

Jordan Weiner (SBN 356297)
jordan@lrcl.org
La Raza Centro Legal
474 Valencia St., Ste. 295
San Francisco, CA 94103
Telephone: (415) 553-3435

Attorney for Petitioner

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

PAULA ANDREA SALCEDO ACEROS,

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. 1:25-cv-06924

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

TABLE OF CONTENTS

TABLE OF AUTHORITIES	3
INTRODUCTION	7
BACKGROUND	8
ARGUMENT	10
I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.....	11
A. Petitioner's detention violates substantive due process because she is neither a flight risk nor a danger to the community.....	11
B. The government violated procedural due process by depriving Petitioner of the opportunity to contest her arrest and detention before a neutral decisionmaker.....	13
II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE INJURY ABSENT A TRO.....	17
III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST WEIGH STRONGLY IN PETITIONER'S FAVOR.....	17
SECURITY	18
CONCLUSION.....	18

TABLE OF AUTHORITIES

Cases

<i>A.E. v. Andrews</i> , No. 1:25-cv-00107, 2025 WL 1424382 (E.D. Cal. May 16, 2025)	14, 15
<i>All. for the Wild Rockies v. Cottrell</i> , 632 F.3d 1127 (9th Cir. 2011).....	10, 11, 17
<i>Baca v. Moreno Valley Unified Sch. Dist.</i> , 936 F. Supp. 719 (C.D. Cal. 1996)	18
<i>California v. Azar</i> , 911 F.3d 558 (9th Cir. 2018).....	18
<i>Cnty. of Sacramento v. Lewis</i> , 523 U.S. 833 (1998).....	11
<i>Demore v. Kim</i> , 538 U.S. 510 (2003).....	12
<i>Diaz v. Kaiser</i> , No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025).....	15, 16, 18
<i>Diep v. Wofford</i> , 2025 WL 6047444 (E.D. Cal. Feb. 25, 2025).....	14
<i>Doe v. Becerra</i> , No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664 (E.D. Cal. Mar. 3, 2025)	15, 16
<i>Doe v. Noem</i> , ___ F. Supp. 3d ___, 2025 WL 1141279 (W.D. Wash. Apr. 17, 2025)	16
<i>Env't Prot. Info. Ctr. v. Carlson</i> , 968 F.3d 985 (9th Cir. 2020).....	17
<i>Gagnon v. Scarpelli</i> , 411 U.S. 778 (1973).....	13
<i>Garcia v. Bondi</i> , No. 3:25-CV-05070, 2025 WL 1676855 (N.D. Cal. June 14, 2025).....	16
<i>GoTo.com, Inc. v. Walt Disney Co.</i> , 202 F.3d 1199 (9th Cir. 2000).....	16
<i>Hernandez v. Sessions</i> , 872 F.3d 976 (9th Cir. 2017).....	passim
<i>Hurd v. D.C., Gov't</i> , 864 F.3d 671 (D.C. Cir. 2017)	13

1	<i>Index Newspapers LLC v. U.S. Marshals Serv.,</i>	
2	977 F.3d 817 (9th Cir. 2020).....	18
3	<i>Jackson v. Indiana,</i>	
4	406 U.S. 715 (1972).....	11
5	<i>Jimenez v. Wolf,</i>	
6	No. 19-cv-07996-NC, 2020 WL 510347 (N.D. Cal. Jan. 30, 2020).....	14
7	<i>Johnson v. Ryan,</i>	
8	55 F.4th 1167 (9th Cir. 2022).....	14
9	<i>Jones v. Blanas,</i>	
10	393 F.3d 918 (9th Cir. 2004).....	14
11	<i>Jorge M. F. v. Wilkinson,</i>	
12	No. 21-CV-01434-JST, 2021 WL 783561 (N.D. Cal. Mar. 1, 2021)	15, 16, 18
13	<i>Jorgensen v. Cassidy,</i>	
14	320 F.3d 906 (9th Cir. 2003).....	18
15	<i>Mahdawi v. Trump,</i>	
16	No. 2:25-CV-389, 2025 WL 1243135 (D. Vt. Apr. 30, 2025)	11
17	<i>Martinez v. Clark,</i>	
18	124 F.4th 775 (9th Cir. 2024).....	15
19	<i>Mathews v. Eldridge,</i>	
20	424 U.S. 319 (1976).....	14
21	<i>Melendres v. Arpaio,</i>	
22	695 F.3d 990 (9th Cir. 2012).....	17
23	<i>Morrissey v. Brewer,</i>	
24	408 U.S. 471 (1972).....	13, 14
25	<i>Nielsen v. Preap,</i>	
26	586 U.S. 392 (2019).....	12
27	<i>Nozzi v. Hous. Auth. of City of Los Angeles,</i>	
28	806 F.3d 1178 (9th Cir. 2015).....	14
	<i>Ortega v. Bonnar,</i>	
	415 F. Supp. 3d 963 (N.D. Cal. 2019)	14, 16
	<i>Padilla v. Immigr. & Customs Enf't,</i>	
	953 F.3d 1134 (9th Cir. 2020).....	18
	<i>Padilla v. U.S. Immigr. and Customs Enf't,</i>	
	704 F. Supp. 3d 1163 (W.D. Wash. 2023).....	13

1	<i>People of State of Cal. ex rel. Van De Kamp v. Tahoe Reg'l Plan. Agency,</i>	
2	766 F.2d 1319 (9th Cir. 1985).....	18
3	<i>Romero v. Kaiser,</i>	
4	No. 22-CV-02508-TSH, 2022 WL 1443250 (N.D. Cal. May 6, 2022)	16
5	<i>Rosales-Mireles v. United States,</i>	
6	585 U.S. 129 (2018).....	17
7	<i>Saravia v. Sessions,</i>	
8	280 F. Supp. 3d 1168 (N.D. Cal. 2017)	12
9	<i>Singh v. Holder,</i>	
10	638 F.3d 1196 (9th Cir. 2011).....	15
11	<i>Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.,</i>	
12	240 F.3d 832 (9th Cir. 2001).....	11
13	<i>Valdez v. Joyce,</i>	
14	No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025).....	16
15	<i>Vargas v. Jennings,</i>	
16	No. 20-CV-5785-PJH, 2020 WL 5074312 (N.D. Cal. Aug. 23, 2020).....	16
17	<i>Warsoldier v. Woodford,</i>	
18	418 F.3d 989 (9th Cir. 2005).....	17
19	<i>Winter v. Nat. Res. Def. Council, Inc.,</i>	
20	555 U.S. 7 (2008).....	10
21	<i>Wolff v. McDonnell,</i>	
22	418 U.S. 539 (1974).....	11
23	<i>Young v. Harper,</i>	
24	520 U.S. 143 (1997).....	13
25	<i>Zadvydas v. Davis,</i>	
26	533 U.S. 678 (2001).....	8, 11, 13
27	<i>Zinerman v. Burch,</i>	
28	494 U.S. 113 (1990).....	13
	Statutes	
	8 U.S.C. § 1101(a)(27)(J).....	8
	8 U.S.C. § 1182(a)(6)(A)(i).....	8
	8 U.S.C. § 1255(h)(1)-(2).....	8
	Regulations	

1	8 C.F.R. § 239.2(a)(7), (c).....	10
2	Other Authorities	
3	Arelis R. Hernández & Maria Sacchetti, <i>Immigrant Arrests at Courthouses Signal New Tactic in</i>	
4	<i>Trump's Deportation Push</i> , Wash. Post, May 23, 2025.....	10
5	Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, <i>How ICE is Seeking to Ramp Up</i>	
6	<i>Deportations Through Courthouse Arrests</i> , N.Y. Times, May 30, 2025.....	10
7	In re Geo Group, Inc., Cal. Occupational Safety and Health Appeals Bd., Inspection No.	
8	1609228, <i>Decision After Reconsideration</i> , Jan. 10, 2025	15
9	Joshua Goodman and Gisela Saloman, <i>ICE Agents Wait in Hallways of Immigration Court as</i>	
10	<i>Trump Seeks to Deliver on Mass Arrest Pledge</i> , LA Times, May 22, 2025	9
11	Margaret Kadifia, <i>Immigrants Fearful as ICE Nabs at Least 15 in S.F., Including Toddler,</i>	
12	<i>Mission Local</i> , June 5, 2025	10
13	Sarah Ravani, <i>ICE Arrests Two More at S.F. Immigration Court, Advocates Say</i> , S.F. Chron.,	
14	June 12, 2025	10
15	Tomoki Chien, <i>Undercover ICE Agents Begin Making Arrests at SF Immigration Court</i> , S.F.	
16	<i>Standard</i> , May 27, 2025	10
17	U.S. Dep't of Homeland Sec. Off.of Inspector Gen., <i>OIG 24-23, Final Report: Results of an</i>	
18	<i>Unannounced Inspection of ICE's Golden State Annex in McFarland, California</i> (Apr. 18,	
19	2024)	15
20		
21		
22		
23		
24		
25		
26		
27		
28		

INTRODUCTION

Petitioner Paula Andrea Salcedo Aceros went to the San Francisco Immigration Court on August 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. So she was surprised when, during the hearing, the Department of Homeland Security (“DHS”) lawyer orally moved to dismiss her case altogether. The Immigration Judge did not grant the motion to dismiss. Instead, the judge gave Petitioner time to respond and set a merits hearing on her asylum application for February 29, 2028. Minutes after Petitioner exited the courtroom, a group of DHS agents arrested her before she could leave the courthouse.

Nothing about Petitioner’s immigration case justified this arrest and detention. When Petitioner first entered the country in June 2024, federal immigration officers released her within days on her own recognizance and with no ankle shackle or intrusive supervision conditions. The government thus necessarily determined that she did not pose a flight risk or danger to the community—let alone one warranting detention. Since then, Petitioner’s exemplary conduct has only confirmed the government’s prediction. She attended every court hearing and check-in. She filed an application for asylum, withholding of removal, and protection under the Convention Against Torture. She has never been arrested in the United States.

None of this mattered to the government. Rather than determining that Petitioner posed a flight risk or danger to the community, federal immigration agents arrested her 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

1 constitutionally entitled to a hearing before a neutral decisionmaker at which the government
2 should have justified his detention.

3 As a result of her arrest and detention, Petitioner is suffering irreparable and ongoing harm.
4 The unconstitutional deprivation of “physical liberty” “unquestionably constitutes irreparable
5 injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed, “[f]reedom from
6 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
7 the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678,
8 690 (2001). Petitioner also faces numerous additional irreparable harms due to her detention,
9 including aggravation of her injuries from a car accident earlier this year by the cold temperatures
10 at 630 Sansome, and the risk of traumatization from a kidnapping she experienced in Colombia.

11 In light of this irreparable harm, and because she is likely to succeed on the merits of her
12 due process claims, Petitioner respectfully requests that this Court issue an *ex parte* temporary
13 restraining order (“TRO”) immediately releasing from her custody and enjoining the government
14 from re-arresting her absent the opportunity to contest that arrest at a hearing before a neutral
15 decision maker. Since DHS started this new policy, Courts in this circuit have regularly granted
16 *ex parte* TROs when confronted with substantially identical facts and legal issues. At least five
17 courts in this circuit have recently granted the exact relief Petitioner seeks. *See Garro Pinchi v.*
18 *Noem*, 2025 WL 1853763, *4 (N.D. Cal. July 4, 2025), *converted to preliminary injunction at* __
19 *F. Supp. 3d* __, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Valera Chuquillanqui v. Kaiser*,
20 *No. 3:25-cv-06320* (N.D. Cal. July 29, 2025) (*ex parte* TRO); *Pablo Sequen v. Kaiser*, *No. 5:25-*
21 *cv-06487* (N.D. Cal. Aug. 1, 2025) (*ex parte* TRO); *Ruiz Otero v. Kaiser*, *No. 5:25-cv-06536*
22 *(N.D. Cal. Aug. 3, 2025) (ex parte TRO); Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal.
23 July 11, 2025) (granting preliminary injunction). To maintain this Court’s jurisdiction, the Court
24 should also prohibit the government from transferring Petitioner out of this District and removing
25 her from the country until these proceedings have concluded.

26 BACKGROUND

27 Petitioner is a 31-year-old asylum seeker from Colombia. Petitioner’s Habeas Petition
28 (“Pet.”) ¶ 11. She fled Colombia after being kidnapped and threatened with death. Declaration of

1 P.F. Gonzalez Montes De Oca (“Gonzalez Montes De Oca Dec.”) ¶ 11.

2 She arrived in the United States in June 2025. Pet. ¶ 49. She was briefly detained by federal
3 agents. *Id.* Determining that she was not a flight risk or a danger to the community, the agents
4 released Petitioner on her own recognizance. *Id.*

5 Petitioner went to live in Castro Valley, California. *Id.* ¶ 49. She applied for asylum in
6 January 2025. *Id.* She attended all of her immigration court hearings and ICE check-ins. *Id.* ¶ 50.

7 On August 15, 2025, Petitioner went to San Francisco Immigration Court for a routine
8 hearing before Immigration Judge Joseph Park, where the government orally moved to dismiss
9 her case. Pet. ¶ 51; Declaration of Diana Mariscal (“Mariscal Dec.”) ¶ 5. IJ Park did not grant the
10 motion to dismiss. Mariscal Dec. ¶ 6. Instead, the Judge gave Petitioner time to respond and set a
11 merits hearing on her asylum application for February 29, 2028. *Id.*

12 Soon after Petitioner exited the courtroom, a group of ICE agents arrested her before she
13 could leave the courthouse. *Id.* ¶ 8.

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

23
24 ¹ Joshua Goodman and Gisela Saloman, *ICE Agents Wait in Hallways of Immigration Court as*
25 *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>.

26 ² Sarah Ravani, *ICE Arrests Two More at S.F. Immigration Court, Advocates Say*, S.F. Chron.,
27 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/>.

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

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

17 Petitioner suffers serious and ongoing harm every day she remains in detention.

18 ARGUMENT

19 To warrant a TRO, a movant must show (1) they are “likely to succeed on the merits,” (2)
 20 they are “likely to suffer irreparable harm in the absence of preliminary relief,” (3) “the balance
 21 of equities tips in [their] favor,” and that (4) “an injunction is in the public interest.” *All. for the*
 22 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat. Res. Def.*
 23 *Council, Inc.*, 555 U.S. 7, 20 (2008)); see *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240
 24 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the analysis for issuing a temporary restraining order

25 ³ Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in*
 26 *Trump’s Deportation Push*, Wash. Post, May 23, 2025,
 27 <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>;
 28 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).

1 and a preliminary injunction is substantially the same). Even if the movant raises only “serious
2 questions” as to the merits of their claims, the court can grant relief if the balance of hardships
3 tips “sharply” in their favor. *All. for the Wild Rockies*, 632 F.3d at 1135. All factors here weigh
4 decisively in Petitioner’s favor.

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

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

8 The Due Process Clause applies to “all ‘persons’ within the United States, including
9 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*,
10 533 U.S. at 693. “The touchstone of due process is protection of the individual against arbitrary
11 action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the exercise of
12 power without any reasonable justification in the service of a legitimate government objective,”
13 *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). “Freedom from imprisonment—from
14 government custody, detention, or other forms of physical restraint—lies at the heart of the liberty
15 that Clause protects.” *Zadvydas*, 533 U.S. at 690.

16 To comply with substantive due process, the government’s deprivation of an individual’s
17 liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is “civil,
18 not criminal,” and “nonpunitive in purpose and effect,” must be justified by either
19 (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d at 994
20 (“[T]he government has no legitimate interest in detaining individuals who have been determined
21 not to be a danger to the community and whose appearance at future immigration proceedings can
22 be reasonably ensured by a lesser bond or alternative conditions.”). When these rationales are
23 absent, immigration detention serves no legitimate government purpose and becomes
24 impermissibly punitive, violating a person’s substantive due process rights. *See Jackson v. Indiana*,
25 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the government’s interests
26 in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-CV-389, 2025 WL
27 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding petitioner may
28 “succeed on his Fifth Amendment claim if he demonstrates *either* that the government acted with

1 a punitive purpose *or* that it lacks any legitimate reason to detain him”).

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

10 Petitioner, who has no criminal record and who is diligently pursuing her immigration case,
11 is neither a danger nor a flight risk. Therefore, her detention is both punitive and not justified by a
12 legitimate purpose, violating his substantive due process rights. Indeed, when Respondents chose
13 to release Petitioner from custody in 2024, that decision represented their finding that she was
14 neither dangerous nor a flight risk. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal.
15 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“Release reflects
16 a determination by the government that the noncitizen is not a danger to the community or a flight
17 risk.”). Nothing has transpired since to disturb that finding.

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

21 *Second*, as to flight risk, the question is whether custody is reasonably necessary to secure
22 a person’s appearance at immigration court hearings and related check-ins. *See Hernandez*, 872
23 F.3d at 990-91. There is no basis to argue that Petitioner, who was arrested by Respondents *while*
24 *appearing in immigration court* for a master calendar hearing, is a flight risk. Petitioner has
25 attended all of her immigration court hearings and ICE check-ins. Moreover, Petitioner has a viable
26 path toward immigration relief and a pathway to lawful permanent residence, further mitigating
27 any risk of flight. *See Padilla v. U.S. Immigr. and Customs Enf’t*, 704 F. Supp. 3d 1163, 1173 (W.D.
28 Wash. 2023) (holding that there is not a legitimate concern of flight risk where plaintiffs have bona

1 fide asylum claims and desire to remain in the United States). At the time of her arrest, Petitioner
2 had filed applications for asylum, withholding of removal, and protection under the Convention
3 Against Torture. She has every intention of continuing to pursue her applications for immigration
4 relief.

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

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

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

21 Accordingly, the Supreme Court has repeatedly held that individuals released from
22 custody on bond, parole, or other forms of conditional release have a protected interest in their
23 ongoing liberty, because “[t]he parolee has relied on at least an implicit promise that parole will
24 be revoked only if he fails to live up to the parole conditions.” *Morrissey*, 408 U.S. at 482. “By
25 whatever name, the[ir] liberty is valuable and must be seen within the protection of the [Due
26 Process Clause].” *Id.* This liberty interest also applies to noncitizens, including those who have
27 been conditionally released from immigration custody. *See Ortega v. Bonnar*, 415 F. Supp. 3d
28 963, 970 (N.D. Cal. 2019). Petitioner thus has a protected liberty interest in her freedom from

1 physical custody.

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

9 *First*, the private interest affected in this case is profound. When considering this factor,
10 courts look to "the degree of potential deprivation." *Nozzi v. Hous. Auth. of City of Los Angeles*,
11 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). The degree of deprivation
12 here is high. Petitioner, who is likely traumatized from a past kidnapping in Colombia, has been
13 completely deprived of her physical liberty. Petitioner's detention has ripped from her the
14 "free[dom] to be with family and friends and to form the . . . enduring attachments of normal life."
15 *Morrissey*, 408 U.S. at 482. Cutting someone off from the "core values of unqualified liberty"—
16 for Petitioner, who has three children, creates a "grievous loss." *Id.* Moreover, because Petitioner
17 faces *civil detention*, "h[er] liberty interest is arguably greater than the interest of the parolees in
18 *Morrissey*." *See Ortega*, 415 F. Supp. 3d at 970. As someone in civil detention, therefore, "it
19 stands to reason that [Petitioner] is entitled to protections at least as great as those afforded to a[n]
20 . . . individual . . . accused but not convicted of a crime." *See Jones v. Blanas*, 393 F.3d 918, 932
21 (9th Cir. 2004).

22 *Second*, "the risk of an erroneous deprivation [of liberty] is high" where, as here, "[the
23 petitioner] has not received any bond or custody redetermination hearing." *A.E. v. Andrews*, No.
24 1:25-cv-00107, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*, No.
25 19-cv-07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020)); *see also Diep v. Wofford*,
26 No. 1:24-cv-01238, 2025 WL 6047444, at *5 (E.D. Cal. Feb. 25, 2025). Respondents grabbed
27 Petitioner by surprise as she left her immigration court hearing, detaining her with no notice and
28 no opportunity to contest her re-detention before a neutral arbiter. In such circumstances, when

1 Respondents have provided *no* procedural safeguards, “the probable value of additional
2 procedural safeguards, i.e., a bond hearing, is high.” *A.E.*, 2025 WL 1424382, at *5. This is
3 especially true here, where there is no change in Petitioner’s circumstances suggesting that
4 Petitioner now poses a flight risk or danger to the community. Her re-detention instead appears to
5 be motivated instead by Respondents’ new arrest quotas and practice of leveraging detention to
6 secure dismissal of ongoing proceedings under Section 240 of the Immigration and Nationality
7 Act, to initiate expedited removal. Pet. ¶¶ 35–53. Neither constitutes a lawful justification to re-
8 detain a person who does not pose a flight risk or danger to the community.

9 Because the private interest in freedom from immigration detention is substantial, due
10 process also requires that in cases like this one, the government bears the burden of proving “by
11 clear and convincing evidence that the [noncitizen] is a flight risk or danger to the community.”
12 *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); *see Martinez v. Clark*, 124 F.4th 775,
13 785-86 (9th Cir. 2024) (holding that government properly bore burden by clear and convincing
14 evidence in court-ordered bond hearing); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025
15 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025) (ordering pre-deprivation bond hearing in which
16 government bears burden by clear and convincing evidence).

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

1 *5 (S.D.N.Y. June 18, 2025) (granting habeas petition and immediately releasing petitioner who
2 had been detained without process, who had “voluntarily attended his scheduled immigration
3 court proceedings” and “established ties” through his work and volunteering with the church).

4 In similar cases, courts in this Circuit regularly hold that re-detaining noncitizens without
5 a pre-deprivation hearing in which the government bears the burden of proof violates due process,
6 and grant the emergency relief Petitioner seeks here. *See Garro Pinchi v. Noem*, __ F. Supp. 3d
7 __, 2025 WL 2084921, at *7 (converting TRO requiring release of asylum seeker arrested at her
8 immigration court hearing into preliminary injunction prohibiting the government from re-
9 detaining her without a hearing); *Valera Chuquillanqui v. Kaiser*, No. 3:25-cv-06320 (N.D. Cal.
10 July 29, 2025) (granting *ex parte* TRO); *Pablo Sequen v. Kaiser*, No. 5:25-cv-06487 (N.D. Cal.
11 Aug. 1, 2025) (granting *ex parte* TRO); *Ruiz Otero v. Kaiser*, No. 5:25-cv-06536 (N.D. Cal. Aug.
12 3, 2025) (granting *ex parte* TRO); *Singh v. Andrews*, 2025 WL 1918679, *8-10 (E.D. Cal. July
13 11, 2025) (granting PI under similar circumstances); *Doe*, 2025 WL 691664, at *8 (granting TRO
14 over one month after petitioner’s initial detention); *see also, e.g., Diaz*, 2025 WL 1676854, at *3-
15 *4; *Garcia v. Bondi*, No. 3:25-CV-05070, 2025 WL 1676855, at *3 (N.D. Cal. June 14, 2025);
16 *Jorge M. F.*, 2021 WL 783561, at *4; *Romero v. Kaiser*, No. 22-CV-02508-TSH, 2022 WL
17 1443250, at *4 (N.D. Cal. May 6, 2022); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL
18 5074312, at *4 (N.D. Cal. Aug. 23, 2020).

19 In short, Respondents violated Petitioner’s due process rights when they detained her
20 without notice and without a custody hearing before a neutral arbiter. Here, only an order releasing
21 Petitioner and enjoining re-detention—unless Respondents provide Petitioner with a custody
22 hearing where the government bears the burden of proof—would return the parties to the “last
23 uncontested status which preceded the pending controversy.” *Doe v. Noem*, __ F. Supp. 3d __,
24 2025 WL 1141279, at *9 (W.D. Wash. Apr. 17, 2025) (quoting *GoTo.com, Inc. v. Walt Disney*
25 *Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); *see also Valdez*, 2025 WL 1707737, at *4-*5 (ordering
26 petitioner’s immediate release as remedy for procedural due process violation).

27 * * * * *

28 For the foregoing reasons, Petitioner is likely to succeed on the merits of his claims. But

1 even if the Court disagrees, she presents at least “serious question[s] going to the merits,”
2 alongside a “balance of hardships” tipping decidedly in their favor. *All. for the Wild Rockies*, 632
3 F.3d at 1135. Indeed, the constitutional concerns delineated above are of the weightiest order and
4 beyond colorable. This Court should therefore enter the requested TRO.

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

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

20 As a result of his arrest and detention, Petitioner is also suffering additional ongoing
21 irreparable harms. Petitioner, who was in a serious car accident earlier this year, suffers from
22 chronic pain and is cut off from her medical treatment.

23 **III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST WEIGH**
24 **STRONGLY IN PETITIONER’S FAVOR.**

25 When the government is the party opposing the request for emergency relief, the balance
26 of the equities and the public interest merge. *Env’t Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991
27 (9th Cir. 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)). Here, the balance
28 of equities overwhelmingly favors Petitioner, who faces irreparable injury in the form of ongoing

1 constitutional violations and continued additional suffering if the TRO is not granted. *See* Section
 2 II, *supra*; *Hernandez*, 872 F.3d at 996 (when “[f]aced with ... preventable human suffering, ...
 3 the balance of hardships tips decidedly in plaintiffs’ favor”) (internal citation omitted).

4 The public interest likewise weighs strongly in Petitioner’s favor. As another California
 5 district court recently concluded, “[t]he public has a strong interest in upholding procedural
 6 protections against unlawful detention, and the Ninth Circuit has recognized that the costs to the
 7 public of immigration detention are staggering.” *Diaz*, 2025 WL 1676854, at *3 (citing *Jorge M.*
 8 *F.*, 2021 WL 783561, at *3). More fundamentally, “[i]t is always in the public interest to prevent
 9 the violation of a party’s constitutional rights.” *Index Newspapers LLC v. U.S. Marshals Serv.*,
 10 977 F.3d 817, 838 (9th Cir. 2020) (citing *Padilla v. Immigr. & Customs Enf’t*, 953 F.3d 1134,
 11 1147-48 (9th Cir. 2020) (internal quotation marks omitted)).

12 SECURITY

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

22 CONCLUSION

23 For the foregoing reasons, Petitioner respectfully requests the Court grant a TRO to restore
 24 the *status quo ante* that (1) immediately releases her from Respondents’ custody without
 25 electronic monitoring and enjoins Respondents from re-detaining her absent further order of this
 26 Court; (2) in the alternative, immediately releases her from Respondents’ custody and enjoins
 27 Respondents from re-detaining her unless they demonstrate at a pre-deprivation bond hearing, by
 28

1 clear and convincing evidence, that Petitioner is a flight risk or danger to the community such that
2 her physical custody is required; and (3) prohibits the government from transferring her out of
3 this District and/or removing her from the country until these habeas proceedings have concluded.
4
5

6 Date: August 16, 2025

Respectfully submitted,

7
8 /s/ Jordan Weiner

La Raza Centro Legal

474 Valencia St., Ste. 295

San Francisco, CA 94103

Telephone: (415) 553-3435

E-mail: jordan@lrcl.org

11
12 *Attorney for Petitioner*
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28