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UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

JOSE PEDRO ORTEGA

Petitioner,
vs.

Case No. 1:25-CV-01663-DJC-CKD

Kristi NOEM, Secretary, U.S. Department of Homeland
Security;
Pamela BONDI, U.S. Attorney General; Todd LYONS,
Acting Director, Immigration and Customs
Enforcement; Sergio ALBARRAN, Acting Director, San
Francisco Field Office, Immigration and Customs
Enforcement, Enforcement and Removal Operations;
Minga WOFFORD, Warden, Mesa Verde ICE Processing
Center; EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW; IMMIGRATION AND CUSTOMS
ENFORCEMENT; and U.S. DEPARTMENT OF
HOMELAND SECURITY,

Respondents

**PETITIONER'S REPLY TO
RESPONDENT'S RESPONSE TO
ORDER TO SHOW CAUSE**

Petitioner submits this reply to Respondents' Response to the Court's Order to Show Cause for the limited purpose of reinforcing the existing record and addressing deficiencies that remain unresolved despite the Court's express directive.

I. RESPONDENTS HAVE NOT CURED THE FACTUAL DEFICIENCIES IDENTIFIED BY THE COURT

In granting the Temporary Restraining Order, the Court expressly identified factual inconsistencies in Respondents' assertions regarding Petitioner's alleged failure to comply with conditions of release. Specifically, the Court observed that "[t]he number of alleged missed check-ins appears to be in dispute," noting that Respondents variously asserted three and four missed check-ins, while "the attached government records fail to specify the nature and number of any missed check-ins." Order Granting TRO at 3 n.____ (ECF No. 11) (citing Opp'n at 2; Jerome Decl. ¶ 7). The Court further noted that, although Respondents alternatively contended that "changed circumstances" justified detention because Petitioner "repeatedly failed to comply with the conditions of his conditional release," Respondents "provide little evidence to support this assertion," and that even if such a justification were credited, due process would still require that the allegation be tested at a constitutionally adequate hearing. *Id.* at 5 (citing Opp'n at 9).

Respondents' Response to the Order to Show Cause does not resolve these issues. Respondents assert, in a footnote, that they have "attached a log" of Petitioner's alleged parole violations. Response to OSC (ECF No. 13). No such attachment appears on the docket. Respondents otherwise rely on conclusory assertions and incorporate prior arguments the Court has already addressed. Accordingly, even after being ordered to clarify the factual basis for detention, Respondents continue to rely on unsubstantiated allegations unsupported by evidence. This failure is directly relevant to the due process concerns identified by the Court and further

demonstrates that Respondents have not met the burden the Court identified as necessary to justify continued detention.

**II. THE RECORD CONFIRMS AN ONGOING DUE PROCESS VIOLATION
BASED ON THIS PETITIONER'S CIRCUMSTANCES**

The undisputed record establishes that Petitioner was paroled into the United States in 2018 and released into the community. Verified Petition (ECF No. 1). For approximately seven years, Petitioner lived openly in the community, complied with reporting and supervision requirements, appeared for required appointments, and developed substantial family and community ties. (ECF No. 2-1).

Respondents do not allege that Petitioner absconded, committed a crime, or posed a danger to the community. Nor do they identify any adjudicated violation or change in circumstances contemporaneous with Petitioner's sudden re-detention. Petitioner was taken into custody without advance notice, without a hearing, and without any opportunity to contest the revocation of his release.

These facts fall squarely within the line of cases recognizing that noncitizens released into the community have a protected liberty interest in remaining free and may not be re-detained absent constitutionally adequate process. See *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032–34 (N.D. Cal. 2025); *Valencia Zapata v. Kaiser*, ___ F. Supp. 3d ___, 2025 WL 2741654, at *8 (N.D. Cal. Sept. 26, 2025).

1 **III. TEMPORARY RELIEF DOES NOT RESOLVE THE LIVE CONTROVERSY**
2 **OR JUSTIFY CLOSING THE CASE**

3 Although Respondents do not expressly assert mootness, the record confirms that this
4 case should not conclude with temporary relief alone. They have not disavowed their authority to
5 re-detain Petitioner, have not committed to providing constitutionally adequate process before
6 doing so, and continue to rely on the same statutory theories previously rejected by this Court.

7 As this Court has explained in a materially similar case before it, the Government bears a
8 “heavy burden” to show that challenged conduct cannot reasonably be expected to recur, and
9 temporary compliance following the issuance of injunctive relief does not moot a live
10 controversy where the risk of future harm remains. *Singh v. Andrews*, No. 1:25-cv-01543-DJC-
11 SCR, at *___ (E.D. Cal. Nov. 19, 2025) (citing *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91
12 (2013); *United Farm Workers v. Noem*, 785 F. Supp. 3d 672, 736–39 (E.D. Cal. 2025)).

13 Here, the risk of recurrence is concrete. Respondents continue to assert the authority to re-
14 detain Petitioner without pre-deprivation process and have offered no assurance that Petitioner
15 will not again be subjected to sudden arrest based on untested allegations. Under these
16 circumstances, preliminary injunctive relief, rather than temporary orders alone, is necessary to
17 protect Petitioner’s liberty interests and to prevent recurrence of the constitutional injury
18 identified by the Court.

19 **IV. CONCLUSION**

20 For the reasons noted above, Respondents have not satisfied the Court’s Order to Show
21 Cause. The Government’s inability to substantiate its allegations, even after judicial intervention,

1 confirms that preliminary injunctive relief on the same terms as the Temporary Restraining Order
2 is warranted.

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4 **RESPECTFULLY SUBMITTED**

5 **/s/ Emily L. Robinson**
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