FILED
JUL 09 2026
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

Jacobo Andres Matias,
Pro Se
[redacted]
California City Correctional Center
22844 Virginia Boulevard
California City, CA 93505

UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF CALIFORNIA

Jacobo Andres-Matias
A-Number: [redacted]
Proceeding Pro Se,
Petitioner,
v.
_____,WARDEN, California City Correctional Center ; _____,FIELD OFFICE DIRECTOR, ICE Los Angeles Field Office;TODD M. LYONS, Acting Director, United States Immigration and Customs Enforcement;MARKWAYNE MULLIN, Secretary of Homeland Security;TODD BLANCHE, Acting Attorney General, United States,
Respondents.

Case No.:
1:26-cv-5280 RLP

PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER

I. INTRODUCTION

Petitioner Jacobo Andrés Matías, proceeding pro se, respectfully requests that this Court issue a Temporary Restraining Order ("TRO") requiring his immediate release from unlawful and unconstitutional civil immigration detention. Petitioner has been detained by U.S. Immigration and Customs Enforcement ("ICE") for over seven months without any pre-deprivation hearing before a neutral decisionmaker. This prolonged detention violates the Immigration and Nationality Act ("INA") and the Due Process Clause of the Fifth Amendment to the United States Constitution. Petitioner faces irreparable harm each day he remains unlawfully confined, including the exacerbation of an untreated hernia requiring surgery and the profound emotional distress of being separated from his five-year-old United States citizen son. Good cause exists for ex parte relief because Petitioner is detained, is proceeding pro se, and cannot adequately brief and serve this application in the normal course without suffering further irreparable constitutional injury. The relief he seeks—freedom from unlawful confinement—is urgent and cannot await a full briefing

schedule.

II. STATEMENT OF FACTS

Petitioner is a 26-year-old man who has lived in the United States for 12 years, since he was a minor. He is the father of a five-year-old U.S. citizen son, for whom he is a primary source of emotional and financial support. For years, immigration authorities were aware of Petitioner's presence and allowed him to live at liberty in the community, where he worked lawfully under a valid Employment Authorization Document (EAD) and maintained strong family ties.

On November 24, 2025, during a minor traffic stop for which no ticket or citation was issued, ICE agents arrested Petitioner. He has now been detained for over seven months without any hearing to determine whether his detention is justified. During this time, he has suffered from an untreated hernia that requires surgery, receiving only pain medication. The prolonged separation from his young son has caused him significant depression and anxiety.

Petitioner has a pending asylum application and a pending appeal before the Board of Immigration Appeals. His minimal and dated criminal history consists of closed cases, including a 2020 domestic violence-related charge that was formally declined for prosecution. He has established deep roots in the United States and has strong community support.

III. LEGAL STANDARD

A temporary restraining order is an "extraordinary remedy" that may be awarded upon a clear showing of entitlement to relief. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). The standard for issuing a TRO is "substantially identical" to the standard for a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A petitioner must show: (1) a likelihood of success on the merits; (2) a likelihood of suffering 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*, 555 U.S. at 20. Federal Rule of Civil Procedure 65(c) permits the court to dispense with the security bond requirement, a practice

common in cases involving constitutional rights. *See Diaz v. Brewer*, 656 F.3d 1008, 1015 (9th Cir. 2011).

IV. ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits

Petitioner has a strong likelihood of success on the merits because (1) he is detained under the wrong statute, (2) his re-detention without a pre-deprivation hearing violated his Fifth Amendment due process rights, (3) the *Mathews v. Eldridge* factors all favor his release, and (4) the only appropriate remedy for this constitutional violation is his immediate release.

1. Petitioner Is Detained Under the Wrong Statute.

Respondents have detained Petitioner under the mandatory detention provision of 8 U.S.C. § 1225(b). This is legally incorrect. Section 1226(a) is the "'default detention statute' for noncitizens in removal proceedings" who are already present in the United States. *Avilez v. Garland*, 69 F.4th 525, 529 (9th Cir. 2023). Courts in this District have repeatedly held that § 1225(b) applies to noncitizens apprehended while seeking admission at the border, not to long-term residents like Petitioner who are arrested in the interior. *See Quichimbo-Jimenez v. Warden*, No. 2:26-cv-00739-DAD-EFB (E.D. Cal. Mar. 10, 2026) (ordering immediate release for long-term resident); *Barajas Ortiz v. Chestnut*, No. 1:26-cv-01167-DC-SCR (E.D. Cal. Feb. 24, 2026) (same for 34-year resident); *Alvarez Maciel v. Noem*, No. 1:26-cv-01318-DC-CKD (E.D. Cal. Feb. 23, 2026) (same for 20-year resident). Under the correct statute, § 1226(a), Petitioner is entitled to a bond hearing, *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018), and his detention is discretionary, not mandatory.

2. Petitioner's Re-Detention Without a Pre-Deprivation Hearing Violated His Fifth Amendment Due Process Rights.

"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). Because Petitioner was previously allowed

to live at liberty, he developed a protected liberty interest in his continued freedom. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Selis Tinoco v. Noem*, No. 1:25-cv-01762-DC-JDP (E.D. Cal. Dec. 14, 2025). The Constitution "usually has held that the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original).

Petitioner received no such hearing. His arrest and subsequent seven-month detention without any prior process is a clear violation of his due process rights. This Court has consistently granted relief in identical situations. *See, e.g.*, *Johalan David N.M. v. Warden*, No. 2:26-cv-01270-TLN-AC (E.D. Cal. June 25, 2026); *Yunhe B. v. Warden*, No. 1:26-cv-03307-TLN-CKD (E.D. Cal. June 16, 2026); *Anderson Ruben G.L. v. Warden*, No. 1:26-cv-02828-TLN-DMC (E.D. Cal. May 1, 2026); *Lainez Escobar v. Warden*, No. 1:26-cv-03391-DC-AC (E.D. Cal. May 15, 2026); *Cabreja Liranza v. Warden*, No. 1:26-cv-03512-JLT-EGC (E.D. Cal. May 22, 2026).

3. The *Mathews v. Eldridge* Factors Mandate Release.

The three factors from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), confirm the due process violation. First, Petitioner's private interest in his liberty, his health, and his relationship with his U.S. citizen son is immense. Second, the risk of erroneous deprivation is extremely high where, as here, there were no procedures at all to justify his detention. Third, the government's interest in detaining him without a hearing is negligible, as it has offered no individualized evidence that he poses a risk of flight or danger. This Court and others have applied this exact analysis to order the immediate release of detainees in similar circumstances. *See Rafaela Neri Angel v. Warden*, No. 5:26-cv-03269-MWC-JDE (C.D. Cal. June 18, 2026); *Johalan David N.M.*, No. 2:26-cv-01270-TLN-AC.

4. The Appropriate Remedy Is Immediate Release, Not a Bond Hearing.

A bond hearing after more than seven months of unlawful detention cannot cure the constitutional violation. The injury is the failure to provide a *pre-deprivation* hearing. As this Court has held, "the

relief for a constitutional violation cannot be to merely bring the Government into compliance—it must be to restore the liberty that was lost." *Charan S. v. Warden*, No. 1:26-cv-03017-TLN-JDP (E.D. Cal. Apr. 28, 2026). A post-deprivation hearing "cannot undo those harms." *Rafaela Neri Angel*, No. 5:26-cv-03269-MWC-JDE. The proper remedy is to restore the status quo ante—Petitioner's life at liberty. *See Lepe v. Andrews*, 801 F. Supp. 3d 1104, 1119 (E.D. Cal. 2025). Because Respondents have failed to identify any lawful basis for Petitioner's continued detention, immediate release is the only appropriate remedy. *See Garcia Machado v. Warden*, No. 2:26-cv-01240-DAD-CSK (E.D. Cal. July 2, 2026); *De La Cruz-Soto v. Warden*, No. 1:26-cv-04344-DAD-SCR (E.D. Cal. June 30, 2026).

B. Petitioner Suffers Irreparable Harm

The deprivation of physical liberty and other constitutional rights "unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). The Ninth Circuit has recognized the "irreparable harms imposed on anyone subject to immigration detention," including "subpar medical and psychiatric care." *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). Petitioner's untreated hernia, his inability to parent his young son, and his deteriorating mental health are ongoing, irreparable harms that compound daily. *See Rafaela Neri Angel*, No. 5:26-cv-03269-MWC-JDE (finding irreparable harm heightened by medical needs).

C. The Balance of Equities Tips Sharply in Petitioner's Favor

The harm to Petitioner from continued unlawful detention is severe and irreparable. In contrast, the harm to the government from releasing him is minimal. The government cannot claim a legitimate interest in perpetuating an unconstitutional detention. *See Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022) ("[N]either equity nor the public's interest are furthered by allowing violations of federal law to continue."). The balance of equities clearly favors granting immediate relief. *See Barajas Ortiz*, No. 1:26-cv-01167-DC-SCR.

D. An Injunction Is in the Public Interest

The public has a profound interest in ensuring that the government respects constitutional limits and provides due process. *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) ("[A]ll citizens have a stake in upholding the Constitution."). Furthering the public interest means ending unlawful government practices. *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). The public interest is served by upholding "procedural protections against unlawful detention." *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020).

V. GOOD CAUSE FOR EX PARTE RELIEF

Petitioner is detained and proceeding pro se, which makes it practically impossible for him to serve Respondents and participate in a standard briefing schedule without suffering continued irreparable harm. Each day of his unconstitutional detention is a fresh injury. Courts in this district recognize this urgency and frequently rule on these matters on an expedited basis. *See Lainez Escobar*, No. 1:26-cv-03391-DC-AC (court declined to await reply to avoid delaying relief for pro se petitioner); *Karahali v. Warden*, No. 1:26-cv-03166-KES-EPG (E.D. Cal. July 2, 2026) (court ruled directly on petition). Pursuant to Fed. R. Civ. P. 65(a)(2) and 28 U.S.C. § 2243, the Court may also consolidate this application with the merits of the habeas petition and dispose of the matter summarily, as law and justice require.

VI. CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Petitioner Jacobo Andrés Matías respectfully requests that this Court:

1. Grant this Ex Parte Application for a Temporary Restraining Order;
2. Order Respondents to **IMMEDIATELY RELEASE** Petitioner from custody;
3. **ENJOIN** Respondents from re-detaining Petitioner absent compliance with constitutional protections, including a minimum of seven days' notice and a pre-deprivation hearing before a neutral fact-finder;
4. Order Respondents to return all of Petitioner's documents and personal property;
5. Order Respondents to file a notice of compliance with this Court's order within two (2)

court days of its issuance;

6. In the alternative, consolidate this TRO with the merits of the habeas petition and rule on both simultaneously pursuant to Fed. R. Civ. P. 65(a)(2) and 28 U.S.C. § 2243; and

7. Grant such other and further relief as the Court deems just and proper.

Dated: July 7, 2026

Respectfully submitted,

/s/ Jacobo Andrés Matías

Jacobo Andrés Matías, Pro Se Petitioner
A-Number: [redacted]
California City Correctional Center
22844 Virginia Boulevard
California City, CA 93505