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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10
11 XOCHITL HERNANDEZ, CESAR
12 MATIAS, for themselves and on behalf
of a class of similarly-situated
13 individuals,

14 Plaintiffs-Petitioners,

15 v.

16 LORETTA LYNCH, U.S. Attorney
17 General, JUAN P. OSUNA, Director,
18 Executive Office for Immigration
Review, JEH JOHNSON, Secretary,
19 Department of Homeland Security,
20 SARAH R. SALDAÑA, Director,
Immigration and Customs Enforcement
21 (ICE), DAVID JENNINGS, Field
22 Office Director, Los Angeles Field
23 Office of ICE, JAMES JANECKA,
Warden, Adelanto Detention Facility;
24 CHRISTINA HOLLAND, Jail
Administrator, Santa Ana City Jail,
25 CARLOS ROJA, Chief, Santa Ana City
26 Department, JON BRIGGS, Captain,
Orange County Sheriff's Department
27 (OCSD), MIKE KRUEGER, Captain,
28 OCSD, SANDRA HUTCHENS,

Civil Action No. 5:16-00620-JGB-KK

**ORDER GRANTING
PLAINTIFFS-PETITIONERS'
MOTION FOR CLASS-WIDE
PRELIMINARY INJUNCTION**

Date: June 27, 2016
Time: 9:30 a.m.
Judge: Jesus G. Bernal

1 Sheriff, Orange County, in their official)
2 capacity only,)
3 Defendants-Respondents.)
4)

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Attorneys for Plaintiffs-Petitioners

* admitted *pro hac vice*

ORDER

The Court has considered the parties’ briefing, evidence, and arguments as well as the authorities cited in support of their positions. Upon due consideration, the Court hereby GRANTS Plaintiffs-Petitioners’ (“Plaintiffs”) Motion for a Preliminary Injunction. Defendants-Respondents (“Defendants”) and their agents, employees, assigns, and all those acting in concert with them are enjoined as follows:

I. Procedures for ICE Custody Determinations, IJ Custody Redeterminations, and BIA Review

1. For all noncitizens detained under 8 U.S.C. § 1226(a) in the Central District of California (the “District”) after the date of this Order, U.S. Immigration and Customs Enforcement (“ICE”) and the Executive Office of Immigration Review (“EOIR”), when setting, re-determining, and/or reviewing the terms of any person’s release, must (a) consider the person’s financial ability to pay a bond; (b) not set bond at a greater amount than that needed to ensure the person’s appearance; and (c) consider whether the person may be released on alternative conditions of supervision, alone or in combination with a lower bond amount, that are sufficient to mitigate flight risk.

2. Within seven days of this Order, Defendants will meet and confer with Plaintiffs’ counsel (“Class Counsel”), and continue to confer thereafter with Class Counsel in good faith, to develop and agree to the following:

- a. guidelines for ICE and the Immigration Judges (“IJs”) to apply in determining an individual’s financial ability to pay a bond;
- b. instructions to all ICE officers who conduct initial custody determinations under Section 1226(a) and to all IJs in the District that inform them of the requirements of this Order (including the guidelines developed in Paragraph 2(a) above); and
- c. a notice for all class members currently detained in the District summarizing the requirements of this Order in connection with

1 their upcoming custody redetermination hearings pursuant to this
2 Order.

3 3. As soon as practicable, but in any event no later than thirty days after
4 this order, Defendants shall:

5 a. issue the instructions developed in Paragraph 2(b) above
6 (including the guidelines developed in Paragraph 2(a) above) to
7 all ICE officers who conduct initial custody determinations under
8 Section 1226(a) and to all IJs in the District; and

9 b. send the notice developed in Paragraph 2(c) above to all class
10 members currently detained in the District.

11 4. Defendants will notify Class Counsel of the date and location of each
12 new custody redetermination hearing set pursuant to this Order at least seven days in
13 advance of the hearing.

14 5. Within 45 days of this order, the EOIR will provide each class member
15 currently detained in the District with a new custody redetermination hearing where
16 the IJ decides whether the class member should be released on his or her own
17 recognizance or released on a money bond and/or other conditions of supervision.
18 When setting a class member's terms of release, the IJ must comply with Paragraph
19 1 of this Order. Nothing in this Order prevents a class member from seeking a
20 continuance to prepare for his or her hearing.

21 6. Where a class member or the government appeals the IJ's custody
22 redetermination to the Board of Immigration Appeals ("BIA"), the BIA will
23 determine whether the IJ has properly performed the analysis set forth in Paragraph
24 1, which is required by 8 U.S.C. § 1226(a).

25 **II. Reporting Requirements**

26 7. Within sixty days of this Order, Defendants shall submit under seal and
27 serve on Class Counsel a status report describing the steps taken to timely identify all
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1 class members and ensure that they receive custody redeterminations as required by
2 this Order.

3 8. In that report, Defendants shall submit a list containing, for each class
4 member currently detained in the District:

- 5 • Name, Alien Number, and Detention Facility;
- 6 • Date booked-into ICE custody;
- 7 • For any custody determinations by ICE or EOIR prior to this
8 Order: the date, and outcome of the determination, including the
9 amount of any bond set, and what other conditions of supervision,
10 if any, were imposed;
- 11 • For any new custody redetermination hearings by EOIR
12 conducted pursuant to this Order: the date, IJ, and outcome of the
13 determination, including whether the class member was ordered
14 released on recognizance, the amount of any bond set, and what
15 other conditions of supervision, if any, were imposed;
- 16 • For any appeal of an IJ custody decision conducted pursuant to
17 this Order: the date of the appeal, the date of the BIA decision,
18 and the outcome of the appeal, including whether the individual
19 was ordered released on recognizance, the amount of any bond
20 set, and what other conditions of supervision, if any, were
21 imposed; and
- 22 • If bond was set, whether the class member posted bond and the
23 date the class member posted bond, if applicable.

24
25 DATED: November 10, 2016



THE HONORABLE JESUS G. BERNAL
UNITED STATES DISTRICT COURT

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