

1 Stacy Tolchin (CA SBN #217431)  
2 *Email: Stacy@Tolchinimmigration.com*  
3 Law Offices of Stacy Tolchin  
4 776 E. Green St., Suite 210  
5 Pasadena, CA 91101  
6 Telephone: (213) 622-7450  
7 Facsimile: (213) 622-7233

8 Counsel for Petitioner

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10 **UNITED STATES DISTRICT COURT FOR THE**  
11 **CENTRAL DISTRICT OF CALIFORNIA**  
12

13 Marc STEIGLEDER,

14 Petitioner,

15 v.

16 Kristi NOEM, Secretary, Department of  
17 Homeland Security; Pam BONDI, Attorney  
18 General; IMMIGRATION AND CUSTOMS  
19 ENFORCEMENT; and Todd LYONS,  
20 Acting Los Angeles Field Office Director,  
21 Immigration and Customs Enforcement.

22 Respondents.  
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No. 2:25-cv-09048-FLA-AGR

PETITIONER'S REPLY TO *EX*  
*PARTE* APPLICATION FOR  
TEMPORARY RESTRAINING  
ORDER AND ORDER TO SHOW  
CAUSE RE: PRELIMINARY  
INJUNCTION

Immigration Case

1           Petitioner is being held unlawfully and is not scheduled to see an  
2 immigration judge until October 10, 2025, more than two weeks from now.  
3 Tolchin Dec. Exh. N.

4           First, contrary to Respondent's assertion, Petitioner's detention is not  
5 authorized by statute. Dkt # 6 at 5. In fact, Petitioner is charged with "seeking  
6 admission" to the United States in 2011. Tolchin Dec. Exh. A. However, he was  
7 admitted to the United States five times after his removal case was dismissed, and  
8 was admitted by DHS each time without incident. Tolchin Dec. Exhs. B, C. His  
9 last admission was on July 7, 2024. Tolchin Dec. Exh. C. While there is no stamp  
10 in his passport for that date, he does have an admission stamps for April 4, 2023  
11 and August 11, 2023 in his passport. Tolchin Dec. Exh. O. Notably, the declaration  
12 of Deron Young, submitted with Respondents' Opposition, is entirely silent on the  
13 issue of Petitioner's travel and admissions. Dkt # 6-1. But Petitioner clearly was  
14 admitted, meaning that the charge under 8 U.S.C. § 1182(a)(2)(A)(i) is baseless.  
15 Because he was admitted, he also cannot be subject to removal for the controlled  
16 substance ground at 8 U.S.C. § 1227(a)(2)(B)(i), as that offense applies only when  
17 [a]ny alien who at any time **after admission** has been convicted of a violation of  
18 (or a conspiracy or attempt to violate) any law or regulation of a State, the United  
19 States, or a foreign country relating to a controlled substance (as defined in section  
20 802 of Title 21), other than a single offense involving possession for one's own use  
21 of 30 grams or less of marijuana, is deportable." (emphasis added). Petitioner's  
22 misdemeanor cultivation conviction was on September 19, 2003. He was admitted  
23 in 2023 and 2024. He therefore was not convicted of a violation **after admission**.  
24 He is therefore not subject to removal and is not being held lawfully.

25           Further, the statute at 8 U.S.C. § 1226, which applies to pending bond  
26 proceedings, applies only to the authority of the "Attorney General" to release  
27 individuals. It says nothing of this Court's original jurisdiction to order release.  
28 *Mapp v. Reno*, 241 F.3d 221, 230 (2d Cir. 2001).



1 While Petitioner may seek a termination of removal proceedings before the  
2 immigration judge, he does not have a hearing with the immigration court for  
3 another two weeks, leaving him in immigration detention, away from his son, and  
4 in precarious health. Tolchin Dec. Exh. N.

5 Respondents argue that Petitioner's case was referred to ICE under normal  
6 procedure and that there was no violation of his due process rights in doing so.  
7 Petitioner does not argue that DHS cannot initiate a new proceeding at all, but  
8 given Petitioner has been a permanent resident for *39 years* and DHS previously  
9 indicated to the immigration court that his removal was not in the interests of the  
10 government, certainly principles of fairness and notice dictate that he be informed  
11 of the intent to detain and remove him given a complete turn around in the  
12 government's position. In *Nak Kim Chhoeun v. Marin*, 442 F. Supp. 3d 1233, 1247  
13 (C.D. Cal. 2020), held that such notice was required, and the class in that case was  
14 noncitizens present in the United States unlawfully who were subject to final  
15 orders of removal. Petitioner is a permanent resident who was told by the  
16 Department of Homeland Security that it did not intend to remove him from the  
17 United States. He is in long term lawful status and applied to be a United States  
18 citizen. Further, there was no reason for Petitioner to seek post-conviction relief  
19 prior to his arrest when the government indicated that it did not seek to remove  
20 Petitioner and he was eligible for naturalization, as the minor misdemeanor offense  
21 does not bar naturalization.

22 Respondents also point to the USCIS Policy Memorandum 602-0187, dated  
23 February 28, 2025, stating that removal proceedings will be instituted for those  
24 who could have naturalization applications approved but are still deportable. Dkt #  
25 6 at 2.<sup>1</sup> But this memorandum states that removal proceedings will be instituted

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27  
28 <sup>1</sup> [https://www.uscis.gov/sites/default/files/document/policy-alerts/NTA\\_Policy\\_FINAL\\_2.28.25\\_FINAL.pdf](https://www.uscis.gov/sites/default/files/document/policy-alerts/NTA_Policy_FINAL_2.28.25_FINAL.pdf).

1 “[u]nless USCIS exercises prosecutorial discretion in favor of the alien.” *Petitioner*  
2 *has already been the subject of prosecutorial discretion when DHS filed a motion*  
3 *to dismiss with the immigration judge.* There was no reason for him to believe that  
4 that had changed. That is why due process required that he be provided notice of  
5 any change in position.

6 Notably, Petitioner does not ask this Court to terminate removal  
7 proceedings, as that would be precluded by 8 U.S.C. § 1252(g), 8 U.S.C. §  
8 1252(a)(5), and 8 U.S.C. § 1252(a)(5). He asks only that the Court release him  
9 from unlawful detention.

10 Finally, the interests in this case clearly favor Petitioner and not  
11 Respondents. Petitioner is detained and separated from his family. He is not even  
12 subject to removal. The government does not have an interest in continuing his  
13 punitive detention.

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16 Dated: September 25, 2025

Respectfully Submitted,

S/Stacy Tolchin

18 Stacy Tolchin (CA SBN #217431)  
19 Law Offices of Stacy Tolchin  
20 776 E. Green St., Ste. 210  
21 Pasadena, CA 91101  
22 Telephone: (213) 622-7450  
23 Facsimile: (213) 622-7233  
24 Email: Stacy@Tolchinimmigration.com  
25 Counsel for Petitioner  
26  
27  
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**WORD COUNT CERTIFICATION**

The undersigned, counsel of record for Plaintiff certifies that this Memo contains  
814 words, which complies with the word limit of L.R. 11-6.1.

s/ Stacy Tolchin  
Stacy Tolchin  
Counsel for Petitioner