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10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 Jonny Alexander Escobar,
13 Petitioner,

Case No. 1:25-cv-01801-DJC-EFB

14 v.

15 CHRISTOPHER CHESTNUT, Warden,
16 California City Correctional Facility, et al.,
17 Respondents.

**SECOND MOTION FOR TEMPORARY
RESTRAINING ORDER**

Hon. Judge Daniel J. Calabretta

NOTICE OF MOTION

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and Rule 65-1 of the Local rules of this Court, Petitioner hereby moves this Court for an 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, from violating Petitioner-Plaintiff Jonny Alexander Escobar's due process rights and circumventing this Court's jurisdiction by unlawfully removing him to a third country without a meaningful opportunity to be heard on a potential fear-based claim for relief before an immigration judge. The reasons in support of this Motion are set forth in the accompanying Memorandum of Points and Authorities. This Motion is based on the attached Declaration of Jonny Alexander Escobar with Accompanying Exhibits.

Dated: February 12, 2026

Respectfully Submitted,

/s/ Lya Ferreyra

Lya Ferreyra

Attorney for Petitioner

INTRODUCTION

1
2 1. Petitioner Jonny Alexander Escobar (“Mr. Escobar” or “Petitioner”) brings this second
3 motion for temporary restraining order seeking relief pursuant to due process protections in
4 connection with imminent removal to a third country without any meaningful opportunity to assert
5 a fear-based claim before a neutral adjudicator in accordance with due process.

6 2. This Court has already found that Mr. Escobar should be provided with proper notice of
7 which third country he is being removed to, the opportunity to assert a fear-based claim and demand
8 a real opportunity to be heard, including by moving to reopen his immigration proceedings if
9 necessary. At every turn the Government has attempted to undermine the spirit of the preliminary
10 injunction. Mr. Escobar now faces imminent removal as soon as this weekend—when the current
11 preliminary injunction’s protection’s expire—to a country where he fears torture and even death.
12 He now respectfully requests that this Court grant the instant motion and enjoin Respondents from
13 removing him to a third country without providing him the opportunity to appear before an
14 Immigration Judge to assert his fear-based claim in Immigration and Nationality Act (“INA”) § 240
15 proceedings.

STATEMENT OF FACTS

16
17 3. Mr. Escobar is a Salvadoran national who has been in detention for over three years in the
18 custody of the United States Department of Homeland Security (“DHS”), Immigration and
19 Customs Enforcement (“ICE”) at Golden State Annex (“GSA”) in McFarland, California, and most
20 recently, California City Detention Facility in California City, California. On October 10, 2025, an
21 immigration judge (“IJ”) granted Mr. Escobar protection under the Convention Against Torture
22 (“CAT”) to El Salvador under 8 C.F.R. § 208.16(c)(2) because Mr. Escobar would more likely than
23 not be tortured if deported there based on his fear of persecution from [REDACTED]

24 [REDACTED] Dkt. 17-03(Order of IJ Granting CAT); *See also* Dkt. 17-04 (Digital Audio Recording
25 of IJ granting CAT). On October 13, 2025, Mr. Escobar’s immigration counsel communicated with
26 ICE outlining her client’s fear of removal to any third country in which [REDACTED] has a presence, and
27
28

1 the additional safeguards that he is entitled to as a *Franco Gonzalez* class member. Dk7. 17-5
2 (Email to ICE from Ms. Houston dated October 13, 2025).

3 4. On December 10, 2025, two months after his CAT grant became final, Mr. Escobar was
4 informed by ICE that it would attempt to remove him to third country, specifically Mexico. Exhibit
5 M (Declaration of Jonny Alexander Escobar in Support of Second Motion for Temporary
6 Restraining Order) at ¶ 1. In response, an Emergency Motion for Temporary Restraining Order
7 (“TRO”) was filed that same day. Dkt. 2 (Petitioner’s First Motion for Temporary Restraining
8 Order). Since filing, this Court granted Mr. Escobar’s request for a TRO. Dkt. 16 (Order Granting
9 TRO). On December 30, 2025, this Court converted this TRO into a Preliminary Injunction (“PI”),
10 requiring that ICE take several steps in designating a third country of removal to ensure Mr.
11 Escobar’s Due Process rights under the Fourth Amendment. Dkt. 18 (Order Granting PI).

12 5. Since this Court granted the TRO and then PI, Respondents have attempted to undermine
13 the spirit of the injunction. On December 17, 2025, and again on December 30, 2025, only hours
14 after this Court granted the PI, Deportation Officers tried to pressure Mr. Escobar into signing
15 documents for voluntary departure to Mexico. Exh. M at ¶ 2-5.

16 6. On January 21, 2026, Mr. Escobar’s Deportation Officer (“DO Gilbert”) informed him that
17 ICE was planning to remove him to Mexico. Exhibit N (Declaration of Sarah Houston in Support
18 of Second Motion for Temporary Restraining Order) at ¶ 5. That same day, DO Gilbert contacted
19 Sarah Houston to inform her that ICE was attempting to remove Mr. Escobar to Mexico and that
20 he would be scheduled for a third country screening with U.S. Citizenship and Immigration
21 Services (“USCIS”). *Id.* DO Gilbert ensured Ms. Houston that an Asylum Officer would contact
22 her to make sure she was present at the screening. *Id.* Mr. Escobar never received any type of
23 written notice from ICE regarding the initiation of third country removal to Mexico. Exh. M at ¶

24 6. On January 22, 2026, DO Gilbert emailed Ms. Houston a Notice of Removal in English that
25 stated ICE intended to remove Mr. Escobar to Mexico. Exhibit T (Notice of Removal).

26 7. On January 23, 2026, Mr. Escobar was pulled for an interview with an Asylum Officer
27 (“AO”) for a third country removal screening without informing Ms. Houston or allowing her the
28 opportunity to be present, in direct contradiction to what DO Gilbert had assured. Exh. M at ¶ 6.

1 Only a few days later, on January 27, 2026, Mr. Escobar was pulled for another screening with Ms.
 2 Houston. *Id.* at 7. The AO present at the screening canceled the interview after learning that Mr.
 3 Escobar is a *Franco-Gonzalez* class member. Exh. N at ¶ 7. The screening was completed on
 4 January 29, 2026. *Id.* at ¶ 7.

5 8. On February 2, 2026, Mr. Escobar was taken to the Bakersfield ICE office where he met
 6 with a resource coordinator that handed him documents to prepare him for deportation to Mexico.
 7 Exh. M at ¶ 9-14. Ms. Houston received an ERO notification that Mr. Escobar was transferred to
 8 a new facility but was unable to confirm his exact location. Exhibit O, (Email Notification of Mr.
 9 Escobar's Transfer); Exhibit P (ICE ERO Transfer Notifications). The same day, Ms. Houston
 10 requested information regarding Mr. Escobar's whereabouts and a copy of the third country
 11 screening from both the Bakersfield ICE office and the Los Angeles Field Office but received no
 12 response. Exhibit Q (Email Communication from Ms. Houston to ICE). The Bakersfield ICE
 13 office sent Ms. Houston the third country screening decision on February 3, 2026, after Ms.
 14 Houston learned Mr. Escobar was transferred back to California City. Exhibit R (Email
 15 Communication Between Ms. Houston and ICE). In that same thread Ms. Houston requested a
 16 form to appeal to the third country screening. *Id.* She received no response. *Id.*

17 9. In an attempt to appeal the third country screening, Ms. Houston reached out to the Asylum
 18 Office, however she was told that third country removal screenings are not subject to immigration
 19 judge review. Exhibit S (Email Communication Between Ms. Houston and the Asylum Office).

20 10. On February 10, 2026, Ms. Houston filed an emergency motion to stay removal and
 21 an emergency motion to re-open proceedings with the Adelanto Immigration Court. Exh. N at ¶
 22 11. As of February 12, despite follow-up from counsel, the immigration court has not yet
 23 adjudicated Mr. Escobar's Motion to Reopen. *Id.* at 12. Mr. Escobar fears removal to Mexico,
 24 where he believes he will be tortured and killed by [REDACTED] because of his
 25 [REDACTED] Exh. M at ¶ 15. Mr. Escobar also fears that if
 26 he is removed to Mexico, Mexican officials will deport him to El Salvador, where an immigration
 27 judge has already found he will be tortured or killed. *Id.*

28

LEGAL STANDARD

11. Mr. Escobar is entitled to a temporary restraining order (“TRO”) if he establishes: “(1) a likelihood of success on the merits, (2) that [he] will likely suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tip in [his] favor, and (4) that the public interest favors an injunction.” *Wells Fargo & Co. v. ABD Ins. & Fin. Servs., Inc.*, 758 F.3d 1069, 1071 (9th Cir. 2014) (citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008)). The Ninth Circuit has adopted a “sliding scale” approach wherein “the elements of the preliminary injunction test are balanced, so that a stronger showing of one element may offset a weaker showing of another.” *Pimentel v. Dreyfus*, 670 F.3d 1096, 1105 (9th Cir. 2012) (per curiam) (citations omitted). Thus, a temporary restraining order may issue where “serious questions going to the merits [are] raised and the balance of hardships tips sharply in [plaintiff’s] favor.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). To succeed under the “serious question” test, Mr. Escobar must show that he is likely to suffer irreparable injury and that an injunction is in the public’s interest. *Id.* at 1132

ARGUMENT

I. Mr. Escobar is Likely to Succeed on the Merits

12. Mr. Escobar has clearly expressed a fear of torture and even death if removed to Mexico. Exh. M at ¶ 15. Yet despite this fear, ICE intends to remove Mr. Escobar to Mexico imminently. See Exh. M at ¶ 11 (where Mr. Escobar was taken to an ICE processing center and provided with resources for deportees in Mexico). Mr. Escobar is thus entitled to seek deferral of removal to Mexico in new INA § 240 proceedings based on his legitimate fear-based claim. See *Jama v. ICE*, 543 U.S. 335, 348 (2005) (explaining that individuals who “face persecution or other mistreatment in the country designated” as their place of removal “have a number of available remedies,” by statute, regulation, and under international law, to “ensur[e] their humane treatment”).

13. “It is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.” *Trump v. J. G. G.*, 145 S. Ct. 1003, 1006 (2025) (citing

1 *Reno v. Flores*, 507 U.S. 292, 306 (1993)). The “guarantee of due process includes the right to a
 2 full and fair hearing, an impartial decisionmaker, and evaluation of the merits of his or her
 3 particular claim.” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1010 (W.D. Wash. 2019) (ordering new
 4 INA § 240 proceedings for non-citizen petitioner and holding ICE “has an affirmative obligation to
 5 make a determination regarding a noncitizen’s claim of fear before deporting” them) (emphasis
 6 added). “[T]hird-country removals are subject to the same mandatory protections that exist in
 7 removal or withholding-only proceedings.” *Vaskanyan*, 2025 WL 2014208, at *6 (citing *D.V.D.*,
 8 778 F.Supp.3d).

9 14. Thus, Mr. Escobar’s pending Motion to Reopen is insufficient protections where
 10 “[d]ue Process requires that [Mr. Escobar] receive a full and fair hearing of his fear-based claim in
 11 front of a neutral adjudicator.” *A.A.M. v. Andrews*, No. 1:25-CV-01514-DC-DMC (HC), 2025 WL
 12 3485219, at *11 (E.D. Cal. Dec. 4, 2025). Multiple courts have come to the same conclusion that
 13 due process “is not satisfied by simply providing Petitioner the time and opportunity to file a
 14 discretionary motion to reopen his immigration proceedings.” *Id.*; *Hernandez v. Bondi*, No. 1:25-
 15 CV-02020-EPG-HC, 2026 WL 350829, at *8 (E.D. Cal. Feb. 9, 2026) (finding same); *Castillo v.*
 16 *Chestnut*, No. 1:25-CV-01296-SAB-HC, 2026 WL 121652, at *10 (E.D. Cal. Jan. 16, 2026).
 17 *Mendoza v. Lyons*, No. 1:25-CV-01650-DC-SCR (HC), 2025 WL 3514126, at *7 (E.D. Cal. Dec.
 18 8, 2025) (“This court, and several others within the Ninth Circuit, have found that Due Process
 19 requires that the noncitizen have the opportunity to actually adjudicate his fear-based claim as to
 20 the identified country in front of an immigration judge”); *Arenado-Borges v. Bondi*, No. 2:25-CV-
 21 02193-JNW, 2025 WL 3687518, at *6 (W.D. Wash. Dec. 19, 2025) (“simply allowing the petitioner
 22 to move to reopen their immigration proceedings is not enough to satisfy Due Process—the
 23 Government must *actually reopen* proceedings so that the petitioner has a fair and adequate
 24 opportunity to be heard” (citing *Aden*, 409 F. Supp. 3d at 1010–11)).

25 15. This is especially true where Motions to Reopen in immigration courts are entirely
 26 discretionary. *D.V.D.*, 778 F. Supp. 3d at 373 (quoting *Charles v. Garland*, 113 F.4th 20, 23 (1st
 27 Cir. 2024)) (“Immigration courts have nearly unfettered ‘discretion to decide whether to grant or
 28 deny sua sponte reopening.’”). The *D.V.D.* litigation has documented that Motions to Reopen based

1 on imminent third country removal are routinely denied by immigration courts, preventing the
2 noncitizen from receiving any due process on their fear-based claim. *See D.V.D. v. U.S. Dep't of*
3 *Homeland Sec.*, 778 F. Supp. 3d 355, 373–74 (D. Mass. 2025) (“[p]laintiffs have provided sworn
4 declarations indicating that their various attempts at reopening proceedings to seek CAT protections
5 have been denied by IJs”). Thus, courts in this very district have found “that Due Process requires
6 that the noncitizen have the opportunity to *actually adjudicate* his fear-based claim as to the
7 identified country in front of an immigration judge.” *Mendoza*, 2026 WL 3514126, at *7 (citing
8 *A.A.M.*, 2025 WL 3485219 at *9) (emphasis added); *see also Castillo*, WL 121652, at *10
9 (enjoining respondents from removing petitioner to a third country without first providing him with
10 a meaningful opportunity to be heard on his fear-based claim before an immigration judge);
11 *Arenado-Borges*, 2025 WL 3687518, at *7 (enjoining government “from removing or seeking to
12 remove Petitioner to a third country without notice and a meaningful opportunity to respond in
13 reopened removal proceedings before an Immigration Judge.”); *Sagastizado v. Noem*, 802 F. Supp.
14 3d 992, 1016 (S.D. Tex. 2025) (granting a preliminary injunction enjoining Respondents from
15 removing Petitioner from the United States without providing him an opportunity to present his
16 fear based claims to an immigration judge). This Court should join its peers throughout the Ninth
17 Circuit and beyond in finding that Respondents’ third country removal process without the
18 opportunity to go in front of an immigration judge is unlawful.

19 16. Additional protections from this Court, furthermore, are necessary where the
20 Agency has repeatedly attempted to prevent Mr. Escobar from accessing due process. Despite this
21 Court’s TRO, Respondents attempted to intimidate Mr. Escobar into taking voluntary departure on
22 December 17, 2025, and December 30, 2025. Exh. M. at ¶¶ 2-5. On January 23, 2026, in spite of
23 this Court’s PI, Respondents pulled Mr. Escobar for a third country screening without providing
24 him with written notice of his removal, and without notifying his immigration attorney Ms.
25 Houston. *Id.* at ¶ 6. Ms. Houston had to advocate repeatedly to ensure her presence at the third
26 country screening. Exh. N at ¶ 7; *see generally* Exh. S. Ms. Houston then had to follow up several
27 times with both the Asylum office and ICE to receive the results of the screening, only to be told
28 that Mr. Escobar would not be entitled to review by an immigration judge. *See* Exh. S at 1. Most

1 troublingly, Mr. Escobar's counsel was unable to locate him for 24 hours on February 2, 2026, when
2 he was pulled from his cell at 3:00 am and transferred to California City Processing Center. Exh.
3 N at ¶¶ 8-9. All signs pointed to Respondents preparing to remove Mr. Escobar in violation of the
4 PI and in violation of his due process rights. *See Id.*; Exh. M at ¶¶ 9-14. When Immigration officials
5 act in such a way that attempts to circumvent petitioner's statutory, regulatory and due process
6 rights, the "Court expresses serious doubt as to whether the use of Immigration Officers to make
7 factual findings and determinations comports with due process." *Qazi v. Albarran*, No. 2:25-CV-
8 02791-TLN-CSK, 2025 WL 3033713, at *6 (E.D. Cal. Oct. 10, 2025) (citing *Castro-Cortez v.*
9 *I.N.S.*, 239 F.3d 1037, 1049 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v.*
10 *Gonzales*, 548 U.S. 30 (2006)).

11 17. Mr. Escobar easily meets his burden of demonstrating a likelihood of success on
12 the merits of his due process and INA violation claims, or at least, serious questions going to the
13 merits. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011).

14 II. Absent Immediate Relief, Mr. Escobar will Suffer Irreparable Harm

15 18. Respondents appear likely to imminently remove Mr. Escobar before he has an
16 opportunity to present his fear-based claim to an immigration judge in violation of his due process
17 rights. Respondents have taken every opportunity to pressure Mr. Escobar into abandoning his
18 rights. Exh M ¶¶ 2-6. Currently, the narrowest reading of the PI protecting Mr. Escobar from
19 removal is that it expires after 15 days have passed from a negative decision on his third country
20 screening. Dkt. 18; Dkt. 16. While Mr. Escobar has filed a Motion to Reopen and Emergency
21 Motion for Stay with the immigration court, neither of them has been adjudicated. Exh. N at ¶¶ 11-
22 12. This, in conjunction with ICE preparing Mr. Escobar for removal to Mexico, Exh. M at ¶ 11,
23 shows that irreparable harm is imminent. Removal without an opportunity to present his fear-based
24 claim before a neutral adjudicator as required by due process is, therefore, irreparable harm.
25 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) ("the deprivation of constitutional rights
26 'unquestionably constitutes irreparable injury'"). Furthermore, Mr. Escobar fears removal to
27 Mexico where he believes he will be tortured or killed by [REDACTED]
28 Exh. M at ¶ 15. Mr. Escobar also fears that if he is removed to Mexico, he will only subsequently

1 be removed to El Salvador in violation of his CAT grant. *Id.*; Mexico, THIRD COUNTRY
 2 DEPORTATION WATCH, <https://www.thirdcountrydeportationwatch.org/mexico> (last visited Feb 12,
 3 2026) (“Mexican officials have deported Guatemalans and Salvadorans to their home countries
 4 despite having been granted protection by a U.S. judge from removal there.”). Courts have found
 5 that a petitioner with nearly identical facts as Mr. Escobar demonstrated a likelihood of irreparable
 6 harm when he “asserted he fears persecution and/or torture as a result of his removal to Mexico as
 7 well as refoulement to El Salvador” without IJ review. *Sagastizado v. Noem*, 802 F. Supp. 3d 992,
 8 1015 (S.D. Tex. 2025). This Court should likewise enjoin Respondents from subjecting Mr.
 9 Escobar to irreparable harm by removing him to Mexico without first providing him an opportunity
 10 for a new hearing before an Immigration Judge.

11 III. The Public Interest and Equities Favor Granting Relief

12 19. The balance of the equities and the public interest strongly favor granting Mr.
 13 Escobar’s requested relief. These two factors “merge where, as is the case here, the government is
 14 the opposing party.” *Leiva-Perez v. Holder*, 640 F.3d 962, 970 (9th Cir. 2011) (citing *Nken v.*
 15 *Holder*, 556 U.S. 418, 435 (2009)). At its core, “it is always in the public interest to prevent the
 16 violation of a party’s constitutional rights.” *Melendres*, 695 F.3d at 1002 (internal citation omitted).
 17 In cases implicating removal, “there is a public interest in preventing [non-citizens] from being
 18 wrongfully removed, particularly to countries where they are likely to face substantial harm.”
 19 *Nken*, 556 U.S. at 436; *see also Vaskanyan*, 2025 WL 2014208, at *8 (holding and quoting same).
 20 In response, the Government “cannot reasonably assert that it is harmed in any legally cognizable
 21 sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th
 22 Cir. 1983). For example, the *D.V.D.* Court “found it likely that these [third-country] deportations
 23 have or will be wrongfully executed . . . [and] that these circumstances countervail the public’s
 24 normal and meaningful ‘interest in prompt execution.’” 2025 WL 1142968, at *23. To boot, Mr.
 25 Escobar’s “likelihood of success on the merits [further] lightens [Respondents’] stated interests.”
 26 *Id.*

27 20. Moreover, in “comparison to the persecution Petitioner would face, Respondent
 28 would suffer little to no harm if Petitioner’s Motion were granted.” *Misirbekov*, 2025 WL 2201470,

1 at *2. Mr. Escobar requests that before removing him, Respondents re-open his proceedings before
2 an immigration judge to ensure his statutory regulatory, and due process rights. If Respondents
3 believe that maintaining Mr. Escobar in their custody is causing them additional burden, they are
4 free to release him under an Order of Supervision under 8 C.F.R. § 241.5. *See Hernandez*, No.
5 1:25-CV-02020-EPG-HC, 2026 WL 350829, at *8 (ordering petitioner's release as she, like Mr.
6 Escobar, was past her 90-day post-removal period).

7 21. In other words, a "TRO would impose little to no prejudice on the Government,
8 which is free at any time to execute the removal order by" lawfully removing Mr. Escobar. *J.R.*,
9 2025 WL 1810210, at *4. "'Requiring [immigration judge] review in Petitioner's case provides
10 significant but minimally burdensome procedural safeguards in the form of independent review by
11 a subject-matter expert and the opportunity to receive a written explanation of a denial by an
12 [immigration judge],'" especially when those protections are already provided in various
13 immigration removal contexts. *Portela-Hernandez v. Trump*, No. 25-1633-BAH, 2026 WL 74042,
14 at *12 (D. Md. Jan. 9, 2026) (quoting *Sagastizado I*, 2025 WL 2957002, at *12 (citation omitted)).

15 **IV. If Necessary, an *Ex Parte* TRO is Appropriate**

16 22. Mr. Escobar's undersigned counsel has taken efforts to ensure Respondents are on
17 notice of Petitioner's Second Motion for Temporary Restraining Order. Mr. Escobar's counsel are
18 filing this motion electronically in the Eastern District of California, which effectuates service on
19 the U.S. Attorney's Office. Further, Mr. Escobar's counsel emailed advance notice of the TRO to
20 the assigned AUSA, Samuel Stefanki, Samuel.Stefanki@usdoj.gov at 10:57 am PST. In that email
21 communication, Mr. Escobar's counsel explained that they will request the Court set a hearing for
22 as soon as practicably possible. Respondents counsel, Mr. Stefanki, did not respond. *See*
23 Declaration of Lya Ferreyra in Support of Second *Ex Parte* Motion for Temporary Restraining
24 Order at ¶ 4. In an attempt to provide additional notice and opportunity for stipulation, Mr.
25 Escobar's counsel called Mr. Stefanki at 1:00 pm at his listed office number, when he did not pick
26 up counsel left a voicemail describing the urgency of the situation and requesting a call back. *Id.*
27 At the time of filing, Mr. Escobar's counsel has not received a response from Respondents. *Id.*
28

1 Therefore, Mr. Escobar's counsel has provided Respondents with "actual" and "[a]ppropriate
2 notice" pursuant to LR 231(a).

3 23. Nevertheless, given the exigent circumstances, the Court should issue an *ex parte*
4 TRO upon movant's showing that "immediate and irreparable injury, loss, or damage will result to
5 the movant before the adverse party can be heard." Fed. R. Civ. P. 65(b)(1). As discussed *supra*
6 II, this Court should issue the requested TRO expeditiously as Mr. Escobar remains at imminent
7 danger of being removed to a third country in violation of his due process rights.

8 **V. No Security is Appropriate for an Indigent Petitioner**

9 24. Although Federal Rule of Civil Procedure 65(c) can require a security for a
10 temporary restraining order, a district court "has discretion as to the amount of security required, if
11 any." *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003). No security is appropriate where
12 there is no quantifiable harm to the restrained party and where the order is in the public interest.
13 *Save Our Sonoran, Inc v. Flowers*, 408 F.3d 1113, 1126 (9th Cir. 2005); *Johnson v. Couturier*, 572
14 F.3d 1067, 1086 (9th Cir. 2009). District courts routinely exercise this discretion to require no
15 security in cases brought by indigent or incarcerated people. See, e.g., *Vaskanyan*, 2025 WL
16 2014208, at *8; *Diaz v. Kaiser*, No. 25-cv-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 14,
17 2025). Due to his prolonged detention, Mr. Escobar is indigent. Accordingly, the Court should not
18 require him to post security.

19 **CONCLUSION**

20 25. Mr. Escobar respectfully requests this Court grant his Emergency Motion for a
21 Second Temporary Restraining Order. In doing so, the Court should enjoin Respondents from
22 removing Mr. Escobar via a third-country deportation without providing Mr. Escobar with a
23 meaningful opportunity to be heard on his fear-based claim before an immigration judge in
24 compliance with due process.

25 Dated: February 12, 2026

Respectfully Submitted,

26 /s/ Lya Ferreyra

27 Lya Ferreyra

28 *Attorney for Petitioner*