IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

CARLOS ALBERTO CHINCHILLA MARTINEZ,

Petitioner,

v.

ROBERT BROWN, in his official capacity as Warden of MDC Brooklyn,

JUDITH ALMODOVAR in her official capacity as Acting Field Office Director of the New York City Field Office, U.S. Immigration and Customs Enforcement,

MARKWAYNE MULLIN, in his official capacity as Secretary of the United States Department of Homeland Security, and

TODD BLANCHE, in his official capacity as Acting Attorney General of the United States,

Respondents.

Case No.: 1:26-CV-3503

PETITIONER'S MEMORANDUM OF LAW
IN SUPPORT OF EMERGENCY APPLICATION FOR
A TEMPORARY RESTRAINING ORDER

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INTRODUCTION

Carlos Chinchilla Martinez seeks an order pursuant to Federal Rule of Civil Procedure 65(b)(1) restraining Respondents (or "the Government") from removing him outside the jurisdiction of this Court. In support thereof, Carlos states as follows.

BACKGROUND

Carlos is a twenty-six-year-old native and citizen of Honduras. Pet. Ex. 1, Declaration of W. Quaranta ("Quaranta Decl.") ¶ 3. While in Honduras, Carlos experienced persistent physical violence and verbal threats from family members and gangs—including [redacted]—due to his sexual orientation. *Id.* ¶ 7. [redacted]. *Id.* As reflected in his asylum application, Carlos fears that he would face future persecution based on his sexual orientation if he were to return to Honduras. *Id.*

Fleeing from persecution, Carlos entered the United States through Hidalgo, Texas, on or around November 23, 2016. *Id.* ¶ 3. Upon entry, he was designated as an Unaccompanied Alien Child ("UAC") and transferred to the custody of the Office of Refugee Resettlement ("ORR"). *Id.* On March 17, 2017, ORR released Carlos to the custody of his uncle in New York. *Id.* Carlos has lived in the New York City area since his release from ORR custody, and currently resides with his fiancé. *Id.* ¶ 5.

On July 31, 2018, Carlos filed for asylum based on the persecution he faced in Honduras due to his sexual orientation. *Id.* ¶ 4. In 2022, while his asylum application was pending, Carlos was arrested and charged with shoplifting in New Jersey. Quaranta Decl. Ex. B. Carlos did not admit or plead guilty to that charge, nor was he convicted of shoplifting. *Id.* Rather, the charge was amended to Public Nuisance, and Carlos pled guilty to that amended charge on February 11, 2025. *Id.*

On June 9, 2026, Carlos attended his scheduled asylum interview at the New York Asylum Office in Bethpage, New York—eight years after he filed his asylum application. Quaranta Decl. ¶ 7. Carlos arrived over an hour before his scheduled time, and his interview lasted approximately six hours. *Id.* The interview consisted of intense emotional questioning, during which Carlos painfully described the years-long [redacted]. *Id.* At the conclusion of the interview, the Asylum Officer led Carlos and his attorneys move to a separate section of the Asylum Office, implying that it was the exit. *Id.* ¶ 8. Instead, Immigration and Customs Enforcement ("ICE") officers were waiting, and immediately arrested Carlos, placing him in handcuffs and pressing him against the wall. *Id.* The arresting officers showed Carlos and his counsel a warrant invoking Section 236 of the Immigration and Nationality Act, codified at 8 U.S.C. § 1226, as the basis for detention. Quaranta Decl. Ex. A. At the time of the arrest, Carlos's counsel informed the officers that he believed the sole basis of the arrest was the purported application of the Laken Riley Act, 8 U.S.C. § 1226(c) ("LRA" or the "Act"). Quaranta Decl. ¶ 13. Neither officer indicated that the basis for detention was anything other than the LRA or provided any information to suggest that Carlos was detained based on the discretionary detention provision found in 8 U.S.C. § 1226(a). *Id.*

Despite multiple requests, the arresting officers refused to provide counsel information about where Carlos would be detained. *Id.* ¶ 16. On June 10, 2026, counsel located Carlos at the Nassau County Correctional Center ("NCCC"). *Id.* The Government has not provided Carlos or his counsel with any further explanation as to the basis for his detention. *See id.* ¶ 13. The Government appears to have taken the position that Carlos is subject to mandatory, indefinite detention without eligibility for a bond hearing.

On June 10, 2026, the Executive Office for Immigration Review ("EOIR") issued a notice scheduling Carlos to appear for a Master Calendar Hearing in Immigration Court tomorrow, June 12, 2026. Declaration of Meredith Christian ("Christian Decl.") ¶ 5.

On June 11, 2026, Carlos was transferred from NCCC to Brooklyn MDC in Brooklyn, New York. *Id.* ¶ 6. Even so, based on the experience of the undersigned, noncitizens detained by ICE are frequently relocated, and often to facilities far outside the jurisdiction of this Court. *Id.* ¶ 9.

On June 11, 2026, counsel filed the foregoing Petition for Writ of Habeas Corpus seeking Carlos's immediate release. Now, Petitioner seeks emergency judicial intervention enjoining the Government from transferring him beyond this Court's jurisdiction so that: (1) the Court can properly adjudicate the underlying habeas petition; and (2) undersigned counsel can access Carlos during the pendency of his asylum proceedings.

LEGAL STANDARD

To obtain a temporary restraining order (or a preliminary injunction), a petitioner 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); *see Benihana, Inc. v. Benihana of Tokyo, LLC*, 784 F.3d 887, 895 (2d Cir. 2015). The third and fourth factors—the balance of equities and the public interest—merge when, as here, the Government is the non-moving party. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *see also We The Patriots USA, Inc. v. Hochul*, 17 F.4th 266, 295 (2d Cir.), *opinion clarified*, 17 F.4th 368 (2d Cir. 2021).

ARGUMENT

I. CARLOS IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIM.

As set out below and more completely explained in the Habeas Petition, Carlos's claim will likely succeed on the merits. First, his detention violates the Due Process Clause because it imposes

mandatory confinement without any individualized determination of dangerousness or flight risk, based on nothing more than an unproven accusation. Second, his detention is not authorized by the LRA because the Act applies only to individuals currently charged with or arrested for an enumerated offense and does not apply retroactively to pre-enactment conduct.

Carlos's detention violates the Due Process Clause of the Fifth Amendment, which protects "all 'persons' within the United States, including [noncitizens]." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Second Circuit applies the *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing framework to evaluate due process challenges to civil immigration detention. *See Black v. Decker*, 103 F.4th 133, 147–48 (2d Cir. 2024); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020); *see also Peralta-Malla*, 2026 WL 1346325, at *3 (S.D.N.Y. May 14, 2026) ("Several district courts have applied the *Mathews* factors to habeas petitions brought by those detained under the Laken Riley Act."). All three *Mathews* factors weigh heavily in Carlos's favor.

The first factor—the private interest affected—is Carlos's interest in being free from imprisonment, which is "the most significant liberty interest there is." *Velasco Lopez*, 978 F.3d at 851. When Carlos was summarily detained on June 9, 2026, he was afforded no opportunity to be heard. Quaranta Decl. ¶ 8. There is every indication he will remain detained indefinitely, as § 1226(c) provides "no administrative mechanism by which [a noncitizen] [can] . . . challenge[] [their] detention on the ground that it [has] reached an unreasonable length." *Black*, 103 F.4th at 151. Moreover, if deported, Carlos will face the same physical, sexual, and emotional violence based on his sexual orientation that he suffered in Honduras.

The second factor—the risk of erroneous deprivation—also weighs in Carlos's favor. He has been detained based solely on a shoplifting charge of which no finder of fact has ever found him guilty. *See* Quaranta Decl. ¶ 13. "[T]he risk of erroneous deprivation is high" where a

noncitizen "is being detained based solely on an arrest and charge for which he is presumed innocent." *Peralta-Malla*, 2026 WL 1346325, at *5 (quoting *Alcantara Guerrero v. Wesling*, 2026 WL 931503, at *5 (D. Mass. Apr. 6, 2026)). Detention on such a basis means "liberty [was] withdrawn at the accusation stage, automatically, and without any individualized determination that detention [was] necessary." *Id.* (quoting *Nosirov v. Rife*, 2026 WL 916602, at *6 n.3 (E.D. Pa., Apr. 1, 2026)). A bond hearing would demonstrate that Carlos poses no flight risk or danger: he has lived in New York for years, is consistently employed, and lives with his fiancé. *Id.* ¶ 5.

The third factor also favors Carlos. The Government's interest in enforcement bears no connection to his detention, as he is neither a flight risk nor a danger to the community. Neither his release nor a bond hearing would "undermine ICE's effective enforcement of immigration laws." *Peralta-Malla*, 2026 WL 1346325, at *5 (quoting *Sajous v. Decker*, 2018 WL 2357266, at *13 (S.D.N.Y. May 23, 2018) (cleaned up)). Moreover, "retaining and housing detainees imposes substantial costs." *Black*, 103 F.4th at 154. The LRA lacks "specific legislative findings that those merely arrested or charged with certain crimes are, as a class dangerous or likely to flee." *Peralta-Malla*, 2026 WL 1346325, at *4; *see Alcantara Guerrero*, 2026 WL 931503, at *4.

Carlos's detention is also unauthorized by the LRA itself. The Act mandates detention only for an alien who "is charged with" or "is arrested for" an enumerated offense. 8 U.S.C. § 1226(c)(1)(E)(ii). Congress chose the present tense—it did not write "was charged with" or "has ever been arrested for." *See United States v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of a verb tense is significant in construing statutes"); *Carr v. United States*, 560 U.S. 438, 448 (2010) ("Consistent with normal usage, we have frequently looked to Congress' choice of verb tense to ascertain a statute's temporal reach."); *accord Stanley v. City of Sanford*, 145 S. Ct. 2058, 2063 (2025). The statute's structure confirms this reading: "is charged with" and "is arrested for" refer

to current criminal-process status, while "is convicted of" and "admits having committed" address historical conduct. *See United States v. Davis*, 961 F.3d 181, 188 (2d Cir. 2020) (explaining "the rule of the last antecedent"). District courts have uniformly agreed. *Rueda Torres v. Francis*, 2025 WL 3168759, at *5 (S.D.N.Y. Nov. 13, 2025); *Sidqui v. Almodovar*, --- F. Supp. 3d ----, 2026 WL 251929, at *12 (S.D.N.Y. Jan. 30, 2026) (collecting cases); *Helbrum v. Williams Olson*, 2025 WL 2840273, at *5 (S.D. Iowa Sep. 30, 2025); *Hermosillo-Barajas v. Mattos*, 2026 WL 1383263, at *3 (D. Nev. May 18, 2026); *Matute v. Jamison*, 2026 WL 461557, at *5 (E.D. Pa. Feb. 18, 2026).

Carlos was charged with shoplifting in 2022, but that charge was resolved by plea to public nuisance—an offense not enumerated in the LRA. He is not currently "charged with" or "arrested for" shoplifting, nor "convicted of" it. No clause in § 1226(c)(1)(E)(ii) authorizes his mandatory detention. Moreover, the LRA does not apply retroactively. Courts apply a "deeply rooted" presumption against retroactivity. *Landgraf v. USI Film Prods.*, 511 U.S. 244, 265 (1994). The LRA contains no clear statement of retroactive intent, *see Matute*, 2026 WL 461557, at *6, and attaching mandatory detention to Carlos's 2022 arrest constitutes an impermissible "new disability" based on "events completed before [the statute's] enactment." *Landgraf*, 511 U.S. at 269–70; *see also Vartelas v. Holder*, 566 U.S. 257, 261 (2012); *Hermosillo-Barajas*, 2026 WL 1383263, at *3; *Singh v. Noem*, 2026 WL 523216, at *2 (E.D. Cal. Feb. 24, 2026) (finding that the Laken Riley Act "is not retroactively applicable").

Based on these and all other arguments contained in the Habeas Petition, Carlos is likely to succeed on the merits of his claim.

II. CARLOS WOULD SUFFER IRREPARABLE HARM IN THE ABSENCE OF EMERGENCY PRELIMINARY RELIEF.

A petitioner seeking a temporary restraining order or preliminary injunction must show that "irreparable injury is likely in the absence of an injunction." *Winter*, 555 U.S. at 22. That harm

must be actual, imminent, and incapable of redress through final relief on the merits or money damages. *See Grand River Enter. Six Nations, Ltd. v. Pryor,* 481 F.3d 60, 66 (2d Cir. 2007); *Kamerling v. Massanari*, 295 F.3d 206, 214 (2d Cir. 2002). Removing Carlos from the Eastern District of New York would do exactly that, stripping him of meaningful participation in his habeas proceedings and adequate access to counsel.

Courts consistently exercise their authority to keep habeas petitioners in or near the jurisdiction where their cases are pending, safeguarding each petitioner's ability to participate in those proceedings and access counsel. *See Ozturk v. Hyde*, 136 F.4th 382, 402–03 (2d Cir. 2025) (denying stay of transfer order and holding that petitioner's transfer to the district of her pending habeas case would "provide her ready access to legal . . . services," protect her "ability to participate meaningfully in her habeas proceedings," and "expedite resolution of th[e] matter"); *Minarcaja Concha v. Lyons*, 2:25-cv-6695, Dkt. 6, at 2 (E.D.N.Y. Dec. 4, 2025) (enjoining a habeas petitioner's transfer pending adjudication of his petition "[i]n light of Petitioner's interests in participating in further proceedings before th[e] Court and in maintaining adequate access to legal counsel through th[e] proceedings"); *Perez y Perez v. Noem*, No. 25-CV-4828 (DEH), 2025 WL 1908284, at *2-3 (S.D.N.Y. June 13, 2025) (same); *see also* 28 U.S.C. § 1651(a) (empowering courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law").

Carlos's habeas proceedings are pending before this Court, and his counsel practices in this District and is able to confer with him in person. A transfer outside the Eastern District of New York would sever his access to counsel—both for the instant proceedings and for any future immigration proceedings; impede his ability to participate meaningfully in these habeas proceedings; and undermine this Court's jurisdiction over the pending petition. These injuries,

once inflicted, cannot be undone, and there is no adequate remedy at law that could restore the lost access to counsel or meaningful participation after the fact.

III. THE BALANCE OF EQUITIES FAVORS GRANTING A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION.

Finally, Carlos's entitlement to fair removal procedures in the face of possible persecution outweighs any Government burden. Petitioner merely asks that the Government be required to follow the familiar processes already in place for individuals who seek protection in the United States from persecution and torture in another country.

Balancing the equities requires this Court to consider the Government burden, the public interest, and Carlos's interests. There is a "public interest in preventing [noncitizens] from being wrongfully removed, particularly to countries where they are likely to face substantial harm." *Nken*, 556 U.S. at 436. Additionally, "the public has a strong interest in ensuring that the branches of our government do not exceed their powers and violate the rights of others in the process." *G.F.F. v. Trump*, 781 F. Supp. 3d 195, 213 (S.D.N.Y. 2025); *see also Saget v. Trump*, 375 F. Supp. 3d 280, 377 (E.D.N.Y. 2019) ("[T]he perpetuation of unlawful agency action is not in the public interest."). Moreover, transfer out of the Court's jurisdiction would jeopardize Carlos's ability to participate fully in his habeas proceedings. *Öztürk*, 136 F.4th at 402 ("At stake, too, is Öztürk's ability to participate meaningfully in her habeas proceedings. Inherent in the term 'habeas corpus' is the notion that the government is required to produce the detainee in order to allow the court to examine the legality of her detention."). As the Second Circuit has explained, "[f]aced with such a conflict between the government's unspecific financial and administrative concerns on the one hand, and the risk of substantial constitutional harm to [Petitioner] on the other, we have little difficulty concluding that the balance of hardships tips decidedly in [Petitioner's] favor." *Id.* at 403 (internal quotation marks and citation omitted); *see also Mahdawi v. Trump*, 136 F.4th 443, 455

(2d Cir. 2025); *cf. Mitchell v. Cuomo*, 748 F.2d 804 (2d Cir. 1984) (upholding preliminary injunction prohibiting transfer of prisoners to overcrowded facilities).

IV. THE COURT SHOULD WAIVE THE BOND REQUIREMENT.

Finally, Carlos respectfully asks the Court to waive the requirement that he post a bond. While Federal Rule of Civil Procedure 65(c) generally requires a movant to pay a bond upon the issuance of a temporary restraining order or preliminary injunction, the bond amount rests in the sound discretion of the district court, and the court may waive the bond requirement entirely. *Ferguson v. Tabah*, 288 F.2d 665, 675 (2d Cir. 1961).

District courts frequently waive the bond requirement where, as here, the injunction will not monetarily injure the enjoined party or when the matter raises important constitutional issues. *E.g., Alexander v. Sutton,* 747 F. Supp. 3d 520, 556–57 (E.D.N.Y. 2024) (waiving bond requirement in absence of proof that defendants were likely to suffer harm from the injunction being issued); *Donohue v. Mangano*, 886 F. Supp. 2d 126, 163 (2012) (requiring no bond when case concerned potential important constitutional issue and respondent would not face harm as a result of the injunction being issued). Accordingly, Carlos requests that the Court grant the instant Motion without imposing a bond requirement.

CONCLUSION

Respondents' detention of Carlos is unlawful. Any transfer of Carlos outside of this District constitutes an irreparable injury, as it will interfere with this Court's adjudication of the underlying habeas petition as well as Carlos's access to counsel during the pendency of any immigration proceedings. The balance of hardships and the public interest strongly favor relief. As such, Carlos respectfully requests that this Court restrain the Government from transferring him outside this District.

Date: June 11, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, along with all attachments thereto, to this Court's CM/ECF case management system. As counsel for Respondents has not yet entered an appearance, counsel for Petitioner will email an as-filed copy of this Memorandum and the accompanying Application, Declaration and Proposed Order to the United States Attorney's Office for the Eastern District of New York immediately after filing.

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CERTIFICATION OF WORD COUNT

I certify that the word count of this memorandum of law complies with the word limits of local rule 7.1(c). According to the word-processing system used to prepare this memorandum of law, the total word count for all printed text exclusive of the material omitted under local rule 7.1(c) is 2,993 words.

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