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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

Wilmer Enrique QUIVA PALACIO,

Petitioner,

v.

Cammilla WAMSLEY, et al.,

Respondents.

Case No. 2:25-cv-1983

**MOTION FOR A TEMPORARY
RESTRAINING ORDER**

Note on Motion Calendar:
October 14, 2025

ORAL ARGUMENT REQUESTED

INTRODUCTION

1
2 Petitioner Wilmer Enrique Quiva Palacio (Mr. Quiva) is a citizen of Venezuela who is
3 currently detained by Immigration and Customs Enforcement (ICE) at the Northwest ICE
4 Processing Center (NWIPC) in Tacoma, Washington. He entered the United States in October
5 2021 and, after being apprehended by Border Patrol, was processed for removal proceedings and
6 released on his own recognizance. For the next four years, Mr. Quiva complied with all
7 requirements, including applying for asylum and appearing at his scheduled check-ins. He also
8 has no criminal record or arrests in the United States. Following his release on his own
9 recognizance, he was issued a work permit and has worked various jobs, including as an Amazon
10 driver, and has filed all his tax returns. His asylum application remains pending.

11 On August 8, 2025, while Mr. Quiva was in a vehicle with his girlfriend, delivering
12 packages on his assigned Amazon delivery route in Bellingham, Washington, he was stopped by
13 Customs and Border Protection (CBP) and arrested. The CBP officers would not explain why
14 Mr. Quiva had been stopped or why he was being detained. It was not until he was brought to a
15 second location that someone finally explained, in broken Spanish, that he had been arrested
16 because he “did not have any immigration status.”

17 At no time prior to his arrest did Respondents provide Mr. Quiva a hearing, let alone a
18 hearing before a neutral decisionmaker at which ICE was required to justify his re-detention and
19 show that he now poses a flight risk or danger to the community. Indeed, he was not provided
20 any notice as to the reason for his re-detention, other than the vague statement about his
21 immigration status. Nor has Mr. Quiva received any meaningful opportunity to respond to any
22 allegations triggering his re-detention.

23 By denying him any notice and hearing, Respondents violated Mr. Quiva’s right to due
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1 process. As courts in this district have recently held in several cases, his ongoing detention is
2 therefore unlawful, and his immediate release is required. *See E.A. T.-B. v. Wamsley*, -- F.
3 Supp. 3d --, 2025 WL 2402130, at *6 (W.D. Wash. Aug. 19, 2025) (ordering immediate release
4 because “a post-deprivation hearing cannot serve as an adequate procedural safeguard because it
5 is after the fact and cannot prevent an erroneous deprivation of liberty”); *Ledesma Gonzalez v.*
6 *Bostock*, 2025 WL 2841574, at *9 (W.D. Wash. Oct. 7, 2025) (ordering immediate release where
7 noncitizen was re-detained without due process and a prior hearing); *Phetsadakone v. Scott*, 2025
8 WL 2579569, at *5 (W.D. Wash. Sept. 5, 2025) (ordering immediate release to secure status quo
9 of liberty prior to alleged unlawful re-detention); *Ramirez Tesara v Wamsley*, -- F. Supp. 3d --,
10 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025) (ordering immediate release to restore
11 Petitioner to the status quo prior to his unlawful arrest without a hearing); *Kumar v. Wamsley*,
12 2025 WL 2677089 (W.D. Wash. Sept. 17, 2025). Accordingly, Mr. Quiva respectfully seeks
13 immediate relief from this Court to vindicate his right to liberty under the Fifth Amendment’s
14 Due Process Clause.

15 Because he is detained, Mr. Quiva’s upcoming immigration court hearing has been
16 advanced to October 28, 2025. But his detention also means that he is unable to work or earn
17 money and thus he presently has no attorney for that hearing. He was only able to retain the
18 undersigned pro bono counsel on October 10, 2025, to represent him on this habeas petition, and
19 accordingly, requests a ruling on the TRO prior to his new hearing on October 28, 2025.¹

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23 ¹ Counsel certifies that they are providing notice of Mr. Quiva’s habeas petition and this motion
24 to the U.S. Attorney’s Office for the Western District of Washington via email concurrently with
this filing.

1 **STATEMENT OF FACTS**

2 Mr. Quiva is a 33-year-old citizen and national of Venezuela who entered the United
3 States in October 2021 to seek asylum. Decl. of Wilmer Quiva Palacio ¶¶ 1 (“Quiva Decl.”). He
4 was arrested and detained by Border Patrol on or about October 26, 2021. *Id.* ¶ 2; Decl. of
5 Sydney Maltese Ex. A (Form I-213). Border Patrol processed him for removal proceedings,
6 issuing a Notice to Appear (NTA) and placing him in removal proceedings. Maltese Decl. Ex. B
7 (NTA). After processing him for removal, the Border Patrol released Mr. Quiva on his own
8 recognizance. *Id.* Ex. C–D; *see also* Quiva Decl. ¶ 2. Mr. Quiva has since filed an application for
9 asylum. Quiva Decl. ¶ 3.

10 As part of his release on his own recognizance, ICE required Mr. Quiva to attend
11 scheduled check-ins with ICE. *Id.* ¶¶ 4–5. He attended all required check-ins. *Id.* Mr. Quiva was
12 subsequently granted Temporary Protected Status and an employment authorization document,
13 permitting him to lawfully work in the United States. *Id.* ¶¶ 3, 5. He was also scheduled for a
14 first hearing on his asylum application in 2026. *Id.* ¶ 4. While awaiting his immigration hearing,
15 Mr. Quiva worked to build a life in the United States, working jobs in excavation and as a
16 delivery driver, making plans to marry his girlfriend, and making sure to file his taxes and follow
17 all laws. *Id.* ¶ 7.

18 On August 8, 2025, while he was delivering packages on his Amazon route, Mr. Quiva
19 was detained by Customs and Border Patrol (CBP). Quiva Decl. ¶ 8. The CBP officers would not
20 give any reason why he was stopped, but eventually someone explained to him in broken
21 Spanish that he was arrested because he “did not have any immigration status.” *Id.* CBP arrested
22 Mr. Quiva despite the fact that during the four years since he was initially released on his own
23 recognizance, Mr. Quiva had faithfully complied with the requirements of his release and has no
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1 criminal history. *Id.* ¶¶ 2, 4; Maltese Decl. Ex. A, D. On the contrary, Mr. Quiva was doing
2 everything he could to be a law-abiding member of society and was looking forward to his
3 upcoming chance for asylum in 2026. Quiva Decl. ¶ 7. Nonetheless, on August 8, 2025, ICE
4 abruptly and arbitrarily re-detained him.

5 Notably, ICE has not asserted that any action demonstrated that Mr. Quiva was either a
6 flight risk or a danger to the community. At no point prior to Mr. Quiva's re-detention did
7 Respondents provide him any notice regarding the basis for his re-detention. Nor did
8 Respondents provide Mr. Quiva with any type of hearing, let alone a hearing before a neutral
9 decisionmaker where the agency was required to justify re-detention or demonstrate that he now
10 poses a flight risk or danger to the community.

11 Following his arrest, ICE transferred Mr. Quiva to NWIPC in Tacoma, Washington.
12 Lacking the resources to hire private counsel, he remained without any legal representation until
13 meeting with an attorney from Northwest Immigrant Rights Project (NWIRP) on October 8,
14 2025. Quiva Decl. ¶ 9. Having obtained pro bono counsel to represent him before this Court, he
15 now seeks immediate relief from his continued, unlawful detention. Mr. Quiva requests action on
16 this motion prior to his scheduled immigration court hearing on October 28, 2025, as he remains
17 unrepresented in those proceedings.

18 ARGUMENT

19 I. Requirements for a Temporary Restraining Order

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

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

9 Due process requires Respondents to afford Mr. Quiva a hearing before a neutral
10 decisionmaker where ICE is required to justify re-detention *before* it occurs. In recent weeks, as
11 DHS has detained other noncitizens in similar situations, courts in this district have so held in
12 multiple separate cases and ordered the immediate release of noncitizens who had been re-
13 detained by DHS without a pre-deprivation hearing. *See Ledesma Gonzalez v. Bostock*, 2025 WL
14 2841574 (W.D. Wash. Oct. 7, 2025) (granting immediate release where petitioner’s order of
15 release on recognizance was arbitrarily revoked without notice or a hearing); *E.A. T.-B.*, 2025
16 WL 2402130 (granting immediate release due to lack of pre-deprivation hearing); *Ramirez*
17 *Tesara*, 2025 WL 2637663 (same); *Kumar*, 2025 WL 2677089 (same); *cf. Phetsadakone*, 2025
18 WL 2579569 (ordering release because DHS failed to follow procedures required by regulation).

19 Many other courts across the country have similarly ordered the immediate release of
20 persons with ongoing proceedings who are re-detained without a hearing. *See, e.g., Valdez v.*
21 *Joyce*, 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of
22 pre-deprivation hearing); *Mata Velasquez v. Kurzdorfer*, -- F.Supp.3d --, 2025 WL 1953796
23 (W.D.N.Y. July 16, 2025); *Pinchi v. Noem*, -- F. Supp. 3d --, 2025 WL 2084921, at *7 (N.D. Cal.
24 July 24, 2025) (similar); *Maklad v. Murray*, 2025 WL 2299376, at *10 (E.D. Cal. Aug. 8, 2025)

1 (similar); *Garcia v. Andrews*, 2025 WL 2420068, at *13 (E.D. Cal. Aug. 21, 2025) (similar);
2 *Hernandez v. Wofford*, 2025 WL 2420390 (E.D. Cal. Aug. 21, 2025).

3 As demonstrated by these many cases rejecting similar arrests, Mr. Quiva is likely to
4 succeed on his claim and the Court should order his immediate release. Notably, if Respondents
5 continue to assert that his detention is justified after Mr. Quiva's release, they may thereafter
6 schedule a hearing where they bear the burden of presenting clear and convincing evidence that
7 his re-detention is warranted.

8 As this Court recently explained in *E.A. T.-B.*, the three-factor test established in
9 *Mathews v. Eldridge*, 424 U.S. 319 (1976), is the controlling framework for determining what
10 process Mr. Quiva is due. *E.A. T.-B.*, 2025 WL 2402130, at *3. *Mathews* requires the Court to
11 evaluate (1) "the private interest that will be affected by the official action"; (2) "the risk of an
12 erroneous deprivation of such interest through the procedures used, and the probable value, if
13 any, of additional or substitute procedural safeguard" and (3) "the Government's interest,
14 including the function involved and the fiscal and administrative burdens that the additional or
15 substitute procedural requirement would entail." 424 U.S. at 335; *see also Ramirez Tesara*, 2025
16 WL 2637663, at *2-4 (applying *Mathews* factors to assess right to pre-deprivation hearing);
17 *Ledesma Gonzalez*, 2025 WL 2841574, at *7-9 (same); *Jorge M.F. v. Jennings*, 534 F. Supp. 3d
18 1050, 1055 (N.D. Cal. 2021) (same); *Morrissey v. Brewer*, 408 U.S. 471, 482-84 (1972)
19 (assessing parolee's liberty interests and the state's interests to assess what process is due a
20 parolee). Here, those factors strongly favor Mr. Quiva.

21 A. Mr. Quiva Has a Weighty Private Interest.

22 Mr. Quiva has an exceptionally strong interest in freedom from physical confinement and
23 in a hearing prior to any revocation of his liberty. Indeed, his "interest in not being detained is
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1 'the most elemental of liberty interests[.]'" *E.A. T.-B.*, 2025 WL 2402130, at *3 (alteration in
2 original) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)); *see also Ramirez Tesara*, 2025
3 WL 2637663, at *3 (stating that the petitioner "has an exceptionally strong interest in freedom
4 from physical confinement"). "Freedom from imprisonment . . . lies at the heart of the liberty
5 that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Thus,
6 "[d]etention, including that of a non-citizen, violates due process if there are not 'adequate
7 procedural protections' or 'special justification[s]' sufficient to outweigh one's 'constitutionally
8 protected interest in avoiding physical restraint.'" *Perera v. Jennings*, 598 F. Supp. 3d 736, 742
9 (N.D. Cal. 2022) (second alteration in original) (quoting *Zadvydas*, 533 U.S. at 690). Similarly,
10 the Ninth Circuit has held that "[i]n the context of immigration detention, it is well-settled that
11 'due process requires adequate procedural protections to ensure that the government's asserted
12 justification for physical confinement outweighs the individual's constitutionally protected
13 interest in avoiding physical restraint.'" *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir.
14 2017) (quoting *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)). The Supreme Court has
15 long underscored this point. *See, e.g., Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("It is clear
16 that commitment for any purpose constitutes a significant deprivation of liberty that requires due
17 process protection." (citation omitted)).

18 This principle applies with significant force given Mr. Quiva's initial release from
19 detention on his own recognizance. "The Supreme Court has repeatedly held that in at least some
20 circumstances, a person who is in fact free of physical confinement—even if that freedom is
21 lawfully revocable—has a liberty interest that entitles him to constitutional due process before he
22 is re-incarcerated." *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017). As the
23 *Hurd* court explains, this includes cases of "pre-parole conditional supervision," *id.* (citing
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1 *Young v. Harper*, 520 U.S. 143, 152 (1997)); “probation,” *id.* (citing *Gagnon v. Scarpelli*, 411
2 U.S. 778, 782 (1973)), and “parole,” *id.* (citing *Morrissey*, 408 U.S. at 482).

3 These principles apply with even more force here, where civil immigration detention is
4 concerned, than in cases involving renewed incarceration in the criminal context. As one court
5 has explained, “[g]iven the civil context, [a noncitizen’s] liberty interest is arguably greater than
6 the interest of parolees in *Morrissey*.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal.
7 2019). Parolees and probationers have a diminished liberty interest because of their underlying
8 convictions. *See, e.g., United States v. Knights*, 534 U.S. 112, 119 (2001) (“Probation is one
9 point on a continuum of possible punishments . . .” (citation modified)); *Griffin v. Wisconsin*,
10 483 U.S. 868, 874 (1987) (“To a greater or lesser degree, it is always true of probationers (as we
11 have said it to be true of parolees) that they do not enjoy the absolute liberty to which every
12 citizen is entitled . . .” (citation modified)). Nonetheless, even in the criminal parole and
13 supervised release context, courts have held that parolees cannot be re-arrested without a due
14 process hearing affording them the opportunity to contest the legality of their re-incarceration.
15 *See, e.g., Hurd*, 864 F.3d at 684.

16 Critically, in recent months and years, courts—including courts in this district—have
17 repeatedly applied these principles to hold that noncitizens have a strong liberty interest in cases
18 involving re-detention. As Judge Evanson explained in *E.A. T.-B.*, a person re-detained after a
19 prior release from ICE custody is “undoubtedly deprive[d] . . . of an established interest in his
20 liberty.” 2025 WL 2402130, at *3. Other courts have reached the same conclusion. *See, e.g.,*
21 *Ramirez Tesara*, 2025 WL 2637663, at *3 (“When was released from his initial detention on
22 parole, Petitioner took with him a liberty interest which is entitled to the full protections of the
23 due process clause.”); *Garcia*, 2025 WL 2420068, at *10 (“[P]arole allowed [the petitioner] to
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1 build a life outside detention, albeit under the terms of that parole. [Petitioner] has a substantial
2 private interest in being out of custody, which would allow him to continue in these life
3 activities, including supporting his family.”); *Pinchi*, 2025 WL 2084921, at *4 (“[Petitioner] has
4 a substantial private interest in remaining out of custody. She has an interest in remaining in her
5 home, continuing her employment, providing for her family, obtaining necessary medical care,
6 maintaining her relationships in the community, and continuing to attend her church.”); *Maklad*,
7 2025 WL 2299376, at *8 (similar).

8 As in these cases, Mr. Quiva has a strong interest in his liberty. Prior to his re-detention,
9 Mr. Quiva had lived in this country for nearly four years as he built a new life and proceeded
10 with his application for asylum. He was granted a work permit, which provided him the means to
11 support himself while he goes through the lengthy process of immigration proceedings. These
12 facts demonstrate that Mr. Quiva had a significant due process interest in not being re-detained
13 without notice and a hearing, and that he is in fact entitled to freedom from confinement, other
14 than complying with his immigration proceedings and conditions of release.

15 B. The Risk of Erroneous Deprivation Is High.

16 Second, “the risk of erroneous deprivation of [Mr. Quiva’s] liberty interest in the absence
17 of a pre-detention hearing is high.” *E.A. T.-B.*, 2025 WL 2402130, at *4. “That the Government
18 may believe it has a valid reason to detain Petitioner does not eliminate its obligation to
19 effectuate the detention in a manner that comports with due process.” *Id.* His re-detention must
20 still “bear[] [a] reasonable relation” to a valid government purpose—here, preventing flight or
21 protecting the community against dangerous individuals. *Zadvydas*, 533 U.S. at 690 (second
22 alteration in the original) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Only a hearing
23 before a neutral decisionmaker—where ICE must prove that re-detention is justified and that Mr.
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1 Quiva poses a flight risk or danger—can ensure that this “reasonable relation” to a valid
2 government purpose exists. But to date, only the “government enforcement agent” has made any
3 decision about the propriety of detention, *Coolidge v. New Hampshire*, 403 U.S. 443, 450
4 (1971), a far cry from the hearing before a neutral decisionmaker that due process requires. *See*,
5 *e.g.*, *Shadwick v. City of Tampa*, 407 U.S. 345, 350 (1972) (“Whatever else neutrality and
6 detachment might entail, it is clear that they require severance and disengagement from activities
7 of law enforcement.”); *see also Gerstein v. Pugh*, 420 U.S. 103, 112 (1975) (similar). In fact, Mr.
8 Quiva did not (and has not) even received notice of the basis for his re-detention, much less any
9 opportunity to respond to any allegations purporting to justify his re-detention or a hearing
10 before a neutral decisionmaker.

11 The arbitrary nature of Mr. Quiva’s re-detention is illustrated by the fact that the arresting
12 officers could not even tell him why he was being detained. There has been no allegation that
13 Mr. Quiva is flight risk or a danger to the community, the only legal justifications for detaining
14 him during these civil proceedings. Mr. Quiva further reports that he was eventually told that he
15 had been arrested for the vague reason that he “did not have any immigration status,” not
16 because of any factor having to do with dangerousness or flight risk, thus underscoring the
17 arbitrary nature of his detention.

18 As the court explained in *Ramirez Tesara*, “[o]nce established, Petitioner’s interest in
19 liberty is a constitutional right which may only be revoked through methods that comport with
20 due process, such as a hearing in front of a neutral party to determine whether Petitioner’s re-
21 detainment is warranted.” *Ramirez Tesara*, 2025 WL 2637663, at *3 (citing *Padilla v. U.S.*
22 *Immigr. & Customs Enf’t*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023)). Notably, at the time
23 he was initially arrested, Mr. Quiva was *not* the subject of a statute requiring mandatory
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1 detention. *See* Maltese Decl. Ex. D (ordering release on recognizance “[i]n accordance with
2 section 236 of the Immigration and Nationality Act”). But even if he was subject to mandatory
3 detention at the time of his 2021 arrest, the importance of a hearing before a neutral
4 decisionmaker for his re-detention remains. This is because, as this Court explained in *E.A. T.-B.*,
5 “Petitioner does not claim to be entitled to a hearing consistent with a particular statute: he
6 argues that the Due Process Clause requires it.” 2025 WL 2402130, at *4. And due process
7 requires such a hearing because “Petitioner’s circumstances have changed materially” since his
8 release in October 2021. *Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762, 777 (N.D. Cal. 2019).
9 Apart from his core interest in being free from imprisonment, Mr. Quiva’s ties to this country
10 have deepened over four years he has resided here. “These facts show that a[] pre-deprivation]
11 hearing provide[s] additional safeguards under these circumstances.” *Id.*; *see also, e.g., Jorge*
12 *M.F.*, 534 F. Supp. 3d at 1055 (“In any pre-detention hearing, the IJ would be required to
13 consider any additional evidence from the eight-plus months since Petitioner was released.”);
14 *Garcia*, 2025 WL 2420068, at *10 (“[P]arole allowed [Petitioner] to build a life outside
15 detention.”).

16 C. The Government’s Interest Is Minimal.

17 Finally, “the government’s interest in detaining [Petitioner] or re-detaining [him] without
18 a hearing is slight.” *Maklad*, 2025 WL 2299376, at *8; *Ortega*, 415 F. Supp. 3d at 970 (“If the
19 government wishes to re-arrest Ortega at any point, it has the power to take steps toward doing
20 so; but its interest in doing so without a hearing is low.”). “[A]lthough [a pre-deprivation
21 hearing] would have required the expenditure of finite resources (money and time) to provide
22 Petitioner notice and hearing on [ISAP] violations before arresting and re-detaining him, those
23 costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue.” *E.A.*

1 T.-B., 2025 WL 2402130, at *5. Notably, since his release, Mr. Quiva “has continued to
2 demonstrate that [h]e poses neither a flight risk nor a danger to the community,” as he has no
3 criminal history, has timely filed for asylum, has obtained a work permit, and has faithfully
4 complied with all conditions of release, including by attending required check-ins.

5 The government may claim that its interest in enforcing immigration laws weighs heavily
6 in its favor. But the government’s interest in immigration enforcement “is not at stake here;
7 instead, it is the much lower interest in detaining [Mr. Quiva] pending removal without a bond
8 hearing.” *Perera*, 598 F. Supp. 3d at 746. Many other courts have observed the same. *See, e.g.,*
9 *Zagal-Alcaraz v. ICE Field Office*, 2020 WL 1862254, at *7 (D. Or. Mar. 25, 2020) (“The
10 government interest at stake here is not the continued detention of Petitioner, but the
11 government’s ability to detain him without a bond hearing”), *report and recommendation*
12 *adopted*, 2020 WL 1855189 (D. Or. Apr. 13, 2020). What is more, Mr. Quiva has complied with
13 the immigration laws: he timely filed for asylum, as the Immigration and Nationality Act (INA)
14 expressly permits. 8 U.S.C. § 1158. He was thereafter granted employment authorization. Any
15 claimed “enforcement” amounts to punishing and deterring people like Mr. Quiva from asserting
16 the statutory rights that the INA expressly provides, rather than enforcing those laws.

17 In addition, the government’s interest is not limited to enforcement of the law; instead, it
18 also encompasses the interest of the “public,” including the administrative or financial burdens
19 additional process requires. *Mathews*, 424 U.S. at 348. Here, any cost in holding a hearing,
20 should the government choose to do so, is minimal. Moreover, any financial burden is
21 outweighed by the costs of detaining Mr. Quiva during such proceedings. In addition,
22 “[s]ociety’s interest lies on the side of affording fair procedures to all persons, even though the
23 expenditure of governmental funds is required.” *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir.

1 1983); *see also Morrissey*, 408 U.S. at 484 (“Society . . . has an interest in not having parole
2 revoked because of erroneous information or because of an erroneous evaluation of the need to
3 revoke parole, given the breach of parole conditions”). This consideration also “cuts strongly in
4 favor” of Mr. Quiva because when “[w]hen the Government incarcerates individuals it cannot
5 show to be a poor bail risk for prolonged periods of time, as in this case, it separates families and
6 removes from the community breadwinners, caregivers, parents, siblings and employees.”
7 *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020).

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

11 **III. Mr. Quiva will suffer irreparable harm absent an injunction.**

12 Mr. Quiva must also show he is “likely to suffer irreparable harm in the absence of
13 preliminary relief.” *Winter*, 555 U.S. at 20. Irreparable harm is the type of harm for which there
14 is “no adequate legal remedy, such as an award of damages.” *Ariz. Dream Act Coal. v. Brewer*,
15 757 F.3d 1053, 1068 (9th Cir. 2014).

16 Here, Mr. Quiva’s unlawful detention constitutes “a loss of liberty that is . . . irreparable.”
17 *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff’d*
18 *in part, vacated in part on other grounds, remanded sub nom. Moreno Galvez v. Jaddou*, 52
19 F.4th 821 (9th Cir. 2022); *cf. Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013)
20 (irreparable harm is met where “preliminary injunction is necessary to ensure that individuals . . .
21 are not needlessly detained” because they are neither a danger nor a flight risk). This is
22 particularly true here, where Mr. Quiva’s detention also violates the Constitution. Civil
23 immigration detention violates due process outside of ‘certain special and narrow nonpunitive
24 circumstances.’” *Rodriguez v. Marin*, 909 F.3d 252, 257 (9th Cir. 2018) (citation omitted). As

1 detailed above, Mr. Quiva’s detention is outside of those “special and narrow nonpunitive
2 circumstances,” as the Due Process Clause forbids his detention without a pre-deprivation
3 hearing. These constitutional concerns also counsel in favor of finding that Mr. Quiva has
4 demonstrated irreparable harm, for he has shown that his detention violates due process. *See*
5 *Baird v. Bonta*, 81 F.4th 1036, 1048 (9th Cir. 2023) (declaring that “in cases involving a
6 constitutional claim, a likelihood of success on the merits usually establishes irreparable harm”).

7 Detention also prevents Mr. Quiva from working to not just sustain himself but to earn
8 savings for his future, including raising necessary funds to retain counsel to represent him in his
9 removal proceedings. This type of “potential economic hardship” supports a finding of
10 irreparable harm. *Leiva-Perez*, 640 F.3d at 969–70; *see also Gonzalez Rosario v USCIS*, 365 F.
11 Supp. 3d 1156, 1162 (W.D. Wash. 2018) (recognizing a “negative impact on human welfare”
12 when noncitizens “are unable to financially support themselves or their loved ones”).

13 Respondents may argue that Mr. Quiva cannot demonstrate irreparable harm because the
14 harm he is suffering assumes his detention is unlawful. But this contention is misplaced. On a
15 motion for a TRO, the merits question “is a threshold inquiry and is the most important factor”
16 when assessing a TRO motion. *Baird*, 81 F.4th at 1040; *see also Env’t Prot. Info. Ctr. v.*
17 *Carlson*, 968 F.3d 985, 989 (9th Cir. 2020) (same); *California by and through Becerra v. Azar*,
18 950 F.3d 1067, 1083 (9th Cir. 2020) (en banc) (similar). Accordingly, the Court must address the
19 merits question, as the preliminary injunction standard requires the Court to assess the likelihood
20 of success on the merits—an inquiry that weighs strongly in Mr. Quiva’s favor.

21 In sum, the unlawful deprivation of liberty causes Mr. Quiva direct and immediate
22 irreparable harms that warrant a TRO.

23 **IV. The balance of hardships and public interest weigh heavily in Mr. Quiva’s favor.**

1 The final two factors for a preliminary injunction—the balance of hardships and public
2 interest—“merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418,
3 435 (2009). Here, Mr. Quiva faces weighty hardships: loss of liberty and deprivation of the right
4 to earn a living. *See supra* Sec. III. The government, by contrast, faces no hardship, as all it must
5 do is release a person it previously released and who has since lawfully resided in this country
6 and has no criminal history. Avoiding such “preventable human suffering” strongly tips the
7 balance in favor of Mr. Quiva. *Hernandez*, 872 F.3d at 996 (quoting *Lopez v. Heckler*, 713 F.2d
8 1432, 1437 (9th Cir. 1983)).

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

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

18 **V. Immediate release is warranted.**

19 As in *Ramirez Tesara*, *Phetsadakone*, *Kumar*, *Ledesma Gonzalez*, and *E.A. T.-B.*, this
20 Court should order Mr. Quiva’s immediate release. “[A] post-deprivation hearing cannot serve as
21 an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous
22 deprivation of liberty.” *E.A. T.-B.*, 2025 WL 2402130, at *6. In other words, Mr. Quiva’s
23 unlawful detention without a pre-deprivation hearing is *already* occurring, and only immediate
24 release remedies that issue.

1 Moreover, as the court explained in *Ramirez Tesara*, Mr. Quiva’s “immediate release is
2 necessary to restore the status quo ante litem. This ‘refers not simply to any situation before the
3 filing of a lawsuit, but instead to the last uncontested status which preceded the pending
4 controversy.’” *Ramirez Teresa*, 2025 WL 2637663, at *5 (quoting *GoTo.com, Inc. v. Walt*
5 *Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); *see also Phetsadakone*, 2025 WL 2579569, at
6 *5 (“The last uncontested status here was Phetsadakone’s release on supervision, which he
7 maintained without incident for decades. The Government’s July 2025 re-detention—allegedly
8 without following required procedures—created the current controversy. Restoring Phetsadakone
9 to his prior supervised release status maintains the status quo ante litem and prevents irreparable
10 harm while allowing full adjudication of his claims for injunctive relief and on the merits.”). As
11 in those cases, here the pending controversy stems from Petitioner’s re-detention on August 8,
12 2025, when Mr. Quiva was arrested while on his delivery route.

13 In similarly situated cases, Respondents have asserted that granting immediate release via
14 a TRO inappropriately grants “ultimate relief.” Not only is this incorrect because Mr. Quiva
15 seeks only to restore the status quo, but this principle is also at odds with Supreme Court and
16 Ninth Circuit precedent. In fact, the Supreme Court long ago explained that for temporary relief
17 to be proper, it *should* be akin in nature to the final relief sought: “[a] preliminary injunction is
18 always appropriate to grant intermediate relief of the same character as that which may be
19 granted finally.” *De Beers Consol. Mines v. United States*, 325 U.S. 212, 220 (1945). This
20 principle remains the law. *Pac. Radiation Oncology, LLC v. Queen’s Med. Ctr.*, 810 F.3d 631,
21 636 (9th Cir. 2015) (“A preliminary injunction is appropriate when it grants relief of the same
22 nature as that to be finally granted.”).

1 Moreover, the principles that govern this case are now well-established. In the past two
2 months, courts in this district have repeatedly affirmed that it is unlawful for Respondents to re-
3 detain persons like Mr. Quiva without first providing a hearing where the detained person can
4 demonstrate that they present a flight risk or a danger to the community if not taken back into
5 custody. This is consistent with many other district court decisions across the country.

6 Accordingly, Petitioner respectfully seeks a TRO requiring his immediate release. The
7 Court should then direct Respondents to respond to an order to show cause with any arguments
8 or additional information they believe is necessary so that this Court can issue the writ of habeas
9 securing Mr. Quiva's continued right to liberty and a final judgment providing that Mr. Quiva
10 may only be re-detained if ICE justifies re-detention by clear and convincing evidence at a pre-
11 deprivation hearing where ICE is required to demonstrate Mr. Quiva violated his conditions of
12 release and is a flight risk or danger to the community. *See, e.g., Pinchi*, 2025 WL 2084921, at
13 *7; *Maklad* 2025 WL 2299376, at *10; *Garcia*, 2025 WL 2420068, at *13.

14 **CONCLUSION**

15 For the foregoing reasons, Mr. Quiva respectfully requests the Court grant his motion for
16 a temporary restraining order.

17
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Respectfully submitted,

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9
10 **WORD COUNT CERTIFICATION**

11 I certify that this memorandum contains 5,426 words, in compliance with the Local Civil

12 Rules.

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