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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

CASE NO. 2:17-CV-00218-RSM-JPD

Daniel Ramirez Medina,

Petitioner,

v.

U.S. DEPARTMENT OF HOMELAND  
SECURITY; JOHN KELLY, Secretary of  
Homeland Security; NATHALIE ASHER,  
Director of the Seattle Field Office of U.S.  
Immigration and Customs Enforcement; and  
LOWELL CLARK, Warden of the Northwest  
Detention Center,

Respondents.

**REQUEST FOR IMMEDIATE  
HEARING ON CONDITIONAL  
RELEASE**

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1 Petitioner Daniel Ramirez respectfully requests that this Court hear his emergency motion for  
2 conditional release, filed yesterday, on Tuesday, February 28, 2017 or as soon thereafter as possible.  
3 Mr. Ramirez and his counsel greatly appreciate the Court’s pragmatic efforts to expedite this matter,  
4 and understand that bond hearings are often held before an Immigration Judge. But this matter  
5 should be heard by this Court as it is far from an ordinary case. First, Mr. Ramirez is a DACA  
6 holder—and thus considered lawfully present in the United States. *See* Dkt. 41-3 at 3. He has not  
7 been convicted of, or charged with, any crime, but has already been in detention for over two weeks.  
8 And just recently, he was moved to a different part of the Northwest Detention Center, and is now  
9 being housed with dangerous criminals who are aware of widely-reported (but false) claims that  
10 Mr. Ramirez is affiliated with two different gangs. These facts put Mr. Ramirez’s physical and  
11 psychological safety in danger.

12 Mr. Ramirez is grateful for the Court’s efforts to expedite this matter, but given Respondents’  
13 erroneous insistence that this case must be in Immigration Court, his counsel could find no way to  
14 ensure that—once the case started down that path—it would be returned to this Court (where the  
15 important constitutional questions presented must be determined) in a timely manner. *See, e.g.,*  
16 *Padilla-Padilla v. Gonzales*, 463 F.3d 972, 977 (9th Cir. 2006) (“The BIA does not have jurisdiction  
17 to determine the constitutionality of the statutes it administers.”). Moreover, counsel could find no  
18 way to ensure that this Court’s review of any determination by the Immigration Court would be “de  
19 novo,” rather than for “clear error.” Given the critical factual and legal issues to be determined—and  
20 their importance both to Mr. Ramirez’s liberty *and* the status and well-being of hundreds of  
21 thousands of other DACA holders and their families (*see, e.g.,* Dkt. 36-1)—this Court should  
22 determine these matters in the first instance.

23 And as Mr. Ramirez set forth in detail yesterday (Dkt. 45 & 46), this Court undoubtedly has  
24 the authority to hear and determine Mr. Ramirez’s detention status pending final determination of the  
25 merits. Indeed, *every* Circuit that has considered the question has held that federal courts have the  
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1 authority to order a detainee’s conditional release pending the resolution of a petition for habeas  
2 corpus.<sup>1</sup> The Ninth Circuit has repeatedly assumed that district courts have such authority.<sup>2</sup>

3 Mr. Ramirez respectfully requests that on Tuesday, February 28, 2017, or as soon as possible  
4 thereafter, this Court hear his request for conditional release pending final determination of his  
5 habeas petition. “Freedom from imprisonment—from government custody, detention, or other forms  
6 of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydus*  
7 *v. Davis*, 533 U.S. 678, 690 (2001). The continued detention with dangerous criminals, of a lawfully  
8 present individual, who has no criminal record and has not been charged with any crime, is  
9 particularly unsafe and alarming and should be remedied immediately.<sup>3</sup>

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<sup>1</sup> See, e.g., *Mapp v. Reno*, 241 F.3d 221, 226 (2nd Cir. 2001); *Dotson v. Clark*, 900 F.2d 77, 79 (6th  
Cir. 1990); *Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986); *Cherek v. United States*, 767 F.2d  
335, 337 (7th Cir. 1985); *Pfaff v. Wells*, 648 F.2d 689, 693 (10th Cir. 1981); *Woodcock v.*  
*Donnelly*, 470 F.2d 93, 94 (1st Cir. 1972); *Baker v. Sard*, 420 F.2d 1342, 1343 (D.C. Cir. 1969)  
(per curiam); *Boyer v. City of Orlando*, 402 F.2d 966, 968 (5th Cir. 1968); *Johnston v. Marsh*,  
227 F.2d 528, 531 (3d Cir. 1955).

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<sup>2</sup> See *United States v. McCandless*, 841 F.3d 819, 822 (9th Cir. 2016); *In re Roe*, 257 F.3d 1077,  
1080 (9th Cir. 2001); *Land v. Deeds*, 878 F.2d 318, 318 (9th Cir. 1989) (per curiam); see also  
*Tam v. INS*, 14 F. Supp. 2d 1184, 1186 (E.D. Cal. 1998) (“grant[ing detained alien’s] conditional  
release pending resolution of his petition for habeas corpus”).

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<sup>3</sup> While Mr. Ramirez’s unconstitutional detention should be ended as soon as possible, the urgency  
of the situation is heightened by the fact that he has been housed with dangerous criminals and  
Respondents falsely accused Mr. Ramirez of being affiliated with at least two different gangs.  
See Dkt. 32 at 2. Those unfounded accusations have been widely reported in the news media, and  
now endanger Mr. Ramirez’s physical and psychological safety. Apparently on the basis of these  
falsehoods, he was assigned to a higher (“Orange”) custody section of the Northwest Detention  
Center. And on February 22, he was told that he was being transferred to the “Red” section with  
violent criminals, and ultimately relocated to a different “Orange” section that houses gang  
members who have just been transferred from prison. See Dkt. 45 at 1 n.1. This has put  
Mr. Ramirez in physical and psychological danger, as ICE acknowledges in its own regulations:  
“Grouping detainees with comparable histories together, and isolating those at each classification  
level from all others, reduces non-criminal and nonviolent detainees’ exposure to physical and  
psychological danger.” ICE, Performance-Based National Detention Standards 2011 Sec. 2.2.F.3  
(Dec. 2016 rev.). For that reason, ICE regulations provide that “[t]he facility classification  
system shall assign detainees to the least restrictive housing unit consistent with facility safety  
and security.” *Id.* That has not occurred here.

1 DATED: February 24, 2017

2 Seattle, Washington

3 Respectfully submitted,

4 /s/ Theodore J. Boutrous, Jr.

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 24, 2017, I electronically filed documents located at Docket No. 49 with the Clerk of the Court using CM/ECF. I also certify that the documents located at Docket No. 49 should automatically be served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Theodore J. Boutrous, Jr.