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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

REYNA CRUZ VEGA,

Petitioner

vs.

CHRISTOPHER LAROSE, WARDEN, OTAY MESA DETENTION CENTER, CORECIVIC;

GREGORY J. ARCHAMBEAULT, FIELD OFFICE DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS, SAN DIEGO FIELD OFFICE;

KRISTI NOEM, SECRETARY OF THE U.S. DEPARTMENT OF HOMELAND SECURITY; AND

PAM BONDI, ATTORNEY GENERAL OF THE UNITED STATES,

IN THEIR OFFICIAL CAPACITIES,

Respondents

PETITIONER'S NOTICE OF MOTION AND EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND REQUEST FOR EXPEDITED HABEAS BRIEFING SCHEDULE

POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION

Case No. **'25CV2725 CAB MSB**

NOTICE OF MOTION

Petitioner Ms. Reyna Cruz Vega applies to this Honorable Court for a temporary restraining order enjoining Respondents—the U.S. Department of Homeland Security (DHS), the Warden of Otay Mesa Detention Center, the Field Office Director of ICE Enforcement and Removal Operations in San Diego, and the Attorney General of the United States— (1) from continuing to detain her based on an unlawful action by ICE; (2) ordering her immediate release from immigration detention; and (3) from re-arresting Petitioner until she is afforded a hearing before a neutral decisionmaker, as required by the Due Process Clause of the Fifth Amendment, to determine whether circumstances have materially changed such that her re-incarceration would be justified because there is clear and convincing evidence establishing that she is a danger to the community or a flight risk.

DATED: October 13, 2025

Respectfully submitted,

Carlos M. Martinez
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Attorney for Petitioner

INTRODUCTION

1. Respondents detained Petitioner-Plaintiff Ms. Reyna Cruz Vega on August 12, 2025, at/near Oak Grove checkpoint on State Route 79, approximately 60 miles north of the United States/Mexico border. During that time, she resided with her daughter who suffers with schizoaffective disorder in Julian, California. Ms. Reyna Cruz Vega has strong community ties because she has resided in Julian California since 2009. She has no criminal record. Her detention and subsequent rescinding of her bond by an immigration judge for $8,000.00, without any opportunity to contest her detention before a neutral decisionmaker—flout the Constitution and the Immigration and Nationality Act.

2. The deprivation of Ms. Cruz Vega's liberty serves no legitimate purpose. Civil immigration detention is justified only to mitigate flight risk or danger to the community. DHS already determined in in their I-213, Deportation Record of Deportable/Inadmissible Alien, that she has a negative arrest record and she has ties to her community in Julian, California. Her continued custody after an immigration judge granted a $8,000.00 bond is punitive, arbitrary, and unconstitutional.

3. Ms. Mendoza's unlawful detention causes profound and irreparable harm. Courts in this District have repeatedly recognized that confinement at Otay Mesa Detention Center imposes "serious, immediate, and irreparable harm" due to its unsafe and inhumane conditions. Each additional day of detention inflicts lasting damage on her health, her relationship with her daughter, and her ability to pursue lawful protection in the United States. "[F]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

4. Faced with indistinguishable circumstances, courts in this Circuit have recently ordered immediate release or bond hearings. *Mosqueda v. Noem,* No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Maldonado Vasquez v. Feeley,* No.

2:25-CV-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025*); Hernandez v. Wofford,* No. 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390 (E.D. Cal. Aug. 21, 2025).

5. Ms. Cruz Vega's case is no different. Because she is likely to succeed on the merits, faces irreparable harm every day she remains confined, and because the balance of equities and the public interest overwhelmingly favor relief, this Court should issue a temporary restraining order immediately releasing her or requiring a constitutionally adequate bond hearing.

STATEMENT OF FACTS

6. Petitioner Reyna Cruz Vega is a forty-five old woman from Mexico.

7. On April 19, 2009, she crossed into the United States near Tecate, California.

8. On August 12, 2025, Ms. Cruz was stopped at an internal checkpoint near Warner Springs, California. She was placed under arrest and charged under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I), the generic inadmissibility provisions for entry without inspection and lack of documentation.

9. Shortly after her arrest, Ms. Cruz sought custody redetermination. On September 4, 2025, Immigration Judge Guy Grande held a full bond hearing. After hearing testimony and reviewing DHS's evidence, Judge Grande found that Ms. Cruz was not a danger to the community. While he expressed some concern about flight risk, he concluded that risk could be reasonably mitigated by the imposition of a bond. He therefore ordered Ms. Cruz released upon the posting of an $8,000 bond.

10. That same day, DHS filed a notice of intent to appeal, which triggered an automatic administrative stay of her release. On September 16, 2025, DHS perfected its appeal to the Board of Immigration Appeals. Ms. Cruz remained detained.

11. Then, in a highly irregular move, DHS went further. Rather than await the BIA's ruling, government counsel sought to nullify Judge Grande's bond order altogether. On September 22, 2025, Immigration Judge Meghan E. Heesch—who had not presided over the original hearing—issued a memorandum purporting to rescind the $8,000 bond.

12. The memorandum did not revisit the facts of Ms. Cruz's case or her individualized risk assessment. Instead, it relied entirely on *Matter of Yajure Hurtado,* 29 I. & N. Dec. 216 (BIA 2025), which concluded that individuals apprehended at interior checkpoints are "arriving aliens" subject to mandatory detention under § 1225(b)(2)(A). Acting on that memorandum, DHS reclassified Ms. Cruz's custody as mandatory and kept her detained.

13. As a result, Ms. Cruz remains incarcerated at the Otay Mesa Detention Facility despite the fact that an Immigration Judge already granted her release on bond.

14. Petitioner has now been detained at Otay Mesa Detention Center for nearly three months. Conditions at Otay Mesa have been repeatedly documented as harsh, unsanitary, and inhumane, with reports of overcrowding, inadequate medical care, and abuse. For Petitioner, who had already proven her ability to live compliantly in the community with her daughter and broader support network, continued detention is both unnecessary and unlawful. Absent Court intervention, she faces ongoing irreparable harm every day she remains confined.

LEGAL STANDARD

1. Petitioner Reyna Cruz Vega is entitled to a temporary restraining order if she establishes that she is "likely to succeed on the merits, . . . likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [her] 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 temporary restraining order standards are "substantially identical").

2. Even if Petitioner does not show a likelihood of success on the merits, the Court may still grant a temporary restraining order if she raises "serious questions" as to the merits of her claims, the balance of hardships tips "sharply" in her favor, and the remaining equitable factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011).

3. As set forth below, Petitioner overwhelmingly satisfies both standards.

ARGUMENT

PETITIONER CRUZ VEGA WARRANTS A TEMPORARY RESTRAINING ORDER

4. A temporary restraining order should issue if "immediate and irreparable injury, loss, or irreversible damage will result" absent relief. Fed. R. Civ. P. 65(b). The purpose is to prevent irreparable harm before the Court can hold a preliminary-injunction hearing. *Granny Goose Foods, Inc. v. Bhd. of Teamsters*, 415 U.S. 423, 439 (1974). Here, without intervention, Ms. Cruz Vega will remain in unlawful custody—detained under a statutory regime that does not apply to her and without any bond hearing—in violation of the INA and the Due Process Clause. Every additional day of confinement inflicts irreparable harm. Cruz Vega's continued detention violates substantive due process because she is neither a danger nor a flight risk, and detention serves no legitimate purpose.

5. The Fifth Amendment protects "all persons" in the United States—including noncitizens—from arbitrary government action. *Zadvydas v. Davis*, 533 U.S. 678, 690–93 (2001); *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974); *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). Immigration detention is civil and "nonpunitive in purpose and effect"; it is constitutionally justified only to prevent danger or secure appearance at proceedings. *Zadvydas*, 533 U.S. at 690. When those rationales are absent, detention becomes punitive and violates substantive due process. See Jackson v. Indiana, 406 U.S. 715, 738 (1972);

Hernandez v. Sessions, 872 F.3d 976, 994 (9th Cir. 2017) ("no legitimate interest" in detaining people who are not dangerous and will appear under lesser restraints).

6. The undisputed record shows Ms. Cruz Vega has no criminal history; she lived in California since 2009; she maintained a stable residence with her daughter; she built strong community support. Those facts foreclose any credible claim of danger and establish that less restrictive alternatives will ensure appearance. See *Hernandez*, 872 F.3d at 990–91 (government must consider alternatives; detention must be necessary to serve its goals). Because her confinement serves no legitimate purpose, it violates substantive due process.

7. Recent decisions in this Circuit reinforce that point in materially indistinguishable circumstances. In *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at (C.D. Cal. Sept. 8, 2025), the court granted a TRO requiring release or § 1226(a) bond hearings where DHS treated long-time interior arrestees as § 1225(b) "mandatory" detainees; the court found that approach unlawful and emphasized individualized custody adjudications. In *Maldonado Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025), the court granted a preliminary injunction and ordered release, rejecting the government's effort to shoehorn interior arrests into § 1225(b) to avoid bond hearings and due process protections. Those holdings apply squarely here.

Cruz Vega is Likely to Succeed on the Independent Due-Process Claim that the Constitution Requires a Pre-Deprivation Hearing Before Re-Detention.

8. Even if regulations purport to allow re-detention, the Constitution requires procedural safeguards before liberty is taken. See *Hernandez*, 872 F.3d at 981 ("the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process"). The Ninth Circuit and district courts have repeatedly recognized that, where a noncitizen has been living at liberty, due process requires notice and a hearing before a

neutral adjudicator, with the government bearing a clear and convincing burden to show danger or flight risk, before re-incarceration.

9. This flows from settled law. The Supreme Court has long held that conditional liberty—though revocable—carries a protected liberty interest and cannot be terminated without due process. See *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Young v. Harper*, 520 U.S. 143, 152 (1997) (pre-parole liberty interest). The Ninth Circuit likewise recognizes that "freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause," requiring robust procedures. *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

10. Applying *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), the balance decisively favors pre-deprivation process here:

11. **Private interest**: Ms. Cruz Vega's interest in avoiding erroneous incarceration is profound. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Supreme Court has long recognized that conditional liberty—whether through parole, probation, or release from immigration detention—creates a settled expectation that cannot be extinguished without due process. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973). Here, an Immigration Judge granted Ms. Cruz Vega a $8,000.00 bond on September 4, 2025, after determining she was not a danger to society. Attorney for DHS immediately reserved appeal and filed a stay on the Immigration Judge order for bond. Subsequently, on September 22, 2025, a memorandum from a different immigration judge rescinded the other immigration judge order under the guise of Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). Ms. Cruz Vera has lived for the past 16 years openly in Julian, California with her disabled daughter. Having "formed the other enduring attachments of normal life,"

Morrissey, 408 U.S. at 482, Ms. Cruz Vega holds a weighty liberty interest in remaining free from unjustified re-incarceration. Terminating that liberty without a neutral hearing inflicts a grievous loss on her, her partner, and her children abroad.

12. **Risk of erroneous deprivation**: ICE's The risk of erroneous deprivation is intolerably high when ICE unilaterally re-detains a compliant noncitizen under the mistaken theory that custody remains mandatory under § 1225(b). Ms. Cruz Vega had an approved bond amount for $8,000.00 from an immigration judge on September 4, 2025. However, a trial attorney did not agree with the Immigration Judge's ruling and stayed the Immigration Judge order in effect, leaving Ms. Cruz Vega detained at the Otay Mesa Detention Center. Her attorney was provided with a memorandum of Immigration Judge taking away her ability to contest the Office of Principal Legal Counsel appeal to board of immigration appeals. Federal courts have rejected this approach. In *Hernandez v. Wofford*, the court held that a noncitizen who had lived in the community could not lawfully be re-detained under § 1225(b) without due process. No. 1:25-CV-00986, 2025 WL 2420390, at *12–15 (E.D. Cal. Aug. 21, 2025). Likewise, *Pinchi v. Noem* and *Espinoza v. Kaiser* confirm that once DHS affirmatively releases an individual, § 1226(a) governs and re-detention requires a bond hearing before a neutral adjudicator. A bond hearing with the government bearing the clear-and-convincing burden, as required under § 1226(a), dramatically reduces the risk of erroneous deprivation. See *Diouf v. Napolitano (Diouf II)*, 634 F.3d 1081, 1091–92 (9th Cir. 2011).

13. **Government interest / burdens**: The government's interest in jailing a non-dangerous, fully compliant resident without a hearing is minimal. As the Ninth Circuit has explained, "the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions." *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017). DHS itself determined Ms. Cruz

Vega was neither a danger nor a flight risk at her bond hearings in August and then September of 2025. Providing a prompt bond hearing is already contemplated in the statutory scheme of § 1226(a), and imposes only *de minimis* administrative costs. See *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018). Against Ms. Cruz Vega's bodily liberty and family integrity, the government's asserted interest is negligible.

14. Courts in this Circuit have repeatedly required such pre-deprivation safeguards in analogous contexts—enjoining re-detentions absent notice and a hearing or requiring immediate bond hearings with the proper burden on the government. See, e.g., *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Vargas v. Jennings*, 2020 WL 5074312 (N.D. Cal. Aug. 23, 2020); *Romero v. Kaiser*, 2022 WL 1443250 (N.D. Cal. May 6, 2022). Ms. Cruz Vega does not have the opportunity to contest the IJ ruling because after receiving a bond for $8,000.00, an immigration judge different from the judge that granted the bond in conjunction with the government attorney on the case, sent a memorandum of immigration judge, effectively rescinding Ms. Cruz Vega's bond order under the mistaken premise that § 1225(b) controls—so she is likely to succeed on this claim.

Cruz Vega Is Also Likely to Succeed on Her Statutory Claim: Once DHS Released Her, § 1226(A) Governs; § 1225(B) Does Not

15. The INA draws a sharp line between § 1225(b) (initial inspection/expedited removal at or near the border) and § 1226(a) (custody during removal proceedings for persons living in the interior). See *Jennings v. Rodriguez*, 583 U.S. 281, 303–05 (2018) (describing detention schemes). Where DHS affirmatively releases a person and she then lives in the interior for many months, the detention authority for any later custody is § 1226(a)—with individualized bond determinations—not § 1225(b) "mandatory" detention.

16. Courts addressing the government's recent attempt to reclassify interior arrestees as § 1225(b) "applicants for admission" have rejected that position. In *Mosqueda*, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025), the court granted a TRO requiring release or bond hearings under § 1226(a), holding the government's § 1225(b) theory unlawful when applied to noncitizens long at liberty in the interior. In *Maldonado,* 2025 WL 2676082 (D. Nev. Sept. 17, 2025), the court entered a preliminary injunction and ordered release, likewise holding that the government cannot evade § 1226(a)'s framework and bond procedures by relabeling interior arrests as "mandatory" § 1225(b) detention. Those rulings are directly on point: because Ms. Cruz Vega has lived in Julian, California since 2009, §1226(a) controls and she is entitled to a bond hearing with the government bearing the clear-and-convincing burden. See also *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (bond factors under § 1226(a)).

17. Even the Supreme Court decisions the government sometimes cites preserve as-applied constitutional challenges and do not foreclose relief here. See *Demore v. Kim*, 538 U.S. 510, 532–33 (2003) (Kennedy, J., concurring) (unreasonable delay/detention raises due-process concerns); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019) (reserving as-applied challenges).

18. Because Respondents lack statutory authority to detain Ms. Cruz Vega under § 1225(b), and because due process independently requires a hearing they refused to provide, she is likely to succeed on the merits.

Petitioner Cruz Vega Will Suffer Irreparable Harm Absent Injunctive Relief

19. Petitioner Cruz Vega will suffer irreparable harm were she to remain detained after being deprived of her liberty and subjected to unlawful incarceration by immigration authorities without being provided the constitutionally adequate process that this motion for a

temporary restraining order seeks. Detainees in ICE custody are held in "prison-like conditions." *Preap v. Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, "[t]he time spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job; it disrupts family life; and it enforces idleness." *Barker v. Wingo*, 407 U.S. 514, 532–33 (1972); accord *Nat'l Ctr. for Immigrants Rights, Inc.* v. I.N.S., 743 F.2d 1365, 1369 (9th Cir. 1984).

20. Moreover, the Ninth Circuit has recognized in "concrete terms the irreparable harms imposed on anyone subject to immigration detention," including "subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained." *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

21. Courts within this Circuit have likewise found that detention at Otay Mesa under these circumstances causes immediate and irreparable harm. See *Hernandez v. Wofford*, No. 1:25-CV-00986, 2025 WL 2420390, at *2 (E.D. Cal. Aug. 21, 2025) (noting that petitioner detained in Otay Mesa "faces irreparable harm absent a temporary restraining order"). See also *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *6 (C.D. Cal. Sept. 8, 2025) (petitioners would be immediately and irreparably harmed by their continued deprivation of liberty without bond hearings that they are entitled to under section 1226(a).).

22. These judicial findings are consistent with extensive public reporting. A June 2025 Los Angeles Times investigation[1] described Adelanto as "unsanitary, overcrowded, and inhumane," with inspectors raising red flags about medical neglect and prolonged solitary confinement. Disability Rights California's investigative report, *Inside the Adelanto ICE*

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[1] https://www.latimes.com/california/story/2025-06-20/unsanitary-overcrowded-and-inhumane-red-flags-raised-about-conditions-in-adelanto-detention-center

Processing Center,[2] documented systemic failures, including inadequate mental health treatment, unsanitary conditions, and the overuse of segregation, concluding that detainees are exposed to serious and ongoing harm. This can also be said of the Otay Mesa Detention Center in San Diego, California.

23. Petitioner Cruz Vega's circumstances underscore these dangers. She has no criminal history, demonstrated sixteen years of lawful compliance while at liberty, and resides with her daughter, who relies on Ms. Cruz Vega support. There is no justification for subjecting her to confinement in a facility that courts in this District and federal oversight bodies have recognized as dangerous and harmful. Continued detention is bound to result in irreversible harm to her physical and psychological well-being, her family, and her community ties.

24. As the Ninth Circuit has explained, "the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up). Thus, a temporary restraining order is necessary to prevent Petitioner Cruz Vega from suffering irreparable harm by being subject to unlawful and unjust detention at Otay Mesa Detention Center.

The Balance of Equities and The Public Interest Favor Granting the Temporary Restraining Order

25. The last two Winter factors merge when the Government is the opposing party. *Nken v. Holder*, 556 U.S. 418, 435 (2009). While the government has a general interest in enforcing the immigration laws, that interest "is not furthered by allowing violations of federal law to continue." *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013)

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[2] https://www.disabilityrightsca.org/drc-advocacy/investigations/inside-the-adelanto-ice-processing-center

26. Here, the balance of equities and the public interest undoubtedly favor granting this temporary restraining order.

27. First, the balance of hardships strongly favors Ms. Cruz Vega. The government cannot suffer harm from an injunction that prevents it from engaging in an unlawful practice. See *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) ("[T]he INS cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations."). Therefore, the government cannot allege harm arising from a temporary restraining order or preliminary injunction ordering it to comply with the Constitution.

28. Further, any burden imposed by requiring ICE to release Ms. Cruz Vega from unlawful custody and refrain from re-arrest unless and until she is provided a hearing before a neutral is both de minimis and clearly outweighed by the substantial harm she will suffer if she remains detained. See *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) ("Society's interest lies on the side of affording fair procedures to all persons, even though the expenditure of governmental funds is required.").

29. Courts in this district have recognized this precise harm: in *Mosqueda v. Noem*, the Central District granted TRO relief to detainees in Adelanto whose detention under § 1225(b) deprived them of bond hearings guaranteed by § 1226(a), emphasizing that continued detention without process inflicts irreparable harm No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *6 (C.D. Cal. Sept. 8, 2025). Similarly, in *Maldonado Vasquez v. Feeley*, the court found that "the balance of the equities and public interest "tip sharply towards" Petitioner" 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at *23 (D. Nev. Sept. 17, 2025).

30. A temporary restraining order is also in the public interest. First and most importantly, "it would not be equitable or in the public's interest to allow [a party] . . . to violate the requirements of federal law, especially when there are no adequate remedies available." *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014) (quoting

Valle del Sol Inc. v. Whiting, 732 F.3d 1006, 1029 (9th Cir. 2013)). If a temporary restraining order is not entered, the government would effectively be granted permission to detain Ms. Cruz Vega in violation of the requirements of Due Process. "The public interest and the balance of the equities favor 'prevent[ing] the violation of a party's constitutional rights.'" *Ariz. Dream Act Coal.*, 757 F.3d at 1069 (quoting *Melendres*, 695 F.3d at 1002); see also *Hernandez*, 872 F.3d at 996 ("The public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and held in immigration detention because of bonds established by a likely unconstitutional process."); cf. *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) ("Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the Constitution.").

31. Accordingly, both the balance of equities and the public interest weigh decisively in Cruz Vega's favor. At minimum, they "tip sharply" toward her, warranting injunctive relief even under the "serious questions" standard. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).

CONCLUSION

32. For the foregoing reasons, Petitioner respectfully requests that this Court grant her motion for a temporary restraining order. Petitioner has shown a clear likelihood of success on the merits, or at minimum raised serious questions going to the merits; she faces irreparable harm with every additional day of unlawful detention at Adelanto; and the balance of equities and public interest overwhelmingly favor immediate relief.

PRAYER FOR RELIEF

33. Petitioner therefore respectfully asks this Court to:

a. Order her immediate release from custody under reasonable conditions of supervision; or, in the alternative,

b. Require Respondents to provide a constitutionally adequate bond hearing under 8 U.S.C. § 1226(a), before a neutral adjudicator, at which the Government must justify continued detention by clear and convincing evidence of danger or flight risk; and

c. Grant such further relief as this Court deems just and proper.

DATED: October 13, 2025

Respectfully Submitted,

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Attorneys for Petitioner

REQUEST FOR EXPEDITED HABEAS BRIEFING SCHEDULE

34. In addition to temporary injunctive relief, Petitioner respectfully requests that the Court expedite briefing and adjudication of her habeas petition. An order that is set as a standard return deadline, usually a month away, risks leaving Petitioner in custody without judicial review despite the ongoing irreparable harm she suffers each day she remains detained. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

35. "There is no question that these protections extend to noncitizens present in the United States." *Maldonado Vazquez v. Feeley*, No. 2:25-cv-01542, 2025 WL 2676082, at *16 (D. Nev. Sept. 17, 2025). The Ninth Circuit has further recognized in concrete terms the irreparable harms "imposed on anyone subject to immigration detention (or other forms of imprisonment)." Id. at *22. In the absence of Petitioner's requested injunction, "harms such as these will continue to occur needlessly on a daily basis." *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

36. The habeas statute itself emphasizes urgency. A district court is explicitly directed to "summarily hear and determine the facts, and dispose of [a habeas petition] as law and justice require." 28 U.S.C. § 2243. The statute provides that a return must ordinarily be filed within three days, absent good cause, and that the court should hold a prompt hearing thereafter. Id. The Supreme Court has long described habeas corpus as "perhaps the most important writ known to the constitutional law … affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963); see also *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (habeas provides a "prompt and efficacious remedy" for unlawful detention). The Ninth Circuit has likewise emphasized that habeas is intended to be a "speedy remedy," *Ruby v. United States*, 341 F.2d 585, 587 (9th Cir. 1965), and that a habeas application "receives prompt action" and priority on the court's docket. *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000).

37. District courts applying these principles in the immigration detention context have recognized that habeas petitions raising ongoing liberty deprivations warrant expedited treatment. See *Herrera v. Knight*, 2025 WL 2581792, at *6 (D. Nev. Sept. 5, 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 967 (N.D. Cal. 2019); *Ortiz Vargas v. Jennings*, 2020 WL 5074312, at *1 (N.D. Cal. Aug. 23, 2020).

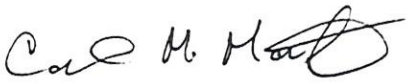
38. Accordingly, every additional day of Petitioner's confinement inflicts an ongoing and irreparable deprivation of her fundamental liberty interest. Expedited habeas review is therefore not just authorized under § 2243 but consistent with binding precedent.

39. Should the Court decline to grant Petitioner's immediate release or bond hearing through the TRO, Petitioner respectfully requests, in the alternative, that the Court order Respondents to file their return to the habeas petition within seven (7) days, allow Petitioner three (3) days to reply, and set the matter for hearing at the earliest practicable date.

40. Notice was provided to AUSA Civil Office via telephonic message to (619) 577-5610. We provided the Petitioner's name, and the petitioner will be requesting an emergency TRO. We left the attorney's name, Carlos M. Martinez and his telephone number (619) 623-3644.

DATED: October 13, 2025

Respectfully Submitted,



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