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13 **IN THE UNITED STATES DISTRICT COURT**
14 **DISTRICT OF ARIZONA**

15 Heidi Lorena Gomez Rodriguez,

16 Petitioner,

17 v.

18 Fred Figueroa, *et al.*,

19 Respondents.

20 **Case No.**

21 **MOTION FOR TEMPORARY**
22 **RESTRAINING ORDER AND**
23 **PRELIMINARY INJUNCTION**

24 Petitioner is a refugee from Colombia, a single mother with two young children,
25 ages 7 and 14, who fled sexual violence and torture in her homeland. She was granted
26 deferral of removal under the Convention Against Torture (CAT) on July 19, 2024 and
27 released under an Order of Supervision (OSUP) three days later because of DHS's
28 determination that she was not a danger or flight risk and that her removal to a third
country was unlikely. However, at an ICE check-in on September 3, 2025, Ms. Gomez
was arrested without explanation and sent across the country to the Eloy Detention Center.

1 At no time prior to her arrest did Respondents provide Ms. Gomez a hearing, let
2 alone a hearing before a neutral decisionmaker at which ICE was required to justify her
3 re-detention and show that she poses a flight risk or danger to the community. She has
4 been given no reason for her re-detention, other than a statement that she might be removed
5 to Mexico – a claim ICE retracted just days later. Nor has Ms. Gomez received any
6 meaningful opportunity to respond to any allegations triggering her re-detention.
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8 By denying her notice and hearing, Respondents violated Ms. Gomez’s right to due
9 process. In recent weeks, courts have routinely granted habeas petitions for noncitizens
10 whose OSUPs were revoked without notice and a hearing. *See, e.g., Rodriguez v. Kaiser*,
11 2025 WL 2855193 (E.D. Cal. Oct. 8, 2025), at *5-6 (holding that a pre-deprivation hearing
12 is required before revoking OSUP); *E.A. T.-B. v. Wamsley*, 2025 WL 2402130, at *6 (W.D.
13 Wash. Aug. 19, 2025) (immediate release ordered because “a post-deprivation hearing
14 cannot serve as an adequate procedural safeguard because it is after the fact and cannot
15 prevent an erroneous deprivation of liberty”); *Rosado v. Figueroa*, 2025 WL 2337099 (D.
16 Ariz. Aug. 11, 2025), at *12 (noting that “[a]lthough ICE has the initial discretion to detain
17 or release a noncitizen pending removal proceedings, after that individual is released from
18 custody they have a protected liberty interest in remaining out of custody”).
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23 Likewise, numerous courts have found that *Zadvydas v. Davis*, 533 U.S. 678 (2001)
24 prevents re-detaining a noncitizen long after their removal order became final if there is
25 no significant likelihood of their removal to a third country in the reasonably foreseeable
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1 future. *See, e.g., Abuelhawa v. Noem*, 2025 WL 2937692 (S.D. Tex. Oct. 16, 2025), at *4-
2 5 (citing cases); *S.F. v. Bostock*, 2025 WL 2841022 (D. Or. Oct. 7, 2025), at *4.

3 For the reasons below, this Court should order Ms. Gomez’s release.

4 **STATEMENT OF FACTS**

5 Ms. Gomez is a 39-year-old citizen of Colombia with three children. ECF No. 1
6 (“Pet.”) at ¶¶ 11, 29. When she was about 16, [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED] *Id.* at ¶ 19. In 2015, Ms. Gomez entered into a civil union with her partner, a
11 man named Fernando, but the relationship quickly soured. *Pet.* at ¶ 20. Fernando beat and
12 verbally humiliated her on a regular basis. *Id.* And when Ms. Gomez discovered [REDACTED]

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 Ms. Gomez fled Colombia for safety and came to the United States. *Id.* at ¶ 21. She started
20 a new life, found work, and earned enough money for herself and her children. *Id.*

21 Ms. Gomez applied for protection under CAT on April 2, 2024, since she feared
22 torture at the hands of her ex-partner Fernando, [REDACTED]

23 [REDACTED] *Id.* at ¶ 22. With his
24 connections, he could find her anywhere in Colombia, and the police would be unwilling
25 or unable to stop him. *Id.* At a merits hearing on July 19, 2024, an immigration judge
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1 granted her deferral to removal to Colombia under CAT. *Id.* at ¶ 23; *see also* ECF No. 1-1
2 (IJ order). As a result, Respondents cannot remove Ms. Gomez to Colombia. *Id.* at ¶ 23.

3 Three days after her immigration court hearing, Ms. Gomez was released on an
4 OSUP. Pet. at ¶ 24; ECF No. 1-2 (OSUP). Ms. Gomez complied with its terms and attended
5 all required check-ins. *Id.* at ¶ 25. On September 2, 2025, Ms. Gomez received a call from
6 ICE, telling her to appear at the Baltimore office the next day. *Id.* at ¶ 26. When she did
7 so, ICE detained her without explanation. *Id.* She was not notified beforehand of ICE's
8 intention to revoke her OSUP, nor was she taken before a neutral arbiter for ICE to
9 demonstrate by clear and convincing evidence that she was a danger or a flight risk. *Id.*

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12 Initially ICE told Ms. Gomez's attorney it was planning to remove her to Mexico;
13 however, a few days later it retracted that statement, saying Mexico would not accept her,
14 and vaguely stating that it was looking into possible African countries to send her to. Pet.
15 at ¶ 27. Ms. Gomez believes that ICE has not identified a country to which it might send
16 her, and her removal is not significantly likely in the reasonably foreseeable future. *Id.*

17 18 19 **LEGAL STANDARD**

20 To obtain a TRO, a plaintiff "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
22 the balance of equities tips in his favor, and that an injunction is in the public interest."
23 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlberg Int'l Sales Co. v.*
24 *John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary
25 injunction and temporary restraining order standards are "substantially identical"). Even
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1 if Ms. Gomez does not show a likelihood of success on the merits, the Court may still
2 grant a temporary restraining order if she raises “serious questions” as to the merits of her
3 claims, the balance of hardships tips “sharply” in her favor, and the remaining equitable
4 factors are satisfied. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011).

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6 **ARGUMENT**

7 **I. Ms. Gomez is likely to succeed on the merits of her claims.**

8 **A. Ms. Gomez has demonstrated a likelihood of success on the merits of her**
9 **claim that Respondents violated her due process rights.**

10 Due process requires Respondents to afford Ms. Gomez a hearing before a neutral
11 decisionmaker where ICE is required to justify re-detention *before* it occurs. In the past
12 few months, district courts in this circuit have so held in numerous cases and have ordered
13 the immediate release of noncitizens who had been re-detained by DHS without a hearing.
14 *See, e.g., Ledesma Gonzalez v. Bostock*, 2025 WL 2841574 (W.D. Wash. Oct. 7, 2025)
15 (granting immediate release where petitioner’s order of release was arbitrarily revoked
16 without notice or a hearing); *E.A. T.-B.*, 2025 WL 2402130 (granting immediate release
17 due to lack of pre-deprivation hearing); *Ramirez Tesara v. Wamsley*, 2025 WL 2637663
18 (W.D. Wash. Sept. 12, 2025) (same); *Pinchi v. Noem*, 2025 WL 2084921, at *7 (N.D. Cal.
19 July 24, 2025) (similar); *Maklad v. Murray*, 2025 WL 2299376, at *10 (E.D. Cal. Aug. 8,
20 2025) (similar); *Phan v. Noem*, 2025 WL 2898977 (S.D. Cal. Oct. 10, 2025), at *3-5
21 (ICE’s failure to follow regulations when terminating OSUP violated due process);
22 *Rodriguez*, 2025 WL 2855193, at *5-6 (holding that a pre-deprivation bond hearing is
23 required before revoking an OSUP). Courts in this district have also embraced these
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1 principles. *See Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), at *12,
2 (noting that “[a]lthough ICE has the initial discretion to detain or release a noncitizen
3 pending removal proceedings, after that individual is released from custody they have a
4 protected liberty interest in remaining out of custody”); *Sanchez-Hernandez v. Figueroa*,
5 2:25-cv-2351, Dkt. 33 (D. Ariz. Aug. 5, 2025) (Lanza, J.) (petitioner “ordered released
6 from custody, subject to the conditions of release that applied before the challenged
7 revocation decision”). Many other courts across the country have similarly ordered the
8 immediate release of persons with ongoing proceedings who are re-detained without a
9 hearing. *See, e.g., Gomez Mejia v. Woosley*, 2025 WL 2933852 (W.D. Ky. Oct. 15, 2025),
10 at *4-5; *Balouch v. Bondi*, 2025 WL 2871914 (E.D. Tex. Oct. 9, 2025), at *2; *Mata*
11 *Velasquez v. Kurzdorfer*, 2025 WL 1953796 (W.D.N.Y. July 16, 2025).

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15 As the court explained in *E.A. T.-B.*, the three-factor test from *Mathews v. Eldridge*,
16 424 U.S. 319 (1976), determines what process Ms. Gomez is due. 2025 WL 2402130, at
17 *3. *Mathews* requires evaluation of (1) “the private interest that will be affected by the
18 official action”; (2) “the risk of an erroneous deprivation of such interest through the
19 procedures used, and the probable value, if any, of additional or substitute procedural
20 safeguards” and (3) “the Government’s interest, including the function involved and the
21 fiscal and administrative burdens that the additional or substitute procedural requirement
22 would entail.” 424 U.S. at 335; *see also Ramirez Tesara*, 2025 WL 2637663, at *2-4;
23 *Morrissey v. Brewer*, 408 U.S. 471, 482–84 (1972) (assessing what process is due a
24 parolee). Here, those factors strongly favor Ms. Gomez.
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1 A. Ms. Gomez Has a Weighty Private Interest.

2 Ms. Gomez has an exceptionally strong interest in freedom from physical
3 confinement and in a hearing prior to any revocation of her liberty. Indeed, her “interest
4 in not being detained is ‘the most elemental of liberty interests[.]’” *E.A. T.-B.*, 2025 WL
5 2402130, at *3 (alteration in original) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529
6 (2004)); *see also Ramirez Tesara*, 2025 WL 2637663, at *3 (stating that the petitioner
7 “has an exceptionally strong interest in freedom from physical confinement”). “Freedom
8 from imprisonment ... lies at the heart of the liberty that [the Due Process] Clause
9 protects.” *Zadvydas*, 533 U.S. at 690. Thus, “[d]etention, including that of a non-citizen,
10 violates due process if there are not ‘adequate procedural protections’ or ‘special
11 justification[s]’ sufficient to outweigh one’s ‘constitutionally protected interest in
12 avoiding physical restraint.’” *Perera v. Jennings*, 598 F. Supp. 3d 736, 742 (N.D. Cal.
13 2022) (quoting *Zadvydas*, 533 U.S. at 690). Similarly, the Ninth Circuit has held that “[i]n
14 the context of immigration detention, it is well-settled that ‘due process requires adequate
15 procedural protections to ensure that the government’s asserted justification for physical
16 confinement outweighs the individual’s constitutionally protected interest in avoiding
17 physical restraint.’” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting
18 *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)). This is especially true given Ms.
19 Gomez’s initial release from detention on an OSUP. “The Supreme Court has repeatedly
20 held that in at least some circumstances, a person who is in fact free of physical
21 confinement—even if that freedom is lawfully revocable—has a liberty interest that
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1 entitles him to constitutional due process before he is re-incarcerated.” *Hurd v. District of*
2 *Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017). These principles apply with even more
3 force where civil immigration detention is concerned. As one court has explained, “[g]iven
4 the civil context, [a noncitizen’s] liberty interest is arguably greater than the interest of
5 parolees in *Morrissey*.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

7 Courts—including in this district—have applied these principles to hold that
8 noncitizens have a strong liberty interest in cases involving re-detention. As Judge Bibles
9 wrote in *Rosado*, this is especially true “when an individual, who has been present in the
10 United States with the government’s acquiescence for a number of years, has been subject
11 to an infringement of their liberty interest ... for no other reason than a regime change’s
12 desire to expel a large number of non-criminal noncitizens.” *Rosado*, 2025 WL 2337099,
13 at *10. As Judge Bibles explained, “the ‘essence’ of procedural due process is that a person
14 risking a serious loss be given notice and an opportunity to be heard in a meaningful
15 manner and at a meaningful time.” *Id.* at *11 (citing *Mathews*, 424 U.S. at 348); *see also*
16 *Ramirez Tesara*, 2025 WL 2637663, at *3 (“When was released from his initial detention
17 on parole, Petitioner took with him a liberty interest which is entitled to the full protections
18 of the due process clause.”).

23 B. The Risk of Erroneous Deprivation Is High.

24 Second, “the risk of erroneous deprivation of [Ms. Gomez’s] liberty interest in the
25 absence of a pre-detention hearing is high.” *E.A. T.-B.*, 2025 WL 2402130, at *4. “That
26 the Government may believe it has a valid reason to detain Petitioner does not eliminate
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1 its obligation to effectuate the detention in a manner that comports with due process.” *Id.*
2 Her re-detention must “bear[] [a] reasonable relation” to a valid government purpose—
3 here, preventing flight or protecting the community. *Zadvydas*, 533 U.S. at 690 (second
4 alteration in the original) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Only a
5 hearing before a neutral decisionmaker—where ICE must prove that re-detention is
6 justified and Ms. Gomez poses a flight risk or danger—can ensure that this “reasonable
7 relation” to a valid government purpose exists. In this case, however, Ms. Gomez has
8 never received notice of the basis for her re-detention, much less a hearing before a neutral
9 decisionmaker. The arbitrary nature of Ms. Gomez’s re-detention is illustrated by the fact
10 that ICE claims she will be removed to a third country but cannot provide the name of a
11 single country to which she might be removed. As one court recently explained, “[o]nce
12 established, Petitioner’s interest in liberty is a constitutional right which may only be
13 revoked through methods that comport with due process, such as a hearing in front of a
14 neutral party to determine whether Petitioner’s re-detainment is warranted.” *Ramirez*
15 *Tesara*, 2025 WL 2637663, at *3.

20 C. The Government’s Interest Is Minimal.

21 Finally, “the government’s interest in detaining [Petitioner] or re-detaining her
22 without a hearing is slight.” *Maklad*, 2025 WL 2299376, at *8. “[A]lthough [a pre-
23 deprivation hearing] would have required the expenditure of finite resources (money and
24 time) to provide Petitioner notice and hearing ... before arresting and re-detaining him,
25 those costs are far outweighed by the risk of erroneous deprivation of the liberty interest
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1 at issue.” *E.A. T.-B.*, 2025 WL 2402130, at *5. Here, any cost in holding a hearing is
2 minimal. Moreover, any financial burden is outweighed by the cost of detaining Ms.
3 Gomez during such proceedings. This factor also “cuts strongly in favor” of Ms. Gomez
4 because when “[w]hen the Government incarcerates individuals it cannot show to be a
5 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).
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10 **B. Ms. Gomez is also likely to prevail on her *Zadvydas* claim because her**
11 **removal is not significantly likely in the reasonably foreseeable future.**

12 In *Zadvydas*, the Supreme Court interpreted 8 U.S.C. § 1231(a), the statute under
13 which Ms. Gomez is detained, as authorizing detention only for “a period reasonably
14 necessary to bring about the [noncitizen’s] removal from the United States.” 533 U.S. at
15 689. The Court determined that a six-month period was “presumptively reasonable” to
16 secure a noncitizen’s removal. *Id.* at 701. “After this 6-month period, once the [noncitizen]
17 provides good reason to believe that there is no significant likelihood of removal in the
18 reasonably foreseeable future, the Government must respond with evidence to rebut that
19 showing” in order to continue detention. *Id.*
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22 Here, Ms. Gomez received a final order of removal on July 19, 2024; therefore, the
23 six-month period of presumptive reasonability is long past. And she has provided “good
24 reason to believe that there is no significant likelihood of removal in the reasonably
25 foreseeable future.” *First*, she cannot be deported to Colombia because she has a final
26 grant of protection from removal there. Pet. at ¶ 48; ECF No. 1-1. *Second*, although ICE
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1 told her it planned to deport her to Mexico, it then retracted that statement and said Mexico
2 was “off the table”; since that time, it has not named a single country to which she might
3 be removed. *Id.* *Third*, ICE itself recognized the improbability of removing her when it
4 released her on an OSUP only three days after her removal order. *Id.* *Fourth*, data shows
5 there is less than a 2% chance of deportation to a third country. *Id.*; *see also* *Munoz*
6 *Saucedo v. Pittman*, 2025 WL 1750346 (D.N.J. June 24, 2025), at *7 (noting that from FY
7 2020 to FY 2023, ICE removed a total of only five noncitizens granted withholding or
8 CAT relief to alternative countries). In nearly every case in which ICE seeks to remove a
9 noncitizen to a third country, its requests are ignored or declined. *See, e.g., Zhuzhiashvili*
10 *v. Carter*, 2025 WL 2837716 (D. Kan. Oct. 7, 2025), at *2 (citing statements from
11 immigration officials showing these “acceptance requests ... are never successful”).
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15 It has been over fifteen months since Ms. Gomez’s removal order became final,
16 meaning that ICE has had that entire time to attempt to find third countries to which to
17 remove her. Although she has only been detained about six weeks, courts have analyzed
18 the reasonableness of post-removal order detention based on the date of the final removal
19 order, rather than the date of (re)detention. *See S.F. v. Bostock*, 2025 WL 2841022 (D. Or.
20 Oct. 7, 2025), at *4 (noting “federal courts have refrained from applying the presumption
21 of reasonableness under *Zadvydas* in re-detention cases” and pointing out Respondents’
22 concession that “Petitioner’s detention ... is ‘past the presumptive 180-day threshold of
23 presumptive reasonableness.’”); *Nguyen v. Scott*, 2025 WL 2419288 (W.D. Wash. Aug.
24 21, 2025), at *13 (“[T]he six-month period does not reset when the government detains
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1 [a noncitizen] ..., releases him from detention, and then re-detains him again.”); *Zavvar*
2 *v. Scott*, 2025 WL 2592543 (D. Md. Sept. 8, 2025), at *6. Accordingly, after 15 months,
3 Respondents bear the burden of proving there is a “significant likelihood of removal in
4 the reasonably foreseeable future.” *See Zadvydas*, 533 U.S. at 701.
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6 **II. Ms. Gomez will suffer irreparable harm absent an injunction.**

7 Ms. Gomez must also show she is “likely to suffer irreparable harm in the absence
8 of preliminary relief.” *Winter*, 555 U.S. at 20. Irreparable harm is the type of harm for
9 which there is “no adequate legal remedy, such as an award of damages.” *Ariz. Dream Act*
10 *Coal. v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014).
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12 Here, Ms. Gomez’s detention constitutes “a loss of liberty that is . . . irreparable.”
13 *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno*
14 *II*), *aff’d in part, vacated in part on other grounds, remanded sub nom. Moreno Galvez v.*
15 *Jaddou*, 52 F.4th 821 (9th Cir. 2022); *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir.
16 2013) (irreparable harm is met where “preliminary injunction is necessary to ensure that
17 individuals . . . are not needlessly detained”). Civil immigration detention violates due
18 process outside of “certain special and narrow nonpunitive circumstances.” *Rodriguez v.*
19 *Marin*, 909 F.3d 252, 257 (9th Cir. 2018) (citation omitted). Ms. Gomez’s detention is
20 outside of those “special and narrow nonpunitive circumstances,” as due process forbids
21 her detention without a pre-deprivation hearing. These constitutional concerns also weigh
22 in favor of finding that Ms. Gomez has demonstrated irreparable harm. *See Baird v. Bonta*,

1 81 F.4th 1036, 1048 (9th Cir. 2023) (declaring that “in cases involving a constitutional
2 claim, a likelihood of success on the merits usually establishes irreparable harm”).

3 Indeed, the Ninth Circuit has repeatedly held that the deprivation of constitutional
4 rights constitutes irreparable harm. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir.
5 2012); *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013). Each additional
6 day of Ms. Gomez’s detention compounds the harm and prolongs the unlawful deprivation
7 of liberty. Detainees in ICE custody are held in “prison-like conditions.” *Preap v. Johnson*,
8 831 F.3d 1193, 1195 (9th Cir. 2016). Moreover, the Ninth Circuit has recognized “the
9 irreparable harms imposed on anyone subject to immigration detention” including “subpar
10 medical and psychiatric care in ICE detention facilities [and] the economic burdens
11 imposed on detainees and their families as a result of detention.” *Hernandez*, 872 F.3d at
12 995. Detention also prevents Ms. Gomez from working to sustain herself and her family
13 and earn savings for her future. This type of “potential economic hardship” supports a
14 finding of irreparable harm. *Leiva-Perez*, 640 F.3d at 969–70. Furthermore, as the
15 Supreme Court has explained, “[t]he time spent in jail awaiting trial has a detrimental
16 impact on the individual. It often means loss of a job; it disrupts family life; and it enforces
17 idleness.” *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972).

23 **III. The Balance of Equities and Public Interest Favor Ms. Gomez.**

24 The final two factors for a preliminary injunction—the balance of hardships and
25 public interest—“merge when the Government is the opposing party.” *Nken v. Holder*,
26 556 U.S. 418, 435 (2009). Here, Ms. Gomez faces weighty hardships, including the loss
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1 of her liberty, separation from her children, and deprivation of her right to earn a living.
2 Conversely, the government can make no comparable claim to harm from an injunction.
3 *See E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 678-79 (9th Cir. 2021) (public
4 interest factor weighs “sharply” against unlawful agency or executive action). The
5 Government has no legitimate interest in detaining Ms. Gomez without due process, or
6 detaining her indefinitely when no possibility of removal is reasonably foreseeable.
7 *Zadvydas*, 533 U.S. at 690. Indeed, the government cannot suffer harm from an injunction
8 that prevents it from engaging in an unlawful practice. *See Zepeda v. I.N.S.*, 753 F.2d 719,
9 727 (9th Cir. 1983) (“[T]he INS cannot reasonably assert that it is harmed in any legally
10 cognizable sense by being enjoined from constitutional violations.”). Therefore, the
11 government is not harmed by an injunction ordering it to comply with the Constitution.
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15 An injunction is in the public interest because “it would not be equitable or in the
16 public’s interest to allow [a party] . . . to violate the requirements of federal law, especially
17 when there are no adequate remedies available.” *Ariz. Dream Act Coal. v. Brewer*, 757
18 F.3d 1053, 1069 (9th Cir. 2014) (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006,
19 1029 (9th Cir. 2013)). If an injunction is not entered, the government would effectively be
20 granted permission to detain Ms. Gomez without due process. “The public interest and the
21 balance of the equities favor ‘prevent[ing] the violation of a party’s constitutional rights.’”
22 *Ariz. Dream Act Coal.*, 757 F.3d at 1069 (quoting *Melendres*, 695 F.3d at 1002); *see also*
23 *Hernandez*, 872 F.3d at 996 (“The public interest benefits from an injunction that ensures
24 that individuals are not deprived of their liberty and held in immigration detention because
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1 of bonds established by a likely unconstitutional process”); *cf. Preminger v. Principi*, 422
2 F.3d 815, 826 (9th Cir. 2005) (“Generally, public interest concerns are implicated when a
3 constitutional right has been violated, because all citizens have a stake in upholding the
4 Constitution.”). Therefore, the public interest overwhelmingly favors entering a temporary
5 restraining order and preliminary injunction.
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7 **IV. Immediate release is warranted.**

8 As in the numerous cases cited above, such as *Ramirez Tesara*, *Phetsadakone*, and
9 *E.A. T.-B.*, this Court should order Ms. Gomez’s immediate release. “[A] post-deprivation
10 hearing cannot serve as an adequate procedural safeguard because it is after the fact and
11 cannot prevent an erroneous deprivation of liberty.” *E.A. T.-B.*, 2025 WL 2402130, at *6.
12 In other words, Ms. Gomez’s unlawful detention without a pre-deprivation hearing is
13 *already* occurring, and only immediate release remedies that issue.
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16 Moreover, as the court explained in *Ramirez Tesara*, Ms. Gomez’s “immediate
17 release is necessary to restore the status quo ante litem. This ‘refers not simply to any
18 situation before the filing of a lawsuit, but instead to the last uncontested status which
19 preceded the pending controversy.’” *Ramirez Teresa*, 2025 WL 2637663, at *5 (quoting
20 *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); *see also*
21 *Phetsadakone*, 2025 WL 2579569, at *5 (“The last uncontested status here was
22 *Phetsadakone*’s release on supervision, which he maintained without incident for decades.
23 The Government’s July 2025 re-detention—allegedly without following required
24 procedures—created the current controversy. Restoring *Phetsadakone* to his prior
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1 supervised release status maintains the status quo ante litem and prevents irreparable harm
2 while allowing full adjudication of his claims for injunctive relief and on the merits.”). As
3 in those cases, here the pending controversy stems from Petitioner’s re-detention on
4 September 3, 2025, when Ms. Gomez was arrested at an ICE check-in.
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6 In similarly situated cases, Respondents have asserted that granting immediate
7 release via a TRO inappropriately grants “ultimate relief.” Not only is this incorrect
8 because Ms. Gomez seeks only to restore the status quo, but this principle is also at odds
9 with Supreme Court and Ninth Circuit precedent. In fact, the Supreme Court long ago
10 explained that for temporary relief to be proper, it *should* be akin in nature to the final
11 relief sought: “[a] preliminary injunction is always appropriate to grant intermediate relief
12 of the same character as that which may be granted finally.” *De Beers Consol. Mines v.*
13 *United States*, 325 U.S. 212, 220 (1945). This principle remains the law. *Pac. Radiation*
14 *Oncology, LLC v. Queen’s Med. Ctr.*, 810 F.3d 631, 636 (9th Cir. 2015) (“A preliminary
15 injunction is appropriate when it grants relief of the same nature as that to be finally
16 granted.”).
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20 Moreover, the principles that govern this case are now well-established. In the past
21 several months, courts across the country have repeatedly affirmed that it is unlawful for
22 Respondents to re-detain persons like Ms. Gomez without first providing a hearing where
23 the detained person can demonstrate that they present a flight risk or a danger to the
24 community if not taken back into custody.
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1 Accordingly, Petitioner respectfully seeks a TRO requiring his immediate release.
2 The Court should then direct Respondents to respond to an order to show cause with any
3 arguments or additional information they believe is necessary so that this Court can issue
4 the writ of habeas corpus securing Ms. Gomez's continued right to liberty and a final
5 judgment providing that Ms. Gomez may only be re-detained if ICE justifies re-detention
6 by clear and convincing evidence at a pre-deprivation hearing where ICE is required to
7 demonstrate Ms. Gomez violated her conditions of release and is a flight risk or danger to
8 the community. *See, e.g., Pinchi*, 2025 WL 2084921, at *7; *Maklad* 2025 WL 2299376,
9 at *10; *Garcia*, 2025 WL 2420068, at *13.

12 **CONCLUSION**

13
14 The Court should grant Ms. Gomez's motion for injunctive relief.

15 Dated: October 17, 2025

Respectfully submitted,

16
17 /s/ James D. Jenkins

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