

1 Joye Wiley, Esq. (CSB #191156)

2 jw@wileyjobson.com

3 Wiley & Jobson, LLP

4 PO Box 459

5 Berkeley, CA 94701

(415) 627-9161

6 Attorney for Petitioner

7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA

9 ARANA-CHAVEZ

Case No.: 1:26-cv-05323

10 Petitioner,

11 vs.

12 WARDEN, CALIFORNIA CITY
13 IMMIGRATION PROCESSING
14 CENTER, et. al.

15 Respondents

EMERGENCY APPLICATION FOR A
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE RE: PRELIMINARY
INJUNCTION

16
17
18
19
20
21
22
23
24
25
26
27
28
EMERGENCY APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND ORDER TO
SHOW CAUSE RE: PRELIMINARY INJUNCTION - 1

1 For the reasons explained in the accompanying Memorandum of Points and
2 Authorities, Petitioner hereby makes this Application for Temporary Restraining
3 Order and Order to Show Cause Re: Preliminary Injunction pursuant to Federal
4 Rule of Civil Procedure 65 and 5 U.S.C. § 705. Petitioner moves for a temporary
5 restraining order enjoining Respondents from violating Petitioner's due process
6 rights and violating statutory and regulatory requirements for arrest and detention
7 under the INA. Specifically, the Petitioner seeks an order (i) enjoining
8 Respondents from continuing to detain Petitioner and ordering his immediate
9 release from detention, (ii) enjoining Respondents from re-detaining Petitioner
10 subject to further order, and (iii) enjoining Respondents from placing an electronic
11 monitoring device on Petitioner. This motion is based upon Federal Rule of Civil
12 Procedure 65, the incorporated memorandum of points and authorities, and the
13 simultaneously filed Petition for Writ of Habeas Corpus and exhibits.
14

15 Counsel for Petitioner emailed a copy of the First Amended Verified Petition
16 for Writ of Habeas Corpus and a copy of this Application for a Temporary
17 Restraining Order to Elisa Rodriguez, Assistant United States Attorney for the U.S.
18 Attorney's Office, email address elisa.rodriguez@usdoj.gov. She indicated that
19 she opposes injunctive relief and would file a written opposition upon receiving a
20 briefing schedule.
21

22 Dated: August 6, 2026

Respectfully submitted,

23 /s/ Joye Wiley

24 Wiley & Jobson, LLP
25 Attorney for Petitioner
26
27
28

TABLE OF CONTENTS

I.	INTRODUCTION.....	6
II.	STATEMENT OF FACTS.....	7
III.	JURISDICTION AND LEGAL STANDARD.....	8
IV.	ARGUMENT.....	8
A.	Petitioner is Likely to Succeed on the Merits.....	8
1.	<i>Petitioner is Likely to Succeed on the Merits Due to Respondents' Violation of the Statute In Subjecting Petitioner to Mandatory Detention</i>	8
2.	<i>Petitioner is Likely to Succeed on the Merits Due to Respondents' Violation of the Constitutional Right to Due Process</i>	9
3.	<i>Petitioner Is Likely to Succeed on the Merits Because the Respondents Unlawfully Arrested Petitioner without a Warrant</i>	11
B.	Petitioner Will Suffer Irreparable Harm Without a TRO.....	12
C.	The Balance of Equities and Public Interest Tip Sharply in Petitioner's Favor.....	13
D.	Petitioner Should be Returned to the Status Quo Ante Litem Returned to the Status Quo Ante Litem.	13
E.	Emergency Treatment is Appropriate.....	14
F.	Immediate Release is the Proper Remedy.	14
D.	No Security Bond or a Nominal Bond Is Appropriate.....	16
V.	CONCLUSION.....	16

TABLE OF AUTHORITIES

Cases

<i>A.A.H. v. Chestnut</i> , 2025 WL 3764033 (E.D. Cal. Dec. 30, 2025)	14
<i>Addington v. Texas</i> , 441 U.S. 418, 4253 (1979).....	9
<i>Alliance for the Wild Rockies v. Cottrell</i> , 632 F.3d 1127 (9th Cir. 2011).....	7,8
<i>Altamirano Ramos v. Lyons</i> , 809 F. Supp. 3d 1015 (C.D. Cal.2025).....	13
<i>Arizona v. United States</i> , 567 U.S. 387, 408 (2012).....	11
<i>Baird v. Bonta</i> , 81 F.4 th 1036, 1040 (9th Cir. 2023).....	13
<i>Bernal v. Albarran</i> , 2025 WL 3281422 (N.D. Cal. Nov. 13, 2025).....	14
<i>Bui v. INS</i> , 76 F.3d 268, 270 (9th Cir. 1996).....	12
<i>C.C. v. Noem et al</i> , No. 26-cv-00373-TLN-EFB (E.D. Cal Jan. 21, 2026).....	14
<i>Diaz v. Kaiser</i> , 2025 WL 1676854 (N.D. Cal. June 14, 2025).....	13
<i>Djiwaje v. Bondi</i> , 2026 WL 926753 (D. Nev. Apr. 6, 2026).....	11
<i>Doe v. Noem</i> , 781 F.Supp.3d. 1055 (E.D. Cal 2025).....	13
<i>Ferrara v. United States</i> , 370 F. Supp 2d 351 (D. Mass 2005).....	12
<i>GoTo.com, Inc. v. Walt Disney Co.</i> , 202 F.3d 1199 (9 th Cir. 2000)	13
<i>Hernandez v. Sessions</i> , 872 F.3d 976, 994 (9th Cir. 2017)	19
<i>J.A.C.P. v. Wofford</i> , No. 2025 WL 3013328 (E.D. Cal. Oct. 27, 2025).....	9, 15
<i>Jennings v. Rodriguez</i> , 583 U.S. 281, 302 (2018)	11
<i>Jorge M.F. v. Wilkinson</i> , No. 21-CV-01434-JST, 2021 WL 783561, at *3) (N.D. Cal. Mar. 1, 2021)	13
<i>Lujan v. Garcia</i> , 734 F.3d 917, 935 (9th Cir. 2013).....	15
<i>Lepe v. Andrews</i> , No. 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025).....	9
<i>Maldonado Bautista v. Santacruz, Jr. et al.</i> , Case No. 5:25-CV-01873- SSS-BFM (C.D. Cal.).....	12

1	<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976)	9
2	<i>Matter of Yajure-Hurtado</i> , 29 I&N Dec 216 (BIA 2025)	8
3	<i>Mayen v. Warden, California City Detention Ctr.</i> , 2026 WL 1158217, at *2 (E.D. Cal. Apr. 29, 2026).....	15
4		
5	<i>McCarthy v. Servis One, Inc.</i> 2017 WL 89422, *4 (N.D. Cal. Mar, 7, 2017)	7
6	<i>Munaf v. Geren</i> , 553 U.S. 674, 693 (2008)	14
7	<i>Nken v. Holder</i> , 556 U.S. 418 (2009)	7
8	<i>Preiser v. Rodriguez</i> , 411 U.S. 475, 484 (1973).....	14
9	<i>Ramirez Perez v. Chestnut</i> , No. 1:26-cv-00277-DJC-CKD (Jan. 26, 2026)	14
10	<i>Sergio P. v. Bondi</i> , 2026 WL 497290 (D. Minn. Feb. 23, 2026).....	11
11	<i>Stormans, Inc. v. Selecky</i> , 586 F.3d 1109, 1127 (9th Cir. 2009)	7
12	<i>Stuhlbarg Int'l Sales Co. v. John D.Brush & Co.</i> , 240 F.3d 832 (9th Cir. 2001)	7
13	<i>Urias v. Semaia</i> , 2026 WL 1710375 (C.D. Cal. June 10, 2026)	11
14	<i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008).....	7, 13
15	<i>Xinhai H., v. Robbins</i> , No. 1:26-CV-02622-TLN-CSK, 2026 WL 983176 (E.D. Cal. Apr.13, 2026).....	10
16		
17	<i>Zadvydas v. Davis</i> , 533 U.S. 678 (2001)	9, 10
18		
19	Statutes	
20	8 U.S.C 1182(a)(6)(A)	10
21	8 U.S.C 1182(a)(6)(C)	10
22	8 U.S.C 1182(a)(7).....	10
23	8 U.S.C § 1226(a)	9, 11 12 15
24	8 U.S.C § 1225(b)(2).....	8, 9, 12, 15
25	8 U.S.C. § 1357(a)(2).....	11
26	Regulations	
27	8 C.F.R. § 236.1	12
28		

I. INTRODUCTION

Petitioner, Mr. Arana Chavez, after filing a petition for writ of habeas corpus, brings this emergency ex parte application for a temporary restraining order and order to show cause re: preliminary injunction seeking relief pursuant to statutory, regulatory, and due process protections after being detained by Respondents without notice and in violation of the law.

Petitioner meets all factors for emergency relief. First, Petitioner is likely to succeed on his due process, statutory, and APA claims because Respondents' detention of Petitioner exceeds Respondents' authority, is procedurally flawed, and violates due process. Second, Petitioner faces irreparable harm if a TRO is not granted, including continued detention and separation from family—including a 7-year-old child--and work. Third, the balance of interests sharply favors Petitioner, since enjoining Respondents merely preserves the status quo while imposing little burden on the government. Fourth, the public interest is served by ensuring that the government complies with the law, and that taxpayers are not burdened with unnecessary expense of detaining individuals who do not pose a flight risk or danger to the community.

II. STATEMENT OF FACTS

All facts herein are taken from the habeas petition and its attachments. Petitioner is a 26-year-old native and citizen of Guatemala. He entered the United States in approximately May 2022 and settled in Utah. He is the breadwinner of his family and worked as a laborer for a concrete company prior to his arrest. His partner and 7-year-old child depend on him financially. His partner and child have an I-589 application for asylum pending with immigration court.

He has no criminal history.

1 On or about June 11, 2026, Petitioner was pulled over by local law
2 enforcement, allegedly for a minor traffic violation. However, the authorities
3 arrested him, took him into custody, and handed him over to immigration
4 authorities. On approximately June 22, 2026, Petitioner was transferred to the
5 California City facility.

6 To date Petitioner has received no paperwork from Respondents. Upon
7 information and belief, he was not presented with a warrant for his arrest, a
8 custody determination notice and an opportunity to request a custody re-
9 determination, or a notice to appear.

11 III. LEGAL STANDARD

12 Under Ninth Circuit law, courts employ identical standards to evaluate whether
13 to issue a temporary restraining order or a preliminary injunction. See *Stuhlbarg*
14 *Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, n. 7 (9th Cir. 2001), and
15 *McCarthy v. Servis One, Inc.* 2017 WL 89422, *4 (N.D. Cal. Mar, 7, 2017).
16 Accordingly, a movant must demonstrate (1) a likelihood of success on the merits-
17 -or, alternatively, raise serious questions regarding the merits under a sliding-scale
18 approach; (2) a likelihood of harm to the movant in the absence of preliminary
19 relief; (3) that the balance of equities tips in the movant's favor; and (4) that
20 granting the TRO is in the public interest. *Alliance for the Wild Rockies v. Cottrell*,
21 632 F.3d 1127, 1131-32 (9th Cir. 2011); *Stormans, Inc. v. Selecky*, 586 F.3d 1109,
22 1127 (9th Cir. 2009); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7 (2008).
23 Moreover, when the government is the opposing party, the assessment of harm to
24 the opposing party and weighing the public interest merge and are considered
25 together. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

27 Alternatively, in the Ninth Circuit, courts can also apply a "sliding scale"
28

1 approach: if the movant can show that there are serious questions going to the
2 merits -a lesser showing than likelihood of success on the merits -then a temporary
3 restraining order or preliminary injunction may still issue if the balance of
4 hardships tips sharply in the plaintiff's factor, and the other two factors are
5 satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-32 (9th
6 Cir. 2011).

8 IV. ARGUMENT

9 A. Petitioner Is Likely to Succeed on the Merits

10 1. *Petitioner is Likely to Succeed on the Merits Due to Respondents' Violation* 11 *of the Statute In Subjecting Petitioner to Mandatory Detention*

12 Respondents are unlawfully subjecting Petitioner to mandatory detention in
13 violation of the statute and precedent.

14 On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy
15 that rejected well-established understanding of the statutory framework and
16 reversed decades of practice. The new policy, entitled "Interim Guidance
17 Regarding Detention Authority for Applicants for Admission," claims that all
18 persons who entered the United States without inspection shall now be subject to
19 mandatory detention provision under § 1225(b)(2)(A). The policy applies
20 regardless of when a person is apprehended and affects those who have resided in
21 the United States for months, years, and even decades.

22 On September 5, 2025, the BIA adopted this same position in a published
23 decision, *Matter of Yajure Hurtado*, 29 I&N Dec 216 (BIA 2025). There, the
24 Board held that all noncitizens who entered the United States without admission or
25 parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond
26 hearings.
27
28

1 Courts have uniformly rejected DHS's and EOIR's new interpretation because
2 it defies the INA. The plain text of the statutory provisions demonstrates that §
3 1226(a), not § 1225(b), applies to people like Petitioner. Section 1226(a) applies by
4 default to all persons "pending a decision on whether the [noncitizen] is to be
5 removed from the United States."

6
7 Now the Ninth Circuit has weighed in and confirmed that § 1226(a) governs
8 the detention of noncitizens who, like Petitioner, have resided in the U.S. for
9 several years. *Rodriguez Vazquez v. Bostock*, No. 25-6842, Slip Op. at 25 (July 30,
10 2026). See also, *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO(HC), 2025 WL
11 2716910 (E.D. Cal. Sept. 23, 2025), *J.A.C.P. v. Wofford*, No. 1:25-CV-01354-
12 KES-SKO (HC), 2025 WL 3013328 (E.D. Cal. Oct. 27, 2025).

13 Because Petitioner was arrested under the Respondents' flawed interpretation
14 of the statute and without consideration of his individual circumstances, his arrest
15 was unlawful, and he must be released.

16 *2. Petitioner is Likely to Succeed on the Merits Due to Respondents' Violation*
17 *of the Constitutional Right to Due Process.*

18 The Due Process Clause applies to all persons in the United States, including
19 noncitizens. "Freedom from imprisonment – from government custody, detention,
20 or other forms of physical restraint – lies at the heart of the liberty that Clause
21 protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is a
22 form of civil confinement that "constitutes a significant deprivation of liberty that
23 requires due process protection." *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

24 The *Mathews v. Eldridge*, 424 U.S. 319 (1976) three-part balancing test
25 considers: (1) "the private interest that will be affected by the official action"; (2)
26 "the risk of an erroneous deprivation of such interest through the procedures used,
27
28

1 and the probative value, if any, of additional or substitute procedural safeguards”;
2 and (3) the [g]overnment’s interest, including the function involved and the fiscal
3 or administrative burdens that the additional or substitute procedural requirement
4 would entail.”

5
6 *Liberty Interest*

7 First, Petitioner has a substantial private interest in his own liberty that is
8 unquestionably undermined by Respondents’ decision to detain him. The amount
9 of time he has spent in the United States—four years—underscores the gravity of
10 its loss. *See Xinhai H., v. Robbins*, No. 1:26-CV-02622-TLN-CSK, 2026 WL
11 983176, at *3 (E.D. Cal. Apr.13, 2026) (holding so about a petitioner who has been
12 at liberty in the United States since 2024) Second, the risk that Petitioner has been
13 erroneously deprived of this liberty interest is considerable. Because civil
14 immigration detention is “nonpunitive in purpose and effect,” a “special
15 justification” must outweigh Petitioner’s protected liberty interest for his detention
16 to comport with due process. *Zadvydas*, 533 U.S. at 690.

17
18 *Risk of Erroneous Deprivation*

19 Respondents have provided no process at all for Petitioner to challenge his
20 detention. Instead, Respondents arrested Petitioner without following even the
21 minimal process provided under the statute and regulations, and refused him any
22 forum to challenge his detention. The risk of erroneous deprivation is extremely
23 high under these circumstances and that is what has occurred here. Petitioner, who
24 is not a flight risk nor a danger to the community, has been erroneously detained.

25 *Government Interest*

26 The government’s interest is in ensuring that someone who is a danger to the
27 community or a flight risk is not at liberty. That has not even been evaluated here.
28

1 The government has a long-standing alternate procedure for meeting its interests,
2 which it failed to follow in its haste to simply lock up and deport as many people
3 as possible.
4

5 *3. Petitioner Is Likely to Succeed on the Merits Because the Respondents*
6 *Unlawfully Arrested Petitioner without a Warrant.*

7 Even though he has been provided no documentation stating the authority for
8 his arrest and detention, Petitioner assumes, *arguendo*, that he is being detained
9 under § 1226(a). If that is the case, Petitioner has not received the process that §
10 1226(a) requires.
11

12 Section 1226(a) “authorizes detention only ‘[o]n a warrant issued’ by the
13 Attorney General leading to the alien’s arrest.” *Jennings v. Rodriguez*, 583 U.S.
14 281, 302 (2018). “[T]he warrant must be issued *before* the alien is arrested and
15 taken into custody.” *Altamirano Ramos v. Lyons*, 809 F. Supp. 3d 1015, 1023
16 (C.D. Cal.2025). In short, “a warrant is a necessary condition to justify
17 discretionary detention undersection 1226(a),” and unless an exception applies,¹ “a
18 noncitizen may not be arrested and detained under section 1226(a)” without one.
19 *Sergio P. v. Bondi*, 2026 WL 497290, at *2(D. Minn. Feb. 23, 2026) (cleaned up);
20 *see Urias v. Semaia*, 2026 WL 1710375, at *5 (C.D. Cal. June 10, 2026); *Djiwaje*
21

22
23
24 ¹ There is a limited exception pursuant to 8 U.S.C. § 1357(a)(2) allowing arrest “only where
25 the alien ‘is likely to escape before a warrant can be obtained.’” *Arizona v. United States*, 567
26 U.S. 387, 408 (2012). To invoke this exception, the immigration officer must have “probable
27 cause” to believe that the noncitizen is likely to escape. *Urias v. Semaia et al.*, 2026 WL
28 1710375, at *5 (C.D. Cal. June 10, 2026). No such argument would be remotely plausible
here given that Petitioner was in state custody when he was detained.

1 *v. Bondi*, 2026 WL 926753, at *4 (D. Nev. Apr. 6, 2026). Respondents have
2 produced no such pre-arrest warrant.

3 Just as an arrest under § 1226(a) must be preceded by a warrant, a warrant
4 must be preceded by the issuance of a Notice to Appear (“NTA”). *See Arizona*,
5 567 U.S. at 407 (explaining the “federal statutory structure” under which once an
6 NTA is issued, the Attorney General may then issue a warrant where appropriate,
7 followed by lawful arrest under the warrant). Respondents’ own regulations—
8 which they are required to follow, *see Bui v. INS*, 76 F.3d 268, 270 (9th Cir. 1996);
9 *Andriasian v. INS*, 180 F.3d 1033, 1046 n.22 (9th Cir. 1999)—commit them to the
10 same sequence.
11

12 Respondents issue warrants of arrest pursuant to 8 C.F.R. § 236.1. That
13 regulation provides that “[a]t the time of issuance of the notice to appear, or at any
14 time thereafter...the respondent may be arrested and taken into custody under the
15 authority of Form I-200, Warrant of Arrest.” 8 C.F.R. § 236.1(b) (emphasis added).
16

17 Respondents presented no arrest warrant to Petitioner, and at the time of this
18 filing he has received no documentation regarding the charges against him.
19 Petitioner’s warrantless arrest was not in accordance with the law.

20 **B. Petitioner Will Suffer Irreparable Harm Without a TRO.**

21 The unlawful deprivation of liberty “is a severe form of irreparable injury.”
22 *Ferrara v. United States*, 370 F. Supp 2d 351, 360 (D. Mass 2005). The
23 misapplication of section 1225(b) causes “immediate and irreparable injury.”
24 *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01874-SSS-BFM (C.D. Cal. July
25 28, 2025). Petitioner is separated from his partner and child, who rely on him as
26 the breadwinner of their household. He is also unable to work. He has already been
27 detained for over 6 weeks.
28

1 In addition, violations of due process rights *per se* constitute irreparable
2 harm. *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (“It is well
3 established that the deprivation of constitutional rights unquestionably constitutes
4 irreparable injury.” (interior citations omitted)).

5
6 C. The Balance of Equities and Public Interest Tip Sharply in Petitioner’s
7 Favor.

8 When the government is the nonmoving party, “the last two Winter factors
9 merge.” *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023) (internal citations
10 omitted).

11 On Petitioner’s side, the harm of continued and indefinite detention is
12 drastic. On Respondents’ side, a TRO imposes minimal burden. Returning
13 Petitioner to the original status quo does not pose a hardship to the Respondents.

14 The public interest also weighs in Petitioner’s favor, as the public “has a
15 strong interest in upholding procedural protections...and the Ninth Circuit has
16 recognized that the costs to the public of immigration detention are staggering.”
17 *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 14,
18 2025) (citing *Jorge M.F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561,
19 at *3) (N.D. Cal. Mar. 1, 2021).

20
21 D. Petitioner Should be Returned to the Status Quo Ante Litem.
22 Returned to the Status Quo Ante Litem.

23 The Petitioner by way of this motion seeks to restore the status quo *ante*
24 *litem*, or “the last uncontested status which preceded the pending controversy[.]”
25 *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000). See also,
26 *Doe v. Noem*, 781 F.Supp.3d. 1055, 1064 (E.D. Cal 2025) (Finding the last
27 uncontested status was before ICE terminated plaintiff’s SEVIS record.); *Pablo*
28

1 *Sequen v. Kaiser*, 793 F.Supp.3d 1114 (N.D. Cal 2025) (Ordering immediate
2 release to return petitioner to status quo). The last uncontested status was before
3 Respondents re-detained Petitioner. Therefore, he should be returned to the last
4 uncontested status, without any electronic monitoring device or onerous reporting
5 requirements. In his last contested status, he was also in possession of his
6 identifications and possessions. He no longer has those items in his possession, as
7 they were confiscated by ICE. See e.g. *C.C. v. Noem et al*, No. 26-cv-00373-TLN-
8 EFB, Slip Op. (E.D. Cal Jan. 21, 2026); *A.A.H. v. Chestnut*, No. 1:25-CV-01758-
9 DJC-EFB, 2025 WL 3764033, at *1 (E.D. Cal. Dec. 30, 2025)(Ordering the return
10 to Petitioner all property confiscated from him during his arrest and processing into
11 detention.)
12

13 E. Emergency Treatment is Appropriate
14

15 “Detained individuals are harmed each additional day they are deprived of
16 their liberty.” *Ramirez Perez v. Chestnut*, No. 1:26-cv-00277-DJC-CKD (Jan. 26,
17 2026). Petitioner suffers additional irreparable harm every day that he is illegally
18 detained, and an emergency temporary restraining order is the proper remedy.
19

20 F. Immediate Release is the Proper Remedy.

21 Courts have the power and discretion under federal habeas to fashion a wide
22 range of appropriate relief. *Garcia v. Hyde*, 2025 WL 3466312, (D.R.I, December
23 3, 2025)[quoting *Peyton v. Rowe*, 391 U.S. 54, 66-67(1968)] . “Habeas is at its
24 core a remedy for unlawful executive detention.” *Munaf v. Geren*, 553 U.S. 674,
25 693 (2008). The remedy for unlawful detention “is, of course, release.” *Id.*; see
26 *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (based on statutory language of 28
27 U.S.C. § 2241(c)(3) and the common-law history of the writ, “the essence of
28

1 habeas corpus is an attack by a person in custody upon the legality of that custody,
2 and that the traditional function of the writ is to secure release from illegal
3 custody”). The Ninth Circuit has likewise explained that “the purpose of habeas
4 remedies is to ‘put the [petitioner] back in the position he would have been in if the
5 [constitutional] violation never occurred.’” *Lujan v. Garcia*, 734 F.3d 917, 935
6 (9th Cir. 2013) (citation omitted).

7
8 In addition, courts have found that immediate release is the proper remedy for a
9 warrantless arrest. *J.A.C.P. v. Wofford*, 2025 WL 3013328, at *8 (E.D. Cal. Oct.
10 27, 2025) (“Petitioner’s detention is improper because there is no evidence in the
11 record that he was arrested pursuant to a warrant. Since the Government did not
12 comply with the plain language of section 1226(a), petitioner’s immediate release
13 is justified.” (cleaned up); *Mayen v. Warden, California City Detention Ctr.*, 2026
14 WL 1158217, at *2 (E.D. Cal. Apr. 29, 2026) (ordering petitioner’s immediate
15 release as a remedy for failure to issue a warrant prior to detaining petitioner,
16 rejecting respondents’ argument that a bond hearing was the proper remedy).

17 Likewise, courts have also found that immediate release is appropriate where a
18 petitioner was improperly detained, as here, pursuant to the Respondents
19 misapplication of § 1225(b), particularly where the government made no showing
20 of flight risk or danger to the community. *See, e.g., Bernal v. Albarran*, 2025 WL
21 3281422 (N.D. Cal. Nov. 13, 2025). Respondents have made no showing that
22 Petitioner is either a flight risk or danger to the community.

23
24 Petitioner requests that he be released immediately.

25 ///

26 ///

27 ///

1 G. No Security Bond or a Nominal Bond Is Appropriate.

2
3 Under Federal Rule of Civil Procedure 65(c), courts have wide discretion in
4 setting the security amount. Where, as here, the litigation enforces important
5 constitutional rights, courts often waive or impose only nominal bond.
6 Respondents face no financial harm here, and \$0 bond is appropriate.

7
8 **V. CONCLUSION**

9 For all the foregoing reasons, Petitioner respectfully requests that the Court
10 grant this Motion for a Temporary Restraining Order pending a hearing on the
11 OSC re: Preliminary Injunction, and on the same grounds for which Petitioner is
12 applying for Preliminary Injunction:

- 13 1. Enjoin Respondents from moving Petitioner from this Court's jurisdiction;
- 14 2. Enjoin Respondents from continued incarceration of Petitioner;
- 15 3. Order Respondents to immediately release Petitioner;
- 16 4. Enjoin Respondents from keeping Petitioner's documents and possessions,
17 including passport, driver's license, mobile phone, and any other items
18 belonging to Petitioner, in order to return him to status quo prior to
19 Respondents' illegal re-detention;
- 20 5. Enjoin Respondents from putting additional onerous impositions on his
21 liberty such as electronic monitoring or excessive check-ins without proper
22 pre-deprivation hearing and a showing of flight risk or danger to the
23 community;
- 24 6. Enjoin the Respondents from re-detaining Petitioner without providing at
25 least seven (7) days' notice and a pre-deprivation bond hearing before a
26 neutral arbiter for which petitioner's eligibility for bond must be considered,
27
28

1 with the burden on the government to prove by clear and convincing
2 evidence that Petitioner is flight risk and danger to the community.
3

4
5 Dated: August 6, 2026

Respectfully submitted,

6 /s/ Joye Wiley
7

8 Attorney for Petitioner
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28