



1 ["BICE"] on May 23, 2019, and, then placed into removal proceedings, with the  
 2 service of a Notice to Appear at the time of his arrest. Hernandez's removal  
 3 proceedings are pursuant to the Immigration and Nationality Act ["INA"] §  
 4 212(a)(6)(A)(i)(I), for being an alien present in the United States without being admitted  
 5 or paroled.

6 Adelanto is a private, for-profit immigration detention facility operated by Geo  
 7 Group, Inc. Adelanto has the capacity to hold, under normal situations, well over  
 8 1,000 detainees through a contract with BICE. Over the years, and as recently as 2018,  
 9 DHS's Office of the Inspector General had, repeatedly, found that significant and  
 10 various health and safety risks existed at Adelanto.

11 Hernandez, a citizen of Mexico, has, apparently, resided in the United States for  
 12 almost thirty years. His life partner is Maria Victoria de Ortiz, a lawful permanent  
 13 resident of the United States who resides in Altadena, California. Together, they have  
 14 a 12-year-old daughter, who is a United States citizen.

15 Hernandez has a history of various criminal charges and convictions. Of  
 16 significant note is that all of Hernandez's convictions were for infractions or  
 17 misdemeanors. He has never been convicted of a felony. Hernandez has been  
 18 convicted of the following:

Date	Offense	Sentence
1997	Hit and Run with Property Damage, Cal. Veh. Code § 20002(a)	40 days in jail and 36 months probation
2014	Theft, Cal. Penal Code § 484(a)	1 day in jail and 36 months probation
2016	Driving Without a Valid License, Cal. Veh. Code § 12500(a)	Fine
2017	Possession of a Controlled Substance, Cal. Health and Safety Code § 11377	Probation extension

2017	Petty Theft, Cal. Penal Code § 490.2	60 days in jail and 36 months probation
2017	Trespassing, Cal. Penal Code § 602(m)	4 days in jail and 36 months probation
2018	Possession of a Controlled Substance, Cal. Health and Safety Code § 11377	30 days in jail and 36 months probation
2019	Possession of Burglary Tools, Cal. Penal Code § 466; Shoplifting, Cal. Penal Code § 602(m)459.5; and Driving Without a License, Cal. Veh. Code § 12500(a)	36 months probation

In response to Hernandez's May 15, 2019, convictions in Glendale, California, BICE officers arrested him on May 23, 2019. Around June 12, 2019, Hernandez had his first bond hearing, where bond was denied after an immigration judge found that he was a flight risk due to his "multiple failures to appear in the Superior Court of California and his lack of ties to the community. The immigration judge, also, found that Hernandez was a mandatory detainee under INA § 236(c), which is codified as 8 U.S.C. § 1226(c).

In reviewing Hernandez's rap sheet, provided by the Government, this Court noted that Hernandez was, indeed, charged on four separate occasions – in 1997, 2003, 2006 and 2017 – with failing to appear in violation of Cal. Veh. Code § 40508(A). But, the Court, also, noted that each of those four charges were, indeed, dismissed, with one dismissed, specifically, in the furtherance of justice. So, it is noteworthy that immigration judges considered dismissed charges as a basis for the conclusion that Hernandez was a flight risk. It is, also, noteworthy that an immigration judge concluded that Hernandez had a lack of ties to the community even though his life partner and daughter reside in Altadena, California. But, those issues are not directly before this Court.

Regardless, on November 27, 2019, an immigration judge denied Hernandez's

1 applications for asylum, withholding of removal and protection under the Convention  
2 against Torture. On December 2, 2019, Hernandez had a *Rodriguez* bond hearing, at  
3 which bond was denied because the immigration judge lacked jurisdiction. On  
4 December 20, 2019, Hernandez filed an appeal with the Board of Immigration Appeals  
5 ["BIA"]. On January 14, 2020, an immigration judge denied Hernandez's request for  
6 a change in custody, finding that he was a flight risk who had a removal order, and,  
7 also, finding that Hernandez had multiple failures to appear. Hernandez's appeal with  
8 the BIA remains pending.

9 On March 4, 2020, the State of California declared a state of emergency in  
10 response to the coronavirus and the resulting COVID-19 disease, which attacks the  
11 respiratory system, thereby making Hernandez particularly vulnerable given his history  
12 of asthma. On March 10, 2020, San Bernardino County followed suit and declared a  
13 state of emergency. On March 11, 2020, the World Health Organization ["WHO"]  
14 declared COVID-19 to be a global pandemic. On March 13, 2020, President Donald  
15 J. Trump formally acknowledged and declared a national emergency in response to  
16 WHO's pandemic declaration.

17 On March 18, 2020, BICE announced that "[t]o ensure the welfare and safety of  
18 the general public as well as officers and agents in light of the ongoing COVID-19  
19 pandemic response, [it] will temporarily adjust its enforcement posture beginning today  
20 ... [and that its] highest priorities are to promote life-saving and public safety  
21 activities." Further, BICE stated that it would focus enforcement "on public safety risks  
22 and individuals subject to mandatory detention based on criminal grounds [, and for  
23 those people who do not fall into those categories, agents] will exercise discretion to  
24 delay enforcement actions until after the crisis or utilize alternatives to detention, as  
25 appropriate."

26 According to the United States Centers for Disease Control and Prevention, the  
27 coronavirus is spread mainly through person-to-person contact. More specifically, the  
28 coronavirus is spread between people who are in close contact – within about 6 feet –

1 with one another through respiratory droplets produced when an infected person coughs  
2 or sneezes. The droplets can land in the mouths or noses, or can be inhaled into the  
3 lungs, of people who are within about 6 feet of the infected person. Moreover, studies  
4 have established that the coronavirus can survive up to three days on various surfaces.

5 COVID-19 is highly contagious and has a mortality rate ten times greater than  
6 influenza. Most troublesome is the fact that people infected with the coronavirus can  
7 be asymptomatic during the two to fourteen day COVID-19 incubation period. During  
8 that asymptomatic incubation period, infected people are, unknowingly, capable of  
9 spreading the coronavirus. Despite early reports, no age group is safe from COVID-  
10 19. While older people with pre-existing conditions are the most vulnerable to COVID-  
11 19-related mortality, young people without preexisting conditions have, also,  
12 succumbed to COVID-19. There is no specific treatment, vaccine or cure for COVID-  
13 19.

14 Because of the highly contagious nature of the coronavirus and the, relatively  
15 high, mortality rate of COVID-19, the disease can spread uncontrollably with  
16 devastating results in a crowded, closed facility, such as an immigration detention  
17 center.

18 The Court will take judicial notice of the following facts, as set forth in the  
19 temporary retraining order issued by this Court on March 27, 2020, in *Castillo v. Barr*,  
20 CV 20-00605 TJH. At Adelanto, a holding area can contain 60 to 70 detainees, with  
21 a large common area and dormitory-type sleeping rooms housing four or six detainees  
22 with shared sinks, toilets and showers. Guards regularly rotate through the various  
23 holding areas several times a day. At meal times – three times a day – the 60 to 70  
24 detainees in each holding area line up together, sometimes only inches apart, in the  
25 cafeteria. The guards, detainees and cafeteria workers do not regularly wear gloves or  
26 masks to prevent the spread of the coronavirus. While detainees have access to gloves,  
27 there is no requirement that they wear them. Detainees do not have access to masks  
28 or hand sanitizer – though thorough hand washing could be more effective than hand

1 sanitizers at preventing the spread of the coronavirus.

2 Last week, the first BICE detainee was confirmed to have been infected with  
3 COVID-19 in New Jersey at the Bergen County Jail, a BICE detention facility. The  
4 week before last, a correctional officer at the Bergen County Jail was, also, confirmed  
5 to have been infected. As of the date of this order, two additional ICE detainees at the  
6 Bergen County Jail were confirmed to have been infected.

7 On March 26, 2020, Judge Analisa Torres of the United States District Court for  
8 the Southern District of New York issued an order releasing certain immigration  
9 detainees, stating the following:

10 The nature of detention facilities makes exposure and spread of the  
11 virus particularly harmful. Jaimie Meyer M.D., M.S., who has worked  
12 extensively on infectious diseases treatment and prevention in the context  
13 of jails and prisons, recently submitted a declaration in this district noting  
14 that the risk of COVID-19 to people held in New York-area detention  
15 centers, including the Hudson, Bergen County, and Essex County jails, “is  
16 significantly higher than in the community, both in terms of risk of  
17 transmission, exposure, and harm to individuals who become infected.”  
18 Meyer Decl. ¶ 7, *Velesaca v. Wolf*, 20 Civ. 1803 (S.D.N.Y. Feb. 28,  
19 2020), ECF No. 42.

20 Moreover, medical doctors, including two medical experts for the  
21 Department of Homeland Security, have warned of a “tinderbox scenario”  
22 as COVID-19 spreads to immigration detention centers and the resulting  
23 “imminent risk to the health and safety of immigrant detainees” and the  
24 public. Catherine E. Shoichet, *Doctors Warn of “Tinderbox scenario” if*  
25 *Coronavirus Spreads in ICE Detention*, CNN (Mar. 20, 2020),  
26 [https://www.cnn.com/2020/03/20/health/doctors-ice-detention-](https://www.cnn.com/2020/03/20/health/doctors-ice-detention-coronavirus/index.html)  
27 [coronavirus/index.html](https://www.cnn.com/2020/03/20/health/doctors-ice-detention-coronavirus/index.html). “It will be nearly impossible to prevent  
28 widespread infections inside the Hudson, Bergen, and Essex County jails

1 now that the virus is in the facilities because detainees live, sleep, and use  
2 the bathroom in close proximity with others, and because ‘[b]ehind bars,  
3 some of the most basic disease prevention measures are against the rules  
4 or simply impossible.’” Petition ¶ 47 (internal quotation marks and citation  
5 omitted).

6 *Basank, et al., v. Decker, et al.*, 20 Civ. 2518 (S.D.N.Y., Feb. 28, 2020), ECF No.  
7 11.

8 On March 23, 2020, the Ninth Circuit ordered, *sua sponte* and without further  
9 explanation, the release of an immigration detainee “[i]n light of the rapidly escalating  
10 public health crisis, which public health authorities predict will especially impact  
11 immigration detention centers.” *Xochihua-Jaimes v. Barr*, 2020 WL 1429877, No. 18-  
12 71460 (9th Cir. Mar. 23, 2020).

13 On March 23, 2020, Hernandez filed a petition for a writ of *habeas corpus*,  
14 pursuant to 28 U.S.C. § 2241. Hernandez’s petition sets forth one claim – in light of  
15 the recent COVID-19 pandemic, the conditions of his confinement are, now,  
16 unconstitutional.

17 Hernandez’s *habeas* petition and the relief it seeks from this Court are not barred  
18 by the fact that he might be subject to mandatory detention pursuant to INA § 236(c).  
19 *See Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011). While the INA does restrict  
20 jurisdiction in federal courts for certain claims, it does not restrict *habeas* jurisdiction  
21 for petitions that raise constitutional claims. *See Singh*, 638 F.3d at 1202.

22 Hernandez, now, moves for a temporary restraining order for his immediate  
23 release from Adelanto.

24 Hernandez is entitled to a temporary restraining order if he shows: (1) A  
25 likelihood of success on the merits; (2) That he is likely to suffer irreparable harm in  
26 the absence of relief; (3) The balance of equities tip in his favor; and (4) An injunction  
27 is in the public’s interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20  
28 (2008). Under the Ninth Circuit’s sliding scale approach, a stronger showing of one

1 element may offset a weaker showing of another. *See Pimentel v. Dreyfus*, 670 F.3d  
2 1096, 1105 (9th Cir. 2012). Accordingly, Hernandez is entitled to a temporary  
3 restraining order if “serious questions going to the merits [are] raised and the balance  
4 of hardships tips sharply in [his] favor.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d  
5 1127, 1131 (9th Cir. 2011).

6 When the Government detains a person for the violation of an immigration law,  
7 the person is a civil detainee, even if he has a prior criminal conviction. *See Zadvydas*  
8 *v. Davis*, 533 U.S. 678, 690 (2001). As a civil detainee, Hernandez is entitled to more  
9 considerate treatment than criminal detainees, whose conditions of confinement are  
10 designed to punish. *See Youngberg v. Romeo*, 457 U.S. 307, 321-22 (1982).  
11 Moreover, under the Fifth Amendment’s Due Process Clause, a civil detainee cannot  
12 be subjected to conditions that amount to punishment. *See King v. Cty. of L.A.*, 885  
13 F.3d 548, 556-557 (9th Cir. 2018).

14 When the Government takes a person into custody and detains him against his  
15 will, the Constitution imposes upon the Government a duty to assume responsibility for  
16 that detainee’s safety and general well being. *See Helling v. McKinney*, 509 U.S. 25,  
17 32 (1993). Under the Eighth Amendment, the Government must provide criminal  
18 detainees with basic human needs, including reasonable safety. *Helling*, 509 U.S. at  
19 32. The Government violates the Eighth Amendment if it confines a criminal detainee  
20 in unsafe conditions. *See Helling*, 509 U.S. at 33. Moreover, the Government may not  
21 “ignore a condition of confinement that is sure or very likely to cause serious illness.”  
22 *See Helling*, 509 U.S. at 32.

23 A civil detainee’s constitutional rights are violated if a condition of his  
24 confinement places him at substantial risk of suffering serious harm, such as the harm  
25 caused by a pandemic. *See Smith v. Wash.*, 781 F. App’x. 595, 588 (9th Cir. 2019).  
26 At a minimum, here, the Government owes a duty to Hernandez, as a civil immigration  
27 detainee, to reasonably abate known risks. *See Castro v. Cty. of Los Angeles*, 833 F.3d  
28 1060, 1071 (9th Cir. 2016). Inadequate health and safety measures at a detention center



1 cause cognizable harm to every detainee at that center. *See Parsons v. Ryan*, 754 F.3d  
2 657, 679 (9th Cir. 2014).

3 Here, Hernandez argued that the conditions at Adelanto expose him to a  
4 substantial risk of suffering serious harm – increasing his exposure to or contracting  
5 COVID-19. When the Government detains a person, thereby taking custody of that  
6 person, it creates a special relationship wherein the Government assumes responsibility  
7 for that detainee’s safety and well-being. *See, e.g., Henry A. v. Willden*, 678 F.3d 991,  
8 998 (9th Cir. 2012). If the Government fails to provide for a detainee’s basic human  
9 needs, including medical care and reasonable safety, the Due Process Clause is violated.  
10 *DeShaney v. Winnebago Cty. Dep’t of Soc. Servs.*, 489 U.S. 189, 200 (1989). Indeed,  
11 the Due Process Clause mandates that civil immigration detainees are entitled to more  
12 than minimal human necessities. *See Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir.  
13 2004). At a minimum, here, the Government owes a duty to Hernandez, as a civil  
14 immigration detainee, to reasonably abate known risks. *See Castro v. Cty. of Los*  
15 *Angeles*, 833 F.3d 1060, 1071 (9th Cir. 2016). Inadequate health and safety measures  
16 at a detention center cause cognizable harm to every detainee at that center. *See*  
17 *Parsons v. Ryan*, 754 F.3d 657, 679 (9th Cir. 2014).

18 In its opposition brief, the Government set forth the United States Attorney  
19 General’s discretionary right to detain an alien in removal proceedings prior to a final  
20 order of removal. *See* 8 U.S.C. § 1226. Indeed, the Attorney General has the  
21 discretion to either: (1) Detain the person without bond or (2) Release the person on a  
22 bond of at least \$1,500.00 or on conditional parole. 8 U.S.C. § 1226(a). In making  
23 the initial bond determination, a BICE officer must assesses whether the person has  
24 “demonstrate[d]” that “release would not pose a danger to property or persons, and that  
25 the alien is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). If the  
26 BICE officer determines that release, with or without bond, is not appropriate, then the  
27 person may appeal to an Immigration Judge. 8 C.F.R. §§ 236.1(d)(1), 1003.19,  
28 1236.1(d)(1). The Immigration Judge’s decision, then, would be appealable to the

1 Board of Immigration Appeals. 8 C.F.R. §§ 1003.1(b)(7), 1003.19(f), 1003.38.

2 However, because Hernandez, here, has asserted a claim for violations of his  
3 Fifth Amendment substantive due process rights, and those claims exceed the  
4 jurisdictional limits of the Immigration Court and the Board of Immigration Appeals,  
5 he need not first exhaust his administrative remedies. *Garcia-Ramirez v. Gonzales*, 423  
6 F.3d 935, 938 (9th Cir. 2005).

7 The Government argued that Hernandez lacks standing because he cannot  
8 establish that he would suffer a concrete, non-hypothetical injury absent a temporary  
9 restraining order in that his likelihood of contracting COVID-19 is speculative. *See*  
10 *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992).

11 However, it is clear that “[a] remedy for unsafe conditions need not await a tragic  
12 event.” *Helling*, 509 U.S. at 33. The Government cannot be “deliberately indifferent  
13 to the exposure of [prisoners] to a serious, communicable disease on the ground that the  
14 complaining [prisoner] shows no serious current symptoms.” *Helling*, 509 U.S. at 33.  
15 “That the Eighth Amendment protects against future harm to inmates is not a novel  
16 proposition.” *Helling*, 509 U.S. at 33. The Supreme Court clearly stated that “... the  
17 Eighth Amendment protects [prisoners] against sufficiently imminent dangers as well  
18 as current unnecessary and wanton infliction of pain and suffering...” *Helling*, 509  
19 U.S. at 33. Indeed, the Court concluded that where prisoners in punitive isolation were  
20 crowded into cells and some of them had infectious maladies, “... the Eighth  
21 Amendment required a remedy, even though it was not alleged that the likely harm  
22 would occur immediately and even though the possible infection might not affect all of  
23 those exposed.” *Helling*, 509 U.S. at 33. Civil detainees are entitled to greater liberty  
24 protections than individuals detained under criminal processes. *See Jones*, 393 F.3d at  
25 932.

26 In its *amicus* brief filed in *Helling*, the Government stated that it “... recognizes  
27 that there may be situations in which exposure to toxic or similar substances would  
28 present a risk of sufficient likelihood or magnitude – and in which there is a sufficiently

1 broad consensus that exposure of *anyone* to the substance should therefore be prevented  
2 – that the [Eighth] [A]mendment’s protection would be available even though the effects  
3 of exposure might not be manifested for some time.” *Helling*, 509 U.S. at 34. The  
4 Government, here, cannot say, with any degree of certainty, that no one – staff or  
5 detainee – at Adelanto has not been, or will not be, infected with the coronavirus. The  
6 science is well established – infected, asymptomatic carriers of the coronavirus are  
7 highly contagious. Moreover, Hernandez, presently, is suffering from a condition of  
8 confinement that takes away, *inter alia*, his ability to socially distance. The  
9 Government cannot be deliberately indifferent to Hernandez’s potential exposure to a  
10 serious, communicable disease on the ground that he is not, now, infected or showing  
11 current symptoms. *See Helling*, 509 U.S. at 32.

12 It is “cruel and unusual punishment to hold convicted criminals in unsafe  
13 conditions.” *Helling*, 509 U.S. at 33. The Eighth Amendment is violated when a  
14 condition of a criminal detainee’s confinement puts him at substantial risk of suffering  
15 serious harm and that the condition causes suffering inconsistent with contemporary  
16 standards of human decency. *See Smith v. Wash.*, 781 F. App’x. 595, 597-598 (9th  
17 Cir. 2019). However, a civil detainee seeking to establish that the conditions of his  
18 confinement are unconstitutional need only show that his conditions of confinement  
19 “put [him] at substantial risk of suffering serious harm.” *See Smith*, 781 F. App’x.  
20 597-598. Here, BICE cannot be deliberately indifferent to the potential exposure of  
21 civil detainees to a serious, communicable disease on the ground that the complaining  
22 detainee shows no serious current symptoms, or ignore a condition of confinement that  
23 is more than very likely to cause a serious illness. *See Helling*, 509 U.S. at 32.

24 Under the Due Process Clause, a civil detainee cannot be subject to the current  
25 conditions of confinement at Adelanto. The Supreme Court has acknowledged that it  
26 has “... great difficulty agreeing that prison authorities may not be deliberately  
27 indifferent to an inmate’s current health problems but may ignore a condition of  
28 confinement that is sure or very likely to cause serious illness and needless suffering the

1 next week or month or year.” *Helling*, 509 U.S. at 33

2 The Government, here, argued that Hernandez may not challenge the conditions  
3 of his confinement through a *habeas* petition. Rather, according to the Government,  
4 he may proceed only by way of a civil claim under 42 U.S.C. § 1983, and that the only  
5 appropriate remedies under § 1983 are a judicially mandated change to the conditions  
6 of confinement and money damages. The Government’s argument is misplaced.

7 In discussing the relationship between a *habeas* petition and a § 1983 claim, the  
8 Supreme Court explained that a *habeas* petition is the appropriate avenue for a detainee  
9 to attack the validity of the fact, or length, of confinement, with a potential remedy of  
10 immediate release; whereas, a § 1983 claim is the appropriate avenue for a detainee to  
11 attack something other than the fact, or length, of confinement, with a potential remedy  
12 of a policy change and/or money damages. *See Prieser v. Rodriguez*, 441 U.S. 475,  
13 494 (1973). Typically, conditions of confinement claims are raised by criminal  
14 detainees while serving their criminal sentences. Consequently, immediate release  
15 based on the conditions of confinement would not be appropriate, as that would  
16 circumvent their criminal sentences. But, Hernandez is a civil detainee. Thus, it is  
17 appropriate for him to proceed by way of a *habeas* petition because he challenges the  
18 validity of his confinement and seeks his immediate release.

19 As the Court writes this order, the number of confirmed COVID-19 cases in the  
20 United States has already exceeded the number of confirmed cases in every other  
21 country on this planet. Indeed, all of the experts and political leaders agree that the  
22 number of confirmed cases in the United States will only increase in the days and weeks  
23 ahead. The number of cases in the United States has yet to peak. In San Bernardino  
24 County, the number of confirmed cases, there, has more than tripled over the past  
25 week.

26 The risk that Hernandez will flee is minimal given the current global pandemic,  
27 his ties to the community, and his pending appeal before the BIA. Further, Hernandez  
28 should be aware that if he is ordered released and, then, flees or violates any federal,

1 state or local criminal law, it will have a dire impact on his pending BIA appeal and all  
2 further proceedings in this case.

3 Civil detainees must be protected by the Government. Hernandez has not been  
4 protected. He is not kept at least 6 feet apart from others at all times. He has been put  
5 into a situation where he has been forced to touch surfaces touched by other detainees,  
6 such as with common sinks, toilets and showers. Moreover, the Government cannot  
7 deny the fact that the risk of infection in immigration detention facilities – and jails –  
8 is particularly high if an asymptomatic guard, or other employee, enters a facility.  
9 While social visits have been discontinued at Adelanto, the rotation of guards and other  
10 staff continues.

11 Accordingly, Hernandez has established that there is more than a mere likelihood  
12 of his success on the merits for his first claim, which is based on his Due Process  
13 rights. *See Winter*, 555 U.S. at 20.

14 Hernandez has established that he is likely to suffer irreparable harm in the  
15 absence of relief. *See Winter*, 555 U.S. at 20. It is well established that the deprivation  
16 of constitutional rights unquestionably constitutes irreparable injury. *See Hernandez v.*  
17 *Session*, 872 F.3d 976, 994 (9th Cir. 2017).

18 The balance of the equities tip sharply in his favor. Hernandez faces irreparable  
19 harm to his constitutional rights and health. Indeed, there is no harm to the  
20 Government when a court prevents the Government from engaging in unlawful  
21 practices. *See Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013).

22 Finally, the emergency injunctive relief sought, here, is absolutely in the public's  
23 est interest. The public has a critical interest in preventing the further spread of the  
24 coronavirus. An outbreak at Adelanto would, further, endanger all of us – Adelanto  
25 detainees, Adelanto employees, residents of San Bernardino County, residents of the  
26 State of California, and our nation as a whole.

27 This is an unprecedented time in our nation's history, filled with uncertainty,  
28 fear, and anxiety. But in the time of a crisis, our response to those at particularly high

1 risk must be with compassion and not apathy. The Government cannot act with a  
2 callous disregard for the safety of our fellow human beings.

3  
4 Accordingly,

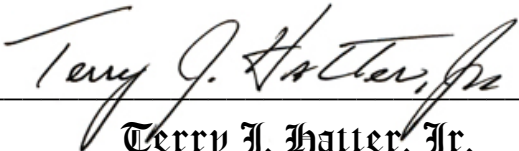
5  
6 **It is Ordered** that the application for a temporary restraining order be, and  
7 hereby is, **Granted**.

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9 **It is further Ordered** that Respondents shall, by 5:00 p.m. on April 2, 2020,  
10 release Petitioner Enrique Francisco Hernandez from custody pending further order of  
11 this Court, and subject to the following conditions of release:

- 12 1. Petitioner shall reside, and shelter in place, at the residence of Maria  
13 Victoria de Ortiz, 2765 Bula Court, Altadena, California 91001 [“the  
14 Residence”];
- 15 2. Petitioner shall be transported from the Adelanto Detention Center directly  
16 to the Residence by Maria Victoria de Ortiz;
- 17 3. Petitioner shall not leave the Residence, pending further order of the  
18 Court, except to obtain medical care;
- 19 4. Petitioner shall not violate any federal, state or local laws;
- 20 5. Petitioner shall not use or possess illegal drugs; and
- 21 6. At the discretion of DHS and/or BICE, to enforce the above restrictions,  
22 Petitioner’s whereabouts may be monitored by telephonic and/or electronic  
23 and/or GPS monitoring and/or a location verification system and/or an  
24 automated identification system. If necessary to comply with the permitted  
25 monitoring, Petitioner shall ensure the presence of a residential telephone  
26 line without devices and/or services which may interrupt operation of any  
27 monitoring equipment.

1           **It is further Ordered** that Respondents shall show cause, if they have any, as  
2 to why the Court should not issue a preliminary injunction in this case. Respondents'  
3 response, if any, to this order to show cause shall be filed by Noon on April 6, 2020.  
4 Hernandez's reply, if any, to Respondents' response shall be filed by Noon on April 9,  
5 2020. The matter will then stand submitted.

6  
7 Date: April 1, 2020

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10 Terry J. Hatter, Jr.  
11 Senior United States District Judge  
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