Immigration and
17 Customs Enforcement Office;

18 TODD LYONS, Acting Director of United States
19 Immigration and Customs Enforcement;

20 MARKWAYNE MULLIN, Secretary of the United
21 States Department of Homeland Security,

22 TODD BLANCHE, Attorney General of the United
23 States, acting in their official capacities,

24 Respondents.

Case No.

**TEMPORARY RESTRAINING
ORDER**

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Petitioner, Davinder Singh, is a 32-year-old citizen of India and a practicing Sikh. He entered the United States on March 23, 2024, seeking safety and lawful protection after fleeing political and religious persecution in Punjab, India. Since his release from initial border custody on March 28, 2024, Petitioner has fully complied with all immigration and supervision requirements for approximately sixteen months. He appeared for all Immigration Court hearings, complied with every ICE check-in, and timely filed his Form I-589 asylum application within one year of his entry. He filed an amended Form I-589 on July 18, 2025. His removal proceedings were pending before the Santa Ana Immigration Court.

Petitioner established a stable life in the United States. He lived at [REDACTED] [REDACTED] Following his release, ICE placed Petitioner on supervision, which included a location-monitoring application installed on his personal phone, photograph uploads from his home address on a schedule set by ICE, in-person office visits, home visits, and video call check-ins. Petitioner made good-faith efforts to comply with all supervision conditions and did so consistently throughout the sixteen-month period preceding his arrest.

On July 21, 2025, Petitioner appeared as required for his Master Hearing at the Santa Ana Immigration Court, 1241 E. Dyer Road, Suite 200, Santa Ana, California 92705, before the Honorable Karen Hope. At that hearing, the Immigration Judge ordered dismissal of Petitioner's removal proceedings. Immediately after Petitioner exited the courtroom, ICE officers arrested him in the hallway of the immigration court. Petitioner was given no advance notice of the arrest. He was shown no warrant. He was given no written explanation of the legal or factual basis for the arrest. The officers did not accuse him of any new crime and did not tell him he had violated any condition of his supervision. ICE did not make any individualized finding that Petitioner posed a danger to the community or a risk of flight.

1 Following the arrest, Petitioner was taken to a nearby ICE facility to sign documents and
2 was then transported to the California City Correctional Center in California City, California. On
3 or about November 21, 2025, Petitioner was transferred to the Imperial Regional Adult Detention
4 Facility in Calexico, California, where he is currently detained.

5
6 Petitioner has no criminal history, has never missed a court hearing, and has consistently
7 complied with ICE supervision. His arrest was not based on any evidence of dangerousness or
8 risk of flight, and was not triggered by any alleged violation of supervision conditions. Rather, his
9 arrest was effectuated at the immigration courthouse, immediately upon the dismissal of his
10 removal proceedings precisely the pattern of enforcement courts across the country have
11 recognized as part of DHS's coordinated campaign to channel noncitizens into expedited removal
12 without a meaningful opportunity to be heard.

13
14 Petitioner's detention has caused immediate and irreparable harm. He has been separated
15 from his community support system and has been deprived of the ability to practice his Sikh faith,
16 including attending Gurdwara and performing daily prayers. He is experiencing anxiety,
17 emotional distress, and sleep disruption.

18
19 Petitioner's arrest and continued detention violate substantive and procedural due process.
20 ICE re-detained Petitioner without notice, without a hearing, and without any individualized
21 determination of danger or flight risk, despite his lengthy compliance and strong equities.
22 Immediate injunctive relief is necessary to prevent ongoing and irreparable constitutional harm.

23
24 This arbitrary re-detention flouts the Fifth Amendment. Civil immigration detention is
25 constitutionally permissible only when it is reasonably related to preventing danger or ensuring
26 appearance at proceedings. When those interests are absent, continued detention becomes
27 punitive and violates due process. The government provided no explanation, no individualized
28

1 assessment, and no opportunity for Petitioner to contest his arrest or detention before a neutral
2 decisionmaker. At minimum, he was constitutionally entitled to a hearing at which the
3 government would be required to justify why his physical detention was necessary, and no such
4 process was provided.

5
6 Detention reflects the same pattern identified by courts across the country: ICE has
7 increasingly relied on quota-driven enforcement tactics that prioritize arrest numbers over
8 individualized assessment or statutory criteria. This broader enforcement strategy further
9 underscores the arbitrary nature of Petitioner’s detention and the absence of any legitimate
10 governmental purpose served by keeping him confined.

11
12 As a result of his arrest and detention, Petitioner is suffering irreparable and ongoing
13 harm. The unconstitutional deprivation of “physical liberty” “unquestionably constitutes
14 irreparable injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed,
15 “[f]reedom from imprisonment—from government custody, detention, or other forms of physical
16 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v.*
17 *Davis*, 533 U.S. 678, 690 (2001). Petitioner also faces numerous additional irreparable harms due
18 to his detention, including struggles with high blood pressure, anxiety, sleeplessness, and
19 emotional distress.

20
21
22 In light of this irreparable harm, and because he is likely to succeed on the merits of his
23 due process claims, Petitioner respectfully requests that this Court issue a temporary restraining
24 order (“TRO”) immediately releasing from him custody and enjoining the government from re-
25 arresting him absent the opportunity to contest that arrest at a hearing before a neutral decision
26 maker. Confronted with substantially identical facts and legal issues, courts in this circuit have
27 repeatedly granted the exact relief Petitioner seeks. *See, e.g., Salazar v. Kaiser*, 2025 WL
28

1 2456232, at *2 (E.D. Cal. Aug. 26, 2025) (converting request for TRO to request for preliminary
2 injunction and granting relief); *Garcia Barrera v. Andrews*, 2025 WL 2420068, at *3 (E.D. Cal.
3 Aug. 21, 2025); *Jimenez Garcia v. Kaiser*, 2025 WL 2453970, at *3 (N.D. Cal. Aug. 17, 2025)
4 (granting TRO); *Garro Pinchi v. Noem*, 2025 WL 1853763, *4 (N.D. Cal. July 4, 2025),
5 *converted to preliminary injunction at* __ F. Supp. 3d __, 2025 WL 2084921 (N.D. Cal. July 24,
6 2025); *Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal. July 11, 2025) (granting preliminary
7 injunction). To maintain this Court's jurisdiction, the Court should also prohibit the government
8 from transferring Petitioner out of this District and removing him from the country until these
9 proceedings have concluded.

11 **BACKGROUND**

12 Petitioner, Davinder Singh, is a 32-year-old Sikh man from Tarn Taran, Punjab, India. He
13 entered the United States on March 23, 2024, near San Ysidro, California. He was apprehended
14 by U.S. Customs and Border Protection the same day, issued a Notice to Appear charging him
15 under INA § 212(a)(6)(A)(i), and released on his own recognizance from initial border custody on
16 March 28, 2024. DHS instructed Petitioner to report to Immigration and Customs Enforcement
17 ("ICE"), and he complied. His removal proceedings were pending before the Santa Ana
18 Immigration Court, where he appeared as required. Petitioner timely filed his Form I-589 asylum
19 application within one year of his entry, and an amended Form I-589 was filed on July 18, 2025.
20

21
22 Petitioner continuously resided at [REDACTED]
23 a stable address known to ICE. He has no criminal history and has consistently pursued all
24 available immigration relief in good faith.

25
26 Following his release, Petitioner complied with all ICE supervision requirements. In April
27 2024, he appeared as directed at the San Bernardino ICE office for his initial check-in. At that
28 office visit, ICE officers installed a location-monitoring application on his personal phone and

1 instructed him to upload a photograph from his home address on a regular schedule. ICE also
2 established a recurring schedule of in-person office visits, home visits, and video call check-ins.
3 Petitioner attended every such appointment. After approximately two to three months, ICE
4 adjusted his photograph requirement from a weekly to a monthly schedule. Petitioner continued
5 to comply without issue. He never attempted to evade supervision, never missed a court hearing,
6 and remained in regular contact with ICE throughout the sixteen months preceding his arrest.
7

8 On July 21, 2025, Petitioner appeared as required for his Master Hearing at the Santa Ana
9 Immigration Court, 1241 E. Dyer Road, Suite 200, Santa Ana, California 92705, before the
10 Honorable Karen Hope. At that hearing, the Immigration Judge ordered dismissal of Petitioner's
11 removal proceedings.
12

13 Immediately after Petitioner exited the courtroom, ICE officers arrested him in the
14 hallway of the immigration court. Petitioner was given no advance notice of the arrest. He was
15 shown no warrant. He was given no written explanation of the basis for the arrest. The officers
16 did not accuse him of any new crime and did not tell him he had violated any condition of his
17 supervision. ICE did not make any individualized finding that Petitioner posed a danger to the
18 community or a risk of flight.
19

20 Following the arrest, Petitioner was taken to a nearby ICE facility to sign documents and
21 was then transported to the California City Correctional Center in California City, California,
22 where he was held in civil immigration detention. On or about November 21, 2025, Petitioner
23 was transferred to the Imperial Regional Adult Detention Facility in Calexico, California, where
24 he remains detained. Petitioner's personal phone and the paperwork that ICE provided at the time
25 of arrest were taken from him and remain in ICE custody.
26
27

28 Petitioner's arrest and detention had nothing to do with any willful failure to comply with

1 ICE or the Immigration Court. Petitioner has never intentionally violated any ICE directive,
2 supervision requirement, or court order. His detention was effectuated at the immigration
3 courthouse immediately upon the Immigration Judge's dismissal of his removal proceedings, and
4 serves no legitimate governmental purpose. It constitutes an arbitrary and unlawful deprivation of
5 liberty.

6
7 Each day Petitioner remains detained, he suffers severe and irreparable harm. He
8 experiences anxiety, emotional distress, and disrupted sleep. As a practicing Sikh, he is unable to
9 attend Gurdwara, perform daily prayers, or engage in seva, which are central to his faith and
10 identity. Detention has separated him from his support network, interrupted his ability to work
11 and support his wife and two young children in India, and substantially interfered with his ability
12 to pursue his pending asylum claim.

13
14 **ARGUMENT**

15 To warrant a TRO, a movant must show (1) they are “likely to succeed on the merits,” (2)
16 they are “likely to suffer irreparable harm in the absence of preliminary relief,” (3) “the balance
17 of equities tips in [their] favor,” and that (4) “an injunction is in the public interest.” *All. for the*
18 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat. Res. Def.*
19 *Council, Inc.*, 555 U.S. 7, 20 (2008)); see *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240
20 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the analysis for issuing a temporary restraining order
21 and a preliminary injunction is substantially the same). Even if the movant raises only “serious
22 questions” as to the merits of their claims, the court can grant relief if the balance of hardships
23 tips “sharply” in their favor. *All. for the Wild Rockies*, 632 F.3d at 1135. All factors here weigh
24 decisively in Petitioner’s favor.

25
26 **I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.**

27 **A. Petitioner’s detention violates substantive due process because he is neither a**
28 **flight risk nor a danger to the community.**

1 The Due Process Clause applies to “all ‘persons’ within the United States, including
2 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*,
3 533 U.S. at 693. “The touchstone of due process is protection of the individual against arbitrary
4 action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the exercise of
5 power without any reasonable justification in the service of a legitimate government objective,”
6 *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). “Freedom from imprisonment—from
7 government custody, detention, or other forms of physical restraint—lies at the heart of the liberty
8 that Clause protects.” *Zadvydas*, 533 U.S. at 690.

9 To comply with substantive due process, the government’s deprivation of an individual’s
10 liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is “civil,
11 not criminal,” and “nonpunitive in purpose and effect,” must be justified by either
12 (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d at 994
13 (“[T]he government has no legitimate interest in detaining individuals who have been determined
14 not to be a danger to the community and whose appearance at future immigration proceedings can
15 be reasonably ensured by a lesser bond or alternative conditions.”). When these rationales are
16 absent, immigration detention serves no legitimate government purpose and becomes
17 impermissibly punitive, violating a person’s substantive due process rights. *See Jackson v. Indiana*,
18 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the government’s interests
19 in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-CV-389, 2025 WL
20 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding petitioner may
21 “succeed on his Fifth Amendment claim if he demonstrates *either* that the government acted with
22 a punitive purpose *or* that it lacks any legitimate reason to detain him”).

23 The Supreme Court has recognized that noncitizens may bring as-applied challenges to
24 detention, including so-called “mandatory” detention. *Demore v. Kim*, 538 U.S. 510, 532-33 (2003)
25 (Kennedy, J., concurring) (“Were there to be an unreasonable delay by the INS in pursuing and
26 completing deportation proceedings, it could become necessary then to inquire whether the
27 detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to
28 incarcerate for other reasons.”); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019) (“Our decision today

1 on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—that is, constitutional
2 challenges to applications of the statute as we have now read it.”).

3 Petitioner has no criminal history and has diligently pursued his immigration case with the
4 assistance of counsel. He has consistently complied with all court and ICE requirements and is
5 neither a danger to the community nor a flight risk. When DHS released Petitioner from custody
6 following his entry into the United States, that decision reflected DHS's assessment that detention
7 was unnecessary. There has been no material change in circumstances since that release.

8 *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom.*
9 *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“Release reflects a determination by
10 the government that the noncitizen is not a danger to the community or a flight risk.”). Nothing has
11 transpired since to disturb that finding.

12 These facts are materially indistinguishable from *Y.S.G. v. Andrews*, No. 2:25-cv-01884-
13 SCR (E.D. Cal. Oct. 22, 2025), where the Court granted a writ of habeas corpus after finding that
14 ICE violated due process by re-detaining a previously released individual without advance notice
15 or a pre-deprivation hearing. In *Y.S.G.*, as here, DHS claimed a technical violation of supervision
16 conditions but offered no proof that the individual posed a danger or flight risk. The court held that
17 any re-detention requires a pre-deprivation hearing before a neutral adjudicator, at which the
18 government bears the burden to establish danger or flight risk by clear and convincing evidence.
19 Petitioner, who has fully complied with ICE and court requirements and poses no danger, was
20 similarly re-detained in violation of his constitutional rights.

21
22 *First*, because Petitioner had no criminal history, and has had no intervening criminal
23 history or arrests since his release, there is no credible argument that he is a danger to the
24 community.

25 *Second*, as to flight risk, the question is whether custody is reasonably necessary to secure
26 a person’s appearance at immigration court hearings and related check-ins. See *Hernandez*, 872
27 F.3d at 990–91.
28

1 There is no credible basis to conclude that Petitioner poses a flight risk. Indeed, Petitioner
2 was arrested while attending his own Master Hearing before the Immigration Court, having
3 appeared voluntarily and in full compliance with the Immigration Judge's orders. For sixteen
4 months preceding his arrest, he attended every required ICE check-in, participated in every
5 scheduled home visit and video call, and timely uploaded photographs through the ICE-issued
6 location-monitoring application. He consistently updated his address with ICE and the
7 Immigration Court and maintained a stable life in California.
8

9 Petitioner also has substantial community and religious ties that firmly anchor him in the
10 United States. Moreover, Petitioner has a bona fide asylum application pending and a viable path
11 toward immigration relief, further reducing any incentive to flee. See *Padilla v. U.S. Immigr. &*
12 *Customs Enf't*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023) (holding there is no legitimate
13 concern of flight risk where plaintiffs have bona fide asylum claims and a strong desire to remain
14 in the United States).
15

16 At the time of his arrest, Petitioner had a valid Employment Authorization Document
17 issued and was supporting himself by working and while remaining active in his Sikh
18 community. With the assistance counsel, he has every intention of continuing to pursue his
19 asylum case and remaining in full compliance with all immigration requirements. Nothing in
20 Petitioner's history his consistent reporting, his stable residence, his community involvement, or
21 his lack of any criminal record suggests that physical detention is necessary to secure his
22 appearance at future proceedings
23
24

25 In sum, Petitioner's actions since Respondents first released him confirm that he is neither
26 a danger nor flight risk. Indeed, his ongoing compliance and community ties compel the
27 conclusion that he is even less of a danger or flight risk than when he was originally released.
28

1 Accordingly, Petitioner's ongoing detention is unconstitutional, and substantive due process
2 principles require his immediate release.

3
4 **B. The government violated procedural due process by depriving Petitioner of the**
5 **opportunity to contest his arrest and detention before a neutral decisionmaker.**

6 Noncitizens living in the United States like Petitioner have a protected liberty interest in
7 their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. The Supreme Court
8 “usually has held that the Constitution requires some kind of a hearing *before* the State deprives
9 a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in
10 cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d 671, 683 (D.C.
11 Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that re-detention after pre-
12 parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S.
13 778, 782 (1973) (holding the same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482
14 (1972) (same, in parole context).

15 Accordingly, the Supreme Court has repeatedly held that individuals released from
16 custody on bond, parole, or other forms of conditional release have a protected interest in their
17 ongoing liberty, because “[t]he parolee has relied on at least an implicit promise that parole will
18 be revoked only if he fails to live up to the parole conditions.” *Morrissey*, 408 U.S. at 482. “By
19 whatever name, the[ir] liberty is valuable and must be seen within the protection of the [Due
20 Process Clause].” *Id.* This liberty interest also applies to noncitizens, including those who have
21 been conditionally released from immigration custody. *See Ortega v. Bonnar*, 415 F. Supp. 3d
22 963, 970 (N.D. Cal. 2019). Petitioner thus has a protected liberty interest in his freedom from
23 physical custody.

24 Once a petitioner has established a protected liberty interest, as Petitioner has done here,
25 courts in this circuit apply the *Mathews* test to determine what procedural protections are due. *See*
26 *Johnson v. Ryan*, 55 F.4th 1167, 1179-80 (9th Cir. 2022) (citing *Mathews v. Eldridge*, 424 U.S.
27 319, 335 (1976)). Under that test, the court weighs: (1) the private interest affected; (2) the risk
28 of erroneous deprivation and probable value of procedural safeguards; and (3) the government’s

1 interest. *Id.* In this case, the factors weigh heavily in favor of releasing Petitioner and prohibiting
2 his re-detention without a custody hearing at which the government bears the burden of proof.

3 *First*, the private interest affected in this case is profound. When considering this factor,
4 courts look to "the degree of potential deprivation." *Nozzi v. Hous. Auth. of City of Los Angeles*,
5 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). The degree of deprivation
6 here is severe. The degree of deprivation here is severe. Petitioner, who built a stable life in the
7 United States, has been completely deprived of his physical liberty and confined in a private, for-
8 profit immigration detention facility, despite having fled persecution in India and fully complied
9 with all ICE and court requirements. Petitioner's detention has ripped from him the "free[dom] to
10 be with family and friends and to form the... enduring attachments of normal life." *Morrissey*, 408
11 U.S. at 482.
12

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15
16 Cutting someone off from the core values of unqualified liberty - for Petitioner, the ability to
17 attend Gurdwara, engage in seva, and practice his Sikh faith - creates a grievous loss. Since being
18 detained, Petitioner has struggled with anxiety, sleeplessness, and emotional distress. The
19 detention environment is isolating, noisy, and mentally exhausting. He is unable to pray with
20 focus, attend Gurdwara, or participate in seva, all of which are central to his spiritual life and
21 emotional well-being.
22

23
24 Moreover, because Petitioner faces civil detention, "his liberty interest is arguably greater than
25 the interest of the parolees in *Morrissey*." See *Ortega*, 415 F. Supp. 3d at 970. As someone held in
26 civil immigration detention—without criminal charges and without any individualized showing of
27 dangerousness or flight risk—"it stands to reason that [Petitioner] is entitled to protections at least
28

1 as great as those afforded to an[]... individual... accused but not convicted of a crime.” *See Jones*
2 *v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004).

3
4 *Second*, “the risk of an erroneous deprivation [of liberty] is high” where, as here, “[the petitioner]
5 has not received any bond or custody redetermination hearing.” *A.E. v. Andrews*, No. 1:25-cv-
6 00107, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*, No. 19-cv-
7 07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020)); *see also Diep v. Wofford*, No.
8 1:24-cv-01238, 2025 WL 6047444, at *5 (E.D. Cal. Feb. 25, 2025). Respondents arrested
9 Petitioner in the hallway of the immigration court immediately after he had voluntarily attended
10 his own Master Hearing and the Immigration Judge had dismissed his case. Petitioner complied
11 exactly with ICE's instructions, appeared on the date ICE selected, and was arrested without
12 notice, without explanation of the supposed violation ICE had marked against him, and without
13 any opportunity to contact counsel.
14

15
16 In such circumstances where the government provides no procedural safeguards before depriving
17 an individual of liberty “the probable value of additional procedural safeguards, i.e., a bond
18 hearing, is high.” *A.E.*, 2025 WL 1424382, at *5. This is especially true here because there has
19 been no change in Petitioner's circumstances suggesting that he now poses a flight risk or danger
20 to the community. Petitioner has complied with every ICE requirement, has no criminal history,
21 has maintained a stable address, and consistently followed all reporting instructions
22

23 Petitioner’s re-detention appears instead to be driven by ICE’s increasingly quota-based
24 enforcement practices, which prioritize arrest numbers over individualized assessment. Such
25 motivations cannot lawfully justify detaining a person who has complied with all supervision
26 requirements, has demonstrated stability and community ties, and presents neither danger nor
27 flight risk.
28

1 Because the private interest in freedom from immigration detention is substantial, due
2 process also requires that in cases like this one, the government bears the burden of proving “by
3 clear and convincing evidence that the [noncitizen] is a flight risk or danger to the community.”
4 *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); *see Martinez v. Clark*, 124 F.4th 775,
5 785-86 (9th Cir. 2024) (holding that government properly bore burden by clear and convincing
6 evidence in court-ordered bond hearing); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025
7 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025) (ordering pre-deprivation bond hearing in which
8 government bears burden by clear and convincing evidence).

9 *Third*, the government’s interest in detaining Petitioner without first providing notice and
10 submitting to a custody hearing is minimal. Immigration courts routinely conduct custody
11 hearings, which impose a “minimal” cost to the government. *See Doe*, 2025 WL 691664, at *6;
12 *A.E.*, 2025 WL 1424382, at *5. Petitioner is represented by counsel and has an impeccable record
13 of attending his immigration proceedings; there is no reason to believe that between the date of
14 his release and his custody hearing, his compliance will change. Indeed, courts regularly hold that
15 the government’s interest in re-detention without a custody hearing is low when the petitioner
16 “has long complied with his reporting requirements.” *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025
17 WL 1676854, at *3-*4 (N.D. Cal. June 14, 2025) (granting TRO prohibiting re-detention of
18 noncitizen without a pre-deprivation bond hearing); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-
19 JST, 2021 WL 783561, at *3-*4 (N.D. Cal. Mar. 1, 2021) (same); *Ortega*, 415 F. Supp. 3d at 970
20 (granting habeas petition ordering the same); *see also Valdez v. Joyce*, No. 25 CIV. 4627 (GBD),
21 2025 WL 1707737, at *4-*5 (S.D.N.Y. June 18, 2025) (granting habeas petition and immediately
22 releasing petitioner who had been detained without process, who had “voluntarily attended his
23 scheduled immigration court proceedings” and “established ties” through his work and
24 volunteering with the church).

25 In similar cases, courts in this Circuit regularly hold that re-detaining noncitizens without
26 a pre-deprivation hearing in which the government bears the burden of proof violates due process,
27 and grant the emergency relief Petitioner seeks here. *See Garro Pinchi v. Noem*, ___ F. Supp. 3d
28 ___, 2025 WL 2084921, at *7 (converting TRO requiring release of asylum seeker arrested at her

1 immigration court hearing into preliminary injunction prohibiting the government from re-
2 detaining her without a hearing); *Singh v. Andrews*, 2025 WL 1918679, *8-10 (E.D. Cal. July 11,
3 2025) (granting PI under similar circumstances); *Doe*, 2025 WL 691664, at *8 (granting TRO
4 over one month after petitioner’s initial detention); *see also, e.g., Diaz*, 2025 WL 1676854, at *3-
5 *4; *Garcia v. Bondi*, No. 3:25-CV-05070, 2025 WL 1676855, at *3 (N.D. Cal. June 14, 2025);
6 *Jorge M. F.*, 2021 WL 783561, at *4; *Romero v. Kaiser*, No. 22-CV-02508-TSH, 2022 WL
7 1443250, at *4 (N.D. Cal. May 6, 2022); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL
8 5074312, at *4 (N.D. Cal. Aug. 23, 2020).

9 In short, Respondents violated Petitioner’s due process rights when they detained him
10 without notice and without a custody hearing before a neutral arbiter. Here, only an order releasing
11 Petitioner and enjoining re-detention—unless Respondents provide Petitioner with a custody
12 hearing where the government bears the burden of proof—would return the parties to the “last
13 uncontested status which preceded the pending controversy.” *Doe v. Noem*, ___ F. Supp. 3d ___,
14 2025 WL 1141279, at *9 (W.D. Wash. Apr. 17, 2025) (quoting *GoTo.com, Inc. v. Walt Disney*
15 *Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); *see also Valdez*, 2025 WL 1707737, at *4-*5 (ordering
16 petitioner’s immediate release as remedy for procedural due process violation).

17 * * * * *

18 For the foregoing reasons, Petitioner is likely to succeed on the merits of his claims. But
19 even if the Court disagrees, he presents at least “serious question[s] going to the merits,” alongside
20 a “balance of hardships” tipping decidedly in their favor. *All. for the Wild Rockies*, 632 F.3d at
21 1135. Indeed, the constitutional concerns delineated above are of the weightiest order and beyond
22 colorable. This Court should therefore enter the requested TRO.

23 **II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE**
24 **INJURY ABSENT A TRO.**

25 Without a temporary restraining order, Petitioner will suffer immense irreparable injury.
26 Indeed, he faces such injury every day he remains in detention in violation of his Fifth Amendment
27 rights. “It is well established that the deprivation of constitutional rights ‘unquestionably
28 constitutes irreparable injury.’” *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695

1 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged deprivation of a constitutional right is involved,
2 most courts hold that no further showing of irreparable injury is necessary.” *Warsoldier v.*
3 *Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (internal quotation marks omitted). And the
4 unlawful deprivation of physical liberty is the quintessential irreparable harm. *See Hernandez*,
5 872 F.3d at 994 (holding that plaintiffs were irreparably harmed “by virtue of the fact that they
6 [we]re likely to be unconstitutionally detained for an indeterminate period of time”); *see also*,
7 *e.g., Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing that “[a]ny amount
8 of actual jail time is significant, and has exceptionally severe consequences for the incarcerated
9 individual” (cleaned up)).

10 **III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST WEIGH**
11 **STRONGLY IN PETITIONER’S FAVOR.**

12 When the government is the party opposing the request for emergency relief, the balance
13 of the equities and the public interest merge. *Env’t Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991
14 (9th Cir. 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)). Here, the balance
15 of equities overwhelmingly favors Petitioner, who faces irreparable injury in the form of ongoing
16 constitutional violations and continued additional suffering if the TRO is not granted. *See Section*
17 *II, supra; Hernandez*, 872 F.3d at 996 (when “[f]aced with ... preventable human suffering, ...
18 the balance of hardships tips decidedly in plaintiffs’ favor”) (internal citation omitted).

19 The public interest likewise weighs strongly in Petitioner’s favor. As another California
20 district court recently concluded, “[t]he public has a strong interest in upholding procedural
21 protections against unlawful detention, and the Ninth Circuit has recognized that the costs to the
22 public of immigration detention are staggering.” *Diaz*, 2025 WL 1676854, at *3 (citing *Jorge M.*
23 *F.*, 2021 WL 783561, at *3). More fundamentally, “[i]t is always in the public interest to prevent
24 the violation of a party’s constitutional rights.” *Index Newspapers LLC v. U.S. Marshals Serv.*,
25 977 F.3d 817, 838 (9th Cir. 2020) (citing *Padilla v. Immigr. & Customs Enf’t*, 953 F.3d 1134,
26 1147-48 (9th Cir. 2020) (internal quotation marks omitted)).

27 **SECURITY**

28 No security is necessary here. Courts “may dispense with the filing of a bond when,” as

1 here, “there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.”
2 *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003). It is also proper to waive the bond
3 requirement in cases raising constitutional claims, because “to require a bond would have a negative
4 impact on plaintiff’s constitutional rights, as well as the constitutional rights of other members of
5 the public.” *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 738 (C.D. Cal. 1996).
6 Finally, Plaintiff’s showing of a high likelihood of success on the merits supports the court’s
7 waiving of bond in this case. *See, e.g., People of State of Cal. ex rel. Van De Kamp v. Tahoe Reg’l*
8 *Plan. Agency*, 766 F.2d 1319, 1326 (9th Cir.), *amended*, 775 F.2d 998 (9th Cir. 1985).

9
10 **CONCLUSION**

11 For the foregoing reasons, Petitioner respectfully requests the Court grant a TRO to restore
12 the *status quo ante* that (1) immediately releases him from Respondents’ custody and enjoins
13 Respondents from re-detaining him absent further order of this Court; (2) in the alternative,
14 immediately releases him from Respondents’ custody and enjoins Respondents from re-detaining
15 him unless they demonstrate at a pre-deprivation bond hearing, by clear and convincing evidence,
16 that Petitioner is a flight risk or danger to the community such that his physical custody is required;
17 and (3) prohibits the government from transferring him out of this District and/or removing him
18 from the country until these habeas proceedings have concluded.

19 Respectfully submitted,

20 Date: April 24, 2026

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