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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MARINA JIMENEZ GARCIA,

Petitioner,

v.

POLLY KAISER, Acting Field Office Director of the San Francisco Immigration and Customs Enforcement Office; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the United States Department of Homeland Security, PAMELA BONDI, Attorney General of the United States, acting in their official capacities,

Respondents.

Case No. 3:25-cv-06916

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITIONER'S EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER

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INTRODUCTION

Petitioner Marina Jimenez Garcia went to the San Francisco Immigration Court on July 15, 2025, expecting a routine master calendar hearing in which she would discuss her case with the immigration judge and schedule further proceedings on her pending asylum application. Unbeknownst to Petitioner at the time, the government attorney likely had plans to move to dismiss Petitioner's case, as they did with the other cases that day. The hearing ended up being continued because the judge could not find a Mam interpreter. However, Minutes after Petitioner exited the courtroom, a group of DHS agents arrested her before she could leave the courthouse.

Rather than determining that Petitioner posed a flight risk or danger to the community, federal immigration agents arrested Petitioner pursuant to a new, sweeping, and unlawful policy targeting people for arrest at immigration courthouses for the purpose of placing them in expedited-removal proceedings. This enforcement campaign is specifically intended to increase ICE arrest numbers to satisfy internal agency quotas.

Petitioner's summary arrest and indefinite detention flout the Constitution. The *only* legitimate interests that civil immigration detention serves are mitigating flight risk and preventing danger to the community. When those interests are absent, the Fifth Amendment's Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and detaining Petitioner without making any affirmative showing of changed circumstances, the government violated Petitioner's procedural due process rights. At the very least, she was constitutionally entitled to a hearing before a neutral decisionmaker at which the government should have justified his detention.

As a result of her arrest and detention, Petitioner is suffering irreparable and ongoing harm. The unconstitutional deprivation of "physical liberty" "unquestionably constitutes irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner also faces numerous additional irreparable harms due to her detention, including not having immediate access to her high blood pressure medication and difficulty

understanding why she was suddenly arrested due to not having a rare language interpreter available, which could aggravate her medical condition.

In light of this irreparable harm, and because she is likely to succeed on the merits of his due process claims, Petitioner respectfully requests that this Court issue a temporary restraining order ("TRO") immediately releasing from her custody and enjoining the government from re-arresting her absent the opportunity to contest that arrest at a hearing before a neutral decision maker. Confronted with substantially identical facts and legal issues, two courts in this circuit have recently granted the exact relief Petitioner seeks. *See Garro Pinchi v. Noem*, 2025 WL 1853763, *4 (N.D. Cal. July 4, 2025), *converted to preliminary injunction at* __ F. Supp. 3d __, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal. July 11, 2025) (granting preliminary injunction). To maintain this Court's jurisdiction, the Court should also prohibit the government from transferring Petitioner out of this District and removing her from the country until these proceedings have concluded.

BACKGROUND

Petitioner is a 59-year-old Maya Indigenous woman from Guatemala. Petitioner's Habeas Petition ("Pet.") ¶ 11. She arrived in the United States in 2023 after she and her family received threats. *Id.* ¶ 47. She was detained by federal agents after entering the United States. *Id.* ¶ 48. Determining that she was not a flight risk or a danger to the community, the agents released Petitioner on her own recognizance with a notice to appear for removal proceedings in immigration court. *Id.* ¶¶ 48–49.

Petitioner went to live in Oakland, California ever since then. *Id.* ¶ 48. In 2025, Petitioner applied for asylum, withholding of removal, and relief under the Convention Against Torture. *Id.* ¶ 51. She attended all of her ICE check-ins and immigration court hearings. *Id.* ¶ 52.

On August 15, 2025, Petitioner appeared for a routine immigration court hearing. *Id.* ¶ 53. The judge could not find a Mam interpreter and continued her case. Declaration of Diana Mariscal ("Mariscal Dec.") ¶ 4. As Petitioner exited the courtroom, she was abruptly detained by ICE agents. *Id.* ¶ 5. The ICE agents did not present warrants for arrest, nor did they provide any explanation for why she was being arrested. *Id.* ¶ 5.

Petitioner suffers from high blood pressure. *Id.* ¶ 9. She had not taken her medication the morning of the hearing. *Id.*

Petitioner's arrest did not have anything to do with her individual case. Instead, it is part of a new, nationwide DHS strategy of sweeping up people who attend their immigration court hearings, detaining them, and seeking to re-route them to fast-track deportations.[1] Since mid-May, DHS has implemented a coordinated practice of immigration detention to strip people like Petitioner of their substantive and procedural rights and pressure them into deportation. DHS is aggressively pursuing this arrest and detention campaign at courthouses throughout the country, including Northern California. At the San Francisco Immigration Court, where Petitioner was arrested, dozens of people have been arrested in the last month after attending their routine immigration hearings.[2]

This "coordinated operation" is "aimed at dramatically accelerating deportations" by arresting people at the courthouse and placing them into expedited removal.[3] The first step of the operation typically takes place inside the immigration court. When people arrive in court for their master calendar hearings, DHS attorneys orally file a motion to dismiss the proceedings—without any notice to the affected individual. Although DHS regulations do not permit such motions to dismiss absent a showing that the "[c]ircumstances of the case have changed," 8 C.F.R. § 239.2(a)(7), (c), DHS attorneys are not conducting any case-specific analysis of changed

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[1] Joshua Goodman and Gisela Saloman, *ICE Agents Wait in Hallways of Immigration Court as Trump Seeks to Deliver on Mass Arrest Pledge,* LA Times, May 22, 2025, https://www.latimes.com/world-nation/story/2025-05-22/ice-agents-wait-in-hallways-of-immigration-court-as-trump-seeks-to-deliver-on-mass-arrest-pledge.

[2] Sarah Ravani, *ICE Arrests Two More at S.F. Immigration Court, Advocates Say*, S.F. Chron., June 12, 2025, https://www.sfchronicle.com/bayarea/article/sf-immigration-court-arrests-20374755.php; Margaret Kadifia, *Immigrants Fearful as ICE Nabs at Least 15 in S.F., Including Toddler*, Mission Local, June 5, 2025, https://missionlocal.org/2025/06/ice-arrest-san-francisco-toddler/; Tomoki Chien, *Undercover ICE Agents Begin Making Arrests at SF Immigration Court*, S.F. Standard, May 27, 2025, https://sfstandard.com/2025/05/27/undercover-ice-agents-make-arrests-san-francisco-court/.

[3] Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in Trump's Deportation Push*, Wash. Post, May 23, 2025, https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump; *see also* Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025, https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html (updated June 1, 2025).

circumstances before filing these motions to dismiss.

The next step takes place outside the courtroom. ICE officers, in consultation with DHS attorneys and officials, station themselves in courthouse waiting rooms, hallways, and elevator banks. When an individual exits their immigration hearings, ICE officers—typically masked and in plainclothes—immediately arrest the person and detain them. The officers execute these arrests regardless of how the IJ rules on the government's motion to dismiss. Once the person is detained, DHS attorneys often unilaterally transfer venue to a "detained" immigration court where they renew their motion to dismiss and seek to place individuals in expedited removal. That is what happened to Petitioner here.

Petitioner suffers serious and ongoing harm every day she remains in detention. Petitioner is especially vulnerable as a monolingual Mam speaker with high blood pressure and no immediate access to her medication.

ARGUMENT

To warrant a TRO, a movant must show (1) they are "likely to succeed on the merits," (2) they are "likely to suffer irreparable harm in the absence of preliminary relief," (3) "the balance of equities tips in [their] favor," and that (4) "an injunction is in the public interest." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)); *see Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the analysis for issuing a temporary restraining order and a preliminary injunction is substantially the same). Even if the movant raises only "serious questions" as to the merits of their claims, the court can grant relief if the balance of hardships tips "sharply" in their favor. *All. for the Wild Rockies*, 632 F.3d at 1135. All factors here weigh decisively in Petitioner's favor.

I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.

A. Petitioner's detention violates substantive due process because she is neither a flight risk nor a danger to the community.

The Due Process Clause applies to "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*,

533 U.S. at 693. "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective," *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690.

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

The Supreme Court has recognized that noncitizens may bring as-applied challenges to detention, including so-called "mandatory" detention. *Demore v. Kim*, 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring) ("Were there to be an unreasonable delay by the INS in pursuing and completing deportation proceedings, it could become necessary then to inquire whether the detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons."); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019) ("Our decision today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—that is, constitutional challenges to applications of the statute as we have now read it.").

Petitioner, who has no criminal record and who is diligently pursuing her immigration case, is neither a danger nor a flight risk. Therefore, her detention is both punitive and not justified by a legitimate purpose, violating his substantive due process rights. Indeed, when Respondents chose to release Petitioner from custody in 2023, that decision represented their finding that she was neither dangerous nor a flight risk. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk."). Nothing has transpired since to disturb that finding.

First, because Petitioner had no criminal history, and has had no intervening criminal history or arrests since her release, there is no credible argument that she is a danger to the community.

Second, as to flight risk, the question is whether custody is reasonably necessary to secure a person's appearance at immigration court hearings and related check-ins. *See Hernandez*, 872 F.3d at 990-91. There is no basis to argue that Petitioner, who was arrested by Respondents *while appearing in immigration court* for a master calendar hearing, is a flight risk. Petitioner has a viable path toward immigration relief and a pathway to lawful permanent residence, further mitigating any risk of flight. *See Padilla v. U.S. Immigr. and Customs Enf't*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023) (holding that there is not a legitimate concern of flight risk where plaintiffs have bona fide asylum claims and desire to remain in the United States). At the time of her arrest, Petitioner had filed an application application for asylum, withholding of removal, and relief under the Convention Against Torture. She has every intention of continuing to pursue her applications for immigration relief.

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

B. The government violated procedural due process by depriving Petitioner of the opportunity to contest her arrest and detention before a neutral decisionmaker.

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

Accordingly, the Supreme Court has repeatedly held that individuals released from custody on bond, parole, or other forms of conditional release have a protected interest in their ongoing liberty, because "[t]he parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Morrissey*, 408 U.S. at 482. "By whatever name, the[ir] liberty is valuable and must be seen within the protection of the [Due Process Clause]." *Id.* This liberty interest also applies to noncitizens, including those who have been conditionally released from immigration custody. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). Petitioner thus has a protected liberty interest in her freedom from physical custody.

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

First, the private interest affected in this case is profound. When considering this factor,

courts look to "the degree of potential deprivation." *Nozzi v. Hous. Auth. of City of Los Angeles*, 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). The degree of deprivation here is high. Petitioner, who is part of an especially vulnerable population as a monolingual Maya Indigenous speaker, has been completely deprived of her physical liberty. Petitioner's detention has ripped from her the "free[dom] to be with family and friends and to form the . . . enduring attachments of normal life." *Morrissey*, 408 U.S. at 482. Cutting someone off from the "core values of unqualified liberty"—for Petitioner, who lives in the United States with her daughter and brother-in-law, creates a "grievous loss." *Id.* Moreover, because Petitioner faces *civil detention*, "h[er] liberty interest is arguably greater than the interest of the parolees in *Morrissey*." *See Ortega*, 415 F. Supp. 3d at 970. As someone in civil detention, therefore, "it stands to reason that [Petitioner] is entitled to protections at least as great as those afforded to a[n] . . . individual . . . accused but not convicted of a crime." *See Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004).

Second, "the risk of an erroneous deprivation [of liberty] is high" where, as here, "[the petitioner] has not received any bond or custody redetermination hearing." *A.E. v. Andrews*, No. 1:25-cv-00107, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*, No. 19-cv-07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020)); *see also Diep v. Wofford*, No. 1:24-cv-01238, 2025 WL 6047444, at *5 (E.D. Cal. Feb. 25, 2025). Respondents grabbed Petitioner by surprise as she left his immigration court hearing, detaining her with no notice and no opportunity to contest his re-detention before a neutral arbiter. In such circumstances, when Respondents have provided *no* procedural safeguards, "the probable value of additional procedural safeguards, i.e., a bond hearing, is high." *A.E.*, 2025 WL 1424382, at *5. This is especially true here, where there is no change in Petitioner's circumstances suggesting that Petitioner now poses a flight risk or danger to the community. Her re-detention instead appears to be motivated instead by Respondents' new arrest quotas and practice of leveraging detention to secure dismissal of ongoing proceedings under Section 240 of the Immigration and Nationality Act, to initiate expedited removal. Neither constitutes a lawful justification to re-detain a person who does not pose a flight risk or danger to the community.

Because the private interest in freedom from immigration detention is substantial, due

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

Third, the government's interest in detaining Petitioner without first providing notice and submitting to a custody hearing is minimal. Immigration courts routinely conduct custody hearings, which impose a "minimal" cost to the government. *See Doe*, 2025 WL 691664, at *6; *A.E.*, 2025 WL 1424382, at *5. Petitioner has an impeccable record of attending her immigration proceedings; there is no reason to believe that between the date of his release and his custody hearing, his compliance will change. Indeed, courts regularly hold that the government's interest in re-detention without a custody hearing is low when the petitioner "has long complied with his reporting requirements." *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3-*4 (N.D. Cal. June 14, 2025) (granting TRO prohibiting re-detention of noncitizen without a pre-deprivation bond hearing); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *3-*4 (N.D. Cal. Mar. 1, 2021) (same); *Ortega*, 415 F. Supp. 3d at 970 (granting habeas petition ordering the same); *see also Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *4-*5 (S.D.N.Y. June 18, 2025) (granting habeas petition and immediately releasing petitioner who had been detained without process, who had "voluntarily attended his scheduled immigration court proceedings" and "established ties" through his work and volunteering with the church).

In similar cases, courts in this Circuit regularly hold that re-detaining noncitizens without a pre-deprivation hearing in which the government bears the burden of proof violates due process, and grant the emergency relief Petitioner seeks here. *See Garro Pinchi v. Noem*, __ F. Supp. 3d __, 2025 WL 2084921, at *7 (converting TRO requiring release of asylum seeker arrested at her immigration court hearing into preliminary injunction prohibiting the government from re-detaining her without a hearing); *Singh v. Andrews*, 2025 WL 1918679, *8-10 (E.D. Cal. July 11,

2025) (granting PI under similar circumstances); *Doe*, 2025 WL 691664, at *8 (granting TRO over one month after petitioner's initial detention); *see also, e.g.*, *Diaz*, 2025 WL 1676854, at *3-*4; *Garcia v. Bondi*, No. 3:25-CV-05070, 2025 WL 1676855, at *3 (N.D. Cal. June 14, 2025); *Jorge M. F.*, 2021 WL 783561, at *4; *Romero v. Kaiser*, No. 22-CV-02508-TSH, 2022 WL 1443250, at *4 (N.D. Cal. May 6, 2022); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020).

In short, Respondents violated Petitioner's due process rights when they detained her without notice and without a custody hearing before a neutral arbiter. Here, only an order releasing Petitioner and enjoining re-detention—unless Respondents provide Petitioner with a custody hearing where the government bears the burden of proof—would return the parties to the "last uncontested status which preceded the pending controversy." *Doe v. Noem*, __ F. Supp. 3d __, 2025 WL 1141279, at *9 (W.D. Wash. Apr. 17, 2025) (quoting *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); *see also Valdez*, 2025 WL 1707737, at *4-*5 (ordering petitioner's immediate release as remedy for procedural due process violation).

* * * * *

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

II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE INJURY ABSENT A TRO.

Without a temporary restraining order, Petitioner will suffer immense irreparable injury. Indeed, she faces such injury every day she remains in detention in violation of his Fifth Amendment rights. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). "When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary."

Warsoldier v. Woodford, 418 F.3d 989, 1001-02 (9th Cir. 2005) (internal quotation marks omitted). And the unlawful deprivation of physical liberty is the quintessential irreparable harm. *See Hernandez*, 872 F.3d at 994 (holding that plaintiffs were irreparably harmed "by virtue of the fact that they [we]re likely to be unconstitutionally detained for an indeterminate period of time"); *see also, e.g.*, *Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing that "[a]ny amount of actual jail time is significant, and has exceptionally severe consequences for the incarcerated individual" (cleaned up)).

As a result of his arrest and detention, Petitioner is also suffering additional ongoing irreparable harms. She is a monolingual Maya Indigenous language speaker who likely does not understand why she was arrested. She also suffers from high blood pressure, and the stress of her sudden detention may aggravate her medical condition.

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

When the government is the party opposing the request for emergency relief, the balance of the equities and the public interest merge. *Env't Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991 (9th Cir. 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)). Here, the balance of equities overwhelmingly favors Petitioner, who faces irreparable injury in the form of ongoing constitutional violations and continued additional suffering if the TRO is not granted. *See* Section II, *supra*; *Hernandez*, 872 F.3d at 996 (when "[f]aced with … preventable human suffering, … the balance of hardships tips decidedly in plaintiffs' favor") (internal citation omitted).

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

SECURITY

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

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests the Court grant a TRO to restore the *status quo ante* that (1) immediately releases her from Respondents' custody and enjoins Respondents from re-detaining her absent further order of this Court; (2) in the alternative, immediately releases her from Respondents' custody and enjoins Respondents from re-detaining her unless they demonstrate at a pre-deprivation bond hearing, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community such that her physical custody is required; and (3) prohibits the government from transferring her out of this District and/or removing her from the country until these habeas proceedings have concluded.

Respectfully submitted,

Date: August 15, 2025

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