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

MARIA JOSE JARABA OLIVEROS,

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. 5:25-cv-07117-BLF

**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	9
ARGUMENT	11
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.....	18
SECURITY	18
CONCLUSION	19

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)	17
<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)	8, 11, 12, 17
<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).....	12

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).....	10
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
	Regulations	
	8 C.F.R. § 239.2(a)(7), (c).....	10
	Other Authorities	
	Arelis R. Hernández & Maria Sacchetti, <i>Immigrant Arrests at Courthouses Signal New Tactic in Trump's Deportation Push</i> , Wash. Post, May 23, 2025.....	10

1	Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, <i>How ICE is Seeking to Ramp Up</i>	
2	<i>Deportations Through Courthouse Arrests</i> , N.Y. Times, May 30, 2025.....	10
3	Joshua Goodman and Gisela Saloman, <i>ICE Agents Wait in Hallways of Immigration Court as</i>	
4	<i>Trump Seeks to Deliver on Mass Arrest Pledge</i> , LA Times, May 22, 2025	9
5	Margaret Kadifia, <i>Immigrants Fearful as ICE Nabs at Least 15 in S.F., Including Toddler,</i>	
6	<i>Mission Local</i> , June 5, 2025	9
7	Sarah Ravani, <i>ICE Arrests Two More at S.F. Immigration Court, Advocates Say</i> , S.F. Chron.,	
8	June 12, 2025	9
9	Tomoki Chien, <i>Undercover ICE Agents Begin Making Arrests at SF Immigration Court</i> , S.F.	
10	<i>Standard</i> , May 27, 2025	9
11		
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13		
14		
15		
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INTRODUCTION

Petitioner Maria Jose Jaraba Oliveros went to the San Francisco Immigration Court on August 22, 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 ten days to respond. 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 December 2023, 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 constitutionally entitled to a hearing before a neutral decisionmaker at which the government

1 should have justified his detention.

2 As a result of her arrest and detention, Petitioner is suffering irreparable and ongoing harm.
3 The unconstitutional deprivation of “physical liberty” “unquestionably constitutes irreparable
4 injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed, “[f]reedom from
5 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
6 the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678,
7 690 (2001). Petitioner also faces numerous additional irreparable harms due to her detention,
8 including difficulties with vertigo and panic and being in enclosed spaces.

9 In light of this irreparable harm, and because she is likely to succeed on the merits of her
10 due process claims, Petitioner respectfully requests that this Court issue an *ex parte* temporary
11 restraining order (“TRO”) immediately releasing from her custody and enjoining the government
12 from re-arresting her absent the opportunity to contest that arrest at a hearing before a neutral
13 decision maker. Since DHS started this new policy, Courts in this circuit have regularly granted
14 *ex parte* TROs when confronted with substantially identical facts and legal issues. At least eight
15 courts in this circuit have recently granted the exact relief Petitioner seeks. *See Garro Pinchi v.*
16 *Noem*, 2025 WL 1853763, *4 (N.D. Cal. July 4, 2025), *converted to preliminary injunction at* __
17 *F. Supp. 3d* __, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Salcedo Aceros v. Kaiser*, 1:25-cv-
18 06924 (N.D. Cal. Aug. 16, 2025) (*ex parte* TRO); *Jimenez Garcia v. Kaiser*, No. 25-cv-06916
19 (N.D. Cal. Aug. 17, 2025) (*ex parte* TRO); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921 (N.D.
20 Cal. Aug. 17, 2025) (*ex parte* TRO); *Pineda Campos v. Kaiser*, No. 25-cv-06920 (N.D. Cal. Aug.
21 15, 2025) (*ex parte* TRO); *Valera Chuquillanqui v. Kaiser*, No. 3:25-cv-06320 (N.D. Cal. July
22 29, 2025) (*ex parte* TRO); *Pablo Sequen v. Kaiser*, No. 5:25-cv-06487 (N.D. Cal. Aug. 1, 2025)
23 (*ex parte* TRO); *Ruiz Otero v. Kaiser*, No. 5:25-cv-06536 (N.D. Cal. Aug. 3, 2025) (*ex parte*
24 TRO); *see also Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal. July 11, 2025) (granting
25 preliminary injunction); *Paz Hernandez v. Kaiser*, No. 1:25-cv-00986 (E.D. Cal. August 21,
26 2025). To maintain this Court’s jurisdiction, the Court should also prohibit the government from
27 transferring Petitioner out of this District and removing her from the country until these
28 proceedings have concluded.

BACKGROUND

Petitioner is a 21-year-old woman from Colombia. Petitioner's Habeas Petition ("Pet.") ¶ 11. She fled Colombia after members of an organized criminal group threatened her. Declaration of P.F. Gonzalez Montes De Oca ("Gonzalez Montes De Oca Dec.") ¶ 8.

She arrived in the United States in December 2023. Pet. ¶ 1. She was briefly detained by federal agents. *Id.* Determining that she was not a flight risk or a danger to the community, the agents released Petitioner on her own recognizance. *Id.*

Petitioner went to live in San Jose, California. *Id.* ¶ 49. She applied for asylum in November 2024. *Id.* ¶ 50. She received work authorization. *Id.* She worked as a housekeeper. *Id.* She attended all of her immigration court hearings and ICE check-ins. *Id.* ¶ 49. She has no criminal history anywhere in the world. *Id.* ¶ 51.

On August 22, 2025, Petitioner went to San Francisco Immigration Court for a routine hearing before Immigration Judge Joseph Park, where the government orally moved to dismiss her case. Declaration of Amanda Maya ("Maya Dec.") ¶¶ 2–3. IJ Park did not grant the motion to dismiss. *Id.* ¶ 53. Instead, the judge gave Petitioner ten days to respond. *Id.*

As Petitioner exited the courtroom, a group of ICE agents arrested her before she could leave the courthouse. *Id.* ¶ 4. They did not present warrants, nor did they provide any explanation for why she was being arrested. *Id.* ¶ 5.

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

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>.

1 immigration hearings.²

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

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

18 Petitioner suffers serious and ongoing harm every day she remains in detention. Prior to her
19 detention, Petitioner was living peacefully in Martinez, California with her family.

22 ² Sarah Ravani, *ICE Arrests Two More at S.F. Immigration Court, Advocates Say*, S.F. Chron.,
23 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/>.

26 ³ Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in 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).

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

1 be reasonably ensured by a lesser bond or alternative conditions.”). When these rationales are
2 absent, immigration detention serves no legitimate government purpose and becomes
3 impermissibly punitive, violating a person’s substantive due process rights. *See Jackson v. Indiana*,
4 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the government’s interests
5 in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-CV-389, 2025 WL
6 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding petitioner may
7 “succeed on his Fifth Amendment claim if he demonstrates *either* that the government acted with
8 a punitive purpose *or* that it lacks any legitimate reason to detain him”).

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

17 Petitioner, who has no criminal record and who is diligently pursuing her immigration case,
18 is neither a danger nor a flight risk. Therefore, her detention is both punitive and not justified by a
19 legitimate purpose, violating his substantive due process rights. Indeed, when Respondents chose
20 to release Petitioner from custody in 2023, that decision represented their finding that she was
21 neither dangerous nor a flight risk. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal.
22 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“Release reflects
23 a determination by the government that the noncitizen is not a danger to the community or a flight
24 risk.”). Nothing has transpired since to disturb that finding.

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

28 *Second*, as to flight risk, the question is whether custody is reasonably necessary to secure

1 a person's appearance at immigration court hearings and related check-ins. *See Hernandez*, 872
2 F.3d at 990-91. There is no basis to argue that Petitioner, who was arrested by Respondents *while*
3 *appearing in immigration court* for a master calendar hearing, is a flight risk. Petitioner has
4 attended all of her immigration court hearings and ICE check-ins. Moreover, Petitioner has a viable
5 path toward immigration relief and a pathway to lawful permanent residence, further mitigating
6 any risk of flight. *See Padilla v. U.S. Immigr. and Customs Enf't*, 704 F. Supp. 3d 1163, 1173 (W.D.
7 Wash. 2023) (holding that there is not a legitimate concern of flight risk where plaintiffs have bona
8 fide asylum claims and desire to remain in the United States). At the time of his arrest, Petitioner
9 had filed applications for asylum, withholding of removal, and protection under the Convention
10 Against Torture. With the assistance of counsel, she has every intention of continuing to pursue her
11 applications for immigration relief. And, until her unlawful arrest and detention, Petitioner was
12 gainfully employed a housekeeper and living with her family.

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

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

20 Noncitizens living in the United States like Petitioner have a protected liberty interest in
21 their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. The Supreme Court
22 "usually has held that the Constitution requires some kind of a hearing *before* the State deprives
23 a person of liberty or property." *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so even in
24 cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d 671, 683 (D.C.
25 Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that re-detention after pre-
26 parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S.
27 778, 782 (1973) (holding the same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482
28 (1972) (same, in parole context).

1 Accordingly, the Supreme Court has repeatedly held that individuals released from
2 custody on bond, parole, or other forms of conditional release have a protected interest in their
3 ongoing liberty, because “[t]he parolee has relied on at least an implicit promise that parole will
4 be revoked only if he fails to live up to the parole conditions.” *Morrissey*, 408 U.S. at 482. “By
5 whatever name, the[ir] liberty is valuable and must be seen within the protection of the [Due
6 Process Clause].” *Id.* This liberty interest also applies to noncitizens, including those who have
7 been conditionally released from immigration custody. *See Ortega v. Bonnar*, 415 F. Supp. 3d
8 963, 970 (N.D. Cal. 2019). Petitioner thus has a protected liberty interest in her freedom from
9 physical custody.

10 Once a petitioner has established a protected liberty interest, as Petitioner has done here,
11 courts in this circuit apply the *Mathews* test to determine what procedural protections are due. *See*
12 *Johnson v. Ryan*, 55 F.4th 1167, 1179-80 (9th Cir. 2022) (citing *Mathews v. Eldridge*, 424 U.S.
13 319, 335 (1976)). Under that test, the court weighs: (1) the private interest affected; (2) the risk
14 of erroneous deprivation and probable value of procedural safeguards; and (3) the government’s
15 interest. *Id.* In this case, the factors weigh heavily in favor of releasing Petitioner and prohibiting
16 his re-detention without a custody hearing at which the government bears the burden of proof.

17 *First*, the private interest affected in this case is profound. When considering this factor,
18 courts look to “the degree of potential deprivation.” *Nozzi v. Hous. Auth. of City of Los Angeles*,
19 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). The degree of deprivation
20 here is high. Petitioner, who is an asylum seeker who suffered harm in Colombia, has been
21 completely deprived of her physical liberty. Petitioner’s detention has ripped from her the
22 “free[dom] to be with family and friends and to form the . . . enduring attachments of normal life.”
23 *Morrissey*, 408 U.S. at 482. Cutting someone off from the “core values of unqualified liberty”—
24 for Petitioner, who lives with her husband, creates a “grievous loss.” *Id.* Moreover, because
25 Petitioner faces *civil detention*, “his liberty interest is arguably greater than the interest of the
26 parolees in *Morrissey*.” *See Ortega*, 415 F. Supp. 3d at 970. As someone in civil detention,
27 therefore, “it stands to reason that [Petitioner] is entitled to protections at least as great as those
28 afforded to a[n] . . . individual . . . accused but not convicted of a crime.” *See Jones v. Blanas*,

1 393 F.3d 918, 932 (9th Cir. 2004).

2 *Second*, “the risk of an erroneous deprivation [of liberty] is high” where, as here, “[the
3 petitioner] has not received any bond or custody redetermination hearing.” *A.E. v. Andrews*, No.
4 1:25-cv-00107, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*, No.
5 19-cv-07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020)); *see also Diep v. Wofford*,
6 No. 1:24-cv-01238, 2025 WL 6047444, at *5 (E.D. Cal. Feb. 25, 2025). Respondents grabbed
7 Petitioner by surprise as she left her immigration court hearing, detaining her with no notice and
8 no opportunity to contest her re-detention before a neutral arbiter. In such circumstances, when
9 Respondents have provided *no* procedural safeguards, “the probable value of additional
10 procedural safeguards, i.e., a bond hearing, is high.” *A.E.*, 2025 WL 1424382, at *5. This is
11 especially true here, where there is no change in Petitioner’s circumstances suggesting that
12 Petitioner now poses a flight risk or danger to the community. Her re-detention instead appears to
13 be motivated instead by Respondents’ new arrest quotas and practice of leveraging detention to
14 secure dismissal of ongoing proceedings under Section 240 of the Immigration and Nationality
15 Act, to initiate expedited removal. Pet. ¶¶ 35–46. Neither constitutes a lawful justification to re-
16 detain a person who does not pose a flight risk or danger to the community.

17 Because the private interest in freedom from immigration detention is substantial, due
18 process also requires that in cases like this one, the government bears the burden of proving “by
19 clear and convincing evidence that the [noncitizen] is a flight risk or danger to the community.”
20 *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); *see Martinez v. Clark*, 124 F.4th 775,
21 785-86 (9th Cir. 2024) (holding that government properly bore burden by clear and convincing
22 evidence in court-ordered bond hearing); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025
23 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025) (ordering pre-deprivation bond hearing in which
24 government bears burden by clear and convincing evidence).

25 *Third*, the government’s interest in detaining Petitioner without first providing notice and
26 submitting to a custody hearing is minimal. Immigration courts routinely conduct custody
27 hearings, which impose a “minimal” cost to the government. *See Doe*, 2025 WL 691664, at *6;
28 *A.E.*, 2025 WL 1424382, at *5. Petitioner has an impeccable record of complying with her

1 immigration obligations; there is no reason to believe that between the date of her release and her
2 custody hearing, her compliance will change. Indeed, courts regularly hold that the government's
3 interest in re-detention without a custody hearing is low when the petitioner "has long complied
4 with his reporting requirements." *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3-
5 *4 (N.D. Cal. June 14, 2025) (granting TRO prohibiting re-detention of noncitizen without a pre-
6 deprivation bond hearing); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561,
7 at *3-*4 (N.D. Cal. Mar. 1, 2021) (same); *Ortega*, 415 F. Supp. 3d at 970 (granting habeas petition
8 ordering the same); *see also Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *4-
9 *5 (S.D.N.Y. June 18, 2025) (granting habeas petition and immediately releasing petitioner who
10 had been detained without process, who had "voluntarily attended his scheduled immigration
11 court proceedings" and "established ties" through his work and volunteering with the church).

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

24 In short, Respondents violated Petitioner's due process rights when they detained her
25 without notice and without a custody hearing before a neutral arbiter. Here, only an order releasing
26 Petitioner and enjoining re-detention—unless Respondents provide Petitioner with a custody
27 hearing where the government bears the burden of proof—would return the parties to the "last
28 uncontested status which preceded the pending controversy." *Doe v. Noem*, __ F. Supp. 3d __,

1 2025 WL 1141279, at *9 (W.D. Wash. Apr. 17, 2025) (quoting *GoTo.com, Inc. v. Walt Disney*
2 *Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); *see also Valdez*, 2025 WL 1707737, at *4-*5 (ordering
3 petitioner's immediate release as remedy for procedural due process violation).

4 * * * * *

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

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

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

25 As a result of her arrest and detention, Petitioner is also suffering additional ongoing
26 irreparable harms. She is obese and needs to manage her nutrition closely. Gonzalez Montes De
27 Oca Dec. ¶ 10. She also suffers vertigo and panic, and it is difficult for her to be in enclosed
28 spaces, especially alone. *Id.* The room she was brought to after she was detained was triggering

1 for her, especially because she was held alone. *Id.* She also has sinusitis, which is aggravated by
 2 the cold temperatures at 630 Sansome. *Id.* ¶ 9.

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

5 When the government is the party opposing the request for emergency relief, the balance
 6 of the equities and the public interest merge. *Env’t Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991
 7 (9th Cir. 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)). Here, the balance
 8 of equities overwhelmingly favors Petitioner, who faces irreparable injury in the form of ongoing
 9 constitutional violations and continued additional suffering if the TRO is not granted. *See* Section
 10 II, *supra*; *Hernandez*, 872 F.3d at 996 (when “[f]aced with ... preventable human suffering, ...
 11 the balance of hardships tips decidedly in plaintiffs’ favor”) (internal citation omitted).

12 The public interest likewise weighs strongly in Petitioner’s favor. As another California
 13 district court recently concluded, “[t]he public has a strong interest in upholding procedural
 14 protections against unlawful detention, and the Ninth Circuit has recognized that the costs to the
 15 public of immigration detention are staggering.” *Diaz*, 2025 WL 1676854, at *3 (citing *Jorge M.*
 16 *F.*, 2021 WL 783561, at *3). More fundamentally, “[i]t is always in the public interest to prevent
 17 the violation of a party’s constitutional rights.” *Index Newspapers LLC v. U.S. Marshals Serv.*,
 18 977 F.3d 817, 838 (9th Cir. 2020) (citing *Padilla v. Immigr. & Customs Enf’t*, 953 F.3d 1134,
 19 1147-48 (9th Cir. 2020) (internal quotation marks omitted)).

20 **SECURITY**

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

1 *Plan. Agency*, 766 F.2d 1319, 1326 (9th Cir.), *amended*, 775 F.2d 998 (9th Cir. 1985).

2 **CONCLUSION**

3 For the foregoing reasons, Petitioner respectfully requests the Court grant a TRO to restore
4 the *status quo ante* that (1) immediately releases her from Respondents' custody without
5 electronic monitoring and enjoins Respondents from re-detaining her absent further order of this
6 Court; (2) in the alternative, immediately releases her from Respondents' custody and enjoins
7 Respondents from re-detaining her unless they demonstrate at a pre-deprivation bond hearing, by
8 clear and convincing evidence, that Petitioner is a flight risk or danger to the community such that
9 her physical custody is required; and (3) prohibits the government from transferring her out of
10 this District and/or removing her from the country until these habeas proceedings have concluded.
11

12
13 Date: August 22, 2025

Respectfully submitted,

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