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7 *Attorney for Petitioner-Plaintiff*

8 UNITED STATES DISTRICT COURT

9 FOR THE DISTRICT OF ARIZONA

10 Hector Lopez-Melo,

11 Petitioner-Plaintiff,

12 v.

13 Pam Bondi, in her Official Capacity,
14 Attorney General of the United States; et
15 al.

16 Respondents-Defendants.
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Case No.

A-

**MOTION FOR
TEMPORARY
RESTRAINING ORDER**

**POINTS AND
AUTHORITIES IN
SUPPORT OF EX PARTE
MOTION FOR
TEMPORARY
RESTRAINING ORDER
AND MOTION FOR
PRELIMINARY
INJUNCTION**

Challenge to Unlawful Incarceration;
Request for Declaratory and
Injunctive Relief

NOTICE OF MOTION

Petitioner Client Name applies to this honorable Court for a temporary restraining order enjoining Respondents Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), and Pam Bondi, in her official capacity as the U.S. Attorney General, (1) from continuing to detain Petitioner based on an unlawful action by ICE, (2) ordering his immediate release from immigration detention; and (3) from removing Petitioner from the United States.

If the Court deems oral argument necessary, Petitioner requests to appear by video.

Dated: September 16, 2025 Respectfully submitted,

/s/ Siovhan Ayala

Siovhan Ayala

Attorney for Petitioner-Plaintiff Client
Name

1 **I. INTRODUCTION**

2 Respondents unlawfully detain Petitioner, Hector Lopez Melo, under a
3 mistaken assertion that INA § 235(b)(2) requires mandatory detention of
4 individuals who entered without inspection. Mr. Lopez Melo entered the United
5 States on January 1, 2013, and has lived in Arizona for more than twelve years. He
6 is not an “arriving alien” at the border but a long-term resident, properly detained
7 under INA § 236(a), which authorizes bond hearings.

8 The Board of Immigration Appeals’ recent decision in *Matter of Yajure*
9 *Hurtado*, 29 I&N Dec. 216 (BIA 2025), does not compel a different result. Federal
10 habeas courts are not bound by BIA precedent, and numerous courts, including in
11 this Circuit have rejected DHS’s attempt to expand § 235(b)(2) to the interior.
12 Because DHS has improperly invoked § 235(b)(2), Petitioner has been deprived of
13 the opportunity for an individualized bond hearing and remains in unlawful
14 detention in violation of the INA, the APA, and the Constitution.

15 Mr. Lopez Melo meets the TRO standard. He is likely to succeed on the
16 merits, he faces immediate and irreparable harm from unlawful detention, and the
17 equities and public interest weigh heavily in his favor.
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20 **II. STATEMENT OF FACTS AND CASE**

21 Petitioner Mr. Lopez Melo is a native and citizen of Mexico. He entered the
22 United States without inspection on or about January 1, 2013, and has resided in
23 Arizona for more than twelve years. During this time, he established strong family
24 and community ties.
25

26 Mr. Lopez-Melo applied for release on bond before the Immigration Court.
27 His request was denied on the ground that DHS has classified him as subject to
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1 mandatory detention under INA § 235(b)(2), making him categorically ineligible for
2 a bond hearing.

3 Historically, individuals in Mr. Lopez Melo’s position—those who entered
4 without inspection but were apprehended years later inside the United States—were
5 detained under § 236(a) and provided bond hearings before an Immigration Judge.
6 For decades, immigration judges adjudicated such custody matters under § 236(a).
7 Indeed, the BIA in *Yajure* acknowledged this longstanding practice, noting that
8 immigration courts have historically granted bond hearings to noncitizens
9 apprehended in the interior who had entered without inspection. *Id.* at 225.
10

11 Mr. Lopez Melo has been detained without the opportunity for a bond hearing.
12 He has requested relief through counsel, but DHS continues to maintain that his
13 custody is mandatory. Without judicial intervention, he faces indefinite detention
14 without due process, despite his long-standing residence in the United States and his
15 eligibility for release on bond under § 236(a).
16

17 **III. LEGAL STANDARD**

18 Mr. Lopez-Melo is entitled to a temporary restraining order if he establishes
19 that he is “likely to succeed on the merits, . . . likely to suffer irreparable harm in
20 the absence of preliminary relief, that the balance of equities tips in [his] favor, and
21 that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*,
22 555 U.S. 7, 20 (2008); *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d
23 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and temporary
24 restraining order standards are “substantially identical”). Even if Mr. Lopez-Melo
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1 does not show a likelihood of success on the merits, the Court may still grant a
2 temporary restraining order if he raises “serious questions” as to the merits of his
3 claims, the balance of hardships tips “sharply” in his favor, and the remaining
4 equitable factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d
5 1127 (9th Cir. 2011). As set forth in more detail below, Mr. Lopez-Melo
6
7 overwhelmingly satisfies the standards for a temporary restraining order.
8

9 **IV. ARGUMENT**

10 **A. MR. LOPEZ MELO WARRANTS A TEMPORARY** 11 **RESTRAINING ORDER**

12 A temporary restraining order should be issued if “immediate and irreparable
13 injury, loss, or irreversible damage will result” to the applicant in the absence of an
14 order. Fed. R. Civ. P. 65(b). The purpose of a temporary restraining order is to
15 prevent irreparable harm before a preliminary injunction hearing is held.
16 *See Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Local*
17 *No. 70 of Alameda City*, 415 U.S. 423, 439 (1974). Mr. Lopez-Melo is likely to
18 remain in unlawful custody in violation of his due process rights without
19 intervention by this Court. Mr. Lopez-Melo will continue to suffer irreparable
20 injury if he continues to be detained without due process.
21

22 **1. Mr. Lopez-Melo is Likely to Succeed on the Merits of His Claim** 23 **That He be Released from Detention**

24 Mr. Lopez-Melo is likely to succeed on his claim that, in his particular
25 circumstances, his current detention is unlawful because the Due Process Clause
26 and the statute.

27 The District of Arizona has recognized that when the government seeks to
28 revoke or stay a noncitizen’s release from custody, due process under the Fifth

1 Amendment requires a meaningful opportunity to be heard before the deprivation
2 occurs. *See Organista v. Sessions*, No. CV-18-00285-PHX-GMS (D. Ariz. Feb. 8,
3 2018). Applying the familiar three-factor test from *Mathews v. Eldridge*, 424 U.S.
4 319 (1976), the court weighed 1) the private liberty interest at stake; 2) the risk of
5 erroneous deprivation; and 3) the burden on the government – “the fundamental
6 requirement of due process – the opportunity to be heard at a meaningful time and
7 manner.” *Organista*, No. CV-18-00285-PHX-GMS, at 4.; *City of Los Angeles v.*
8 *David*, 538 U.S. 715, 717 (2003). In weighing the *Mathews* factors, the court
9 declared that “there is no meaningful dispute that Petitioner has a liberty interest in
10 being heard before the BIA can prolong his detention.” *Organista*, No. CV-18-
11 00285-PHX-GMS, at 4.

12 Likewise, federal district courts in California have repeatedly recognized that
13 the demands of due process and the limitations on DHS’s authority to revoke a
14 noncitizen’s bond or parole set out in DHS’s stated practice and *Matter of Sugay*
15 both require a pre-deprivation hearing for a noncitizen on bond, like Mr. Lopez-
16 Melo before ICE re-detains him. *See, e.g., Ortega v. Bonnar*, 415 F. Supp. 3d 963
17 (N.D. Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at
18 *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST,
19 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021);); *Romero v. Kaiser*, No. 22-cv-
20 02508-TSH, 2022 WL 1443250, at *3-4 (N.D. Cal. May 6, 2022) (Petitioner would
21 suffer irreparable harm if re-detained, and required notice and a hearing before any
22 re-detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 1382859, at
23 *3 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing re-arrest
24 at plaintiff’s ICE interview when he had been on bond for more than five years). *See*
25 *also Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, *4 (E.D.
26 Cal. Mar. 3, 2025) (holding the Constitution requires a hearing before any re-arrest).
27
28

1 Courts analyze procedural due process claims such as this one in two steps:
2 the first asks whether there exists a protected liberty interest under the Due Process
3 Clause, and the second examines the procedures necessary to ensure any
4 deprivation of that protected liberty interest accords with the Constitution. *See*
5 *Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460 (1989).

6 **a. Mr. Lopez-Melo Has a Protected Liberty Interest in His**
7 **Conditional Release**

8 Mr. Lopez-Melo's liberty from immigration custody is protected by the Due
9 Process Clause: "Freedom from imprisonment—from government custody,
10 detention, or other forms of physical restraint—lies at the heart of the liberty that
11 [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

12 Since January 1, 2013, Mr. Lopez-Melo has lived continuously in Arizona,
13 where he has worked, supported his family, and built enduring community ties. He
14 was apprehended more than a decade after his entry, far from the border. Despite
15 these circumstances, DHS has categorized him as an "applicant for admission"
16 under § 235(b)(2) and placed him in mandatory detention, denying him the
17 opportunity for an individualized bond hearing. Accordingly, he retains a weighty
18 liberty interest under the Fifth Amendment in avoiding continued incarceration. *See*
19 *Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778,
20 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972).

21 In *Morrissey*, the Supreme Court examined the "nature of the interest" that a
22 parolee has in "his continued liberty." 408 U.S. at 481-82. The Court noted that,
23 "subject to the conditions of his parole, [a parolee] can be gainfully employed and
24 is free to be with family and friends and to form the other enduring attachments of
25 normal life." *Id.* at 482. The Court further noted that "the parolee has relied on at
26 least an implicit promise that parole will be revoked only if he fails to live up to the
27 parole conditions." *Id.* The Court explained that "the liberty of a parolee, although
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1 indeterminate, includes many of the core values of unqualified liberty and its
2 termination inflicts a grievous loss on the parolee and often others.” *Id.* In turn,
3 “[b]y whatever name, the liberty is valuable and must be seen within the protection
4 of the [Fifth] Amendment.” *Morrissey*, 408 U.S. at 482.

5 This basic principle—that individuals have a liberty interest in their
6 conditional release—has been reinforced by both the Supreme Court and the circuit
7 courts on numerous occasions. *See, e.g., Young v. Harper*, 520 U.S. at 152 (holding
8 that individuals placed in a pre-parole program created to reduce prison
9 overcrowding have a protected liberty interest requiring pre-deprivation process);
10 *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released on felony
11 probation have a protected liberty interest requiring pre-deprivation process). As
12 the First Circuit has explained, when analyzing the issue of whether a specific
13 conditional release rises to the level of a protected liberty interest, “[c]ourts have
14 resolved the issue by comparing the specific conditional release in the case before
15 them with the liberty interest in parole as characterized by *Morrissey*.” *Gonzalez-*
16 *Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and
17 citation omitted). *See also, e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683
18 (D.C. Cir. 2017) (“a person who is in fact free of physical confinement—even if
19 that freedom is lawfully revocable—has a liberty interest that entitles him to
20 constitutional due process before he is re-incarcerated”) (citing *Young*, 520 U.S. at
21 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

23 In fact, it is well-established that an individual maintains a protectable liberty
24 interest even where the individual obtains liberty through a mistake of law or fact.
25 *See id.*; *Gonzalez-Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873
26 (9th Cir. 1982) (noting that due process considerations support the notion that an
27 inmate released on parole by mistake, because he was serving a sentence that did
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1 not carry a possibility of parole, could not be re-incarcerated because the mistaken
2 release was not his fault, and he had appropriately adjusted to society, so it “would
3 be inconsistent with fundamental principles of liberty and justice” to return him to
4 prison) (internal quotation marks and citation omitted).

5 Here, when this Court “‘compar[es] the release in [Mr. Lopez-Melo’s case],
6 with the liberty interest in parole as characterized by *Morrissey*,” they bear similar
7 features in liberty interests. *See Gonzalez-Fuentes*, 607 F.3d at 887. Just as in
8 *Morrissey*, Mr. Lopez-Melo’s release “enables him to do a wide range of things
9 open to persons,” including to live at home, work, care for his family, for whom
10 he is the financial provider, and “be with family and friends and to form the other
11 enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482.

12
13 **b. Mr. Lopez-Melo’s Liberty Interest Mandates His Release**
14 **from Unlawful Custody**

15 “Adequate, or due, process depends upon the nature of the interest affected.
16 The more important the interest and the greater the effect of its impairment, the
17 greater the procedural safeguards the [government] must provide to satisfy due
18 process.” *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc)
19 (citing *Morrissey*, 408 U.S. at 481-82). This Court must “balance [Mr. Lopez-Melo
20 ’s] liberty interest against the [government’s] interest in the efficient administration
21 of” its immigration laws to determine what process he is owed to ensure that ICE
22 does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test set
23 forth in *Mathews v. Eldridge*, this Court must consider three factors in conducting
24 its balancing test: “first, the private interest that will be affected by the official
25 action; second, the risk of an erroneous deprivation of such interest through the
26 procedures used, and the probative value, if any, of additional or substitute
27 procedural safeguards; and finally the government’s interest, including the function
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1 involved and the fiscal and administrative burdens that the additional or substitute
2 procedural requirements would entail.” *Haygood*, 769 F.2d at 1357 (citing *Mathews*
3 *v. Eldridge*, 424 U.S. 319, 335 (1976)).

4 The Supreme Court “usually has held that the Constitution requires some
5 kind of a hearing *before* the State deprives a person of liberty or property.”
6 *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a
7 “special case” where post-deprivation remedies are “the only remedies the State
8 could be expected to provide” can post-deprivation process satisfy the requirements
9 of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where “one of the
10 variables in the *Mathews* equation—the value of deprivation safeguards—is
11 negligible in preventing the kind of deprivation at issue” such that “the State cannot
12 be required constitutionally to do the impossible by providing deprivation process,”
13 can the government avoid providing pre-deprivation process. *Id.*

14 Because, in this case, the provision of a bond hearing is both possible and
15 essential to preventing an erroneous deprivation of liberty, ICE is required to
16 provide Mr. Lopez-Melo the opportunity for an individualized bond determination
17 before a neutral decisionmaker. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769
18 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985; *see also*
19 *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452
20 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment
21 proceedings may not constitutionally be held in jail pending the determination as to
22 whether they can ultimately be recommitted). Under *Mathews*, “the balance weighs
23 heavily in favor of [Mr. Lopez-Melo’s] liberty” and requires a deprivation hearing
24 before a neutral adjudicator.
25

26 **i. Mr. Lopez-Melo’s Private Interest in His Liberty is**
27 **Profound**
28

1 The private interest at stake, freedom from physical restraint, is “at the core
2 of the liberty protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S.
3 71, 80 (1992); see also *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom
4 from imprisonment—from government custody, detention, or other forms of
5 physical restraint—lies at the heart of the liberty that [the Due Process] Clause
6 protects.”).

7 Mr. Lopez-Melo entered the United States without inspection on January 1,
8 2013, and has lived continuously in Arizona for more than twelve years. During this
9 time, he has worked, supported his family, and formed enduring ties in his
10 community. He was apprehended in the interior more than a decade after his entry,
11 not at the threshold of the border.

12 As the Supreme Court recognized in *Morrissey v. Brewer*, 408 U.S. 471,
13 482–83 (1972), even conditional liberty carries profound constitutional
14 significance. A person who is free in the community “can be gainfully employed
15 and is free to be with family and friends and to form the other enduring attachments
16 of normal life.” *Id.* The Court further noted that terminating such liberty “inflicts a
17 grievous loss on the parolee and often others,” and emphasized that “[b]y whatever
18 name, the liberty is valuable and must be seen within the protection of the [Fifth]
19 Amendment.” *Id.*

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22 So too here. Mr. Lopez-Melo’s long-standing residence, family responsibilities, and
23 deep community ties reflect a profound liberty interest that cannot lawfully be
24 extinguished through misclassification as an “applicant for admission” under §
25 1225(b)(2). By detaining him without any opportunity for an individualized custody
26 determination, Respondents have arbitrarily deprived him of the very liberty the
27 Constitution protects..
28

The government's interest in maintaining mandatory detention and without allowing a bond hearing is low, and when weighed against Mr. Lopez-Melo's significant private interest in his liberty, the scale tips sharply in favor of enjoining Respondents from keeping him in unlawful custody. It becomes abundantly clear that the *Mathews* test favors Mr. Lopez-Melo when the Court considers that the process he seeks—a bond hearing to which he is entitled to—is a standard course of action for the government. Providing Mr. Lopez-Melo with a bond hearing before this Court (or a neutral decisionmaker) to determine whether there is clear and convincing evidence that Mr. Lopez-Melo is a flight risk or danger to the community would impose only a *de minimis* burden on the government, because the government routinely provides this sort of hearing to individuals like Mr. Lopez-Melo. Continuing to detain him under § 235(b)(2), despite his eligibility for a bond hearing under § 236(a), is unlawful.

11

1 is nonexistent in this case. *See Mathews*, 424 U.S. at 334-35. Mr. Lopez-Melo does
2 not seek a unique or expensive form of process, but rather release from unlawful
3 detention, where removal is not reasonably foreseeable.

4 As the Ninth Circuit noted in 2017, which remains true today, “[t]he costs to
5 the public of immigration detention are ‘staggering’: \$158 each day per detainee,
6 amounting to a total daily cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996.

7 Releasing Mr. Lopez-Melo from unlawful custody and enjoining Mr. Lopez-
8 Melo’s continued detention is far *less* costly and burdensome for the government
9 than keeping him detained. *Hernandez*, 872 F.3d at 996.

10 Due process also requires consideration of alternatives to detention at any
11 custody redetermination hearing that may occur. The primary purpose of
12 immigration detention is to ensure a noncitizen’s appearance during removal
13 proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this
14 purpose if there are alternatives to detention that could mitigate risk of flight. *See*
15 *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention
16 must be considered in determining whether Mr. Lopez-Melo’s continued
17 incarceration is warranted.
18

19 As the above-cited authorities show, Mr. Lopez-Melo is likely to succeed on
20 his claim that the current detention is unlawful. And, at the very minimum, he clearly
21 raises serious questions regarding this issue, thus also meriting a TRO. *See Alliance*
22 *for the Wild Rockies*, 632 F.3d at 1135.

23 **2. Mr. Lopez Melo Will Suffer Irreparable Harm Absent** 24 **Injunctive Relief**

25 Mr. Lopez-Melo will suffer irreparable harm were he to remain detained after
26 being deprived of his liberty and subjected to unlawful incarceration by
27 immigration authorities without being provided the constitutionally adequate
28 process that this motion for a temporary restraining order seeks. Detainees in ICE

1 custody are held in “prison-like conditions.” *Preap v. Johnson*, 831 F.3d 1193, 1195
2 (9th Cir. 2016). As the Supreme Court has explained, “[t]he time spent in jail
3 awaiting trial has a detrimental impact on the individual. It often means loss of a
4 job; it disrupts family life; and it enforces idleness.” *Barker v. Wingo*, 407 U.S. 514,
5 532-33 (1972); *accord Nat’l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d
6 1365, 1369 (9th Cir. 1984). Moreover, the Ninth Circuit has recognized in “concrete
7 terms the irreparable harms imposed on anyone subject to immigration detention”
8 including “subpar medical and psychiatric care in ICE detention facilities, the
9 economic burdens imposed on detainees and their families as a result of detention,
10 and the collateral harms to children of detainees whose parents are detained.”
11 *Hernandez*, 872 F.3d at 995. The government itself has documented alarmingly
12 poor conditions in ICE detention centers. *See, e.g.*, DHS, Office of Inspector
13 General (OIG), Summary of Unannounced Inspections of ICE Facilities Conducted
14 in Fiscal Years 2020-2023 (2024) (reporting violations of environmental health and
15 safety standards; staffing shortages affecting the level of care detainees received for
16 suicide watch, and detainees being held in administrative segregation in
17 unauthorized restraints, without being allowed time outside their cell, and with no
18 documentation that they were provided health care or three meals a day).¹
19

20 As detailed *supra*, Mr. Lopez-Melo contends that his continued detention
21 violates his due process rights under the Constitution. It is clear that “the deprivation
22 of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres*
23 *v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S.
24 347, 373 (1976)). Thus, a temporary restraining order is necessary to prevent Mr.
25 Lopez-Melo from suffering irreparable harm by being subject to unlawful and
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28 ¹ Available at <https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf>
(last accessed Feb. 6, 2024).

1 unjust detention.

2 **3. The Balance of Equities and the Public Interest Favor**
 3 **Granting the Temporary Restraining Order**

4 The balance of equities and the public interest undoubtedly favor granting
 5 this temporary restraining order.

6 First, the balance of hardships strongly favors Mr. Lopez-Melo. The
 7 government cannot suffer harm from an injunction that prevents it from engaging
 8 in an unlawful practice. *See Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983)
 9 (“[T]he INS cannot reasonably assert that it is harmed in any legally cognizable
 10 sense by being enjoined from constitutional violations.”). Therefore, the
 11 government cannot allege harm arising from a temporary restraining order or
 12 preliminary injunction ordering it to comply with the Constitution.

13 Further, any burden imposed by requiring the ICE to release Mr. Lopez-Melo
 14 from unlawful custody is both *de minimis* and clearly outweighed by the substantial
 15 harm he will suffer as if he is detained. *See Lopez v. Heckler*, 713 F.2d 1432, 1437
 16 (9th Cir. 1983) (“Society’s interest lies on the side of affording fair procedures to
 17 all persons, even though the expenditure of governmental funds is required.”).

18 A temporary restraining order is in the public interest. First and most
 19 importantly, “it would not be equitable or in the public’s interest to allow [a party]
 20 . . . to violate the requirements of federal law, especially when there are no adequate
 21 remedies available.” *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th
 22 Cir. 2014) (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir.
 23 2013)). If a temporary restraining order is not entered, the government would
 24 effectively be granted permission to detain Mr. Lopez-Melo in violation of the
 25 requirements of Due Process. “The public interest and the balance of the equities
 26 favor ‘prevent[ing] the violation of a party’s constitutional rights.’” *Ariz. Dream*
 27 *Act Coal.*, 757 F.3d at 1069 (quoting *Melendres*, 695 F.3d at 1002); *see also*
 28

1 *Hernandez*, 872 F.3d at 996 (“The public interest benefits from an injunction that
2 ensures that individuals are not deprived of their liberty and held in immigration
3 detention because of bonds established by a likely unconstitutional process.”); *cf.*
4 *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) (“Generally, public
5 interest concerns are implicated when a constitutional right has been violated,
6 because all citizens have a stake in upholding the Constitution.”).

7 Therefore, the public interest overwhelmingly favors entering a temporary
8 restraining order and preliminary injunction.

9 **V. CONCLUSION**

10 For all the above reasons, this Court should find that Mr. Lopez-Melo warrants
11 a temporary restraining order and a preliminary injunction ordering that Respondents
12 (1) release him from his unlawful custody; and (2) refrain from sending him to any
13 place outside of the United States.

14
15 Dated: September 16, 2025

Respectfully submitted,

16
17 /s/ Siovhan Ayala

18 Siovhan Ayala
19 Attorney for Petitioner-Plaintiff
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