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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

JITENDRA SINGH, an adult,

Petitioner/Plaintiff,

v.

WARDEN, Denver Contract Detention Facility, **FIELD OFFICE DIRECTOR**, Denver Field Office, U.S. Immigration and Customs Enforcement (ICE); **TODD M. LYONS**, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement (ICE); **KRISTI NOEM**, in her official capacity as Secretary of the U.S. Department of Homeland Security (DHS); **PAMELA BONDI**, in her official capacity as Attorney General of the United States,

Respondents.

Case No. _____

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTIVE RELIEF (Fed. R. Civ. P. 65)

I. INTRODUCTION

Petitioner Jitendra Singh respectfully moves this Court for a Temporary Restraining Order ("TRO") and injunctive relief pursuant to Federal Rule of Civil Procedure 65. Petitioners seek emergency relief to prevent continued unlawful detention and to preserve this Court's jurisdiction pending adjudication of his Petition for Writ of Habeas Corpus.

As set forth below, Petitioner faces ongoing and irreparable harm in the form of unlawful detention without any meaningful opportunity for bond consideration. Administrative remedies have been exhausted, and the only appropriate relief is immediate release of Petitioner. Immediate judicial intervention is therefore necessary.

II. LEGAL STANDARD

Under the *Winter* standard, a party is entitled to a preliminary injunction if he demonstrates (1) that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

The Fifth Amendment's Due Process Clause forbids the government to "depriv[e]" any "person . . . of . . . liberty . . . without due process of law." *U.S. CONST. amend V.* "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). The Supreme Court "has said that government detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, see *United States v. Salerno*, 481 U.S. 739, 746 (1987), or, in certain special and 'narrow' nonpunitive 'circumstances,' *Foucha*, 504, U.S. at 80, where a special justification, such as harm-threatening mental

illness, outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997). Id. "Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property." *Carey v. Piphus*, 435 U.S. 247, 259 (1978). In immigration habeas cases, courts needs to grant temporary injunctive relief to prevent irreparable loss of liberty and to preserve jurisdiction pending adjudication of the petition. *Servin Espinoza v. Noem et al* ((2025) (3:2025cv00618))

III. JITENDRA SINGH IS LIKELY TO SUCCEED ON THE MERITS OF HIS ARGUMENT THAT HIS DETENTION HIS IN VIOLATION OF HIS DUE PROCESS RIGHTS BECAUSE HE WAS NOT AFFORDED A PRE-DEPRIVATION HEARING.

Due process requires Respondents to afford Petitioner a hearing before a neutral decisionmaker where ICE is required to justify re-detention before it occurs. In recent weeks, as DHS has detained other noncitizens in similar situations, courts in this district have held in multiple separate cases and ordered the immediate release of noncitizens who had been re-detained by DHS without a pre-deprivation hearing.

Many other courts across the country have similarly ordered the immediate release of persons with ongoing proceedings who are re-detained without hearing. See, e.g., *Valdez v. Joyce*, 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Mata Velasquez v. Kurzdorfer*, -- F.Supp.3d --, 2025 WL 1953796 (W.D.N.Y. July 16, 2025); *Pinchi v. Noem,* -- F. Supp. 3d --, 2025 WL 2084921, at *7 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, 2025 WL 2299376, at *10 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews,* 2025 WL 2420068, at *13 (E.D. Cal. Aug. 21, 2025) (similar); *Hernandez v. Wofford,* 2025 WL 2420390 (E.D. Cal. Aug. 21, 2025).

The three-factor test established in *Mathews v. Eldridge*, 424 U.S. 319 (1976) is the controlling framework for determining what process Petitioner is due. *Mathews* requires the Court to evaluate (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguard" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335; *Morrissey v. Brewer*, 408 U.S. 471, 482–84 (1972) (assessing parolee's liberty interests and the state's interests to assess what process is due a parolee). Here, those factors strongly favor Petitioner.

a. Petitioner Has a Weighty Private Interest

Petitioner has an exceptionally strong interest in freedom from physical confinement and in hearing prior to any revocation of his liberty. Indeed, his interest "is the most elemental of liberty interests—the interest in being free from physical detention by one's own government. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) "Freedom from imprisonment . . . lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Supreme Court has long underscored this point. See, e.g., *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (citation omitted)).

This principle applies with significant force given Petitioner's initial release from detention on his own recognizance. "The Supreme Court has repeatedly held that in at least some circumstances, a person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated." *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C.

Cir. 2017). As the *Hurd* court explains, this includes cases of "pre-parole conditional supervision," id. (citing *Young v. Harper*, 520 U.S. 143, 152 (1997)); "probation," id. (citing *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)), and "parole," id. (citing *Morrissey*, 408 U.S. at 482).

As in these cases, Petitioner has a strong interest in his liberty. Prior to his re-detention, Petitioner had lived in this country for nearly three years and half years as he proceeded with his application for asylum in removal proceedings. He was granted a work permit by the Government, which provided him the means to support himself while he goes through the lengthy process of immigration proceedings. These facts demonstrate that Petitioner had a significant due process interest in not being re-detained without notice and hearing, and that he is in fact entitled to freedom from confinement, other than complying with his immigration proceedings and conditions of release.

b. The Risk of Erroneous Deprivation is High

Second, the risk of erroneous deprivation of Petitioner's liberty interest in the absence of a pre-detention hearing is high. His re-detention must still "bear[] [a] reasonable relation" to a valid government purpose—here, preventing flight or protecting the community against dangerous individuals. *Zadvydas*, 533 U.S. at 690 (second alteration in the original) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Only a hearing before a neutral decisionmaker—where ICE must prove that re-detention is justified and that Petitioner poses a flight risk or danger—can ensure that this "reasonable relation" to a valid government purpose exists. But to date, only the "government enforcement agent" has made any decision about the propriety of detention, *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971), a far cry from the hearing before a neutral decisionmaker that due process requires, see, e.g., *Shadwick v. City of Tampa*, 407 U.S. 345, 350 (1972) ("Whatever else neutrality and

detachment might entail, it is clear that they require severance and disengagement from activities of law enforcement."); see also *Gerstein v. Pugh*, 420 U.S. 103, 112 (1975) (similar). In fact, Petitioner did not (and has not) even received notice of the basis for his re-detention, much less any opportunity to respond to any allegations purporting to justify his re-detention or a hearing before a neutral decisionmaker.

The arbitrary nature of Petitioner's re-detention is illustrated by ICE concluding that Petitioner was to be re-detained while he was on duty as a truck driver and pulled over on the highway due to a flat tire. ICE did not allege that Petitioner is flight risk or a danger to the community, the only legal justifications for detaining Petitioner during these civil proceedings. Petitioner simply reports that his semi-truck suffered a flat tire on the highway, approached by highway patrol and was ultimately detained by ICE. This clearly demonstrates the arbitrary nature of his detention, and the risk of erroneous deprivation is high.

c. The Government's Interest is Minimal

Finally, the government's interest in detaining Petitioner or re-detaining him without a hearing is slight. Although a pre-deprivation hearing would have required the expenditure of finite resources (money and time) to provide Petitioner notice and hearing before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue. Notably, since his initial release under a Order of Recognizance, Petitioner has continued to demonstrate that he poses neither a flight risk nor a danger to the community, as he has no criminal history, has timely filed for asylum, has obtained a work permit, and has faithfully complied with all conditions of release, including by attending in-person ICE check-ins.

The government may claim that its interest in enforcing immigration laws weighs heavily in its favor. But the government's interest in immigration enforcement is not at stake here;

instead, it is the much lower interest in detaining Petitioner pending removal without a pre-deprivation hearing. Further, Petitioner has complied with the immigration laws: he timely filed for asylum, as the Immigration and Nationality Act (INA) expressly permits. 8 U.S.C. § 1158. He was thereafter granted employment authorization. Any claimed "enforcement" amounts to punishing and deterring people like Petitioner from asserting the statutory rights that the INA expressly provides, rather than enforcing those laws.

In addition, the government's interest is not limited to enforcement of the law; instead, it also encompasses the interest of the "public," including the administrative or financial burdens additional process requires. *Mathews*, 424 U.S. at 348. Here, any cost in holding a hearing, should the government choose to do so, is minimal. Moreover, any financial burden is outweighed by the costs of detaining Petitioner during such proceedings. In addition, "society . . . has an interest in not having parole revoked because of erroneous information or because of an erroneous evaluation of the need to revoke parole, given the breach of parole conditions." *Morrissey*, 408 U.S. at 484. This consideration also "cuts strongly in favor" of Petitioner because when "[w]hen the Government incarcerates individuals it cannot show to be a poor bail risk for prolonged periods of time, as in this case, it separates families and removes from the community breadwinners, caregivers, parents, siblings and employees." *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020).

In sum, Petitioner is able to demonstrate that he has a protected liberty interest in his continuing release from custody, and that due process requires that Petitioner receive a hearing before an immigration judge before he can be re-detained.

As demonstrated by these many cases rejecting similar arrests, Petitioner is likely to succeed on his claim, and the Court should order his immediate release. Notably, if Respondents continue to assert that his detention is justified after Petitioners' release, they

may thereafter schedule a hearing where they bear the burden of presenting clear and convincing evidence that his re-detention is warranted.

IV. IRREPARABLE HARM

Petitioner is currently suffering ongoing and irreparable harm because of unlawful detention. Loss of physical liberty, even for a brief period, constitutes irreparable injury. This is particularly true here, where Petitioner's 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, Petitioner's detention is outside of those "special and narrow nonpunitive circumstances," as the Due Process Clause forbids his detention without a pre-deprivation hearing. These constitutional concerns also counsel in favor of finding that Petitioner has demonstrated irreparable harm, for he has shown that his detention violates due process. 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 prevents Petitioner from working to not just sustain himself but to earn savings for his future. This type of "potential economic hardship" supports a finding of irreparable harm. *Leiva-Perez*, 640 F.3d at 969–70.

Respondents may argue that Petitioner cannot demonstrate irreparable harm because the harm he is suffering assumes his detention is unlawful. But this contention is misplaced. On a motion for a TRO, the merits question is one of the most critical standards in addition to the question of irreparable harm: "the first two factors of the traditional standard are the most critical. *Nken v. Holder*, 556 U.S. 418, 434 (2009). Accordingly, the Court must address the merits question, as the preliminary injunction standard requires the Court to assess the

likelihood of success on the merits—an inquiry that weighs strongly in Petitioner's favor. In sum, the unlawful deprivation of liberty causes Petitioner direct and immediate irreparable harms that warrant a TRO.

V. BALANCE OF HARDHIPS AND PUBLIC INTEREST WEIGH HEAVILY IN PETITIONER

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 deprivation of the right to earn a living. The government, by contrast, faces no hardship, as all it must do is release a person it previously released and who has since lawfully resided in this country and has no criminal history.

What is more, "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] process." *Hernandez*, 872 F.3d at 996. Indeed, "in cases involving a constitutional claim, a likelihood of success on the merits . . . strongly tips the balance of equities and public interest in favor of granting a preliminary injunction." *Baird*, 81 F.4th at 1048.

Accordingly, the balance of hardships and the public interest favor a temporary restraining order to ensure that Respondents release Petitioner and to require a hearing before a neutral decisionmaker where the government must demonstrate he poses a flight risk or danger before any re-detention.

VI. NECESSITY OF IMMEDIATE RELIEF

Immediate relief is necessary to prevent ongoing unlawful detention and to preserve this Court's ability to provide effective habeas relief. In other words, Petitioner's unlawful

detention without a pre-deprivation hearing is already occurring, and only immediate release remedies that issue

In similarly situated cases, Respondents have asserted that granting immediate release via a TRO inappropriately grants "ultimate relief." Not only is this incorrect because Petitioner seeks only to restore the status quo, but this principle is also at odds with Supreme Court precedent. In fact, the Supreme Court long ago explained that for temporary relief to be proper, it should be akin in nature as to the final relief sought: "[a] preliminary injunction is always appropriate to grant intermediate relief of the same character as that which may be granted finally." *De Beers Consol. Mines v. United States*, 325 U.S. 212, 220 (1945).

Accordingly, particularly given that the record demonstrates there was no allegation of flight risk or a threat to the community, Petitioner respectfully seeks a TRO requiring his immediate release. The Court should then direct Respondents to respond to an order to show cause with any arguments or additional information they believe is necessary so that this Court can issue the writ of habeas securing Petitioner's continue right to liberty and a final judgment providing that Petitioner may only be re-detained if ICE justifies re-detention by clear and convincing evidence at a pre-deprivation hearing where ICE is required to demonstrate Petitioner violated his conditions of release and is a flight risk or danger to the community.

VII. REQUESTED TRO RELIEF

1. Petitioner respectfully requests that the Court issue an order:

    (1) Immediately Release the Petitioner;

    (2) Temporarily restraining Respondents from transferring Petitioner out of this District;

(3) Temporarily restraining Respondents from removing Petitioner from the United States;

(4) Preserving this Court's jurisdiction pending adjudication of the habeas petition and;

(5) Restraining Respondent's from continuing to keep Petitioner in detention.

(6) A proposed order accompanies this Motion.

Petitioner respectfully requests that the Court grant his Emergency Motion for a Temporary Restraining Order and Preliminary Injunction for his immediate release.

Respectfully submitted,

Dated: 4/3/2026

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EXHIBITS

Exhibit A: Notice to Appear (NTA)

Exhibit B: Order of Release on Recognizance (I-220A)

Exhibit C: ICE Detention Information / Detainee Locator Record