

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Abner Ezequiel Rosa Ramos

Petitioner,

v.

David Easterwood, Field Office
Director of Enforcement and Removal
Operations, St. Paul Field Office,
Immigration and Customs
Enforcement; Kristi Noem, in her
official capacity as Secretary of the
U.S. Department of Homeland
Security; Todd Lyons, in his official
capacity as acting director of U.S.
Immigration and Customs
Enforcement; Pam Bondi, in her
official capacity as Attorney General
of the United States.

Respondents.

Case No. 26-482

**PETITIONER'S
MEMORANDUM OF LAW IN
SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

**EMERGENCY HANDLING
REQUESTED**

I. INTRODUCTION

Petitioner Abner Ezequiel Rosa Ramos brings the instant motion for Temporary Restraining Order (“TRO”) and Preliminary Injunction (“Motion”) seeking injunctive relief and challenging Respondents’ actions in detaining Petitioner. He was arrested by Respondents in July of 2022, after crossing into the United States as an Unaccompanied Alien Child (UAC). Petitioner was later released by the Office of Refugee Resettlement. Respondents later served a Notice to Appear (NTA) On November 19, 2022, and placed Petitioner in removal proceedings. Despite no evidence he violated his conditions of release or committed any crimes that would make him subject to mandatory detention, he was arrested by Respondents on or about January 20, 2026, and remains in detention. Respondents cannot lawfully detain someone with a prior release and deferred action without facts showing a change in circumstances justifying re-detention and further deny him an opportunity to review that re-detention.

Courts across the country have granted Temporary Restraining Orders to non-citizens like Petitioner who have been unlawfully detained. Considering these developments, and the futility of pursuing relief through Immigration Court, emergency relief is necessary. Petitioner seeks injunctive relief to prevent Respondents from continuing to unlawfully detain him. Petitioner seeks declaratory and injunctive relief to remedy violations of his

constitutional and statutory rights. Finally, Mr. Rosa Ramos's petition is properly before this Court.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Petitioner unlawfully remains detained despite prior release.

On July 18, 2022, Petitioner was arrested and taken into Immigration and Customs Enforcement ("ICE") custody and transferred to the Office of Refugee Resettlement.¹ He was released shortly afterwards.

Petitioner has successfully applied for Special Immigrant Juvenile Status and was granted deferred action. DHS continues to hold him in custody, separating him from his family and community. As long as he remains detained, he has suffered and will continue to suffer significant, irreparable harm.

DHS issued a Notice to Appear charging Petitioner under INA § 212(a)(6)(A)(i) as a noncitizen present without admission or parole. Petitioner has no criminal history that would subject him to mandatory detention.

On September 5, 2024, USCIS approved Petitioner's Form I-360 petition for Special Immigrant Juvenile Status. USCIS simultaneously granted

¹ ORR is an agency within the Department of Health and Human Services rather than in the Department of Homeland Security.

Petitioner deferred action for a period of four years. That grant remains valid and has not been terminated or revoked.

Notwithstanding Petitioner's SIJS approval, deferred action, prior ORR release, and lack of criminal history, Respondents have detained Petitioner. His detention separates him from his family, interrupts his education and employment, and deprives him of liberty without lawful justification.

III. ARGUMENT

A. Petitioner is entitled to a temporary restraining order and preliminary injunction.

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

- (1) the probability that the moving party will succeed on the merits;
- (2) the threat of irreparable harm to the moving party;
- (3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction;
and
- (4) whether the issuance of a TRO is in the public interest.

See Dataphase Sys., Inc. v. C.L. Sys., Inc., 640 F.2d 109, 114 (8th Cir. 1981); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Consideration of these four factors does not require mathematical precision but rather should be flexible enough to encompass the particular circumstances of each case. *See*

Dataphase, 640 F.2d at 113. The basic question is whether the balance of equities so favors the moving party “that justice requires the court to intervene to preserve the status quo until the merits are determined.” *Id.* Although the probability of success on the merits is the predominant factor, the Eighth Circuit has “repeatedly emphasized the importance of a showing of irreparable harm.” *Caballo Coal Co. v. Ind. Mich. Power Co.*, 305 F.3d 796, 800 (8th Cir. 2002). Here, all four factors weigh heavily in favor of injunctive relief.

1. Petitioner is likely to succeed on the merits of his petition for writ of habeas corpus.

Writs of habeas corpus “may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). “The writ of habeas corpus shall not extend to a prisoner unless...He is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(2).

a. Petitioner’s detention is in violation of Due Process.

i. Noncitizens like Petitioner are protected by the Fifth Amendment.

The federal courts have held that noncitizens are entitled to guarantees of the Fifth Amendment. *Sanchez-Velasco v. Holder*, 593 F.3d 733, 737 (8th Cir. 2010); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) (“all aliens[] are clearly protected by the Fifth and Fourteenth Amendments”). Courts treat Equal Protection and Due Process rights under the Fifth Amendment in the

same manner as Equal Protection Claims under the Fourteenth Amendment. *Weinberger v. Wiesenfeld*, 420 U.S. 636, 638 n.2 (1975). Due process is only implicated when governmental decisions deprive an individual of “liberty” or “property” interests within the meaning of the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67, 78 (1976); see also *Rusu v. INS*, 296 F.3d 316, 321-22 (4th Cir. 2002).

The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be...deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. See *Zadvydas*, 533 U.S. at 690 (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem”); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10, 413 (D.N.J. 1999) (holding that, in analyzing due process in the immigration

context, the first factor in the procedural due process analysis, “the petitioner’s private interest in his physical liberty, must be accorded the utmost weight.”).

Noncitizens with SIJS have due process rights and property interests with respect to their status. *Osorio-Martinez v. Attorney Gen. United States of Am.*, 893 F.3d 153, 171-174 (3d Cir. 2018) (“Congress also afforded these aliens a host of procedural rights designed to sustain their relationship to the United States and to ensure they would not be stripped of SIJ protections without due process.”); *Rodriguez v. Perry*, 747 F.Supp.3d 911, 919 (E.D. Va. 2024); *J.L. v. Cissna*, 374 F.Supp.3d 855, 868-869 (N.D. Cal. 2019); *Bansci v. Nielsen*, 321 F.Supp.3d 729 (W.D. Tex. 2018). Petitioner has SIJS and his ability to exercise the benefits of this status are compromised by his arbitrary detention.

Petitioner has deferred action that is valid through August 24, 2028, and deferred action can be renewed. Multiple courts have ordered the immediate release of detainees with deferred action. *O.A.M.R. v. Wofford*, No. 1:25-CV-01955-TLN-JDP, 2025 WL 3702171, at *3 (E.D. Cal. Dec. 21, 2025); *Espinoza Cruz v. English*, No. 3:25-CV-919-CCB-SJF, 2025 WL 3676992, at *4 (N.D. Ind. Dec. 18, 2025); *F.R.P. v. Wamsley*, No. 25-01917, 2025 WL 3037858, *7 (D. Ore. Oct. 30, 2025) (*Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at *11 (W.D. Tex. Oct. 2, 2025); *Sepulveda Ayala v. Bondi*, 25-cv-1063, 2025 WL 2209708, at *4 (W.D. Wash. Aug. 4, 2025) (holding that the government lacked a legal basis to detain petitioner where deferred action prevented his removal

even though he had a final order of removal). Petitioner has deferred action, is not subject to mandatory detention, and is not subject to a removal order, so he is likely to succeed in demonstrating that his due process rights have been violated.

ii. Respondents continue holding Petitioner in detention in violation of Due Process and without any legitimate basis.

Immigration detention is civil and must “bear a reasonable relation to the purpose for which the individual [is detained]” so that it is “nonpunitive in purpose and effect.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (cleaned up). There are only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Id.*; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017).

Civil detention cannot be a “mechanism for retribution,” *Kansas v. Crane*, 534 U.S. 407, 412 (2002) (internal quotation marks omitted), because “[r]etribution and deterrence are not legitimate nonpunitive governmental objectives,” *Bell v. Wolfish*, 441 U.S. 520, 539 n.20 (1979). And unlawful detention necessarily harms Petitioner. *See Barker v. Wingo*, 407 U.S. 514, 532 (1972) (detention has a “serious,” “detrimental impact on the individual”); *Hernandez*, 872 F.3d at 994 (unconstitutional detention for an indeterminate period is irreparable harm); *Doe v. Becerra*, 704 F. Supp. 3d 1006, 1017 (N.D. Cal. 2023), *abrogated on other grounds by Doe v. Garland*, 109 F.4th 1188 (9th

Cir. 2024) (“Liberty is the norm; every moment of [detention] should be justified.”) (alteration in original) (citation omitted).

Civil confinement of non-citizens must be limited to the underlying purpose justifying the detention. *Zadvydas*, 533 U.S. at 690. “Once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699. *Zadvydas* held that civil detention violates due process unless special, nonpunitive circumstances outweigh an individual’s interest in avoiding restraint. 533 U.S. at 690 (**immigration detention must remain “nonpunitive in purpose and effect”**) (emphasis added).

The government’s detention of Petitioner is punitive. First, DHS has expressed and vocalized an intent to use civil detention punitively against noncitizens for the dual purposes of: (1) encouraging self-deportation, and (2) coercing foreign recalcitrant governments to issue travel documents for its citizens ordered deported from the United States by demonstrating through a systematic campaign of abuse and terror that the recalcitrant government’s citizens detained in post-removal-order custody will suffer immensely in the absence of such travel documents being issued. *100 Days of Fighting Fake News*, Department of Homeland Security (Apr. 30, 2025) (“The reality is that prison isn’t supposed to be fun. It’s a necessary measure to protect society and punish bad guys. It is not meant to be comfortable. What’s more: prison can be avoided by self-deportation. CBP Home makes it simple and easy. If you are a

criminal alien and we have to deport you, you could end up in Guantanamo Bay or CECOT. Leave now.”);²*Mohammed H. v. Trump*, No.: 25-CV-1576-JWB-DTS, --- F.Supp.3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) (“Punishing Petitioner for protected speech or **using him as an example to intimidate other students into self-deportation is abusive and does not reflect legitimate immigration detention purposes.**”) (emphasis added). Whether detained domestically or overseas, a policy of punitive civil detention to induce “self-deportation” is improper.

The procedural history of Petitioner’s case further demonstrates that DHS is acting in a manner meant to keep him detained for as long as possible, despite knowing there is no legitimate evidence to support his detention. Petitioner is not detained pursuant to a final order of removal. He has not committed any actions that would subject him to mandatory detention. His detention is not necessary to ensure attendance in removal proceedings because there are no hearings scheduled at the time of filing. Therefore, there appears to be no clear reason for Petitioner’s arbitrary and continued re-detention.

Courts across the country have found that petitioners who were not properly re-detained should be released or granted a hearing to require the

² Found at <https://www.dhs.gov/news/2025/04/30/100-days-fighting-fake-news>

government demonstrate changed circumstances. *Lopez-Valdez v. Arnott*, No. 6:25-CV-3365-MDH, 2025 WL 3516477 (W.D. Mo. Dec. 8, 2025); *Nikolayev v. Noem*, No. 25CV3208-LL-BJW, 2025 WL 3539163 (S.D. Cal. Dec. 10, 2025); *dos Santos v. Noem*, No. 1:25-CV-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Singh v. Noem*, No. CV 25-1110 JB/KK, 2025 WL 3254727 (D.N.M. Nov. 21, 2025); *Lesic v. LaRose*, No. 25CV2746-LL-BJW, 2025 WL 3158675 (S.D. Cal. Nov. 12, 2025). Courts have noted that while DHS has the authority to re-detain released non-citizens, such re-detention must be supported by “a material change in circumstances.” *Singh v. Noem*, No. CV 25-1110 JB/KK, 2025 WL 3254727, at *8 (D.N.M. Nov. 21, 2025) (citing to *Panosyan v. Mayorkas*, 854 F. App’x 787, 788 (9th Cir. 2021) (citing *Matter of Sugay*, 17 I&N Dec. 637 (B.I.A. 1981)). DHS must demonstrate that there has been a material change to whether the noncitizen “poses a danger to the community or an unreasonable risk of flight.” *Id.*, (citing to *Y.M.M. v. Wamsley*, Civ. No. 25-2075, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6, 2025)). “In other words, ‘the law requires a change in relevant facts, not just a change in the government’s attitude.’” *Id.*, (cleaned up) (citing to *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *3 n.6 (S.D.N.Y. June 18, 2025)). Courts have consequently ordered immediate release where the government could not show this material change in facts. *Lesic v. LaRose*, No. 25CV2746-LL-BJW, 2025 WL 3158675, at *3 (S.D. Cal. Nov. 12, 2025); *Nikolayev v. Noem*, No.

25CV3208-LL-BJW, 2025 WL 3539163, at *3 (S.D. Cal. Dec. 10, 2025); *dos Santos v. Noem*, No. 1:25-CV-12052-JEK, 2025 WL 2370988, at *9 (D. Mass. Aug. 14, 2025); *see also Singh v. Noem*, No. CV 25-1110 JB/KK, 2025 WL 3254727, at *11 (D.N.M. Nov. 21, 2025) (stating recommendation of the Magistrate Judge to Order immediate release); *see also Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *5 (S.D.N.Y. June 18, 2025) (ordering immediate release where the non-citizen was re-detained after release on their own recognizance). A District Court also ordered a new §1226(a) hearing where the parties could present factual evidence regarding whether there was a material change in circumstances. *Lopez-Valdez v. Arnott*, No. 6:25-CV-3365-MDH, 2025 WL 3516477, at *6 (W.D. Mo. Dec. 8, 2025).

Further, the record demonstrates the Petitioner entered the US as a UAC. UACs are afforded protections under U.S. statute and regulation. *See* 8 U.S.C. § 1232; 6 U.S.C. § 279; 8 C.F.R. § 236.3. Specifically, UACs must be placed in removal proceedings under INA § 240, 8 U.S.C. § 1229a. 8 U.S.C. § 1232(a)(5)(D)(i). *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1153 (D. Minn. 2025). Attempting to remove the Petitioner despite his presence in the interior and his status as an unaccompanied minor is contrary to a plain reading of the text and intent of Congress's statutory scheme.

As a result, Petitioner's detention is for illegitimate, punitive purposes—not in accordance with the lawful, Congressional purposes of civil immigration

detention—and should be enjoined. For the aforementioned reasons, it is likely that Petitioner will succeed on the merits of the instant petition.

- iii. All *Mathews* factors weigh in Petitioner's favor and he is thus likely to succeed on the merits of his petition for writ of habeas corpus.

A *Mathews* analysis supports finding Petitioner's Fifth Amendment rights and fundamental liberty interests outweigh any putative governmental interests and are owed additional procedural protections. *Mathews* requires weighing

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews v. Eldridge, 424 U.S. 319, 335, 96 S. Ct. 893, 903, 47 L. Ed. 2d 18 (1976).

The private interest here includes Petitioner's Fifth Amendment rights. Petitioner has participated in immigration proceedings in good faith, and USCIS has found that he merited SIJS and deferred action. Re-detaining Petitioner without any changed facts and indefinitely detaining him is an

evisceration of his right to fair proceedings.

Further, Petitioner's liberty interest in uniting with his family has been violated. Petitioner's detention caused separation from family, which is a deprivation of incarceration that burdens a substantial private interest and supports finding irreparable harm. *Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411, at *9 (D. Minn. Aug. 15, 2025); *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *7 (D. Minn. May 21, 2025); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 33 (1st Cir. 2021). The first *Mathews* factor thus weighs heavily in favor of Petitioner.

The Respondents' course of action is an erroneous deprivation of rights, and a return to status quo is necessary to cure that deprivation. The second *Mathews* factor thus weighs heavily in favor of the Petitioner.

The Respondents have no articulable interest in subjecting the Petitioner to re-detention. There is no evidence in the record that there is any government interest in modifying the terms of Petitioner's 2022 release from ORR, absent a change in circumstances. Should Respondents demonstrate a material change in circumstances, finding the IJ has jurisdiction and must re-evaluate this determination that the Petitioner warrants detention provides both the Petitioner and the government a fair opportunity to persuade a neutral arbiter as to their case. The third *Mathews* factor thus does not counterbalance Petitioner's weighty interests, and the sum of the *Mathews*

factors weigh in his favor.

Courts have concluded other unlawfully detained habeas petitioners were entitled to emergency relief. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025); *see also Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *10 (E.D. Mich. Aug. 29, 2025); *see also Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *8 (E.D. Cal. Sept. 9, 2025). Minnesota District Courts have considered cases involving the automatic stay of a grant of bond and have granted immediate release where a non-citizen was already granted bond. *Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 897 (D. Minn. 2025); *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1190 (D. Minn. 2025); *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1156 (D. Minn. 2025). In *Gunaydin*, the Court holistically analyzed the private interests at stake under the first *Mathews* factor, including the fundamental liberty interest in being free from detention, the punitive conditions of the detention itself, and significant economic and academic interests of a student. *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1186–87 (D. Minn. 2025).

Courts elsewhere have also granted immediate release to unlawfully detained non-citizens. A District Court granted immediate release to an illegally detained non-citizen pending his bond hearing. *Mendes v. Hyde*, No. 25-CV-627-JJM-AEM, 2025 WL 3496546, at *3 (D.R.I. Dec. 5, 2025). The Court noted that immediate release was appropriate given the government put forth

“no evidence” that the non-citizen posed a danger to the community or a flight risk. *Id.*, at *2 (citing to *Tomas Elias v. Hyde*, No. 25-CV-540-JJM-AEM, 2025 WL 3004437, at *5 (D.R.I. Oct. 27, 2025)). A District Court similarly granted immediate release reasoning that the Petitioner’s detention under INA § 235 was illegal “from its inception” and the proper remedy to illegal detention was release. *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065 (NJC), 2025 WL 3314420, at *31–33 (E.D.N.Y. Nov. 28, 2025). The Court noted that a “post-deprivation bond hearing [...] would provide no genuine opportunity to relief because the detention without adequate pre-deprivation procedures has already been carried out.” *Id.*, at *32.

Given the established Fifth Amendment violations embedded in arbitrary re-detention of non-citizens, these analysis in these cases further support a grant of immediate relief for Petitioner.

iv. Petitioner has been and continues to be prejudiced by the government violating his due process rights.

In order to prevail on a claim asserting the deprivation of due process, a petitioner must also show “actual prejudice.” *Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010) (citation omitted). Actual prejudice occurs if “an alternate result may well have resulted without the violation.” *Id.* (citation omitted) (internal quotations omitted); *see also Lazaro v. Mukasey*, 527 F.3d 977, 981 (9th Cir. 2008) (explaining that prejudice is not necessary where agency action

was *ultra vires*). “To show prejudice, [a petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate process were provided.” *Morales Izquierdo v. Gonzales*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal quotations omitted). Petitioner is clearly prejudiced by his continued, unjustified detention. He will soon have been detained a month despite demonstrating he warranted release before a neutral magistrate.

The Courts granting each of these TROs across the country are holding specifically that the non-citizens face irreparable injury and are enjoining the government from detaining them and/or requiring a bond hearing. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025); *see also Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *10 (E.D. Mich. Aug. 29, 2025); *see also Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *8 (E.D. Cal. Sept. 9, 2025). The Courts have noted the irreparable harm petitioners suffer including by virtue of the length of detention they are threatened with. *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *3 (E.D. Mich. Sept. 9, 2025) (noting the indefinite detention “would result in the very harm that the bond hearing was designed to prevent”) (*citing to Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) and *Gomes v. Hyde*, No. 1:25-cv-11571, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025)).

1. Petitioner will continue to face irreparable harm if emergency relief is not granted.

It is well established that deprivation of constitutional rights constitutes “irreparable injury” and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976). *See also Planned Parenthood of Minnesota, Inc. v. Citizens for Community Action*, 558 F.2d 861, 867 (8th Cir. 1977). When an alleged deprivation of constitutional rights is involved, no further showing of irreparable injury is necessary. *Planned Parenthood of Minnesota*, 558 F.2d at 867 (citing 11 C. Wright & A. Miller, *Federal Practice & Procedures: Civil* § 2948 at 439 (1973)); *Ng v. Bd. of Regents of the Univ. of Minn.*, 64 F.4th 992, 998 (8th Cir. 2023) (“[T]he denial of a constitutional right is a cognizable injury and an irreparable harm.”); *Hernandez*, 872 F.3d at 994–95; *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”). Further, Petitioner is irreparably harmed because detention after being released as an unaccompanied alien child and later indefinite detention bear no “reasonable relation” to its purpose. *Deqa M. Y.*, 2020 WL 4928321, at *3; *see Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing “[a]ny amount of actual jail time is significant and has exceptionally severe consequences for the incarcerated individual” (cleaned up) (internal quotation marks omitted) (citation omitted)).

In the present case, Petitioner's Fifth Amendment rights are being violated because of on-going detention after the wrongful denial of his right to either be released immediately or on bond after he was previously released by ORR. Courts across the country have held that DHS detention constitutes irreparable injury where it deprives non-citizens of their liberty, access to counsel, and access to their families. *See* section III.A.a.iii, *supra*.

Following the rulings in *Elrod* and *Planned Parenthood of Minnesota*, these Fifth Amendment violations involving deprivations of due process constitute irreparable injury to the Petitioner and justify issuance of a temporary restraining order. Petitioner's liberty has been and continues to be restricted in violation of his constitutional rights.

2. Respondents will face no injury or harm if emergency relief is granted.

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221, 1236-7 (10th Cir. 2005).

Petitioner's harms, discussed above, are weighty; these harms are the direct result of Respondents' conduct in denying Petitioner due process as required under the Constitution. In fact, Petitioner's continued detention is

actually a burden for Respondents in that his unnecessary and unexplained detention is costly to the U.S. government.

Possible injuries to the government, should the restraining order be granted, are minimal and possibly nonexistent. Petitioner is seeking to be released from custody back to his home in the United States so that he can continue his on-going immigration proceedings. The Respondents have produced no charging documents or other evidence to confirm the Petitioner would be subject to mandatory detention, and the record shows he has been a productive and law-abiding member of the community.

For the aforementioned reasons, the irreparable harm to Petitioner that will occur should ICE fail to release him clearly outweighs any burden to Respondents in indefinitely keeping him detained. As this Court held in *Morrison*, 602 F.Supp. at 1484, the balance of harms supports the release of Petitioner even though the federal or state government may not be able to recover lost custodial time should Respondents' constitutional interpretation prevail. This insignificant harm is outweighed by the substantial harm facing Petitioner. Petitioner's harms include deprivations of due process and the wrongful extended detention by ICE depriving Petitioner of liberty. Because Petitioner is in Respondents' custody, he faces the extreme hardship of deprivation of his due process rights and liberty, and separation from his family and community unless this Motion is granted.

3. The issuance of a TRO is in the public interest.

The public—and therefore the government—has an interest in protecting the rights of people in detention and ensuring the rule of law. *See Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”). “It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). The public has a “substantial” interest “in having governmental agencies abide by the federal laws that govern their existence and operations.” *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (citation omitted). Respondents “cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). Respondents “cannot suffer harm from an injunction that merely ends,” at least temporarily, a likely “unlawful practice.” *R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 191 (D.D.C. 2015). Under law, an immigration judge ought to consider Petitioner’s history on the merits, in light of new evidence, to make an individualized determination if he should be released on bond.

The protection of individuals' constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government's power to skew, alter, or improperly affect legal proceedings related to an individual's property or liberty interest(s). To ensure the protection of Petitioner's constitutional rights, and to protect against overzealous federal government intrusion of constitutional rights of others in similar situations, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from continuing to detain him.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country's legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

b. Petitioner has complied with the requirements of Rule 65.

Finally, as set forth *supra*, Petitioner asks this Court to find that he has complied with the requirements of Rule 65, Fed.R.Civ.P., for the purpose of granting a temporary restraining order. Respondents have been provided with a copy of the instant motion and supporting documents and are on notice. Rule 65(c) states that the court may issue a preliminary injunction or temporary

restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Under the circumstances of this case, however, Petitioner respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from continuing to detain Petitioner, and/or to refrain from giving Respondents' unlawful actions legal effect, should not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

IV. CONCLUSION

For all of the foregoing reasons, Petitioner asks this Court to grant his Motion for a Temporary Restraining Order and Preliminary Injunction to:

1. Declare that the actions of Respondents as set forth in Mr. Rosa Ramos's Petition, Motion, and Memorandum of Law violated the Fifth Amendment of the United States Constitution, 28 U.S.C. § 2241, and the APA.

2. Enjoin Respondents from continuing to detain Mr. Rosa Ramos in their custody during the pendency of his petition for writ of habeas corpus before this Court.
3. If Mr. Rosa Ramos is not immediately released from Respondents' custody, enjoin Respondents from transferring him to a detention facility out of this District where he would lose access to his counsel and support network.
4. If Mr. Rosa Ramos is not immediately released from Respondents' custody, order Respondents grant him a bond redetermination hearing on the merits of his release.
5. Declare Mr. Rosa Ramos is subject to detention only under § 1226(a) and not § 1225(b).
 - a. Order that Respondents be enjoined and restrained from arresting, detaining, or removing Petitioner absent compliance with constitutional protections and the TVPRA, including notice and a pre-deprivation hearing before a neutral decisionmaker where placement in the least restrictive setting available is considered after taking into account Petitioner's danger to the community and risk of flight. 8 U.S.C. § 1232(c)(2)(B).
6. Grant Mr. Rosa Ramos such other relief as the Court deems appropriate and just.

DATED: January 20, 2026

Respectfully submitted,

/s/ Gloria Contreras Edin

Gloria Contreras Edin, Esq.
MN Attorney ID: 0353255
Contreras Edin Law, P.A.
663 University Avenue W.
STE 200
Saint Paul, MN 55104
P: (651) 771-0019
F: (651) 772-4300
Gloria@contrerasedinlaw.com

Attorney for Petitioner