

1 Prerna Preshika Lal
2 SBN: 354786
3 Lal Legal APLC
4 2001 Addison St STE 300
5 Berkeley CA 94704
6 (800) 552-5616
7 prerna@lallegal.com

8 *Attorney for Petitioner*

9
10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 [REDACTED]
13 [REDACTED]

14 Petitioner,

15 v.

16 **TONYA ANDREWS**, Warden of Golden State
17 Annex Detention Center,
18 **ORESTES CRUZ**, Acting Field Office Director of
19 Enforcement and Removal Operations, San
20 Francisco Field Office;
21 **TODD LYONS**, in his official capacity as Acting
22 Director of Immigration and Customs Enforcement;
23 **KRISTI NOEM**, Secretary, U.S. Department of
24 Homeland Security; and **PAMELA BONDI**, U.S.
25 Attorney General.

26 Respondents.

Civil Action No.:

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PETITIONER'S EX PARTE MOTION
FOR TEMPORARY RESTRAINING
ORDER**

1 **INTRODUCTION**

2 Petitioner [REDACTED], a long-term resident of the United States and
3 certified member of the *Maldonado Bautista* Bond Denial Class, moves for a temporary
4 restraining order to secure his immediate release from unconstitutional and unlawful detention, or,
5 at minimum, a constitutionally adequate bond hearing under 8 U.S.C. § 1226(a). Petitioner entered
6 without inspection in 2013, was not apprehended upon arrival, and is not detained under 8 U.S.C.
7 §§ 1226(c), 1225(b)(1), or 1231; the *Maldonado Bautista* court has held that class members like
8 him are detained under § 1226(a) and may not be categorically denied bond. *See Maldonado*
9 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov.
10 25, 2025).

11
12 Petitioner entered the United States without inspection in 2013—over 12 years ago. He is
13 married to a U.S. citizen, [REDACTED]. *See* [REDACTED] Decl. ¶¶ 2-3. They have
14 two U.S. citizen daughters and are expecting a third child. *Id.* ¶ 4. He has been steadily employed,
15 has an approved I-130 family visa petition, and has no criminal record. *Id.* ¶¶ 5, 8-9. He is the sole
16 financial provider for his family, and his wife is unable to work because she cares for their young
17 children and is pregnant. *Id.* ¶ 6.

18
19 In direct defiance of that final declaratory judgment and the February 18, 2026 enforcement
20 order vacating *Matter of Yajure Hurtado*, an Immigration Judge denied Petitioner a bond hearing
21 on February 25, 2026, claiming lack of jurisdiction because Petitioner is an “applicant for
22 admission” subject to mandatory detention under § 1225(b)(2). At the time, *Maldonado Bautista*’s
23 declaratory judgment and the vacatur of *Yajure Hurtado* were fully in effect nationwide, and the
24 IJ’s order directly contravened binding class-wide relief.

25
26 The court in *Maldonado Bautista* has already found that Respondents “engage in a
27 deliberately dense three-step maneuver to reach their core absurd conclusion” and “proffer

1 frivolous arguments that aim to insulate unlawful policies from judicial review,” and that their
2 defiance precipitated a “constitutional crisis.” Dkt. No. 116 at 14. This Court should not
3 countenance further delay. It should: (1) bar Respondents from transferring Petitioner out of this
4 District or removing him from the United States while this case is pending; and (2) order his
5 immediate release, or alternatively require a prompt bond hearing with the government bearing the
6 burden by clear and convincing evidence before a neutral adjudicator.

7 8 **FACTUAL BACKGROUND**

9 Petitioner [REDACTED] is a citizen of Mexico who entered the United
10 States without inspection in September 2013. He was not apprehended upon arrival and has resided
11 continuously in the United States since entry.

12 On March 16, 2019, Petitioner married [REDACTED], a United States citizen
13 born in Hickory, North Carolina. [REDACTED]. ¶¶ 2-3. They have two U.S. citizen daughters,
14 [REDACTED] and are expecting a third child. *Id.* ¶ 4. Petitioner has been steadily employed
15 as a driver for [REDACTED] since January 2, 2024, and is the sole financial provider
16 for his family. *Id.* ¶¶ 5-6. His wife is unable to work because she cares for their two young
17 daughters and is pregnant. *Id.* ¶ 6.

18
19 Petitioner has an approved I-130 family visa petition, demonstrating a clear pathway to
20 lawful status. *Id.* ¶ 9. He has no criminal record and has never missed an immigration court
21 appearance or ICE check-in. *Id.* ¶ 8.

22
23 On January 15, 2026, ICE apprehended Petitioner in the interior and placed him in removal
24 proceedings under 8 U.S.C. § 1229a, charging him as inadmissible under 8 U.S.C. §
25 1182(a)(6)(A)(i). Petitioner satisfies all criteria of the Bond Denial Class certified in *Maldonado*
26 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.): he entered without inspection,

1 was not apprehended upon arrival, and is not detained under 8 U.S.C. §§ 1226(c), 1225(b)(1), or
2 1231.

3 On November 20, 2025, the *Maldonado Bautista* court held that class members are
4 detained under § 1226(a) and cannot be denied bond on the theory that they are detained under §
5 1225(b)(2), and on November 25, 2025 it certified a nationwide class and extended declaratory
6 relief to all class members. *Maldonado Bautista*, 2025 WL 3288403, at *9. On February 18, 2026,
7 the court granted a motion to enforce judgment, found “flagrant defiance,” and vacated *Matter of*
8 *Yajure Hurtado* as functionally equivalent to the unlawful DHS policy. *Maldonado Bautista v.*
9 *Santacruz*, No. 5:25-cv-01873-SSS-BFM, Dkt. No. 116 at 4, 13 (C.D. Cal. Feb. 18, 2026).

11 Nevertheless, on February 25, 2026, IJ Katie Mullins denied Petitioner bond, explicitly
12 acknowledging the *Maldonado Bautista* orders and the vacatur of *Yajure Hurtado* but declaring
13 she lacked jurisdiction because Petitioner is an applicant for admission subject to mandatory
14 detention under § 1225(b)(2). ECF. No 1, Exh A. This was not an innocent mistake. It was
15 consistent with Chief Immigration Judge Teresa Riley's January 13, 2026 instruction that
16 immigration judges are not bound by federal court rulings declaring the administration's detention
17 policy unlawful. *Guerrero Orellana v. Moniz*, No. 1:25-cv-12664-PBS, Dkt. No. 134, at 1-2 (D.
18 Mass. Jan. 16, 2026).

20 Petitioner’s wife describes the impact of his detention: “Since [REDACTED] was taken away, our
21 family has been struggling deeply. We are facing severe financial hardship without his income...
22 The emotional toll on our family has been devastating. Our daughters are young and do not fully
23 understand why their father is not home. They miss him terribly. This situation has caused me
24 immense stress and anxiety during my pregnancy.” [REDACTED] ¶¶ 6-7.

26 On March 6, 2026, the Ninth Circuit issued a temporary administrative stay limiting the
27 nationwide effect of the *Maldonado Bautista* declaratory judgment and vacatur to the Central

1 District of California. *Maldonado Bautista v. U.S. Dep't of Homeland Sec.*, No. 26-1044 (9th Cir.
2 Mar. 6, 2026). That stay does not retroactively validate the February 25, 2026 IJ order, which was
3 unlawful when issued, nor does it relieve this Court of its independent duty to prevent ongoing
4 violations of the INA, the APA, the Due Process Clause, and the Suspension Clause.

5 **LEGAL STANDARD**

6 To warrant a TRO, a movant must show (1) likelihood of success on the merits; (2)
7 likelihood of irreparable harm absent relief; (3) the balance of equities tips in his favor; and (4) an
8 injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).
9 Even if the movant raises only “serious questions” on the merits, relief is warranted if the balance
10 of hardships tips “sharply” in his favor. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135
11 (9th Cir. 2011). All factors here weigh decisively in Petitioner’s favor.
12

13 **ARGUMENT**

14 **I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.**

15 **A. Respondents Violated a Binding Class Judgment By Denying Petitioner a Hearing**

16 Petitioner is a member of the Bond Denial Class certified in *Maldonado Bautista v.*
17 *Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025). The class is defined as all
18 noncitizens who: (1) entered without inspection; (2) were not apprehended upon arrival; and (3)
19 are not detained under §§ 1226(c), 1225(b)(1), or 1231. Petitioner satisfies all three criteria.
20

21 On November 20, 2025, the *Maldonado Bautista* court granted partial summary judgment
22 holding that Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and may not be
23 denied consideration for release on bond under § 1225(b)(2). *Maldonado Bautista*, 2025 WL
24 3289861, at *11. On November 25, 2025, the court certified a nationwide class and extended
25 declaratory relief to all class members. *Maldonado Bautista*, 2025 WL 3288403, at *9.
26
27
28

1 On February 18, 2026, the court granted Plaintiffs' Motion to Enforce Judgment, finding
2 Respondents engaged in “flagrant defiance” of its orders and vacating *Matter of Yajure Hurtado*,
3 29 I&N Dec. 216 (BIA 2025), as “functionally equivalent” to the unlawful DHS
4 policy. *Maldonado Bautista*, Dkt. No. 116 at 14-15.

5 On February 25, 2026, while the *Maldonado Bautista* judgment was fully binding
6 nationwide, IJ Katie Mullins denied Petitioner a bond hearing, acknowledging the *Maldonado*
7 *Bautista* orders but claiming lack of jurisdiction. Exh. A. This order directly contravened binding
8 class-wide judgment at the time it was issued.

9
10 On March 6, 2026, the Ninth Circuit issued a temporary administrative stay limiting the
11 nationwide effect of the declaratory judgment and vacatur to the Central District of
12 California. *Maldonado Bautista v. U.S. Dep't of Homeland Sec.*, No. 26-1044 (9th Cir. Mar. 6,
13 2026). The stay is temporary and does not resolve the merits. It does not retroactively validate the
14 IJ's February 25, 2026 order, which was unlawful when issued. Nor does it erase the fact that
15 Respondents have engaged in systematic defiance of federal court orders. *See Guerrero Orellana*
16 *v. Moniz*, No. 1:25-cv-12664-PBS, Dkt. No. 134, at 1-2 (D. Mass. Jan. 16, 2026).

17
18 Although the declaratory judgment is currently stayed outside the Central District, this
19 Court should adopt the *Maldonado Bautista* reasoning as persuasive authority. The decision rests
20 on a thorough analysis of the INA's text, structure, and purpose, and it aligns with the
21 overwhelming weight of district court authority. Of 288 district court decisions addressing whether
22 § 1225(b)(2) or § 1226(a) applies to noncitizens arrested in the interior after prior release, 282 have
23 determined that § 1226(a) applies. *Singh v. Bondi*, No. CIV-26-43-J, slip op. at *24 (W.D. Okla.
24 Feb. 12, 2026). The Fifth Circuit's outlier decision in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494
25 (5th Cir. Feb. 6, 2026), does not bind this Court and contradicts the overwhelming consensus.
26

1 Even setting aside the class judgment, the government's position cannot be squared with
2 the INA's text, structure, or the BIA's own recent interpretations. Section 1225(a)(1) provides that
3 “[a]n alien present in the United States who has not been admitted *or who arrives* in the United
4 States . . . shall be deemed for purposes of this chapter an applicant for admission.” 8 U.S.C. §
5 1225(a)(1). The statute does not define the duration of that “deemed” status, nor does it suggest
6 that a single act of unlawful entry forever stamps a person as an “applicant.” The natural reading
7 is that it applies at the moment of encounter at the border. The INA's structure confirms this: §
8 1225 governs inspection at the border, while § 1226 governs apprehension of those already in the
9 interior. To read “applicant for admission” as a perpetual status would render § 1226 largely
10 superfluous—a cardinal sin of statutory construction. *See TRW Inc. v. Andrews*, 534 U.S. 19, 31
11 (2001).
12

13 As Judge Sykes recently stated: "the issue of whether the Bond Eligible Class members are
14 entitled to bond hearings has already been decided... The government is bound by that judgment."
15 Order, *Maldonado Bautista*, ECF No. 97 at 2 (C.D. Cal. Jan. 27, 2026). While the Ninth Circuit's
16 temporary stay has paused the nationwide effect of that judgment, it does not preclude this Court
17 from independently concluding that the *Maldonado Bautista* court correctly interpreted the INA—
18 and that Petitioner is therefore detained under § 1226(a) and entitled to a bond hearing.
19

20 **B. The IJ’s Bond Denial Is Unlawful Under the Administrative Procedure Act.**

21 Independently, the IJ’s February 25, 2026 custody decision is final agency action that must
22 be set aside as “not in accordance with law,” “in excess of statutory jurisdiction,” and “without
23 observance of procedure required by law” under 5 U.S.C. § 706(2)(A), (C), (D). The decision
24 ignored and contradicted a binding federal class judgment and relied on *Yajure Hurtado*, which
25 had already been vacated as to this very class of detainees
26
27
28

1 An agency decision is “not in accordance with law” when it contravenes a binding judicial
2 declaration of the applicable law. *See Nations v. Babbitt*, 85 F.3d 1285, 1289 (8th Cir. 1996). The
3 IJ’s application of mandatory § 1225(b) detention to Petitioner is legally erroneous because it
4 directly violated the rule established in *Maldonado Bautista*, which holds that individuals in
5 Petitioner’s circumstances are governed by § 1226(a).

6 Agency action is arbitrary if it “entirely failed to consider an important aspect of the
7 problem” or “offered an explanation that runs counter to the evidence. *Motor Vehicle Mfrs. Ass’n*
8 *v. State Farm*, 463 U.S. 29, 43 (1983). The IJ’s decision ignored the controlling legal authority
9 of *Maldonado Bautista* and relied instead on *Yajure Hurtado*, which the federal court had already
10 vacated as to this very class of detainees. This constitutes a per se abuse of discretion.

12 The BIA's own recent decision in *Matter of Forjoe*, 29 I&N Dec. 463 (BIA 2026), exposes
13 the utter inconsistency of Respondents’ position. There, the Board held that “the phrase ‘at the
14 time of admission’ refers only to an alien's entry into the United States after inspection and
15 authorization by an immigration officer.” *Id.* at 470. Admission, in other words, is a one-time event
16 at the border. Yet Respondents treat Petitioner as a perpetual “applicant for admission,” frozen in
17 time at the moment he crossed. If “admission” is a discrete historical event, as *Forjoe* holds, then
18 one cannot be eternally “seeking” it. The government cannot have it both ways.

20 Exhaustion is not required and should be waived. Exhaustion is futile where administrative
21 review “cannot provide the relief requested” or where “the administrative remedy is
22 inadequate.” *El Rescate Legal Servs. v. Exec. Office of Immig. Rev.*, 959 F.2d 742, 747 (9th Cir.
23 1991). The BIA's decision in *Yajure Hurtado* is the foundation of the IJ's denial. The BIA has
24 shown no willingness to depart from it. Requiring appeal would be an empty formality prolonging
25 unlawful detention. *See Julio F.V v. Chestnut*, No. 1:25-cv-01432-KES-SKO, slip op. at 7 (E.D.
26

1 Cal. Feb. 11, 2026); *Diaz v. Noem*, No. 1:26-cv-00066-JLT-CDB, slip op. at 8 (E.D. Cal. Feb. 6,
2 2026).

3 Because the predicate custody determination is legally invalid, Petitioner is “in custody in
4 violation of the... laws of the United States.” 28 U.S.C. § 2241(c)(3). Habeas is the proper vehicle
5 to challenge detention flowing from unlawful agency action. *Singh v. Holder*, 638 F.3d 1196, 1208
6 (9th Cir. 2011).

7 **C. Petitioner's Detention Violates Substantive Due Process.**

8 “The touchstone of due process is protection of the individual against arbitrary action of
9 government.” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). Civil immigration
10 detention, being “nonpunitive in purpose and effect,” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001),
11 must be justified by one of two “legitimate and compelling” goals: ensuring appearance at
12 proceedings (flight risk) or protecting public safety (dangerousness). *See id.*; *Hernandez v.*
13 *Sessions*, 872 F.3d 976, 994 (9th Cir. 2017). When these rationales are absent, detention is arbitrary
14 and becomes impermissibly punitive. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972).
15

16 The Supreme Court has expressly left the door open to “as-applied” substantive due process
17 challenges, even to statutes authorizing mandatory detention. *See Nielsen v. Preap*, 586 U.S. 392,
18 420 (2019); *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring).
19

20 The government has offered no individualized justification for detaining Petitioner. He has
21 over 12 years of continuous residence. He is married to a U.S. citizen. They have two U.S. citizen
22 daughters and a third child on the way. [REDACTED] ¶¶ 3-4. He has been steadily employed
23 since January 2024 and is the sole financial provider for his family. *Id.* ¶¶ 5-6. He has an approved
24 I-130 petition, demonstrating a pathway to lawful status and a powerful incentive to appear for
25 proceedings. *Id.* ¶ 9. He has no criminal record and has never missed an immigration
26

1 appearance. *Id.* ¶ 8. His detention serves no legitimate governmental interest and is therefore
2 arbitrary and punitive. *Jackson*, 406 U.S. at 738.

3 *Demore v. Kim* does not authorize Petitioner's detention. Unlike the brief detention of
4 criminal LPRs under § 1226(c) contemplated in *Demore*, Petitioner is a long-time, non-criminal
5 resident held under a misapplied mandatory statute in a system openly defying federal court orders.

6 **D. The Government Violated Procedural Due Process by Depriving Petitioner of a**
7 **Hearing Before a Neutral Decisionmaker.**

8 Noncitizens living in the United States have a protected liberty interest in their ongoing
9 freedom from confinement. *See Zadvydas*, 533 U.S. at 690. The Supreme Court “usually has held
10 that the Constitution requires some kind of a hearing *before* the State deprives a person of
11 liberty.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This liberty interest applies to
12 noncitizens. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

13 Once a petitioner establishes a protected liberty interest, courts apply the *Mathews* test to
14 determine what procedural protections are due. *Johnson v. Ryan*, 55 F.4th 1167, 1179-80 (9th Cir.
15 2022) (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). The factors weigh heavily in
16 Petitioner's favor.

17 *First*, the private interest is profound here due to the complete deprivation of physical
18 liberty. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Because Petitioner
19 faces *civil* detention, “his liberty interest is arguably greater than the interest of the parolees
20 in *Morrissey*.” *Ortega*, 415 F. Supp. 3d at 970. He is entitled to protections at least as great as
21 those afforded a person accused but not convicted of a crime. *See Jones v. Blanas*, 393 F.3d 918,
22 932 (9th Cir. 2004). He is entitled to protections at least as great as those afforded a person accused
23 but not convicted of a crime. *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004). His wife's
24 declaration vividly illustrates this deprivation: “Being separated from him for this long has been
25
26
27
28

1 unbearable... Our children need their father. I need my husband, especially now as we await the
2 birth of our son.” [REDACTED] Decl. ¶¶ 10, 13.

3 *Second*, “the risk of an erroneous deprivation of *liberty* is high” where a petitioner has
4 received no bond hearing. *Jimenez v. Wolf*, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020).
5 Respondents grabbed Petitioner by surprise, detaining him with no notice and no opportunity to
6 contest detention before a neutral arbiter. The government has presented no evidence that
7 Petitioner poses a flight risk or danger. His detention appears motivated instead by an implausible
8 statutory interpretation. This does not constitute lawful justification.
9

10 Because the private interest is substantial, due process requires that the government bear
11 the burden of proving “by clear and convincing evidence that the *noncitizen* is a flight risk or
12 danger to the community.” *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); *see Martinez*
13 *v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024).

14 *Third*, the government’s interest in detaining Petitioner without a hearing is minimal.
15 Immigration courts routinely conduct custody hearings at “minimal” cost. *See Doe v. Becerra*,
16 2025 WL 691664, at *6 (E.D. Cal. Mar. 3, 2025).
17

18 The right to a meaningful hearing requires a neutral adjudicator. *Concrete Pipe & Prod. of*
19 *Cal., Inc. v. Constr. Laborers Pension Tr.*, 508 U.S. 602, 617 (1993). Immigration Judges are DOJ
20 employees serving at the pleasure of the Attorney General, recently subjected to mass removals
21 based on perceived alignment with enforcement priorities, and explicitly recruited as “deportation
22 judges” tasked with “bring[ing] the hammer down.”¹ This structural bias undermines any
23 presumption of neutrality.
24

25
26
27 ¹ Gutierrez, Hilda and Michael Bott, ‘An all-out attack on immigration court:’ *SF immigration judges speak out after*
28 *firings*, NBC BAY AREA (Nov. 25, 2025), <https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/>.

1 The government’s defiance of judicial orders demonstrates that any future proceeding
2 would be a hollow formality. Chief Immigration Judge Teresa Riley has instructed IJs that they
3 are not bound by court rulings declaring the administration's detention policy unlawful. *Guerrero*
4 *Orellana v. Moniz*, No. 1:25-cv-12664-PBS, Dkt. No. 134, at 1-2 (D. Mass. Jan. 16, 2026). Across
5 the country, federal judges are confronting the same reality: even when they order bond hearings,
6 immigration judges are conducting proceedings that are “fundamentally flawed or even pre-
7 cooked, designed to result in findings of ‘danger to the community’ or ‘flight risk’ without a fair
8 consideration of the evidence.”²

10 Federal courts in California have repeatedly granted TROs or habeas relief on materially
11 indistinguishable facts. *See, e.g., Martin v. Divver*, No. 26-cv-0434-JES-VET (S.D. Cal. Jan. 30,
12 2026); *J.S. v. Wofford*, No. 1:25-cv-02016 DC SCR, 2026 WL 125258, at *7 (E.D. Cal. Jan. 16,
13 2026).

14 **D. The Suspension Clause Requires Immediate Release**

15 The Suspension Clause guarantees individuals detained by the executive a meaningful
16 opportunity to challenge the lawfulness of their confinement before a neutral judicial
17 officer. *Boumediene v. Bush*, 553 U.S. 723, 771 (2008) (holding that habeas corpus must be
18 “an adequate and effective remedy”). When a detainee must file a habeas petition to enforce a right
19 already declared by a federal court, and the executive responds by ordering its adjudicators to
20 ignore that declaration, the habeas remedy is rendered “inadequate or ineffective.” *Boumediene*,
21 553 U.S. at 771.
22
23
24
25

26
27 ² Kyle Cheney, *Judges fear immigration hearings are becoming a charade*, POLITICO (Mar. 6,
2026), <https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660>.

1 The government's systematic defiance of federal court orders operates as an effective
2 suspension of the writ. *Guerrero Orellana*, Dkt. No. 134 at 1-2. The IJ's February 25, 2026 order
3 defied binding federal authority at the time it was issued.

4 The government has created an endless loop of defiance. Courts order hearings. Chief
5 Judge Riley instructs IJs they need not comply. IJs deny hearings or conduct sham proceedings.
6 Detainees file new habeas petitions. The process repeats. This mocks the very purpose of the writ,
7 which is meant to be a “swift and imperative remedy.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
8 (holding that the “root principle” of habeas corpus is that “government must always be accountable
9 to the judiciary for a man's imprisonment”).

10 The volume of habeas filings—551 in the Central District of California alone between
11 December 19, 2025, and January 30, 2026—demonstrates that government defiance has
12 overwhelmed the federal courts and converted habeas from an extraordinary remedy into a routine,
13 futile pleading requirement. *See Maldonado Bautista*, Dkt. No. 116 at 6-7. This is the functional
14 equivalent of suspension.
15

16 For Petitioner, the writ has proven inadequate. He appeared before an IJ on February 25,
17 2026, while binding federal law entitled him to a hearing. The IJ denied his request, defying that
18 authority. If this Court remands for another hearing, there is every reason to believe the IJ will
19 again deny bond. The Suspension Clause prohibits this outcome. Where the executive has
20 demonstrated it will not comply with judicial orders in good faith, and where the adjudicative
21 forum is structurally biased and instructed to disregard federal court rulings, habeas relief must
22 include immediate release. *Boumediene*, 553 U.S. at 771.
23

24 The arbitrary geography-based disparity in implementation of the *Maldonado*
25 *Bautista* judgment demonstrates that the writ, as applied to Petitioner, is not “adequate and
26 effective.” Given this pattern of defiance and structural bias, only immediate release (or release
27

absent a prompt hearing with robust procedural safeguards) can satisfy the Suspension Clause in Petitioner's case

II. PETITIONER WILL SUFFER IRREPARABLE HARM ABSENT A TRO.

Without a TRO, Petitioner suffers irreparable injury every day he remains detained in violation of his constitutional rights. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). The unlawful deprivation of physical liberty is the quintessential irreparable harm. *See id.* at 994; *Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018).

The harm extends beyond Petitioner to his entire family. His wife declares:

"Since [REDACTED] was taken away, our family has been struggling deeply. We are facing severe financial hardship without his income... The emotional toll on our family has been devastating. Our daughters are young and do not fully understand why their father is not home. They miss him terribly. This situation has caused me immense stress and anxiety during my pregnancy. I worry constantly about [REDACTED] and about the future of our family." [REDACTED] Decl. ¶¶ 6-7. She further states: "I am scared that if he is not released soon, our family will fall apart. We cannot survive financially, and the pain of his absence is too much to bear." *Id.* ¶ 14.

Additionally, absent a TRO, Respondents could transfer Petitioner out of this District, mooted this action and forcing him to start anew in another jurisdiction. This Court should enjoin any transfer or removal pending resolution of this case. *See Singh v. Holder*, 638 F.3d at 1208.

III. THE BALANCE OF EQUITIES AND PUBLIC INTEREST WEIGH STRONGLY IN PETITIONER'S FAVOR.

When the government opposes emergency relief, the balance of equities and public interest merge. *Env't Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991 (9th Cir. 2020). Here, they overwhelmingly favor Petitioner, who faces irreparable injury from ongoing constitutional violations. *See Hernandez*, 872 F.3d at 996.

1 The public interest likewise weighs in Petitioner’s favor. “The public has a strong interest
2 in upholding procedural protections against unlawful detention.” *Diaz v. Kaiser*, No. 3:25-CV-
3 05071, 2025 WL 1676854, at *3. More fundamentally, “[i]t is always in the public interest to
4 prevent the violation of a party's constitutional rights.” *Index Newspapers LLC v. U.S. Marshals*
5 *Serv.*, 977 F.3d 817, 838 (9th Cir. 2020).

6 The government, by contrast, has no legitimate interest in continuing to detain a man with
7 no criminal record, deep family ties, an approved visa petition, and a pregnant wife and young
8 children who depend on him. *See* [REDACTED] Decl. ¶¶ 3-9, 13.

10 SECURITY

11 No security is necessary. Courts “may dispense with the filing of a bond when there is no
12 realistic likelihood of harm to the defendant.” *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir.
13 2003). It is also proper to waive bond in cases raising constitutional claims. *Baca v. Moreno Valley*
14 *Unified Sch. Dist.*, 936 F. Supp. 719, 738 (C.D. Cal. 1996).

16 CONCLUSION

17 For the foregoing reasons, Petitioner respectfully requests the Court grant a TRO to
18 restore the *status quo ante* that:

- 19 1. Assume jurisdiction over this matter;
- 20 2. Immediately enjoin Respondents from transferring Petitioner out of the Eastern District
21 of California or removing him from the United States while this action is pending;
- 22 3. Order Respondents to release Petitioner from custody within one day of the Court’s
23 order;
- 24 4. In the alternative, order Respondents to provide Petitioner with a bond hearing under 8
25 U.S.C. § 1226(a) within seven days, before a neutral adjudicator, at which the
26 government bears the burden of proving by clear and convincing evidence that

1 Petitioner’s detention is necessary based on danger or flight risk, with a contemporaneous
2 written decision; and

3 5. Grant any other and further relief the Court deems just and proper.

4 Date: March 11, 2026

Respectfully Submitted,

5 /s/ Prerna P. Lal

6 Prerna Preshika Lal

7 SBN: 354786

Lal Legal APLC

8 2001 Addison St STE 300

Berkeley CA 94704

9 (800) 552-5616

10
11 **CERTIFICATE OF WORD COUNT**

12
13 I, Prerna Preshika Lal, counsel for Petitioner, certify that the foregoing Memorandum of Points
14 and Authorities in Support of Petitioner's Ex Parte Motion for Temporary Restraining Order
15 contains 4318 words, excluding the caption, table of contents, table of authorities, this certificate,
and the declaration of service.

16 I rely on the word count feature of Microsoft Word, the word processing software used to
17 prepare this brief.

18 Executed on Marh 11, 2026, at Berkeley, California.

Respectfully Submitted,

19 /s/ Prerna P. Lal

20 Prerna Preshika Lal

21 SBN: 354786

22 Lal Legal APLC

23 2001 Addison St STE 300

Berkeley CA 94704

(800) 552-5616

24 prerna@lallegal.com

25 *Attorney for Petitioner*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, Prerna Preshika Lal, declare that I electronically filed the foregoing document with the Clerk of Court via CM/ECF on February 12, 2026, which will serve electronic notice upon all counsel of record listed in the ECF docket.

Executed on March 11, 2026, at Berkeley, California.

Respectfully Submitted,

/s/ Prerna P. Lal

Prerna Preshika Lal
SBN: 354786
Lal Legal APLC
2001 Addison St STE 300
Berkeley CA 94704
(800) 552-5616
prerna@lallegal.com

Attorney for Petitioner