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3 COALITION FOR HUMANE IMMIGRANT RIGHTS (CHIRLA)

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

Fernando Jose JUAREZ FERNANDEZ,
Petitioner,

v.

Fereti SEMAIA, et al,

Respondents.

Case No. 5:25-cv-03412-SPG-MBK

**PETITIONER'S REPLY TO
RESPONDENT'S RESPONSE TO
ORDER TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION SHOULD
NOT BE ISSUED**

Hon. Sherilyn Peace Garnett
United States District Judge

1 It is noted that the Court ordered Respondents to respond to the Order to Show Cause
2 issued herein no later than (7) days from the date of the Order issued on January 13, 2026,
3 resulting in a due date of January 20, 2026. The Respondent's response is dated January 21,
4 2026, one day outside the court's order. *See generally*, Order Granting Petitioner's Motion for
5 Temporary Restraining Order ("TRO"), Dkt 10. There have been no stipulated extensions to
6 the briefing schedule. As the court did not reject the filing, Petitioner submits this Reply without
7 waiving objection to any discretionary actions the Court may take with regards to Respondent's
8 untimely filing.
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11 The Petitioner hereby Replies to the Respondent's Response as follows:

12 First, the Respondents contend that because Petitioner was released from Immigration
13 detention on January 14, 2026, he has "already obtained complete relief sought in his Petition
14 over which this court has jurisdiction." Citing e.g. paragraph 3 of the Prayer for Relief, which
15 reads: "(3) Order ICE to immediately release F.J.J.F. from his unlawful detention." Also listed
16 in the 7 additional claims for relief included in the Prayer is number (4) asking the court to
17 "Enjoin re-arresting F.J.J.F. unless and until a hearing can be held before a neutral adjudicator
18 to determine whether his re-incarceration would be lawful because the government has shown
19 that he is a danger or a flight risk by clear and convincing evidence."
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21 It is further noted that in addition to ordering Petitioner's immediate release, the
22 Court temporarily enjoined and restrained Respondents from re-detaining Petitioner unless
23 they demonstrate by clear and convincing evidence that there has been a material change in
24 circumstances justifying Petitioner's re-detention. Accordingly, the Court clearly retains
25 jurisdiction over this major issue and whether a preliminary injunction should be issued.
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27 Petitioner contends that despite his release from physical confinement he remains
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1 subject to conditions of release similar to parole and therefore is nonetheless sufficiently
2 restrained in his freedom as to be in custody for purposes of federal habeas corpus. See, *Jones*
3 *v. Cunningham*, 371 U.S. 236 (1963). Petitioner further contends that once habeas corpus
4 jurisdiction has attached, it is not defeated by the subsequent release of the prisoner. See
5 *Carafas v. LaValle*, 391 U.S. 234 (1968). And that a person who after conviction, is released
6 on bail or in his own recognizance, is “in custody” within the meaning of the federal habeas
7 corpus statute. See, *Hensley v Municipal Court*, ante, p. 411 U.S. 345, and *Preiser v.*
8 *Rodriguez*, 411 U.S. 475 (1973).

10 Respondent’s reliance on *Skinner v Switzer*, 562 U.S. 521, 525 (2011) citing *Wilkinson*
11 *v Dotson*, 544 U.S. 74 (2005) suggesting that Petitioner’s claims might merit relief under
12 §1983 of the Civil Rights Statute rather than habeas corpus is misplaced, as the facts of that
13 case involved a postconviction claim for DNA testing, which the Court found to be properly
14 pursued in a § 1983 action.

16 Second, Respondents contend that Petitioner cannot salvage either his habeas claim or
17 his request for injunctive relief by speculating that he might be re-detained unlawfully at some
18 indefinite point in the future, that Article III requires a concrete, actual or imminent injury,
19 and mere speculation about possible future injury is insufficient. *City of Los Angeles v. Lyons*,
20 461 U.S. 95, 102 (1983). The court in *City of Los Angeles* found that the Respondent failed to
21 demonstrate a case or controversy that would justify the equitable relief sought. And that the
22 fact that respondent may have been illegally choked by the police in 1976, while presumably
23 affording him standing to claim damages against the individual officers and perhaps against
24 petitioner, does not establish a real and immediate threat that he would again be stopped for a
25 traffic violation, or for any other offense, by an officer who would illegally choke him into
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1 unconsciousness without any provocation.

2 That the petitioner here remains subject to the same detention procedures which lack
3 either statutory or regulatory due process protections as ordered by the TRO in this case
4 render the injuries he suffered prior to his re-detention to be real, immediate and not
5 conjectural or hypothetical.
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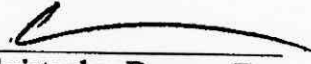
7 Petitioner contends that the facts of his past injury and the lack of due process
8 protection upon expiration of the TRO providing a pre-deprivation hearing by a neutral
9 adjudicator demonstrates the “immediate threatened injury” required for preliminary
10 injunctive relief. *Los Angeles Memorial Coliseum v. National Football League*, 634 F.2d
11 1197, 1201.(9th Cir. 1980); *Caribbean Marine Services Co., Inc. v. Baldrige*, 844 F.2d 668
12 (9th Cir. 1988). Petitioner “need only establish a *risk* or *threat* of injury to satisfy the actual
13 injury requirement.” *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 764 (9th Cir. 2018)
14 and he remains at risk of re-detention at any of the future ICE check-ins routinely scheduled
15 during removal proceedings.
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18 Petitioner further contends that he has suffered irreparable harm and faces imminent
19 harm via repetition of the detention procedures which resulted in the injuries already noted in
20 the TRO.
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22 In conclusion, as noted above, the Petitioner remains in custody for purposes of habeas
23 corpus and has shown continuing consequences that this Court addressed in the TRO and
24 should consider further in adjudication of preliminary injunction. This case is not moot as the
25 harm is capable of repetition yet evades review, and the Court has previously found that the
26 Petitioner is likely to achieve success on the merits.
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1 Dated: January 23, 2026

2 Respectfully submitted,

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4 Christopher Dpuran, Esq.
5 *Attorney for Petitioner*
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