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Attorneys for *Petitioner* Wilson Omar Paz Aguilera

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Wilson Omar Paz Aguilera,

Petitioner,

v.

Sergio ALBARRAN, Acting Field Office
Director of San Francisco Office of
Detention and Removal, U.S. Immigrations
and Customs Enforcements; U.S. Department
of Homeland Security;

Todd M. Lyons, Actin Director, Immigration
and Customs Enforcement, U.S. Department
of Homeland Security;

Kristi NOEM, in her Official Capacity,
Secretary, U.S. Department of Homeland
Security; and

Pam BONDI, in her Official Capacity,
Attorney General of the United States;

Respondents - Defendants,

No.

PETITIONER'S NOTICE OF MOTION
AND EMERGENCY EX PARTE MOTION
FOR TEMPORARY RESTRAINING
ORDER

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF EX
PARTE MOTION FOR TEMPORARY
RESTRAINING ORDER

Challenge to Unlawful Incarceration;
Request for Declaratory and Injunctive
Relief

NOTICE OF MOTION AND EX PARTE MOTION

PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court for the Northern District of California, that Petitioner Wilson Paz Aguilera will and hereby does move for a temporary restraining order pursuant to Federal Rules of Civil Procedure 65(b) and Civil Local Rule 65-1. Because Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the United States, Petitioner respectfully requests that this Court (1) orders Petitioner's immediate release from Respondent's custody pending these proceedings, without requiring bond or electronic monitoring, or, in the alternative, (2) orders Petitioner's immediate release from Respondents' custody and, within 14 days, order a pre-deprivation bond hearing before the San Francisco Immigration Court, where Respondents will have the burden of proof to show, by clear and convincing evidence, that Petitioner is a danger or a flight risk. To preserve this Court's jurisdiction, Petitioner further seeks an order (3) enjoining Respondents from deporting Petitioner during the pendency of this proceeding. Enjoins Respondents (1) from continuing to detain Petitioner based on an unlawful action by ICE, (2) orders his immediate release from Respondents' custody; and (3) from re-arresting Wilson Paz Aguilera until he is afforded a hearing before a neutral decisionmaker, as required by the Due Process clause of the Fifth Amendment, to determine whether circumstances have materially changed such that his re-incarceration would be justified because there is clear and convincing evidence establishing that he is a danger to the community or a flight risk.

Consistent with Civil L.R. 65-1, Petitioner seeks relief at the earliest possible opportunity. Petitioner filed this motion the same day he filed his Petition for Writ of Habeas Corpus. His Writ of Habeas Corpus stated that he would be filing this motion forthwith.

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

Dated: November 21, 2025 Respectfully submitted,

/s/ Emilio Parker
Emilio Parker
Attorney for Petitioner-Plaintiff
Wilson Paz Aguilera

1 **I. INTRODUCTION**

2 Respondents unlawfully detained Petitioner-Plaintiff Wilson Paz Aguilera on November
3 18, 2025. Wilson Paz Aguilera was detained during a routine check-in at the ICE Enforcement
4 and Removal Center at 630 Sansome Street in San Francisco, California. Wilson Paz Aguilera
5 entered the United States without inspection on April 27, 2019. Mr. Paz Aguilera was detained
6 upon entering the United States. On April 30, 2019, Mr. Paz Aguilera was released from custody
7 along with his daughter after a determination was made that Mr. Paz Aguilera was not a flight
risk nor a danger to society.

8 The Department of Homeland Security ("DHS") filed a Notice to Appear with the
9 immigration court on July 7, 2024. On August 2, 2024, the undersigned counsel filed a Notice
10 of Entry of appearance as attorney of record with the immigration court. On August 30, 2024,
11 Petitioner filed for a U-Nonimmigrant visa with USCIS. On January 13, 2025, Petitioner moved
12 to administratively close removal proceedings based on the pending U Nonimmigrant visa. On
13 January 24, 2025, the Immigration Judge administratively closed removal proceedings (removed
14 case from calendar) for the adjudication of the U-Nonimmigrant Visa. On July 30, 2025, the
15 DHS moved to re-calendar petitioner's matter however on July 30, 2025, the immigration judge
16 denied the motion to re-calendar and the case remains administratively closed. Since arriving
17 to the United States, Mr. Paz Aguilera has attended every immigration appointment that he was
required to attend. Mr. Paz Aguilera has no criminal history.

18 Mr. Paz Aguilera is not an applicant for admission to the United States, Mr. Paz Aguilera
19 has lived in the United States for over 6 years. He has a wife and three daughters, one of whom
20 is a United States citizen. Mr. Paz Aguilera's wife and two other daughters are all applying for
21 a U Nonimmigrant Visa and have immigration cases which are also administratively closed.
They currently reside in East Palo Alto, California.

22 At the time of detention, Wilson Paz Aguilera was working full time in construction to
23 provide for his wife and three daughters here in the United States. Mr. Paz Aguilera suffers from
24 diabetes and high blood sugar which require daily medications which have not been available to
25 him while in custody. In September, Mr. Paz Aguilera was hospitalized for two days because of
26 these ongoing health issues.

27 Mr. Paz Aguilera's summary arrest and indefinite detention flout the Constitution. The
28 only legitimate interests that civil immigration detention serves are mitigating the risk of flight

1 and preventing danger to the community. When those interests are absent, the Fifth Amendment's
2 Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and
3 detaining Wilson Paz Aguilera without making any affirmative showing of immigration
4 violations, flight risk or danger to the community, the government violated Petitioner's
5 procedural due process rights. At the very least, he was constitutionally entitled to a hearing
6 before a neutral decisionmaker at which the government should have justified his detention.

7 Wilson Paz Aguilera must be accorded his 5th amendment due process rights as affirmed
8 in the US Supreme Court case *Department of Homeland Security v. Thuraissigium*, 140 S.Ct.
9 1959 (2020), Specifically, in *Thuraissigium*, the Supreme Court Stated: "aliens who have
10 established connections in this country have due process rights in deportation proceedings,"

11 As a result of his arrest and detention, Wilson Paz Aguilera is suffering irreparable and
12 ongoing harm. The unconstitutional deprivation of "physical liberty" unquestionably constitutes
13 irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed,
14 "[f]reedom from imprisonment—from government custody, detention, or other forms of physical
15 restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v.*
16 *Davis*, 533 U.S. 678, 690 (2001). Wilson Paz Aguilera's arrest and detention have caused and will
17 cause immediate, tremendous, and ongoing harm, which include health problems that may result
18 in hospitalization or death due to his ongoing health issues, hygiene, sleep and nutrition
19 deprivation, family separation, emotional and economic harm to USC child, loss of employment,
20 and psychological harm.

21 In light of this irreparable harm, and because he is likely to succeed on the merits of his
22 due process claims, Wilson Paz Aguilera respectfully requests that this Court issue an Ex Parte
23 temporary restraining order ("TRO") immediately releasing him from custody and enjoining the
24 government from re-arresting him absent the opportunity to contest that arrest at a hearing before
25 a neutral decision maker. Confronted with substantially identical facts and legal issues, this and
26 other courts in this circuit have recently granted the exact relief Petitioner seeks.

27 See *J.O.L.R. v Wofford*, 2025 WL 2718631 * 11 (E.D. Cal Sept. 23, 2025); *R.D.T.M. v Wofford*,
28 2025 WL 2617255 * 11 (E.D. Cal Sept. 9, 2025), *Garro Pinchi v. Noem*, 2025 WL 1853763, *4
(N.D. Cal. July 4, 2025), converted to preliminary injunction at __ F. Supp. 3d __, 2025 WL
2084921 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal. July
11, 2025) (granting preliminary injunction).

1 To maintain this Court's jurisdiction, the Court should also prohibit the government from
2 transferring Wilson Paz Aguilera out of this District and removing him from the country until
3 these proceedings have concluded.

4 **II. STATEMENT OF FACTS AND CASE**

5 Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign
6 targeting people who are not in status, many of whom have pending applications for asylum or
7 other relief. This "coordinated operation" is "aimed at dramatically accelerating deportations" by
8 arresting people at the courthouse, USCIS interviews, or at the ICE office and placing them into
9 expedited removal. The Trump administration implemented a policy to drastically increase
10 immigration arrests to a target of at least 3,000 per day. According to White House officials, such
11 as Stephen Miller, this directive prioritized arrest numbers over individuals' criminal history,
12 encouraging agents to conduct mass round-ups in public spaces rather than targeted
13 investigations.

14 As a result, arrests of non-citizens with no criminal record surged by over 800%, and two-
15 thirds of those deported had no criminal history. This focus on quantity over public safety led to
16 a new and aggressive tactic: systematically arresting immigrants at courthouses and ICE
17 appointments, regardless of the status of their legal cases. This has created a climate of fear,
18 discouraging people from attending their mandatory hearings or ICE appointments.

19 In addition, individuals are now held for extended periods, sometimes days, in temporary
20 holding cells that are not designed for overnight or prolonged detention, often under inhumane
21 conditions. Government officials have justified these harsh conditions not as a matter of
22 necessity, but as an intentional deterrent, which is not a constitutionally permissible reason for
23 detention.

24 Wilson Paz Aguilera and his immediate family have lived in the United States for over 6
25 years. He is married and has three daughters one of whom is a United States citizen. At the time
26 of detention, Mr. Paz Aguilera was working full time in construction to provide for his wife and
27 three children. Mr. Paz Aguilera's wife does not work as she stays at home full-time to provide
28 for their three-year-old daughter. Mr. Paz Aguilera has no criminal history anywhere in the
world. He has established strong connections to the United States.

Wilson Paz Aguilera's arrest and detention have caused and will cause immediate,
tremendous, and ongoing harm, which includes serious health problems which could lead to

hospitalization and/or death, hygiene, sleep, and nutrition deprivation, family separation, emotional and economic harm to his family and USC child, loss of employment, and psychological harm. Wilson Paz Aguilera is not a flight risk, as evidenced by his deep ties to the community, including his relatives in the US and his children. He is not a danger to the community. He is a law-abiding, tax paying, and gainfully employed person. His detention serves no legitimate purpose.

This case has substantial factual and legal support to be granted, resulting in Wilson Paz Aguilera's release from custody, and enjoining DHS from detaining Wilson Paz Aguilera pending a hearing before a neutral adjudicator, to substantiate a material change in circumstances indicating that Wilson Paz Aguilera is either a flight risk or a danger to the community.

Intervention from this Court is therefore required to ensure that Mr. Paz Aguilera is released from his current custody based on his unlawful arrest, returned to his home in East Palo Alto, California, where ICE can then provide him with a hearing before determining to re-arrest him pursuant to the Due Process Clause of the Fifth Amendment.

III. LEGAL STANDARD

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

Furthermore, the requirements for issuing a temporary restraining order without notice are met here. See Fed. R. Civ. P. 65(b). Wilson Paz Aguilera notified respondents on November 20, 2025, that he would be filing the motion by email for habeas petition filings. Wilson Paz Aguilera also set out specific facts demonstrating that immediate and irreparable injury, loss, or damage may result before respondents can be heard in opposition. See *Pinchi v. Noem*, No. 25-

1 cv-05632-RML, 2025 L 1853763, at *4 (N.D. Cal. July 4, 2025); *J.O.L.R. v Wofford*, 2025 WL
2 2718631 * 11 (E.D. Cal Sept. 23, 2025); *R.D.T.M. v Wofford*, 2025 WL 2617255 * 11 (E.D. Cal
3 Sept. 9, 2025)(granting ex parte temporary restraining order in similar circumstances).

4 **IV. ARGUMENT**

5 **A. Wilson Paz Aguilera WARRANTS A TEMPORARY RESTRAINING ORDER**

6 A temporary restraining order should be issued if “immediate and irreparable injury, loss,
7 or irreversible damage will result” to the applicant in the absence of an order. Fed. R. Civ. P.
8 65(b). The purpose of a temporary restraining order is to prevent irreparable harm before a
9 preliminary injunction hearing is held. See *Granny Goose Foods, Inc. v. Bhd. Of Teamsters &*
10 *Auto Truck Drivers Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974). Wilson Paz
11 Aguilera is likely to remain in unlawful custody in violation of his due process rights without
12 intervention by this Court. Wilson Paz Aguilera will continue to suffer irreparable injury if he
13 continues to be detained without due process.

14 **1. Wilson Paz Aguilera is likely to succeed on the merits because Wilson Paz** 15 **Aguilera’s detention violates substantive due process.**

16 The Due Process Clause applies to “all ‘persons’ within the United States, including
17 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.”
18 *Zadvydas*, 533 U.S. at 693. “The touchstone of due process is protection of the individual against
19 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the
20 exercise of power without any reasonable justification in the service of a legitimate government
21 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). “Freedom from
22 imprisonment—from government custody, detention, or other forms of physical restraint—lies
23 at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690.

24 To comply with substantive due process, the government’s deprivation of an individual’s
25 liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is
26 “civil, not criminal,” and “nonpunitive in purpose and effect,” must be justified by either (1)
27 dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; see *Hernandez*, 872 F.3d at 994
28 (“[T]he government has no legitimate interest in detaining individuals who have been determined
not to be a danger to the community and whose appearance at future immigration proceedings
can be reasonably ensured by a lesser bond or alternative conditions.”). When these rationales
are absent, immigration detention serves no legitimate government purpose and becomes

impermissibly punitive, violating a person’s substantive due process rights. See *Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the government’s interests in preventing flight and danger); see also *Mahdawi v. Trump*, No. 2:25-CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding petitioner may “succeed on his Fifth Amendment claim if he demonstrates either that the government acted with a punitive purpose or that it lacks any legitimate reason to detain him”).

The Supreme Court has recognized that noncitizens may bring as-applied challenges to detention, including so-called “mandatory” detention. *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring) (“Were there to be an unreasonable delay by the INS in pursuing and completing deportation proceedings, it could become necessary then to inquire whether the detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons.”); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019) (“Our decision today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—that is, constitutional challenges to applications of the statute as we have now read it.”).

Wilson Paz Aguilera is neither a danger nor a flight risk. Therefore, his detention is both punitive and not justified by a legitimate purpose, violating his substantive due process rights. Wilson Paz Aguilera’s ongoing detention is unconstitutional, and substantive due process principles require his immediate release.

2. Wilson Paz Aguilera is Likely to Succeed on the Merits of His Claim That in This Case the Constitution Requires a Hearing Before a Neutral Adjudicator Prior to Any Re-Incarceration by ICE.

Wilson Paz Aguilera is likely to succeed on his claim that, in his particular circumstances, his current detention is unlawful because the Due Process Clause of the Constitution prevents Respondents from detaining him without first providing a pre-deprivation hearing before a neutral adjudicator where the government demonstrates by clear and convincing evidence that he is a danger to the public or a flight risk.

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

a. Wilson Paz Aguilera Has a Protected Liberty Interest

The Due Process Clause protects Francisco Amezcuita Diaz's liberty from immigration custody: "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Wilson Paz Aguilera has an established life in California. Wilson Paz Aguilera has lived in the United States for over 6 years. He resides with his wife and three daughters one of whom is a United States citizen. At the time of detention, Wilson Paz Aguilera was supporting his entire family. Mr. Paz Aguilera has no criminal history anywhere in the world. Mr. Paz Aguilera suffers from diabetes and high blood sugar levels which resulted in his hospitalization in September of 2025. After being released from the hospital, he was given a drug regime to avoid returning to the hospital. Mr. Paz Aguilera currently has no medication while in custody.

b. Wilson Paz Aguilera's Liberty Interest Mandates His Release from Unlawful Custody And A Hearing Before any Re-Arrest.

Wilson Paz Aguilera asserts that, here, (1) where his detention would be civil; (2) where he has viable immigration relief; (3) where no circumstances exist that would justify his lawful detention; and (4) where ICE's move to arrest as many people as possible under the new administration's initiative, due process mandates that he be released from his unlawful custody and receive notice and a hearing before a neutral adjudicator before any re-arrest or revocation of his custody release.

"Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey v. Brewer*, 408 U.S. 471, at 481-82 (1972)). This Court must "balance [Wilson Paz Aguilera's] liberty interest against the [government's] interest in the efficient administration of" its immigration laws to determine what process he is owed to ensure that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test outlined in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test: "first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the

1 government's interest, including the function involved and the fiscal and administrative burdens
2 that the additional or substitute procedural requirements would entail." *Haygood*, 769 F.2d at
3 1357 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

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

12 Because, in this case, the provision of a pre-deprivation hearing is both possible and
13 valuable to prevent an erroneous deprivation of liberty, ICE is required to provide Wilson Paz
14 Aguilera with notice and a hearing prior to any incarceration. See *Morrissey*, 408 U.S. at 481-
15 82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinerman*, 494 U.S. at 985; see also
16 *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982). Under *Mathews*, "the balance weighs heavily
17 in favor of [Wilson Paz Aguilera's] liberty" and requires a pre-deprivation hearing before a
neutral adjudicator.

18 **i. Wilson Paz Aguilera's Private Interest in His Liberty is Profound.**

19 What is at stake in this case for Wilson Paz Aguilera is one of the most profound
20 individual interests recognized by our legal system: whether ICE may unilaterally detain a non-
21 citizen and be able to take away his physical freedom, i.e., his "constitutionally protected interest
22 in avoiding physical restraint." *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)(internal
23 quotation omitted). "Freedom from bodily restraint has always been at the core of the liberty
24 protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). See also
25 *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention,
26 or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause
27 protects."); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).
28

1 Thus, there is a profound private interest at stake in this case, which must be weighed
2 heavily when determining what process he is owed under the Constitution. See *Mathews*, 424
3 U.S. at 334-35.

4 **ii. The Government's Interest in Incarcerating Wilson Paz Aguilera**
5 **Without a Hearing is Low and the Burden on the Government to**
6 **Refrain from Re-Arresting Him Unless and Until He is Provided a**
7 **Hearing is Minimal**

8 The government's interest in maintaining an unlawful detention without a due process
9 hearing is low, and when weighed against Wilson Paz Aguilera's significant private interest in
10 his liberty, the scale tips sharply in favor of enjoining Respondents (1) from keeping him in
11 unlawful custody; (2) re-arresting Wilson Paz Aguilera unless and until the government
12 demonstrates to a neutral adjudicator by clear and convincing evidence that he is a flight risk or
13 danger to the community; and (3) removing him from the United States in violation of an agency
14 order and district court injunction. It becomes abundantly clear that the *Mathews* test favors
15 Wilson Paz Aguilera when the Court considers that the process he seeks—notice and a bond
16 hearing before a neutral decision maker—is a standard course of action for the government.
17 Providing Wilson Paz Aguilera with a hearing before this Court (or a neutral decision maker) to
18 determine whether there is clear and convincing evidence that Wilson Paz Aguilera is a flight
19 risk or danger to the community would impose only a de minimis burden on the government,
20 because the government routinely provides this sort of hearing to individuals like Wilson Paz
21 Aguilera.

22 As immigration detention is civil in nature, it cannot serve a punitive purpose. The
23 government's only interest in holding an individual in immigration detention can be to prevent
24 danger to the community or to ensure a noncitizen's appearance at immigration proceedings. See
25 *Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any
26 basis for detaining Wilson Paz Aguilera since he has lived at liberty with his community, without
27 any criminal or civil traffic infractions and has attended all court hearings and ICE check-ins.
28 The government's interest in detaining Wilson Paz Aguilera at this time is extremely low. That
ICE has a new policy to make a minimum number of arrests each day under the new
administration does not constitute a valid reason to detain him.

Moreover, the "fiscal and administrative burdens" that his immediate release and a lawful
pre-detention hearing would impose is nonexistent in this case. See *Mathews*, 424 U.S. at 334-

35. Wilson Paz Aguilera does not seek a unique or expensive form of process, but rather a routine hearing. As the Ninth Circuit noted in 2017, which remains true today, “[t]he costs to the public of immigration detention are ‘staggering’: \$158 each day per detainee, amounting to a total daily cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996. It is only fair to say these costs have increased in the past 8 years.

Alternatively, providing Wilson Paz Aguilera with a hearing before this Court (or a neutral decision-maker) regarding release from custody is a routine procedure that the government provides to those in immigration detention facilities daily. At that hearing, the Court would have the opportunity to determine whether circumstances justify his arrest and detention. But there is no justifiable reason to incarcerate Wilson Paz Aguilera before such a hearing takes place.

Releasing Wilson Paz Aguilera from unlawful custody and enjoining Wilson Paz Aguilera’s arrest until ICE (1) moves for a custody re-determination before an IJ and (2) demonstrates by clear and convincing evidence that Wilson Paz Aguilera is a flight risk or danger to the community is far less costly and burdensome for the government than keeping him detained to a total daily cost of over \$6.5 million. *Hernandez*, 872 F.3d at 996.

iii. Without a Due Process Hearing Prior to Any Arrest, the Risk of an Erroneous Deprivation of Liberty is High, and Process in the Form of a Constitutionally Compliant Hearing Where ICE Carries the Burden Would Decrease That Risk.

Releasing Wilson Paz Aguilera from unlawful custody and providing Wilson Paz Aguilera a pre-deprivation hearing would decrease the risk of him being erroneously deprived of his liberty. Before Wilson Paz Aguilera can be lawfully detained, he should have been provided with a hearing before a neutral adjudicator at which the government is held to show that there are sufficient circumstances to detain him. Clear and convincing evidence exists to establish that Wilson Paz Aguilera is not a danger to the community or a flight risk.

The procedure Wilson Paz Aguilera seeks—a hearing in front of a neutral adjudicator at which the government must prove by clear and convincing evidence to justify his detention. “A neutral judge is one of the most basic due process protections.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation of liberty under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone, makes

1 custody determinations. *Diouf v. Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir.
2 2011).

3 Due process also requires consideration of alternatives to detention at any custody
4 redetermination hearing that may occur. The primary purpose of immigration detention is to
5 ensure a noncitizen’s appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697.

6 Detention is not reasonably related to this purpose if there are alternatives to incarceration
7 that could mitigate the risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly,
8 alternatives to detention must be considered in determining whether Wilson Paz Aguilera’s
9 reincarceration is warranted.

10 As the above-cited authorities show, Wilson Paz Aguilera is likely to succeed in his claim
11 that the current arrest and detention that ICE effected November 18, 2025, are unlawful. The Due
12 Process Clause requires notice and a hearing before a neutral decision-maker before any
13 reincarceration by ICE. And, at the very minimum, he clearly raises serious questions regarding
14 this issue, thus also meriting a TRO. See *Alliance for the Wild Rockies*, 632 F.3d at 1135.

15 **3. Wilson Paz Aguilera Will Suffer Irreparable Harm Absent**
16 **Injunctive Relief**

17 Wilson Paz Aguilera will suffer irreparable harm if he remains detained after being
18 deprived of his liberty and subjected to unlawful incarceration by immigration authorities without
19 being provided with the constitutionally adequate process that this motion for a temporary
20 restraining order seeks. Detainees in ICE custody are held in “prison-like conditions.” *Preap v.*
21 *Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, “[t]he time
22 spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job;
23 it disrupts family life; and it enforces idleness.” *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972);
24 accord *Nat’l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th Cir. 1984).

25 Moreover, the Ninth Circuit has recognized in “concrete terms the irreparable harms
26 imposed on anyone subject to immigration detention,” including “subpar medical and psychiatric
27 care in ICE detention facilities, the economic burdens imposed on detainees and their families as
28 a result of detention, and the collateral harms to children of detainees whose parents are
detained.” *Hernandez*, 872 F.3d at 995.

The government itself has documented alarmingly poor conditions in ICE detention
centers. See, e.g., DHS, Office of Inspector General (OIG), Summary of Unannounced

1 Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024) (reporting violations
2 of environmental health and safety standards; staffing shortages affecting the level of care
3 detainees received for suicide watch, and detainees being held in administrative segregation in
4 unauthorized restraints, without being allowed time outside their cell, and with no documentation
5 that they were provided health care or three meals a day).

6 Conditions at the California City Detention Facility – where plaintiff is being held - are
7 so inhumane that the ACLU just this week filed a Class Action lawsuit in this Federal District
8 detailing the grotesque, inhumane, and substandard conditions of the facility. *Gomez Ruiz v. U.S.*
9 *Immigration and Customs Enforcement*, (N.D. Cal. Case 3:25-cv-09757, filed 11/12/25).

10 As detailed supra, Petitioner contends that his arrest, absent a hearing before a neutral
11 adjudicator, violates his due process rights under the Constitution. It is clear that “the deprivation
12 of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695
13 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Thus, a
14 temporary restraining order is necessary to prevent Wilson Paz Aguilera from suffering
15 irreparable harm by being subject to unlawful and unjust detention.

16 **4. The Balance of Equities and the Public Interest Favor Granting the**
17 **Temporary Restraining Order.**

18 The balance of equities and the public interest undoubtedly favor granting this temporary
19 restraining order. First, the balance of hardships strongly favors Wilson Paz Aguilera. The
20 government cannot suffer harm from an injunction that prevents it from engaging in an unlawful
21 practice. See *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) (“[T]he INS cannot reasonably
22 assert that it is harmed in any legally cognizable sense by being enjoined from constitutional
23 violations.”). Therefore, the government cannot allege harm arising from a temporary restraining
24 order or preliminary injunction ordering it to comply with the Constitution.

25 Further, any burden imposed by requiring the ICE to release Wilson Paz Aguilera from
26 unlawful custody and refrain from re-arrest unless and until he is provided with a hearing before
27 a neutral arbitrator is both de minimis and clearly outweighed by the substantial harm he will
28 suffer as if he is detained. See *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) (“Society’s
interest lies on the side of affording fair procedures to all persons, even though the expenditure
of governmental funds is required.”).

1 A temporary restraining order is in the public interest. First and most importantly, "it
2 would not be equitable or in the public's interest to allow [a party] . . . to violate the requirements
3 of federal law, especially when there are no adequate remedies available." *Ariz. Dream Act Coal.*
4 *v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014) (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d
5 1006, 1029 (9th Cir. 2013)). If a temporary restraining order is not entered, the government would
6 effectively be granted permission to detain Wilson Paz Aguilera in violation of the requirements
7 of Due Process. "The public interest and the balance of the equities favor 'prevent[ing] the
8 violation of a party's constitutional rights.'" *Ariz. Dream Act Coal.*, 757 F.3d at 1069 (quoting
9 *Melendres*, 695 F.3d at 1002); see also *Hernandez*, 872 F.3d at 996 ("The public interest benefits
10 from an injunction that ensures that individuals are not deprived of their liberty and held in
11 immigration detention because of bonds established by a likely unconstitutional process."); cf.
12 *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) ("Generally, public interest concerns
13 are implicated when a constitutional right has been violated, because all citizens have a stake in
14 upholding the Constitution.").

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

17 V. CONCLUSION

18 For all the above reasons, this Court should find:

19 (1) that Wilson Paz Aguilera warrants a temporary restraining order and a preliminary
20 injunction ordering that Respondents Declare that Petitioner's detention violates the Due Process
21 Clause of the Fifth Amendment;

22 (2) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately
23 and schedule a bond hearing before an immigration judge;

24 (3) Declare immediately that Defendants are prohibited from moving Petitioner outside
25 of the jurisdiction of the Northern District of California and enjoin Defendants from sending him
26 to any place outside of the United States;

27 (4) Enjoin defendant from re-detaining Petitioner without a pre-deprivation hearing
28 before
an immigration judge where the Government bears the burden of proving that circumstances have
materially changed, rendering Petitioner a danger to the community or a flight risk;

1 (5) Order Defendants to file a written declaration attesting to full compliance with these
2 obligations.

3 (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
4 on any other basis justified under law; and

5 (7) Grant any further relief this Court deems just and proper.

6 Dated: November 21, 2025

Respectfully submitted,

7 /s/ Emilio Parker

8 Emilio Parker

9 Attorney for Petitioner

Wilson Paz Aguilera

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed the events described in the Petition with the Petitioner. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on November 21, 2025, in Oakland, CA.

/s/ Emilio Parker
Emilio Parker
Attorney for Wilson Paz
Aguilera