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7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 **In the Matter of**)

11 **Sahil Kumar**)

12 )
13 **Petitioner**)

**Motion for Temporary Restraining
Order Against Respondents**

14 **Warden of Imperial Regional Detention Facility,**)
15 **Secretary of the U.S. Department**)
16 **of Homeland Security**)
17 **Attorney General of the United**)
18 **States**)
19 **U.S Immigration Customs Enforcement**)
20 **U.S. Department of Homeland Security**)
21 **In their official capacities**)
22 **Respondents**)



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I. INTRODUCTION

1. Petitioner respectfully moves for a Temporary Restraining Order (“TRO”) pending adjudication of his Petition for a Writ of Habeas Corpus. Petitioner requests the Court to order Respondents to cease any ongoing action and refrain from taking any additional actions toward effectuating Petitioner’s removal from the United States, until the Court has adjudicated his petition and complaint. Absent immediate injunctive relief, Respondents will likely remove or transfer Petitioner, causing irreparable harm. The removal or transfer of Petitioner would permanently deprive Petitioner of access to this Court and violate Due Process protections.

II. Statement of Facts

2. Petitioner is currently detained at the Imperial Regional Detention Facility, 1572 Gateway Road, Calexico, California 92231
3. Petitioner is a citizen and national of India. Petitioner entered the United States on or about May 23, 2024, at or near Mooers Forks, New York, without admission or parole, after fleeing political persecution in India.. Petitioner sought refuge in the United States to pursue asylum and related protection.
4. Petitioner has no criminal history, does not pose a danger to the community, and has demonstrated no flight risk. His detention is based solely on his immigration status and not on any individualized finding of dangerousness or risk.
5. Respondents now seek to remove Petitioner from the United States without affording him the procedural protections guaranteed by the Fifth Amendment, including a full and fair hearing, meaningful consideration of his evidence, and access to judicial review sufficient to test the legality of his detention and removal.



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6. Petitioner remains detained while removal is imminent, despite Respondents’ failure to provide constitutionally adequate procedures to ensure that his fear-based claims were lawfully and fairly adjudicated.

7. These circumstances necessitate emergency injunctive relief.

8. Petitioner’s removal proceedings remain pending before the Imperial Immigration Court. His next Master Hearing is scheduled for June 3, 2026, before Immigration Judge Joseph Weiner. No final order of removal has been entered

9. On May 19, 2026, Petitioner filed a Petition for Writ of Habeas Corpus challenging the legality of his detention.

10. Petitioner continues to face an imminent threat of removal.

III. ARGUMENT

11. Where a party requests a TRO that enjoins governmental action, the party must demonstrate that “he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of the preliminary relief, that the balance of equities tip in his favor, and that an injunction is in the public interest.” *Winter v. Natural Resources Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Here, because Petitioner meets both the irreparable harm and likelihood of success prongs, and because the requested relief is not overly burdensome on Respondents, he merits such relief.

PETITIONER IS LIKELY TO SUCCEED ON THE MERITS

12. To satisfy that he is likely to succeed on the merits, Petitioner need demonstrate only a reasonable probability or that “serious questions” going to the merits are raised. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011). Petitioner meets this standard.



1 13. Petitioner’s habeas petition challenges the legality of his continued detention under 8
2 U.S.C 1226(a) and the Due Process Clause of the Fifth Amendment. He has only a no
3 criminal history with no current charges or custodial sentencing, is seeking asylum, and
4 has demonstrated compliance with all immigration proceedings. These facts support the
5 finding that Petitioner’s continued detention without due process is unlawful.
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7 14. Civil immigration detention must be reasonably related to its purpose and accompanied by
8 sufficient procedural protections. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
9 Constitutional due process limits remain fully applicable in such cases.

10 15. Here, Petitioner has raised serious constitutional questions regarding prolonged detention
11 without having any criminal record and no flight risk. These claims are sufficient to show
12 that there is a likelihood of success in Petitioner’s claim, or serious questions going to the
13 merits of Petitioner’s claim.
14

15 **PETITIONER WILL SUFFER IRREPARABLE HARM IF HE IS REMOVED**

16 16. Under the four-factor test, “a showing of irreparable harm is the single most important
17 prerequisite for the issuance of preliminary injunction. *Faiveley Transport Malmö AB v.*
18 *Wabtec Corp.*, 559 F.3d 110, 118 (2d Cir. 2009). Under this prong, Petitioner must show
19 that “but for the grant of equitable relief, there is a substantial chance that upon final
20 resolution of the action the parties cannot be returned to the position they previously
21 occupied.” *Brenntag Int’l Chems., Inc. v. Bank of India*, 175 F.3d 245, 249 (2d Cir. 1999).
22 The harm must be “neither remote nor speculative, but actual and imminent.” *Freedom*
23 *Holdings, Inc. v. Spitzer*, 408 F.3d 112, 114 (2d Cir. 2005).
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25 **A. Removal Would Permanently Deprive Petitioner of Meaningful Habeas Review**

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27 Petitioner’s removal from the United States would effectively moot this Court’s
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1 jurisdiction over the pending habeas petition. Courts have recognized that removal or transfer
2 during the pendency of a habeas action constitutes irreparable harm where it would prevent
3 meaningful judicial review. See *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011).
4 If Petitioner is removed from the United States by Respondents, Petitioner’s ability to obtain
5 habeas relief would be irreparably impaired, if not entirely extinguished. Once removed,
6 Petitioner’s ability to obtain habeas relief will be terminated.

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8 Removal prior to adjudication of his appeal would unlawfully deprive him of the
9 opportunity to obtain meaningful appellate review.

10 **B. Ongoing Detention Despite No Criminal History Constitutes Irreparable Liberty**
11 **Harm**

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13 Petitioner is suffering irreparable harm through continued detention despite having no
14 criminal record and no current criminal charges or custodial sentence. He does not pose a
15 danger to the community nor a risk of flight. The loss of physical liberty, even for brief
16 periods, constitutes irreparable harm. *Rodriguez v. Robbins*, 715 F.3d 1127, 1144 (9th Cir.
17 2013). The deprivation of constitutional rights itself constitutes irreparable injury for purposes
18 of preliminary injunction analysis. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

19
20 Petitioner’s detention is civil, not punitive, yet it continues to deprive him of liberty
21 without adequate procedural safeguards. Where a noncitizen with no criminal history is
22 subjected to prolonged civil detention while pursuing relief such as asylum, the resulting
23 deprivation of liberty constitutes irreparable harm.

24 **C. Constitutional Violation Independently Establish Irreparable Harm**

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26 Petitioner’s habeas petition raises serious constitutional claims, including violations of his
27 Fifth Amendment right to Due Process. Alleged violation of constitutional rights, by itself,
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1 constitutes irreparable harm. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

2 **THE BALANCE OF EQUITIES FAVOR PETITIONER**

3 17. The balance of equities weights in favor of the Petitioner. The Petitioner seeks narrowly
4 tailored relief to ensure meaningful judicial review. The Petitioner seeks protection
5 against removal or transfer that would undermine this Court’s jurisdiction.
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7 18. Respondent’s face little to no burden in temporarily refraining from removing or
8 transferring the Petitioner. Maintaining the Petitioner’s current custodial status while the
9 decision of his Petition for a Writ of Habeas Corpus is pending imposes no undue
10 hardship on the government and does not interfere with their duties.

11 19. Where the Petitioner faces loss of liberty and permanent deprivation of statutory and
12 constitutional rights, while the government faces only administrative inconvenience, the
13 equities favor injunctive relief. *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017).
14

15 **THE PUBLIC INTEREST FAVORS PRESERVING JUDICIAL REVIEW**

16 20. The public interest favors ensuring that detention complies with constitutional and
17 statutory limitations and requirements. Courts have recognized that it is always in the
18 public interest to prevent the violation of a party’s constitutional rights. *Melendres v.*
19 *Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). The public has a compelling interest in
20 ensuring that asylum seekers are afforded vital access to the legal process Congress
21 established. The public also has an interest in courts retraining the ability to review
22 executive actions. Preserving judicial review and oversight promotes the public’s
23 confidence in the rule of law, as well as the integrity of the governmental agencies
24 involved in the immigration system. Granting this TRO would advance the public interest
25 by ensuring that Petitioner’s claims are adjudicated fairly and lawfully.
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IV. CONCLUSION

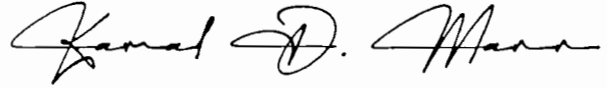
21. Petitioner satisfies all four factors required for emergency injunctive relief. First, he faces irreparable harm absent relief. Removal or transfer would moot his habeas claims, terminate his pending asylum application, and result in ongoing deprivation of liberty without meaningful process, harms that cannot be undone after the fact.
22. Petitioner has demonstrated a likelihood of success on the merits, or at minimum, serious questions going to the merits. His detention raises substantial constitutional concerns under the Fifth Amendment, particularly given his lack of criminal history, pending asylum claim, and the absence of individualized findings of dangerousness or flight risk.
23. Third, the balance of equities weighs heavily in Petitioner’s favor, he seeks only narrow relief to preserve jurisdiction and maintain existing custodial conditions. By contrast, Respondents face minimal burden in temporarily refraining from removal or transfer.
24. Finally, the public interest favors ensuring that asylum seekers receive meaningful access to the judicial process, and that executive detention complies with constitutional and statutory requirements and limitations.
25. For those reasons, Petitioner respectfully requests that the Court:
- a. Issue a Temporary Restraining Order prohibiting Respondent from removing Petitioner from the United States or transferring him outside the Southern District of California.
 - b. Order Respondents to maintain Petitioner’s current custodial status pending further order of the Court;
 - c. Issue an Order to Show Cause why a preliminary injunction should not issue; and
 - d. Grant any relief the Court deems just and proper.



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Respectfully Submitted,

Dated this 26th day of May, 2026



Kamal D. Mann

THE MANN LAW OFFICES, P.C.

Attorney for Petitioner

