

LAWYERS' COMMITTEE FOR CIVIL RIGHTS
OF THE SAN FRANCISCO BAY AREA

Jordan Wells (SBN 326491)

jwells@lccrsf.org

Victoria Petty (SBN 338689)

vpetty@lccrsf.org

131 Steuart Street # 400

San Francisco, CA 94105

Telephone: 415 543 9444

Attorneys for Petitioner

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Maidel AROSTEGUI CASTELLON,

Petitioner-Plaintiff,

v.

Polly KAISER, Acting Field Office Director of
the San Francisco Immigration and Customs
Enforcement Office;
Todd LYONS, Acting Director of United States
Immigration and Customs Enforcement;
Kristi NOEM, Secretary of the United States
Department of Homeland Security;
Pamela BONDI, Attorney General of the United
States, acting in their official capacities;
Minga WOFFORD, Mesa Verde ICE Processing
Center Facility Administrator

Respondents-Defendants.

Case No.

**EX PARTE MOTION TEMPORARY
RESTRAINING ORDER; POINTS
AND AUTHORITIES IN SUPPORT
OF MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

1 **PLEASE TAKE NOTICE THAT** pursuant to Federal Rule of Civil Procedure 65(b) and
2 Local Rule 231 of this Court, Petitioner-Plaintiff Maidel Arostegui Castellon hereby moves this
3 Court for a temporary restraining order. Because Petitioner's detention violates the Due Process
4 Clause of the Fifth Amendment to the United States, Petitioner respectfully requests that this Court
5 (1) order Petitioner's immediate release from Respondents' custody pending these proceedings,
6 without requiring bond or electronic monitoring, or, in the alternative, (2) order Petitioner's
7 immediate release from Respondents' custody and require that a pre-deprivation bond hearing
8 occur within 14 days before the San Francisco Immigration Court, where Respondents shall bear
9 the burden of proof to show, by clear and convincing evidence, that she is a danger or a flight risk.
10 To preserve this Court's jurisdiction, Petitioner further seeks an immediate order (3) enjoining
11 Respondents from transferring Petitioner out of this District or deporting her during the pendency
12 of the underlying proceedings.

13 This Motion is based upon the accompanying Memorandum of Points and Authorities, the
14 Petition/Complaint filed in this action, and any other written or oral evidence or argument as may
15 be presented at or before the time this Motion is heard by the Court. Petitioner filed this Action
16 and this *ex parte* motion the day after retaining undersigned *pro bono* counsel, but she has been
17 detained unlawfully for six days. She thus requests that the Court set a hearing as soon as possible.
18 Consistent with L.R. 231(a), and as further detailed in the Declaration of Victoria Petty,
19 Petitioner's counsel contacted the United States Attorney's Office for the Eastern District of
20 California to provide notice of Petitioner's need to seek a temporary restraining order of the nature
21 described above.

22 Date: August 5, 2025

Respectfully Submitted,

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24 /s/ Victoria Petty
Attorney for Petitioner

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28 **EX PARTE MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND
MOTION FOR PRELIMINARY INJUNCTION**

INTRODUCTION

In the interest of expedition and in light of the ongoing irreparable harm, Petitioner-Plaintiff hereby incorporates and respectfully refers the Court to her Verified Petition-Complaint for a full statement of the facts giving rise to this motion. In sum, this case presents facts like recent cases in which courts have provided swift interim relief: ICE detained Petitioner outside of her immigration court hearing, not because she presents a danger or flight risk (she does not, and Respondents know this they released her from immigration custody over three years ago on that basis), but rather pursuant to a new, unlawful policy targeting people for arrest at immigration court for the purpose of re-routing them through expedited removal procedures. *See, e.g., Garcia v. Andrews*, No. 25-cv-01884-TLN, 2025 WL 1927596, at *4 (E.D. Cal. July 14, 2025) (Chief Judge Nunley ordering ICE to release recently detained individual for whom, two years prior, an immigration judge had granted bond); *Singh v. Andrews*, No. 1:25-CV-801, 2025 WL 1918679, at *10 (E.D. Cal. July 11, 2025) (granting preliminary injunction); *Garro Pinchi v. Noem*, No. 5:25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025), *converted to preliminary injunction* at __ F. Supp. 3d __, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (same).

This re-detention violates Petitioner's due process rights and causes her irreparable, ongoing harm. The unconstitutional deprivation of "physical liberty" "unquestionably constitutes irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). In addition to Petitioner's medical and psychological health being at risk, Petitioner's detention prevents her from seeking immigration counsel, obstructs her ability to prepare her asylum case, jeopardizes her employment, and separates her from her family and community.

Petitioner thus respectfully requests that this Court issue a temporary restraining order (1) prohibiting the government from transferring or removing Petitioner pending these proceedings;

EX PARTE MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND
MOTION FOR PRELIMINARY INJUNCTION

1 and (2) releasing her from custody and enjoining the government from re-arresting her absent the
 2 opportunity to contest that arrest at a hearing before a neutral decision maker.

3 ARGUMENT

4 To warrant a TRO, Petitioner need only show that (1) she is “likely to succeed on the
 5 merits,” (2) she is “likely to suffer irreparable harm in the absence of preliminary relief,” (3) “the
 6 balance of equities tips in [her] favor,” and that (4) “an injunction is in the public interest.” *All. for*
 7 *the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat. Res. Def.*
 8 *Council, Inc.*, 555 U.S. 7, 20 (2008)); see *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240
 9 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the analysis for issuing a temporary restraining order and
 10 a preliminary injunction is substantially the same). Even if Petitioner were to only raise “serious
 11 questions” as to the merits of her claims, the Court can still grant relief because the balance of
 12 hardships tips “sharply” in her favor. *All. for the Wild Rockies*, 632 F.3d at 1135. As this Court
 13 has found in similar circumstances, all factors here weigh decisively in Petitioner’s favor. See,
 14 e.g., *Garcia*, 2025 WL 1927596, at *2-5 (granting preliminary injunction requiring ICE to release
 15 individual who had been previously freed from immigration custody).

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

17 **A. Petitioner’s detention violates substantive due process.**

18 The Due Process Clause applies to “all ‘persons’ within the United States, including
 19 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.”
 20 *Zadvydas*, 533 U.S. at 693. “The touchstone of due process is protection of the individual against
 21 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the
 22 exercise of power without any reasonable justification in the service of a legitimate government
 23 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). “Freedom from
 24 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
 25 the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690.

26 To comply with substantive due process, Respondents’ deprivation of an individual’s
 27 liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is “civil,

28 **EX PARTE MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND
 MOTION FOR PRELIMINARY INJUNCTION**

not criminal,” and “nonpunitive in purpose and effect,” must be justified by either (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d at 994 (“[T]he government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions.”). When these rationales are absent, immigration detention serves no legitimate government purpose and becomes impermissibly punitive, violating a person’s substantive due process rights. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the government’s interests in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding petitioner may “succeed on his Fifth Amendment claim if he demonstrates *either* that the government acted with a punitive purpose *or* that it lacks any legitimate reason to detain him”).

Petitioner here, who has no criminal record and who is diligently pursuing her immigration case, is neither a danger nor a flight risk. Therefore, her re-detention is not justified by a legitimate purpose. Indeed, Respondents chose to release Petitioner from custody in 2022, indicating that Respondents determined that she was neither dangerous nor a flight risk. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.”). Nothing has transpired since to disturb that finding.

First, because Petitioner had no criminal history at the time of her 2022 release from CBP custody, with no intervening criminal history or arrests since her release, there is no credible argument that she is a danger to the community.

Second, as to flight risk, the question is whether custody is reasonably necessary to secure a person’s appearance at immigration court hearings and related check-ins. *See Hernandez*, 872 F.3d at 990-91. There is no basis to argue that Petitioner, who was arrested by Respondents *while appearing in immigration court* for a master calendar hearing, is a flight risk. Moreover, Petitioner

EX PARTE MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND
MOTION FOR PRELIMINARY INJUNCTION

1 has viable paths toward immigration relief, further mitigating any risk of flight. *See Padilla v. U.S.*
 2 *Immigr. and Customs Enf't*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023) (holding that there is
 3 not a legitimate concern of flight risk where plaintiffs have bona fide asylum claims and desire to
 4 remain in the United States). Petitioner has filed an application for asylum. She has every intention
 5 of continuing with her case and attending court. Respondents have no evidence to suggest
 6 otherwise.

7 In sum, Petitioner's actions since Respondents first released her confirm that she is neither
 8 a danger nor flight risk. Indeed, her ongoing compliance compels the conclusion that she is even
 9 less of a danger or flight risk than when she was originally released. Accordingly, Petitioner's
 10 ongoing detention is unconstitutional, and due process principles require her release.

11 **B. Petitioner's detention without the opportunity to contest her detention before**
 12 **a neutral decision-maker violates procedural due process.**

13 Noncitizens living in the United States like Petitioner have a protected liberty interest in
 14 their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. The Supreme Court
 15 "usually has held that the Constitution requires some kind of a hearing *before* the State deprives a
 16 person of liberty or property." *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so even in
 17 cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d 671, 683 (D.C.
 18 Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that re-detention after pre-
 19 parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S.
 20 778, 782 (1973) (holding the same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482
 21 (1972) (same, in parole context).

22 Accordingly, the Supreme Court has repeatedly held that individuals released from custody
 23 on bond, parole, or other forms of conditional release have a protected interest in their ongoing
 24 liberty, because "[t]he parolee has relied on at least an implicit promise that parole will be revoked
 25 only if he fails to live up to the parole conditions." *Morrissey*, 408 U.S. at 482. "By whatever
 26 name, the[ir] liberty is valuable and must be seen within the protection of the [Due Process
 27 Clause]." *Id.* This liberty interest also applies to noncitizens, including those who have been

28 **EX PARTE MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND**
MOTION FOR PRELIMINARY INJUNCTION

1 conditionally released from immigration custody. *See Ortega v. Bonmar*, 415 F. Supp. 3d 963, 970
 2 (N.D. Cal. 2019); *Garcia*, 2025 WL 1927596, at *4 (agreeing with petitioner that release on
 3 immigration bond “create[d] a powerful interest for Petitioner in his continued liberty.”).
 4 Petitioner thus has a protected liberty interest in her freedom from physical custody.

5 Once a petitioner has established a protected liberty interest, as Petitioner has done here,
 6 courts in this circuit apply the *Mathews* test to determine what procedural protections are due. *See*
 7 *Johnson v. Ryan*, 55 F.4th 1167, 1179-80 (9th Cir. 2022) (citing *Mathews v. Eldridge*, 424 U.S.
 8 319, 335 (1976)). Under that test, the court weighs: (1) the private interest affected; (2) the risk of
 9 erroneous deprivation and probable value of procedural safeguards; and (3) the government’s
 10 interest. *Id.* In this case, the factors weigh heavily in favor of releasing Petitioner and prohibiting
 11 her re-detention without a custody hearing at which the government bears the burden of proof.

12 First, the private interest affected in this case is profound. When considering this factor,
 13 courts look to “the degree of potential deprivation.” *Nozzi v. Hous. Auth. of City of Los Angeles*,
 14 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). The degree of deprivation
 15 here is high. Petitioner, who has lived a law-abiding, fully employed, and honorable life, faces
 16 prolonged detention, denying her the “free[dom] to be with family and friends and to form the . . .
 17 enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482. Cutting someone off from the
 18 “core values of unqualified liberty”—including her ability to be with family, and enjoy the peace
 19 and safety she could not find in Nicaragua—creates a “grievous loss.” *Id.* Moreover, because
 20 Petitioner faces *civil detention*, her liberty interest “is arguably greater than the interest of the
 21 parolees in *Morrissey*.” *See Ortega*, 415 F. Supp. 3d at 970. It therefore “stands to reason that [he]
 22 is entitled to protections at least as great as those afforded to a[n] . . . individual . . . accused but
 23 not convicted of a crime.” *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004).

24 Second, “the risk of an erroneous deprivation [of liberty] is high” where, as here, “[the
 25 petitioner] has not received any bond or custody redetermination hearing.” *A.E. v. Andrews*, No.
 26 1:25-cv-00107, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*, No.
 27 19-cv-07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020)); *see also Diep v. Wofford*,
 28 *EX PARTE MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND*
MOTION FOR PRELIMINARY INJUNCTION

No. 1:24-cv-01238, 2025 WL 6047444, at *5 (E.D. Cal. Feb. 25, 2025). Respondents grabbed Petitioner by surprise as she left her immigration court hearing, detaining her with no notice and no opportunity to contest her re-detention before a neutral arbiter. In such circumstances, when Respondents have provided *no* procedural safeguards, “the probable value of additional procedural safeguards, *i.e.*, a bond hearing, is high.” *A.E.*, 2025 WL 1424382, at *5. This is especially true here, where there is no change in Petitioner’s circumstances suggesting that she now poses a flight risk or danger to the community. Her re-detention instead appears to be motivated by Respondents’ arrest and removal quotas. Neither constitutes a lawful justification to re-detain a person who does not pose a flight risk or danger to the community.

Because the private interest in freedom from immigration detention is substantial, due process also requires that in cases like this one, the government bears the burden of proving “by clear and convincing evidence that the [noncitizen] is a flight risk or danger to the community.” *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); *see Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024) (holding that government properly bore burden by clear and convincing evidence in court-ordered bond hearing); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025) (ordering pre-deprivation bond hearing in which government bears burden by clear and convincing evidence).

Third, the government’s interest in detaining Petitioner without first providing notice and submitting to a custody hearing is negligible. Immigration courts routinely conduct custody hearings, which impose a “minimal” cost to the government. *See Doe*, 2025 WL 691664, at *6; *A.E.*, 2025 WL 1424382, at *5. Petitioner has a record of compliance, and there is no reason to believe that will change between the date of her release and her custody hearing. Indeed, courts regularly hold that the government’s interest in re-detention without a custody hearing is low when the petitioner “has long complied with his reporting requirements.” *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3-*4 (N.D. Cal. June 14, 2025) (granting TRO prohibiting re-detention of noncitizen without a pre-deprivation bond hearing); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *3-*4 (N.D. Cal. Mar. 1, 2021) (same); *Ortega*, 415 F. Supp.

EX PARTE MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND
MOTION FOR PRELIMINARY INJUNCTION

3d at 970 (granting habeas petition ordering the same); *see also Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *4-*5 (S.D.N.Y. June 18, 2025) (granting habeas petition and immediately releasing petitioner who had been detained without process, who had “voluntarily attended his scheduled immigration court proceedings” and “established ties” through his work and volunteering with the church).

In similar cases, courts have ruled that re-detaining noncitizens without a pre-deprivation hearing in which the government bears the burden of proof violates due process, and have granted the emergency relief Petitioner seeks here. *See, e.g., Garcia v. Andrews*, No. 25-cv-01884-TLN, 2025 WL 1927596, at *4 (E.D. Cal. July 14, 2025) (Chief Judge Nunley ordering ICE to release recently detained individual for whom, two years prior, an immigration judge had granted bond); *Singh v. Andrews*, No. 1:25-CV-801, 2025 WL 1918679, at *10 (E.D. Cal. July 11, 2025) (granting preliminary injunction); *Ruiz Otero v. Kaiser*, No. 3:25-cv-06536, ECF 4 (E.D. Cal. Aug. 3, 2025) (ordering release for individual released from DHS custody less than two years prior to filing); *Garro Pinchi v. Noem*, No. 5:25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025), *converted to preliminary injunction at* __ F. Supp. 3d __, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (converting TRO requiring release of asylum seeker arrested at her immigration court hearing into preliminary injunction prohibiting the government from re-detaining her without a hearing); *Singh v. Andrews*, 2025 WL 1918679, *8-10 (E.D. Cal. July 11, 2025) (granting PI under similar circumstances); *Doe*, 2025 WL 691664, at *8 (granting TRO over one month after petitioner’s initial detention); *see also, e.g., Diaz*, 2025 WL 1676854, at *3-*4; *Garcia v. Bondi*, No. 3:25-CV-05070, 2025 WL 1676855, at *3 (N.D. Cal. June 14, 2025); *Jorge M. F.*, 2021 WL 783561, at *4; *Romero v. Kaiser*, No. 22-CV-02508-TSH, 2022 WL 1443250, at *4 (N.D. Cal. May 6, 2022); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020).

In short, Respondents violated Petitioner’s due process rights when they detained her without notice and without a custody hearing before a neutral arbiter. Here, only an order releasing Petitioner and enjoining re-detention—unless Respondents provide her with a custody hearing

EX PARTE MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND
MOTION FOR PRELIMINARY INJUNCTION

1 where the government bears the burden of proof—would return the parties to the “last uncontested
 2 status which preceded the pending controversy.” *Doe v. Noem*, __ F. Supp. 3d __, 2025 WL
 3 1141279, at *9 (W.D. Wash. Apr. 17, 2025) (quoting *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d
 4 1199, 1210 (9th Cir. 2000)); *see also Valdez*, 2025 WL 1707737, at *4-*5 (ordering petitioner’s
 5 immediate release as remedy for procedural due process violation).

6 * * * * *

7 For the foregoing reasons, Petitioner-Plaintiff is likely to succeed on the merits of her
 8 claims. But even if the Court disagrees, Petitioner-Plaintiff presents at least “serious question[s]
 9 going to the merits,” alongside a “balance of hardships” tipping decidedly in her favor. *All. for*
 10 *the Wild Rockies*, 632 F.3d at 1135. Indeed, the constitutional concerns delineated above are of the
 11 weightiest order and beyond colorable. This Court should therefore enter the requested TRO.

12 **II. PETITIONER WILL SUFFER IRREPARABLE INJURY ABSENT A TRO.**

13 Without a temporary restraining order, Petitioner will suffer irreparable injury. Indeed, she
 14 faces such injury every day that he remains in detention, in violation of her Fifth Amendment
 15 rights. “It is well established that the deprivation of constitutional rights ‘unquestionably
 16 constitutes irreparable injury.’” *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695
 17 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged deprivation of a constitutional right is involved,
 18 most courts hold that no further showing of irreparable injury is necessary.” *Warsoldier v.*
 19 *Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (internal quotation marks omitted). And the
 20 unlawful deprivation of physical liberty is the quintessential irreparable harm. *See Hernandez*, 872
 21 F.3d at 994 (holding that plaintiffs were irreparably harmed “by virtue of the fact that they [we]re
 22 likely to be unconstitutionally detained for an indeterminate period of time”); *see also, e.g.,*
 23 *Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing that “[a]ny amount of
 24 actual jail time is significant, and has exceptionally severe consequences for the incarcerated
 25 individual”) (cleaned up).

26 In addition to constitutional injury, Petitioner will suffer other irreparable harms from
 27 continued detention. Petitioner is medically vulnerable – she suffers from hypertension and pre-

28 *EX PARTE* MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND
 MOTION FOR PRELIMINARY INJUNCTION

1 diabetes, conditions that require constant management with prescription medication and
 2 intervention in times of crisis. Petitioner has been seen by medical professionals on a regular basis
 3 to examine and monitor her physical health. In detention, she does not have access to her medical
 4 records, and Mesa Verde ICE Processing Center has a practice of neglecting to obtain detainees'
 5 medical information to provide adequate treatment. *See* Cal. Dept. of Justice, Office of the
 6 Attorney General, Immigration Detention in California (Apr. 2025), at pp. 80,
 7 <https://oag.ca.gov/system/files/media/immigration-detention-2025.pdf>. Respondents have also
 8 separated Petitioner from her family and church community, who would ordinarily provide her
 9 with support in a difficult time. The abrupt arrest, detention in prison-like conditions, and total
 10 isolation from her support network have caused Petitioner's psychological health to deteriorate.
 11 While detained, Petitioner will also continue to miss work at her job in San Francisco, cutting off
 12 her ability to earn income to pay for basic needs such as her six daily prescription medications,
 13 food, and rent.

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

16 When the government is the party opposing the request for emergency relief, the balance
 17 of the equities and the public interest merge. *Env't Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991
 18 (9th Cir. 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)). Here, the balance of
 19 equities overwhelmingly favors Petitioner, who faces irreparable injury in the form of ongoing
 20 constitutional harm and additional suffering if the TRO is not granted. *See Hernandez*, 872 F.3d
 21 at 996 ("Faced with ... preventable human suffering, ... the balance of hardships tips decidedly in
 22 plaintiffs' favor.") (internal citation omitted). On Respondent's end, detaining Petitioner
 23 unlawfully imposes a fiscal cost that will be eliminated by releasing her. As recently as 2019, the
 24 Department of Justice reported an average cost of detaining noncitizens, in 2019, of \$88.19 per
 25 prisoner per day ... So, retaining and housing detainees imposes substantial costs as well." *Black*
 26 *v. Decker*, 103 F.4th 133, 154 (2d Cir. 2024). Further, the government "cannot reasonably assert

1 that it is harmed in any legally cognizable sense by being enjoined from constitutional violations.”
 2 *Zepeda v. U.S. Immigr. & Nat. Serv.*, 753 F.2d 719, 727 (9th Cir. 1983).

3 The public interest likewise weighs strongly in Petitioner’s favor. As another California
 4 district court recently concluded, “[t]he public has a strong interest in upholding procedural
 5 protections against unlawful detention, and the Ninth Circuit has recognized that the costs to the
 6 public of immigration detention are staggering.” *Diaz*, 2025 WL 1676854, at *3 (citing *Jorge M.*
 7 *F.*, 2021 WL 783561, at *3). More fundamentally, “[i]t is always in the public interest to prevent
 8 the violation of a party’s constitutional rights.” *Index Newspapers LLC v. U.S. Marshals Serv.*, 977
 9 F.3d 817, 838 (9th Cir. 2020) (citing *Padilla v. Immigr. & Customs Enf’t*, 953 F.3d 1134, 1147-48
 10 (9th Cir. 2020) (internal quotation marks omitted)).

11 IV. SECURITY

12 No security is necessary here. Courts “may dispense with the filing of a bond when,” as
 13 here, “there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.”
 14 *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003). It is also proper to waive the bond
 15 requirement in cases raising constitutional claims, because “to require a bond would have a
 16 negative impact on plaintiff’s constitutional rights, as well as the constitutional rights of other
 17 members of the public.” *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 738 (C.D.
 18 Cal. 1996). Finally, Petitioner’s showing of a high likelihood of success on the merits supports the
 19 Court’s waiving of bond in this case. *See, e.g., People of State of Cal. ex rel. Van De Kamp v.*
 20 *Tahoe Reg’l Plan. Agency*, 766 F.2d 1319, 1326 (9th Cir.), *amended*, 775 F.2d 998 (9th Cir.
 21 1985).

22 CONCLUSION

23 For the foregoing reasons, Petitioner respectfully requests the Court grant a TRO to restore
 24 the *status quo ante* that (1) immediately releases Petitioner from Respondents’ custody without
 25 any intrusive electronic monitoring and enjoins Respondents from re-detaining her absent further
 26 order of this Court; (2) in the alternative, immediately releases Petitioner from Respondents’
 27 custody and enjoins Respondents from re-detaining her unless they demonstrate at a pre-

28 *EX PARTE* MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND
 MOTION FOR PRELIMINARY INJUNCTION

1 deprivation bond hearing, by clear and convincing evidence, that Petitioner is a flight risk or danger
2 to the community such that her physical custody is required; and (3) prohibits the government from
3 transferring Petitioner out of this District and/or removing her from the country until these habeas
4 proceedings have concluded.

5
6 Date: August 5, 2025

Respectfully Submitted,

7 /s/ Victoria Petty

8 LAWYERS' COMMITTEE FOR CIVIL
9 RIGHTS OF THE SAN FRANCISCO BAY
AREA

10 Victoria Petty

vpetty@lccrsf.org

11 Jordan Wells

jwells@lccrsf.org

12 131 Steuart Street # 400

San Francisco, CA 94105

13 Telephone: 415 543 9444

14 *Attorneys for Petitioner*

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28 *EX PARTE MOTION TRO; POINTS AND AUTHORITIES I.S.O MOTION FOR TRO AND
MOTION FOR PRELIMINARY INJUNCTION*