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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

LANDA ZARAGOZA, MATEO
HITZIL CRUZ, DAVID

Petitioners,

v.

CHRISTOPHER CHESTNUT, WARDEN,
CALIFORNIA CITY DETENTION FACILITY; DAVID J.
VENTURELLA, ACTING DIRECTOR OF UNITED
STATES IMMIGRATION AND CUSTOMS ENFORCEMENT;
MARKWAYNE MULLIN, SECRETARY OF THE
UNITED STATES DEPARTMENT OF HOMELAND
SECURITY, TODD BLANCHE, ACTING
ATTORNEY GENERAL OF THE UNITED STATES,
ACTING IN THEIR OFFICIAL CAPACITIES,

RESPONDENTS.

CASE No.: 1:26-at-02738

**MOTION AND MEMORANDUM IN
SUPPORT OF EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE
PRELIMINARY INJUNCTION**

NOTICE OF MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court for the Eastern District of California, that Petitioners Mateo Landa Zaragoza and David Hitzil Cruz will and hereby do move for an ex parte temporary restraining order pursuant to Federal Rule of Civil Procedure 65(b). Because Petitioners' arrests violate 8 U.S.C. §1357(a)(2), 8 C.F.R. § 287.3(a) and the Fourth Amendment to the United States, Petitioners respectfully request that this Court order Petitioners' immediate release from Respondents' custody pending these proceedings and return Petitioners to the status quo before their arrest on July 6, 2026.

This motion is based on this Notice of Motion and Motion; the supporting declarations, the papers, evidence, and records on file in this action; and any other written or oral evidence or argument as may be presented at or before the time this motion is heard by the Court. This motion is also supported by the Petition for Writ of Habeas Corpus (ECF No. 1).

Petitioners seek relief at the earliest possible opportunity. As detailed further in the Declaration of Nicole A. Gorney, Counsel for Petitioners emailed Respondents and advised that a Motion for TRO would be forthcoming. Petitioners also emailed Counsel for Respondents a copy of the Memorandum of Points and Authorities shortly before filing it. As of this filing, Respondents have not stipulated to a TRO or a briefing schedule.

DATED: July 9, 2026

VIDAS Legal Services

By: /s/ Nicole A. Gorney

Nicole A. Gorney

Pro Bono Attorney for Petitioners

MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

Petitioners Mateo Landa Zaragoza and David Hitzil Cruz have been in the United States since 2021 and 2023 respectively. They entered the United States from their native country Mexico without inspection. After most recently entering the United States, they have not encountered or been arrested by immigration officials. They were arrested by immigration officials without a warrant on July 6, 2026. (Gorney Declaration).

Petitioners were in a vehicle together that was stopped by ICE officials in Santa Rosa, California. Officers failed to identify themselves as immigration, failed to present a warrant for Petitioners' arrests, and failed to comply with their own arrest regulations and the US constitution.

Petitioners were placed into an ICE vehicle and are currently being detained at the California City Detention Facility. Petitioners' case is one of a growing number of cases where ICE unlawfully arrests individuals without a properly executed arrest warrant or probable cause.

Petitioners' arrests and detentions flout the Constitution. The only legitimate interests that civil immigration detention serves are mitigating flight risk and preventing danger to the community.

The Fourth Amendment mandates that, "[a]n arrest, of course, qualifies as a 'seizure' of a 'person' . . . and so must be reasonable under the circumstances." *Ashcroft v. al-Kidd*, 563 U.S.731, 735–36 (2011). By arresting Petitioners without presenting a properly executed warrant upon their arrest, the government violated Petitioners' Fourth Amendment rights. At the very least, they are constitutionally entitled to a properly executed arrest warrant available for inspection and review upon their arrest.

As a result of their arrest and detention, Petitioners and their family are suffering

1 irreparable and ongoing harm. The unconstitutional deprivation of “physical liberty”
2 “unquestionably constitutes irreparable injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994-95
3 (9th Cir. 2017). Indeed, “[f]reedom from imprisonment—from government custody, detention,
4 or other forms of physical restraint—lies at the heart of the liberty that [the Due Process]
5 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

6 In light of this irreparable harm, and because they are likely to succeed on the merits of
7 their constitutional claims, Petitioners respectfully request that this Court issue a temporary
8 restraining order (“TRO”) immediately releasing Petitioners from Respondents’ custody and
9 enjoining the government from re-arresting them absent sufficient notice and process.
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11 To maintain this Court’s jurisdiction, the Court should also prohibit the government
12 from transferring Petitioners out of this District and removing them from the country until these
13 proceedings have concluded.

14 **FACTUAL BACKGROUND**

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16 Petitioners Mateo Landa Zaragoza and David Hitzil Cruz have been in the United States
17 since the years 2021 and 2023. Petitioners were arrested on July 6, 2026, by ICE and placed
18 into removal proceedings. Petitioners had no encounters with immigration at or near the border
19 during their most recent entries into the United States years ago. (Gorney Declaration, ¶s
20 8-10).

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22 Petitioners have been living at liberty in the United States since their entries. Upon their
23 arrests, Petitioners were not informed of the reason for their arrest, or presented with an arrest
24 warrant. (Gorney Declaration, ¶ 16)

25 Nothing has transpired in this case that would justify Petitioners’ warrantless arrests.
26 ICE agents demanded that Petitioners produce IDs without articulating any basis for the stop,
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and without reasonable suspicion that Petitioners had committed or were about to commit any offense.

If Respondents wish to arrest and detain Petitioners, they must follow their own regulations and procedures as required by US law.

Petitioners, their families, and community suffer serious and ongoing harm while they remain in detention.

ARGUMENT

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

I. PETITIONERS ARE LIKELY TO SUCCEED ON THE MERITS.

A. Petitioners’ Warrantless Arrests Violates the Fourth Amendment and their Immediate Release is the Only Proper Remedy

Under the Fourth Amendment, “[a]n arrest, of course, qualifies as a ‘seizure’ of a ‘person’ . . . and so must be reasonable under the circumstances.” *Ashcroft v. al-Kidd*, 563 U.S.731, 735–36 (2011). Furthermore, the warrantless arrest of Petitioners violated 8 U.S.C. §1357(a)(2) and 8 C.F.R. § 287.3(a). Section 1357(a)(2) provides that a warrantless arrest may take place

1 only if an officer “has reason to believe that the alien so arrested is in the United States in
2 violation of any [] law or regulation and is likely to escape before a warrant can be obtained for
3 his arrest.” 8 U.S.C. § 1357(a)(2) (emphasis added).

4 Petitioners were arrested by officers who failed to identify themselves and state the
5 reason for Petitioners’ arrests. ICE Agents demanded that Petitioners produce their IDs without
6 articulating any basis for the stop, and without reasonable suspicion that Petitioners had
7 committed or were about to commit any offense. (Gorney Declaration, ¶s 13, 16). Reasonable
8 suspicion must be based on the totality of circumstances and must be particularized to the
9 individual being stopped- not based on generalizations that would cast suspicion on large
10 segments of the law-abiding population. *United States v. Montero-Camargo*, 208 F.3d 1122, 1129
11 (9th Cir. 2000); *United States v. Manzo-Jurado*, 457 F.3d 928, 935 (9th Cir. 2006). Here, no
12 articulable facts have been identified giving rise to individualized suspicion as to any of the
13 Petitioners. A stop initiated without any stated basis and without particularized suspicion cannot
14 satisfy the Fourth Amendment’s minimum requirements. *Vasquez Perdomo v. Noem*, 790 F. Supp.
15 3d 850, 890-91 (C.D. Cal. 2025).

16 ICE’s authority to arrest without a warrant is narrowly circumscribed: under U.S.C. §
17 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii), an officer may arrest without a warrant only where the
18 officer has reason to believe both that the person is unlawfully present and that the person is
19 likely to escape before a warrant can be obtained. The “reason to believe” standard is the
20 equivalent of probable cause, and mere unlawful presence is not evidence of any risk of flight.
21 See *Ovando v. Noem*, No. 1:25-cv-03183-RBJ, 2025 WL 3293467 (D. Colo. Nov. 25, 2025);
22 *Arizona v. United States*, 567 U.S. 387 (2012).
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1 If the Petitioners did not dispute their immigration status when confronted by agents,
2 “that alone is not enough under Section 1357(a)(2) to authorize a warrantless arrest.” *Izazaga*
3 *Cardenas v. Albarran*, No. 3:26-cv-06435-JD, slip op. at page 3, line 20 (N.D. Cal. July 2, 2026).

4 Here, the officers made no individualized flight determination. For the foregoing reasons,
5 Petitioners are likely to succeed on the merits of their claims. But even if the Court disagrees,
6 they present at least “serious question[s] going to the merits,” alongside a “balance of hardships”
7 tipping decidedly in their favor. *All. for the Wild Rockies*, 632 F.3d at 1135.

8 In the alternative, Petitioners request an immediate bond hearing while their Habeas
9 petition is pending. Petitioners’ continued detention pending resolution of the constitutional
10 questions of this magnitude constitutes irreparable harm. An individualized bond hearing for
11 each Petitioner is the minimum procedural protection the Constitution requires under these
12 circumstances. *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011). See also *Revuelta Torres v.*
13 *Albarran*, No. 3:26-cv-05242 (N.D. Cal. filed June 2, 2026), where a bond hearing was ordered
14 after Petitioner was arrested without a warrant years after entry into the United States.
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16 **B. Violation of the Fifth Amendment to the United States Constitution**

17 The Due Process Clause of the Fifth Amendment protects all “person[s]” from
18 the deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom from
19 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
20 the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.
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22 Immigration detention is constitutionally permissible only when it furthers the
23 government’s legitimate goals of ensuring the noncitizen’s appearance during removal
24 proceedings and preventing danger to the community. See *id.*; see also *Bernal v. Albarran*, No.
25 25-CV-09772-RS, 2025 WL 3281422, at *6 (N.D. Cal. Nov. 25, 2025) (“the government may
26 never detain an individual that enjoys the protection of the Due Process Clause without a legal
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basis to do so”); *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771 (E.D. Mich. 2025) (detention of long-resident noncitizen violated the Fifth Amendment).

Petitioners are neither a flight risk nor a danger to the community—a point the government failed to address when they arrested Petitioners without a warrant. Respondents’ detention of Petitioners is therefore unjustified and unlawful, and violates the Due Process Clause of the Fifth Amendment.

Moreover, Petitioners’ detention is punitive because it bears no “reasonable relation” to any legitimate government purpose. The apparent purpose of Petitioners’ detention is “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons.” See *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

II. PETITIONERS WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE INJURY ABSENT A TRO

Without a temporary restraining order, Petitioners will suffer immense irreparable injury. Indeed, they face such injury every day they remain in detention in violation of their Fourth and Fifth Amendment rights. “It is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (internal quotation marks omitted). And the unlawful deprivation of physical liberty is the quintessential irreparable harm. See *Hernandez*, 872 F.3d at 994 (holding that plaintiffs were irreparably harmed “by virtue of the fact that they [we]re likely to be unconstitutionally detained for an indeterminate period of time”); see also, e.g., *Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018)(recognizing that “[a]ny amount of actual jail time is significant, and has

exceptionally severe consequences for the incarcerated individual” (cleaned up)).

**III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST
WEIGH STRONGLY IN PETITIONERS’ FAVOR.**

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

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

CONCLUSION

For the foregoing reasons, Petitioners respectfully request the Court grant a TRO to restore the *status quo ante* that (1) immediately release them from Respondents’ custody and enjoins Respondents from re-detaining them absent further order of this Court; (2) in the alternative, immediately release them from Respondents’ custody and enjoins Respondents

1 from re-detaining them unless they demonstrate at a pre-deprivation hearing, by clear and
2 convincing evidence, that Petitioners are a flight risk or danger to the community such that
3 their physical custody is required; and (3) prohibits the government from transferring them out
4 of this District and/or removing them from the country until these habeas proceedings have
5 concluded.

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8 DATED: July 9, 2026
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