

UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF CALIFORNIA

GUILLERMO HELADIO GUERRERO

FELIX,

Preceding Pro Se

Petitioner,

v.

_____, WARDEN, GOLDEN STATE ANNEX;

_____, Field Office Director, ICE Los Angeles

Field Office; TODD M. LYONS, Acting Director,

United States Immigration and Customs

Enforcement; MARKWAYNE MULLIN, Secretary

of Homeland Security; MERRICK GARLAND,

United States Attorney General, in their official
capacities,

Respondents.

Case No.:

1:26-CV-5236 NW

**PETITIONER'S EX PARTE
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

FILED

JUL 08 2026

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY
DEPUTY CLERK

I. INTRODUCTION AND RELIEF REQUESTED

Petitioner Guillermo Heladio Guerrero Felix ("Petitioner"), proceeding pro se, files this Ex Parte Application for a Temporary Restraining Order ("TRO") and an Order to Show Cause Why a Preliminary Injunction Should Not Issue. Petitioner seeks an immediate order from this Court requiring Respondents to release him from unlawful civil immigration detention under reasonable conditions of supervision. In the alternative, if the Court declines to order immediate release, Petitioner requests an order requiring Respondents to provide him with an individualized custody hearing within seven (7) days.

Petitioner has been detained since April 9, 2026, without a constitutionally adequate custody hearing. An immigration judge has refused to hold a bond hearing, erroneously concluding a lack of jurisdiction based on Respondents' unlawful application of the mandatory detention statute, 8 U.S.C. § 1225(b)(2). As numerous courts in this District have held, that statute does not apply to a long-term resident with deep community ties who is arrested inside the United States. Petitioner's detention is governed by 8 U.S.C. § 1226(a), and his continued custody without an individualized hearing violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

1 This case is not merely about bond. It is about unlawful physical custody. Petitioner seeks
2 immediate release from illegal civil immigration detention, not simply a discretionary bond
3 review. Because Petitioner is suffering irreparable harm each day he remains unlawfully
4 detained, and because he is likely to succeed on the merits of his claims, this Court should
5 grant immediate injunctive relief.

6 II. FACTUAL BACKGROUND

7 Petitioner is a 49-year-old native and citizen of Mexico, [REDACTED], in Durango,
8 DGO. He has resided in the United States for many years, building a life and deep connections
9 to his community. He has no criminal history.

10 Petitioner is married to María Elena Campos, a lawful permanent resident, since February 21,
11 2004. They have three children: [REDACTED]

12 [REDACTED] Petitioner's extended family also includes his
13 brother, Pablo Guerrero (a lawful permanent resident), and an aunt and uncle who are U.S.
14 citizens.
15

16 Petitioner is a homeowner, having purchased a family home in Lancaster, Texas, in 2024 for
17 \$345,000. He has been a self-employed tile subcontractor since at least 2014 and has been a
18 consistent taxpayer, filing tax returns from 2014 through 2025.

19 On April 9, 2026, ICE officers arrested Petitioner in Dallas, Texas. He was subsequently
20 transferred to the Golden State Annex in McFarland, California, where he remains detained.
21 His removal proceedings are pending before the Adelanto Immigration Court, with a master
22 calendar hearing scheduled for July 13, 2026. He does not have a final order of removal. The
23 immigration judge denied Petitioner a bond hearing, finding a lack of jurisdiction based on the
24 government's assertion that he is subject to mandatory detention under § 1225(b)(2)
25 and *Matter of Yajure Hurtado*.
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27 Since being detained, Petitioner's physical and mental health has deteriorated. He is suffering
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1 from depression, anxiety, stress, and has experienced significant weight loss. His detention has
2 also caused severe economic and emotional hardship for his family, particularly his U.S.
3 citizen son and lawful permanent resident wife, who relied on him as their primary financial
4 provider.

5 III. LEGAL STANDARD

6 The standard for issuing a temporary restraining order is "substantially identical" to the
7 standard for a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240
8 F.3d 832, 839 n.7 (9th Cir. 2001). A party seeking injunctive relief must show: (1) a likelihood
9 of success on the merits; (2) a likelihood of irreparable harm in the absence of preliminary
10 relief; (3) that the balance of equities tips in their favor; and (4) that an injunction is in the
11 public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The likelihood
12 of success on the merits is the most important *Winter* factor. *Disney Enters., Inc. v. VidAngel,*
13 *Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

14 IV. ARGUMENT

15 A. Petitioner Is Likely to Succeed on the Merits

16 Petitioner is likely to succeed on his claims that his detention is unlawful under both the
17 Immigration and Nationality Act and the Fifth Amendment's Due Process Clause.

18 1. Petitioner Is Subject to Discretionary Detention Under § 1226(a), Not Mandatory Detention 19 Under § 1225(b)(2).

20 Respondents' sole basis for denying Petitioner a bond hearing is their erroneous legal theory
21 that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Courts in this District
22 have consistently and overwhelmingly rejected this argument as applied to noncitizens, like
23 Petitioner, who have resided in the United States for an extended period and are arrested in the
24 interior.
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26 In *Barajas Ortiz v. Chestnut*, No. 1:26-cv-01167-DC-SCR (E.D. Cal. Feb. 24, 2026), the court
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1 confronted a nearly identical situation. The petitioner was a Mexican national with over 34
2 years of residence, entered without inspection, was arrested inside the U.S., had U.S. citizen
3 children and LPR family, and had no criminal record. The immigration judge denied bond
4 jurisdiction under § 1225(b). This Court granted injunctive relief requiring immediate release.
5 Petitioner's case is indistinguishable.

6 In *Alvarez Maciel v. Noem*, No. 1:26-cv-01318-DC-CKD (E.D. Cal. Feb. 23, 2026), this Court
7 found that a petitioner who had lived in the U.S. for over 20 years was subject to § 1226(a) and
8 granted a TRO ordering immediate release. The court noted that by ordering release, it was
9 restoring the parties to the "status quo ante," which is the proper purpose of injunctive relief.
10 As in *Alvarez Maciel*, Petitioner challenges the legal authority for his detention. Immediate
11 release restores the status quo ante—the moment before ICE unlawfully detained him. See
12 *Otilio B.F. v. Andrews*, No. 25-cv-01398-KES-EPG, 2025 WL 3152480, at *12 (E.D. Cal.
13 Nov. 11, 2025) ("The last uncontested status would be the moment before petitioner was
14 unlawfully detained"); *Morales Flores v. Lyons*, No. 25-cv-01640-TLN-EFB, 2025 WL
15 3552841, at *7 (E.D. Cal. Dec. 11, 2025) ("[R]elease is warranted to return to the status quo
16 ante and remedy a constitutional violation").

17 Furthermore, accepting Respondents' interpretation would render § 1226(a) a nullity. As the
18 court explained in *Quichimbo-Jimenez v. Warden*, No. 2:26-cv-00739-DAD-EFB (E.D. Cal.
19 Mar. 10, 2026), Congress created distinct detention schemes. Section 1225(b) applies to
20 "applicants for admission," while § 1226(a) governs noncitizens already present in the U.S.
21 during removal proceedings. As this Court held in *Randy Acosta-Tolentino*, No. 2:26-cv-
22 00821-DC-CSK (E.D. Cal. May 11, 2026), a person who has lived in the United States for an
23 extended period falls under § 1226(a).

24 Unlike cases involving administratively final removal orders under 8 U.S.C. § 1231, Petitioner
25 does not have a final order of removal. His removal proceedings remain pending, and his
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1 detention is being justified under § 1225(b)(2), not § 1231.

2 2. Petitioner's Detention Violates the Due Process Clause.

3 Petitioner has a fundamental liberty interest in being free from physical restraint. *Zadvydas v.*
4 *Davis*, 533 U.S. 678, 690 (2001). The Fifth Amendment applies to all persons within the U.S.,
5 regardless of immigration status. *Anderson Ruben G.L. v. Warden*, No. 1:26-cv-02828-TLN-
6 DMC (E.D. Cal. May 1, 2026). In *Johalan David N.M. v. Warden*, No. 2:26-cv-01270-TLN-
7 AC (E.D. Cal. June 26, 2026), the court ordered the immediate release of a petitioner who had
8 been detained for nearly six months with no removal order, who had a family and work, and
9 whose bond hearing was denied by an IJ. Petitioner's case presents the same due process
10 violation. His detention without an individualized finding that he is a flight risk or danger to
11 the community is unconstitutional.

13 B. Petitioner Will Suffer Irreparable Harm Absent an Injunction

14 Continued detention inflicts irreparable harm on Petitioner every day. "Deprivation of physical
15 liberty by detention constitutes irreparable harm." *Arevalo v. Hennessy*, 882 F.3d 763, 767 (9th
16 Cir. 2018). The Ninth Circuit has also recognized the "irreparable harms imposed on anyone
17 subject to immigration detention," which include the "economic burdens imposed on detainees
18 and their families." *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). Furthermore,
19 the deprivation of constitutional rights "unquestionably constitutes irreparable
20 injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Petitioner is suffering from
21 declining mental and physical health and his family is facing severe financial and emotional
22 distress. This harm cannot be remedied by monetary damages.

25 C. The Balance of Equities Tips Sharply in Petitioner's Favor

26 When the government is the opposing party, the balance of equities and public interest factors
27 merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). The harm to
28 Petitioner from his unlawful detention is immense. In contrast, the harm to Respondents from

1 an injunction is minimal. Respondents have no legitimate interest in detaining an individual
2 unlawfully. "Neither equity nor the public's interest are furthered by allowing violations of
3 federal law to continue." *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022).

4 D. An Injunction Is in the Public Interest

5 The public has a strong interest in the correct application of federal immigration laws and in
6 "upholding procedural protections against unlawful detention." "The government cannot suffer
7 harm from an injunction that merely ends an unlawful practice." *Rodriguez v. Robbins*, 715
8 F.3d 1127, 1145 (9th Cir. 2013). Enjoining Petitioner's unlawful detention serves the public
9 interest by ensuring the government adheres to constitutional and statutory limits on its power.
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11 E. Immediate Release Is the Proper TRO Remedy

12 As this Court ordered in *Alvarez Maciel*, immediate release is the appropriate remedy to
13 restore the status quo ante. *See Lepe v. Andrews*, 801 F. Supp. 3d 1104, 1119 (E.D. Cal. Sep.
14 23, 2025) (quoting *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)).
15 Because Respondents' sole justification for detention—§ 1225(b)(2)—is legally invalid as
16 applied here, and Respondents "do not assert any alternative basis for Petitioner's detention,"
17 immediate release is warranted.
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19 F. No Security Should Be Required

20 Pursuant to Federal Rule of Civil Procedure 65(c), the Court has discretion to waive the
21 security requirement. *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009). Courts in
22 this circuit regularly waive security in immigration habeas cases, particularly where there is no
23 realistic likelihood of harm to the government. *Diaz v. Brewer*, 656 F.3d 1008, 1015 (9th Cir.
24 2011). Petitioner requests that the bond requirement be waived.
25

26 V. CONCLUSION AND PRAYER FOR RELIEF

27 For the foregoing reasons, Petitioner respectfully requests that the Court:

- 28 1. GRANT this Ex Parte Application for a Temporary Restraining Order;

2. ORDER Respondents to immediately release Petitioner Guillermo Heladio Guerrero Felix
 from ICE custody under reasonable conditions of supervision;
3. IN THE ALTERNATIVE, if the Court declines to order immediate release, order
Respondents to provide Petitioner with an individualized custody hearing before an
immigration judge within seven (7) days, at which Respondents bear the burden of
proving by clear and convincing evidence that Petitioner's continued detention is
necessary;
4. ENJOIN Respondents from re-detaining Petitioner without providing advance written
notice and a constitutionally adequate pre-deprivation hearing;
5. ENJOIN Respondents from transferring Petitioner outside of the Eastern District of
California pending resolution of this matter;
6. SET a briefing schedule for a hearing on a preliminary injunction;
7. WAIVE the security requirement of Fed. R. Civ. P. 65(c); and
8. GRANT such other and further relief as the Court deems just and proper.

Dated: July 6, 2026

Respectfully submitted,

/s/ Guillermo Heladio Guerrero Felix

Guillermo Heladio Guerrero Felix, Petitioner, Pro Se