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9 **Attorneys for Petitioner,**
10 **GERMAN ERNESTO YANEZ GOMEZ**

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

12 **GERMAN ERNESTO YANEZ GOMEZ**

13 Petitioner,

14 v.

15 **MARKWAYNE MULLIN,**
16 **Secretary, United States Department of**
17 **Homeland Security; RODNEY S.**
18 **SCOTT, Commissioner, United States**
19 **Customs and Border Protection;**
20 **GREGORY J. ARCHAMBEAULT, in**
21 **his official capacity as Acting Field**
22 **Office Director for San Diego, U.S.**
23 **Immigration and Customs Enforcement;**
24 **DOUG GLEN, Special Agent in Charge**
25 **for San Diego, Homeland Security**
Investigations, U.S. Immigration and
Customs Enforcement; JEREMY
CASEY, in his official capacity as
Warden of Imperial Regional Detention
Facility

Respondents.

3:26-cv-02420-CAB-MSB
Case No.

EX PARTE MOTION FOR
TEMPORARY RESTRAINING
ORDER

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I

INTRODUCTION

Petitioner in this case, GERMAN ERNESTO YANEZ GOMEZ seeks a temporary restraining order directing his immediate release, and barring Respondents from transferring him from this district. An order directing his immediate release is warranted because petitioner has been away from his family for an extended period of time, has no criminal convictions, is the father of two United States citizen children. Further, an order prohibiting transfer is warranted because Petitioner is likely to succeed on his underlying claim that he is entitled to a bond hearing. Unless he remains in this district, where he has counsel, and where he has now established a support system that right to hearing will be much less effective, and even meaningless.

II

STATEMENT OF FACTS

GERMAN ERNESTO YANEZ GOMEZ is a 47-year-old male imprisoned by the federal government under color of the immigration laws under Alien Registration number A#  He is a resident of Uniondale, New York, who was arrested on February 11, 2026, while Mr. Yanez Gomez attended an asylum interview in the city of Bethpage, New York. Mr. Yanez Gomez first entered the United States in 1998. He is the father of two United States citizen

1 children. Mr. Yanez Gomez's United States citizen daughter has filed a family
2 immigration petition I-130 on his behalf. Mr. Yanez Gomez has no criminal
3 history. He has always cooperated with all legal obligations. Mr. Yanez Gomez
4 petitioned the Immigration Court for a bond re-consideration hearing. The
5 Immigration Judge denied this bond hearing due to lack of jurisdiction.
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7 In his petition and the accompanying motion for an order to show cause,
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9 Petitioner asserts that he is a member of the certified Bond Denial Class in
10 Rodriguez Vazquez v. Bostock, No. 3:25-cv-05240-TMC (W.D. Wash. filed Mar.
11 20, 2025). Dkt. 1 ¶¶ 96–100. On September 30, 2025, this Court entered final
12 judgment declaring all Bond Denial Class members in that case are detained under
13 8 U.S.C. § 1226(a) and are therefore entitled to a bond hearing before an
14 immigration judge (IJ). Rodriguez Vazquez v. Bostock, No. 3:25-cv-05240-TMC,
15 --- F. Supp. 3d ---, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025).
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17 In addition, as Petitioner stated, and as reflected in the record, that
18 individuals in his position have been denied a bond for lack of jurisdiction. Thus,
19 Mr. Yanez Gomez's continued presence in this district is necessary to provide
20 meaningful relief in this case.
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IV

ARGUMENT

On a motion for a TRO, the movant “must establish that [s]he is likely to succeed on the merits, that [s]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) (citation modified). To succeed under the “serious question” test, Mr. Yanez Gomez must also show that he is likely to suffer irreparable injury and that an injunction is in the public’s interest.

I. Petitioners are likely to succeed on the merits.

The underlying claims in this case are ones on which Petitioner is plainly likely to succeed. This Court has already ruled in favor of plaintiffs and all class members in *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ----, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). And even if this Court were to conclude that Petitioners are not class members in *Rodriguez*

1 Vazquez, nearly all of the rationale of the Court's decision there applies to this
2 case. See generally 2025 WL 2782499, at *16–26. And court after court has
3 adopted the same reading of the INA's detention authorities and rejected ICE's
4 new policy and EOIR's new interpretation. See, e.g., *Gomes v. Hyde*, No. 1:25-
5 CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v.*
6 *Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass.
7 July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025
8 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No.
9 CV-2502157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025);
10 *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y.
11 Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL
12 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-
13 01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v.*
14 *Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v.*
15 *Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025);
16 *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal.
17 Aug. 21, 2025); *Leal Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL
18 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM,
19 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-
20 3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27,

2025); Lopez-Campos v. Raycraft, No. 2:25-cv-12486-BRM-EAS, --- F. Supp. 3d
----, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); Vasquez Garcia v. Noem, No.
25-cv-02180DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); Zaragoza
Mosqueda v. Noem, No. 5:25CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
Cal. Sept. 8, 2025); Jimenez v. FCI Berlin, Warden, 25-CV-326-LM-AJ, ---
F.Supp.3d ----, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); Pizarro Reyes v.
Raycraft, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025);
Sampiao v. Hyde, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9,
2025); Aceros v. Kaiser, 25-CV-06924-EMC (EMC), 2025 WL 2637503 (N.D.
Cal. Sept. 12, 2025); Pablo Sequen v. Kaiser, No. 25-CV-06487-PCP, 2025 WL
2650637 (N.D. Cal. Sept. 16, 2025); Maldonado Vazquez v. Feeley, 2:25-CV-
01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17 2025); Hasan v. Crawford,
No. 1:25-CV-1408 (LMB/IDD), --- F. Supp. 3d. ----, 2025 WL 2682255 (E.D. Va.
Sept. 19, 2025); Chogllo Chafila v. Scott, 2:25-CV-00437-SDN, 2025 WL 2688541
(D. Me. Sept. 21, 2025); Belsai v. Bondi, No. 25-CV-3682 (KMM/EMB), 2025
WL 2802947 (D. Minn. Oct. 1, 2025); Cerritos Echevarria v. Bondi, No. CV-25-
03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); Buenrostro-
Mendez v. Bondi, No. CV H-253726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025);
Ortiz Donis v. Chestnut, No. 1:25-CV-01228 JLT SAB, 2025 WL 2879514 (E.D.
Cal. Oct. 9, 2025); see also, e.g., Palma Perez v. Berg, No. 8:25CV494, 2025 WL

1 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree”
2 that § 1226(a) and not § 1225(b)(2) authorizes detention); Jacinto v. Trump, No.
3 4:25-cv03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same);
4 Anicasio v. Kramer, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D.
5 Neb. Aug. 14, 2025) (same). Notably, many of the cases cited above involve facts
6 similar to this one, where the noncitizens were initially apprehended, released soon
7 thereafter, resided in the United States for many years, and have since be re-
8 arrested. As those courts have explained, § 1226(a) remains the detention authority
9 for such individuals. See, e.g., Gomes, 2025 WL 1869299; Diaz Martinez, 2025
10 WL 2084238; Rosado, 2025 WL 2337099; Lopez Benitez, 2025 WL 2371588;
11 Maldonado, 2025 WL 2374411; Romero, 2025 WL 2403827; Samb, 2025 WL
12 2398831; Ramirez Clavijo, 2025 WL 2419263; Jimenez, 2025 WL 2639390;
13 Sampiao, 2025 WL 2607924; Aceros, 2025 WL 2637503; Pablo Sequen, 2025 WL
14 2650637; Hasan, 2025 WL 2682255; Ortiz Donis, 2025 WL 2879514.

15 While this case is ultimately centered on Petitioner’s right to a bond hearing,
16 he notes that the “use of habeas for transfer claims is not novel.” Trump v. J.G.G.,
17 604 U.S. 670, 674 (2025) (Kavanaugh, J., concurring). Indeed, “going back to the
18 English Habeas Corpus Act of 1679, if not earlier, habeas corpus has been the
19 proper vehicle for detainees to bring claims seeking to bar their transfers.” Id.
20 (Kavanaugh, J., concurring). Moreover, it is common practice for courts to enjoin
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1 the transfer of Petitioners while a habeas petition is pending, in order to ensure that
2 the court can provide effective relief. See, e.g., *Svenin v. Casey*, No. 3:25-CV-
3 01865CAB-KSC, 2025 WL 2917319, at *3 (S.D. Cal. Oct. 14, 2025) (“Courts
4 typically enjoin the Government from transferring detainees out of the district
5 during the pendency of the habeas proceedings.”); cf. *Cantero Garcia v. Wamsley*,
6 No. 2:25-CV-02092-TMC, 2025 WL 3022252, at *2 (W.D. Wash. Oct. 29, 2025)
7 (ordering pre-transfer notice, and explaining why such notice is necessary).
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10 **II. Petitioner will suffer irreparable harm absent a TRO.**

11 Petitioner will also suffer irreparable harm absent an order barring transfer.
12 First of all, the transfer of Mr. Yanez Gomez interferes with access to counsel
13 (unless they consent), both in immigration proceedings and in this habeas petition.
14 As per Mr. Yanez Gomez’s attorney, it is of critical importance that attorney
15 remains in relative close proximity to Mr. Yanez Gomez in order to obtain
16 signatures, and information. Courts have recognized that such interference with
17 access to counsel is a form of irreparable harm, as it can have significant effects on
18 a person’s ability to defend or present their case. See, e.g., *Vasquez Perdomo v.*
19 *Noem*, 790 F. Supp. 3d 850, 879 (C.D. Cal. 2025); cf. *Immigrant Defs. L. Ctr. v.*
20 *Noem*, 145 F.4th 972, 993 (9th Cir. 2025) (“Noncitizens’ ‘fundamental’ right to
21 counsel must be respected in substance as well as in name.”); *Orantes-Hernandez*
22 *v. Thornburgh*, 919 F.2d 549, 566–67 (9th Cir. 1990) (upholding injunction
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1 “designed to ensure access to counsel,” and explaining that the lower court’s
2 ordered created “appropriate remedies for a pattern of practices which severely
3 impeded class members from communicating with counsel.”).

4
5 Second, other forms of harm are also present here. If Mr. Yanez Gomez is
6 transferred, he will be unable to be provided with vital familial support as he
7 struggles with his detainment.

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9 **III. The balance of hardships and public interest warrant a TRO.**

10 The final two factors for a preliminary injunction—the balance of hardships
11 and public interest—“merge when the Government is the opposing party.” *Nken v.*
12 *Holder*, 556 U.S. 418, 435 (2009). Here, Petitioner faces weighty hardships: loss of
13 access to counsel, which greatly impairs his ability to challenge his unlawful
14 detention and prepare for any bond hearing that is ordered. See *supra* Sec. II.
15 Respondent, by contrast, faces no hardship with respect to the Petitioner that they
16 have not yet transferred, as all they must do is refrain from transferring the
17
18 Petitioner.

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20 What is more, “the public interest benefits from an injunction that ensures
21 that individuals are not deprived of their liberty and held in immigration detention
22 because of . . . a likely [illegal] process.” *Hernandez*, 872 F.3d at 996. That
23 rationale applies here too, as but for Respondents’ unlawful policy, Mr. Yanez
24 Gomez would not be suffering from severe mental health conditions without the
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1 assistance of his family. Accordingly, the balance of hardships and the public
2 interest favor a temporary restraining order to ensure that Respondents refrain from
3 transferring Mr. Yanez Gomez.
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5 V

6 CONCLUSION

7 For the reasons above, the Court should order that Mr. Yanez Gomez be
8 released immediately, or be issued an immigration bond hearing within 7 days of
9 an order by this Court, and that Respondents may not transfer Mr. Yanez Gomez
10 from this district while this case is pending, unless Respondents obtain a final,
11 executable order of removal.
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13 Respectfully submitted this 16th day of April, 2026
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Carlos Barrios

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