Alfonso Morales, State Bar No. 235314
LAW OFFICE OF ALFONSO MORALES, ESQ.
8131 Rosecrans Ave., Ste. 200
Paramount, CA 90723
Telephone: (310) 669-8700

Attorney for Petitioner

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DELFINO REYES-CASTILLO *Petitioner*, v. *WARDEN OF ADELANTO DETENTION FACILITY, et al.*, *Respondents*.	Case No.: 5:25-cv-03537-FLA-SP **PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER AND IMMEDIATE RELEASE**

INTRODUCTION

Petitioner, Delfino Reyes Castillo, by and through his counsel, Alfonso Morales, hereby moves this honorable Court for a Temporary Restraining Order ("TRO") enjoining the Respondents from continuing to detain him and ordering his immediate release from immigration detention. This motion is based upon Federal Rule of Civil Procedure 65.

NOTICE TO OPPOSING PARTY

Both Lead Attorneys have been emailed Notice on January 2, 2026. Assistant 2241-194 US Attorney LA-CV was notified at USACAC.Habeas@usdoj.gov and OIL-DCS Trial Attorney was notified at oil-dcs.cacd@usdoj.gov.

LEGAL STANDARD

On a motion for a TRO, the movant "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and TRO standards are "substantially identical"). A TRO may issue where "serious questions going to the merits [are] raised and the balance of hardships tips sharply in [plaintiff's] favor." All. for the *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (second alteration in original) (citation omitted). To succeed under the "serious question" test, Petitioner must also show that he is likely to suffer irreparable injury and that an injunction is in the public's interest. *Id.* at 1132.

Petitioner satisfies all of these requirements. Accordingly, as other courts have done in other immigration detention cases, this Court should use its equitable power to order his immediate release. See *Chernykh v. Valdez*, CV 16-2184-RGK, 2017 WL 3000013 (C.D. Cal. May 22, 2017) (granting immigrant detainee's motion for preliminary injunction ordering her release pending disposition of habeas corpus petition); *Seretse-Khama v. Ashcroft*, 215 F. Supp. 2d 37, 54 (D.D.C. 2002) (ordering preliminary injunction releasing immigration detainee); *Ali v. Ashcroft*, 213 F.R.D. 390, 406 (W.D. Wash. 2003) (granting injunctive relief ordering release of detainees with final removal orders), aff'd, 346 F.3d 873 (9th Cir. 2003), opinion withdrawn on denial of reh'g sub nom. *Ali v. Gonzales*, 421 F.3d 795 (9th Cir. 2005), as amended on reh'g (Oct. 20, 2005).

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ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits

1. Petitioner's Continued Detention Violates the INA and Due Process

Petitioner is detained under 8 U.S.C. §1226(a), which requires an individualized custody determination and affords jurisdiction to the Immigration Judge to conduct a bond hearing. ICE's position that the Immigration Judge lacks jurisdiction is legally incorrect and has resulted in Petitioner's detention without the procedural safeguards mandated by statute.

Petitioner is likely to succeed on the merits of his habeas petition because Respondents are detaining him under the wrong statutory framework, depriving him of the procedural protections Congress guaranteed under §1226(a) and violating the Due Process Clause of the Fifth Amendment.

Petitioner was arrested inside the United States, issued a Notice to Appear, and placed directly into full removal proceedings under § 1229a. Under *Jennings v. Rodriguez*, § 1226 governs the detention of individuals already present in the United States in §240 proceedings, while § 1225(b) applies primarily to individuals seeking entry. 583 U.S. 830, 288–303 (2018). Petitioner was never inspected at a port of entry, never placed in expedited removal, and therefore cannot be subjected to § 1225(b)'s mandatory-detention scheme.

Courts addressing nearly identical facts have uniformly held that individuals arrested in the interior are detained under § 1226(a), not § 1225(b). See, e.g., *Mosqueda*, 2025 WL 2591530, at *6; *Salazar*, 2025 WL 2676729, at *4; *Buenrostro-Mendez*, 2025 WL 2886346, at *3. The Central District of California's TRO in *Maldonado Bautista v. Santacruz* confirmed this statutory framework and enjoined DHS from misclassifying interior-arrest individuals as § 1225(b)

detainees. The court extended its conclusions to the broader Bond Eligible Class, which includes individuals, like Petitioner, who entered without inspection, were not apprehended at arrival, and are not otherwise subject to mandatory detention.

Respondents' misclassification has denied Petitioner the individualized bond hearing required under § 1226(a)'s discretionary structure. Prolonged detention without such a hearing raises serious due process concerns. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021). Petitioner has no criminal history and has submitted evidence demonstrating he is neither a danger nor a flight risk. Had DHS followed the correct statutory framework, he would have been entitled to seek release before a neutral adjudicator. Therefore, Petitioner is very likely to succeed on the merits of his habeas petition because Respondents lack statutory and constitutional authority to continue detaining Petitioner without a § 1226(a) bond hearing.

B. Petitioner Faces Immediate and Irreparable Harm

Parties seeking a TRO 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 the type of harm for which there is "no adequate legal remedy, such as an award of damages." *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014).

Petitioner's unlawful detention constitutes "a loss of liberty that is . . . irreparable." *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (Moreno II), aff'd in part, vacated in part on other grounds, remanded sub nom. *Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir. 2022); cf. *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013) (irreparable harm is met where "preliminary injunction is necessary to ensure that individuals . . . are not needlessly detained" because they are neither a danger nor a flight risk). This is particularly true

here, where Petitioners' detention also violates the Constitution. Civil immigration detention violates due process outside of 'certain special and narrow nonpunitive circumstances.'" *Rodriguez v. Marin*, 909 F.3d 252, 257 (9th Cir. 2018) (citation omitted).

As detailed above, Petitioners' detention falls outside those circumstances because he is detained under § 1226(a) yet has been denied the individualized custody determination that statute requires. The Due Process Clause prohibits such detention where the government has failed to provide a constitutionally adequate bond process, and the ongoing deprivation of a meaningful opportunity to seek release renders his confinement unlawful. These constitutional concerns also counsel in favor of finding that Petitioner has demonstrated irreparable harm, for he has shown that his detention violates both the statute and the Constitution. *See Baird v. Bonta*, 81 F.4th 1036, 1048 (9th Cir. 2023) (declaring that "in cases involving a constitutional claim, a likelihood of success on the merits usually establishes irreparable harm").

Detention also inflicts substantial harm on Petitioner by separating him from his family members. Absent a TRO, Petitioner has no hope of being reunited with family. Such "separation from family members" is an important irreparable harm factor. *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011) (per curiam) (citation omitted); see also, e.g., *Washington v. Trump*, 847 F.3d 1151, 1169 (9th Cir. 2017) (per curiam) (finding "separated families" to be a "substantial injur[y] and even irreparable harm[]"); cf. *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (recognizing that "government-compelled [family] separation" causes family members "trauma" and "other burdens").

In sum, Petitioner is suffering numerous and irreparable harms: urgent medical harm, detention itself, separation from his family. All of these circumstances warrant granting the TRO.

C. The Balance of Equities and Public Interest Decisively Favor Granting the TRO

The final two factors for a preliminary injunction, 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: loss of liberty and separation from his family. Releasing Petitioner under appropriate supervision poses no meaningful risk to the government. The government, by contrast the government faces no cognizable hardship, as it would be required only to provide Petitioner with the process to which he is legally entitled, including a prompt bond hearing. Avoiding such "preventable human suffering" strongly tips the balance in favor of Petitioner. *Hernandez*, 872 F.3d at 996 (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

In addition, Petitioners detention "is inconsistent with federal law, . . . the balance of hardships and public interest factors weigh in favor of a preliminary injunction." *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (*Moreno I*); *see also Moreno Galvez*, 52 F.4th at 832 (affirming in part permanent injunction issued in Moreno II and quoting approvingly district judge's declaration that "it is clear that neither equity nor the public's interest are furthered by allowing violations of federal law to continue"). This is because "it would not be equitable or in the public's interest to allow the [government] . . . to violate the requirements of federal law, especially when there are no adequate remedies available." *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013) (second alteration in original) (citation omitted). Indeed, Respondents "cannot suffer harm from an injunction that merely ends an unlawful practice." *Rodriguez*, 715 F.3d at 1145. "The public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and held in immigration detention

because of . . . a likely [illegal bond] process." *Hernandez*, 872 F.3d at 996.4. The public interest is served when the government complies with constitutional and statutory requirements and avoids inflicting needless harm.

The balance of equities overwhelmingly favors Petitioner. Granting relief imposes minimal burden on the Government, while denying relief exposes Petitioner to ongoing unlawful detention and separation from his family. He presents no risk of flight and would have been a strong candidate for release had DHS not improperly denied him access to an individualized bond hearing under § 1226(a). In contrast, each additional day in detention imposes ongoing and irreparable harm on Petitioner's mental health and emotional stability as a result of prolonged confinement and separation from his family. The equities clearly weigh in Petitioner's favor.

The public interest also supports granting a TRO. The public has a strong and well-recognized interest in ensuring that immigration detention remains lawful, humane, and consistent with statutory and constitutional limits. Public interest is not served by permitting DHS to detain individuals under an improper statutory framework. Nor is it served by withholding the bond procedures Congress expressly established in § 1226(a). Ensuring access to due process, preventing unnecessary medical risk, and enforcing the statutory limits on civil immigration detention are all firmly aligned with public policy.

Accordingly, the balance of hardships and the public interest favor a temporary restraining order to ensure that Respondents comply with federal law and release Petitioner.

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REQUEST FOR RELIEF

For the reasons stated above, Petitioner respectfully requests that this Court:

1. Grant Temporary Restraining Order immediately releasing Petitioner from ICE custody or
2. In the alternative, order that Petitioner receive a bond hearing within 48 hours before a neutral adjudicator;
3. Grant any additional relief the Court deems just and proper.

CONCLUSION

For the foregoing reasons, Petitioner requests that the Court grant temporary restraining order, enjoining Respondents from further harming Petitioner and ordering Respondents to immediately release him from ICE custody or in the alternative, order that Petitioner receive a bond hearing within 48 hours before a neutral adjudicator.

Dated this 2nd day of January, 2026.

Respectfully submitted,

/s/ Alfonso Morales
Alfonso Morales, Esq.
Attorney for Delfino Reyes Contreras

CERTIFICATE OF SERVICE

I hereby certify that on January 2nd, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which constitutes service on all parties or counsel by electronic means as reflected on the Notice of Electronic Filing.

/s/Alfonso Morales
Alfonso Morales, Esq.
Attorney for Delfino Reyes Contreras