

1 Hani Habbas, S.N. No. 337016
2 hani@hhlawfirm.law
3 HH LAW FIRM
4 7700 Irvine Center Dr., Ste. 750
5 Irvine, C.A. 92618
6 (833) 359-6116

7 Christopher Godshall-Bennett – *pro hac vice forthcoming*
8 chris@leegodshallbennett.com
9 LEE & GODSHALL-BENNETT LLP
10 712 H St. NE, Unit 5019
11 Washington, D.C. 20002
12 (202) 240-8496

13 *Attorneys for Petitioner*

14
15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **EASTERN DIVISION**

18 Fadi Bassam Rouf SHUHAIBAR,

19 *Petitioner,*

20 v.

21 Fereti SEMAIA, Warden of Adelanto
22 ICE Processing Center; Ernesto
23 SANTA CRUZ, Director, ICE Los
24 Angeles Field Office; Todd LYONS,
25 Acting Director of Immigrations and
26 Customs Enforcement; Kristi NOEM,
27 Secretary of the U.S. Department of
28 Homeland Security; Pamela Bondi,
Attorney General of the United States,
in their official capacities;

Respondents.

Case No. 25-cv-3399

**MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

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

NOTICE OF MOTION

PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court for the Central District of California, 3470 Twelfth Street, Riverside, CA 92501, that Petitioner Fadi Bassam Rouf Shuhaibar will, and hereby does, move this Court for a temporary restraining order and a preliminary injunction pursuant to Federal Rule of Civil Procedure 65(b) and Local Rule 65-1.

The reasons in support of this Motion are set forth in the accompanying Memorandum of Points and Authorities. This Motion is based on the Verified Petition for Writ of Habeas Corpus and accompanying exhibits. As set forth in the Points and Authorities in supports of this Motion, Petitioner raises that he warrants a temporary restraining order and preliminary injunction due to his weighty liberty interest under the Due Process Clause of the Fifth Amendment and ICE's violations of 8 C.F.R. §§ 241.13(i)(2)-(3). And as further outlined in more detail by the accompanying Points and Authorities, both the balance of the equities and the public interest respecting the provisional relief sought by Petitioner tilt sharply in his favor.

Accordingly, Petitioner moves this Court to order his prompt release from Respondents' custody.

The undersigned has notified the United States Attorney's Office ("USA") for the Central District of California of the present motion. The undersigned will serve courtesy copies of the instant motion and its supporting memorandum and exhibits—

1 via electronic mail to the USA's Office for the Central District of California, while
2 service under Federal Rule of Civil Procedure 4 is pending, so that they are on notice
3 of all filings and evidence and thus will not be prejudiced.
4

5 Dated:

Respectfully Submitted,

6
7 /s/ Christopher Godshall-Bennett
Christopher Godshall-Bennett
8 LEE & GODSHALL-BENNETT LLP

9
10 /s/ Hani Habbas
Hani Habbas
11 HH LAW FIRM

12 *Attorneys for Petitioner*
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INTRODUCTION

Petitioner Fadi Bassam Rouf Shuhaibar (“Mr. Shuhaibar” or “Petitioner”) respectfully moves for a temporary restraining order and a preliminary injunction to halt and remedy his unlawful civil immigration detention and to preserve the status quo pending adjudication of his habeas petition. After years of documented, violation-free supervision under a final order of removal, U.S. Immigration and Customs Enforcement (“ICE”) abruptly re-detained Mr. Shuhaibar at a routine check-in without identifying any changed, case-specific circumstances and without providing the contemporaneous written reasons and prompt interview required by 8 C.F.R. § 241.13(i). ICE further conceded it possessed no Israeli/Palestinian travel documents and had not initiated the prerequisite consular steps—indeed, Mr. Shuhaibar has never been interviewed by Israeli officials—underscoring that his removal is not significantly likely in the reasonably foreseeable future. The agency’s summary action also deprived Mr. Shuhaibar of the basic procedural safeguards guaranteed by the Fifth Amendment, and his continued incarceration serves no legitimate purpose given years of compliance, deep family and community ties, and the absence of any public safety concern.

A temporary restraining order and preliminary injunction are warranted because Mr. Shuhaibar is likely to succeed on the merits of his statutory, regulatory, and constitutional claims; at a minimum, he raises serious questions going to the

1 merits. He faces irreparable harm absent immediate relief, including the deprivation
2 of his liberty and severe disruption to his U.S. resident family who depend on his
3 caregiving and income. The balance of equities tips sharply in his favor: continued
4 detention without lawful predicate imposes grave personal and constitutional
5 injuries, while the government can fully protect its interests through the less
6 restrictive means that have functioned for years, namely supervised release. The
7 public interest is likewise served by enforcing federal regulations, upholding
8 constitutional guarantees, and ensuring that civil detention is not employed
9 arbitrarily or for investigative convenience. The Court should therefore issue a
10 temporary restraining order and a preliminary injunction enjoining ICE from
11 continuing to detain Mr. Shuhaibar absent compliance with 8 C.F.R. § 241.13 and
12 due process and ordering his immediate release under appropriate conditions; or, at
13 minimum.
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19 STATEMENT OF FACTS

20 Mr. Shuhaibar is a 35-year-old  born in the Gaza Strip
21 who has resided in the United States since 2016. Pet. ¶ 25. He was placed into
22 removal proceedings after Customs and Border Protection (“CBP”) found him
23 inadmissible and determined he credibly feared persecution if returned to Gaza. *Id.*
24 ¶ 26. He was ordered removed to Israel in October 2017. *Id.* ¶ 28. Mr. Shuhaibar’s
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1 appeal was denied by the Board of Immigration Appeals and Ninth Circuit,
2 concluding his removal proceedings on March 8, 2021. *Id.* ¶ 30.

3
4 He was detained during his immigration proceedings for fourteen months,
5 until January 18, 2018, when he was released on bond. *Id.* ¶ 28. Mr. Shuhaibar
6 remained at liberty on bond following the Ninth Circuit's decision until October 23,
7 2023, when ICE cancelled his bond and placed him on an Order of Supervision
8 ("OSUP") after determining that his removal was unlikely. *Id.* ¶ 31.

9
10 Since that time, Mr. Shuhaibar has complied with all conditions of release,
11 including attending every required ICE check-in. *Id.* ¶ 33. Despite this compliance,
12 ICE abruptly revoked his OSUP at his October 15, 2025 check-in. At that time, ICE
13 did not identify any "changed circumstances," nor provide a reason for the
14 revocation. *Id.* ¶ 35. When Mr. Shuhaibar asked why he was being taken back into
15 custody, an ICE officer stated only, "It's a new administration." *Id.* ICE never
16 afforded Mr. Shuhaibar an opportunity to respond to any rationale for revocation.
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19 Originally, ICE informed Mr. Shuhaibar that it did not intend to remove him
20 to Palestine or Israel, but might attempt removal to an unspecified third country. *Id.*
21 ¶ 34. ICE apparently changed its mind and requested travel documents from Israel.
22 *Id.* ¶ 38. The request was rejected because Mr. Shuhaibar's Palestinian passport is
23 expired. *Id.*
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1 Removal to Gaza is currently impossible: Israel prohibits travel into Gaza,
2 which is largely destroyed, and, as far as Petitioner is aware, the United States has
3 not removed any non-citizens there since July 2023. *Id.* ¶¶ 40-41. ICE has not
4 identified any viable third-country removal country or articulated any concrete plan
5 for effectuating Mr. Shuhaibar’s removal. *Id.* ¶ 42.

8 ARGUMENT

9 The requirements for granting a Temporary Restraining Order (“TRO”) are
10 “substantially identical” to those for granting a preliminary injunction. *Stuhlbarg v.*
11 *Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

13 Petitioners must demonstrate that (1) they are likely to succeed on the merits
14 of their claims; (2) they are likely to suffer irreparable harm in the absence of
15 preliminary relief; (3) the balance of equities tips in their favor; and (4) an injunction
16 is in the public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). A
17 sliding scale test may be applied, and an injunction should be issued when there is a
18 stronger showing on the balance of the hardships, even if there are “serious questions
19 going to the merits . . . so long as the plaintiff also shows that there is a likelihood
20 of irreparable injury and that the injunction is in the public interest.” *All. for the Wild*
21 *Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011); *see also Flathead-Lolo-*
22 *Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024). As
23 set forth in more detail below, Petitioner overwhelmingly satisfies both standards.
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I. Mr. Shuhaibar is likely to succeed on the merits.

Petitioner is likely to succeed on the merits of his claims that his re-detention by ICE violated 8 C.F.R. §§ 241.13(i)(2)-(3) and, separately, his Fifth Amendment due process rights.

A. ICE's re-detention of Mr. Shuhaibar without a showing of changed circumstances or an opportunity to contest this showing violated 8 C.F.R. §§ 241.13(i)(2)-(3).

Before turning to Petitioner's constitutional claims, this Court may find that Petitioner's re-detention was not authorized by 8 C.F.R. §§ 241.13(i)(2)-(3). *See Califano v. Yamasaki*, 442 U.S. 682, 692 (1979) ("A court presented with both statutory and constitutional grounds to support the relief requested usually should pass on the statutory claim before considering the constitutional question.").

The regulations implementing 8 U.S.C. § 1231 provide that once ICE releases a non-citizen on an OSUP, ICE's ability to re-detain that non-citizen is governed by its own regulations. Relevant here, 8 C.F.R. § 241.13(i)(2) provides for "[r]evocation for removal" when, "on account of changed circumstances, the Service determines that there is a significant likelihood that the [non-citizen] may be removed in the reasonably foreseeable future." ICE's own regulations thus place the burden on ICE to show changed circumstances that make removal significantly likely in the reasonably foreseeable future. In addition, 8 C.F.R. § 241.13(i)(3) provides that "[u]pon revocation, the [non-citizen] will be notified of the reasons for revocation

1 of his or her release” and afforded an opportunity to “respond to the reasons for
2 revocation stated in the notification” at an informal interview.

3
4 District courts regularly find that where ICE has failed to follow its own
5 regulations when re-detaining a non-citizen, “the detention is unlawful and the
6 petitioner’s release must be ordered.” *Constantinovici v. Bondi*, No. 3:25-cv-02405,
7 2025 WL 2898985, at *6 (S.D. Cal. Oct. 10, 2025) (quoting *Rokhfirooz v. Larose*,
8 No. 25-cv-2053, 2025 WL 2646165, at *4 (S.D. Cal. Sept. 15, 2025); *see also* Order
9 Granting Petitioner’s Motion for Temporary Restraining Order, at 7, *El-Ghazaly v.*
10 *Chestnut*, No. 1:25-cv-01621 (E.D. Cal. Dec. 4, 2025); *Hoac v. Becerra*, No. 2:25-
11 cv-01740, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding petitioner was
12 likely to succeed on his unlawful re-detention claim because “there is no indication
13 that an informal interview was provided”); *Rombot v. Souza*, 296 F. Supp. 383, 388
14 (D. Mass. 2017) (holding that ICE’s failures to follow its own regulations rendered
15 the petitioner’s detention unlawful). Courts in this very district have been persuaded
16 that the “reasoning of these sister courts is correct” finding that the procedures
17 implementing 8 U.S.C. § 1231 “are not optional or discretionary; they must be
18 followed, and failure to do so renders the detention unlawful.” *Delkash v. Noem*, No.
19 5:25-cv-01675, 2025 WL 2683988, at *6 (C.D. Cal. Aug. 28, 2025).

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22 ICE unequivocally failed to provide notice to Mr. Shuhaibar as required by
23 the regulations governing revocation of supervised release and the minimum
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1 constitutional standards of due process. Under 8 C.F.R. § 241.13(i)(3), when
2 revoking supervised release ICE must provide contemporaneous written notice
3 stating the reasons for revocation. No such notice was provided, nor did ICE identify
4 any individualized, changed circumstances or articulate any factual basis for
5 concluding removal had become significantly likely in the reasonably foreseeable
6 future. Rather, ICE merely told Mr. Shuhaibar, “It’s a new administration.” Pet. ¶
7
8 35. Even following his re-detention, Mr. Shuhaibar did not receive any notice
9 explaining the reasons for revocation. The “process” ICE used here does not satisfy
10 the regulation’s requirement of a timely, reasons, written notice “upon revocation.”
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13 Furthermore, ICE was not in possession of travel documents from Israel for
14 Mr. Shuhaibar and even disclaimed any intention to remove him there. Pet. ¶ 34. For
15 reasons unknown, ICE has subsequently requested travel documents from Israel,
16 which has, so far, denied. *Id.* ¶ 38. Courts in this District have recently found
17 Petitions are likely to succeed under similar circumstances. *See, e.g., Hoac*, 2025
18 WL 1993771, at *1 (government had no travel document for petitioner); *Phan v.*
19 *Becerra*, No. 2:25-cv-01757, 2025 WL 1993735, at *1 (E.D. Cal. July 16, 2025)
20 (same); *Im v. Semaia et al.*, No. 5:25-cv-02733, Dkt. No. 18 (C.D. Cal. Oct. 30,
21 2025) (same). Thus, Petitioner is likely to show that his re-detention is unlawful
22 because ICE failed to follow the requirements of 8 C.F.R. § 241.13(i)(2)-(3).
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1 *B. ICE's re-detention of Mr. Shuhaibar without a pre-deprivation hearing*
2 *violated his Due Process rights.*

3 There can be no doubt that Mr. Shuhaibar is entitled to the protections of the
4 Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678,
5 693 (2001) (“[T]he Due Process Clause applies to all ‘persons’ within the United
6 States, including [non-citizens], whether their presence here is lawful, unlawful,
7 temporary, or permanent.”). “The fundamental requirement of due process is the
8 opportunity to be heard at a meaningful time and in a meaningful manner.” *Mathews*
9 *v. Eldridge*, 424 U.S. 319, 333 (1976). Where a petitioner such as Mr. Shuhaibar,
10 has been at liberty for years and complied with his ICE reporting requirements,
11 district courts in the Ninth Circuit have repeatedly granted temporary restraining
12 orders and preliminary injunctions holding “that due process requires a hearing
13 before an IJ prior to re-detention.” *See Romero v. Kaiser*, No. 22-cv-02508, 2022
14 WL 1443250, at *2 (N.D. Cal. May 6, 2022); *see also Sun v. Santacruz*, No. 5:25-
15 cv-02198, 2025 WL 2730235, at *3 (C.D. Cal. Aug. 26, 2025) (collecting cases that
16 enjoined “the government from re-detaining petitioners at in-person check-in
17 appointments” without first providing a hearing before an immigration judge).
18 Despite the overwhelming caselaw requiring Respondents to provide a hearing prior
19 to re-detention, Mr. Shuhaibar never received this process.¹ Mr. Shuhaibar seeks a
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28 ¹ In 2025 alone, at least seven district courts in the Ninth Circuit have found that
procedural due process requires a hearing before an immigration judge prior to re-

1 prohibitory injunction that returns him to the status quo of his prior ICE custody—
2 i.e., released on his previous OSUP. *Tanner Motor Livery, Ltd. v. Avis, Incl*, 316
3 F.2d 804, 809 (9th Cir. 1963) (internal quotations omitted) (find that “the status quo
4 is the last uncontested status which preceded the pending controversy.”); *see also*
5 *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1090 (E.D. Cal. 2025) (“It is questionable
6 whether that status quo is properly considered to be detention when the Government
7 suddenly took an allegedly unconstitutional action in rearresting Petitioner without
8 a hearing.”).²

12 Court analyze procedural due process claims in two steps. First, the Court
13 must determine if Mr. Shuhaibar has a protected interest in his continued liberty. *See*
14 *Doe*, 787 F. Supp. 3d at 1090-93. If so, the Court then uses the three-factor *Mathews*
15 framework to determine what process is due. *Id.* at 1093. Consistent with other
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20 detention of petitioners with facts substantially the same as those in Mr. Shuhaibar’s
21 case. *See Enamorado v. Kaiser*, No. 25-cv-04072, 2025 WL 1382859 (N.D. Cal.
22 May 12, 2025); *Doe v. Becerra*, 787 F. Supp. 3d 1083 (E.D. Cal. 2025); *Sun*, 2025
23 WL 2730235; *Zakzouk v. Becerra*, No. 25-cv-06254, 2025 WL 2097470 (N.D. Cal.
24 July 26, 2025); *Ortega v. Kaiser* (“*Ortega II*”), No. 25-cv-05259, 2025 WL
25 2243616, at *1 (N.D. Cal. Aug. 6, 2025); *Garcia v. Bondi*, No. 3:25-cv-05070, 2025
26 WL 1676855, at *1 (N.D. Cal. June 14, 2025); *Sanchez v. LaRose*, No. 25-cv-2396,
27 2025 WL 2770629, at *1 (S.D. Cal. Sept. 26, 2025). ICE should have known this
28 was a requirement prior to taking Mr. Shuhaibar back into custody.

² Should this Court find that Mr. Shuhaibar’s request requires a mandatory
injunction, he meets that higher standard because the violation here concerns his
“due process rights and his continued unlawful detention in violation of those rights
constitutes extreme or very serious damage that will [continue] in the absence of an
injunction.” *Doe*, 787 F. Supp. 3d at 1090.

1 courts in this circuit, this Court should find that Mr. Shuhaibar is likely to succeed
2 on the merits of his procedural due process claim and order his release from
3 detention. *Id.* at 1094; *see also Romero*, 2022 WL 14443250, at *2 (“[T]his Court
4 joins other courts of this district facing facts similar to the present case and find
5 Petitioner raised serious questions going to the merits of his claim that due process
6 requires a hearing before an IJ prior to re-detention.”); *Sanchez*, 2025 WL 2770629,
7 at *4 (granting habeas where “Respondents denied Petitioner constitutionally
8 adequate protections” prior to deprivation of her liberty interest).
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12 1. Mr. Shuhaibar has a protected interest in continued liberty.

13 “[I]ndividuals who have been released from custody, even where such release
14 is conditional, have a liberty interest in their continued liberty.” *Morrissey v. Brewer*,
15 408 U.S. 471, 482 (1997); *see also Doe*, 787 F. Supp. 3d at 1093 (collecting cases
16 holding the same). Respondents issued Mr. Shuhaibar an OSUP after necessarily
17 determining that (1) he was not removable in the foreseeable future, and (2) he was
18 not a flight risk or a danger to the community. *See* 8 C.F.R. § 241.4(d). Mr. Shuhaibar
19 has remained released since this 2023 determination and, before that, since 2018 on
20 bond. As someone released from civil immigration detention for the past several
21 years, Mr. Shuhaibar not only holds a protected liberty interest in his release, that
22 interest has increased over time. *See Doe*, 787 F. Supp. 3d at 1093.
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1 2. The *Mathews* factors weigh in favor of releasing Mr. Shuhaibar.

2 Because Mr. Shuhaibar possessed a liberty interest in his release, the Court
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4 must consider the following three factors to determine what process Mr. Shuhaibar
5 was owed prior to his re-detention: (1) “the private interest that will be affected by
6 the official action”; (2) “the risk of erroneous deprivation of such interest through
7 the procedures used, and the probative value, if any, of additional or substitute
8 procedural safeguards”; and (3) “the Government’s interest, including the function
9 involved and the fiscal and administrative burdens that the additional or substitute
10 procedural requirement would entail.” *Mathews*, 424 U.S. at 335. District Court in
11 the Ninth Circuit have found that all three factors weighed in favor of petitioners in
12 nearly identical circumstances to Mr. Shuhaibar’s. *See Sun*, 2025 WL 2730235, at
13 *6; *see also Romero*, 2022 WL 1443250, at *2 (collecting cases). This Court should
14 do so again, and order Mr. Shuhaibar released for the reasons provided below. *See*
15 *Sanchez*, 2025 WL 2770629, at *4 (granting habeas relief where respondents did not
16 comport with due process prior to re-detention).
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22 i. Mr. Shuhaibar’s private interest is strong.

23 “It cannot be gainsaid that [Mr. Shuhaibar] has a substantial private interest
24 in maintaining his out-of-custody status.” *Doe*, 787 F. Supp. 3d at 1093; *see also*
25 *Sun*, 2025 WL 2730235, at *5 (finding nature of liberty interest is arguably greater
26 in the context of immigration detention because it is civil detention). Mr. Shuhaibar
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1 was issued an OSUP by ICE after the agency determined that he was neither a flight
2 risk nor a danger to the community. *See* 8 C.F.R. § 241.4(d) (ICE “may release” a
3 person if their “release will not pose a danger to the community or to the safety of
4 other persons or to property or a significant risk of flight pending” their “removal
5 from the United States.”). Mr. Shuhaibar’s community ties and family circumstances
6 plainly indicate that he is not a flight risk or a danger to the community. “The lengthy
7 duration of his conditional release as well as the meaningful connections [Mr.
8 Shuhaibar has] . . . made with his community during that time create a powerful
9 interest for [Mr. Shuhaibar] in his continued liberty.” *Doe*, 787 F. Supp. 3d at 1094.
10 This factor weighs heavily in Mr. Shuhaibar’s favor.
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15 ii. Mr. Shuhaibar’s re-detention erroneously deprived him of his
16 liberty.

17 The risk of erroneous deprivation is high where “ICE takes the position that it
18 may revoke a release determination at any time without either a hearing before or
19 additional oversight from a neutral adjudicator.” *Sun*, 2025 WL 2730235, at *6.
20 Indeed, Mr. Shuhaibar has been living the consequences of such an erroneous
21 deprivation since he was re-detained without any hearing or oversight from a neutral
22 adjudicator. *See Sanchez*, 2025 WL 2770629, at *4 (finding petitioner was
23 unconstitutionally deprived of liberty when ICE detained her without a pre-detention
24 hearing). Furthermore, any post-detention procedural safeguards that ICE may offer
25 Mr. Shuhaibar now are insufficient because they do no more than request that ICE
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1 “reconsider the agency’s unilateral detention decision’ without any requirement that
2 a neutral party review that decision.” *Sun*, 2025 WL 2730235, at *6 (quoting
3 *Guillermo M.R. v. Kaiser*, No. 25-cv-05436, 2025 WL 1983677, at *7 (N.D. Cal.
4 July 17, 2025); *see also* 8 C.F.R. § 241.4. Thus, this Court should grant Mr.
5 Shuhaibar’s release so that his custody re-determination can be properly heard by an
6 Immigration Judge (if ICE wishes to re-detain him) without the unlawful constraint
7 on his liberty and the continued infliction of irreparable harm. *See infra* at II.

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11 iii. The government’s interest in re-detaining Mr. Shuhaibar without a
12 hearing is low.

13 Immigration civil detention must be “nonpunitive in purpose and effect.”
14 *Zadvydas*, 533 U.S. at 690. When detention is untethered to Respondents’ regulatory
15 goals of ensuring appearance at immigration hearings and preventing danger to the
16 community, the detention violates to process. *Id.* at 690-92. ICE previously
17 determined that Mr. Shuhaibar is neither a flight risk nor a danger to the community
18 when the agency issued him an OSUP in 2023. *See* 8 C.F.R. § 241.4(d) (requiring
19 ICE to determine whether a non-citizen is a flight risk or danger to the community
20 prior to releasing them from detention); *Sun*, 2025 WL 2730235, at *6 (finding
21 respondents’ interest is low where they previously determined petitioner was neither
22 a flight risk nor a danger to the community); *Doe*, 787 F. Supp. 3d at 1091 (same).
23 Respondents cannot now refute that their interests have changed based on these
24 factors.
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1 The government's interest in preventing flight risk "is weak or nonexistent
2 where removal seems a remote possibility at best." *Zadvydas*, 533 U.S. at 690. In
3 2023, Respondents issued Mr. Shuhaibar an OSUP after determining that his
4 removal was impossible. Pet. ¶ 31. As demonstrated *supra* at section I.A,
5 Respondents have not shown any changed circumstances such that Mr. Shuhaibar is
6 now removable and cannot claim he is a flight risk. Separately, district courts have
7 repeatedly found "that the government's interest in re-detaining [a non-citizen] is
8 'low, particularly' where he 'has long complied with his reporting requirements.'"
9 *Diaz v. Kaiser*, 3:25-cv-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 14, 2025).
10 Mr. Shuhaibar has always complied with the conditions of his release and has never
11 missed a check-in. Pet. ¶ 33. Mr. Shuhaibar's strong support system, including his
12 U.S. citizen fiancé and resident-parents and brother, also weighs against him being
13 a flight risk. *See Andriasyan v. Gonzalez*, 446 F. Supp. 2d 1186, 1190 (W.D. Wash.
14 2006) (finding significant community ties weighed in favor of petitioner not posing
15 a flight risk and ordering ICE to impose supervised release pursuant to 8 C.F.R. §
16 241.5).

17 The government's second regulatory goal of protecting the community is
18 "limited to specially dangerous individuals and subject to strong procedural
19 protections." *Zadvydas*, 533 U.S. at 691. Again, Respondents have already
20 determined that Mr. Shuhaibar is not a danger to the community and, since his
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1 release, he has only strengthened his connection with his family and community. He
2 has also had no contact with law enforcement. *See Sun*, 2025 WL 2730235, at *6.
3 Respondents have provided no evidence to suggest that Mr. Shuhaibar is now a
4 danger to the community. Because Mr. Shuhaibar is not presently removable, a flight
5 risk, or a danger to the community, this factor also weighs in his favor.
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8 Each *Mathews* factor weighs in Mr. Shuhaibar's favor. This Court should
9 return him to the status quo and order his release.
10

11 **II. Absent a TRO and Preliminary Injunction, Mr. Shuhaibar will suffer**
12 **irreparable harm.**

13 Absent a TRO and preliminary injunction, Petitioner will continue to suffer
14 irreparable harm as a result of his unlawful detention.
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16 It "is well established that the deprivation of constitutional rights
17 unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990,
18 1002 (9th Cir. 2012) (citation modified); *Warsoldier v. Woodford*, 418 F.3d 989,
19 1001-02 (9th Cir. 2005). Mr. Shuhaibar's detention constitutes "a loss of liberty that
20 is . . . irreparable." *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D.
21 Wash. 2020) (*Moreno II*) *aff'd in part, vacated in part on other grounds, remanded*
22 *sub nom. Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir. 2022). The harm is only
23 compounded by his separation from his family and the "economic hardship" suffered
24 by his family as a result of his detention. *Andreiu v. Ashcroft*, 253 F.3d 477, 484 (9th
25 Cir. 2001).
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1 Absent a temporary restraining order and a preliminary injunction, Mr.
2 Shuhaibar will continue to suffer irreparable harm that cannot be remedied by
3 monetary damages or post hoc relief. The core injury is the ongoing deprivation of
4 his physical liberty, which courts have long recognized as a paradigmatic irreparable
5 harm. Each additional day of confinement inflicts non-compensable losses on Mr.
6 Shuhaibar's autonomy, dignity, and ability to care for himself and his family. That
7 harm is compounded by his mother's medical vulnerability. She is treatment for
8 breast cancer and Mr. Shuhaibar bears primary responsibility for ensuring her care.
9 Pet. ¶¶ 6, 32. An injunction is therefore necessary to prevent ongoing and escalating
10 harms to Mr. Shuhaibar's liberty and family that cannot be remedied absent
11 immediate judicial intervention.

12 **III. The balance of equities tip in Mr. Shuhaibar's favor and a TRO is in the**
13 **public interest.**

14 Because the government is a party, the last two factors are considered
15 together. *Nken v. Holder*, 556 U.S. 418, 435 (2009). It is not "equitable or in the
16 public's interest to allow the state . . . to violate the requirements of federal law,
17 especially when there are no adequate remedies available." *Ariz. Dream Act Coal.*
18 *v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014) (quoting *Valle Del Sol Inc. v.*
19 *Whiting*, 732 F.3d 1006, 1029 (9th Cir 2013)). "On the contrary, the public interest
20 and the balance of the equities favor 'prevent[ing] the violation of a party's
21 constitutional rights.'" *Id.* (alteration in original) (quoting *Melendres*, 695 F.3d at

1 1002). Mr. Shuhaibar has demonstrated that this factor tips in his favor because his
2 re-detention “is inconsistent with federal law, . . . [thus] the balance of hardships and
3 public interest factors weigh in favor of a preliminary injunction.” *Moreno Galvez*
4 *v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (*Moreno I*); *see also*
5 *Moreno Galvez*, 52 F.4th 821, 832 (9th Cir. 2022) (affirming in part permanent
6 injunction issued in *Moreno II* and quoting approvingly district judge’s declaration
7 that “it is clear that neither equity nor the public’s interest are furthered by allowing
8 violations of federal law to continue”).
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12 CONCLUSION

13 For the foregoing reasons, the Court should grant Petitioner’s Motion for a
14 Temporary Restraining Order and Preliminary Injunction.
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18 Dated: December 15, 2025

Respectfully Submitted,

19 /s/ Christopher Godshall-Bennett
20 Christopher Godshall-Bennett
21 LEE & GODSHALL-BENNETT LLP

22 /s/ Hani Habbas
23 Hani Habbas
24 HH LAW FIRM

25 *Attorneys for Petitioner*
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WORD COUNT CERTIFICATION

The undersigned counsels of record for Petitioner certify that this Memorandum of Points and Authorities contains 4,050 words in compliance with the word limit of L.R. 11-6.1.