UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Daixon Jose RAMIREZ TESARA, Petitioner, v. Camilla WAMSLEY, et al., Respondents.	Case No. 25-cv-1723 **MOTION FOR A TEMPORARY RESTRAINING ORDER** Note on Motion Calendar: September 8, 2025 **ORAL ARGUMENT REQUESTED**

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INTRODUCTION

Petitioner Daixon Ramirez Tesara (Mr. Ramirez) is a Venezuelan noncitizen detained by Immigration and Customs Enforcement (ICE) at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington. He entered the United States in early 2024, and after passing a credible fear interview, was released on parole. For the next year and a half, Mr. Ramirez complied with what was asked of him: timely applying for asylum and adhering to the conditions of his release, including telephonic and video check-ins as part of the Intensive Supervision Appearance Program (ISAP). Nevertheless, on August 18, 2025, he was arrested at a check-in at the Portland, Oregon ICE office, without any notice or opportunity to respond to any allegation purportedly justifying his re-detention. He remains in detention at NWIPC, separated from his partner, their young U.S.-citizen child, and his partner's two children, for whom he has assumed a role as a stepfather.

At no time prior to his arrest did Respondents provide Mr. Ramirez a hearing, let alone a hearing before a neutral decisionmaker at which ICE was required to justify his re-detention and show that he now poses a flight risk or danger to the community. Indeed, he was not provided any notice as to the reason for his re-detention, much less the written notice required under 8 C.F.R. § 212.5(e)(2) that must accompany a revocation of parole. Nor has Mr. Ramirez received any meaningful opportunity to respond to any allegations triggering his re-detention.

By denying him any notice and hearing, Respondents violated Mr. Ramirez's right to due process. As this Court recently held, his ongoing detention is therefore unlawful, and his immediate release is required. *See E.A. T.-B. v. Wamsley*, No. 25-cv-1192-KKE, --- F. Supp. 3d ---, 2025 WL 2402130, at *6 (W.D. Wash. Aug. 19, 2025) (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after

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the fact and cannot prevent an erroneous deprivation of liberty"). Accordingly, Mr. Ramirez respectfully seeks immediate relief from this Court to vindicate his right to liberty under the Fifth Amendment's Due Process Clause.[1]

STATEMENT OF FACTS

Mr. Ramirez is a 27-year-old citizen and national of Venezuela who entered the United States on January 11, 2024, to seek asylum. Decl. of Daixon Ramirez Tesara ¶¶ 1–2; Decl. of Doug Valladares Ex. A (Notice & Order of Expedited Removal). He was arrested and detained, and the Department of Homeland Security (DHS) initiated expedited removal proceedings under 8 U.S.C. § 1225(b)(1). Ramirez Decl. ¶ 2; Decl. of Daimarys Suniaga Martinez ¶ 3; Valladares Decl. Ex. B (Credible Fear Interview worksheet). DHS subsequently administered a credible fear interview (CFI) to determine whether Mr. Ramirez could demonstrate a significant possibility of establishing eligibility for asylum. 8 C.F.R. § 208.30(e); *see also* Valladares Decl. Ex. B; Ramirez Decl. ¶ 2; Suniaga Decl. ¶ 3. After Mr. Ramirez was found to have a credible fear, DHS rescinded his expedited removal order and issued a Notice to Appear, placing him in removal proceedings under 8 U.S.C. § 1229a, where he was entitled to move forward with his application for asylum. Ramirez Decl. ¶ 2; Suniaga Decl. ¶ 3; Valladares Decl. Ex. B; *id.* Ex. C (Notice to Appear).

On February 7, 2024, DHS released Mr. Ramirez from custody on parole under 8 U.S.C. § 1182(d)(5). Ramirez Decl. ¶ 2; Valladares Decl. Ex. D (Parole Notice). As a condition of his release, Mr. Ramirez was required to register for monitoring by ISAP, an "Alternatives to Detention" (ATD) program that ICE operates through a private contractor. Ramirez Decl. ¶ 3;

[1] Together with the filing of the habeas petition and motion, counsel certifies that they are providing concurrent notice regarding this filing to the U.S. Attorney's Office for the Western District of Washington via email.

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Suniaga Decl. ¶ 3; Valladares Decl. Ex. E (ISAP enrollment notice). Mr. Ramirez relocated to Oregon following his release, and the Executive Office for Immigration Review (EOIR) also transferred his case to the Portland Immigration Court. Ramirez Decl. ¶ 5; Suniaga Decl. ¶ 4; Valladares Decl. Ex. F (Respondent's motion to change venue). He timely filed his asylum application in October 2024 and was scheduled for a master calendar hearing on July 19, 2027. Ramirez Decl. ¶ 5; Suniaga Decl. ¶ 4; Valladares Decl. Ex. G (EOIR website printout showing hearing date); *id.* Ex. H (filed Form I-589).

Following his release Mr. Ramirez reunited with his partner, Daimarys Jose Suniaga Martinez, and her two children, to whom Mr. Ramirez acts as a stepfather. Ramirez Decl. ¶¶ 1, 5, 15; Suniaga Decl. ¶¶ 1, 3–4, 19. Mr. Ramirez and Ms. Suniaga have been together since 2022. Suniaga Decl. ¶ 1. The family fled Venezuela in 2023 and traveled to the United States, but only Mr. Ramirez was detained upon arrival in the United States. Ramirez Decl. ¶¶ 1–2; Suniaga Decl. ¶ 3. In December 2024, the Mr. Ramirez and his partner also welcomed a child together. Ramirez Decl. ¶¶ 5, 15; Suniaga Decl. ¶ 1; Valladares Decl. Ex. I (birth certificate).

During the year and a half since he was released from ICE custody, Mr. Ramirez faithfully complied with ISAP's monitoring requirements, completing regular video and telephonic check-ins with ISAP employees. Ramirez Decl. ¶¶ 3–4; Suniaga Decl. ¶¶ 5–6. He and his partner both checked the app every day to ensure that he did not miss any notifications. Ramirez Decl. ¶ 3; Suniaga Decl. ¶ 5. However, on August 14, 2025, at 2:48 PM, Mr. Ramirez received a message through the ISAP app stating that he had failed to respond to a call on August 11, 2025. Ramirez Decl. ¶ 7; Suniaga Decl. ¶ 9; Valladares Decl. Ex. J (ISAP text screenshots). Neither Mr. Ramirez nor his partner, Ms. Suniaga, recall him receiving a call or other communication on August 11, 2025, even though Mr. Ramirez's phone was connected to the

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internet all day on that date. In fact, as both Mr. Ramirez and his wife attest, Mr. Ramirez remained at home that day and ensured his phone was connected to the internet precisely because he knew he was supposed to receive an ISAP call on August 11. Ramirez Decl. ¶ 6; Suniaga Decl. ¶¶ 7–8, 11.

Following that initial message on August 14—which Mr. Ramirez received at 2:48 PM—ISAP sent a second message, which Mr. Ramirez also received at 2:48 PM, directing Mr. Ramirez to report at the ISAP office at 2828 S Kelly Ave, Portland, OR 97201, that same day, August 14, 2025, at 2:00 PM. Ramirez Decl. ¶ 7; Suniaga Decl. ¶ 9; Valladares Decl. Ex. J. At the time Mr. Ramirez received the message, the appointment time that had already passed. Mr. Ramirez responded to this message promptly and received a message instructing him to present himself at the ISAP office the next day, August 15, 2025, at 10:00 AM. Ramirez Decl. ¶ 7; Suniaga Decl. ¶ 9; Valladares Decl. Ex. J.

Mr. Ramirez appeared at the ISAP office the morning of August 15, 2025, accompanied by his partner, his U.S. citizen daughter, and a family friend, Natalie Lerner. Ramirez Decl. ¶ 8; Suniaga Decl. ¶ 13; Decl. of Natalie Lerner ¶ 4. At this appointment, an ISAP employee yelled at Mr. Ramirez not to miss another virtual appointment, but provided no further instructions or guidance. Ramirez Decl. ¶ 8; Suniaga Decl. ¶ 13; Lerner Decl. ¶ 5. While Natalie Lerner was driving the family home, Mr. Ramirez received a call from ISAP informing him that he needed to present himself at the ICE Enforcement Removal Operations (ERO) Field Office in Portland on Monday, August 18, 2025, at 9:00 AM. Ramirez Decl. ¶ 8; Suniaga Decl. ¶ 13; Lerner Decl. ¶ 6.

Mr. Ramirez Tesara presented hims at ICE-ERO in Portland before 9:00 AM on Monday, August 18, 2025. Ramirez Decl. · Suniaga Decl. ¶ 14; Lerner Decl. ¶ 7. In advance

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of this appointment, Mr. Ramirez signed Form G-28, Notice of Entry of Appearance as Attorney, designating Josephine Moberg as his counsel of record before ICE. Ramirez Decl. ¶ 9; Suniaga Decl. ¶ 14. At the check-in, ICE arrested and detained Mr. Ramirez. Ramirez Decl. ¶ 9; Suniaga Decl. ¶ 14; Lerner Decl. ¶ 8. Ms. Moberg arrived at the ICE office shortly after Mr. Ramirez was detained and repeatedly requested to speak with her client. Despite those requests, ICE denied her access. Decl. of Josephine Moberg ¶¶ 3–4.

At no point prior to his re-detention did Respondents provide Mr. Ramirez any notice regarding the basis for his re-detention or any notice regarding the revocation of his parole (as required by 8 C.F.R. 212.5(e)). Nor did Respondents provide Mr. Ramirez with any type of hearing, let alone a hearing before a neutral decisionmaker where the agency was required to justify re-detention or demonstrate that he now poses a flight risk or danger to the community. *See generally* Ramirez Decl. ¶¶ 9–12; Moberg ¶¶ 3–5.

During the re-detention process, ICE shackled Mr. Ramirez using hand and ankle restraints. Ramirez Decl. ¶ 10. The officers applied the shackles on his ankles too tightly, causing him severe discomfort and pain. *Id.* In 2023, after being run over by a car in an incident that was part of the political violence he suffered in Venezuela, Mr. Ramirez underwent orthopedic surgery to repair injuries to his left leg and ankle. *Id.* ¶¶ 1, 10; Suniaga Decl. ¶ 2. This surgery entailed a partial reconstruction of his left leg and resulted in implanted hardware, including a bar and multiple screws, which are so pronounced that they are visible through his skin. Ramirez Decl. ¶ 1; Suniaga Decl. ¶ 2. Mr. Ramirez believes that the tight shackles on his ankle caused this hardware to become maladjusted, and he has continued to experience severe pain while detained. Ramirez Decl. ¶¶ 10, 13–14.

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Mr. Ramirez initially filed a habeas petition in the U.S. District Court for the District of Oregon on August 18, 2025. *See D.J.R.T. v. Wamsley*, No. 3:25-cv-01463-JR (D. Or. filed Aug. 18, 2025). However, by the time he filed the habeas petition, he had already been transferred out of the district to NWIPC in Tacoma, Washington. He remains detained there today, hours away from his home and family. After learning that the District of Oregon could not adjudicate his petition, Mr. Ramirez's counsel sought assistance from attorneys barred before this Court and voluntarily dismissed the Oregon case without prejudice. Having obtained counsel to represent him before this Court, he now seeks immediate relief from his continued, unlawful detention.

ARGUMENT

I. Requirements for a Temporary Restraining Order

On a motion for a TRO, the movant "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and TRO standards are "substantially identical"). A TRO may issue where "serious questions going to the merits [are] raised and the balance of hardships tips sharply in [plaintiff's] favor." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (citation modified). To succeed under the "serious question" test, Mr. Ramirez must also show that he is likely to suffer irreparable injury and that an injunction is in the public's interest. *Id.* at 1132.

II. Mr. Ramirez is likely to succeed on the merits of his argument that his detention is unlawful because he was not afforded a pre-deprivation hearing.

Due process requires Respondents to afford Mr. Ramirez a hearing before a neutral decisionmaker where ICE is required to justify re-detention *before* it occurs. In recent months, as

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DHS has detained many similarly-situated noncitizens, several courts—including this one—have held the same and ordered the immediate release of noncitizens who had been re-detained by DHS without a pre-deprivation hearing. *See, e.g.*, *E.A. T.-B.*, 2025 WL 2402130; *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, --- F. Supp. 3d ---, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar). In light of this, Mr. Ramirez is likely to succeed on his claim and the Court should order his immediate release. If Respondents continue to assert that his detention is justified after his release, they may thereafter schedule a hearing where they bear the burden of presenting clear and convincing evidence that his re-detention is warranted.

As this Court recently explained in *E.A. T.-B.*, the three-factor test established in *Mathews v. Eldridge*, 424 U.S. 319 (1976) is the controlling framework for determining what process Mr. Ramirez is due. *Mathews* requires the Court to evaluate (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguard" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335; *see also Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021) (applying *Mathews* factors to assess right to pre-deprivation hearing); *Morrissey v. Brewer*, 408 U.S. 471, 482–84 (1972) (assessing parolee's liberty interests and the state's interests to assess what process is due a parolee). Here, those factors strongly favor Mr. Ramirez.

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A. Mr. Ramirez Has a Weighty Private Interest.

Mr. Ramirez has an exceptionally strong interest in freedom from physical confinement and in a hearing prior to any revocation of his liberty. Indeed, his "interest in not being detained is 'the most elemental of liberty interests[.]'" *E.A. T.-B.*, 2025 WL 2402130, at *3 (alteration in original) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). "Freedom from imprisonment . . . lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Thus, "[d]etention, including that of a non-citizen, violates due process if there are not 'adequate procedural protections' or 'special justification[s]' sufficient to outweigh one's 'constitutionally protected interest in avoiding physical restraint.'" *Perera v. Jennings*, 598 F. Supp. 3d 736, 742 (N.D. Cal. 2022) (second alteration in original) (quoting *Zadvydas*, 533 U.S. at 690). Similarly, the Ninth Circuit has held that "[i]n the context of immigration detention, it is well-settled that 'due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint.'" *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)). The Supreme Court has long underscored this point. *See, e.g.*, *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (citation omitted)).

This principle applies with significant force given Mr. Ramirez's initial release from detention on parole. "The Supreme Court has repeatedly held that in at least some circumstances, a person who is in fact free of physical confinement —even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated." *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017). As the *Hurd*

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court explains, this includes cases of "pre-parole conditional supervision," *id.* (citing ***Young v.*** *Harper*, 520 U.S. 143, 152 (1997)); "probation," *id.* (citing *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)), and "parole," *id.* (citing *Morrissey*, 408 U.S. at 482).

These principles apply with even more force here, where civil immigration detention is concerned, than in cases involving renewed incarceration in the criminal context. As one court has explained, "[g]iven the civil context, [a noncitizen's] liberty interest is arguably greater than the interest of parolees in *Morrissey*." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). Parolees and probationers have a diminished liberty interest because of their underlying convictions. *See, e.g., United States v. Knights*, 534 U.S. 112, 119 (2001) ("Probation is one point on a continuum of possible punishments . . . ." (citation modified)); *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987) ("To a greater or lesser degree, it is always true of probationers (as we have said it to be true of parolees) that they do not enjoy the absolute liberty to which every citizen is entitled . . . ." (citation modified)). Nonetheless, even in the criminal parole and supervised release context, courts have held that parolees cannot be re-arrested without a due process hearing affording them the opportunity to contest the legality of their re-incarceration. *See, e.g., Hurd*, 864 F.3d at 684.

Critically, in recent months and years, courts—including this one—have repeatedly applied these principles to hold that noncitizens have a strong liberty interest in cases involving re-detention. As Judge Evanson explained in *E.A. T.-B.*, a person re-detained after a prior release from ICE custody is "undoubtedly deprive[d] . . . of an established interest in his liberty." 2025 WL 2402130, at *3. Other courts have reached the same conclusion. *See, e.g., Garcia*, 2025 WL 2420068, at *10 ("[P]arole allowed [the petitioner] to build a life outside detention, albeit under the terms of that parole. [Petitioner] has a substantial private interest in being out of custody,

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which would allow him to continue in these life activities, including supporting his family."); *Pinchi*, 2025 WL 2084921, at *4 ("[Petitioner] has a substantial private interest in remaining out of custody. She has an interest in remaining in her home, continuing her employment, providing for her family, obtaining necessary medical care, maintaining her relationships in the community, and continuing to attend her church."); *Maklad*, 2025 WL 2299376, at *8 (similar).

As in these cases, Mr. Ramirez has a strong interest in his liberty. Prior to his re-detention, Mr. Ramirez resided in Oregon for nearly a year and a half, living with his partner, her children, and his U.S. citizen child and complying with his ISAP check-in requirements. Ramirez Decl. ¶¶ 1–5; Suniaga Decl. ¶¶ 1, 18–19. He has substantial connections to this country, and his family and friends are suffering in his absence. Significantly, Mr. Ramirez is the primary breadwinner in the family, and supported his family by working in construction and gardening. Ramirez Decl. ¶ 15; Suniaga Decl. ¶ 18; Lerner Decl. ¶ 12. As a result of his detention, his partner, stepchildren, and U.S. citizen baby have struggled, both emotionally and financially, without his support. Previously, their family was economically self-sufficient, and now his partner is forced to seek out charity to support them. Ramirez Decl. ¶ 15; Suniaga Decl. ¶¶ 18–19. These facts underscore that not only is Mr. Ramirez's freedom at stake, but so is the well-being of many others, including his U.S. citizen baby.

B. The Risk of Erroneous Deprivation Is High.

Second, "the risk of erroneous deprivation of [Mr. Ramirez's] liberty interest in the absence of a pre-detention hearing is high." *E.A. T.-B.*, 2025 WL 2402130, at *4. "That the Government may believe it has a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process." *Id.* His re-detention must still "bear[ ] [a] reasonable relation" to a valid government purpose—here,

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preventing flight or protecting the community against dangerous individuals. *Zadvydas*, 533 U.S. at 690 (second alteration in the original) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Only a hearing before a neutral decisionmaker—where ICE must prove that re-detention is justified and that Mr. Ramirez poses a flight risk or danger—can ensure that this "reasonable relation" to a valid government purpose exists. But to date, only the "government enforcement agent" has made any decision about the propriety of detention, *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971), a far cry from the hearing before a neutral decisionmaker that due process requires, *see, e.g.*, *Shadwick v. City of Tampa*, 407 U.S. 345, 350 (1972) ("Whatever else neutrality and detachment might entail, it is clear that they require severance and disengagement from activities of law enforcement."); *see also Gerstein v. Pugh*, 420 U.S. 103, 112 (1975) (similar). In fact, Mr. Rodriguez did not (and has not) even received notice of the basis for his re-detention, much less any opportunity to respond to any allegations purporting to justify his re-detention or a hearing before a neutral decisionmaker.

The importance of a hearing before a neutral decisionmaker principle remains even though Mr. Ramirez was initially subject to mandatory detention under 8 U.S.C. § 1225(b)(1) when he was processed for expedited removal. *See Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019). This is because, as this Court explained in *E.A. T.-B.*, "Petitioner does not claim to be entitled to a hearing consistent with a particular statute: he argues that the Due Process Clause requires it." 2025 WL 2402130, at * 1. And due process requires such a hearing because "Petitioner's circumstances have changed materially" since his release in January 2024. *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal. 2019). As noted above, he has formed deep connections to this country, residing in Oregon, growing his family, and working to support those he loves. "These facts show that a[] [pre-deprivation] hearing provide[s] additional

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safeguards under these circumstances." *Id.*; *see also, e.g.*, *Jorge M.F.*, 534 F. Supp. 3d at 1055 ("In any pre-detention hearing, the IJ would be required to consider any additional evidence from the eight-plus months since Petitioner was released."); *Garcia*, 2025 WL 2420068, at *10 ("[P]arole allowed [Petitioner] to build a life outside detention.").

C. The Government's Interest Is Minimal.

Finally, "the government's interest in detaining [Petitioner] or re-detaining [him] without a hearing is slight." *Maklad*, 2025 WL 2299376, at *8; *Ortega*, 415 F. Supp. 3d at 970 ("If the government wishes to re-arrest Ortega at any point, it has the power to take steps toward doing so; but its interest in doing so without a hearing is low."). "[A]lthough [a pre-deprivation hearing] would have required the expenditure of finite resources (money and time) to provide Petitioner notice and hearing on [ISAP] violations before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue." *E.A. T.-B.*, 2025 WL 2402130, at *5. Notably, since his release, Mr. Ramirez "has continued to demonstrate that []he poses neither a flight risk nor a danger to the community," growing his family, providing for his loved ones, and developing friendships, among other factors. *Pinchi*, 2025 WL 2084921, at *5.

The government may claim that its interest in enforcing immigration laws weighs heavily in its favor. But the government's interest in immigration enforcement "is not at stake here; instead, it is the much lower interest in detaining [Mr. Ramirez] pending removal without a bond hearing." *Perera*, 598 F. Supp. 3d at 746. Many other courts have observed the same. *See, e.g.*, *Zagal-Alcaraz v. ICE Field Office*, No. 3:19-CV-01358-SB, 2020 WL 1862254, at *7 (D. Or. Mar. 25, 2020) ("The government interest at stake here is not the continued detention of Petitioner, but the government's ability to detain him without a bond hearing."), *report and*

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recommendation adopted, 2020 WL 1855189 (D. Or. Apr. 13, 2020). What is more, Mr. Ramirez has complied with the immigration laws: he was released on parole and then timely filed for asylum, as the Immigration and Nationality Act (INA) expressly permits. 8 U.S.C. § 1158. Any claimed "enforcement" amounts to punishing and deterring people like Mr. Ramirez from asserting the statutory rights that the INA expressly provides, rather than enforcing those laws.

In addition, the government's interest is not limited to enforcement of the law; instead, it also encompasses the interest of the "public," including the administrative or financial burdens additional process requires. *Mathews*, 424 U.S. at 348. Here, any cost in holding a hearing, should the government choose to do so, is minimal. Moreover, any financial burden is outweighed by the costs of detaining Mr. Ramirez prior to such a hearing. The public's "interest lies on the side of affording fair procedures to all persons, even though the expenditure of governmental funds is required." *Lopez v. Heckler*, 713 F.2d 1432, 1137 (9th Cir. 1983). This consideration also "cuts strongly in favor" of Mr. Ramirez because when "[w]hen the Government incarcerates individuals it cannot show to be a poor bail risk for prolonged periods of time, as in this case, it separates families and removes from the community breadwinners, caregivers, parents, siblings and employees." *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020).

In sum, Mr. Ramirez has demonstrated—or is likely to be able to demonstrate—that he "has a protected liberty interest in his continuing release from custody, and that due process requires that Petitioner receive a hearing before an immigration judge before he can be re-detained." *E.A. T.-B.*, 2025 WL 2402130, at *5.

III. Mr. Ramirez will suffer irreparable harm absent an injunction.

Mr. Ramirez must also show he is "likely to suffer irreparable harm in the absence of preliminary relief." *Winter*, 555 U.S. at 20. Irreparable harm is the type of harm for which there

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is "no adequate legal remedy, such as an award of damages." *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014).

Here, Mr. Ramirez's unlawful detention constitutes "a loss of liberty that is . . . irreparable." *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff'd in part, vacated in part on other grounds, remanded sub nom. Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir. 2022); *cf. Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013) (irreparable harm is met where "preliminary injunction is necessary to ensure that individuals . . . are not needlessly detained" because they are neither a danger nor a flight risk). This is particularly true here, where Mr. Ramirez's detention also violates the Constitution. "Civil immigration detention violates due process outside of certain special and narrow nonpunitive circumstances." *Rodriguez v. Marin*, 909 F.3d 252, 257 (9th Cir. 2018) (citation modified). As detailed above, Mr. Ramirez's detention is outside of those "special and narrow nonpunitive circumstances," as the Due Process Clause forbids his detention without a pre-deprivation hearing. These constitutional concerns also counsel in favor of finding that Mr. Ramirez has demonstrated irreparable harm, for he has shown that his detention violates due process. *See Baird v. Bonta*, 81 F.4th 1036, 1018 (9th Cir. 2023) (declaring that "in cases involving a constitutional claim, a likelihood of success on the merits usually establishes irreparable harm").

Detention also inflicts substantial harm on Mr. Ramirez by separating him from his family members. Absent a TRO, Mr. Ramirez has no hope of being reunited with his partner, his stepchildren, his U.S. citizen child, and his friends and community. Such "separation from family members" is an important irreparable harm factor. *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011) (per curiam) (citation omitted); *see also, e.g., Washington v. Trump*, 847 F.3d

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1151, 1169 (9th Cir. 2017) (per curiam) (finding "separated families" to be a "substantial injur[y] and even irreparable harm[]"); *cf. Hernandez*, 872 F.3d at 996 (recognizing that "government-compelled [family] separation" causes family members "trauma" and "other burdens"). Relatedly, Mr. Ramirez's inability to provide for his family—for whom he is the primary breadwinner—constitutes the type of "potential economic hardship" that supports a finding of irreparable harm. *Leiva-Perez*, 640 F.3d at 969–70; *see also Gonzalez Rosario v USCIS*, 365 F. Supp. 3d 1156, 1162 (W.D. Wash. 2018) (recognizing a "negative impact on human welfare" when noncitizens "are unable to financially support themselves or their loved ones").

Finally, Mr. Ramirez is experiencing significant pain because ICE placed shackles on him too tightly, disrupting the hardware in his leg and ankle that he received during a previous surgery. Ramirez Decl. ¶ 10. Mr. Ramirez's pain worsens any time that he puts pressure on his left foot, and, as a result, he walks with a limp. *Id.* ¶ 13. Mr. Ramirez estimates that he has visited the ICE medical staff ten times, but his pain persists, as the medical clinic has simply provided ibuprofen. *Id.* ¶ 14. The clinic also took an x-ray on approximately August 24, 2025, but Mr. Ramirez has not received any results or a care plan based on this x-ray. *Id.* The pain has made Mr. Ramirez unable to sleep or at times, leave his bed. *Id.* ¶ 13. Such "evidence of subpar medical . . . care in [an] ICE detention facilit[y]" is also evidence of irreparable harm. *Hernandez*, 872 F.3d at 995.

In sum, Mr. Ramirez is suffering numerous and irreparable harms: detention itself, separation from family and an inability to provide for them, and medical complications resulting from ICE's shackling of him. All of these factors warrant a TRO.

IV. The balance of hardships and public interest weigh heavily in Mr. Ramirez's favor.

The final two factors for a preliminary injunction—the balance of hardships and public interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418,

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435 (2009). Here, Mr. Ramirez faces weighty hardships: loss of liberty and separation from family. *See supra* Sec. III. The government, by contrast, faces no hardship, as all it must do is release a person it previously released and who has since lawfully resided in Oregon. Avoiding such "preventable human suffering" strongly tips the balance in favor of Mr. Ramirez. *Hernandez*, 872 F.3d at 996 (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

What is more, "the public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and held in immigration detention because of . . . a likely [illegal] process." *Hernandez*, 872 F.3d at 996. Indeed, "in cases involving a constitutional claim, a likelihood of success on the merits . . . strongly tips the balance of equities and public interest in favor of granting a preliminary injunction." *Baird*, 81 F.4th at 1048.

Accordingly, the balance of hardships and the public interest favor a temporary restraining order to ensure that Respondents release Mr. Ramirez and to require a hearing before a neutral decisionmaker where the government must demonstrate he poses a flight risk or danger before any re-detention.

V. Immediate release is warranted.

As in *E.A. T.-B.*, this Court should order Mr. Ramirez's immediate release. "[A] post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty." *E.A. T.-B.*, 2025 WL 2402130, at *6. In other words, Mr. Ramirez's unlawful detention without a pre-deprivation hearing is ***already*** occurring, and only immediate release remedies that issue. Moreover, the evidence here demonstrates that Mr. Ramirez has made every effort to follow the law: receiving parole, applying for asylum, complying with ISAP requirements, and going to great lengths to remedy the one issue that arose with ISAP prior to his re-detention. As a result, the Court should order his immediate release and provide that Mr. Ramirez may only be re-detained if ICE justifies re-

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detention by clear and convincing evidence at a hearing where ICE is required to demonstrate Mr. Ramirez is a flight risk or danger to the community. *See, e.g., Pinchi*, 2025 WL 2084921, at *7; *Maklad* 2025 WL 2299376, at *10; *Garcia*, 2025 WL 2420068, at *13.

CONCLUSION

For the foregoing reasons, Mr. Ramirez respectfully requests the Court grant his motion for a temporary restraining order and order his immediate release.

Respectfully submitted this 8th of September, 2025.

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WORD COUNT CERTIFICATION

I certify that this memorandum contains 5,360 words, in compliance with the Local Civil Rules.

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