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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Lizbeth Morelis Ibanez Daza,

Petitioner,

v.

SERGIO ALBARRAN, Field Office Director of the San Francisco Immigration and Customs Enforcement Office; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the United States Department of Homeland Security, PAMELA BONDI, Attorney General of the United States, acting in their official capacities,

Respondents.

Case No. 3:25-cv-10214

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PETITIONER'S EX PARTE
MOTION FOR TEMPORARY
RESTRANING ORDER

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INTRODUCTION

Petitioner Lizbeth Morelis Ibanez Daza is a asylum seeker from Colombia. She entered the United States in 2024 to seek asylum. She was released by immigration officials into the United States on an Order of Recognizance to wait for her immigration court date.

On November 25, 2025, Petitioner went to the ICE facility in 630 Sansome in San Francisco for a check-in appointment, as ICE instructed her to do. ICE detained her at that check-in without warning, and Petitioner is now in ICE custody. There is no reason to believe Petitioner, who was arrested at an ICE check-in and has no criminal record, is a flight risk or danger.

The *only* legitimate interests that civil immigration detention serves are mitigating flight risk and preventing danger to the community. When those interests are absent, the Fifth Amendment's Due Process Clause squarely prohibits detention.

As a result of her arrest and detention, Petitioner is suffering irreparable and ongoing harm. The unconstitutional deprivation of “physical liberty” “unquestionably constitutes irreparable injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed, “[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).

In light of this irreparable harm, and because she is likely to succeed on the merits of his due process claims, Petitioner respectfully requests that this Court issue a temporary restraining order (“TRO”) immediately releasing from her custody and enjoining the government from re-arresting her absent the opportunity to contest that arrest at a hearing before a neutral decision maker.

Confronted with substantially identical facts and legal issues, courts in this circuit have repeatedly granted the preliminary relief Petitioner seeks – including in the ICE check-in context. *See, e.g., Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 U.S. Dist. LEXIS 223941 (N.D. Cal. Nov. 13, 2025); *Vilela v. Robbins*, No. 1:25-cv-01393-KES-HBK, 2025 U.S. Dist. LEXIS 219172, at *20 (E.D. Cal., Nov. 6, 2025); *J.A.E.M. v. Wofford*, No. 1:25-cv-01380-KES-

1 HBK, 2025 U.S. Dist. LEXIS 211728, at *21 (E.D. Cal., Oct. 27, 2025); *J.C.L.A. v. Wofford*,
 2 No. 1:25-cv-01310-KES-EPG, 2025 U.S. Dist. LEXIS 205300, at *20-21 (E.D. Cal., Oct. 17,
 3 2025); *J.O.L.R. v. Wofford*, No. 1:25-cv-01241-KES-SKO, 2025 U.S. Dist. LEXIS 202706, at
 4 *15-16 (E.D. Cal., Oct. 14, 2025); *E.A.T.-B. v. Wamsley*, No. C25-1192-KKE, 2025 WL
 5 2402130, at *17 (W.D. Wash. Aug. 19, 2025); *F.M.V. v. Wofford*, No. 1:25-cv-01381-KES-SAB,
 6 2025 U.S. Dist. LEXIS 217645, at *17 (E.D. Cal., July 17, 2025); *M.R.R. v. Chestnut*,
 7 1:25-cv-01517-JLT-SKO (E.D. Cal. Nov. 24, 2025); *see also Garro Pinchi v. Noem*, 2025 WL 1853763,
 8 *4 (N.D. Cal. July 4, 2025), converted to preliminary injunction at ___ F. Supp. 3d ___, 2025 WL
 9 2084921 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal. July
 10 11, 2025) (granting preliminary injunction). To maintain this Court’s jurisdiction, the Court
 11 should also prohibit the government from transferring Petitioner out of this District and
 12 removing her from the country until these proceedings have concluded.

13 BACKGROUND

14 Petitioner is an asylum seeker from Colombia. Petitioner was briefly detained by federal
 15 agents after entering the United States around November 2024. Petitioners’ Habeas Petition
 16 (“Pet.”) ¶¶ 1-2. Determining that she was not a flight risk or a danger to the community, the
 17 agents released Petitioner on her own recognizance with a notice to appear for removal
 18 proceedings in immigration court. *Id.* ¶ 2.

19 Petitioner applied for asylum, withholding removal, and relief under the Convention
 20 Against Torture. *Id.* ¶ 49. Petitioner also diligently complied with ICE release requirements, such
 21 as using SmartLINK regularly and never missing a check-in. *Declaration of Brandon Vesely* ¶ 3;
 22 *Declaration of Marissa Rosenberg-Carlson* ¶ 3.

23 There is no legitimate reason for ICE to detain Petitioner. Petitioner suffers serious and
 24 ongoing harm every day she remains in detention.

25 ARGUMENT

26 To warrant a TRO, a movant must show (1) they are “likely to succeed on the merits,”
 27 (2) they are “likely to suffer irreparable harm in the absence of preliminary relief,” (3) “the
 28

1 balance of equities tips in [their] favor,” and that (4) “an injunction is in the public interest.” *All.*
 2 *for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat.*
 3 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)); *see Stuhlbarg Int'l Sales Co. v. John D. Brush &*

4 *Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the analysis for issuing a temporary
 5 restraining order and a preliminary injunction is substantially the same). Even if the movant
 6 raises only “serious questions” as to the merits of their claims, the court can grant relief if the
 7 balance of hardships tips “sharply” in their favor. *All. for the Wild Rockies*, 632 F.3d at 1135.
 8 All factors here weigh decisively in Petitioner’s favor.

9 **I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.**

10 **A. Petitioner’s detention violates due process.**

11 The Due Process Clause applies to “all ‘persons’ within the United States, including
 12 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.”
 13 *Zadvydas*, 533 U.S. at 693. “The touchstone of due process is protection of the individual against
 14 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the
 15 exercise of power without any reasonable justification in the service of a legitimate government
 16 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). “Freedom from
 17 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
 18 the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690.

19 To comply with substantive due process, the government’s deprivation of an individual’s
 20 liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is
 21 “civil, not criminal,” and “nonpunitive in purpose and effect,” must be justified by either
 22 (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d at 994
 23 (“[T]he government has no legitimate interest in detaining individuals who have been determined
 24 not to be a danger to the community and whose appearance at future immigration proceedings can
 25 be reasonably ensured by a lesser bond or alternative conditions.”). When these rationales are
 26 absent, immigration detention serves no legitimate government purpose and becomes
 27 impermissibly punitive, violating a person’s substantive due process rights. *See Jackson v.*
 28

1 *Indiana*, 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the
 2 government’s interests in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-
 3 CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after
 4 finding petitioner may “succeed on his Fifth Amendment claim if he demonstrates *either* that the
 5 government acted with a punitive purpose *or* that it lacks any legitimate reason to detain him”).

6 The Supreme Court has recognized that noncitizens may bring as-applied challenges to
 7 detention, including so-called “mandatory” detention. *Demore v. Kim*, 538 U.S. 510, 532-33
 8 (2003) (Kennedy, J., concurring) (“Were there to be an unreasonable delay by the INS in
 9 pursuing and completing deportation proceedings, it could become necessary then to inquire
 10 whether the detention is not to facilitate deportation, or to protect against risk of flight or
 11 dangerousness, but to incarcerate for other reasons.”); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019)
 12 (“Our decision today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—
 13 that is, constitutional challenges to applications of the statute as we have now read it.”).

14 When Respondents chose to release Petitioner from custody, that decision represented
 15 their finding that she was neither dangerous nor a flight risk. *See Saravia v. Sessions*, 280 F.
 16 Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d
 17 1137 (9th Cir. 2018) (“Release reflects a determination by the government that the noncitizen is
 18 not a danger to the community or a flight risk.”). At that point, she gained a protected liberty
 19 interest in her ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. The Supreme
 20 Court “usually has held that the Constitution requires some kind of a hearing *before* the State
 21 deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so
 22 even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d 671,
 23 683 (D.C. Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that re-
 24 detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v.*
 25 *Scarpelli*, 411 U.S. 778, 782 (1973) (holding the same, in probation context); *Morrissey v.*
 26 *Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context).

27 Accordingly, the Supreme Court has repeatedly held that individuals released from
 28 custody on bond, parole, or other forms of conditional release have a protected interest in their

1 ongoing liberty, because “[t]he parolee has relied on at least an implicit promise that parole will
 2 be revoked only if he fails to live up to the parole conditions.” *Morrissey*, 408 U.S. at 482. “By
 3 whatever name, the[ir] liberty is valuable and must be seen within the protection of the [Due
 4 Process Clause].” *Id.* This liberty interest also applies to noncitizens, including those who have
 5 been conditionally released from immigration custody. *See Ortega v. Bonnar*, 415 F. Supp. 3d
 6 963, 970 (N.D. Cal. 2019).

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

15 *First*, the private interest affected in this case is profound. When considering this factor,
 16 courts look to “the degree of potential deprivation.” *Nozzi v. Hous. Auth. of City of Los Angeles*,
 17 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). The degree of
 18 deprivation here is high. Petitioner has been completely deprived of her physical liberty.
 19 Petitioner’s detention has ripped from her the “free[dom] to be with family and friends and to
 20 form the . . . enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482. Cutting someone
 21 off from the “core values of unqualified liberty”—for Petitioner creates a “grievous loss.” *Id.*
 22 Moreover, because Petitioner faces *civil detention*, “h[er] liberty interest is arguably greater than
 23 the interest of the parolees in *Morrissey*.” *See Ortega*, 415 F. Supp. 3d at 970. As someone in
 24 civil detention, therefore, “it stands to reason that [Petitioner] is entitled to protections at least as
 25 great as those afforded to a[n] . . . individual . . . accused but not convicted of a crime.” *See*
 26 *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004).

27 *Second*, “the risk of an erroneous deprivation [of liberty] is high” where, as here, “[the
 28 petitioner] has not received any bond or custody redetermination hearing.” *A.E. v. Andrews*, No.

1 1:25-cv-00107, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*,
 2 No. 19-cv-07996-NC, 2020 WL 510347, at *3 (N.D. Cal. Jan. 30, 2020)); *see also Diep v.*
 3 *Wofford*, No. 1:24-cv-01238, 2025 WL 6047444, at *5 (E.D. Cal. Feb. 25, 2025). ICE arrested
 4 Petitioner by surprise as she appeared for her check-in appointment, detaining her with no notice
 5 and no opportunity to contest her re-detention before a neutral arbiter. In such circumstances,
 6 when Respondents have provided *no* procedural safeguards, “the probable value of additional
 7 procedural safeguards, i.e., a bond hearing, is high.” *A.E.*, 2025 WL 1424382, at *5. This is
 8 especially true here, where there is no change in Petitioner’s circumstances suggesting that
 9 Petitioner now poses a flight risk or danger to the community. This does not constitute a lawful
 10 justification to re-detain a person.

11 Because the private interest in freedom from immigration detention is substantial, due
 12 process also requires that in cases like this one, the government bears the burden of proving “by
 13 clear and convincing evidence that the [noncitizen] is a flight risk or danger to the community.”
 14 *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); *see Martinez v. Clark*, 124 F.4th 775,
 15 785-86 (9th Cir. 2024) (holding that government properly bore burden by clear and convincing
 16 evidence in court-ordered bond hearing); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025
 17 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025) (ordering pre-deprivation bond hearing in which
 18 government bears burden by clear and convincing evidence).

19 *Third*, the government’s interest in detaining Petitioner without first providing notice
 20 and submitting to a custody hearing is minimal. Immigration courts routinely conduct custody
 21 hearings, which impose a “minimal” cost to the government. *See Doe*, 2025 WL 691664, at *6;
 22 *A.E.*, 2025 WL 1424382, at *5. Petitioner has a strong record of attending her immigration
 23 proceedings; there is no reason to believe that between the date of her release and her custody
 24 hearing, her compliance will change. Indeed, courts regularly hold that the government’s
 25 interest in re-detention without a custody hearing is low when the petitioner “has long complied
 26 with his reporting requirements.” *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3-
 27 *4 (N.D. Cal. June 14, 2025) (granting TRO prohibiting re-detention of noncitizen without a
 28 pre-deprivation bond hearing); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL

1 783561, at *3-*4 (N.D. Cal. Mar. 1, 2021) (same); *Ortega*, 415 F. Supp. 3d at 970 (granting
 2 habeas petition ordering the same); *see also Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025
 3 WL 1707737, at *4-*5 (S.D.N.Y. June 18, 2025) (granting habeas petition and immediately
 4 releasing petitioner who had been detained without process, who had “voluntarily attended his
 5 scheduled immigration court proceedings” and “established ties” through his work and
 6 volunteering with the church).

7 In similar cases, courts in this Circuit regularly hold that re-detaining noncitizens
 8 without a pre-deprivation hearing in which the government bears the burden of proof violates
 9 due process, and grant the emergency relief Petitioner seeks here. *See, e.g. Garro Pinchi v.*
 10 *Noem*, __ F. Supp. 3d __, 2025 WL 2084921, at *7 (converting TRO requiring release of
 11 asylum seeker arrested at her immigration court hearing into preliminary injunction prohibiting
 12 the government from re-detaining her without a hearing). This includes cases where petitioners
 13 were arrested at ICE check-ins. *See, e.g., C.A.R.V. v. Wofford*, No. 1:25-CV-01395 JLT
 14 SKO2025 U.S. Dist. LEXIS 216277, at *27 (E.D. Cal., Nov. 1, 2025).

15 In short, Respondents violated Petitioner’s due process rights when they detained her
 16 without notice and without a custody hearing before a neutral arbiter. Here, only an order
 17 releasing Petitioner and enjoining re-detention—unless Respondents provide Petitioner with a
 18 custody hearing where the government bears the burden of proof—would return the parties to
 19 the “last uncontested status which preceded the pending controversy.” *Doe v. Noem*, __ F. Supp.
 20 3d __, 2025 WL 1141279, at *9 (W.D. Wash. Apr. 17, 2025) (quoting *GoTo.com, Inc. v. Walt*
 21 *Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); *see also Valdez*, 2025 WL 1707737, at *4-*5
 22 (ordering petitioner’s immediate release as remedy for procedural due process violation).

23
 24 **B. Petitioner is not subject to mandatory detention under 8 USC § 1225(b)(2).**

25 To the extent that Respondents argue Petitioner is subject to mandatory detention under 8
 26 USC § 1225(b)(2), due process prevents the unilateral reclassification of her detention authority
 27 years after she was released at the border. For decades, when immigration authorities arrested and
 28

1 released people on an Order of Recognizance at the border, those people were subject to
 2 discretionary detention under 8 USC § 1226(a). In the last few months, however, Respondents
 3 have reversed course and now take the dramatic and implausible new position that these
 4 individuals are subject to mandatory detention under 8 USC § 1226(b). *Matter of Yajure Hurtado*,
 5 29 I&N Dec. 216, 220 (B.I.A. 2025). District courts in recent months have thoroughly rejected
 6 the government's new position. *See, e.g., Salcedo Aceros v. Kaiser*, No. 3:25-cv-06924-EMC
 7 (N.D. Cal Sept. 21, 2025) at *13-21; *Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO, 2025 U.S.
 8 Dist. LEXIS 187233, at *n.5 (E.D. Cal., Sept. 23, 2025) (finding *Matter of Yajure Hurtado*
 9 unpersuasive); *Cuevas Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO at *6-9 (E.D. Cal.
 10 Sep. 9, 2025); *Vasquez Garcia et al. v. Noem*, 2025 WL 2549431 at *10-13 (S.D. Cal. Sept. 3,
 11 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at *4 (N.D. Cal.
 12 Aug. 21, 2025); *Garcia v. Kaiser*, No. 4:25-cv-06916-YGR at *9 (N.D. Cal. Aug. 29, 2025);
 13 *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588, at *11-12 (S.D.N.Y. Aug. 13,
 14 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 LX 341363, at *15 (E.D. Cal.
 15 July 28, 2025); *Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *4 (D. Mass. July 24,
 16 2025). Respondents cannot switch tracks mid litigation and suddenly reclassify Petitioner under a
 17 different detention authority. *See Salcedo Aceros v. Kaiser*, No. 3:25-cv-06924-EMC (N.D. Cal
 18 Sept. 21, 2025).

21 * * * * *

23 For the foregoing reasons, Petitioner is likely to succeed on the merits of her claims. But
 24 even if the Court disagrees, she presents at least “serious question[s] going to the merits,”
 25 alongside a “balance of hardships” tipping decidedly in their favor. *All. for the Wild Rockies*,
 26 632 F.3d at 1135. Indeed, the constitutional concerns delineated above are of the weightiest
 27 order and beyond colorable. This Court should therefore enter the requested TRO.

1 **II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE**
 2 **INJURY ABSENT A TRO.**

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

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

18 When the government is the party opposing the request for emergency relief, the balance
 19 of the equities and the public interest merge. *Env’t Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991
 20 (9th Cir. 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)). Here, the balance
 21 of equities overwhelmingly favors Petitioner, who faces irreparable injury in the form of
 22 ongoing constitutional violations and continued additional suffering if the TRO is not granted.
 23 *See* Section II, *supra*; *Hernandez*, 872 F.3d at 996 (when “[f]aced with … preventable human
 24 suffering, … the balance of hardships tips decidedly in plaintiffs’ favor”) (internal citation
 25 omitted).

26 The public interest likewise weighs strongly in Petitioner’s favor. As another California
 27 district court recently concluded, “[t]he public has a strong interest in upholding procedural
 28 protections against unlawful detention, and the Ninth Circuit has recognized that the costs to the

1 public of immigration detention are staggering.” *Diaz*, 2025 WL 1676854, at *3 (citing *Jorge*
 2 *M. F.*, 2021 WL 783561, at *3). More fundamentally, “[i]t is always in the public interest to
 3 prevent the violation of a party’s constitutional rights.” *Index Newspapers LLC v. U.S. Marshals*
 4 *Serv.*, 977 F.3d 817, 838 (9th Cir. 2020) (citing *Padilla v. Immigr. & Customs Enf’t*, 953 F.3d
 5 1134, 1147-48 (9th Cir. 2020) (internal quotation marks omitted)).

6 SECURITY

7 No security is necessary here. Courts “may dispense with the filing of a bond when,” as
 8 here, “there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.”
 9 *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003). It is also proper to waive the bond
 10 requirement in cases raising constitutional claims, because “to require a bond would have a
 11 negative impact on plaintiff’s constitutional rights, as well as the constitutional rights of other
 12 members of the public.” *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 738 (C.D.
 13 Cal. 1996). Finally, Plaintiff’s showing of a high likelihood of success on the merits supports the
 14 court’s waiving of bond in this case. *See, e.g., People of State of Cal. ex rel. Van De Kamp v.*
 15 *Tahoe Reg’l Plan. Agency*, 766 F.2d 1319, 1326 (9th Cir.), amended, 775 F.2d 998 (9th Cir.
 16 1985).

17 CONCLUSION

18 For the foregoing reasons, Petitioner respectfully requests the Court grant a TRO to
 19 restore the *status quo ante* that (1) immediately releases her from Respondents’ custody and
 20 enjoins Respondents from re-detaining her absent further order of this Court; (2) in the
 21 alternative, immediately releases her from Respondents’ custody and enjoins Respondents from
 22 re-detaining her unless they demonstrate at a pre-deprivation bond hearing, by clear and
 23 convincing evidence, that Petitioner is a flight risk or danger to the community such that her
 24 physical custody is required; and (3) prohibits the government from transferring her out of this
 25 District and/or removing her from the country until these habeas proceedings have concluded.
 26

27 Respectfully submitted,

28 Date: November 25, 2025

/s/ Marissa Rosenberg-Carlson

1 Marissa Rosenberg-Carlson
2 *Attorney for Petitioner*
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