

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

ANTONIA AGUILAR MALDONADO

*Petitioner,*

v.

Joshua Marx, Field Office Director of Enforcement and Removal Operations, St. Paul Field Office, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; U.S. Dept. of Homeland Security; Eric Tollefson, Kandiyohi County Jail Sheriff.

*Respondents.*

Case No. \_\_\_\_\_

**PETITIONER'S  
MEMORANDUM OF LAW IN  
SUPPORT OF MOTION FOR  
TEMPORARY RESTRAINING  
ORDER AND PRELIMINARY  
INJUNCTION**

**EMERGENCY HANDLING  
REQUESTED**

## **I. INTRODUCTION**

Petitioner Antonia Aguilar Maldonado brings the instant a motion for Temporary Restraining Order (“TRO”) and Preliminary Injunction (“Motion”) seeking injunctive relief and challenging Respondents’ actions in detaining Ms. Aguilar Maldonado. She was arrested by Respondents on July 17, 2025, and remains in detention despite being granted bond by an immigration judge. There was no lawful basis for DHS to arrest and detain Ms. Aguilar Maldonado, and Respondents cannot lawfully detain someone indefinitely in spite of an immigration judge’s order to release them on bond.

Courts across the country have granted Temporary Restraining Orders to non-citizens like Ms. Aguilar Maldonado who have been unlawfully detained. In light of these developments, and the special concerns Ms. Aguilar Maldonado faces as a nursing mother, emergency relief is necessary. Ms. Aguilar Maldonado seeks injunctive relief to prevent Respondents from continuing to unlawfully detain her. Ms. Aguilar Maldonado seeks declaratory and injunctive relief to remedy violations of her constitutional and statutory rights. Finally, Ms. Aguilar Maldonado’s petition is properly before this Court.

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

### **A. Ms. Aguilar Maldonado was unlawfully taken into ICE custody and remains detained despite being granted bond.**

On July 17, 2025, Ms. Aguilar Maldonado was arrested and taken into Immigration and Customs Enforcement (“ICE”) custody while on her way to work with her husband.

On July 31, 2025, Immigration Judge Kalin Ivany (“IJ Ivany”) issued a written order granting Ms. Aguilar Maldonado bond. IJ Ivany found that she had jurisdiction to hear Ms. Aguilar Maldonado’s bond request, that Ms. Aguilar Maldonado entered as an unaccompanied child and has no criminal history, and that she warranted release on a \$10,000.00 bond. The Department of Homeland Security (“DHS”) immediately filed a Form EOIR-43 Notice of Intent to Appeal, which automatically stayed IJ Ivany’s order to release Ms. Aguilar Maldonado on bond.

Ms. Aguilar Maldonado is a nursing mother and has been lactating under severe conditions in Kandiyohi County Jail, over the discouragement of jail personnel. Now, despite IJ Ivany ordering DHS to release her on bond, DHS continues to hold Ms. Aguilar Maldonado, away from her nursing son. Ms. Aguilar Maldonado has and will continue to suffer significant irreparable harm if she remains detained.

### III. ARGUMENT

#### A. Ms. Aguilar Maldonado is entitled to a temporary restraining order and preliminary injunction.

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

- (1) the probability that the moving party will succeed on the merits;
- (2) the threat of irreparable harm to the moving party;
- (3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction;  
and
- (4) whether the issuance of a TRO is in the public interest.

*See Dataphase Sys., Inc. v. C.L. Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. 1981); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Consideration of these four factors does not require mathematical precision but rather should be flexible enough to encompass the particular circumstances of each case. *See Dataphase*, 640 F.2d at 113. The basic question is whether the balance of equities so favors the moving party “that justice requires the court to intervene to preserve the status quo until the merits are determined.” *Id.* Although the probability of success on the merits is the predominant factor, the Eighth Circuit has “repeatedly emphasized the importance of a showing of irreparable

harm.” *Caballo Coal Co. v. Ind. Mich. Power Co.*, 305 F.3d 796, 800 (8th Cir. 2002). Here, all four factors weigh heavily in favor of injunctive relief.

**1. Ms. Aguilar Maldonado is likely to succeed on the merits of her petition for writ of habeas corpus.**

Writs of habeas corpus “may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). “The writ of habeas corpus shall not extend to a prisoner unless...He is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(2).

*a. Ms. Aguilar Maldonado’s arrest and detention are in violation of Due Process.*

*i. Noncitizens like Ms. Aguilar Maldonado are protected by the Fifth Amendment.*

The federal courts have held that noncitizens are entitled to guarantees of the Fifth Amendment. *Sanchez-Velasco v. Holder*, 593 F.3d 733, 737 (8th Cir. 2010); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) (“all aliens[] are clearly protected by the Fifth and Fourteenth Amendments”). Courts treat Equal Protection and Due Process rights under the Fifth Amendment in the same manner as Equal Protection Claims under the Fourteenth Amendment. *Wienberger v. Wiesenfeld*, 420 U.S. 636, 638 n.2 (1975). Due process is only

implicated when governmental decisions deprive an individual of “liberty” or “property” interests within the meaning of the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67, 78 (1976); see also *Rusu v. INS*, 296 F.3d 316, 321-22 (4th Cir. 2002).

The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be...deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. See *Zadvydas*, 533 U.S. at 690 (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem”); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10, 413 (D.N.J. 1999) (holding that, in analyzing due process in the immigration context, the first factor in the procedural due process analysis, “the petitioner’s private interest in his physical liberty, must be accorded the utmost weight.”).

- ii. Respondents arrested and detained Ms. Aguilar Maldonado without a lawful or factual basis, in violation of due process.

Ms. Aguilar Maldonado is likely to succeed in demonstrating that she is in custody in violation of the Constitution and laws of the United States. *See* 28 U.S.C. § 2241(c)(3). In addition to violating the Constitution, Respondents are also violating the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701 and 101 *et. seq.* and 8 U.S.C. §§ 1101 *et. seq.* by denying Ms. Aguilar Maldonado her constitutional right to due process, arbitrarily and capriciously, thus exceeding their authority under the Immigration and Nationality Act (“INA”).

Ms. Aguilar Maldonado was not arrested for a legitimate purpose and continues to be held without a legitimate purpose. First, it is clear from the record that Respondents did not know the basis for arresting Ms. Aguilar Maldonado before taking her into custody. ICE agents’ false statements regarding Ms. Aguilar Maldonado’s prior removal order demonstrate the lack of a factual basis for her arrest at the time of her detention. The consequence of Respondent’s reckless disregard for the truth is that Ms. Aguilar Maldonado has been in ICE custody for over half a month in violation of due process and the immigration laws of the United States.

- iii. Respondents continue holding Ms. Aguilar Maldonado in detention in violation of Due Process and without any legitimate basis.

Immigration detention is civil and must “bear a reasonable relation to the purpose for which the individual [is detained]” so that it is “nonpunitive in purpose and effect.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (cleaned up). There are only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Id.*; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017).

Civil detention cannot be a “mechanism for retribution,” *Kansas v. Crane*, 534 U.S. 407, 412 (2002) (internal quotation marks omitted), because “[r]etribution and deterrence are not legitimate nonpunitive governmental objectives,” *Bell v. Wolfish*, 441 U.S. 520, 539 n.20 (1979). And unlawful detention necessarily harms Ms. Aguilar Maldonado. *See Barker v. Wingo*, 407 U.S. 514, 532 (1972) (detention has a “serious,” “detrimental impact on the individual”); *Hernandez*, 872 F.3d at 994 (unconstitutional detention for an indeterminate period is irreparable harm); *Doe v. Becerra*, 704 F. Supp. 3d 1006, 1017 (N.D. Cal. 2023), *abrogated on other grounds by Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024) (“Liberty is the norm; every moment of [detention] should be justified.”) (alteration in original) (citation omitted).

Civil confinement of non-citizens must be limited to the underlying purpose justifying the detention. *Zadvydas*, 533 U.S. at 690. “Once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

The procedural history of Ms. Aguilar Maldonado’s case further demonstrates that DHS is acting in a manner meant to keep her detained for as long as possible, despite knowing there is no legitimate basis for her detention. IJ Ivany affirmatively found that Ms. Aguilar Maldonado was not subject to mandatory detention and did not pose a threat to the community or flight risk significant enough to deny bond. Despite having failed to present evidence sufficient to persuade a neutral arbiter to detain Ms. Aguilar Maldonado, DHS exercised its unconstitutional and *ultra vires* ability to impose an automatic stay of IJ Ivany’s order under 8 C.F.R. § 1003.19(i)(2), such that Ms. Aguilar Maldonado must remain detained. Respondents have presented no evidence to justify Ms. Aguilar Maldonado’s detention.

Notably, the Form EOIR-43 that DHS must file to invoke the automatic stay of IJ Ivany’s order requires no showing of success on the merits and no individualized explanation of the basis for DHS’s intent to appeal. Thus, though Ms. Aguilar Maldonado has been granted bond, she remains detained and has no indication of the actual factual or legal basis for DHS’s appeal. The automatic stay also cannot be reviewed by the immigration judge or challenged

in any immigration proceedings.

IJ Ivany also affirmed Ms. Aguilar Maldonado entered as an unaccompanied child. Unaccompanied Alien Children (“UAC”) are afforded protections under U.S. statute and regulation. *See* 8 U.S.C. § 1232; 6 U.S.C. § 279; 8 C.F.R. § 236.3. Specifically, UACs must be placed in removal proceedings under INA § 240, 8 U.S.C. § 1229a. 8 U.S.C. § 1232(a)(5)(D)(i).

Respondents would disregard this statutory mandate by seeking to remove Ms. Aguilar Maldonado under 8 U.S.C. § 1225 despite her presence in the interior of the U.S. and her entry as an unaccompanied minor. This is contrary to a plain reading of the text and the intent of Congress’s statutory scheme.

Reading the INA considering canons of construction – namely canons to read the statute as a whole and to give effect to all their provisions – support reading INA § 1226 and § 1225 as referring to different classes of migrants. *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at \*13–14 (W.D. Wash. Apr. 24, 2025); *see also United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 143 S. Ct. 1720, 1723, 216 L. Ed. 2d 370 (2023). Similarly, a UAC subject to removal proceedings under § 1232 must be expressly protected from removal under § 1225 to give effect to the protections described in that section. Respondents impermissibly contravene the text and intent of the INA by recategorizing Ms. Aguilar Maldonado as removable under

§ 1225.

This exercise of an automatic stay is a violation of Ms. Aguilar Maldonado's Fifth Amendment rights. Where there is no factual basis for detention, there is no link between the deprivation of a protected Fifth Amendment liberty interest and a non-punitive state purpose. "Invoking the automatic stay without justifying evidence twists the rule into an unfair and improper procedure, which due process does not permit." *Mohammed H. v. Trump*, No. CV 25-1576 (JWB/DTS), 2025 WL 1334847, at \*6 (D. Minn. May 5, 2025). Courts have granted release for similarly situated non-citizens under similar facts. Where non-citizens were already in the interior, it was appropriate for them to be placed in proceedings under INA § 1226(a), which affords them discretionary relief from deportation based on the findings of an IJ. *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at \*16 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at \*7 (D. Mass. July 7, 2025). Permitting the government to indefinitely detain non-citizens under INA § 1226(b) would both frustrate the Congressional scheme for regulating immigration and deprive non-citizens of their Congressional prescribed procedure for adjudicating their Fifth Amendment liberty interests.

As a result, Mr. Aguilar Maldonado's detention is for an illegitimate, deterrent and punitive purposes—not in accordance with the lawful,

Congressional purposes of civil immigration detention—and should be enjoined. For the aforementioned reasons, it is likely that Ms. Aguilar Maldonado will succeed on the merits of amended petition.

- iv. All *Mathews* factors weigh in Ms. Aguilar Maldonado's favor and she is thus likely to succeed on the merits of her petition for writ of habeas corpus.

A *Mathews* analysis supports finding Ms. Aguilar Maldonado's Fifth Amendment rights and fundamental liberty interests outweigh any putative governmental interests, and are owed additional procedural protections.

*Mathews* requires weighing:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

*Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S. Ct. 893, 903, 47 L. Ed. 2d 18 (1976).

The private interest here includes Ms. Aguilar Maldonado's Fifth

Amendment rights. Ms. Aguilar Maldonado has participated in immigration proceedings in good faith and was granted bond before a neutral magistrate. Depriving her of the opportunity to continue her proceedings by indefinitely detaining her is a violation of her right to fair proceedings. Further, Ms. Aguilar Maldonado's Fifth and Fourteenth Amendment liberty interest in caring for her family has been violated. The parental right to care for one's child without undue state interference has long been recognized. *Pierce v. Soc'y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 534–35, 45 S. Ct. 571, 573, 69 L. Ed. 1070 (1925) (“The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.”); *see also Santosky v. Kramer*, 455 U.S. 745, 758–59, 102 S. Ct. 1388, 1397, 71 L. Ed. 2d 599 (1982); *see also Lassiter v. Dep't of Soc. Servs. of Durham Cnty., N. C.*, 452 U.S. 18, 27, 101 S. Ct. 2153, 2159–60, 68 L. Ed. 2d 640 (1981) (This Court's decisions have by now made plain beyond the need for multiple citation that a parent's desire for and right to ‘the companionship, care, custody and management of his or her children’ is an important interest that ‘undeniably warrants deference and, absent a powerful countervailing interest, protection.’”) (internal quotation modified). Ms. Aguilar's detention has interfered with her ability to nurse her younger child and caused her elder son to believe he has abandoned her. This is a considerable interference in the

parent-child relationship and combined with her Fifth Amendment interest sum to a weighty personal interest. The first *Mathews* factor thus weighs heavily in favor of Ms. Aguilar Maldonado.

The Respondent's course of action has substantially increased the risk of erroneous deprivation of rights and a return to standard proceedings would significantly mitigate that risk. As argued above, the automatic stay removes the individualized determination inherent to a bond hearing in immigration court. The lack of any factual analysis of whether Ms. Aguilar Maldonado posed a flight risk or danger to public safety is a procedural deficit that necessarily increases the risk of erroneous deprivation. Any procedure that includes some factual assessment particular to Ms. Aguilar Maldonado will decrease the risk of erroneous deprivation of her rights. The automatic stay also cannot be reviewed by any immigration judge or challenged in immigration proceedings. Any procedure that includes some opportunity for review will decrease the risk of erroneous deprivation of Ms. Aguilar Maldonado's rights. Bond hearings both involve individualized risk determinations and have the opportunity to appeal. Respondent's EOIR-43 automatic stay significantly increased risk of erroneous deprivation and that risk can be cured by voiding that deviation from standard procedure. The second *Mathews* factor thus weighs heavily in favor of Ms. Aguilar Maldonado.

The Respondents have no articulable interest in detaining Ms. Aguilar

Maldonado indefinitely. The existing bond determination hearing procedures are adequate to vindicate any government interest in Ms. Aguilar Maldonado's case. The EOIR-43 automatic stay requires no further factual determination to vindicate a finding that it serves a state interest neglected in the original bond determination. Given that the Respondents have presented no evidence as to flight risk, public safety, or other grounds on which to base a government interest in her detention, it would not be proper to find there is any interest in their detaining Ms. Aguilar Maldonado. The third *Mathews* factor thus does not counterbalance Ms. Aguilar Maldonado's weighty interests, and the sum of the *Mathews* factors weigh in her favor.

Minnesota Courts have concluded similarly situated habeas petitioners were entitled to emergency relief. The Court has held that a Turkish student was wrongfully detained in violation of his Fifth Amendment right under an automatic stay and was granted immediate release. *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), --- F.Supp.3d ---, 2025 WL 1459154, at \*5 (D. Minn. May 21, 2025). The Court holistically analyzed the private interests at stake under the first *Mathews* factor, including the fundamental liberty interest in being free from detention, the punitive conditions of the detention itself, and significant economic and academic interests of a student. *Id.*, at \*7-8. In analyzing the second *Mathews* factor, the Court noted the automatic stay introduced multiple procedural defects that violate due process, including the

fact that it unilaterally overrides the decision of an IJ, the lack of any individualized factual analysis, and the lack of an opportunity for appeal. *Id.*, at \*8-9. Finally, in looking to the third *Mathews* factor, the Court was “compelled to conclude that Respondents’ interest in preserving the automatic stay regulation is almost entirely, if not entirely, reduced by the mechanisms already in place for requesting an emergency stay from the BIA.” *Id.*, at 10. The Court has also analyzed a similarly detained Bangladeshi National and found his continued detention would violate his Fifth Amendment rights, warranting immediate release. *Mohammed H. v. Trump*, No. CV 25-1576 (JWB/DTS), 2025 WL 1334847, at \*6 (D. Minn. May 5, 2025). The Court noted the automatic stay introduced significant risk of erroneous deprivation, with no possibility of appeal. *Id.*, (“Invoking the automatic stay without justifying evidence twists the rule into an unfair and improper procedure, which due process does not permit.”) Comparing the private interests at stake in these cases would demonstrate how heavily Ms. Aguilar Maldonado’s private interests as a parent seeking to reunite with her children should weigh. Given the established Fifth Amendment violations embedded in the automatic stay provision, the analyses in these cases further support a grant of immediate relief for Ms. Aguilar Maldonado.

- v. Ms. Aguilar Maldonado has been and continues to be prejudiced by the government’s violating

her due process rights.

In order to prevail on a claim asserting the deprivation of due process, a petitioner must also show “actual prejudice.” *Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010) (citation omitted). Actual prejudice occurs if “an alternate result may well have resulted without the violation.” *Id.* (citation omitted) (internal quotations omitted); *see also Lazaro v. Mukasey*, 527 F.3d 977, 981 (9th Cir. 2008) (explaining that prejudice is not necessary where agency action was *ultra vires*). “To show prejudice, [a petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate process were provided.” *Morales Izquierdo v. Gonzales*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal quotations omitted). Ms. Aguilar Maldonado is clearly prejudiced by her continued, unjustified detention. She has been detained for over two weeks, and she was granted bond by an immigration judge.

Courts have granted emergency relief to non-citizens who were subjected to indefinite detention under automatic stays, protecting them from the exact fate that befell Ms. Aguilar Maldonado. Courts have noted that the plain reading of the INA implies that similarly situated non-citizens should be granted relief from detention at the discretion of IJs. *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at \*12 (W.D. Wash. Apr. 24, 2025).

The Courts granting each of these TROs across the country are holding

specifically that the non-citizens face irreparable injury and are enjoining the government from detaining them, as they did to Ms. Aguilar Maldonado. The Courts have noted the irreparable harm petitioners suffer including by virtue of the length of detention and by separating non-citizens from their families. To the extent Respondents try to explain away the multiple charges as mere error on the government's part, such error was plainly not harmless.

**2. Ms. Aguilar Maldonado will continue to face irreparable harm if emergency relief is not granted.**

It is well established that deprivation of constitutional rights constitutes “irreparable injury” and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976). *See also Planned Parenthood of Minnesota, Inc. v. Citizens for Community Action*, 558 F.2d 861, 867 (8th Cir. 1977). When an alleged deprivation of constitutional rights is involved, no further showing of irreparable injury is necessary. *Planned Parenthood of Minnesota*, 558 F.2d at 867 (citing 11 C. Wright & A. Miller, *Federal Practice & Procedures: Civil* § 2948 at 439 (1973)); *Ng v. Bd. of Regents of the Univ. of Minn.*, 64 F.4th 992, 998 (8th Cir. 2023) (“[T]he denial of a constitutional right is a cognizable injury and an irreparable harm.”); *Hernandez*, 872 F.3d at 994–95; *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”). Further, Ms. Aguilar

Maldonado is irreparably harmed because indefinite detention bears no “reasonable relation” to its purpose. *Deqa M. Y.*, 2020 WL 4928321, at \*3; see *Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing “[a]ny amount of actual jail time is significant and has exceptionally severe consequences for the incarcerated individual” (cleaned up) (internal quotation marks omitted) (citation omitted)).

In the present case, Ms. Aguilar Maldonado’s Fifth Amendment rights are being violated because ICE agents, at the direction of Respondents, continue to detain her despite IJ Ivany’s order to release her on bond. See, *supra*, section II.A. Indeed, she was arrested and presented with false statements regarding the status of her immigration proceedings. Courts across the country have held that DHS detention constitutes irreparable injury where it deprives non-citizens of their liberty, access to counsel, and access to their families. See section III.A.1.a.iii, *supra*. Ms. Aguilar Maldonado faces the same irreparable harm, including loss of her ability to support her USC minor children due to harm to her business. Aguilar Maldonado Decl. Indeed, Mr. Aguilar Maldonado has already been irreparably harmed by the loss of her liberty having spent the last weeks in immigration detention, harming her relationship with both of her children, and harming her business. *Id.*

As noted above, Ms. Aguilar Maldonado’s interests as a mother are a weighty Constitutional right. The parental right to care for one’s child without

undue state interference has long been recognized. *Pierce v. Soc’y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 534–35, 45 S. Ct. 571, 573, 69 L. Ed. 1070 (1925) (“The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.”); *see also Santosky v. Kramer*, 455 U.S. 745, 758–59, 102 S. Ct. 1388, 1397, 71 L. Ed. 2d 599 (1982); *see also Lassiter v. Dep’t of Soc. Servs. of Durham Cnty., N. C.*, 452 U.S. 18, 27, 101 S. Ct. 2153, 2159–60, 68 L. Ed. 2d 640 (1981) (This Court’s decisions have by now made plain beyond the need for multiple citation that a parent’s desire for and right to ‘the companionship, care, custody and management of his or her children’ is an important interest that ‘undeniably warrants deference and, absent a powerful countervailing interest, protection.’”) (internal quotation modified). Ms. Aguilar Maldonado has been forced to manually pump her breast milk and dump it throughout the duration of her detention. *Aff.* at ¶¶ 6-7. She experiences great distress at having to throw away the milk her child needs for his healthy development and due to his digestive sensitivities. *Id.*, at ¶¶ 7, 10. She has been repeatedly pressured by medical staff to stop pumping her breast milk as she does not know how long her detention will last. *Id.*, at ¶¶ 8-9. The stress of this detention has manifested in physical symptoms, including discoloring of Ms. Aguilar Maldonado’s breast milk. *Id.*, at ¶ 13. She has been unable to maintain regular

phone contact with her children due to detention conditions, and this has caused her elder son to believe she has abandoned him. *Id.*, at ¶¶ 11-12. Ms. Aguilar Maldonado cannot effectively plan to coordinate care for her children from detention indefinitely and has rational concerns of how this will impact her child in school. *Id.*, at ¶¶ 14-15.

Ms. Aguilar Maldonado's separation from her children with no definite date for reunification or clear termination is punitive. Staff employed by the Respondent reminding Ms. Aguilar Maldonado of the uncertainty of her reunification is punitive. The harm to Ms. Aguilar Maldonado's family relationship is punitive. The manifest mental, physical, and emotional injury Ms. Aguilar Maldonado has suffered is not merely punitive, but disproportionate to the point of cruelty and beyond any legitimate state interest.

Following the rulings in *Elrod* and *Planned Parenthood of Minnesota*, these Fifth Amendment violations involving deprivations of due process constitute irreparable injury to Ms. Aguilar Maldonado and justify issuance of a temporary restraining order. Ms. Aguilar Maldonado's liberty has been and continues to be restricted in violation of her constitutional rights.

**3. Respondents will face no injury or harm if emergency relief is granted.**

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. See *Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); see also *Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221, 1236-7 (10th Cir. 2005).

Ms. Aguilar Maldonado's harms, discussed above, are weighty; these harms are the direct result of Respondents' conduct in denying Ms. Aguilar Maldonado due process as required under the Constitution. In fact, Ms. Aguilar Maldonado's continued detention is actually a burden for Respondents in that her unnecessary and unexplained detention is costly to the U.S. government. ICE itself has previously recognized similarly situated noncitizens should not be detained. "Generally, ICE should not detain, arrest, or take into custody for an administrative violation of the immigration laws individuals known to be pregnant, postpartum, or nursing unless release is prohibited by law or exceptional circumstances exist." ICE Directive 11032.4, 1. The 2021 directive also notes that the time from birth is not relevant and **mothers who are still nursing should not be detained.** *Id.*, at 3.

Possible injuries to the government, should the restraining order be granted, are minimal and possibly nonexistent. Ms. Aguilar Maldonado is seeking to be released from custody back to her home in the United States so that she can continue her work and care for her family. To date, Respondents

have offered no justification for Ms. Aguilar Maldonado's continued and ongoing detention, particularly considering an immigration judge has already held that she is not a danger to the community or a significant flight risk. Considering her lack of criminal record and her primary interest in reunification with her USC minor children, it is hard to imagine how Respondents may establish either a danger to the community or a flight risk that could justify indefinite detention. Without any justification being offered for Ms. Aguilar Maldonado's detention, it is impossible to surmise the harm that might befall the government if she is released.

For the aforementioned reasons, the irreparable harm to Ms. Aguilar Maldonado that will occur should ICE fail to release her clearly outweighs any burden to Respondents in indefinitely keeping her detained. As this Court held in *Morrison*, 602 F.Supp. at 1484, the balance of harms supports the release of Ms. Aguilar Maldonado even though the federal or state government may not be able to recover lost custodial time should Respondents' constitutional interpretation prevail. This insignificant harm is outweighed by the substantial harm facing Ms. Aguilar Maldonado. Ms. Aguilar Maldonado's harms include deprivations of due process and the wrongful extended detention by ICE depriving Ms. Aguilar Maldonado of liberty. Because Ms. Aguilar Maldonado is in Respondents' custody, she faces the extreme hardship

of deprivation of her due process rights and liberty, and separation from her family and community unless this Motion is granted.

**4. The issuance of a TRO is in the public interest.**

The public—and therefore the government—has an interest in protecting the rights of people in detention and ensuring the rule of law. *See Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at \*9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”). “It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). Additionally, there is critical public interest in ensuring executive agencies act lawfully. Respondents “cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). An immigration judge has already considered Ms. Aguilar Maldonado’s criminal and immigration history and determined that she is not a danger to the community or a significant flight risk and should she be released on bond.

The protection of individuals’ constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental

limit on the government's power to skew, alter, or improperly affect legal proceedings related to an individual's property or liberty interest(s). To ensure the protection of Ms. Aguilar Maldonado's constitutional rights, and to protect against overzealous federal government intrusion of constitutional rights of others in similar situations, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from continuing to detain Ms. Aguilar Maldonado.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country's legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

**B. Ms. Aguilar Maldonado has complied with the requirements of Rule 65.**

Finally, as set forth *supra*, Ms. Aguilar Maldonado asks this Court to find that she has complied with the requirements of Rule 65, Fed.R.Civ.P., for the purpose of granting a temporary restraining order. Respondents have been provided with a copy of the instant motion and supporting documents and are on notice. *See* Decl. at ¶. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order only if the movant gives

security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Under the circumstances of this case, however, Ms. Aguilar Maldonado respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from continuing to detain Ms. Aguilar Maldonado, and/or to refrain from giving Respondents' unlawful actions legal effect, should not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. Of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

#### **IV. CONCLUSION**

For all of the foregoing reasons, Ms. Aguilar Maldonado asks this Court to grant her Motion for a Temporary Restraining Order and Preliminary Injunction to:

1. Declare that the actions of Respondents as set forth in Ms. Aguilar Maldonado's Petition, Motion, and Memorandum of Law violated the Fifth Amendment of the United States Constitution, 28 U.S.C. § 2241, and the APA.

2. Enjoin Respondents from continuing to detain Ms. Aguilar Maldonado in their custody during the pendency of her petition for writ of habeas corpus before this Court.
3. If Ms. Aguilar Maldonado is not immediately released from Respondents' custody, enjoin Respondents from transferring Ms. Aguilar Maldonado to a detention facility out of this District where she would lose access to his counsel and support network.
4. Grant Ms. Aguilar Maldonado such other relief as the Court deems appropriate and just.

DATED: August 6, 2025

Respectfully submitted,

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