

aw Office of Regina Jacobson
CA SBN 233127
155 Montgomery Street, Suite 1405
San Francisco, CA 94104
(415) 765-0443
regie_j@hotmail.com

Attorney for Petitioner
AIUB MULIUKOV

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

AIUB MULIUKOV,

Petitioner,

v.

JEFFREY LYNCH, Warden, Golden State
Annex;

SERGIO ALBARRAN, Field Office
Director of San Francisco Office of
Detention and Removal, U.S. Immigrations
and Customs Enforcement, U.S.
Department of Homeland Security;

TODD M. LYONS, Acting Director,
Immigration and Customs Enforcement,
U.S. Department of Homeland Security;

MARKWAYNE MULLIN, in his Official
Capacity, Secretary, U.S. Department of
Homeland Security; and

Todd BLANCHE, in his Official Capacity,
Attorney General of the United States,

Respondents-
Defendants.

DETAINED

Case No.

Immigration alien number:



**PETITIONER'S EX PARTE EMERGENCY
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO
SHOW CAUSE RE PRELIMINARY
INJUNCTION; MEMORANDUM OF
POINTS AND AUTHORITIES**

NOTICE OF MOTION

For the reasons set forth in the accompanying Memorandum of Points and Authorities, Petitioner Aiub Muliukov hereby applies ex parte for a temporary restraining order and an order to show cause re: preliminary injunction pursuant to Federal Rule of Civil Procedure 65 and 5 U.S.C. § 705. Petitioner seeks an order (i) enjoining Respondents from continuing to detain him and ordering his immediate release from the Golden State Annex; (ii) enjoining Respondents from re-detaining him absent seven days' advance written notice and a pre-deprivation hearing before a neutral decisionmaker at which the Government bears the burden by clear and convincing evidence; and (iii) enjoining Respondents from transferring Petitioner outside this District pending resolution of this matter. This application is based on this Notice, the accompanying Memorandum, the concurrently filed Petition for Writ of Habeas Corpus and exhibits, the Declaration of Regina Jacobson Regarding Irreparable Injury, and all papers and records on file.

Dated: , 2026

Respectfully submitted,

/s/ Regina Jacobson

Regina Jacobson (SBN 233127)
Attorney for Petitioner

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7 5 U.S.C. § 705.....

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13 8 C.F.R. § 212.5.....

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I. INTRODUCTION

Petitioner Aiub Muliukov, a Russian asylum seeker, lived at liberty in the Sacramento area for roughly two and a half years while his asylum application proceeded before the immigration court. DHS paroled him into the United States, authorized him to work through February 2030, and supervised his release without incident. He complied with every condition, appeared at every hearing, and has no criminal history. On June 27, 2026, ICE lured him to a suddenly-added check-in and arrested him on the spot — on a false claim of “five missed check-ins,” with no notice, no hearing, and no finding that anything had changed. Courts in this District, on facts identical to Petitioner’s and involving this very facility, have granted the writ and ordered immediate release. Petitioner meets every requirement for emergency relief.

II. STATEMENT OF FACTS

Petitioner is a native and citizen of Russia who presented himself at the Progreso Port of Entry in Texas on January 13, 2024, seeking asylum. He was detained, processed, and released on parole under 8 U.S.C. § 1182(d)(5) (I-94 No. ). He was never placed in expedited removal and received no credible-fear interview; DHS charged him under INA § 212(a)(7)(A)(i)(I) and placed him in ordinary § 240 proceedings. Petitioner filed a timely I-589 within one year of his entry, with his spouse and

1 child(ren) as riders; it remains pending before the Sacramento Immigration Court,
2 with no immigration-judge decision and no final order of removal. DHS granted
3 him employment authorization in the (c)(8) category (USCIS No. [REDACTED],
4 valid through February 13, 2030. He obtained a California driver's license, worked
5 continuously as the family's primary earner — performing deliveries through
6 [REDACTED] and taking construction jobs — resided at a
7 fixed Sacramento-area address known to ICE, and completed ISAP monitoring,
8 including check-ins with photographs and periodic home and office visits, without a
9 single violation. He has no criminal history.

10 Approximately one week before his arrest, Petitioner attended a routine ISAP
11 appointment without incident; when the monitoring application flagged a check-in
12 photograph as not accepted, his ISAP officer told him it was a technical
13 malfunction and no problem. ICE then abruptly added a June 27 appointment to his
14 monitoring application for a purported "information update." Petitioner appeared as
15 directed; officers arriving in multiple vehicles — roughly six cars and a van —
16 arrested him at the office along with others present, including other Russian-
17 speaking individuals. He received no advance notice, no hearing, and no
18 individualized finding of danger, flight risk, or any violation; the officers' stated
19 basis — "five missed check-ins" — is false and is contradicted by his own check-in
20 records. DHS never issued written notice terminating his parole — which had
21 lapsed by its terms on January 11, 2025, while ICE continued him on supervised
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1 release for approximately seventeen more months. He is now confined at the
2 Golden State Annex, separated from his family, and is indigent.
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4 III. LEGAL STANDARD

5 A movant must show (1) likelihood of success on the merits; (2) likelihood of
6 irreparable harm; (3) that the balance of equities tips in his favor; and (4) that an
7 injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S.
8 7, 20 (2008). The standards for a temporary restraining order and a preliminary
9 injunction are identical. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d
10 832, 839 n.7 (9th Cir. 2001). Alternatively, relief is warranted where there are
11 serious questions going to the merits and the balance of hardships tips sharply in the
12 movant's favor. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131–32 (9th
13 Cir. 2011). When the Government is the opposing party, the last two factors merge.
14 *Nken v. Holder*, 556 U.S. 418, 435 (2009).
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19 IV. ARGUMENT

20 A. Petitioner Is Likely to Succeed on the Merits

21 1. *Respondents Deprived Petitioner of Liberty Without the Required Pre-* 22 *Deprivation Hearing*

23 The Due Process Clause protects every person within the United States against
24 deprivation of liberty without notice and an opportunity to be heard. *Zadvydas v.*
25 *Davis*, 533 U.S. 678, 690, 693 (2001); *Mathews v. Eldridge*, 424 U.S. 319, 333
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(1976); *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). A conditional release from physical restraint creates a protected liberty interest. *Young v. Harper*, 520 U.S. 143, 147–49 (1997); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). “The government’s decision to release an individual from custody creates ‘an implicit promise’ ... that their liberty ‘will be revoked only if they fail to live up to the conditions of release.’” *Garro Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025). Petitioner’s § 212(d)(5) parole and nearly four years of compliant reliance created that interest.

Courts in this District have granted the writ on facts identical to Petitioner’s. In *Dzhatdоеv v. Warden of Golden State Annex Det. Facility*, 2026 WL 395676, at *1 (E.D. Cal. Feb. 12, 2026), a Russian national who entered at San Ysidro, was charged under § 212(a)(7)(A)(i)(I), was released on § 212(d)(5) parole, and was re-detained at a routine check-in obtained “a liberty interest in his continued release ... once he was released into this country on parole,” and his “continued detention without notice and a hearing” violated due process. *Accord Qambari v. Albarran*, 2026 WL 1275270, at *1 (E.D. Cal. May 7, 2026) (§ 212(d)(5) parolee; § 1225(b) argument rejected; immediate release); *Vilela v. Robbins*, 2025 WL 3101334 (E.D. Cal. Nov. 6, 2025). All three *Mathews* factors favor Petitioner: his liberty interest is fundamental and heightened by years of compliance; the risk of erroneous deprivation is extreme because he received no hearing and the record shows no changed circumstances, *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal.

2017); and the Government's interest in detaining him without a hearing is low, *Rodriguez Diaz v. Kaiser*, 2025 WL 1676854, at *7–8 (N.D. Cal. June 14, 2025).

The “entry-fiction” and *Thuraissigiam* do not defeat the claim. Petitioner challenges his *detention*, not any admissibility determination, and “once an alien enters the country” the Due Process Clause protects him regardless of the “arriving alien” label on his charging document. *Zadvydas*, 533 U.S. at 693; *Vilela*, 2025 WL 3101334; *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1170–72 (W.D. Wash. 2023).

2. 8 U.S.C. § 1226(a), Not § 1225(b), Governs, and the APA Bars the Re-Arrest

Petitioner is not subject to mandatory detention under § 1225(b). His detention is governed by 8 U.S.C. § 1226(a), which is discretionary and secures the right to seek release on bond. Having paroled Petitioner, released him, and left him in the community for nearly four years, the Government “cannot switch tracks” to mandatory detention under § 1225(b)(2). *Dzhatdov*, 2026 WL 395676, at *1; *Qambari*, 2026 WL 1275270, at *1. “Arriving” describes a process that occurs at entry, not a permanent status; a person paroled and allowed to live in the United States for years is no longer “arriving.” *Rafael R.M. v. Warden, Golden State Annex*, 2026 WL 730999, at *2 (E.D. Cal. Mar. 13, 2026).

Respondents’ anticipated reliance on § 1225(b)(2)(A) fails as a matter of statutory text, as this District recently held after a full analysis of the question. In *Wasef v. Chestnut*, No. 1:26-cv-01078-DAD-JDP, 2026 WL 392389, at *1–*3 (E.D. Cal.

1 Feb. 11, 2026), the court (Drozdz, J.) held that § 1225(b)(2)(A) reaches only a
2 noncitizen who is both an “applicant for admission” and “seeking admission.” The
3 former is a defined term of art, 8 U.S.C. § 1225(a)(1)(A)(i); the latter is undefined
4 and, under the surplusage canon, must be given independent effect. *Id.* at *2.
5 “Seeking admission” describes a noncitizen seeking entry into the country —
6 consistent with the statutory definition of “admission” as “lawful entry ... after
7 inspection and authorization by an immigration officer,” 8 U.S.C. § 1101(a)(13)(A)
8 — not one who was inspected, paroled, released, and then arrested in the interior
9 years later. Petitioner, taken into custody at a Sacramento check-in after nearly four
10 years of supervised release, was not “seeking admission” in any sense the statute
11 recognizes.
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13 In so holding, *Wasef* adopted the Seventh Circuit’s reasoning in *Castañon-Nava v.*
14 *U.S. DHS*, 161 F.4th 1048, 1061–62 (7th Cir. 2025), and the dissent in *Buenrostro-*
15 *Mendez v. Bondi*, 2026 WL 323330 (5th Cir. 2026), and it declined to follow the
16 *Buenrostro-Mendez* majority — the decision Respondents are most likely to press.
17 The entered-versus-never-entered distinction “runs throughout immigration law,”
18 *Zadvydas*, 533 U.S. at 693, and reading § 1225(b)(2)(A) to compel the detention
19 without bond of every noncitizen present without admission would work an
20 unannounced expansion of mandatory detention to millions of people that Congress
21 never enacted. The weight of authority in this Circuit accords. *Wasef*, 2026 WL
22 392389, at *3 (collecting cases). And even if § 1225(b) applied, Petitioner’s prior
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1 release created a protected liberty interest that independently entitles him to relief.
2 *Vilela*, 2025 WL 3101334.
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4 Separately, the re-arrest violates the APA. Revocation of humanitarian parole
5 requires a reasoned, individualized, case-by-case determination and written notice,
6 *Y-Z-H-L v. Bostock*, 792 F. Supp. 3d 1123, 1133, 1144–47 (D. Or. 2025); 8 C.F.R.
7 § 212.5(e)(2)(i), and the Government may not re-arrest a released noncitizen absent
8 “evidence of materially changed circumstances,” *Saravia*, 280 F. Supp. 3d at 1197.
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10 DHS made no such determination and gave no such notice.
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12 **B. Petitioner Will Suffer Irreparable Harm Absent Relief**

13 “[T]he deprivation of constitutional rights unquestionably constitutes irreparable
14 injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017). Each additional
15 day of unlawful physical detention is irreparable, and Petitioner is separated from
16 his wife and son and unable to support them. The harm compounds daily.
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19 **C. The Balance of Equities and the Public Interest Favor Petitioner**

20 When the Government is the nonmoving party these factors merge. *Nken*, 556 U.S.
21 at 435. The issue is not whether the Government may ever detain Petitioner, but
22 whether it may do so without any hearing. “It is always in the public interest to
23 prevent the violation of a party’s constitutional rights,” and the public bears the
24 substantial cost of detaining compliant, non-dangerous individuals. Requiring the
25 Government to follow the Constitution imposes minimal burden. *Hernandez*, 872
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1 F.3d at 996.

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3 **D. Petitioner Should Be Restored to the Status Quo Ante Litem**

4 Preliminary relief should restore “the last uncontested status which preceded the
5 pending controversy.” *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210
6 (9th Cir. 2000). That status was Petitioner’s supervised release before June 27,
7 2026. Immediate release is the appropriate remedy; a bond hearing before an
8 immigration judge is unavailable to a paroled arriving alien and would be futile.
9 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *Laing v. Ashcroft*, 370
10 F.3d 994, 1000 (9th Cir. 2004). To the extent any hearing is warranted short of
11 release, it should be held before this Court with full constitutional safeguards, not
12 remanded to the immigration court.
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16 **E. No Security Bond Should Be Required**

17 Under Rule 65(c) the Court has discretion to set security, and courts routinely
18 waive it where the litigation vindicates fundamental constitutional rights, the
19 movant is indigent, and the Government faces no monetary harm. Courts in this
20 District have waived bond in these very circumstances. *Wasef v. Chestnut*, 2026
21 WL 392389, at *4 (ordering release and requiring no bond under Rule 65(c)). A
22 bond of \$0 is appropriate.
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26 **V. CONCLUSION**

27 Petitioner respectfully requests that the Court grant the application, order his
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1 immediate release from the Golden State Annex, enjoin his re-detention absent
2 seven days' notice and a pre-deprivation hearing before a neutral decisionmaker at
3 which the Government bears the burden by clear and convincing evidence, and
4 enjoin his transfer outside this District.
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7 Dated: July 1, 2026

8 Respectfully submitted,

9
10 /s/ Regina Jacobson

11 Regina Jacobson (SBN 233127)
12 Attorney for Petitioner AIUB MULIUKOV
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