

1 Prerna Preshika Lal
SBN: 354786
2 Lal Legal APLC
2001 Addison St STE 300
3 Berkeley CA 94704
4 (800) 552-5616
prerna@lallegal.com
5 Attorney for Petitioner
6

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

10 ROBERTO CARLOS RIVAS MARTINEZ,

11 Petitioner,

12 v.
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14 ERNESTO SANTACRUZ JR. et al.,

15 Respondents.
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CASE NO: 5:25-cv-03597-SSS-BFM

**SUPPLEMENTAL DECLARATION
OF PRERNA P. LAL IN
COMPLIANCE WITH ORDER
GRANTING MOTION FOR LEAVE
TO FILE SUPPLEMENTAL
DECLARATION [DKT. NO. 19]**

- 1 1. I am the attorney of record for Petitioner Roberto Carlos Rivas Martinez in this habeas
2 action. I have personal knowledge of the facts stated herein and could testify competently
3 thereto if called upon to do so. *See* 28 U.S.C. § 1746.
- 4 2. Pursuant to the Court's January 28, 2026, in-chambers Order (Dkt. No. 19) granting
5 Petitioner's Motion for Leave to File Supplemental Declaration (Dkt. No. 18), I submit
6 this Supplemental Declaration to formally supplement the record in support of
7 Petitioner's Ex Parte Application for Temporary Restraining Order and Order to Show
8 Cause Re Preliminary Injunction (the "PI Application").
- 9 3. On January 27, 2026, Petitioner filed the Motion for Leave (Dkt. 18), accompanied by
10 Notice of Manual Filing of surveillance video (Dkt. 16, USB lodged with Clerk), and
11 declarations authenticating said video. Attached hereto as Exhibits A and B, previously
12 lodged.
- 13 4. Exhibit A is the Declaration of Nixon Rivera, owner of NCM Super Kleen Hand Carwash
14 (2745 Rosemead Blvd., El Monte, CA), dated January 27, 2026. Mr. Rivera attests under
15 penalty of perjury that the unedited surveillance video from September 12, 2025, at 9:40
16 a.m.—previously manually filed (Dkt. 16)—is a true and accurate copy with no
17 alterations. It depicts Petitioner in a blue shirt in the foreground, compliant, frozen in
18 place with hands lowered, and non-resistant as plainclothes officers initiated contact and
19 takedown, directly contradicting the I-213 narrative presented at the court-ordered bond
20 hearing.
- 21 5. Exhibit B is the Declaration of Margaret Hellerstein, associate counsel in Petitioner's
22 bond proceedings, dated January 27, 2026. Ms. Hellerstein attests that the video was
23 received January 26, 2026, emailed to Respondents and Chambers January 27, 2026, and
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1 vindicates Petitioner's January 15, 2026, bond hearing testimony before IJ DePowell.

2 6. Exhibit C is the Notice of Manual Filing of the Video. A USB drive with the same video
3 that has been shared with Chambers and Respondents is scheduled to arrive at the Clerk's
4 office by January 29, 2026.

5 7. Exhibit D is the I-213 which was filed by Respondents at the bond hearing to show cause
6 for Petitioner's continued detention. The I-213 contains inflammatory language about
7 non-citizens, but to summarize, it states that during Petitioner's apprehension at a car
8 wash in El Monte, CA, as part of "Operation At Large" targeting immigration violators:
9 subject "pushed [agent] away by using his hands," was "uncooperative and combative,"
10 requiring takedown and handcuffing; agent notes "unprovoked flight" by subjects
11 consistent with illegal presence. These are fabricated narratives as established by the
12 video recording of the incident.
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14 8. Additionally, the IJ neglected to note that the I-213 explicitly confirms Petitioner
15 maintains no criminal history across all checked databases (CIS, EARM, IAFIS, NCIC,
16 TECS), with no convictions under appeal—directly undermining any current public
17 safety concerns.
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19 9. Further, the same I-213 documents that after his 2016 entry, USCIS conducted a credible
20 fear interview yielding a positive finding, **prompting his release from custody on**
21 **August 25, 2016**, to pursue removal proceedings—conduct he fully complied with until
22 their administrative closure in 2023 without any removal order. This demonstrates that
23 the agency did not believe him to be a flight risk for over eight years. A This procedural
24 history, including his 2019 asylum filing (I-589) dismissed via joint OPLA/EOIR motion
25 on June 8, 2023, affirmatively demonstrates the agency's repeated assessments that
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Petitioner was neither a flight risk nor a danger, entitling him to release absent new evidence.

10. Petitioner possesses a substantial liberty interest protected by the Fifth Amendment, as evidenced by Respondents' own prior determination that he posed no danger or flight risk warranting prolonged detention. Respondents are therefore estopped from now asserting flight risk status unless they prove by clear and convincing evidence that circumstances have materially changed since his release and case closure.

11. This supplemental evidence could not have been presented earlier, as it was obtained post-bond hearing and PI opposition deadline, establishing good cause under Fed. R. Civ. P. 15(d) and C.D. Cal. L.R. 7-1. It was promptly shared with opposing counsel and chambers.

12. The video is exculpatory and goes to the heart of proving that Respondent is not a flight risk. The video nullifies the IJ's sole basis for bond denial—adverse credibility and flight risk under *Matter of D-J-*, 23 I&N Dec. 572 (A.G. 2003)—by corroborating Petitioner's testimony over the uncorroborated, contradicted I-213 (prepared by Officer Flores, which alleging flight, resistance to arrest, and assaultive behavior). See *Alcaraz-Enriquez v. Garland*, 18 F.4th 1109 (9th Cir. 2021) (remand for unreliable document over testimony).

13. Supplementation strengthens all *Winter v. NRDC*, 555 U.S. 7 (2008) factors for PI and habeas previously briefed in full in Petitioner's TRO brief:

- a. **Likelihood of success**: Petitioner shows strong likelihood on merits: the exculpatory video exposes fatal due process flaws in his § 1226(a) bond hearing, warranting immediate release. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (due process demands reliable evidence for detention). The IJ denied bond based on

1 uncorroborated I-213 hearsay alleging “assaultive behavior” and flight—directly
2 refuted by contemporaneous employer video proving full compliance, no
3 resistance. IJ Order at 2-3; Decls. Hellerstein ¶12; Rivera ¶¶3-6. This evidentiary
4 failure of crediting unsworn DHS claims over sworn testimony is textbook due
5 process error. Video confirmation of no risk, paired with impeccable equities
6 (zero record, U.S. provider), proves Petitioner is not a flight risk, and hence his
7 detention is unlawful. *Zadvydas*, 533 U.S. at 691 (flight/danger assessment
8 mandatory). Moreover, the IJ overlooked critical evidence in the I-213 showing
9 Respondents' 2016 release of Petitioner from custody following a positive
10 credible fear finding—a determination of non-dangerousness and low flight risk
11 that remains uncontradicted by any material change in circumstances over the
12 intervening eight years. This administrative history, coupled with Petitioner's
13 sustained compliance until case closure without a removal order, establishes a
14 strong likelihood of success on the merits.

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17 b. **Irreparable harm**: The video exposes a due process violation, as uncorroborated
18 hearsay cannot support prolonged custody when contradicted by
19 contemporaneous video. This evidentiary failure inflicts irreparable harm through
20 unconstitutional detention without individualized proof of risk or danger,
21 presumptively entitling Petitioner to immediate release via preliminary injunction
22 and habeas. Video confirmation of no resistance aligns with Petitioner's clean
23 record and equities, amplifying harm from family separation and lost income
24 while the government lacks burden-met evidence.

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26 c. **Equities/Public interest**: Petitioner's impeccable equities—a spotless record,

1 U.S. ties since infancy, family provider role—vastly outweigh any mitigated
2 government custody interest, readily addressed by conditions given
3 video-confirmed and historical compliance. The public interest demands judicial
4 enforcement of video-based factual accuracy over uncorroborated ICE narratives,
5 particularly amid recent scrutiny of agency overreach in high-profile incidents.
6 Cases like the fatal shootings of Renee Good and Alex Pretti—where initial DHS
7 claims of aggression were refuted by bystander and agent videos—highlight
8 eroded trust in unverified I-213 accounts, underscoring the need for courts to
9 check executive detention power via habeas oversight. Absent this, erroneous
10 deprivations reward exaggeration, violating due process and the constitutional
11 mandate for individualized bond hearings. *Winter v. NRDC*, 555 U.S. 7, 24 (2009)
12 (public interest in faithful constitutional compliance).
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14 14. Petitioner requests the Court accept this supplement, deny mootness given continued
15 unlawful detention of Petitioner, convert TRO to PI, and order immediate release of
16 Petitioner.
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18 I declare under penalty of perjury under the laws of the United States that the foregoing is true
19 and correct.

20 Executed on January 29, 2026, at Berkeley, California.

21
22 s/ Prerna P. Lal

23 Prerna Preshika Lal
24 SBN 354786
25 Lal Legal APLC
26 2001 Addison St. Ste. 300
27 Berkeley, CA 94704

Tel: 800-552-5616
Email: prerna@lallegal.com
Attorney for Petitioner

Attachments

-Exhibit A: Declaration of Nixon Rivera (previously lodged)

-Exhibit B: Declaration of Margaret Hellerstein (previously lodged)

-Exhibit C: Surveillance Video (Dkt. 16 USB). Video emailed to Chambers and Respondents.

Physical USB with video should be received by Clerk via Fedex by January 29th, 2026.

-Exhibit D: I-213

DECLARATION OF SERVICE

I hereby certify that on January 21, 2026, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will serve a copy of this document upon all counsels of record.

DATED this January 21, 2026, at Berkeley, California.

/s/ Prerna P. Lal

Prerna Preshika Lal

2001 Addison Street Ste 300

Berkeley, CA 94704

Phone: (800) 552-5616

prerna@lallegal.com