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12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Gilberto Gonzalez-Diaz,

15 Petitioner,

16 v.

17 Pamela Bondi, *et al.*,

18 Respondents.

Case No. 2:26-cv-00413-APG-BNW

**Motion for Temporary Restraining
Order**

19 POINTS AND AUTHORITIES

20 Petitioner Gilberto Gonzalez-Diaz, a citizen of Cuba, has lived in the United
21 States for the last four years. After crossing the border, Mr. Gonzalez-Diaz
22 submitted to immigration authorities and was ultimately detained for almost two
23 months. He was eventually released on his own recognizance.

24 In July 2025, Mr. Gonzalez-Diaz was arrested in Las Vegas for allegedly
25 possessing a controlled substance, though the charges have since been denied for
26 prosecution. Two days after his arrest, Mr. Gonzalez-Diaz was transferred to
27 Nevada Southern Detention Center on an immigration hold. Aside from this arrest,

1 Mr. Gonzalez-Diaz has no criminal history or other arrests. He has regularly
2 checked in with his local immigration office for the last several years.

3 On February 10, 2026, Mr. Gonzalez-Diaz appeared for a bond hearing, but
4 the Immigration Judge found he/she did not have jurisdiction to consider bond. Mr.
5 Gonzalez-Diaz has now been in custody for almost eight months.

6 As discussed in the Amended Petition, Mr. Gonzalez-Diaz's brother, Ernesto
7 Herada-Gonzalez, was diagnosed with a rapidly-progressing throat cancer. *See* ECF
8 No. 7 at 2. He is the only family member Mr. Gonzalez-Diaz has in this country.
9 Undersigned counsel has received information from Mr. Gonzalez-Diaz's brother's
10 caregiver (Eduardo Gomez) that Ernesto is not doing well. Ernesto was in the
11 hospital last week due to complications with his cancer, and his caregiver reports
12 doctors do not expect Ernesto to live beyond the next two months.

13 Mr. Gonzalez-Dias moves to remedy the immediate and irreparable harm he
14 is experiencing as a result of his unconstitutional detention and is likely to
15 experience due to his brother's rapidly worsening health. This Court should grant
16 temporary relief to preserve the status quo. The requested temporary restraining
17 order ("TRO") would preserve the status quo ante while Mr. Gonzalez-Diaz litigates
18 these claims by prohibiting the government from continuing to detain him without
19 first having his statutorily mandated bond hearing and would allow Mr. Gonzalez-
20 Diaz to be with his brother during this time of need.

21 In granting this motion, this Court would not break new ground. Several
22 courts have granted TROs or preliminary injunctions mandating release or a bond
23 hearing for individuals who are being unlawfully detained without first having a
24 bond hearing. *See, e.g., Qin Li v. Krist Noem, et al.*, No. 5:26-CV-00878-JWH-PVC,
25 2026 WL 638652, at *1 (C.D. Cal. Mar. 4, 2026) (granting petitioner's application for
26 a TRO, enjoining respondents from continue to detain petitioner, and ordering
27 petitioner released after finding respondents detained petitioner "[w]ithout an

1 initial justification for re-detention or a bond hearing on the merits”); *Gopal B. v.*
 2 *Albarran*, No. 1:26-CV-01083-TLN-CKD, 2026 WL 504736, at *5 (E.D. Cal. Feb. 24,
 3 2026) (granting TRO and enjoining Respondents from continuing to detain
 4 petitioner without a bond hearing); *Singh v. Noem*, No. 2:26-CV-01738-ODW
 5 (DSRX), 2026 WL 483049, at *3 (C.D. Cal. Feb. 20, 2026) (granting TRO and
 6 ordering respondents to release petitioner “or, in the alternative, provide him with
 7 an individualized bond hearing before an immigration after finding petitioner was
 8 unlawfully detained without any bond hearing).¹

9 ARGUMENT

10 To obtain a TRO, a petitioner “must establish that he is likely to succeed on
 11 the merits, that he is likely to suffer irreparable harm in the absence of preliminary
 12 relief, that the balance of equities tips in his favor, and that an injunction is in the
 13 public interest.” *Winter v. Nat. Res. Def Council, Inc.*, 555 U.S. 7, 20 (2008); accord
 14 *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7 (9th
 15 Cir. 2001) (noting that a TRO and preliminary injunction involve “substantially
 16 identical” analysis). A “variant[] of the same standard” is the “sliding scale”: “if a
 17 plaintiff can only show that there are ‘serious questions going to the merits’—a
 18 lesser showing than likelihood of success on the merits—then a preliminary
 19 injunction may still issue if the balance of hardships tips *sharply* in the plaintiff’s
 20 favor, and the other two *Winter* factors are satisfied.” *Immigrant Defenders Law*
 21 *Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025) (internal quotation marks
 22 omitted). Under this approach, the four *Winter* elements are “balanced, so that a
 23 stronger showing of one element may offset a weaker showing of another.” *All. for*
 24

25 ¹ *Ajay v. Warden California City Corrections Facility, et al.*, No. 1:26-CV-
 26 00562-TLN-AC, 2026 WL 638445, at *5 (E.D. Cal. Mar. 6, 2026) (same); *Dzhumaev*
 27 *v. Noem, et al.*, No. 5:26-CV-00618-JWH-JDE, 2026 WL 561379, at *5 (C.D. Cal.
 Feb. 25, 2026) (same).

1 *the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). A TRO may be
2 granted where there are “serious questions going to the merits’ and a hardship
3 balance . . . tips sharply toward the plaintiff,” and so long as the other *Winter*
4 factors are met. *Id.* at 1132.

5 Here, this Court should issue a TRO because “immediate and irreparable
6 injury . . . or damage” is occurring in light of Mr. Gonzalez-Diaz’s improper
7 detention. More importantly, Mr. Gonzalez-Diaz’s improper detention combined
8 with the deterioration of his brother’s health and high likelihood of imminent death
9 risks causing Mr. Gonzalez-Diaz irreparable harm. Accordingly, this Court should
10 order Mr. Gonzalez-Diaz release, or in the alternative an immediate bond hearing,
11 and enjoin Respondents from continuing to detain Mr. Gonzalez-Diaz.

12 **I. Mr. Gonzalez-Diaz will likely succeed on the merits, or at a**
13 **minimum, he raises serious merits questions.**

14 In his amended § 2241 petition, Mr. Gonzalez-Diaz raises two claims: (1) his
15 continued detention without a bond hearing violates his due process rights because
16 he cannot legally be subjected to mandatory detention under 8 U.S.C. §1225(b)(2);
17 and (2) his prolonged detention without a bond hearing violates his right to due
18 process under the Fifth Amendment of the United States Constitution. *See* ECF No.
19 7 at 5-14. As discussed below, Mr. Gonzalez-Diaz is likely to succeed on the merits
20 of his claims that his deprivation without a bond hearing violates his right to due
21 process under the Fifth Amendment.

22 “[T]he Due Process Clause applies to all persons within the United States,
23 including [noncitizens], whether their presence here is lawful, unlawful, temporary,
24 or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Courts in this district
25 and throughout country have held that noncitizens detained in the interior of the
26 United States, and who do not fall into a different category of mandatory detention,
27 are detained pursuant to 8 U.S.C. § 1226, and, thus, “have a statutory right to a

1 bond hearing at the outset of their detention.” *Li*, 2026 WL 638652, at *3 (collecting
2 cases); *see also Escobar Salgado v. Mattos*, No. 2:25-cv-01872-RFB-EJY, 2025 WL
3 3205356, at *2 (D. Nev. Nov. 17, 2025).

4 Here, Mr. Gonzalez-Diaz has been deprived of his statutory right to a bond
5 hearing, which has consequently resulted in a violation of his due process rights.
6 *See Li*, 2026 WL 638652, at *3 (“[B]ecause Li’s instant detention is governed by 8
7 U.S.C. § 1226, she was entitled to—but did not receive—an individualized bond
8 hearing at the outset of her re-detention. That deprivation of an individualized bond
9 hearing is an independent violation of Li’s statutory rights.”). Additionally, because
10 Mr. Gonzalez-Diaz was originally released from immigration custody back in 2022
11 on his own recognizance, he arguably has an additional liberty interest that he
12 would not be re-detained unless there were violations of his conditions of release.
13 *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. July 24, 2025) (“[T]he
14 government’s decision to release an individual from custody creates an implicit
15 promise, upon which that individual may rely, that their liberty will be revoked
16 only if they fail to live up to the conditions [of release].” (cleaned up)).

17 Accordingly, because Respondents have denied Mr. Gonzalez-Diaz his
18 constitutionally and statutorily required Due Process—a bond hearing—this Court
19 should find that Mr. Gonzalez-Diaz is likely to succeed on the merits of the claims
20 raised in the Amended Petition.

21 **II. Mr. Gonzalez-Diaz will suffer irreparable harm absent injunctive**
22 **relief.**

23 Mr. Gonzalez-Diaz also meets the second factor: irreparable harm. “It is well
24 established that the deprivation of constitutional rights ‘unquestionably constitutes
25 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
26 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged deprivation
27 of a constitutional right is involved, most courts hold that no further showing of

1 irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th
2 Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and Procedure*,
3 § 2948.1 (2d ed. 2004)). Furthermore, unlawful detention itself “constitutes extreme
4 or very serious damage, and that damage is not compensable in damages.”
5 *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017) (internal citations
6 omitted).

7 Additionally, the Ninth Circuit recognizes “irreparable harms imposed on
8 anyone subject to immigration detention,” can include, for example, “the economic
9 burdens imposed on detainees and their families as a result of detention, and
10 [other] collateral harms to [family.]” *Ajay v. Warden California City Corrections*
11 *Facility, et al.*, No. 1:26-CV-00562-TLN-AC, 2026 WL 638445, at *5 (E.D. Cal. Mar.
12 6, 2026) (quoting *Hernandez*, 872 F.3d at 995).

13 Here, the combination of Mr. Gonzalez-Diaz’s detention without a bond
14 hearing and collateral harm he and his brother are suffering from Mr. Gonzalez-
15 Diaz’s continued detention, is sufficient to meet the irreparable harm inquiry. *See*
16 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (“It is well established that
17 the deprivation of constitutional rights unquestionably constitutes irreparable
18 injury.” (internal quotation marks and citation omitted)); *see also Ajay*, 2026 WL
19 638445, at *5. Mr. Gonzalez-Diaz’s continued detention is keeping him away from
20 his brother during his brother’s last months of life. Irreparable harm has already
21 been caused by the deprivation of a basic constitutional right. Continued detention
22 risks creating further harm by preventing Mr. Gonzalez-Diaz from seeing his
23 brother before his death.

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1 **III. The balance of hardships and the public interest weigh heavily in**
2 **Mr. Gonzalez-Diaz's favor.**

3 The final two factors for a TRO-the balance of hardships and public interest-
4 "merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S.
5 418,435 (2009). That balance tips decidedly in Mr. Gonzalez-Diaz's favor.
6 The government "cannot reasonably assert that it is harmed in any legally
7 cognizable sense" by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d
8 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent
9 violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S. at
10 436 (describing public interest in preventing noncitizens "from being wrongfully
11 removed, particularly to countries where they are likely to face substantial harm");
12 *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (when
13 government's treatment "is inconsistent with federal law, . . . the balance of
14 hardships and public interest factors weigh in favor of a preliminary injunction.").

15 Mr. Gonzalez-Diaz faces weighty hardships: unlawful, indefinite detention
16 and the inability to see and care for his brother during his brother's last stage of
17 life. The balance of equities thus favors preventing the violation of "requirements of
18 federal law," *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir.
19 2014), by granting emergency relief to protect against unlawful detention and the
20 emotional trauma of losing a loved one while detained in custody.

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CONCLUSION

For those reasons, Mr. Gonzalez-Diaz requests that this Court issue a temporary restraining order.

Dated March 11, 2026.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Katherine A. Tanaka

Katherine A. Tanaka
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on March 11, 2026. I personally served a true and correct copy of the foregoing Motion for Temporary Restraining Order by CM/ECF to the following individuals:

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I further certify that some of the participants in the case are not registered electronic filing system users. The foregoing document will be mailed by First-Class Mail, postage pre-paid, or dispatched to a third party commercial carrier for delivery within three calendar days, to the following people:

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