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**Pro Hac Vice Application Pending*

Pro Bono Attorneys for Petitioner

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

Ursula Karina Gomez Velazquez,

Petitioner,

v.

Fred Figueroa, in his official capacity, Warden at Eloy Detention Center;

John Cantu, in his official capacity, Director of Phoenix ICE Field Office;

Kristi Noem, in her official capacity, Secretary of the Department of Homeland Security;

Todd M. Lyons, in his official capacity, Acting Director for U.S. Immigration and Customs Enforcement; and

Pamela Bondi, in her official capacity, Attorney General of the United States.

Respondents.

Case No.:_____

***EX PARTE* MOTION FOR TEMPORARY RESTRAINING ORDER & MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION**

NOTICE OF MOTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Ursula Karina Gomez Velazquez ("Ms. Gomez Velazquez") hereby applies for a temporary restraining order, commanding Respondents to immediately release her unless and until she is provided with a constitutionally compliant hearing in which Respondent Department of Homeland Security ("DHS") proves to a neutral adjudicator, by clear and convincing evidence, that she presents a current danger and unmitigable flight risk. This Application is based upon the following Memorandum of Points and Authorities, Ms. Gomez Velazquez's Petition for Writ of Habeas Corpus (Doc. 1), and the Exhibits filed in support thereof.

Date: August 7, 2025

Respectfully Submitted,

/s/Ami Hutchinson
Ami Hutchinson
Matthew Green
Judah Lakin
Cindy Edith Ramirez
Sandhya Nadadur

Pro Bono Attorneys for Petitioner

MEMORANDUM OF POINTS AND AUTHORITIES

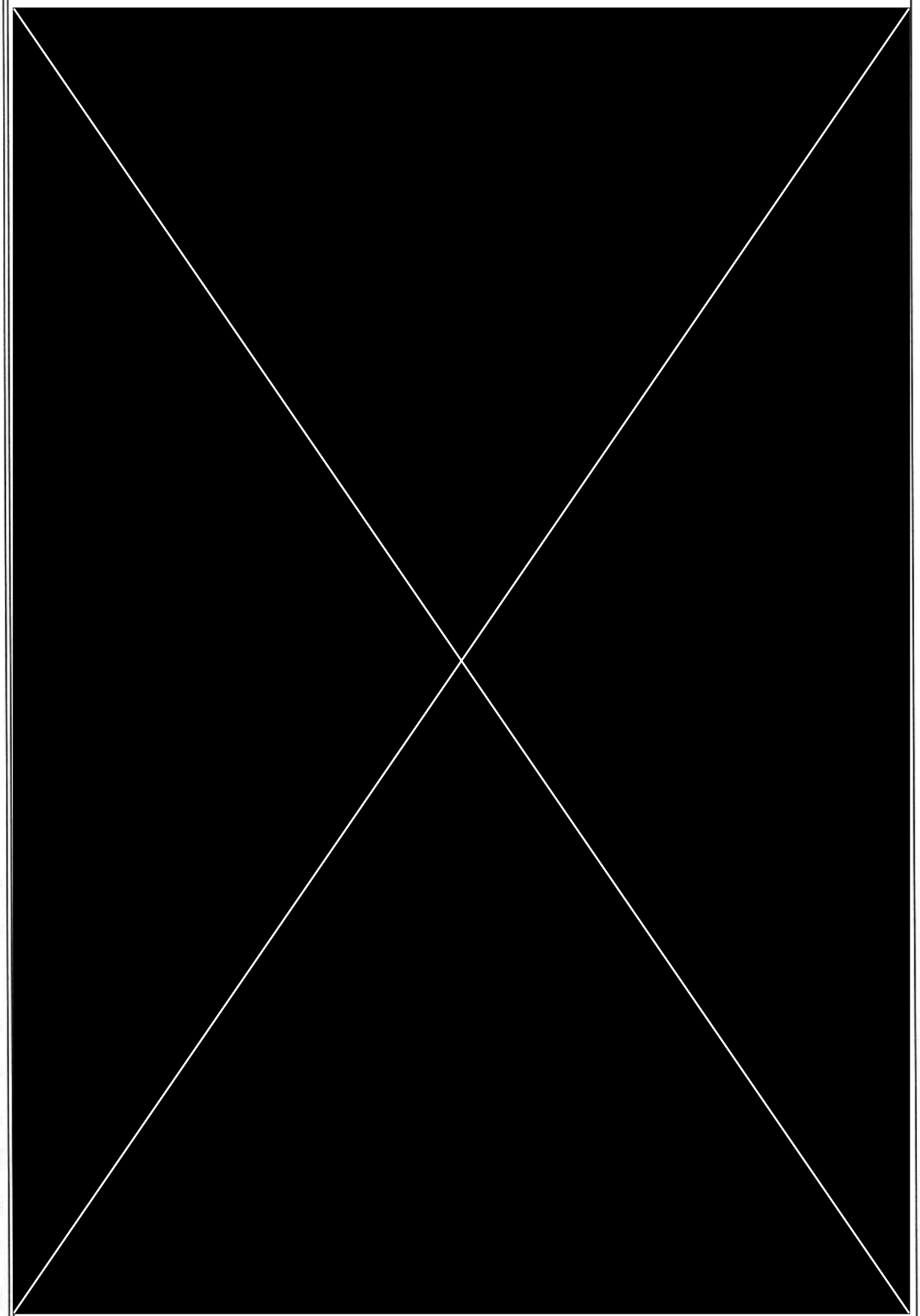
Ursula Karina Gomez Velazquez ("Ms. Gomez Velazquez") has been civilly incarcerated for over 12 months while she has pursued her defenses against removal. Even if, despite the strength of her case, she were to lose before the immigration judge ("IJ"), she is still months or years away from any possible removal given the length of time these proceedings will take as well as her plans to pursue all appeals she has as of right. Ms. Gomez Velazquez's ongoing, prolonged, and unreviewed detention violates her rights under the Due Process Clause of the Fifth Amendment of the Constitution and requires immediate intervention by this court.

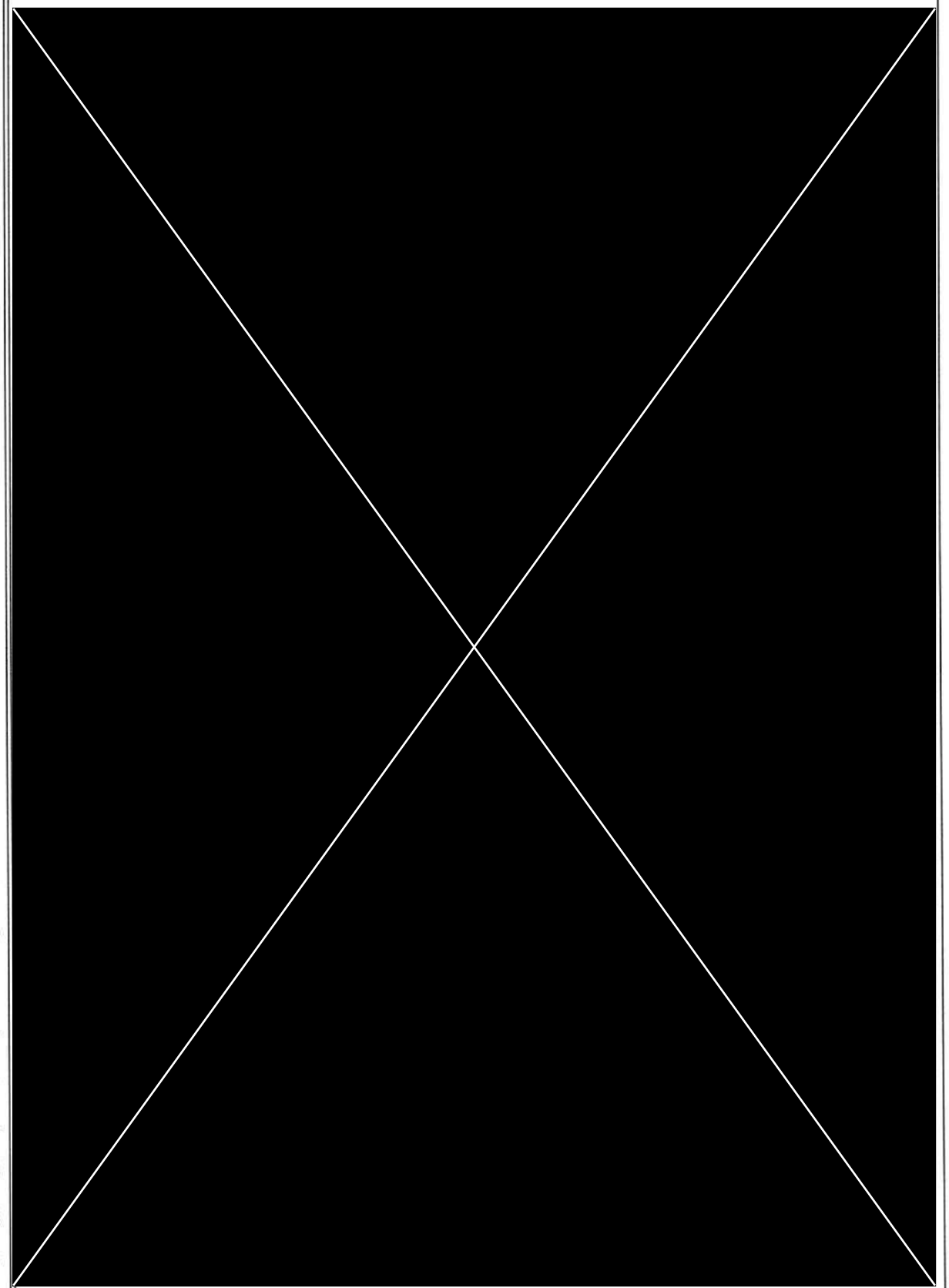
Ms. Gomez Velazquez respectfully requests that this Court grant the instant motion for a Temporary Restraining Order ("TRO") and enjoin the government from further incarcerating Ms. Gomez Velazquez unless they can prove to a neutral arbiter that her detention is justified by clear and convincing evidence, including that no combination of alternatives to detention can sufficiently mitigate any danger to the community or flight risk that she may pose.

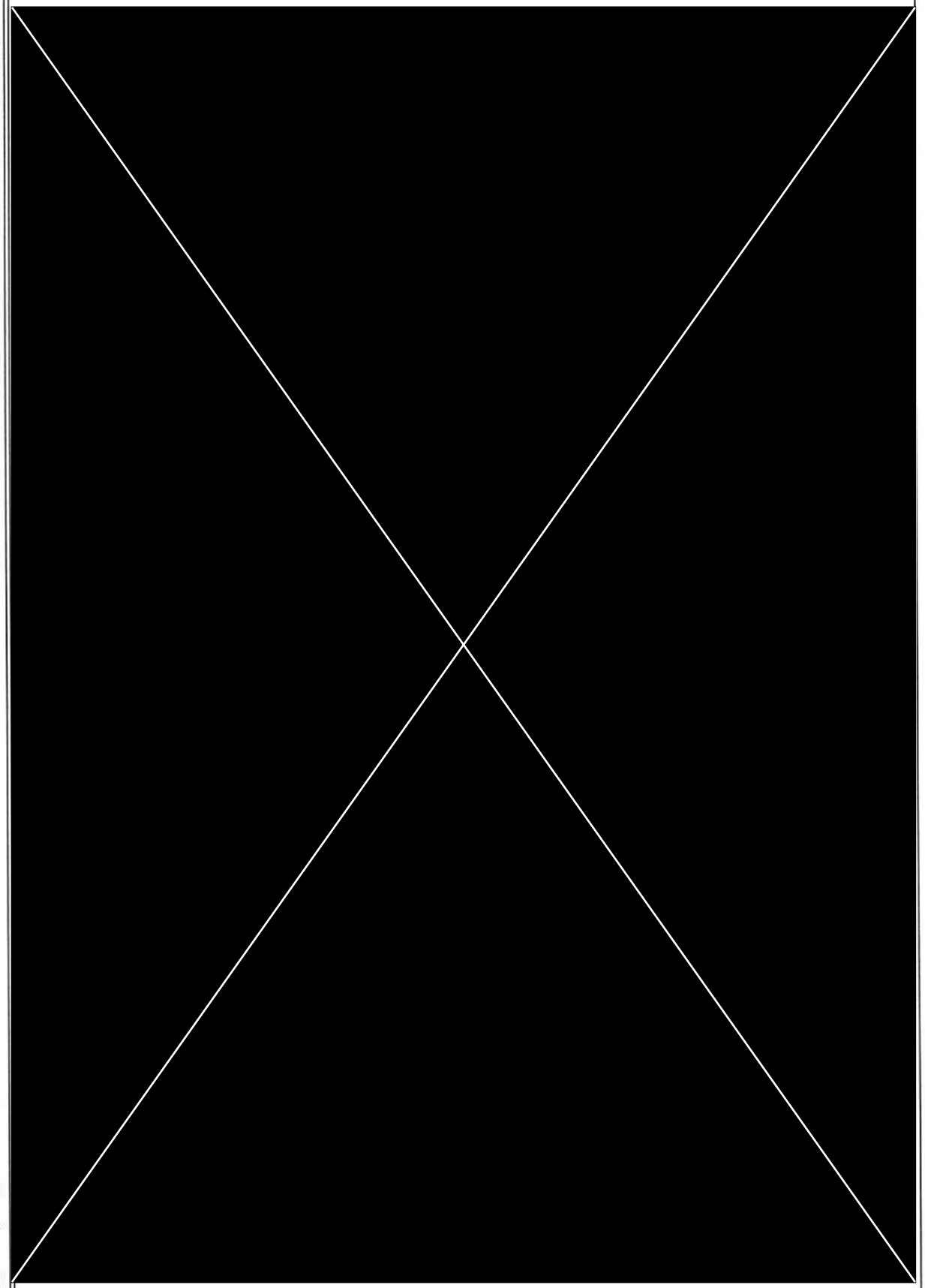
STATEMENT OF RELEVANT FACTS

I. Ms. Gomez Velazquez's Early Life in Mexico and the United States.

Ms. Gomez Velazquez was born in Mexico City, Mexico on September 26, 1983. She came to the United States when she was around five years old and remembers little about her life in Mexico. Exhibit ("Exh.") A, Declaration of Ursula Karina Gomez Velazquez ("UKGV Decl."), ¶¶ 1-2.







III. Ms. Gomez Velazquez was held criminally responsible for her abuser's death

In the early morning hours of June 22, 2003, Gary demanded that Ms. Gomez Velazquez accompany him to confront an individual whom Gary believed had improperly repaired a laptop he had given him. *Id.* at ¶¶ 35-36. On the way, Gary picked up his friend Chris. *Id.* at ¶ 36. Ms. Gomez Velazquez was unaware that Gary and Chris were armed and that Gary intended to rob this individual. *Id.* She had not slept for the last five to seven days, and her body was weak and shaking. *Id.* at ¶ 37. After entering the individual's trailer, Gary pulled out a gun and a conflict ensued. *Id.* at ¶¶ 37-38. Chris pushed Ms. Gomez Velazquez into a back room of the trailer where she was alone and could not see anything. *Id.* at ¶ 38. She heard a lot of yelling, commotion, and then a series of gunshots. *Id.* When she peeked into the main room, she saw the shooter's back and she heard him say something like "Where did that girl go? I need to find her." *Id.* She pressed herself against a wall of the back room and somehow, when the shooter scanned the room, he did not see her and left the trailer. *Id.*

As Ms. Gomez Velazquez tried to escape out of the back of the trailer, she saw Gary stumble out of the front and fall. *Id.* at ¶ 39. He said something along the lines of "get out of here." *Id.* In a panic, Ms. Gomez Velazquez jumped into a back neighbor's yard. *Id.* She had no idea Gary had died. *Id.*

Ms. Gomez Velazquez was criminally prosecuted alongside Chris. *See id.* at ¶ 40. They were both found guilty by jury of first-degree murder, first degree robbery while acting in concert, and first-degree residential burglary. *Id.* Ms. Gomez Velazquez

was sentenced to serve life without the possibility of parole for her murder conviction. *Id.*

However, on appeal in 2006, Ms. Gomez Velazquez's murder conviction was reversed due to a jury instruction error that may have led jurors to mistakenly find defendants guilty of first-degree murder based on the felony-murder doctrine. *See People v. Gomez*, No. B180504, 2006 WL 3060051, *7-*8 (Cal. Ct. App. Oct. 30, 2006). The appellate court affirmed her convictions for first-degree robbery and first-degree residential burglary and remanded her case back to the trial court for further proceedings on the murder charge. *Id.* at *16.

On remand, Ms. Gomez Velazquez pled no contest to voluntary manslaughter and in 2010 was sentenced to serve a determinate term of 21 years. Exh. A, UKGV Decl. ¶ 41; Exh. C, Abstract of Judgement. The sentences for her robbery and burglary convictions were stayed per California PC § 654, which prohibits state courts from imposing multiple punishments on convictions arising out of the same criminal act. Exh. C, Abstract of Judgement.

In 2022, California passed SB 775, which expanded the postconviction relief previously available under California PC §1172.6, a statute that allowed individuals who were convicted of murder or manslaughter under theories that are no longer permissible, to seek postconviction relief, including resentencing. *See People v. Gomez*, No. B329629, 2025 WL 653359 (Cal. Ct. App. Feb. 28, 2025).

In April 2022, Ms. Gomez Velazquez sought resentencing under California PC §1172.6. *See id.* Her case is currently with the trial court to conduct an evidentiary hearing in accordance with the statutory scheme articulated in PC § 1172.6. *Id.*

IV. Ms. Gomez Velazquez takes full responsibility for her actions.

Even though Ms. Gomez Velazquez was a minor participant in the events that led to Gary's death—she never handled the murder weapon, was not in the room where Gary was shot, and in fact did not even know he died until much later—she accompanied Gary to the trailer and was physically present as the events unfolded. Exh. A, UKGV Decl. at ¶¶ 47, 91. Ms. Gomez Velazquez acknowledges that during the period of her life when she was under Gary's coercive control, she put herself in situations where people were hurt. *Id.* at ¶ 91. She has spent the last two decades learning from her past, making amends for Gary's loss of life, and developing the insight and skills she needs to be a positive member of her community. *Id.* at ¶¶ 46-47, 92; Exh. D, Self-Help Milestones from Incarceration ("Self-Help Milestones"); Exh. E, Educational Milestones from Incarceration ("Educational Milestones").

V. In prison, Ms. Gomez Velazquez dedicated herself to healing from her past trauma and uplifting the community around her.

While incarcerated at the Central California Women's Facility ("CCWF"), Ms. Gomez Velazquez began to heal. For the very first time, she prioritized her mental health and developed healthy and nurturing relationships with the people around her. Exh. A, UKGV Decl. at ¶ 48. She learned that caring for others helped her care for herself. *Id.* at ¶¶ 50-54.

While in prison, Ms. Gomez Velazquez met with a psychiatrist and was formally diagnosed with bipolar disorder, anxiety, and depression. *Id.* at ¶ 48. Her doctor prescribed medications to help her manage her diagnoses and mitigate their impact on her mental health and stability. *Id.* She has been consistently taking psychiatric medications ever since. *See id.*

She also sought out self-help and education programs focused on domestic violence and abuse, completing over 90 programs during her incarceration. *Id.* at ¶ 46; *see also* Exh. D, Self-Help Milestones; Exh. E, Educational Milestones.

Ms. Gomez Velazquez credits the 13-week Accountability Workshop and Restorative Education program, also known as "AWARE," as one of the most impactful self-help courses she took because it helped her take meaningful accountability for the actions that led to her incarceration. Exh. A, UKGV Decl. at ¶ 47; Exh. D, Self-Help Milestones. As a part of this program, Ms. Gomez Velazquez created a timeline of her life to understand the events that lead to her offense. She acknowledged the consequences of her actions beyond the impact on those immediately present at the crime, in particular recognizing that the people who love her, like her parents, suffer because of her decisions. *Id.*

Ms. Gomez Velazquez went back to school. *Id.* at ¶ 49. After completing her associate's degree at CCWF, she was accepted into a competitive bachelor's degree program specifically designed for incarcerated people at California State University, Fresno ("Fresno State"). *Id.* Ms. Gomez Velazquez excelled in the program, earning an A in all but one of the 15 upper division courses she completed. Exh. H, Letter from Dr.

Emma Hughes, Project Rebound at California State University, Fresno ("Hughes Ltr."). She is just two classes away from completing the program and graduating with a bachelor's degree in social science. Exh. A, UKGV Decl. at ¶ 49; *see also* Exh. E, Educational Milestones; Exh. H, Hughes Ltr.

Ms. Gomez Velazquez also contributed meaningfully to her community at CCWF by recognizing and trying to address challenges faced by incarcerated women like herself. When Ms. Gomez Velazquez learned that placing her quarterly commissary order was no simple task, she came up with a small business solution. Exh. A, UKGV Decl. at ¶¶ 50-53. The problem she and so many other incarcerated people faced was that often the vendor would be out of the specific product requested, for example, the exact brand and size of toothpaste. *Id.* at ¶ 51. Instead of replacing the out-of-stock item with a similar product, the vendor would not fill that item in the order at all. *Id.* Those who had family or friends on the outside were able to request their loved one speak with the vendor to find replacement items. *Id.* Those who did not have someone on the outside to liaise with the vendor, however, received quarterly packages lacking in the most basic hygiene products. *Id.* Frustrated by this, Ms. Gomez Velazquez came up with an idea—a business she named Mi Casa Ordering Service—to ensure people on the inside could maximize their commissary items by working with the vendor to replace sold-out items with something similar in each order. *Id.* at ¶ 52. Ms. Gomez Velazquez won the Defy Ventures small business competition, a competition that introduces incarcerated people to business concepts. *Id.*; Exh. I, Letter from Deanna M. Luna, Defy Ventures ("Luna Ltr."). For her winning idea, Ms. Gomez

Velazquez received seed money to begin building Mi Casa Ordering Service. Exh. A, UKGV Decl. at ¶ 52. She is excited to begin this work as soon as she is released. *Id.*

In another example, Ms. Gomez Velazquez directly addressed the anxiety she and so many other incarcerated noncitizen women shared over their immigration status and what to expect after prison by organizing CCWF's first immigration resource fair. *Id.* at ¶ 53. She invited immigrants' rights organizations from across California to set up booths and the fair was such a success that it now occurs annually at CCWF. *Id.* In total, 11 organizations attended the fair organized by Ms. Gomez Velazquez; there was even an attorney present to answer specific case questions. *Id.* Attendees left with a bag full of resources—from know your rights materials to legal referrals—and a better understanding of the immigration consequences they might face. *Id.* If released, Ms. Gomez Velazquez hopes to work on expanding the fair to other prisons in California, and perhaps nationwide. *Id.*

Today, Ms. Gomez Velazquez has a profound support system consisting of family, community, and institutional support. Her support team is fully committed to her successful reentry into society and have already pledged to provide her with a host of resources, from housing and transportation to court hearings, to financial and emotional support. *See* Exh. J, Michelle Gomez Letter ("Michelle Ltr.") (housing, employment, emotional support); Exh. K, Victoria Huynh Letter ("Victoria Ltr.") (financial support, reentry support, mentorship); Exh. L Havannah Tran Letter ("Havannah Ltr.") (reliable transportation, financial support, emotional support); Exh. M, Sarah Lee Letter ("Sarah Ltr.") (fundraising financial support, emotional support);

Exh. N, Kourtney Nahm Letter ("Kourtney Ltr.") (fundraising financial support, emotional support); Exh. O, Sister Warriors Freedom Coalition Letter ("Sister Warriors Ltr.") (housing, job training, and financial support); Exh. P, Power Blossoms Organizational Letter ("Power Blossoms Ltr.") (transportation, financial support for groceries and other basic needs); Exh. Q, New Light Wellness Organizational Letter ("New Light Ltr.") (peer support, family group support); Exh. R, Next Step Reentry Program Acceptance Letter ("Next Step Acceptance Ltr.") (therapy, financial support, transportation); Exh. S, Essie Justice Group Organizational Letter ("Essie Ltr.") (transportation, "hot and healthy meals"); Exh. T, Ella Baker Center for Human Rights Organizational Letter ("Ella Baker Ltr.") (financial support, job training); Exh. U, Asian Prisoner Support Committee Letter ("APSC Ltr.") (peer support group for formerly incarcerated people, navigating access to social services).

VI. ICE's Prolonged, Unreviewed Incarceration of Ms. Gomez Velazquez and the Conditions of her Confinement

Ms. Gomez Velazquez earned her release on parole on July 31, 2024 because of all the classes and self-help programs she took while in prison. Exh. A, UKGV Decl. at ¶ 54. As her release date approached, Ms. Gomez Velazquez wanted to be hopeful about a new chapter but was numb knowing that after over 20 years away from her community and family, she still might not go home. *Id.* at ¶ 56. She knew it was possible ICE would be waiting to take her into immigration custody as soon as she finished her time at CCWF. *Id.*

And, exactly as she feared, on July 31, 2024, the California Department of Corrections and Rehabilitation (CDCR) transferred Ms. Gomez Velazquez directly to

immigration authorities. *Id.* at ¶ 57. Ms. Gomez Velazquez has spent over half her life in custody. *Id.* at ¶ 58. In all of that time, the most crushing and demoralizing experience was the day CDCR handed her to ICE and not to her family. Ms. Gomez Velazquez had never felt so broken. *Id.*

Ms. Gomez Velazquez has now been in immigration detention for one year and counting. *See id.*; Exh. B, Ramirez Decl. at ¶ 16. Because of Ms. Gomez Velazquez's criminal convictions, she is not eligible for a statutory bond hearing. *See* 8 U.S.C. § 1226(c). To date, she has not been granted a bond hearing and the justification for her ongoing detention has not been reviewed by any neutral decisionmaker. *See* Exh. B, Ramirez Decl. at ¶ 16. It has been very difficult for her, especially since she was transferred from the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington to the Eloy Detention Center in Eloy, Arizona, where the conditions of her confinement are far worse. *See* Exh. A, UKGV Decl. at ¶¶ 58, 74-90.

In the early morning hours of April 15, 2025, Ms. Gomez Velazquez was put on a plane in Tacoma, Washington and not told where she was being flown. *Id.* at ¶ 68-71; Exh. B, Ramirez Decl. at ¶ 12. She was then placed in a trailer and holding facility in Florence, Arizona for a few days before being officially transferred into the Eloy Detention Center. Exh. A, UKGV Decl. at ¶ 72. ICE initially informed Ms. Gomez Velazquez's immigration attorney that the transfer to Eloy was temporary and that it was done for a medical visit; the ICE officer even assured Ms. Ramirez that Ms. Gomez Velazquez "would definitely be returned to Tacoma prior to her [individual] hearing." Exh. B, Ramirez Decl. at ¶ 12. A few hours later, they informed Ms. Ramirez's office

that the transfer would be permanent, but they provided no justification. *Id.* Despite Ms. Ramirez's objection that changing venue would cause significant delay in Ms. Gomez Velazquez's case, the government's motion to change venue to Eloy was granted. *Id.* at ¶¶ 15-16. Ms. Gomez Velazquez is now scheduled for her individual hearing on August 27, 2025, four months after she was originally scheduled to be heard. *Id.* To date, ICE has not provided Ms. Gomez Velazquez with a reason for her transfer to Eloy. *Id.*

The Eloy Detention Center is an immigration detention center owned and operated for-profit by CoreCivic in Eloy, Arizona. Over the past decade, the Florence Immigrant and Refugee Rights Project (Florence Project) has documented and filed numerous complaints with oversight agencies regarding severe abuses at Eloy. Their most recent report from October 2024 highlights that:[1]

a. Eloy has gained notoriety as the "deadliest immigration detention center in the U.S.," with at least 16 reported deaths, including five suicides. (p. 1)

b. The facility has significant issues, including poor medical care and delays in accessing specialized medical care, unsanitary dining conditions, inadequate laundry services, frequent lockdowns, improper use of suicide watch and segregation, violations of privacy for women, and verbal and physical abuse by staff. (p. 2)

c. Advocates and individuals formerly detained at Eloy have highlighted the facility's alarming lack of responsiveness and preparedness, particularly in medical emergencies. (p. 3)

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[1] *See* "Anthology of Abuse: a Legacy of Failed Oversight and Death at the Eloy Detention Center," October 2024, available at: https://www.detentionwatchnetwork.org/sites/default/files/reports/Anthology%20of%20Abuse%20-%20A%20Legacy%20of%20Failed%20Oversight%20and%20Death%20at%20the%20Eloy%20Detention%20Center_.pdf

d. People detained at Eloy have long been subjected to a climate of fear, exacerbated by a series of mysterious and unacknowledged deaths that have sparked outrage and protest. (p. 3)

e. The Eloy Detention Center has consistently failed to fully comply with detention standards. In a recent inspection conducted by ICE's own Office of Detention Oversight in 2024, inspectors uncovered 29 deficiencies across five of the 13 evaluated detention standards. Most notably, these failures included serious lapses in medical care. (p. 5)

And, indeed, while at the Eloy Detention Center, Ms. Gomez Velazquez has had significant issues receiving adequate health care. She did not have these problems while she was detained at NWIPC. Exh. A, UKGV Decl. at ¶¶ 74-90.

Ms. Gomez Velazquez takes gabapentin for her nerve pain. *Id.* at ¶ 85. The facility initially refused to administer her gabapentin as prescribed, at mid-day and before bedtime. *Id.* at ¶ 86. Instead, she was given the first dose of gabapentin at 4 A.M. and a second dose around 8 P.M. As a result, she would be groggy and in pain all day. Moreover, when Ms. Gomez Velazquez experienced nerve pain—typically around mid-day—she did not have access to the medication she needed. *Id.*

On May 12, 2025, a guard ordered Ms. Gomez Velazquez to immediately remove her doctor-ordered orthopedic shoes. *Id.* at ¶ 88. When Ms. Gomez Velazquez tried to explain that a doctor had previously ordered these specialized shoes for her congenital condition, the guard puzzlingly responded that a doctor at Eloy would be able to assess Ms. Gomez Velazquez's medical need by looking at the shoes, without Ms. Gomez Velazquez present. *Id.* at ¶¶ 84, 88. Ms. Gomez Velazquez was forced to surrender the doctor-ordered shoes, which exacerbated her lower back pain. *Id.* at 88. While the shoes were eventually returned to her, Ms. Gomez Velazquez found it

puzzling that they were approved for her specific use by a nurse without any specialized background in orthopedic care. *Id.*

Ms. Gomez Velazquez is prediabetic. *Id.* at ¶ 89. She expects she will soon develop diabetes because of her diet at Eloy, over which she has no control. *Id.* As a prediabetic, one of the most important things Ms. Gomez Velazquez can do to avoid developing diabetes is to change her diet to include more fruits and vegetables. *Id.* Unfortunately, despite being on a special diet at Eloy, her meals consist primarily of starchy food and rice. *Id.* She is given four slices of bread with each meal and unlimited cookies, a small amount of protein, and rarely any vegetables. *Id.*

Based on her family history, Ms. Gomez Velazquez is at a high-risk of developing breast cancer. *Id.* at ¶ 83. Despite this, Ms. Gomez Velazquez was unable to schedule a follow-up mammogram even though she had a doctor's order from Tacoma, Washington that she be urgently scheduled for a follow-up mammogram after her initial screening revealed abnormalities on her left side. *Id.* The Eloy facility has been unable to locate her previous mammogram records and Ms. Gomez Velazquez has had to start the mammogram process all over again, setting her back months. *Id.*

Finally, Ms. Gomez Velazquez uses a topical ointment for her sensitive skin, as directed by a doctor. *Id.* at ¶ 87. Despite several requests for the ointment—which is available over-the-counter—the Eloy facility has taken no action to ensure that Ms. Gomez Velazquez can treat her sensitive skin. *Id.* Although Ms. Gomez Velazquez brought the ointment with her from Tacoma to Eloy, the facility has not given her access to the items she brought with her. *Id.*

In addition, the conditions of confinement at the Eloy Detention Center have been dehumanizing, far worse than the conditions Ms. Gomez Velazquez faced during her criminal incarceration. *Id.* at ¶¶ 74-81.

On May 5, 2025, Ms. Gomez Velazquez woke up around 4:20 A.M. to a fire alarm blaring across the facility. *Id.* at ¶ 78. For nearly 30 minutes, she and her cell mates sat locked in their cells as the fire alarm continued sounding before anyone came to let them out. *Id.* They watched in a panic as facility staff ran out of the building shouting for people to get out. *Id.* When Ms. Gomez Velazquez returned to her cell, the fire alarm continued to sound for at least 20 minutes. *Id.* She later learned that staff in the facility did not know how to turn the alarm off. She remains concerned that facility staff are not adequately trained to handle emergencies, and as a result, are putting her safety and wellbeing at risk. *Id.* at ¶ 77.

Ms. Gomez Velazquez is also subject to random and invasive searches every single day. *Id.* at ¶ 76. Every time she goes to eat, for a medical appointment, or to meet with her attorneys over a video call, she is patted down. *Id.* Sometimes the guards also wand her with a metal detector. *Id.* Her cell is randomly searched without warning or apparent justification. *Id.* Despite having spent over half her life in carceral settings, Ms. Gomez Velazquez does not recall having been touched by staff as much as she has been while at Eloy. *Id.*

Ms. Gomez Velazquez cannot access adequate feminine hygiene products in Eloy, even when she explicitly requests them from a guard. *Id.* at ¶¶ 80-81. The products she does receive from time-to-time are simply ineffective for their purpose. *Id.*

She does not feel comfortable leaving her cell when she is on her period because she is terrified she will have an accident. *Id.* at ¶ 80.

When Ms. Gomez Velazquez was first transferred to Eloy, the uniform she was given had a large hole and was degrading and unwearable. *Id.* at ¶ 79. The facility regularly gives her obviously soiled underwear and claims it is clean. *Id.*

When Ms. Gomez Velazquez attempts to speak with guards in a calm tone, they respond by yelling at her with disproportionate anger. *Id.* at ¶ 75. Once, when Ms. Gomez Velazquez attempted to communicate her medical needs to a guard, the guard responded by yelling at her. *Id.* When she asked the guard to please stop yelling so that she could communicate her needs, the guard said "well don't talk to me." *Id.*

Although the conditions in prison were challenging, Ms. Gomez Velazquez always had clean clothes, access to healthcare and the medications she was prescribed, and the guards generally did not verbally berate her every time she attempted to communicate with them. *Id.* at ¶ 74.

DHS and ICE have civilly incarcerated Ms. Gomez Velazquez for one year and counting. Ms. Gomez Velazquez's health has deteriorated so much while at Eloy that her nerve pain has gotten worse and she must now take two times the medication she needed in the past. She has lost over 35 pounds since entering ICE custody a year ago. *Id.* at ¶ 58. After years without needing to take antidepressants, a doctor prescribed them for her, and she is now taking the antidepressant Lexapro. *Id.* at ¶ 90.

She will remain detained in these deplorable conditions for the indefinite future absent intervention by this court as she pursues all her avenues for relief, as described below.

VII. Ms. Gomez Velazquez's Immigration Proceedings

In around 2001, Ms. Gomez Velazquez's parents were victims of immigration fraud; Ms. Gomez Velazquez was young and does not recall exactly what happened, but she remembers that they followed the advice of someone who was not trustworthy and submitted an asylum application. *Id.* at ¶ 60. The asylum application was rejected and she and her parents were put in removal proceedings. *Id.*

On May 1, 2001, DHS initiated removal proceedings against Ms. Gomez Velazquez. *See* Exh. B, Ramirez Decl. at ¶ 6. On October 4, 2004, an Immigration Judge severed Ms. Gomez Velazquez's case from her family's and administratively closed her proceedings because she was in criminal custody at the time. *Id.* After completing her custodial criminal sentence, on July 31, 2024, Ms. Gomez Velazquez was detained by ICE and transferred to the Northwest ICE Processing Center in Tacoma, Washington. *Id.* at ¶ 7. On August 1, 2024, DHS moved to recalendar Ms. Gomez Velazquez's immigration proceedings. *Id.*

At her first hearing on August 22, 2024, Ms. Gomez Velazquez requested a short continuance to obtain counsel. Exh. A, UKGV Decl. at ¶ 62; Exh. B, Ramirez Decl. at ¶ 8. At her second hearing, she again requested extra time due to an error in her file that mistakenly listed an attorney of record. Exh. A, UKGV Decl. at ¶¶ 63-66; Exh. B, Ramirez Decl. at ¶ 9. Ms. Gomez Velazquez was unable to schedule consultations with

prospective attorneys until this issue was resolved. Exh. A, UKGV Decl. at ¶ 63. By her third hearing on December 2, 2024, Ms. Gomez Velazquez had obtained legal representation. *See* Exh. B, Ramirez Decl. at ¶ 10. The court later scheduled her individual hearing for April 28, 2025. *Id.* at ¶ 11. All subsequent delays in her immigration case have been caused exclusively by the government.

Although Ms. Gomez Velazquez was scheduled for her individual hearing before the Tacoma immigration court on April 28, 2025, and her immigration attorneys had filed all evidence in her case with the Tacoma court, ICE suddenly transferred Ms. Gomez Velazquez to Arizona without warning or explanation in the early morning hours of April 15, 2025. *See id.* at ¶¶ 12-14; *see also* Exh. A, UKGV Decl. at ¶¶ 68-73. Her individual hearing is now set to take place on August 27, 2025, four months later than originally scheduled. Exh. B, Ramirez Decl. at ¶ 14.

Ms. Gomez Velazquez is pursuing relief in her current immigration proceedings because she fears being tortured or killed if she were to be removed to Mexico. Exh. A, UKGV Decl. at ¶¶ 59, 100. She has timely complied with all deadlines in her immigration proceedings. She is committed to continuing her immigration case and plans to appeal the immigration judge's decision—to the Board of Immigration Appeals, and the Ninth Circuit if necessary—if she is denied relief at her upcoming hearing. *See* Exh. A, UKGV Decl. at ¶ 87; Exh. B, Ramirez Decl. at ¶ 22.

In addition to fighting her case in immigration court, she is likewise pursuing relief outside of court. Ms. Gomez Velazquez is currently working with her attorneys to obtain the necessary documents to apply for a U visa because she was a victim of

sexual assault in the Lynwood jail, and a T visa because she is a survivor of trafficking. Exh. B, Ramirez Decl. at ¶¶ 22-25.

As she vigorously fights for her right to remain in the United States, she faces the prospect that she will remain detained for years beyond the 12 months she has already been confined without any review as to the necessity for her incarceration. Every day in immigration detention Ms. Gomez Velazquez suffers irreparable harm: it is for this reason she seeks relief from this Court via the instant motion for a temporary restraining order.

LEGAL BACKGROUND

The Immigration and Nationality Act authorizes the civil immigration detention of individuals pending removal proceedings. Section 1226(a), the "general" detention provision, authorizes ICE to detain a noncitizen "pending a decision on whether [she] is to be removed from the United States." 8 U.S.C. § 1226(a). Individuals detained under § 1226(a) are entitled to a bond hearing before an IJ at which they can seek release. *See* 8 C.F.R. § 1003.19; 8 C.F.R. § 1236.1.

Section 1226(c), on the other hand, categorically requires the detention of noncitizens who are deportable for certain criminal convictions. 8 U.S.C. § 1226(c). Individuals detained under § 1226(c) are not eligible for a bond hearing before an IJ. In other words, Section 1226(c) subjects certain noncitizens to detention without the individualized bond hearing contemplated by Section 1226(a). The government is detaining Ms. Gomez Velazquez pursuant to § 1226(c).

Detention violates due process absent "adequate procedural protections" or "special justification[s]" sufficient to outweigh the "'constitutionally protected interest in avoiding physical restraint.'" *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). Section 1226(c), instructs that the government "shall take into custody any alien" who has committed various types of criminal offenses "when the alien is released." The Court in *Demore v. Kim* held that section 1226(c) was constitutional on its face. 538 U.S. 510, 530 (2003). The Court in *Jennings v. Rodriguez*, 138 S. Ct. 830, 847 (2018), held that the statutory text of section 1226(c) does not provide for the imposition of periodic bond hearings during detention pending a removal decision. But neither *Jennings* nor *Demore* addressed as-applied constitutional challenges to section 1226(c) and *Jennings* specifically left open the question of whether prolonged detention without a bond hearing can violate the Due Process Clause of the Fifth Amendment in an individual's case. *See e.g.*, *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018) ("We have grave doubts that any statute that allows for arbitrary prolonged detention without any process is constitutional").

LEGAL STANDARD

Ms. Gomez Velazquez is entitled to a TRO if she establishes that: (1) she is "likely to succeed on the merits"; (2) she is "likely to suffer irreparable harm in the absence of preliminary relief"; (3) "the balance of equities tips in [her] favor"; and (4) that "an injunction is in the public interest." *Winter v. National Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). Even if Ms. Gomez Velazquez does not establish a likelihood of success on the merits, the Court may still grant her TRO under the

"alternative serious questions standard, also known as the sliding scale variant of the *Winter* standard" employed by courts in the Ninth Circuit. *Fraihat v. U.S. Immigration & Customs Enforcement*, 16 F.4th 613, 635 (9th Cir. 2021) (citation modified). Under this approach, "serious questions going to the merits and a hardship balance that tips sharply toward the plaintiff can support issuance of an injunction, assuming the other two elements of the Winter test are also met." *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-32 (9th Cir. 2011).

ARGUMENT

I. Ms. Gomez Velazquez Is Likely to Succeed on the Claim That Her Ongoing, Prolonged, and Unreviewed Detention Violates Procedural Due Process.

Many district courts in the Ninth Circuit apply the due process framework articulated by the Supreme Court in *Mathews v. Eldridge* to determine whether ongoing detention under 8 U.S.C. § 1226(c) violates a petitioner's due process rights. *Mathews v. Eldridge*, 424 U.S. 319 (1976); *see e.g. J.P. v. Garland*, 685 F. Supp. 3d 943 (N.D. Cal. 2023). Other district courts apply multi-factor tests that largely overlap with the test articulated by the Third Circuit in *German Santos v. Warden Pike Correctional Facility*. 965 F.3d 203, 211 (3d Cir. 2020). While Ms. Gomez Velazquez asserts that *Matthews* is the appropriate test, under both *Mathews* and *German-Santos*, or its variants, Ms. Gomez Velazquez prevails on her claim that her ongoing and unreviewed detention of over one year is unconstitutional and requires review by a neutral arbiter.

A. All Four Prongs of the *Mathews v. Eldridge* Test for Procedural Due Process Claims Weigh in Favor of Ms. Gomez Velazquez.

Ms. Gomez Velasquez's detention since July 31, 2024 without *any* individualized review is unreasonable under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). The *Mathews* test for procedural due process claims balances: (1) the private interest threatened by governmental action; (2) the risk of erroneous deprivation of such interest and the value of additional or substitute safeguards; and (3) the government interest. 424 U.S. at 335. Here, each factor weighs in Ms. Gomez Velazquez's favor, requiring this Court to promptly order a bond hearing at which the government is required to justify his ongoing detention by clear and convincing evidence

1. Ms. Gomez Velazquez's Private Interest in Her Liberty is Profound.

Here, Ms. Gomez Velazquez's core private interest is in her own liberty. "Freedom from imprisonment…lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). Ms. Gomez Velazquez is being held in "incarceration-like" conditions and has an overwhelming interest in her own liberty because "any length of detention implicates the same" fundamental rights. *Rajnish v. Jennings*, No. 3:20-cv-07819-WHO, 2020 WL 7626414, at *6 (N.D. Cal. Dec. 22, 2020); *I.E.S. v. Becerra*, No. 23-CV-03783-BLF, 2023 WL 6317617, *10 (N.D. Cal. Sept. 27, 2023) (finding that the Ninth Circuit's reasoning in *Singh* applies equally to cases arising under § 1226(c) because "it would be improper to ask [petitioner] to 'share equally with society the risk of error when the possible injury to the individual'—deprivation of liberty—is so significant.") (internal citation omitted).

Ms. Gomez Velazquez's private interest is particularly profound because she has been detained for over one year without *any* review by a neutral arbiter. Her time in civil detention is now eight times the length of the "brief" detention contemplated by the Supreme Court in *Demore v. Kim*. 538 U.S. 510, 530 (citing an average detention length of one and a half months for cases that do not involve an appeal). As Ms. Gomez Velazquez continues to mount a good-faith defense to deportation, neither her release nor her removal is remotely in sight. Exh. B, Ramirez Decl. ¶¶ 14-16; *See Zadvydas*, 533 U.S. at 690-91, 696 (strength of liberty interest increases as period of confinement grows); *Diouf v. Napolitano*, 634 F.3d 1081, 1091-92 (9th Cir. 2011) ("When detention crosses the six-month threshold and release or removal is not imminent, the private interests at stake are profound.") *abrogated on other grounds as recognized in Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022). She is facing the prospect of several additional months, possibly years, of unreviewed detention. *See* Exh. B, Ramirez Decl. at ¶¶ 14-15 (explaining that Ms. Gomez Velazquez's August 27, 2025 individual hearing is likely to be continued for several months and that the appeals process to the BIA and the Ninth Circuit "typically takes years.").

There can be no dispute that the first *Mathews* factor weighs overwhelmingly in Ms. Gomez Vazquez's favor.

2. The Risk of Erroneous Deprivation of Ms. Gomez Velazquez's Rights is High, as is the Value of Additional Safeguards.

The risk of erroneous deprivation of Ms. Gomez Velazquez's liberty is high, as she has been detained since July 31, 2024 without any evaluation of whether the

government can justify detention under her individualized circumstances. "[T]he risk of an erroneous deprivation of liberty in the absence of a hearing before a neutral decisionmaker is substantial." *Diouf*, 634 F.3d at 1092. Similarly, "the probable value of additional procedural safeguards—an individualized evaluation of the justification for [her] detention—is high, because Respondents have provided virtually no procedural safeguards at all." *Jimenez v. Wolf*, No. 19-cv-07996-NC, 2020 WL 510347, *3 (N.D. Cal. Jan. 30, 2020) (granting habeas petition for an individual who had been detained for one year without a bond hearing). As articulated below, because Ms. Gomez Velazquez is an excellent candidate for bond, there is significant value in granting her additional safeguards in the form of a bond hearing.

Ms. Gomez Velazquez is not a flight risk: If released, Ms. Gomez Velazquez will be on parole and under the supervision of the California Department of Corrections and Rehabilitation (CDCR). In addition to complying with all terms of her release mandated by ICE, Ms. Gomez Velazquez will have to notify her parole officer within 24 hours of her release from ICE detention and subsequently comply with all the conditions of her parole, which include regular check-ins with her parole officer and remaining within 50 miles of her residence. Exh. W, Notice and Conditions of Parole; *see also* Exh. A, UKGV Decl. ¶ 97.

Moreover, Ms. Gomez Velazquez is fighting for her ability to stay in this country; she fears for her life in Mexico and is committed to winning her immigration court case. Ms. Gomez Velazquez is represented by counsel and has a strong and well-supported case for relief from removal to Mexico under the Convention Against

Torture. *See* Exh. B, Ramirez Decl. at ¶¶ 18-21. She fears she will be tortured or killed in Mexico due to multiple factors including her sexual orientation and her imputed gang affiliation. *Id.* at ¶ 18. Her claims for relief are supported by a country conditions expert and a mental health professional; both are prepared to testify at Ms. Gomez Velazquez's individual hearing. *Id.* at ¶¶ 19-20. If Ms. Gomez Velazquez does not obtain relief from removal from the IJ, she intends to pursue every appeal available to her, including at the Board of Immigration Appeals (BIA) and the Ninth Circuit. Exh. A, UKGV Decl. at ¶ 100; Exh. B, Ramirez Decl. at ¶ 15.

As a result, Ms. Gomez Velazquez has every incentive to appear at her hearings and she recognizes that the consequences of her failure to appear are significant. Exh. A, UKGV Decl. at ¶ 99. Members of her support team have pledged their time and resources to personally ensure Ms. Gomez Velazquez has reliable transportation to all future hearings. Exh. K, Victoria Ltr.; Exh. L, Havannah Ltr.

Beyond fighting her deportation, Ms. Gomez Velazquez has concrete plans to build a life in this country that includes her many ties to this country. She is pursuing affirmative immigration relief that, if granted, could provide her a pathway to permanent status in the United States. Exh. B, Ramirez Decl. at ¶¶ 22-25. She is actively pursuing a U-Visa, as a victim of sexual assault, and a T-Visa, as a survivor of her ex-partner's trafficking. *Id.*

Ms. Gomez Velazquez has a thorough and detailed five-year plan deeply rooted in her community. *See* Exh. V, Five Year Plan. In this plan, Ms. Gomez Velazquez not only articulates what she hopes to accomplish upon her release, but also a timeline of

when she intends to accomplish each goal—within one day, one week, one month, six months, and up to five years of her release—and, crucially, who will support her along the way and how they will do so. *Id.*

From the day of her release, Ms. Gomez Velazquez plans to live with her sister, Michelle. Exh. J, Michelle Ltr. If required by her parole officer, she is also prepared to live in a transitional housing facility and has secured an offer letter from Next Step Reentry. *See* Exh. R, Next Step Ltr. Within her first week, she plans to start working in the office at Spirit Cruises and opening a bank account and begin building her credit. Exh. J, Michelle Ltr.; Exh. V, Five Year Plan. She also plans to enroll in Defy Venture's accelerator course so she can continue building her small-business, Mi Casa Ordering Service. Exh. V, Five Year Plan. Within the first month she will be enrolled in the two classes needed to complete her bachelor's degree in social science. *Id.*; Exh. H, Hughes Ltr.

Ms. Gomez Velazquez has positive community and family relationships that she is committed to nurturing upon release. She is eager to visit the Urban School in San Francisco and meet the students she has been mentoring through "Voices of Incarceration." Exh. V, Five Year Plan; Exh. F, Courtney Rein, High School Teacher at the Urban School ("Rein Ltr."); Exh. G, Camillia Amiri, "Voices of Incarceration" Student Participant ("Amiri Ltr."). Ms. Gomez Velazquez looks forward to sharing her story and expanding the immigration fair for incarcerated Californians to other prisons across the state, and even nationwide. Exh. A, UKGV Decl. at ¶ 53.

Ms. Gomez Velazquez is not a danger to the community: Ms. Gomez Velazquez's criminal convictions relate to conduct that occurred in 2003, over two decades ago. Although Ms. Gomez Velazquez ultimately pled to voluntary manslaughter, she was not present in the room, nor did she possess or fire a gun at any point during the altercation in which Gary was ultimately killed.[2] Since then, Ms. Gomez Velazquez has dedicated herself to healing from her trauma and uplifting the community around her.

While Ms. Gomez Velazquez was incarcerated, she sought out self-help and education programs focused on domestic violence and abuse, ultimately taking, and later facilitating, over 90 courses. Exh. A, UKGV Decl. at ¶¶ 46-47; *see also* Exh. D, Self-Help Milestones. She takes full responsibility for her role in the crime and acknowledges the consequences of her actions and the harm she caused people beyond those immediately present. Exh. A, UKGV Decl. at ¶ 91.

Not only has Ms. Gomez Velazquez done an immense amount of work developing the tools and systems she needs to be a successful member of her community, but she has also built meaningful and nurturing relationships with members

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[2] Moreover, in the years since Ms. Gomez Velazquez's conviction, California has enacted several criminal justice reforms. In 2022, California made it possible for individuals convicted of voluntary manslaughter, in addition to those convicted of more serious crimes under theories that imputed their malice, eligible for postconviction relief. Ms. Gomez Velazquez's petition for postconviction relief based on these changes in the law, codified in California PC §1172, is currently with the trail court. She may be eligible to vacate her manslaughter conviction and be resentenced on a less serious felony based on her limited participation in the crime, and that at her original conviction was based on a theory of imputed malice now outlawed in California. *See People v. Gomez*, No. B329629, 2025 WL 653359 (Cal. Ct. App. Feb. 28, 2025).

of her community. *Id.* at ¶¶ 50-54, 92-100; *see* Exh. D, Self-Help Milestones. She has her family and an enormous support team who are all eager to welcome her home. Exh. J, Michelle Ltr.; Exhs. K-U, Letters of Support from the Community.

Moreover, Ms. Gomez Velazquez is not a threat. In fact, she is a mentor to high school students enrolled in the "Voices of Incarceration" class at the Urban School. Exh. F, Rein Ltr. Ms. Gomez Velazquez "has been a remarkably thoughtful and impactful writer and mentor" to the students she has gotten to know through the program. *Id.*; *see also* Exh. G, Amiri Ltr. (stating that Ms. Gomez Velazquez's mentorship helped her gain the courage to move far from home for college and that she is "proud and honored to call Ursula Gomez a friend."). Through the program, students wrote letters to Ms. Gomez Velazquez "filled with honest questions about how to make good decisions, and how to navigate social and family struggles." Exh. F, Rein Ltr.; *see also* Exh. G, Amiri Ltr. ("through our numerous letters sent back and forth, we discussed topics ranging from our cultures and the immigrant experience to exchanging stories about our senior year prom nights."). When she wrote the students back, Ms. Gomez Velazquez "shared her own thoughts and experiences in ways that sp[oke] to deep self-reflection and honesty." Exh. F, Rein Ltr. In her letters, Ms. Gomez Velazquez "embodied so many of the skills necessary to build community, whether that's practicing daily positivity, modeling honest communication, or sharing openly about her own difficulties." *Id.*.

In sum, the risk of erroneous deprivation of Ms. Gomez Velazquez's liberty is high. Because she is an excellent candidate for bond, the probable value of providing her with additional safeguards in the form of a bond hearing is also very high.

3. The Government Has No Legitimate Interest in Continuing to Detain Ms. Gomez Velazquez and Any Burden to the Government is De Minimus

The government's interest in continuing to detain Ms. Gomez Velazquez without providing any neutral review is very low. *See Mathews*, 424 U.S. at 335. The specific interest at stake here is neither the government's interest in enforcing this country's immigration laws nor is it the government's ability to continue to detain Ms. Gomez Velazquez. Rather, it is the government's interest in continuing to detain Ms. Gomez Velazquez for months, possibly years, *without any individualized review*. *See Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 964 (N.D. Cal. 2019). "[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." *Hernandez*, 872 F.3d at 994.

Moreover, the bond hearing Ms. Gomez Velazque seeks is a routine process that the government provides every single day. As the government has conceded in similar cases, a bond hearing imposes a de minimis burden on the government. *See id.*; *De Paz Sales v. Barr*, No. 19-cv- 04148-KAW, 2019 WL 4751894, at *7 (N.D. Cal. Sept. 30, 2019) ("[T]he Government does not argue there are any costs to providing a bond hearing."). Even if the government carries some cost in holding a bond hearing, any

marginal cost is "easily outweighed by the reduction in the risk of erroneous deprivation of liberty that would result from the additional safeguard" of a bond hearing. *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017.

In sum, all three *Mathews* factors weigh in favor of Ms. Gomez Velazquez. The Court should order a hearing before an IJ at which the government bears the burden to prove by clear and convincing evidence that no non-custodial alternatives to detention are sufficient to mitigate any flight risk or danger to the community she may pose. If the government does not carry its burden, Ms. Gomez Velazquez must be released from immigration custody.

B. Ms. Gomez Velazquez Likewise Prevails Under *German Santos*.

The Third Circuit's multi-factor test in *German Santos* provides an alternative, but related, test to determine whether an individual's detention without process violates constitutional bounds. This test looks at: (1) duration of detention; (2) whether detention is likely to continue; (3) reasons for delay; and (4) whether conditions of confinement are meaningfully different from criminal punishment. *German Santos*, 965 F.3d at 210-11; *see also Arido-Sorro v. Garland*, 2024 WL 4393264, *3 (D. Ariz., 2024); *Lopez v. Garland*, 631 F. Supp. 3d 870, 879 (E.D. Cal. 2022) (weighing three factors—(1) total length of detention to date, (2) likely duration of future detention, and (3) delays caused by both sides—to "asses[s] whether an individual's prolonged mandatory detention under 8 U.S.C. § 1226(c) violate[d] due process.". Ms. Gomez Velazquez likewise prevails under the *German Santos* factors.

1. Ms. Gomez Velazquez Has Been Detained for Over One Year.

First, Ms. Gomez Velazquez's detention is prolonged at over 12 months. The duration of detention is the "most important factor," *German Santos*, 965 F.3d at 211. As "detention continues past a year, courts become extremely wary of permitting continued custody absent a bond hearing." *Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, *3 (N.D. Cal. Jan. 25, 2019). Ms. Gomez Velazquez is beyond one year of unreviewed custody and will far surpass that mark absent this court's intervention. *See Adrio-Sorro*, 2024 WL 4393264 at *4 (reasoning that "[i]n general, as detention continues past a year, courts become extremely wary of permitting continued custody absent a bond hearing.") (internal citation omitted).

2. Ms. Gomez Velazquez is Likely to Remain Detained Indefinitely.

Second, Ms. Gomez Velazquez's detention is likely to continue with "no remotely certain end in sight as to her custody." *Romero Romero v. Wolf*, No. 20-CV-08031-TSH, 2021 WL 254435, *4 (N.D. Cal. Jan. 26, 2021); *see also Adrio-Sorro*, 2024 WL 4393264 at *4 (acknowledging that the "possibility of prolonged appeals weighs in favor of finding that continued detention without a bond hearing violates due process."). Without this court's intervention, Ms. Gomez Velazquez will remain detained for additional months, and possibly years, as she pursues her case for relief.

With respect to her hearings before the IJ, those will continue for at least several months, and possibly longer. Ms. Gomez Velazquez is scheduled for an individual hearing before the Eloy immigration court on August 27, 2025. However, it is unlikely that she will be able to present her full case, including testimony by the country

conditions expert, in the hour-and-a-half window for which she has been scheduled. Exh. B, Ramirez Decl. at ¶ 14. As a result, her individual hearing is likely to be continued to a second hearing; Ms. Gomez Velazquez has no control over when this second hearing will be scheduled, as it depends entirely on the immigration judge's calendar. *Id.* ("it can often take a few months" when an individual hearing is continued "because Immigration Judges calendars are full, and cases are often double booked.").

Moreover, if, after Ms. Gomez Velazquez presents her full case, the immigration judge denies her relief from removal, she faces the prospect of remaining detained for years because she intends to appeal any negative decision, first to the Board of Immigration appeals and then to the Ninth Circuit. *Id.* at ¶ 14-15, 17 (explaining that "the appeals process can take more than a year and typically takes years."); Exh. A, UKGV Decl. at ¶ 100.

In sum, given that Ms. Gomez Velazquez detention is likely to last significantly longer than the year she has already been detained—at least several more months and possibly years—this factor clearly weighs in favor of Ms. Gomez Velazquez. *See Gonzalez v. Bonnar*, No. 18-CV-05321-JSC, 2019 WL 330906, *5 (N.D. Cal. Jan. 25, 2019) (finding that detention lasting at least another three months on top of detention that has already lasted one year weighed in favor of a bond hearing).

3. Ms. Gomez Velazquez Has Not Caused or Contributed to Unreasonable Delay.

Third, Ms. Gomez Velazquez cannot be faulted for the two continuances she requested in her removal proceedings. Courts look to the reason for delay, such as the individual's requests for continuances, but do not hold her "good-faith challenge to

[her] removal against [her], even if [her] appeals or applications for relief have drawn out the proceedings." *German Santos*, 965 F.3d at 211; *see Adrio-Sorro*, 2024 WL 4393264 at *5 (even where petitioner contributed to delays in the proceedings by asking for more time, nothing in the record indicated "that those delays were attributable to dilatory tactics" and so petitioners requests for continuances could not be held against the them); *see also Romero Romero*, 2021 WL 254435, at *4 (it is "[in]compatible with our system of government that Petitioner should simply have to forfeit his due process rights because he is choosing (if one can really call it a choice) to pursue the rights provided to him by our laws.").

Ms. Gomez Velazquez has been diligent in pursuing relief against removal, timely complying with all deadlines in her case. Ms. Gomez Velazquez also asserts relief in good faith and has a meritorious case for relief from removal. *See* Exh. B, Declaration of Cindy Ramirez ¶¶ 18-21. The only delays that can be attributed to Ms. Gomez Velazquez are when she requested two continuances, at her first and second master calendar hearings, to be able to find an attorney to represent her. *Id.* at ¶¶ 8-9; *see also* Exh. A, UKGV Decl. at ¶¶ 62-66. Her inability to find an attorney between her first and second hearings was due to an administrative error that was outside of Ms. Gomez Velazquez's control. *Id.*

On the other hand, the government has caused far more significant delays in Ms. Gomez Velazquez's case and has done so with no apparent justification. Ms. Gomez Velazquez was suddenly transferred from Tacoma, Washington to Eloy, Arizona two weeks before her individual hearing was scheduled. When asked to provide a

justification for her sudden transfer, ICE informed Ms. Gomez Velazquez's attorneys that she was being transferred for medical purposes. Exh. B, Ramirez Decl. at ¶ 12. This is a puzzling justification given the significant challenges Ms. Gomez Velazquez has faced trying to access adequate healthcare at Eloy, and even more so because Ms. Gomez Velazquez did not have problems accessing healthcare when ICE decided to transfer her. Exh. A, UKGV Decl. at ¶¶ 82.

Regardless, ICE's decision to transfer Ms. Gomez Velazquez resulted in a delay of at least four additional months in detention. By comparison, Ms. Gomez Velazquez has only asked for two continuances to exercise her statutory and due process right to counsel. This factor either favors Ms. Gomez Velazquez, given the government's dubious explanation for her last-minute transfer, or does not "favor either side." *German Santos*, 965 F.3d at 212.

4. Ms. Gomez Velazquez's Conditions of Confinement Are Demonstrably Worse as Compared to Criminal Incarceration.

The final *German Santos* factor considers whether the conditions of confinement are meaningfully different from criminal punishment. For Ms. Gomez Velazquez the conditions of confinement are the worst she has experienced in her entire life, far worse than criminal punishment. *See* Exh. A, UKGV Decl. at ¶¶ 74-90. Persons detained under the immigration statutes "are subject to civil detention rather than criminal incarceration. The more that the conditions under which the [noncitizen] is being held resemble penal confinement, the stronger his argument that he is entitled to a bond hearing." *De Paz Sales v. Barr*, No. 19-CV-04148-KAW, 2019 WL 4751894, *6 (N.D. Cal. Sept. 30, 2019) (internal quotation marks omitted).

Ms. Gomez Velazquez is detained at the Eloy Detention Center, which has gained notoriety as the "deadliest immigration detention center in the United States."[3] The Eloy facility has a record of deplorable conditions that range from inadequate medical care and a lack of access to hygienic clothes, to frequent lockdowns. Facility staff are verbally abusive towards Ms. Gomez Velazquez and yell at her constantly. Exh. A, UKGV Decl. at ¶ 75. She is also subject to excessive and extensive security pat downs of her body and cell multiple times a day, far more than she was ever searched in prison. *Id.* at ¶ 76. "Despite its civil label, [Ms. Gomez Velazquez's] detention is indistinguishable from criminal punishment." *German Santos*, 965 F.3d at 213; *see also Masood*, 2020 WL 95633, at *4 (finding incarceration in a jail-like facility that "has serious operational problems" approximates penal confinement). As such, this factor weighs decisively in Ms. Gomez Velazquez's favor.

Applying these four factors to Ms. Gomez Velazquez's case leaves little doubt her detention has become unconstitutionally prolonged, and that she is constitutionally entitled to an individualized custody evaluation.

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[3] Over the past decade, the Florence Immigrant and Refugee Rights Project (Florence Project) has documented and filed numerous complaints with oversight agencies regarding severe abuses at Eloy. Their most recent report from October 2024 highlights that Eloy has gained notoriety as the "deadliest immigration detention center in the U.S.," with at least 16 reported deaths, including five suicides (p. 1). The report can be found at: https://www.detentionwatchnetwork.org/sites/default/files/reports/Anthology%20of%20Abuse%20-%20A%20Legacy%20of%20Failed%20Oversight%20and%20Death%20at%20the%20Eloy%20Detention%20Center_.pdf

C. The Government Must Bear the Burden of Demonstrating by Clear and Convincing Evidence that Ms. Gomez Velazquez's Continued Detention is Justified.

If this Court orders a remedial bond hearing for Ms. Gomez Velazquez, the government should bear the burden of proving by clear and convincing evidence that Ms. Gomez Velazquez's poses some flight risk or danger to the community that would justify her continued confinement.

As the Ninth Circuit confirmed in *Rodriguez Diaz v. Garland*, "*Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011), in which a[] [noncitizen] detained without bond under § 1226(c) received a [bond hearing] approximately 16 months after he was first detained," held that the government must bear the burden of proof by clear and convincing evidence at prolonged detention bond hearings. 53 F.4th 1189, 1199 (9th Cir. 2022). *Singh* controls here, where Ms. Gomez Velazquez seeks a bond hearing after being detained for a prolonged period under Section 1226(c). *See Martinez Leiva v. Becerra*, No. 23-CV-02027-CRB, 2023 WL 3688097, *9 (N.D. Cal. May 26, 2023) (applying *Singh*, post *Rodriguez Diaz*, to bond hearing to remedy prolonged detention).

In *Aleman Gonzalez v. Barr*, a case involving individuals detained pursuant to 8 U.S.C. § 1231(a)(6), the Ninth Circuit held that *Singh's* burden-of-proof rule was a constitutional due process. 955 F.3d 762, 781 (9th Cir. 2020) *reversed on other grounds*, 142 S. Ct. 2057 (2022). And, as the Ninth Circuit explained in *Singh*, the Supreme Court has "repeatedly reaffirmed" the principle that due process requires a "heightened burden of proof" on the government in civil proceedings that implicate individuals interests that are "particularly important and more substantial than mere loss

of money." *Singh*, 638 F.3d at 1204 (internal quotation marks and citations omitted). Where the "possible injury to the individual" is so significant, the individual should not "share equally with society the risk of error." *Id.* at 1203-04 (citation omitted). The Court should therefore order that the government bear the burden by clear and convincing evidence at Ms. Gomez Velazquez's remedial bond hearing.

II. Ms. Gomez Velazquez Will Suffer Irreparable Harm Absent Intervention from the Court.

Ms. Gomez Velazquez will suffer irreparable harm absent a temporary restraining order enjoining the government from continuing to detain her without a hearing at which the government must prove by clear and convincing evidence that no alternatives to detention can sufficiently mitigate any risk of flight or danger to the community she may pose. "It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 995-96 (9th Cir. 2017) (quoting *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)) (internal quotation marks omitted); *see also Perera v. Jennings*, No. 21-cv-04136-BLF, 2021 WL 2400981, *5 (N.D. Cal. June 11, 2021). Thus, a finding that Petitioner is likely to succeed on the merits of her due process claim also indicates she has "carried [her] burden as to irreparable harm." *Hernandez*, 872 F.3d at 995.

In addition, the Ninth Circuit has recognized the "irreparable harms imposed on *anyone* subject to immigration detention." *Id.* (emphasis added). The record in this case illustrates the irreparable harms that Ms. Gomez Velazquez faces, including her deteriorating mental and physical health. *See* UKGV Decl. at ¶ 58 ("without question...the last year of my life has been, by far the most difficult. My mental and

physical health declines with each additional day in detention."), ¶¶ 74-90 (describing the decline in her mental and physical health due to the conditions of her confinement in detention); *see also* Exh. K, Victoria Ltr. (after a year of "being shuffled around detention centers...being denied simple requests like tampons and clean clothes, and being treated as less than human with unending captivity," Ms. Gomez Velazquez's "spirit is breaking. Multiple times she has called...wondering how long her body can last in a place like [Eloy]."); Exh. L Havannah Ltr. (recounting a recent phone call during which Petitioner shared that the "indignities and abuse" of her ongoing civil incarceration "lead her to...an unbearable depression and suicidal ideation.").

It is beyond question that Ms. Gomez Velazquez will face irreparable harm unless this Court intervenes.

III. The Balance of Hardships and Public Interest Strongly Favor Ms. Gomez Velazquez.

The balance of equities and public interest tip sharply in Ms. Gomez Velazquez's favor. On one side of the scale, Ms. Gomez Velazquez faces deprivation of her physical liberty. On the other side, any harm the government might face if the temporary restraining order is granted is negligible at best. Because the government's detention of Ms. Gomez Velazquez is without any hearing in which it proves that alternatives to detention are insufficient to prevent any danger to the community or risk of flight she poses, the government "cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from [statutory and] constitutional violations." *Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983). Nor can the government reasonably assert that affording a hearing to an individual who has been detained for

over a year absent any review, would harm its interest in immigration enforcement. The fiscal costs associated with providing a bond hearing to Ms. Gomez Velazquez are de minimis. *See, e.g., Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal. 2019). In any case, when faced with "a conflict between financial concerns and preventable human suffering," the Ninth Circuit has "little difficulty concluding that the balance of hardships tips decidedly in plaintiff['s] favor." *Hernandez*, 872 F.3d at 996 (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

Further, the temporary restraining order sought here is in the public interest. The public has an interest in upholding constitutional rights. *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005); *see also Perera*, 2021 WL 2400981, at *5. The public is also served by ensuring that the government does not expend its resources to detain individuals unnecessarily, and without adequate process. *See Hernandez*, 872 F.3d at 996 (noting "staggering" costs of immigration detention); *Heckler*, 713 F.2d at 1437 ("Society's interest lies on the side of affording fair procedures to all persons, even though the expenditure of governmental funds is required.").

Finally, as set forth *supra*, Ms. Gomez Velazquez asks this Court to find that Petitioner has complied with the requirements of Rule 65, Fed.R.Civ.P., for the purposes of granting a Temporary Restraining Order. Pursuant to Rule 65(b)(1), this Court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if a) specific facts in an affidavit . . . clearly show that immediate and irreparable injury, loss or damage will result to the petitioner before the

adverse party can be heard in opposition; and 2) the petitioner's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Here, Petitioner respectfully submits that sufficient notice has been given to Respondents since the Chief of the Civil Division of the United States Attorney's Office has been provided with a copy of the instant motion. *See* Exhibit A, Letter from Ami Hutchinson to Katherine Branch, August 7, 2025. The U.S. Attorney's Office represents Respondents in civil litigation in which they are named as Defendants or Respondents. While proper service may not have been made on Respondents' counsel, for the purpose of Rule 65(b)(1), this Court should find that written notice has, in fact, been provided to the adverse party. In the event this Court finds that not to be the case, it should nevertheless find that the requirements of Rule 65(b)(1)(A) and (B) have been met. *See* Exhibit B, Affidavit of Ami Hutchinson.

SECURITY

"Rule 65(c) invests the district court with discretion as to the amount of security required, if any." *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003) (internal quotation marks and citation omitted). District courts routinely exercise this discretion to require no security in cases brought by incarcerated people. *See, e.g., Pham v. Becerra*, No. 23-CV-01288-CRB, 2023 WL 2744397, at *7 (N.D. Cal. Mar. 31, 2023) (detained noncitizen); *Perera*, 2021 WL 2400981 at *6 (same); *Orantes-Hernandez v. Smith*, 541 F. Supp. 351, 385 n.42 (C.D. Cal. 1982) (detained noncitizens). This Court should do the same here.

CONCLUSION AND PRAYER FOR RELIEF

For the reasons set forth above, the Court should grant a temporary restraining order and order Respondents-Defendants to provide Ms. Gomez Velazquez with a hearing before an immigration judge at which the government must prove by clear and convincing evidence that no possible alternatives to detention are sufficient to mitigate any risk of flight or danger to the community that Ms. Gomez Velazquez may pose, within 7 days.

Dated: August 7, 2025

Respectfully submitted,

s/ Ami Hutchinson

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