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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX DIVISION

Ursula Karina Gomez Velazquez,

Petitioner,

v.

Fred Figueroa, et. al.,

Respondents.

Case No.: 2:25-cv-02851-KML--CDB

**PETITIONER'S SECOND MOTION
FOR A TEMPORARY
RESTRAINING ORDER &
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION**

MOTION FOR TRO & MEMORANDUM OF POINTS AND AUTHORITIES
Gomez Velazquez v. Figueroa, et al.

NOTICE OF MOTION

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Ursula Karina Gomez Velazquez (“Ms. Gomez Velazquez”) hereby moves for a temporary restraining order, directing 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, the Exhibits filed support of this motion, Ms. Gomez Velazquez’s Petition for Writ of Habeas Corpus (Dkt. No. 1), and the Exhibits filed in support thereof.

Respondents will be served with this motion via ECF as they have now entered an appearance. In addition, immediately after filing these documents, I will send the (1) Motion for a Temporary Restraining Order, (2) Exhibit X, Declaration of Ursula Karina Gomez Velazquez in support of Motion for Temporary Restraining Order, (3) Exhibit Y, Declaration of Ami Hutchinson in support of Motion for Temporary Restraining Order, and (4) the Proposed Order on the Motion for a Temporary Restraining Order via email to Theo Nickerson, Assistant United States Attorney.

Petitioner notes for the Court that Respondents were served via email with Ms. Gomez Velasquez’s first Motion for a Temporary Restraining Order. *See* Dkt. No. 2; Exhibit (“Exh.”) Y, Declaration of Ami Hutchinson in support of Motion for Temporary Restraining Order (“AH Decl. TRO”), ¶ 2. Although the first Motion for a Temporary Restraining Order was filed requesting *ex parte* relief given the irreparable harm facing Petitioner, Dkt. No. 1-2 at 10-14, nothing precluded Respondents from filing a response. After almost two weeks with no response from Respondents, Petitioner’s counsel affirmatively reached out via email to Respondents to propose a briefing schedule. Exh. Y, AH Decl. TRO ¶ 4. Respondents did not respond. *See id.* at ¶ 5. A full 13 days passed, with Respondents in receipt of their Motion for a TRO, and Petitioner received no response from Respondents nor was any filed with the Court. *Id.* at ¶¶ 2-5.

1 The instant Motion for a Temporary Restraining Order is substantially the same as
2 the prior Motion, albeit shorter and further substantiating the ongoing irreparable harm to
3 Petitioner. As the supplemental declaration of Ms. Gomez Velasquez establishes, she is
4 suffering irreparable harm every day in civil immigration detention. *See* Exh. X,
5 Supplemental Declaration of Ursula Karina Gomez Velazquez in support of Motion for
6 Temporary Restraining Order (“UKGV Supp. Decl. TRO”). As such, Petitioner
7 respectfully requests that Respondents be provided with 48 hours to respond. Petitioner
8 will waive a reply and instead respectfully requests that this Court set a hearing on
9 Monday the 8th of September, or as soon as practicable.

10
11 Date: September 3, 2025

Respectfully Submitted,

12 /s/Sandhya Nadadur

13 Sandhya Nadadur

14 *Pro Bono Attorney for Petitioner*
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MEMORANDUM OF POINTS AND AUTHORITIES

Ursula Karina Gomez Velazquez (“Ms. Gomez Velazquez”) has been civilly incarcerated for over 13 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 RELEVANT¹ FACTS AND PROCEDURAL HISTORY

Ms. Gomez Velazquez came to the United States in 1988 as a small child. Dkt. No. 1-2 at 2. She grew up around San Pedro, California, where her family continues to live today. *Id.* at 2, 15. The United States is the only home Ms. Gomez Velazquez has ever known.

As a teenager, Ms. Gomez was abused and trafficked by Gary, a man ten years her senior. *See id.* at 3-6. In 2003, Ms. Gomez Velazquez was present during an altercation in which Gary was shot and killed. *Id.* at 6. She was held criminally responsible for Gary’s death and ultimately sentenced to 21 years in state prison. *Id.* at 7. On July 31, 2024, upon completion of her criminal sentence, Ms. Gomez Velasquez was transferred directly from California state criminal custody to Immigration and Customs Enforcement (“ICE”). *Id.*

¹ For a complete recitation of facts, including more background information, *see* Dkt. No. 1, Petition for Writ of Habeas Corpus.

1 at 9. ICE initiated removal proceedings against her, and she has remained in civil
2 incarceration since then without any individualized review of the need for her detention.
3 Dkt. No. 1-2 at 18-19. To date, Ms. Gomez Velazquez has been civilly incarcerated for
4 over 13. As she explained in the declaration submitted in support of her habeas petition,
5 her mental and physical health are rapidly deteriorating due to the everyday conditions at
6 Eloy. *See* Dkt. No. 1-2 at 10-14.

7 Over the last two decades of incarceration, Ms. Gomez Velazquez has committed
8 herself to healing and developing the insight and skills she needs to be a positive member
9 of her community. Dkt. 1-2 at 26-75. While incarcerated, Ms. Gomez Velazquez sought
10 out self-help and education programs focused on domestic violence and abuse,
11 completing over 90 programs during her incarceration. *Id.* She also went back to school
12 and completed her associate's degree and is two classes short of earning her bachelor's,
13 earning an A in all but one of the 15 upper division courses she completed. *Id.* at 8, 112-
14 13. Today, Ms. Gomez Velazquez has a profound support system consisting of family,
15 community, and institutional support. Her support team is fully committed to her
16 successful reentry into society and have already pledged to provide her with a host of
17 resources, from housing and transportation to court hearings, to financial and emotional
18 support. *See id.* at 119-29; Dkt. No. 1-3 at 1-32.

19 On August 27, 2025, Ms. Gomez Velazquez had her individual merits hearing
20 before an IJ at the Eloy Detention Center. Exh. X, UKGV Supp. Decl. TRO at ¶ 1. This
21 hearing took place over one year after she entered immigration detention, and four
22 months after she was originally scheduled to be heard in Tacoma, Washington. *Id.* at ¶ 2.
23 At this hearing, Ms. Gomez Velazquez was given an hour and a half to present her entire
24 case for relief from removal, including her own testimony and the testimony of the
25 country conditions expert working on her case. *Id.* at ¶ 1. Ms. Gomez Velazquez was
26 unable to present her full case in the time allotted; specifically, her country conditions
27 expert did not have sufficient time to testify. *Id.*

1 At the end of the hearing, the IJ informed Ms. Gomez Velazquez that the next
2 available date to continue her hearing was in three months, in November 2025. *Id.* at ¶ 3.
3 When she heard this, Ms. Gomez Velazquez broke down. *Id.* at ¶ 2. She could not accept
4 the additional delay of three months in her case, especially when it was due to reasons
5 entirely outside of her control—scheduling constraints—and that she be expected to
6 remain detained throughout. *See id.* at ¶¶ 3-4. Instead of a continued hearing, Ms. Gomez
7 Velazquez’s attorneys agreed to submit a supplemental country conditions report and the
8 IJ agreed to issue a written decision in the case on or before September 15, 2025. *Id.* at ¶
9 3.

10 In the last few weeks, Ms. Gomez Velazquez has become increasingly concerned
11 that her ongoing detention is causing her irreparable harm. Exh. X, UKGV Supp. Decl.
12 TRO at ¶ 5.

13 Ms. Gomez Velazquez is prediabetic yet unable to make dietary decisions at Eloy
14 in the best interest of her health. *Id.* at ¶ 6; Dkt. No. 1-2 at 14. She expects she will soon
15 develop diabetes because of her diet at Eloy, which is unhealthy and over which she has
16 no control. *Id.*

17 Ms. Gomez Velazquez feels that her safety and wellbeing are at risk and that
18 facility staff are not adequately trained to handle emergencies. Dkt. No. 1-2 at 12; Exh.
19 X, UKGV Supp. Decl. TRO at ¶¶ 8-9. On May 5, 2025, Ms. Gomez Velazquez woke up
20 around 4:20 A.M. to a fire alarm blaring across the facility. Dkt. No. 1-2 at 12. For nearly
21 30 minutes, she and her cell mates sat locked in their cells, watching in a panic as facility
22 staff ran out of the building shouting for people to get out. *Id.* More recently, a detainee
23 that Ms. Gomez Velazquez does not know and with whom she has never interacted,
24 shoved Ms. Gomez Velazquez unprompted while she was in a common area. Exh. X,
25 UKGV Supp. Decl. TRO at ¶ 9. Although Ms. Gomez Velazquez managed to deescalate
26 the situation on her own, she is worried that something similar could happen again and
27 that the guards would once again fail to intervene and protect her. *Id.*

1 Ms. Gomez Velazquez is constantly under suspicion, even when she has done
2 absolutely nothing wrong. She is subject to random and invasive searches every single
3 day. Dkt. No. 1-2 at 12; Exh. X, UKGV Supp. Decl. TRO at ¶ 11. Last weekend, Ms.
4 Gomez Velazquez was wrongfully accused of stealing a guard's property and subject to
5 unnecessary and aggressive treatment as a result. Exh. X, UKGV Supp. Decl. TRO at ¶
6 11. A guard accused Ms. Gomez Velazquez and her pod of stealing a watch. *Id.* Even
7 before starting to look for the watch, several guards yelled and threatened to "tear apart"
8 detainees belongings if someone did not come forward and confess to stealing it. *Id.* The
9 watch was ultimately found in an area that detainees cannot access. *Id.*

10 She is also regularly given unhygienic and unwearable clothing. When Ms. Gomez
11 Velazquez was first transferred to Eloy, the uniform she was given had a large hole and
12 was unwearable. Dkt. No. 1-2 at 12. About two weeks ago, Ms. Gomez Velazquez
13 ordered new clothes and the uniform she was given had clearly been worn by somebody
14 else and the underwear was obviously soiled. Exh. X, UKGV Supp. Decl. TRO at ¶ 10.

15 In the last month, Ms. Gomez Velazquez has unable to sleep more than three hours
16 a night. *Id.* at ¶ 6. Her hair is falling out and she is going bald. *Id.* Her anxiety is
17 uncontrolled despite doing more than she has ever done to treat it, including taking two
18 new anti-anxiety medications and seeing a therapist twice a week. *Id.* at ¶ 8.

19 Ms. Gomez Velazquez's community is central to her wellbeing, yet she could
20 barely interact with them when they came to Eloy for her individual hearing on August
21 28, 2025. *Id.* at ¶ 12. After the hearing, all eight people who had come to support her,
22 including her sister, were promptly escorted out of the facility. *See id.* Ms. Gomez
23 Velazquez was forced to sit inches away as the guards marched them out of the facility
24 right in front of her. *Id.* At most, she managed brief glances as they walked by. *Id.*

25 Although Ms. Gomez Velazquez is proud of her ongoing ability to confront and
26 overcome multiple triggers a day while she is in detention, after having done so for over
27 a year with no space to recover, she is mentally and physically exhausted. *Id.* at ¶ 8. She
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1 will remain detained in these deplorable conditions for the indefinite future absent
 2 intervention by this court as she pursues all her avenues for relief, as described below.

3 LEGAL STANDARD

4 Ms. Gomez Velazquez is entitled to a TRO if she establishes that: (1) she is “likely
 5 to succeed on the merits”; (2) she is “likely to suffer irreparable harm in the absence of
 6 preliminary relief”; (3) “the balance of equities tips in [her] favor”; and (4) that “an
 7 injunction is in the public interest.” *Winter v. National Resources Defense Council, Inc.*,
 8 555 U.S. 7, 20 (2008). Even if Ms. Gomez Velazquez does not establish a likelihood of
 9 success on the merits, the Court may still grant her TRO under the “alternative serious
 10 questions standard, also known as the sliding scale variant of the *Winter* standard”
 11 employed by courts in the Ninth Circuit. *Fraihat v. U.S. Immigration & Customs*
 12 *Enforcement*, 16 F.4th 613, 635 (9th Cir. 2021) (citation modified). Under this approach,
 13 “serious questions going to the merits and a hardship balance that tips sharply toward the
 14 plaintiff can support issuance of an injunction, assuming the other two elements of the
 15 *Winter* test are also met.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-
 16 32 (9th Cir. 2011).

17 ARGUMENT

18 **I. Ms. Gomez Velazquez is likely to succeed on the claim that her ongoing,** 19 **prolonged, and unreviewed detention violates Procedural Due Process.**

20 The majority of district courts in the Ninth Circuit apply the due process
 21 framework articulated by the Supreme Court in *Mathews v. Eldridge* to determine
 22 whether ongoing detention under 8 U.S.C. § 1226(c) violates a petitioner’s due process
 23 rights. *Mathews v. Eldridge*, 424 U.S. 319 (1976); *see e.g. J.P. v. Garland*, 685 F. Supp.
 24 3d 943 (N.D. Cal. 2023). Under *Mathews*, Ms. Gomez Velazquez prevails on her claim
 25 that her ongoing and unreviewed detention of over one year is unconstitutional and
 26 requires review by a neutral arbiter.
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A. All three prongs of the *Mathews v. Eldridge* test for procedural due process claims weigh in favor of Ms. Gomez Velazquez.

Ms. Gomez Velazquez'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. X, UKGV Spp. Decl. TRO at ¶ 5; Dkt. No. 1-2 at 18-19; *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. Exh. X, UKGV Spp. Decl. TRO at ¶ 5.

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

1 parole, which include regular check-ins with her parole officer and remaining within 50
2 miles of her residence. Dkt. 1-3 at 33-35; *see also* Dkt. No. 1-2 at 15.

3 Moreover, Ms. Gomez Velazquez is fighting for her ability to stay in this country;
4 she fears for her life in Mexico and is committed to winning her immigration court case.
5 Ms. Gomez Velazquez is represented by counsel and has a strong and well-supported
6 case for relief from removal to Mexico under the Convention Against Torture. *See* Dkt.
7 No. 1-2 at 19. She fears she will be tortured or killed in Mexico due to multiple factors
8 including her sexual orientation and her imputed gang affiliation. *Id.* If Ms. Gomez
9 Velazquez does not obtain relief from removal from the IJ, she intends to pursue every
10 appeal available to her, including at the Board of Immigration Appeals (BIA) and the
11 Ninth Circuit. Exh. X, UKGV Supp. Decl. TRO at ¶ 4; Dkt. No. 1-2 at 15; Dkt. No. 1-2
12 at 18.

13 As a result, Ms. Gomez Velazquez has every incentive to appear at her hearings,
14 and she recognizes that the consequences of her failure to appear are significant. Dkt.
15 No.1-2 at 15. Members of her support team have pledged their time and resources to
16 personally ensure Ms. Gomez Velazquez has reliable transportation to all future hearings.
17 *Id.* at 121-23; *id.* at 124-28.

18 Beyond fighting her deportation, Ms. Gomez Velazquez has concrete plans to
19 build a life in this country that includes her many ties to this country. She is pursuing
20 affirmative immigration relief that, if granted, could provide her a pathway to permanent
21 status in the United States. *Id.* at 19-20. She is actively pursuing a U-Visa, as a victim of
22 sexual assault, and a T-Visa, as a survivor of her ex-partner's trafficking. *Id.*

23 Ms. Gomez Velazquez has a thorough and detailed five-year plan deeply rooted
24 in her community. *See* Dkt. No. 1-3 at 21-32. In this plan, Ms. Gomez Velazquez not
25 only articulates what she hopes to accomplish upon her release, but also a timeline of
26 when she intends to accomplish each goal—within one day, one week, one month, six
27 months, and up to five years of her release—and, crucially, who will support her along
28 the way and how they will do so. *Id.*

1 From the day of her release, Ms. Gomez Velazquez plans to live with her sister,
 2 Michelle. Dkt. No. 1-2 at 119-20. If required by her parole officer, she is also prepared
 3 to live in a transitional housing facility and has secured an offer letter from Next Step
 4 Reentry. *See* Dkt. 1-3 at 11-13. Within her first week, she plans to start working in the
 5 office at Spirit Cruises and opening a bank account and begin building her credit. Dkt.
 6 No. 1-2 at 119-20; Dkt. No. 1-3 at 21-32. She also plans to enroll in Defy Venture's
 7 accelerator course so she can continue building her small-business, Mi Casa Ordering
 8 Service. Dkt. No. 1-3 at 23-25. Within the first month she will be enrolled in the two
 9 classes needed to complete her bachelor's degree in social science. *Id.*; Dkt. No. 1-2 at
 10 116.

11 Ms. Gomez Velazquez has positive community and family relationships that she
 12 is committed to nurturing upon release. She is eager to visit the Urban School in San
 13 Francisco and meet the students she has been mentoring through "Voices of
 14 Incarceration." Dkt. No. 1-2 at 112-13; *id.* at 114-15; Dkt. No. 1-3 at 23. Ms. Gomez
 15 Velazquez looks forward to sharing her story and expanding the immigration fair for
 16 incarcerated Californians to other prisons across the state, and even nationwide. Dkt. No.
 17 1-2 at 8.

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

24 _____
 25 ² Moreover, in the years since Ms. Gomez Velazquez's conviction, California has enacted
 26 several criminal justice reforms. In 2022, California made it possible for individuals
 27 convicted of voluntary manslaughter, in addition to those convicted of more serious
 28 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 trial court. She may be eligible to

1 While Ms. Gomez Velazquez was incarcerated, she sought out self-help and
 2 education programs focused on domestic violence and abuse, ultimately taking, and later
 3 facilitating, over 90 courses. Dkt. No. 1-2 at 7-8; *see also id.* at 26-75. She takes full
 4 responsibility for her role in the crime and acknowledges the consequences of her actions
 5 and the harm she caused people beyond those immediately present. Dkt. No. 1-2 at 14-
 6 15.

7 Not only has Ms. Gomez Velazquez done an immense amount of work developing
 8 the tools and systems she needs to be a successful member of her community, but she has
 9 also built meaningful and nurturing relationships with members of her community. *Id.* at
 10 8-9, 14-15; *see also id.* at 26-75. She has her family and an enormous support team who
 11 are all eager to welcome her home. *Id.* at 119-28; Dkt. No. 1-3 at 1-20.

12 Moreover, Ms. Gomez Velazquez is not a threat. In fact, she is a mentor to high
 13 school students enrolled in the “Voices of Incarceration” class at the Urban School. Dkt.
 14 No. 1-2 at 112-13. Ms. Gomez Velazquez “has been a remarkably thoughtful and
 15 impactful writer and mentor” to the students she has gotten to know through the program.
 16 *Id.*; *see also id.* at 114-15 (stating that Ms. Gomez Velazquez’s mentorship helped her
 17 gain the courage to move far from home for college and that she is “proud and honored
 18 to call Ursula Gomez a friend.”). Through the program, students wrote letters to Ms.
 19 Gomez Velazquez “filled with honest questions about how to make good decisions, and
 20 how to navigate social and family struggles.” *Id.* at 112; *id.* at 114-15 (“through our
 21 numerous letters sent back and forth, we discussed topics ranging from our cultures and
 22 the immigrant experience to exchanging stories about our senior year prom nights.”).
 23 When she wrote the students back, Ms. Gomez Velazquez “shared her own thoughts and
 24 experiences in ways that sp[oke] to deep self-reflection and honesty.” *Id.* at 112. In her
 25

26 vacate her manslaughter conviction and be resentenced on a less serious felony based on
 27 her limited participation in the crime, and that at her original conviction was based on a
 28 theory of imputed malice now outlawed in California. *See People v. Gomez*, No.
 B329629, 2025 WL 653359 (Cal. Ct. App. Feb. 28, 2025).

1 letters, Ms. Gomez Velazquez “embodied so many of the skills necessary to build
2 community, whether that’s practicing daily positivity, modeling honest communication,
3 or sharing openly about her own difficulties.” *Id.*

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

7 **3. The government has no legitimate interest in continuing to**
8 **detain Ms. Gomez Velazquez and any burden to the**
9 **government is de minimis.**

10 The government’s interest in continuing to detain Ms. Gomez Velazquez without
11 providing any neutral review is very low. *See Mathews*, 424 U.S. at 335. The specific
12 interest at stake here is neither the government’s interest in enforcing this country’s
13 immigration laws nor is it the government’s ability to continue to detain Ms. Gomez
14 Velazquez. Rather, it is the government’s interest in continuing to detain Ms. Gomez
15 Velazquez for months, possibly years, *without any individualized review*. *See Marroquin*
16 *Ambriz v. Barr*, 420 F. Supp. 3d 953, 964 (N.D. Cal. 2019). “[T]he government has no
17 legitimate interest in detaining individuals who have been determined not to be a danger
18 to the community and whose appearance at future immigration proceedings can be
19 reasonably ensured by a lesser bond or alternative conditions.” *Hernandez*, 872 F.3d at
20 994.

21 Moreover, the bond hearing Ms. Gomez Velazque seeks is a routine process that
22 the government provides every single day. As the government has conceded in similar
23 cases, a bond hearing imposes a de minimis burden on the government. *See id.*; *De Paz*
24 *Sales v. Barr*, No. 19-cv- 04148-KAW, 2019 WL 4751894, at *7 (N.D. Cal. Sept. 30,
25 2019) (“[T]he Government does not argue there are any costs to providing a bond
26 hearing.”). Even if the government carries some cost in holding a bond hearing, any
27 marginal cost is “easily outweighed by the reduction in the risk of erroneous deprivation
28 of liberty that would result from the additional safeguard” of a bond hearing. *Hernandez*
v. Sessions, 872 F.3d 976, 994 (9th Cir. 2017).

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

7 **B. The government must bear the burden of demonstrating by clear**
 8 **and convincing evidence that Ms. Gomez Velazquez’s continued**
 9 **detention is justified.**

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

14 As the Ninth Circuit confirmed in *Rodriguez Diaz v. Garland*, “*Singh v. Holder*,
 15 638 F.3d 1196 (9th Cir. 2011), in which a[] [noncitizen] detained without bond under
 16 § 1226(c) received a [bond hearing] approximately 16 months after he was first
 17 detained,” held that the government must bear the burden of proof by clear and
 18 convincing evidence at prolonged detention bond hearings. 53 F.4th 1189, 1199 (9th Cir.
 19 2022). *Singh* controls here, where Ms. Gomez Velazquez seeks a bond hearing after being
 20 detained for a prolonged period under Section 1226(c). See *Martinez Leiva v. Becerra*,
 21 No. 23-CV-02027-CRB, 2023 WL 3688097, *9 (N.D. Cal. May 26, 2023) (applying
 22 *Singh*, post *Rodriguez Diaz*, to bond hearing to remedy prolonged detention).

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

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

6 **II. Ms. Gomez Velazquez will suffer irreparable harm absent intervention**
 7 **from the Court.**

8 Ms. Gomez Velazquez will suffer irreparable harm absent a temporary restraining
 9 order enjoining the government from continuing to detain her without a hearing at which
 10 the government must prove by clear and convincing evidence that no alternatives to
 11 detention can sufficiently mitigate any risk of flight or danger to the community she may
 12 pose. “It is well established that the deprivation of constitutional rights unquestionably
 13 constitutes irreparable injury.” *Hernandez v. Sessions*, 872 F.3d 976, 995-96 (9th Cir.
 14 2017) (quoting *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)) (internal
 15 quotation marks omitted); *see also Perera v. Jennings*, No. 21-cv-04136-BLF, 2021 WL
 16 2400981, *5 (N.D. Cal. June 11, 2021). Thus, a finding that Petitioner is likely to succeed
 17 on the merits of her due process claim also indicates she has “carried [her] burden as to
 18 irreparable harm.” *Hernandez*, 872 F.3d at 995.

19 In addition, the Ninth Circuit has recognized the “irreparable harms imposed on
 20 *anyone* subject to immigration detention.” *Id.* (emphasis added). The record in this case,
 21 and especially petitioner’s declaration submitted in support of this motion, illustrates the
 22 irreparable harms that Ms. Gomez Velazquez faces, particularly given her rapidly
 23 deteriorating mental and physical health. *See* Exh. X, UKGV Supp. Decl. TRO at ¶¶ 5-
 24 12 (describing the mental and physical toll of her detention, including significant weight
 25 loss, hair loss, her blood sugar levels continue increasing, uncontrolled anxiety, and sleep
 26 deprivation); *see also* Dkt. No. 1-2 at 9 (“without question...the last year of my life has
 27 been, by far the most difficult. My mental and physical health declines with each
 28 additional day in detention.”); *id.* at 11-14 (describing the decline in her mental and

1 physical health due to the conditions of her confinement in detention); *id.* at 121-23 (after
 2 a year of “being shuffled around detention centers...being denied simple requests like
 3 tampons and clean clothes, and being treated as less than human with unending
 4 captivity,” Ms. Gomez Velazquez’s “spirit is breaking. Multiple times she has
 5 called...wondering how long her body can last in a place like [Eloy.]”); *id.* at 124-28
 6 (recounting a recent phone call during which Petitioner shared that the “indignities and
 7 abuse” of her ongoing civil incarceration “lead her to...an unbearable depression and
 8 suicidal ideation.”).

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

11 **III. The balance of hardships and public interest strongly favor Ms. Gomez** 12 **Velazquez.**

13 The balance of equities and public interest tip sharply in Ms. Gomez Velazquez’s
 14 favor. On one side of the scale, Ms. Gomez Velazquez faces deprivation of her physical
 15 liberty. On the other side, any harm the government might face if the temporary
 16 restraining order is granted is negligible at best. Because the government’s detention of
 17 Ms. Gomez Velazquez is without any hearing in which it proves that alternatives to
 18 detention are insufficient to prevent any danger to the community or risk of flight she
 19 poses, the government “cannot reasonably assert that it is harmed in any legally
 20 cognizable sense by being enjoined from [statutory and] constitutional violations.”
 21 *Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983). Nor can the government reasonably
 22 assert that affording a hearing to an individual who has been detained for over a year
 23 absent any review, would harm its interest in immigration enforcement. The fiscal costs
 24 associated with providing a bond hearing to Ms. Gomez Velazquez are de minimis. *See*,
 25 *e.g., Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal. 2019). In any case,
 26 when faced with “a conflict between financial concerns and preventable human
 27 suffering,” the Ninth Circuit has “little difficulty concluding that the balance of hardships
 28

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.”).

SECURITY

“Rule 65(c) invests the district court with discretion as to the amount of security required, if any.” *Jorgensen v. Cassidy*, 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.

1 Dated: September 3, 2025

Respectfully submitted,

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4 CRIMINAL LAW & JUSTICE CENTER

5 /s/ Judah Lakin

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10 /s/ Ami Hutchinson

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