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7 MARZBAN MODY, A# 

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 MARZBAN MODY

12 Petitioner,

13 v.

14 WARDEN, DESERT VIEW ANNEX,
15 ADELANTO ICE PROCESSING
16 CENTER; PATRICIA M. COLBERT,
17 FIELD OFFICE DIRECTOR OF THE
18 LOS ANGELES FIELD OFFICE OF
19 IMMIGRATION AND CUSTOMS
20 ENFORCEMENT; KRISTI NOEM,
21 SECRETARY OF THE DEPARTMENT
22 OF HOMELAND SECURITY; PAM
23 BONDI, ATTORNEY GENERAL OF
24 THE UNITED STATES

25 Respondents.
26
27
28

Case No. 5-25-CV-03400-FMO-RAO

**PETITIONER'S EX PARTE
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION; MEMORANDUM
OF POINTS AND AUTHORITIES;
DECLARATION OF COUNSEL**

**PETITIONER'S EX PARTE APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Petitioner Marzban Mody, by and through his attorney of record Ramanujan Nadadur, respectfully requests that the Court grant his Ex Parte Application for a Temporary Restraining Order and Preliminary Injunction. The grounds for this application are set forth in the accompanying memorandum of law, exhibits in support thereof, the Petition, and the applicable law. A proposed order also accompanies this application.

Respectfully submitted,
By /s/ Ramanujan Nadadur
Ramanujan Nadadur
Counsel for Petitioner

DATED: December 16, 2025

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Marzban Mody is a long-time resident of Orange County, CA, who entered the United States lawfully in 2011, pursuant to a grant of parole by the United States government. (*See* I-94, Dkt. 2 at 12-15.) He has been married to his U.S. citizen wife for over twenty-seven years, (Marriage Certificate, Dkt. 2 at 3-4), and he has a twenty-six-year-old U.S.-citizen son, (Passport Copy and Birth Certificate of Son, Dkt. 2 at 5-6.)

Mr. Mody applied for lawful permanent resident status (i.e., a green card) based on his marriage to his wife, and he received an approval of his I-130, Petition for Alien Relative, based on that marriage. (*See* I-130 Approval, Dkt. 2 at 2.) Pursuant to 8 U.S.C. § 1255(a), (c)(2) and its implementing regulations, Mr. Mody is eligible to receive his lawful permanent resident status without leaving the United States (i.e. to adjust status). He can adjust status because he is married to a United States citizen, and because he “was inspected and admitted or paroled into the United States.” *See also* United States Citizenship and Immigration Services, *Unlawful Immigration Status at Time of Filing (INA 245(c)(2))*, USCIS Policy Manual, Volume 7 Part B – Adjustment of Status, Chapter 3 (current as of Dec. 12, 2025), *available at* <https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-3>.

Despite having a clear lawful pathway to permanent resident status without ever having to leave the United States, Mr. Mody was arrested by Immigration and Customs Enforcement (“ICE”) at his adjustment-of-status interview in Santa Ana, CA on December 9, 2025. (Declaration of Ramanujan Nadadur at ¶ 2.) Mr. Mody is currently being detained at the Desert View Annex in Adelanto, CA. (Ex. A, ICE Detainee Locator.) Undersigned counsel requested a bond hearing before the immigration courts, but the Executive Office of Immigration Review (“EOIR”) has not provided Mr. Mody with a bond hearing. (Ex. B, Request for Bond Hearing.)

1 Mr. Mody is almost sixty years old, and he suffers from gastroesophageal reflux
2 disease, hematuria (i.e. blood in the urine), and hypertension, among other health
3 conditions. (Ex. C, Kaiser Permanent Past Visit Details.) He is struggling in
4 immigration detention.

5 For these reasons, Mr. Mody asks this Court to provide immediate relief,
6 ordering him released from the custody of Immigration and Customs Enforcement, or
7 alternatively, ordering him to be provided with a bond hearing before a neutral arbiter
8 as soon as possible.

9 II. STATEMENT OF FACTS

10 Petitioner Marzban Mody is a 59-year-old citizen of India. (*See* I-94, Dkt. 2 at 2.)
11 He has been married to his U.S. citizen wife for around 27 years. (Marriage Certificate,
12 Dkt. 2 at 3-4.) They have a 26-year-old U.S.-citizen son together. (Birth Certificate,
13 Dkt. 2 at 5-6.)

14 Prior to his arrest by ICE, Mr. Mody resided with his wife and son in Orange
15 County, CA, at a home owned by his wife. (Property Deed, Dkt. 2 at 71.) Petitioner and
16 his wife work for a business based in Orange County, CA. (Pay Stubs, Dkt. 2 at 63-70.)
17 Petitioner and his wife jointly file their taxes. (Tax Filings, Dkt. 2 at 53-62.)

18 Mr. Mody has a prior conviction for violating 31 U.S.C. § 5324(a)(3), structuring
19 transactions. (Judgment and Commitment, Dkt. 2 at 87.) During this criminal case, he
20 actively cooperated with the government, and the Department of Justice (“DOJ”)
21 recommended him for a 5K variance and a no-jail sentence based on that cooperation.
22 (Sentencing Transcript, Dkt. 2 at 96-97.) Under DOJ orders, the Department of
23 Homeland Security (“DHS”) granted him humanitarian parole in 2010, so he could
24 travel out of the United States to visit his ailing mother, reenter the United States, and
25 then adjust status based on his marriage to his U.S.-citizen spouse. (Parole Documents,
26 Dkt. 2 at 16-17.)

1 Mr. Mody, through counsel, applied for adjustment of status to lawful permanent
2 resident status based on the approved I-130, Petition for Alien Relative, filed by his
3 wife. (See I-130 Approval, Dkt. 2 at 2; I-485 Receipt Notice, Dkt. 2 at 45.) He attended
4 an interview to adjust status at the U.S. Citizenship and Immigration Services Field
5 Office location in Santa Ana, CA on December 9, 2025. On this date, ICE arrested him
6 and charged him with being removable because he entered the United States without a
7 “valid unexpired immigrant visa, reentry permit, border crossing identification card, or
8 other valid entry document.” (Ex. D, Notice to Appear.)

9 Following his arrest by ICE, undersigned counsel immediately filed a request for
10 custody redetermination. EOIR has not responded to this request nor has it provided
11 Mr. Mody with a bond hearing. (Ex. B, Request for Bond Hearing.)

12 On December 15, 2025, undersigned counsel emailed DHS to request Mr.
13 Mody’s release on bond. DHS responded by email as follows: “DHS will hold the
14 original custody determination. You may, however, request a bond from the
15 immigration judge.” (Ex. E, Email from DHS.)

16 III. ARGUMENT

17 To obtain temporary and preliminary injunctive relief, Petitioner must
18 demonstrate that (1) he is likely to succeed on the merits, (2) he is likely to suffer
19 irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in
20 his favor, and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def.*
21 *Council, Inc.*, 555 U.S. 7, 20 (2008). When the government is a party, the balance of
22 equities and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

A. Mr. Mody Is Likely to Succeed on the Claim That His Ongoing, Prolonged, and Unreviewed Detention Violates the Immigration and Nationality Act (INA) and Procedural Due Process.

1. The INA Requires Mr. Mody To Be Granted a Bond Hearing.

Mr. Mody is entitled to a bond hearing before a neutral arbiter, and continuing to deprive him of such a hearing violates immigration law. Section 1226(a), the “general” detention provision, authorizes ICE to detain a noncitizen “pending a decision on whether [he] is to be removed from the United States.” *See* 8 U.S.C. § 1226(a). Individuals detained under 8 U.S.C. § 1226(a) are entitled to a bond hearing before an immigration judge at which they can seek release. *See* 8 C.F.R. § 1003.19; 8 C.F.R. § 1236.1.

DHS has recently adopted the position that a noncitizen classified as an “arriving alien,” i.e. someone who was not admitted or inspected at a port of entry, is not eligible for a bond hearing before a neutral arbiter. This argument is unavailing for two reasons.

First, Mr. Mody is not an “arriving alien” as he was lawfully paroled into the United States in 2010 and then again in 2011. The NTA incorrectly classifies him as an arriving alien. Mr. Mody is eligible for bond under 8 U.S.C. § 1226(a) as an alien who DHS alleges has been lawfully admitted into the United States but is deportable.

Second, even if classified as an “arriving alien,” i.e., someone who entered the United States without inspection, Mr. Mody is required to be provided a bond hearing pursuant to this Court’s decision in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). In *Maldonado Bautista*, the Court granted declaratory relief to the entire class, holding that the government is unlawfully subjecting “arriving aliens” to mandatory (meaning no-bond) detention and that class members are eligible for release on bond under the immigration laws. *Id.* The district court certified the following Bond Eligible Class:

1 “All noncitizens in the United States without lawful status who (1) have entered or will
2 enter the United States without inspection; (2) were not or will not be apprehended
3 upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. §
4 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security
5 makes an initial custody determination.” *Id.*

6 Even under DHS’s incorrect classification in the Notice to Appear, Mr. Mody is
7 a member of the *Maldonado Bautista* Bond Eligible Class as an arriving alien who
8 allegedly “ha[s] entered or will enter the United States without inspection.” Therefore,
9 he is entitled to a bond hearing.

10 **2. Denying Mr. Mody a Bond Hearing and Subjecting Him to**
11 **Continued Detention Violates His Constitutional Due**
12 **Process Rights.**

13 The Fifth Amendment provides that “[n]o person” shall “be deprived of life,
14 liberty, or property, without due process of law,” including in removal proceedings. *See*
15 *Reno v. Flores*, 507 U.S. 292, 306 (1993). “Freedom from imprisonment—from
16 government custody, detention, or other forms of physical restraint—lies at the heart of
17 the liberty th[e Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690
18 (2001). Detention violates due process absent “adequate procedural protections” or
19 “special justification[s]” sufficient to outweigh the “constitutionally protected interest
20 in avoiding physical restraint.” *Id.* (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356
21 (1997)). Thus, “adequate procedural protections” are required to ensure detention
22 “outweighs the ‘individual’s constitutionally protected interest in avoiding physical
23 restraint.’” *Id.*

24 Here, Mr. Mody has been detained without a bond hearing or an opportunity to
25 present his case to a neutral arbiter. His detention, without the opportunity for a
26 hearing, deprives him of his constitutional due process rights.

B. Mr. Mody Will Suffer Irreparable Harm Absent Emergency Injunctive Relief

Parties seeking preliminary injunctive relief must also show they are “likely to suffer irreparable harm in the absence of preliminary relief.” *Winter*, 555 U.S. at 20. Irreparable harm is harm for which there is “no adequate legal remedy, such as an award of damages.” *Ariz. Dream Act. Coal. v. Brewer (Ariz. I)*, 757 F.3d 1053, 1068 (9th Cir. 2014); *see also Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013).

Mr. Mody is suffering and will suffer irreparable harm resulting from his prolonged detention in immigration custody. He is a 59-year-old man with several underlying health issues. The Desert View Annex, the facility where he is housed, has a history of providing inadequate medical care for people like Mr. Mody. *See* ACLU, *Detained Immigrants Denied Access to Attorneys and Basic Medical Care at Desert View Annex Facility* (May 9, 2024), *available at* <https://www.aclusocal.org/press-releases/detained-immigrants-denied-access-attorneys-and-basic-medical-care-desert-view-annex/>.

Additionally, the experience in immigration detention is unnecessary and painful for someone like Mr. Mody, irrespective of his health conditions. He is a long-time resident of Orange County, CA; he has a U.S.-citizen wife and son who rely on him for financial and emotional support; and he is eligible for adjustment-of-status to lawful permanent resident status (i.e. he has a clear pathway to a green card and then to citizenship). Mr. Mody can receive a green card by submitting an application to U.S. Citizenship and Immigration Services. His prior conviction does not preclude him from receiving a green card. *See Goldeshtein v. I.N.S.*, 8 F.3d 645, 647 (9th Cir. 1993).

Mr. Mody tried to follow these lawful steps until ICE arrested him at his green card interview. He now asks for the opportunity to be released from detention, so he can continue the process of receiving his green card.

C. The Balance of Hardships and Public Interest Weigh Heavily in Petitioner's Favor.

The final two factors for injunctive relief—the balance of hardships and public interest—“merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, Petitioner faces weighty hardships, namely the deprivation of his statutory and constitutional right to a bond hearing, the deprivation of his right to follow a lawful pathway to permanent resident status, the deprivation of his liberty, the denial of adequate medical care in immigration detention, and separation from his U.S.-citizen family.

Respondents, by contrast, face no hardship. There are almost no administrative costs associated with granting Mr. Mody's release or allowing him to have a single bond hearing before a neutral arbiter. “[T]he balance of hardships tips decidedly in [petitioner's] favor” when “[f]aced with such a conflict between financial concerns and preventable human suffering.” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

Moreover, Respondents “cannot suffer harm from an injunction that merely ends an unlawful practice” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). The public interest is served by the faithful execution of the immigration laws

IV. CONCLUSION

For the foregoing reasons, Mr. Mody requests that the Court the temporary restraining order and order Respondents to release Mr. Mody from custody. Alternatively, Petitioner requests that the Court grant the temporary restraining order and order Respondents to schedule Mr. Mody for a bond hearing before a neutral arbiter as soon as possible.

Respectfully submitted,

DATED: December 16, 2025

By /s/ Ramanujan Nadadur

Ramanujan Nadadur
Counsel for Petitioner