

1 Nathaniel L. Nicoll, Esq.
2 Friedman Law Firm
3 3947 Lennane Drive, Suite 150
Sacramento, CA 95834

4 *Attorney for Petitioner*

5 **UNITED STATES DISTRICT COURT**
6 **CENTRAL DISTRICT OF CALIFORNIA**
7 **EASTERN DIVISION**

8
9 EDGAR ANTONIO FREGOSO RODRIGUEZ,

10 Petitioner,

11 v.

12 ERNESTO SANTACRUZ JR. et al.,

13 Respondents.
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CASE NO. 5:25-cv-03439

**PETITIONER'S NOTICE OF
MOTION AND EX PARTE MOTION
FOR TEMPORARY RESTRAINING
ORDER**

PETITIONER'S NOTICE OF MOTION AND EX PARTE MOTION FOR TEMPORARY RESTRAINING
ORDER

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court for the Central District of California, that Petitioner Edgar Antonio Fregoso Rodriguez will and hereby does move for a temporary restraining order pursuant to Federal Rule of Civil Procedure 65(b) and Civil Local Rule 65-1. Because Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the United States, Petitioner respectfully request that this Court (1) order Petitioner's immediate release from Respondents' custody pending these proceedings, without requiring bond or electronic monitoring, or, in the alternative, (2) order Petitioner's immediate release from Respondents' custody and, within 14 days, order a bond hearing before the Adelanto Immigration Court, where Respondents shall bear the burden of proof to show, by clear and convincing evidence, that Petitioner is a danger or a flight risk. To preserve this Court's jurisdiction, Petitioner furthers seek an order enjoining Respondents from transferring Petitioner out of this District or deporting him during the pendency of the underlying proceedings.

This motion is based on this Notice of Motion and Motion; the accompanying Memorandum of Points and Authorities; the supporting declarations, the papers, evidence, and records on file in this action; and any other written or oral evidence or argument as may be presented at or before the time this motion is heard by the Court. This motion is also supported by the Petition for Writ of Habeas Corpus (ECF No. 1).

Consistent with Civil L.R. 65-1, Petitioner seeks relief at the earliest possible opportunity. Petitioner is filing this motion shortly after he filed his Petition for Writ of Habeas Corpus.

Pursuant to Civil L.R. 65-1(a)(5), and as detailed further in the Declaration of Nathaniel L. Nicoll, Counsel for Petitioner emailed a copy of the filed petition to Counsel for Respondents and advised that a Motion for TRO would be forthcoming. Petitioner also emailed Counsel for Respondents a copy of the Memorandum of Points and Authorities shortly before filing it. As of this filing, Respondents have not stipulated to a TRO.

PETITIONER'S NOTICE OF MOTION AND EX PARTE MOTION FOR TEMPORARY RESTRAINING
ORDER

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3 Date: December 19, 2025

Respectfully Submitted,

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Nathaniel L. Nicoll, Esq.
Friedman Law Firm
3947 Lennane Drive, Suite 150
Sacramento, CA 95834
Attorney for Petitioner

PETITIONER'S NOTICE OF MOTION AND EX PARTE MOTION FOR TEMPORARY RESTRAINING
ORDER

1 Nathaniel L. Nicoll, Esq.
2 Friedman Law Firm
3 3947 Lennane Drive, Suite 150
4 Sacramento, CA 95834
5 *Attorney for Petitioner*

6 **UNITED STATES DISTRICT COURT**
7 **CENTRAL DISTRICT OF CALIFORNIA**
8 **EASTERN DIVISION**

9 EDGAR ANTONIO FREGOSO RODRIGUEZ,

CASE NO. 5:25-cv-03439

10 Petitioner,

DECLARATION OF NATHANIEL L.
NICOLL

11 v.

12 ERNESTO SANTACRUZ, JR., et al.,

13 Respondents.
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DECLARATION OF Nathaniel L. Nicoll

1 [REDACTED]
2 I, Nathaniel L. Nicoll, declare:

3 1. I have personal knowledge of the facts stated in this declaration and, if called as a
4 witness, could testify truthfully to those facts.

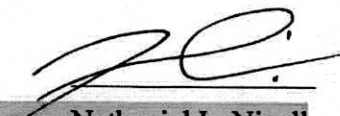
5 2. I am lead counsel of record in this action. I submit this declaration pursuant to
6 Civil L.R. 65-1(b).

7 3. My firm is experienced in filing habeas petitions in federal court. We were
8 contacted by attorney Margaret Hellerstein of The Jurado Firm in connection with Mr.
9 Fregoso Rodriguez's case. Ms. Hellerstein requested our assistance because she is
10 licensed in New York and is therefore not permitted to file petitions in California District
11 Court.

12 4. On December 17th, 2025, I filed a habeas petition on their behalf in the Central
13 District of California, Eastern Division. Mr. Fregoso Rodriguez was detained at the
14 Adelanto ICE Processing Center at the time I filed the habeas petition.

15 5. After filing the habeas petition, I e-mailed Pamela Bondi, Ernesto Santacruz Jr.,
16 Kristi Noem, and Fereti Semaia. I informed them that I had filed a habeas corpus petition
17 and attached the filed copy. I also let them know that a motion for a temporary restraining
18 order would be filed soon after. I e-mailed Respondents the TRO motion and supporting
19 documents and let them know I would be filing them shortly. As of this filing, the
20 government has not stipulated to a TRO.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct and that this declaration was executed on December 19th, 2025, in
23 San Francisco, California.
24 [REDACTED]
25

26
27 
28 Nathaniel L. Nicoll

DECLARATION OF Nathaniel L. Nicoll

1 Nathaniel L. Nicoll, Esq.
2 Friedman Law Firm
3 3947 Lennane Drive, Suite 150
4 Sacramento, CA 95834
5 *Attorney for Petitioner*

6 **UNITED STATES DISTRICT COURT**
7 **CENTRAL DISTRICT OF CALIFORNIA**
8 **EASTERN DIVISION**

9 **EDGAR ANTONIO FREGOSO RODRIGUEZ,**

10 **Petitioner,**

11 **v.**

12 **ERNESTO SANTACRUZ JR. et al,**

13 **Respondents.**

CASE NO. 5:25-cv-03439

**DECLARATION OF MARGARET
HELLERSTEIN**

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DECLARATION OF MARGARET HELLERSTEIN

1 I, Margaret Hellerstein, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as
2 follows:
3

4 1. I have personal knowledge of the facts stated in this declaration and, if called as a
5 witness, could testify truthfully to those facts. Where I do not have personal knowledge, I
6 believe and am informed for the following information to be true. Where I do not have
7 personal knowledge, I believe and am informed for the following information to be true.

8 2. I am an Associate Attorney at The Jurado Firm, LLC. My business address is 100
9 Oceangate, Suite 300, Long Beach, CA 90802. I am an experienced immigration attorney
10 licensed in New York (Attorney Registration Number 5294210) and have been employed
11 with The Jurado Firm since September 2, 2025. Prior to this, I worked as a Staff Attorney
12 at the Esperanza Immigrant Rights Project, primarily representing noncitizens detained at
13 the Adelanto ICE Processing Center in their removal and bond proceedings. I have also
14 worked as a contract attorney and as an Associate Attorney at the firm Fragomen, Del
15 Rey, Bernsen & Loewy, LLP. In total, I have over 10 years of experience practicing
16 immigration law.
17

18 3. The Jurado Firm represents Edgar Antonio Fregoso Rodriguez in his bond and
19 removal proceedings.

20 4. I have met with Edgar at the Adelanto Detention Center on multiple occasions and
21 spoken at length with his family. I have also reviewed Edgar's NTA, which classifies him
22 as "an alien present in the United States who has not been admitted or paroled." As of this
23 filing, the Department of Homeland Security (DHS) has not filed a Form I-213 or any
24 other document.
25

26 5. Edgar was arrested by ICE on or around September 4, 2025 when he answered the
27 door to uniformed officers. He was issued a Notice to Appear (NTA) and subsequently
28 detained at Adelanto ICE Processing Center, where he has been ever since. Through our
office, he filed a Motion to Redetermine Bond on October 17, 2025. This motion was

DECLARATION OF MARGARET HELLERSTEIN

1 denied by the Immigration Judge at a hearing on October 28, 2025 based on lack of
2 jurisdiction.

3
4 6. On November 26, 2025, our office filed a motion for an INA § 236(a) bond
5 hearing pursuant to the nationwide class and partial summary judgment order in
6 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. CAL.) This
7 motion was denied by the Immigration Judge in an order on December 1, 2025 based on
8 the IJ's determination that he still lacked jurisdiction because the court in *Maldonado*
9 *Bautista* did not issue a class-wide declaratory judgment or injunction.

10 7. I have learned through my discussions with Edgar and his family that he has no
11 criminal history in the U.S. or elsewhere. He was brought to the United States by his
12 parents when he was an infant and grew up in the Los Angeles area, where he still lives.
13 He has worked in the construction industry since the age of 17. Edgar has extensive
14 family ties in the U.S. and is engaged to a U.S. citizen, Rosie Martinez.

15
16 8. Edgar and Rosie were planning to marry in December 2025, prior to his being
17 placed in removal proceedings.

18 9. Until his detention, Edgar and Rosie were living together with Rosie's children,
19 who are also U.S. citizens. Rosie and her children depend on Edgar for financial and
20 emotional support. Because they could no longer afford rent after Edgar was detained,
21 they are in the process of being evicted.

22 10. Through our office, Edgar filed a Form I-589 application for Asylum,
23 Withholding of Removal, and Protection Under the Convention Against Torture on
24 December 2, 2025. Upon his release, he and Rosie will marry and she will file a Form
25 I-130 Petition for Alien Relative as soon as possible.

26
27 11. Edgar's Individual Hearing for the adjudication of his Form I-589 is scheduled for
28 March 4, 2026 before the Adelanto Immigration Court.

12. I declare under penalty of perjury under the laws of the United States of America

DECLARATION OF MARGARET HELLERSTEIN

1 that the foregoing is true and correct.

2 Executed on December 11, 2025 in Long Beach, California.

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4 Margaret Hellerstein
5 Margaret Hellerstein
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DECLARATION OF MARGARET HELLERSTEIN

1 Nathaniel L. Nicoll, Esq.
2 Friedman Law Firm
3 3947 Lennane Drive, Suite 150
4 Sacramento, CA 95834
5 *Attorney for Petitioner*

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7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **EASTERN DIVISION**
11

12 EDGAR ANTONIO FREGOSO RODRIGUEZ,
13

14 Petitioner,

15 v.

16 Ernesto SANTACRUZ JR., Acting Field Office
17 Director of Enforcement and Removal Operations,
18 LOS ANGELES Field Office, Immigration and
19 Customs Enforcement; Kristi NOEM, Secretary,
20 U.S. Department of Homeland Security; U.S.
21 DEPARTMENT OF HOMELAND SECURITY;
22 Pamela BONDI, U.S. Attorney General;
23 EXECUTIVE OFFICE FOR IMMIGRATION
24 REVIEW; Fereti SEMAIA, Warden, Adelanto ICE
25 Processing Center,

26 Respondents.
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CASE NO. 5:25-cv-03439

**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF PETITIONER'S EX
PARTE MOTION FOR
TEMPORARY RESTRAINING
ORDER**

DECLARATION OF MARGARET HELLERSTEIN

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I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.

A. Petitioner's detention violates substantive due process because he is neither a flight risk nor a danger to the community.

B. The government violated procedural due process by depriving Petitioner of the opportunity to contest his arrest and detention before a neutral decisionmaker.

II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE INJURY ABSENT A TRO.

III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST WEIGH STRONGLY IN PETITIONER'S FAVOR.

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DECLARATION OF MARGARET HELLERSTEIN

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21 14, 2025)

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27 No. 19-cv-07996-NC, 2020 WL 510347 (N.D. Cal. Jan. 30, 2020).....

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4	393 F.3d 918 (9th Cir. 2004)	
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14 No. 4:25-cv-10378-YGR, 2025 U.S. Dist. LEXIS 167976 (N.D. Cal. Dec. 3,
15 2025)
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18 766 F.2d 1319 (9th Cir.), *amended*, 775 F.2d 998 (9th Cir. 1985)
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2 585 U.S. 129 (2018).....

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8 280 F. Supp. 3d 1168 (N.D. Cal. 2017).....

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14 494 U.S. 113 (1990).....

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19 8 U.S.C. § 1226(a).....

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21 8 U.S.C. § 1226(c).....

22 11

1 **INTRODUCTION**

2
3 Petitioner Edgar Antonio Fregoso Rodriguez was brought to the United
4 States by his parents as an infant around 1990. He and his family settled in the
5 Los Angeles area, where they have lived since that time.¹
6

7 Prior to his arrest, Petitioner was living at [REDACTED]
8 CA 91754 with his U.S. citizen fiancée, Rosie Martinez. Petitioner answered the
9 door to uniformed officers on or around September 4, 2025 and was taken into
10 custody. He was issued a Notice to Appear (NTA) classifying him as an “alien
11 present in the United States who has not been admitted or paroled” and
12 subsequently detained at the Adelanto ICE Processing Center.
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15
16 Petitioner has twice filed requests to be released on bond, which have been
17 denied based on the Immigration Judge’s (IJ’s) assertion that he lacks jurisdiction
18 under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner has no
19 criminal record.
20

21
22 Petitioner’s indefinite detention flouts the Constitution. The only legitimate
23 interests that civil immigration detention serves are mitigating flight risk and
24 preventing danger to the community. When those interests are absent, the Fifth
25 Amendment’s Due Process Clause squarely prohibits detention. Petitioner was
26 constitutionally entitled to a hearing before a neutral decisionmaker at which the
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¹ Facts in this section are taken from the Declaration of Margaret Hellerstein, attached with this submission.
DECLARATION OF MARGARET HELLERSTEIN

1 government should have justified his detention.

2 As a result of his arrest and detention, Petitioner is suffering irreparable and
3 ongoing harm. The unconstitutional deprivation of “physical liberty”
4 “unquestionably constitutes irreparable injury.” *Hernandez v. Sessions*, 872 F.3d
5 976, 994-95 (9th Cir. 2017). Indeed, “[f]reedom from imprisonment—from
6 government custody, detention, or other forms of physical restraint—lies at the
7 heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*,
8 533 U.S. 678, 690 (2001).
9

10 In light of this irreparable harm, and because he is likely to succeed on the
11 merits of his due process claims, Petitioner respectfully requests that this Court
12 issue a temporary restraining order (“TRO”) immediately releasing him from
13 custody and enjoining the government from re-arresting him absent the
14 opportunity to contest that arrest at a hearing before a neutral decision maker.
15 Confronted with similar facts and legal issues, numerous courts in this circuit
16 have recently granted the exact relief Petitioner seeks. *See Bernal v. Albarran*,
17 No. 25-cv-09772-RS, 2025 U.S. Dist. LEXIS 232122, at *19 (N.D. Cal. Nov. 25,
18 2025); *Garro Pinchi v. Noem*, 2025 WL 1853763, *4 (N.D. Cal. July 4, 2025),
19 converted to preliminary injunction at __ F. Supp. 3d __, 2025 WL 2084921
20 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal.
21 July 11, 2025) (granting preliminary injunction). To maintain this Court’s
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DECLARATION OF MARGARET HELLERSTEIN

1 jurisdiction, the Court should also prohibit the government from transferring
2 Petitioner out of this District and removing him from the country until these
3 proceedings have concluded.
4

5
6 **FACTUAL BACKGROUND**

7
8 Petitioner's parents brought him to the United States as an infant around
9 1990. Prior to his arrest in September 2025, he had never come into contact with
10 ICE. Declaration of Margaret Hellerstein ("Hellerstein Decl.") ¶ 5.
11

12 Petitioner and his family settled in the Los Angeles area, where Petitioner
13 grew up. Hellerstein Decl. ¶ 7. Petitioner lives in Monterey Park, CA with his
14 U.S. citizen fiancée, Rosie Martinez, and her children. Hellerstein Decl. ¶ 9. He
15 has no criminal record. Hellerstein Decl. ¶ 7. Petitioner has worked in the
16 construction industry for the past 17 years and was the primary provider for Ms.
17 Martinez and her children. Hellerstein Decl. ¶ 9. On or around September 4,
18 2025, Petitioner opened the door to uniformed officers who placed him under
19 arrest and issued him a Notice to Appear (NTA) charging him with removability
20 under INA 212(a)(6)(A)(i). Hellerstein Decl. ¶ 7; NTA. Petitioner was
21 subsequently transferred to the Adelanto ICE Processing Center in Adelanto,
22 California, where he remains. Hellerstein Decl. ¶ 5.
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28 Petitioner suffers serious and ongoing harm every moment he remains in
detention. Petitioner's U.S. citizen fiancée and her children also suffer serious

1 and escalating harm; they are facing imminent eviction as a result of Petitioner's
2 detention and inability to provide financial support. Eviction Notice.
3

4 **ARGUMENT**

5
6 To warrant a TRO, a movant must show (1) they are "likely to succeed on
7 the merits," (2) they are "likely to suffer irreparable harm in the absence of
8 preliminary relief," (3) "the balance of equities tips in [their] favor," and that (4)
9 "an injunction is in the public interest." *All. for the Wild Rockies v. Cottrell*, 632
10 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat. Res. Def. Council, Inc.*,
11 555 U.S. 7, 20 (2008)); see *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240
12 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the analysis for issuing a temporary
13 restraining order and a preliminary injunction is substantially the same). Even if
14 the movant raises only "serious questions" as to the merits of their claims, the
15 court can grant relief if the balance of hardships tips "sharply" in their favor. *All.*
16 *for the Wild Rockies*, 632 F.3d at 1135. All factors here weigh decisively in
17 Petitioner's favor.
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23 **I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.**

24 **C. Petitioner's detention violates substantive due process because he is** 25 **neither a flight risk nor a danger to the community.**

26 The Due Process Clause applies to "all 'persons' within the United States,
27 including [noncitizens], whether their presence here is lawful, unlawful, temporary,
28

1 or permanent.” *Zadvydas*, 533 U.S. at 693. “The touchstone of due process is
2 protection of the individual against arbitrary action of government,” *Wolff v.*
3 *McDonnell*, 418 U.S. 539, 558 (1974), including “the exercise of power without
4 any reasonable justification in the service of a legitimate government objective,”
5 *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). “Freedom from
6 imprisonment—from government custody, detention, or other forms of physical
7 restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S.
8 at 690.

12 To comply with substantive due process, the government’s deprivation of an
13 individual’s liberty must be justified by a sufficient purpose. Therefore,
14 immigration detention, which is “civil, not criminal,” and “nonpunitive in purpose
15 and effect,” must be justified by either (1) dangerousness or (2) flight risk.
16 *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d at 994 (“[T]he government
17 has no legitimate interest in detaining individuals who have been determined not to
18 be a danger to the community and whose appearance at future immigration
19 proceedings can be reasonably ensured by a lesser bond or alternative
20 conditions.”). When these rationales are absent, immigration detention serves no
21 legitimate government purpose and becomes impermissibly punitive, violating a
22 person’s substantive due process rights. *See Jackson v. Indiana*, 406 U.S. 715, 738
23 (1972) (detention must have a “reasonable relation” to the government’s interests
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1 in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-CV-389,
2 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody
3 after finding petitioner may “succeed on his Fifth Amendment claim if he
4 demonstrates *either* that the government acted with a punitive purpose *or* that it
5 lacks any legitimate reason to detain him”).
6

7
8 The Supreme Court has recognized that noncitizens may bring as-applied
9 challenges to detention, including so-called “mandatory” detention. *Demore v.*
10 *Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring) (“Were there to be an
11 unreasonable delay by the INS in pursuing and completing deportation
12 proceedings, it could become necessary then to inquire whether the detention is not
13 to facilitate deportation, or to protect against risk of flight or dangerousness, but to
14 incarcerate for other reasons.”); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019) (“Our
15 decision today on the meaning of [§ 1226(c)] does not foreclose as-applied
16 challenges—that is, constitutional challenges to applications of the statute as we
17 have now read it.”).
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20 The INA prescribes three basic forms of detention for the vast majority of
21 noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention
22 of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a.
23 Individuals in § 1226(a) detention are generally entitled to a bond hearing at the
24 outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens
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1 who have been arrested, charged with, or convicted of certain crimes are subject to
2 mandatory detention, *see* 8 U.S.C. § 1226(c).
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4 Second, the INA provides for mandatory detention of noncitizens subject to
5 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals
6 seeking admission referred to under § 1225(b)(2). Last, the INA also provides for
7 detention of noncitizens who have been ordered removed, including individuals in
8 withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
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11 This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
12 The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
13 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996,
14 Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–
15 583, 3009–585. Section 1226(a) was most recently amended earlier this year by the
16 Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025). Following the enactment of
17 the IIRIRA, EOIR drafted new regulations explaining that, in general, people who
18 entered the country without inspection were not considered detained under § 1225
19 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
20 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
21 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
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27 Thus, in the decades that followed, most people who entered without
28 inspection and were placed in standard removal proceedings received bond

1 hearings, unless their criminal history rendered them ineligible pursuant to 8
2 U.S.C. § 1226(c). That practice was consistent with many more decades of prior
3 practice, in which noncitizens who were not deemed “arriving” were entitled to a
4 custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
5 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)
6 simply “restates” the detention authority previously found at § 1252(a)).
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10 In *Jennings v. Rodriguez*, the Department of Homeland Security (DHS)
11 explicitly acknowledged that individuals who have already entered the United
12 States and are not apprehended within 100 miles of the border or within 14 days of
13 entry are subject to discretionary detention under 8 U.S.C. § 1226(a), not
14 mandatory detention under § 1225(b). During oral argument on November 30,
15 2016, then-Solicitor General Ian Gershengorn stated: “If they are not detained
16 within 100 miles of the border or within 14 days... then they are under 1226(a) and
17 not 1226(c)” and further clarified, in response to a question concerning “an alien
18 who has come into the United States illegally without being admitted [and] who
19 takes up residence 50 miles from the border,” the Government responded, “The
20 answer is they are held under 1226(a) and that they get a bond hearing...”
21
22 Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. ____ (2018)
23 (No. 15-1204). DHS reiterated that such individuals “would be held under
24 1226(a)” and cited the administrative record to support that position. *Id.* These
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1 statements reflect DHS's prior litigation stance that § 1226(a) governs detention for
2 noncitizens who have entered and are residing in the United States, a position
3 directly contrary to the agency's current interpretation applying § 1225(b)(2)(A) to
4 such individuals. Having prevailed in *Jennings* after taking this position, they
5 should be estopped from taking the contrary position now simply because their
6 political or litigation interests have changed. Estoppel in this case is necessary to
7 preserve the predictability inherent in the rule of law and due process under the
8 Fifth Amendment, as well as to protect the integrity of the judicial system.
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11 On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy
12 that rejected well-established understanding of the statutory framework and
13 reversed decades of practice. The new policy, entitled "Interim Guidance
14 Regarding Detention Authority for Applicants for Admission,"² claims that all
15 persons who entered the United States without inspection shall now be subject to
16 mandatory detention provision under § 1225(b)(2)(A). The policy applies
17 regardless of when a person is apprehended, and affects those who have resided in
18 the United States for months, years, and even decades. On September 5, 2025, the
19 BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*.
20 There, the Board held that all noncitizens who entered the United States without
21 admission or parole are subject to detention under § 1225(b)(2)(A) and are
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² Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 ineligible for IJ bond hearings.

2
3 Since Respondents adopted their new policies, several federal courts have
4 rejected their new interpretation of the INA's detention authorities. Courts have
5 likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the
6 statute as ICE. Even before ICE or the BIA introduced these nationwide policies,
7 IJs in the Tacoma, Washington, immigration court stopped providing bond hearings
8 for persons who entered the United States without inspection and who have since
9 resided here. There, the U.S. District Court in the Western District of Washington
10 found that such a reading of the INA is likely unlawful and that § 1226(a), not §
11 1225(b), applies to noncitizens who are not apprehended upon arrival to the United
12 States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).
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17 A growing number of federal courts have rejected ICE and EOIR's expanded
18 interpretation of the Immigration and Nationality Act's detention provisions. These
19 courts have consistently held that § 1226(a), not § 1225(b)(2), governs the
20 detention authority applicable in these cases. For example, courts in Massachusetts,
21 Arizona, New York, Minnesota, California, and Nebraska have reached this
22 conclusion. See: *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025);
23 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025);
24 *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025);
25 *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE (D. Minn. Aug. 15, 2025);
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1 *Romero v. Hyde*, No. 25-11631-BEM (D. Mass. Aug. 19, 2025); *Ramirez Clavijo v.*
2 *Kaiser*, No. 25-CV-06248-BLF (N.D. Cal. Aug. 21, 2025); *Palma Perez v. Berg*,
3
4 No. 8:25CV494 (D. Neb. Sept. 3, 2025); *Maldonado Bautista v. Santacruz*, No.
5 5:25-CV-01873-SSS-BFM (C.D. Cal. Nov. 5, 2025). These decisions reflect a clear
6
7 judicial consensus that the government's reliance on § 1225(b)(2) is misplaced in
8
9 cases involving those whose immigration status lawfully falls under § 1226(a).

10 Courts have uniformly rejected DHS's and EOIR's new interpretation
11 because it defies the INA. As the *Rodriguez Vazquez* court and others have
12 explained, the plain text of the statutory provisions demonstrates that § 1226(a),
13 not § 1225(b), applies to people like Petitioner. Section 1226(a) applies by default
14 to all persons "pending a decision on whether the [noncitizen] is to be removed
15 from the United States." These removal hearings are held under § 1229a, to
16
17 "decid[e] the inadmissibility or deportability of a[] [noncitizen]."
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20 The text of § 1226 also explicitly applies to people charged as being
21 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
22 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by
23 default, such people are afforded a bond hearing under subsection (a). As the
24 *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions'
25 to a statute's applicability, it 'proves' that absent those exceptions, the statute
26 generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady*
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1 *Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see*
2 *also Gomes*, 2025 WL 1869299, at *7.

3
4 Section 1226 therefore leaves no doubt that it applies to people who face
5 charges of being inadmissible to the United States, including those who are present
6 without admission or parole. By contrast, § 1225(b) applies to people arriving at
7 U.S. ports of entry or who recently entered the United States and were not free to
8 mingle with the general population after being free from official restraint. The
9 statute's entire framework is premised on inspections at the border of people who
10 are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed,
11 the Supreme Court has explained that this mandatory detention scheme applies "at
12 the Nation's borders and ports of entry, where the Government must determine
13 whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v.*
14 *Rodriguez*, 583 U.S. 281, 287 (2018).

15
16 Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not
17 apply to people like Petitioner, who were encountered in the interior of the country
18 years after entry. The Supreme Court has "long favored application of the common
19 law doctrines of collateral estoppel (as to issues) and res judicata (as to claims) to
20 those determinations of administrative bodies that have attained finality." *Astoria*
21 *Fed. Sav. & Loan Ass'n v. Solimino*, 501 U.S. 104, 108 (1991) (citing *United States*
22 *v. Utah Constr. & Mining Co.*, 384 U.S. 394, 422 (1966)). As the Court explained
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1 in *Utah Construction*, “[w]hen an administrative agency is acting in a judicial
2 capacity and resolves disputed issues of fact properly before it which the parties
3 have had an adequate opportunity to litigate, the courts have not hesitated to apply
4 res judicata to enforce repose.” 384 U.S. at 422. This presumption applies because
5 “Congress is understood to legislate against a background of common-law
6 adjudicatory principles.” *Astoria*, 501 U.S. at 108 (citing *Briscoe v. LaHue*, 460
7 U.S. 325 (1983); *Isbrandtsen Co. v. Johnson*, 343 U.S. 779, 783 (1952)).
8 Accordingly, DHS’s prior § 236 determination—memorialized in the I-220A—
9 constitutes a binding judgment for purposes of collateral estoppel and cannot be
10 disturbed absent materially changed circumstances or new facts.
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Petitioner is neither a danger nor a flight risk. Therefore, his detention is
both punitive and not justified by a legitimate purpose, violating his substantive
due process rights. As noted above, Petitioner has no criminal record. Hellerstein
Decl. ¶ 7. Moreover, Petitioner has a viable path toward immigration relief and a
pathway to lawful permanent residence through his pending asylum application
and upcoming marriage to a U.S. citizen, further mitigating any risk of flight. *See*
Padilla v. U.S. Immigr. and Customs Enf’t, 704 F. Supp. 3d 1163, 1173 (W.D.
Wash. 2023) (holding that there is not a legitimate concern of flight risk where
plaintiffs have bona fide asylum claims and desire to remain in the United States).

Accordingly, Petitioner’s ongoing detention is unconstitutional, and

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1 substantive due process principles require his immediate release.

2
3 **D. The government violated procedural due process by depriving**
4 **Petitioner of the opportunity to contest his arrest and detention**
5 **before a neutral decisionmaker.**

6 Noncitizens living in the United States like Petitioner have a protected
7 liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533
8 U.S. at 690. The Supreme Court “usually has held that the Constitution requires
9 some kind of a hearing *before* the State deprives a person of liberty or property.”
10 *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that
11 freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d 671, 683 (D.C.
12 Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that re-
13 detention after pre-parole conditional supervision requires pre-deprivation
14 hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (holding the same, in
15 probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in
16 parole context).

17
18 The Petitioner has a liberty interest in his freedom from physical custody.
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20 *Morrissey*, 408 U.S. at 482. “By whatever name, the[ir] liberty is valuable and
21 must be seen within the protection of the [Due Process Clause].” *Id.* This liberty
22 interest also applies to noncitizens. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963,
23 970 (N.D. Cal. 2019). Once a petitioner has established a protected liberty
24 interest, as Petitioner has done here, courts in this circuit apply the *Mathews* test
25 to determine what procedural protections are due. *See Johnson v. Ryan*, 55 F.4th
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1 1167, 1179-80 (9th Cir. 2022) (citing *Mathews v. Eldridge*, 424 U.S. 319, 335
2 (1976)). Under that test, the court weighs: (1) the private interest affected; (2) the
3 risk of erroneous deprivation and probable value of procedural safeguards; and
4 (3) the government's interest. *Id.* In this case, the factors weigh heavily in favor of
5 releasing Petitioner and prohibiting his re-detention without a custody hearing at
6 which the government bears the burden of proof.
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10 *First*, the private interest affected in this case is profound. When
11 considering this factor, courts look to “the degree of potential deprivation.” *Nozzi*
12 *v. Hous. Auth. of City of Los Angeles*, 806 F.3d 1178, 1193 (9th Cir. 2015) (citing
13 *Mathews*, 424 U.S. at 341). The degree of deprivation here is high. Petitioner has
14 been completely deprived of his physical liberty. Petitioner's detention has ripped
15 from him the “free[dom] to be with family and friends and to form the . . .
16 enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482. Cutting
17 someone off from the “core values of unqualified liberty”—for Petitioner creates
18 a “grievous loss.” *Id.* Moreover, because Petitioner faces *civil detention*, “his
19 liberty interest is arguably greater than the interest of the parolees in *Morrissey*.”
20 *See Ortega*, 415 F. Supp. 3d at 970. As someone in civil detention, therefore, “it
21 stands to reason that [Petitioner] is entitled to protections at least as great as those
22 afforded to a[n] . . . individual . . . accused but not convicted of a crime.” *See*
23 *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004).
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1 *Second*, “the risk of an erroneous deprivation [of liberty] is high” where, as
2 here, “[the petitioner] has not received any bond or custody redetermination
3 hearing.” *A.E. v. Andrews*, No. 1:25-cv-00107, 2025 WL 1424382, at *5 (E.D.
4 Cal. May 16, 2025) (quoting *Jimenez v. Wolf*, No. 19-cv-07996-NC, 2020 WL
5 510347, at *3 (N.D. Cal. Jan. 30, 2020)); *see also Diep v. Wofford*, No. 1:24-
6 cv-01238, 2025 WL 6047444, at *5 (E.D. Cal. Feb. 25, 2025). Respondents
7 grabbed Petitioner by surprise at his home, detaining him with no notice and no
8 opportunity to contest his detention before a neutral arbiter. In such
9 circumstances, when Respondents have provided *no* procedural safeguards, “the
10 probable value of additional procedural safeguards, i.e., a bond hearing, is high.”
11 *A.E.*, 2025 WL 1424382, at *5. This is especially true here, where the Department
12 of Homeland Security has presented no evidence whatsoever that Petitioner poses
13 a flight risk or danger to the community. His indefinite detention instead appears
14 to be motivated instead by the government’s new and implausible interpretation
15 of 8 U.S.C. § 1225(b)(2). *See Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC,
16 2025 U.S. Dist. LEXIS 179594, at *20-32 (Sept. 12, 2025). This does not
17 constitute a lawful justification to re-detain a person who does not pose a flight
18 risk or danger to the community.

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27 Because the private interest in freedom from immigration detention is
28 substantial, due process also requires that in cases like this one, the government

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1 bears the burden of proving “by clear and convincing evidence that the
2 [noncitizen] is a flight risk or danger to the community.” *Singh v. Holder*, 638
3 F.3d 1196, 1203-04 (9th Cir. 2011); *see Martinez v. Clark*, 124 F.4th 775, 785-86
4 (9th Cir. 2024) (holding that government properly bore burden by clear and
5 convincing evidence in court-ordered bond hearing); *Doe v. Becerra*, No. 2:25-
6 CV-00647-DJC-DMC, 2025 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025) (ordering
7 pre-deprivation bond hearing in which government bears burden by clear and
8 convincing evidence).
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13 *Third*, the government’s interest in detaining Petitioner without first
14 providing notice and submitting to a custody hearing is minimal. Immigration
15 courts routinely conduct custody hearings, which impose a “minimal” cost to the
16 government. *See Doe*, 2025 WL 691664, at *6; *A.E.*, 2025 WL 1424382, at *5.
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19 In short, Respondents violated Petitioner’s due process rights when they
20 detained him without notice and without a custody hearing before a neutral
21 arbiter. Here, only an order releasing Petitioner and enjoining re-detention—
22 unless Respondents provide Petitioner with a custody hearing where the
23 government bears the burden of proof—would return the parties to the “last
24 uncontested status which preceded the pending controversy.” *Doe v. Noem*, __ F.
25 Supp. 3d __, 2025 WL 1141279, at *9 (W.D. Wash. Apr. 17, 2025) (quoting
26 *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); *see also*
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1 *Valdez*, 2025 WL 1707737, at *4-*5 (ordering petitioner's immediate release as
2 remedy for procedural due process violation).
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4 For the foregoing reasons, Petitioner is likely to succeed on the merits of
5 his claims. But even if the Court disagrees, he presents at least "serious
6 question[s] going to the merits," alongside a "balance of hardships" tipping
7 decidedly in their favor. *All. for the Wild Rockies*, 632 F.3d at 1135. Indeed, the
8 constitutional concerns delineated above are of the weightiest order and beyond
9 colorable. This Court should therefore enter the requested TRO.
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13 **II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND**
14 **IRREPARABLE INJURY ABSENT A TRO.**

15 Without a temporary restraining order, Petitioner will suffer immense
16 irreparable injury. Indeed, he faces such injury every day he remains in detention
17 in violation of his Fifth Amendment rights. "It is well established that the
18 deprivation of constitutional rights 'unquestionably constitutes irreparable
19 injury.'" *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695 F.3d
20 990, 1002 (9th Cir. 2012)). "When an alleged deprivation of a constitutional right
21 is involved, most courts hold that no further showing of irreparable injury is
22 necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005)
23 (internal quotation marks omitted). And the unlawful deprivation of physical
24 liberty is the quintessential irreparable harm. *See Hernandez*, 872 F.3d at 994
25 (holding that plaintiffs were irreparably harmed "by virtue of the fact that they
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1 [we]re likely to be unconstitutionally detained for an indeterminate period of
2 time”); *see also, e.g., Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018)
3 (recognizing that “[a]ny amount of actual jail time is significant, and has
4 exceptionally severe consequences for the incarcerated individual” (cleaned up)).
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7 **III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST**
8 **WEIGH STRONGLY IN PETITIONER’S FAVOR.**

9 When the government is the party opposing the request for emergency
10 relief, the balance of the equities and the public interest merge. *Env’t Prot. Info.*
11 *Ctr. v. Carlson*, 968 F.3d 985, 991 (9th Cir. 2020) (citing *California v. Azar*, 911
12 F.3d 558, 581 (9th Cir. 2018)). Here, the balance of equities overwhelmingly
13 favors Petitioner, who faces irreparable injury in the form of ongoing
14 constitutional violations and continued additional suffering if the TRO is not
15 granted. *See* Section II, *supra*; *Hernandez*, 872 F.3d at 996 (when “[f]aced with
16 ... preventable human suffering, ... the balance of hardships tips decidedly in
17 plaintiffs’ favor”) (internal citation omitted).
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22 The public interest likewise weighs strongly in Petitioner’s favor. As
23 another California district court recently concluded, “[t]he public has a strong
24 interest in upholding procedural protections against unlawful detention, and the
25 Ninth Circuit has recognized that the costs to the public of immigration detention
26 are staggering.” *Diaz*, 2025 WL 1676854, at *3 (citing *Jorge M. F.*, 2021 WL
27 783561, at *3). More fundamentally, “[i]t is always in the public interest to
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1 prevent the violation of a party's constitutional rights." *Index Newspapers LLC v.*
2 *U.S. Marshals Serv.*, 977 F.3d 817, 838 (9th Cir. 2020) (citing *Padilla v. Immigr.*
3 *& Customs Enf't*, 953 F.3d 1134, 1147-48 (9th Cir. 2020) (internal quotation
4 marks omitted)).
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7 **SECURITY**

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9 No security is necessary here. Courts "may dispense with the filing of a
10 bond when," as here, "there is no realistic likelihood of harm to the defendant from
11 enjoining his or her conduct." *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir.
12 2003). It is also proper to waive the bond requirement in cases raising
13 constitutional claims, because "to require a bond would have a negative impact on
14 plaintiff's constitutional rights, as well as the constitutional rights of other
15 members of the public." *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp.
16 719, 738 (C.D. Cal. 1996). Finally, Plaintiff's showing of a high likelihood of
17 success on the merits supports the court's waiving of bond in this case. *See, e.g.,*
18 *People of State of Cal. ex rel. Van De Kamp v. Tahoe Reg'l Plan. Agency*, 766 F.2d
19 1319, 1326 (9th Cir.), *amended*, 775 F.2d 998 (9th Cir. 1985).
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25 **CONCLUSION**

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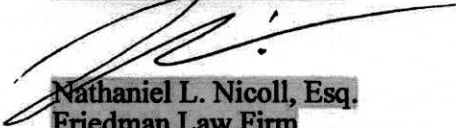
27 For the foregoing reasons, Petitioner respectfully requests the Court grant a
28 TRO to restore the *status quo ante* that (1) immediately releases him from

DECLARATION OF MARGARET HELLERSTEIN

1 Respondents' custody and enjoins Respondents from re-detaining him absent
2 further order of this Court; (2) in the alternative, immediately releases him from
3 Respondents' custody and enjoins Respondents from re-detaining him unless they
4 demonstrate at a bond hearing, by clear and convincing evidence, that Petitioner
5 is a flight risk or danger to the community such that his physical custody is
6 required; and (3) prohibits the government from transferring him out of this
7 District and/or removing him from the country until these habeas proceedings
8 have concluded.
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15 Date: December 19, 2025

Respectfully Submitted,


17 Nathaniel L. Nicoll, Esq.
18 Friedman Law Firm
19 3947 Lennane Drive, Suite 150
20 Sacramento, CA 95834
21 Attorney for Petitioner
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DECLARATION OF MARGARET HELLERSTEIN

TABLE OF EXHIBITS

Exhibit	Document	Pages
A	NTA	1-3
B	Order Denying Bond Dated October 28, 2025	4-5
C	Order Denying Bond Dated December 1, 2025	6-7
D	Eviction Notice	8

Exhibit A

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [REDACTED]

Event: [REDACTED]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: EDGAR ANTONIO FREGOSO RODRIGUEZ

currently residing at:

(Number, street, city, state and ZIP code)

(Area code and phone number)

- ☐ You are an arriving alien.
- ☒ You are an alien present in the United States who has not been admitted or paroled.
- ☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You entered the United States at or near unknown place, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a) (6) (A) (i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an Immigration Judge of the United States Department of Justice at:

10250 Rancho Road, Suite 201A Adelanto, CA 92301

(Complete Address of Immigration Court, including Room Number, if any)

on September 26, 2025 at 8:00 am to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

J 9483 SANCHEZ - Acting EDDO

(Signature and Title of Issuing Officer)

Date: September 4, 2025Adelanto, CA

(City and State)

Uploaded on: 09/06/2025 at 05:41:37 PM (Pacific Daylight Time) Base City: ADL

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Upon information and belief, the language that the alien understands is **ENGLISH**

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

Date: _____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on September 4, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

- ☐ in person ☐ by certified mail, returned receipt # _____ requested ☒ by regular mail
☐ Attached is a credible fear worksheet.
☐ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Institutional Mail
(Signature of Respondent if Personally Served)

D 9290 RILEY - Deportation Officer
(Signature and Title of officer)

Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 280 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/ondc/dol-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

Exhibit B



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ADELANTO IMMIGRATION COURT**

Respondent Name:

FREGOSO RODRIGUEZ, EDGAR
ANTONIO

To:

Hellerstein, Margaret Salant
100 Oceangate
Suite 300
Long Beach, CA 90802

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

10/28/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☒ Denied, because
No Jurisdiction.

☐ Granted. It is ordered that Respondent be:
☐ released from custody on his own recognizance.
☐ released from custody under bond of \$
☐ other:

☐ Other:

P. J. Madera

Immigration Judge: Maury, Carlos 10/28/2025

Appeal: Department of Homeland Security: ☒ waived ☐ reserved
Respondent: ☐ waived ☒ reserved

Appeal Due: 11/28/2025

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : FREGOSO RODRIGUEZ, EDGAR ANTONIO | A-Number :

Riders:

Date: 10/28/2025 By: Anthony Madera, Court Staff



Exhibit C



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
ADELANTO IMMIGRATION COURT**

Respondent Name:

FREGOSO RODRIGUEZ, EDGAR
ANTONIO

To:

Hellerstein, Margaret Salant
100 Oceangate
Suite 300
Long Beach, CA 90802

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

12/01/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☒ Denied, because

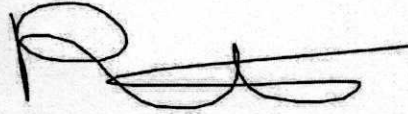
The court in *Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal.), granted class certification and partial summary judgment for the plaintiffs in that case, but did not issue a class-wide declaratory judgment. The court also did not issue a class-wide injunction, which would not be permitted by law. Rather, the court set a January 9, 2026 joint status report deadline and January 16, 2026 status conference. Until and unless the *Bautista* court issues a class-wide declaratory judgment or injunction, the *Bautista* court's opinion and partial grant of summary judgment does not constitute a judgment. See, e.g., Fed. R. Civ. P. 54(b) (second sentence).

Respondent is charged as a noncitizen present in the United States without having been inspected and admitted or paroled, see Notice to Appear, and he does not meaningfully argue otherwise. This Court, based on its independent assessment of relevant law, regulations, statutes, and caselaw, as part of the Executive Office for Immigration Review, Department of Justice, determines that it lacks jurisdiction over the request for custody redetermination. See *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025).

☐ Granted. It is ordered that Respondent be:

- ☐ released from custody on his own recognizance.
- ☐ released from custody under bond of \$
- ☐ other:

☐ Other:



Immigration Judge: HALPERIN, RAVIT 12/01/2025

Appeal: Department of Homeland Security: ☐ waived ☒ reserved
Respondent: ☐ waived ☒ reserved

Appeal Due:

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : FREGOSO RODRIGUEZ, EDGAR ANTONIO | A-Number : 

Riders:

Date: 12/01/2025 By: CHAMBERS, KARINA, Court Staff

Exhibit D

SUMMONS—EVICTION
(CITACIÓN JUDICIAL—DESALOJO)

UNLAWFUL DETAINER / FORCIBLE DETAINER / FORCIBLE ENTRY
(RETENCIÓN ILÍCITA DE UN INMUEBLE / RETENCIÓN FORZOSA / ENTRADA FORZOSA)

NOTICE TO DEFENDANT: ROSY MARTINEZ DOES F-10
(AVISO AL DEMANDADO):

YOU ARE BEING SUED BY PLAINTIFF: JAYE URIBE
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

SUM-130

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
Superior Court of California
County of Los Angeles

NOV 20 2025

David W. Stoyan, Executive Officer/Clerk of Court
By: D. Ludwig, Deputy

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 10 days. Your response is not counting Saturdays and Sundays and other judicial holidays, after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff.

If this summons was served through the Secretary of State's Safe at Home address confidentiality program, you have 10 days from the date of service, not counting Saturdays and Sundays and other judicial holidays, to respond.

A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the Self-Help Guide to the California Courts (<https://selfhelp.courts.ca.gov>), your county law library, or the courthouse nearest you. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services website (www.legalhelp.org), the Self-Help Guide to the California Courts (<https://selfhelp.courts.ca.gov>), or by contacting your local court or county bar association.

FEE WAIVER: If you cannot pay the filing fee, ask the clerk for a fee waiver form. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO: Usted ha sido demandado. Si no responde dentro de 10 días, el tribunal puede emitir un fallo en su contra sin una audiencia. Una vez que le entreguen esta citación y papeles legales, solo tiene 10 DÍAS, sin contar sábado y domingo y otros días feriados del tribunal, para presentar una respuesta por escrito en este tribunal y hacer que se entregue una copia al demandante.

Si la presente citación le ha sido entregado a través del programa de dirección confidencial del Secretario del Estado Seguro en Casa, tiene 10 días después de la fecha de entrega, sin contar sábado y domingo y otros días feriados del tribunal, para responder.

Una carta o una llamada telefónica no lo protege. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en la Guía de Ayuda de las Cortes de California (<https://selfhelp.courts.ca.gov>), en la biblioteca de leyes de su condado o en la corte que le sirvió más cerca. Si no presenta su respuesta a tiempo, puede perder el caso por falta de comparecencia y se le podrá quitar su sueldo, dinero y bienes sin más avisos.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.legalhelp.org), en la Guía de Ayuda de las Cortes de California (<https://selfhelp.courts.ca.gov>) o poniéndose en contacto con la corte o el colegio de abogados local.

EXENCIÓN DE CUOTAS: Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. **AVISO:** Por ley, la corte tiene derecho a retener las cuotas y los costos cuando con un gravamen sobre cualquier monto de \$10,000 o más recibido mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda dismissing el caso.

1. The name and address of the court is: **PASADENA SUPERIOR COURT**
(El nombre y dirección de la corte es): **800 E WALNUT ST**
PASADENA CALIF 9101

2. The name, address, and telephone number of the plaintiff's attorney, or plaintiff without an attorney, is: **(El nombre, la dirección y el número de la oficina del abogado del demandante, o del demandante que no tiene abogado, es):** **JAYE URIBE**
803 123-4567

UNLAWFUL DETAINER / FORCIBLE ENTRY

Code of Civil