

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDWIN YOBANI ENAMORADO,
Plaintiff,
v.
POLLY KAISER, et al.,
Defendants.

Case No. 25-cv-04072-NW

**ORDER GRANTING PRELIMINARY
INJUNCTION**

Re: ECF No. 18

Plaintiff Edwin Yobani Enamorado fled from Honduras to the United States with his wife and their minor children.¹ The United States granted asylum to his wife and their children, and in 2022 an immigration judge determined Enamorado could not be removed to Honduras. Since then the family has lived in California. After years without being required to report to Immigration and Customs Enforcement (“ICE”), ICE sent Enamorado’s bond obligator a notice demanding that he present for an “interview” at 8:00 a.m. on May 14, 2025, at the ICE San Francisco Offices. Enamorado feared that ICE would initiate removal proceedings and send him to a country other than Honduras without an opportunity to raise a fear-based claim as to that country, and that he would be detained in the interim.

Enamorado seeks a preliminary injunction enjoining the Government from arresting, detaining, and removing him to a third country without notice and an opportunity to present a fear-

¹ The facts are drawn from the amended complaint, motion for a temporary restraining order (“TRO”), and declarations filed in support of the motion for a TRO, and have not been rebutted by the Government. First Amended Compl., ECF No. 16 (“FAC”); Amended Mot. for TRO, ECF No. 18 (“Mot.”); Decl. of Heliodoro Moreno, Jr. I.S.O. FAC, ECF No. 18-2; *see also* Opp’n to Mot., ECF No. 21.

1 based claim.² Mot. at 2. The Court considered the parties’ briefs, the relevant law, and the
2 arguments offered by counsel at the October 22, 2025 hearing, and GRANTS Plaintiff’s motion.

3 **I. BACKGROUND**

4 Mr. Enamorado is a forty-two-year-old man who was born in Honduras. When he was
5 eleven, he was forced to join the MS-13 gang. In 1999, at the age of sixteen, he feared for his life
6 and fled to the United States. An immigration judge initially granted Enamorado asylum, but the
7 Government appealed. Although the Board of Immigration Appeals reversed his asylum
8 determination and ordered Enamorado removed (“2003 Removal Order”), that removal did not
9 happen right away. While he was waiting, he was convicted of non-violent offenses, including
10 possession of marijuana and a false identification. In August 2005, Enamorado was transferred to
11 ICE custody and deported to Honduras.

12 Shortly after his return to Honduras, gang members severely beat and stabbed Enamorado
13 as retaliation for him having left the gang. He fled to another region of Honduras and lived in
14 hiding. There he met his wife, Yesmin Herrera Cruz, who already had two children. Cruz and
15 Enamorado had two more children in 2010 and 2014.

16 In 2014 and again in 2016, the gang members discovered Enamorado’s location and
17 threatened to kill him and his family. Cruz and Enamorado fled with their children to different
18 locations within Honduras. Because Enamorado was “[t]errified that he and his family would be
19 killed” by gang members, on December 13, 2018, they fled Honduras and entered the United
20 States. The family was briefly kept and then released from immigration detention. Enamorado,
21 however, was not released. ICE reinstated Enamorado’s 2003 Removal Order, separated him from
22 his young family and held him for over six months in poor conditions in the Florence Detention
23 Center in Arizona.

24 During Enamorado’s detention, on January 15, 2019, an asylum officer determined that he
25 had a reasonable fear of persecution or torture in Honduras and referred Enamorado to an
26 immigration judge to apply for withholding of removal. On July 8, 2019, an immigration judge

27 _____
28 ² The motion was originally filed as a motion for a TRO, ECF No.18, but was converted to a
motion for preliminary injunction with the parties’ consent during the October 22, 2025 hearing.

1 found that Enamorado was neither a danger to the community nor a flight risk and granted
2 Enamorado's release from custody on an \$8,000 bond.

3 On April 12, 2022, an immigration judge granted Enamorado withholding of removal to
4 Honduras under 8 U.S.C. § 1231(b)(3). After that Enamorado was no longer required to report to
5 ICE.

6 Enamorado now lives in Martinez, California, with his family. He has had no touches with
7 the criminal justice system in twenty years. He has worked diligently as the sole provider for his
8 family by running a landscaping business. On August 23, 2022, an immigration judge in San
9 Francisco granted asylum to Enamorado's wife and children, and they became lawful permanent
10 residents of the United States on September 17, 2024.

11 On April 10, 2025, ICE sent a letter to Enamorado's bond obligor demanding that he report
12 to ICE's offices in San Francisco, California on May 14, 2025, at 8:00 a.m. for an "interview."
13 Mot. at 3. Enamorado explained that he was "terrified" that ICE would detain him during this
14 "interview" and try to remove him to a third country consistent with the Government's "directive,"
15 which had been reported in the news and evidenced by "the arrest and detention of at least thirty
16 other individuals" similarly situated to Mr. Enamorado. *Id.* at 21; *see also* Decl. of Heliodoro
17 Moreno, Jr., ¶ 14, Exs. A, C, D, E, M, ECF No. 2-1 (declarations of lawyers representing clients
18 who have been detained, and the related DHS internal directive).

19 **A. Procedural History**

20 On May 12, 2025, Enamorado brought suit and filed a motion for a TRO against Polly
21 Kaiser, in her official capacity as Acting San Francisco Field Office Director of U.S. ICE, Todd
22 M. Lyons, in his official capacity as Acting Director of ICE, Kristi Noem, in her official capacity
23 as the Secretary of the U.S. Department of Homeland Security, and Pamela Bondi, in her official
24 capacity as Attorney General of the United States (collectively, "Defendants" or the
25 "Government"). ECF Nos. 2, 3. The same day, the Court granted Enamorado's motion for a TRO
26 to preserve the status quo pending further briefing and a hearing on this matter. ECF No. 8.
27 Among other relief, the Court enjoined Defendants from re-arresting and re-detaining Plaintiff on
28 grounds related to his immigration status prior to a further order of this Court or prior to (including

1 during, or after) the hearing date. Over the next several months the parties stipulated to extend the
2 briefing schedule and continue the hearing date, while maintaining the terms of the Court’s order,
3 which the Court granted. ECF Nos. 11-14.

4 After Plaintiff filed his first complaint, Defendants rescheduled Enamorado’s “interview”
5 with ICE to May 28, 2025. On May 28, 2025, Plaintiff’s “bond was cancelled and he was placed
6 on an order of supervision.” Mot. at 3. Enamorado’s next date to report to ICE’s offices is May
7 27, 2026.

8 On July 3, 2025, Plaintiff filed a motion for leave to file an amended habeas petition and
9 complaint (Plaintiff also filed the proposed amended pleading). ECF Nos. 16-17. Enamorado also
10 filed a new motion for a TRO, to address the new events related to his case as well as to address
11 developments in the law since the United States Supreme Court’s June 23, 2025 decision in *Dep’t*
12 *of Homeland Sec. v. D.V.D.* 145 S. Ct. 2153 (2025); ECF No. 18.

13 On July 16, 2025, the Court held a hearing on Plaintiff’s then-pending motions. During
14 the hearing, Defendants agreed that Enamorado poses no danger to the community and that he is
15 not a flight risk. Defendants indicated that while they were not aware of any intent to deport or
16 detain Plaintiff, it wanted an opportunity to file an updated declaration from a Government
17 representative who could testify on behalf of the agency and its intentions related to the
18 immigration status of Plaintiff, and who could therefore bind the Government accordingly. The
19 Court granted Defendants leave to file an updated declaration in support of its opposition and
20 extended the terms of the TRO pending the supplemental briefing.

21 On October 1, 2025, the Court held a hearing regarding Plaintiff’s request to convert the
22 TRO into a preliminary injunction. During the hearing, Defense counsel requested to stay all
23 proceedings due to the Government shutdown, which the Court granted. On October 9, 2025,
24 Defense counsel informed Plaintiff that the Government was able to proceed pursuant to DOJ
25 guidance. The parties filed a stipulation to reset the hearing, which the Court held on October 22,
26 2025.

27 Plaintiff seeks a preliminary injunction to require the Government to provide meaningful
28 notice and the opportunity to present a fear-based claim before removing him to a third country

1 and to prevent his detention until after he receives notice and opportunity to contest his removal.
2 The Government opposes Plaintiff’s motion on jurisdictional grounds and argues that Enamorado
3 is unlikely to succeed on the merits of his claims.

4 **II. LEGAL STANDARD**

5 A preliminary injunction is a matter of equitable discretion and “an extraordinary remedy
6 never awarded as of right.” *Winter v. Nat. Resources Def. Council, Inc.*, 555 U.S. 7, 25 (2008). A
7 plaintiff seeking preliminary injunctive relief must establish “[1] that he is likely to succeed on the
8 merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that
9 the balance of equities tips in his favor, and [4] that an injunction is in the public interest.” *Id.* at
10 20. Courts may still issue a preliminary injunction if a “plaintiff can only show that there are
11 serious questions going to the merits – a lesser showing than likelihood of success on the merits,”
12 if the balance of equities “tips sharply in the plaintiff’s favor” and if the plaintiff establishes that
13 they are likely to suffer irreparable harm and that an injunction is in the public interest. *Friends of*
14 *the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th Cir. 2014) (internal quotation marks and citations
15 omitted). Where, as here, the Government is a party, the last two *Winter* factors merge. *See*
16 *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (questions of whether the
17 balance of equities tips in plaintiffs favor and whether injunction is in the public interest merge
18 when the government is a party).

19 **III. DISCUSSION**

20 The Court first addresses two threshold arguments raised by Defendants, jurisdiction and
21 the implications of *D.V.D. v. Department of Homeland Security*. The Court then turns to an
22 overview of the applicable immigration statutory scheme before returning to the merits of the
23 *Winter* factors.

24 **A. Jurisdiction**

25 First, Defendants argue that the Court lacks subject matter jurisdiction over Plaintiff’s
26 claims because Enamorado is not currently in custody and therefore he does not have a cognizable
27 habeas petition. The Court disagrees. The Supreme Court has “established that habeas corpus
28 relief is not limited to immediate release from illegal custody, but that the writ is available as well

1 to attack future confinement and obtain future releases.” *Preiser v. Rodriguez*, 411 U.S. 475, 487
2 (1973). Plaintiff has presented a valid habeas claim because he challenges his future
3 confinement.³

4 Second, Defendants contend that Plaintiff’s claim “seeking a stay of removal pending the
5 completion of extra-statutory procedures to remove him is barred by 8 U.S.C. § 1252(g).” Opp’n
6 at 11. Section 1252(g) of the Immigration and Nationality Act (“INA”) provides that “no court
7 shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the
8 decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute
9 removal orders against any alien under this chapter.”⁴ 8 U.S.C. § 1252(g) (authority has been
10 delegated from the Attorney General to the Secretary of Homeland Security). Defendants’
11 argument is inapplicable to the facts of this case. Here, Plaintiff’s claims do not arise from the
12 Government’s discretionary decision to execute his removal order, and Plaintiff does not challenge
13 the removal order itself. Enamorado instead challenges his removal to a country other than
14 Honduras without being provided with notice and an opportunity to present any defenses to
15 removal to a third country.

16 Third, in the alternative, Defendants assert that “Sections 1252(a)(5) and 1252(b)(9) of the
17 INA bar review in this Court,” and the “sole” appropriate forum is a court of appeals.⁵ Opp’n at
18

19 ³ Plaintiff notes that “[e]ven assuming *arguendo* that Habeas relief were improper, Mr.
20 Enamorado’s claims are properly before this court because he also pleaded federal question
21 jurisdiction, 28 U.S.C. § 1331, over his request for injunctive and declaratory relief.” Reply, 4,
ECF No. 22. While the Court finds that Plaintiff presents a valid habeas claim, the Court also has
federal question jurisdiction over Plaintiff’s case.

22 ⁴ “Alien” is a term used in the INA, which was enacted in 1952; many cases that address
23 immigration issues and the INA also use that word. The term is now widely considered
24 derogatory because it pejoratively denies and dismisses the humanity of people, including
25 children. As a result, current advocates and Government agencies often choose to use words such
as immigrant or noncitizen instead. Here, the Court uses “alien” only when quoting the statute or
caselaw. *See Arce v. United States*, 899 F.3d 796, 799 (9th Cir. 2018) (“Following the lead of the
United States Supreme Court, we use the term ‘noncitizen’ throughout this opinion to refer to any
person who is not a citizen or national of the United States.” (cleaned up)).

26 ⁵ Section 1252(a)(5) states in relevant part: “[A] petition for review filed with an appropriate court
27 of appeals in accordance with this section shall be the *sole and exclusive means for judicial review*
28 *of an order of removal entered or issued under any provision of this chapter, except as provided in*
subsubsection (e).” 8 U.S.C. § 1252(a)(5) (emphasis added). Section 1252(b)(9) states in relevant

1 12. Sections 1252(a)(5) and (b)(9) provide that the “sole and exclusive means for judicial review
 2 of an order of removal” shall be by the appropriate court of appeals, and that such a petition shall
 3 be the sole avenue for “[j]udicial review of all questions of law and fact, including interpretation
 4 and application of constitutional and statutory provisions.” § 1252(a)(5), (b)(9). Similar to
 5 Defendants’ § 1252(g) argument, Defendants misconstrue Plaintiff’s requested relief. Again,
 6 Enamorado does not challenge his final order of removal; he asks this Court to prevent his
 7 removal to a third country without notice and an opportunity to be heard. “While broad, the
 8 language of these sections was ‘not intended to preclude habeas review over challenges to
 9 detention that are independent of challenges to removal orders,’ and the Court finds they do not
 10 bar review here.” *Ortega v. Kaiser et al.*, No. 25-cv-05259-JST, 2025 WL 2243616, at *4 (N.D.
 11 Cal. Aug. 6, 2025) (quoting *Singh v. Holder*, 638 F.3d 1196, 1211 (9th Cir. 2011)).

12 Finally, Defendants posit that Plaintiff’s “claims run afoul of Section 2242(d) of the
 13 Foreign Affairs Reform and Restructuring Act of 1998 (“FARRA”),” which is the statutory
 14 scheme for implementing the Convention Against Torture. Opp’n at 14. FARRA § 2242(d)
 15 provides that “no court shall have jurisdiction to review the regulations adopted to implement this
 16 section, and nothing in this section shall be construed as providing any court jurisdiction to
 17 consider or review claims raised under the Convention or this section, or any other determination
 18 made with respect to the application of the policy set forth in subsection (a), except as part of the
 19 review of a final order of removal pursuant to section 242 of the Immigration and Nationality Act
 20 (8 U.S.C. 1252).” FARRA § 2242(d), codified at 8 U.S.C. § 1231 (note). Defendants’ argument
 21 is again misplaced because Plaintiff is not challenging the “regulations adopted to implement” the
 22 Convention nor is he challenging his withholding of removal under the Convention. “FARRA, by
 23 its plain language, does not bar this Court’s review of such claims.” *Ortega*, 2025 WL 2243616 at
 24 *4. The Court is unpersuaded by Defendants’ arguments and finds that the Court has subject
 25 matter jurisdiction over Enamorado’s claims.

26 _____
 27 part: “Judicial review of all questions of law and fact, including interpretation and application of
 28 constitutional and statutory provisions, *arising from any action taken or proceeding brought to
 remove an alien from the United States* under this subchapter shall be available only in judicial
 review of a final order under this section.” 8 U.S.C. § 1252(b)(9) (emphasis added).

1 **B. Implications of *D.V.D. v. Department of Homeland Security***

2 Defendants ask the Court to exercise its discretion and dismiss Plaintiff’s case because he
3 is a member of the *D.V.D. v. U.S. Dep’t of Homeland Sec.* certified class and therefore, Plaintiff’s
4 claims are subsumed in the class action. No. 25-cv-10676-BEM, 2025 WL 1142968, at *11 (D.
5 Mass. Apr. 18, 2025); *Dep’t of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025) (staying
6 preliminary injunction pending the appeal in the First Circuit). Plaintiff has requested immediate
7 relief, while the *D.V.D.* case may take significantly longer to resolve. The Court agrees with
8 Plaintiff that “Mr. Enamorado has no alternative pathway to seek the relief he requests while
9 *D.V.D.* remains pending. . . . dismissal would leave Mr. Enamorado without effective access to
10 judicial review and deprive him of the opportunity to vindicate his rights.” Reply at 11. The
11 Court denies Defendants’ request in the interest of preserving Plaintiff’s rights.

12 **C. Third Country Removal Procedures**

13 The Court turns to the relevant statutory framework governing Plaintiff’s claims. Section
14 1231(b)(2) of the INA sets out the procedure by which the Secretary of Homeland Security
15 determines the country of deportation for a noncitizen who has received a final removal order. As
16 the Supreme Court summarized, the Secretary of Homeland Security must follow “four
17 consecutive removal commands” under § 1231(b)(2):

18 (1) An alien shall be removed to the *country of his choice*
19 (subparagraphs (A) to (C)), unless one of the conditions eliminating
20 that command is satisfied;

21 (2) otherwise he shall be removed to the *country of which he is a*
22 *citizen* (subparagraph (D)), unless one of the conditions eliminating
23 that command is satisfied;

24 (3) otherwise he shall be removed to one of the *countries with which*
25 *he has a lesser connection* (clauses (i) to (vi) of subparagraph (E)); or

26 (4) if that is “impracticable, inadvisable, or impossible,” he shall be
27 removed to “*another country whose government will accept the alien*
28 *into that country*” (clause (vii) of subparagraph (E)).

29 *Jama v. Immigr. & Customs Enf’t*, 543 U.S. 335, 341-42 (2005) (emphasis and formatting added).

30 Starting with step one, a noncitizen shall be removed to the country of their choice and
31 have an opportunity to designate a preferred country during final removal proceedings.

32 § 1231(b)(2)(A). If a noncitizen does not designate a preferred country, they will be removed to

1 their country of citizenship under step two, or removed to a country with which they have a lesser
 2 connection under step three, unless they have been granted withholding of removal from that
 3 country. § 1231(b)(2)(D). Withholding of removal, governed by § 1231(b)(3), does not prevent a
 4 noncitizen from being removed from the United States, but prevents a noncitizen from being
 5 removed to a country where their “life or freedom would be threatened . . . because of the alien’s
 6 race, religion, nationality, membership in a particular social group, or political opinion.”

7 § 1231(b)(3)(A).

8 If the first three steps are unavailable, the noncitizen will be removed to “another country
 9 whose government will accept the alien into that country.” § 1231(b)(2)(E)(vii). However, before
 10 being removed to “another country,” the noncitizen “must be given sufficient notice of a country
 11 of deportation that, given his capacities and circumstances, he would have a reasonable
 12 opportunity to raise and pursue his claim for withholding of deportation.” *Aden v. Nielsen*, 409 F.
 13 Supp. 3d 998, 1009 (W.D. Wash. 2019) (citing *Mathews v. Eldridge*, 424 U.S. 319, 349
 14 (1976) and *Kossov v. I.N.S.*, 132 F.3d 405, 408 (7th Cir. 1998)). “[L]ast minute orders of removal
 15 to a country may violate due process if an immigrant was not provided an opportunity to address
 16 his fear of persecution in that country.” *Najjar v. Lynch*, 630 Fed. App’x 724 (9th Cir. 2016).

17 **1. Detention Pending Removal**

18 After a noncitizen receives a final removal order and there is no applicable judicial stay,
 19 the noncitizen may be detained pending removal pursuant to 8 U.S.C. § 1231(a). *Rodriguez Diaz*
 20 *v. Garland*, 53 F.4th 1189, 1197-98 (9th Cir. 2022). Section 1231(a) states that the Secretary of
 21 Homeland Security “shall remove the alien from the United States within a period of 90 days.”
 22 § 1231(a)(1)(A). During the 90-day removal period, noncitizens may be detained. § 1231(a)(2).

23 Section 1231(a)(6) “authorizes further detention if the Government fails to remove the
 24 alien during those 90 days.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). This further detention
 25 statute is applicable to “certain categories of aliens who have been ordered removed, namely,
 26 inadmissible aliens, criminal aliens, aliens who have violated their nonimmigrant status
 27 conditions, and aliens removable for certain national security or foreign relations reasons, as well
 28 as any alien ‘who has been determined by the Attorney General to be a risk to the community or

1 unlikely to comply with the order of removal.” *Id.* at 688. However, the Supreme Court has held
2 that detention can only be for “a period reasonably necessary to secure removal.” *Id.* at 699.
3 Therefore, “if removal is not reasonably foreseeable,” “continued detention [is] unreasonable and
4 no longer authorized by statute.” *Id.* at 699-700.

5 **D. Application of *Winter* Factors**

6 **1. Plaintiff has Shown a Likelihood of Success on the Merits**

7 Plaintiff alleges: (1) that the Fifth Amendment Due Process Clause and the INA require the
8 Government to provide meaningful notice and the opportunity to present a fear-based claim before
9 removing him to a third country; and (2) that the Fifth Amendment Due Process Clause and the
10 INA prevent his detention until his removal is “reasonably foreseeable”—i.e., after he receives
11 notice and opportunity to contest his removal.

12 **a. Removal Claim**

13 The Court finds that Plaintiff has demonstrated that there are serious questions going to the
14 merits of his removal claim under the Due Process Clause and under the INA, and Enamorado has
15 further established that he is likely to succeed on the merits.

16 The Due Process Clause of the Fifth Amendment prohibits the Government from depriving
17 individuals of their life, liberty, or property, without due process of law. U.S. Const. amend. V.
18 “Immigration proceedings must provide the procedural due process protections guaranteed by the
19 Fifth Amendment.” *Najjar*, 630 F. App’x 724 (citing *Vilchez v. Holder*, 682 F.3d 1195, 1199 (9th
20 Cir. 2012)) (holding that a “last minute order[] of removal to a country may violate due process if
21 an immigrant was not provided an opportunity to address his fear of persecution in that country.”).

22 The INA requires that Enamorado be provided with “sufficient notice of a country of
23 deportation that, given his capacities and circumstances, he would have a reasonable opportunity
24 to raise and pursue his claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009.
25 During Plaintiff’s removal proceedings, an immigration judge ordered Enamorado’s removal to
26 Honduras be withheld, and neither he nor the Government have since designated a country for his
27 removal other than Honduras. Consequently, there are no countries to which Enamorado “could
28 currently be removed without his first being afforded notice and an opportunity to be heard on a

1 fear-based claim as to that country, as the Fifth Amendment Due Process Clause requires.”
2 *Ortega*, 2025 WL 2243616 at *5.

3 **b. Deportation Claim**

4 The Court also finds there are serious questions as to the merits of Enamorado’s claim that
5 he may not be detained, without a pre-deprivation hearing before an immigration judge, until his
6 removal is “reasonably foreseeable.”

7 “Freedom from imprisonment—from government custody, detention, or other forms of
8 physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533
9 U.S. 678, 690 (2001). “These protections ‘appl[y] to all “persons” within the United States,
10 including aliens, whether their presence here is lawful, unlawful, temporary, or permanent,’ and to
11 immigration detention as well as criminal detention.” *Hernandez v. Sessions*, 872 F.3d 976, 990
12 (9th Cir. 2017) (citing *Zadvydas*, 533 U.S. at 693).

13 The Court must determine what procedural process is due under *Mathews v. Eldridge*. 424
14 U.S. 319 (1976) (the Court must balance three factors: (1) “the private interest that will be affected
15 by the official action”; (2) “the risk of an erroneous deprivation of such interest through the
16 procedures used, and the probable value, if any, of additional or substitute procedural safeguards”;
17 and (3) “the Government’s interest, including the function involved and the fiscal and
18 administrative burdens that the additional or substitute procedural requirement would entail.”).
19 Numerous courts in this District have found that, in substantially similar cases, plaintiffs have
20 satisfied the *Mathews* test, and people in Mr. Enamorado’s circumstances have a protectable
21 liberty interest in remaining out of custody on bond pending further immigration proceedings. *See*
22 *Ortega v. Kaiser, et al.*, No. 25-cv-05259-JST, 2025 WL 2243616, at *6 (N.D. Cal. Aug. 6, 2025)
23 (collecting cases); *Jorge Rivera Larios v. Sergio Albarran, et al.*, No. 25-cv-08799-AMO, 2025
24 WL 3043391, at *6 (N.D. Cal. Oct. 31, 2025).

25 This Court finds the reasoning in those cases to be persuasive and similarly concludes that
26 Enamorado has satisfied the three *Mathews* factors and has shown that those factors support a pre-
27 deprivation hearing before an immigration judge. First, Enamorado has a substantial private
28 interest in remaining out of custody on bond to provide for his family and to maintain his

1 employment. Second, there is a high risk of erroneous deprivation of Enamorado’s rights given
2 the Government’s statements that while the Government “do[es] not presently plan to detain
3 Plaintiff or remove him from the United States . . . Respondents might change those plans at any
4 time in accordance with applicable removal statutes.” Gov. Supp. Brief at 1. Further, a pre-
5 deprivation hearing would provide substantial safeguards to Plaintiff while not overly burdening
6 the Government. *See Singh v. Andrews*, No. 25-cv-00801-KES, 2025 WL 1918679, at *7 (E.D.
7 Cal. July 11, 2025) (when “[a] petitioner has not received any bond or custody redetermination
8 hearing,” “the risk of an erroneous deprivation of liberty is high” because neither the government
9 nor the petitioner has had an opportunity to determine whether there is any valid basis for the
10 detention). Third, the Government has a low level of interest in detaining Plaintiff until his
11 removal is “reasonably foreseeable” without a pre-deprivation hearing before an immigration
12 judge because the Government has acknowledged in multiple hearings that Plaintiff is not a flight
13 risk nor a danger to the community. *Pinchi v. Noem*, No. 25-cv-05632-PCP, 2025 WL 2084921,
14 at *5 (N.D. Cal. July 24, 2025) (“Civil immigration detention is permissible only to prevent flight
15 or protect against danger to the community.”).

16 Finally, § 1231(a)(6), the applicable removal provision for Mr. Enamorado, authorizes
17 detention for only “a period reasonably necessary to secure removal.” *Zadvydas*, 533 U.S at 699.
18 “Thus, if removal is not reasonably foreseeable . . . continued detention [is] unreasonable and no
19 longer authorized by statute.” *Id.* at 699-700. Currently, there is no country to which the
20 Government could remove Enamorado without first providing him with an opportunity to present
21 a fear-based claim as to that country. *See* § 1231(b)(2)(E)(vii). Enamorado argues, and the
22 Government offered no evidence or argument to the contrary, that the process for designating a
23 third country for his removal would take “at a minimum, a year to complete, and could take
24 several years.” Mot. at 17. There is no significant likelihood of Enamorado’s removal in the
25 reasonably foreseeable future, nor would detention be “reasonably necessary to secure” his
26 removal when Enamorado has consistently been considered not to be a flight risk nor a danger to
27 the community.
28

1 Enamorado has shown a likelihood of success on the merits of his claims that the Due
2 Process Clause and the INA entitles him to notice and an opportunity to present a fear-based claim
3 before being removed to a third country and to a hearing before an immigration judge prior to any
4 detention.

5 **2. Plaintiff has Demonstrated that He is Likely to Suffer Irreparable**
6 **Harm without Preliminary Relief**

7 Enamorado is likely to suffer immediate and irreparable harm in the absence of
8 preliminary injunctive relief because he faces the risk of removal to a third country without an
9 opportunity to present a fear-based claim and the risk of re-detention by ICE, which would be in
10 violation of his procedural due process rights. As noted above, the Government made no
11 assurances in their briefing that the Government's intentions would not change, and that ICE
12 would not re-detain Plaintiff soon or after his scheduled May 2026 "interview." "It is well
13 established that the deprivation of constitutional rights 'unquestionably constitutes irreparable
14 injury.'" *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (quoting *Melendres v. Arpaio*,
15 695 F.3d 990, 1002 (9th Cir. 2012)). Moreover, detention and removal would impose severe
16 emotional and financial burdens on Plaintiff and his family, including his minor children.

17 **3. Balance of Equities Tips in Plaintiff's Favor and an Injunction is in the**
18 **Public Interest**

19 The Court finds that the balance of equities tips in Plaintiff's favor, and a preliminary
20 injunction is in the public interest. The third and fourth *Winter* factors, balance of equities and
21 public interest, merge given that the Government is a party.

22 Here, the potential harm to Enamorado is significant, while the Government's potential
23 harm is minimal. Enamorado faces the most serious harm – the loss of liberty. Detention not only
24 deprives a person of physical freedom, but it isolates a person from family, community, and
25 employment, often causing severe, enduring psychological trauma. The Government risks only a
26 delay in detaining Enamorado. The Government has confirmed that they do not consider
27 Enamorado to be a flight risk nor a danger to the community. In the context of immigration
28 detention, "the government has no legitimate interest in detaining individuals who have been

1 determined not to be a danger to the community and whose appearance at future immigration
 2 proceedings can be reasonably ensured by a lesser bond or alternative conditions.” *Hernandez*,
 3 872 F.3d at 994. At the same time, there is a strong public interest in protecting individuals from
 4 unlawful detention. *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) (finding that all
 5 citizens have a stake in upholding the Constitution, and therefore public interest concerns are
 6 implicated when a constitutional right has been violated). “Faced with a choice ‘between
 7 minimally costly procedures and preventable human suffering,’ . . . the Court concludes ‘that the
 8 balance of hardships tips decidedly in petitioner’s favor.’” *Singh*, 2025 WL 1918679, at *9
 9 (quoting *Hernandez*, 872 F.3d at 996) (simplified).

10 The balance of equities and public interest favors maintaining the status quo, requiring the
 11 Government to provide Enamorado with notice and an opportunity to present a fear-based claim,
 12 and enjoining the Government from detaining Enamorado without a pre-deprivation hearing
 13 before an immigration judge.

14 4. Security

15 “The court may issue a preliminary injunction or a temporary restraining order only if the
 16 movant gives security in an amount that the court considers proper to pay the costs and damages
 17 sustained by any party found to have been wrongfully enjoined or restrained.” Fed. R. Civ. P.
 18 65(c). The Court has “discretion as to the amount of security required, if any,” and it “may
 19 dispense with the filing of a bond when it concludes there is no realistic likelihood of harm to the
 20 defendant from enjoining his or her conduct.” *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir.
 21 2003) (citation modified). The Court finds that no security bond is required, as the Government
 22 provides no evidence of costs it will incur due to Plaintiff’s continued release. *Pinchi*, 2025 WL
 23 2084921 at *4.

24 IV. CONCLUSION

25 The Court GRANTS Plaintiff’s request for a preliminary injunction. The Government is
 26 enjoined and restrained from (1) removing Plaintiff from the United States without notice and an
 27 opportunity to present a fear-based claim; and (2) re-detaining Plaintiff without a pre-deprivation
 28

1 hearing before an immigration judge. This Order shall remain in effect until further order of the
2 Court.

3 The parties shall immediately inform the Court, within three court days, if there are any
4 changes to Plaintiff's immigration status or upcoming immigration proceedings.

5 **IT IS SO ORDERED.**

6 Dated: November 3, 2025



Noël Wise
United States District Judge

United States District Court
Northern District of California

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