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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **FRESNO DIVISION**

11
12 **NARCISA DE JESUS YUGLA ALOMALIZA**

13
14 *Petitioner,*

15 v.

16 Timothy S. ROBBINS, Field Office Director of the
17 Los Angeles Field Office of U.S. Immigration and
Customs enforcement; Todd M. LYONS, Acting
18 Director of U.S. Immigration and Customs
Enforcement; U.S. DEPARTMENT OF HOMELAND
19 SECURITY, Kristi NOEM, Secretary of the U.S.
20 Department of Homeland Security, Christopher
CHESTNUT, Warden, California City Corrections
21 Center, and Pamela BONDI, Attorney General of the
22 United States

23 *Respondents,*
24

Case No. 25-1215

**MOTION FOR TEMPORARY
RESTRAINING ORDER**

Note on Motion Calendar:

ORAL ARGUMENT REQUESTED

1 INTRODUCTION

2 Petitioner Narcisa De Jesus Yugla Alomaliza (“Petitioner”) is an Equatorian citizen detained by
3 Immigration and Customs Enforcement (ICE) at the California City Corrections Center, in California
4 City, California. Petitioner entered the United States in or around March 29, 2024, and she was
5 subsequently released on parole on March 30, 2024. For the next one year and eight months, Petitioner
6 complied with what was asked of her: She adhered to all the conditions of her release, including
7 telephonic and check-ins as part of the Intensive Supervision Appearance Program (ISAP) and in person
8 visits at the ICE’s field office. Nevertheless, on November 1, 2025, she was arrested at the front door of
9 her home in the city of San Mateo, without any notice or opportunity to respond to any allegation
10 purportedly justifying her re-detention. She remains in detention at California City Corrections Center,
11 separated from her immediate family and friends.

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

18 By denying her any notice and hearing, Respondents violated Petitioner’s right to due process. As a
19 number of Federal District courts recently held, her ongoing detention is therefore unlawful, and her
20 immediate release is required. (See e.g., *E.A. T.-B. v. Wamsley*, No. 25-cv-1192-KKE, --- F. Supp. 3d ---
21 , 2025 WL 2402130, at *6 (W.D. Wash. Aug. 19, 2025) (ordering immediate release because “a post-
22 deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and
23 cannot prevent an erroneous deprivation of liberty”). Accordingly, Petitioner respectfully seeks
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1 immediate relief from this Court to vindicate her right to liberty under the Fifth Amendment's Due
2 Process Clause.¹

3 **STATEMENT OF FACTS**

4 Petitioner Narcisa de Jesus Yugla Alomaliza ("Petitioner") is an asylum seeker who fled Equator
5 along with her spouse and minor child due to [REDACTED]
6 [REDACTED] (Dec. of Edwin Vladimir Cordova Morejon, ¶1.)

7 After Petitioner and her family arrived in the United States on March 29, 2024, federal agents detained
8 them. At the time of her detention, Petitioner was provided with a document known as "Warrant for
9 Arrest of Alien," which provided she was being taken into custody as authorized by Section 236 of the
10 Immigration and Nationality Act. (Id.)

11 Petitioner and her family were released on March 30, 2024, after a determination she was a low
12 flight risk and was not a danger to the community. (Id., ¶2.) Petitioner was provided with a Notices of
13 Custody Determination on March 29, 2024, which stated Petitioner was being released on her own
14 recognizance pursuant to section 236 of the Immigration and Nationality Act. (Id.) Petitioner was also
15 served with a Notice of Appear, indicating she was to appear for a Master Calendar Hearing with the
16 New York Immigration Court on April 30, 2025. (Id.) Petitioner was also provided with two Orders of
17 Release on Recognizance. The first Order of Release on Recognizance was dated March 29, 2024, and
18 the second Order of Release on Recognizance was dated March 30, 2024². Both orders informed
19 Petitioner that as a condition of her release, she was instructed to make an initial in person appearance at
20 the ICE Field office in New York on May 27, 2024 and on May 1, 2024 respectively. Both orders also
21 stated Petitioner was being released pursuant to Section 236 of the Immigration and Nationality Act.
22 (Id.) At the time of her release from custody, ICE officers placed an ankle monitor on Petitioner. (Id.)

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26 ¹ Together with the filing of the habeas petition and motion, counsel certifies that they are providing concurrent notice
27 regarding this filing to the U.S. Attorney's Office for the Central District of California via email at
28 USACAE.ECF2241@usdoj.gov.

² Petitioner is unaware as for why DHS provided her with two different Orders of release on Recognizance.

1 Following her release from detention on March 30, 2024, Petitioner and her family relocated to the
2 City of San Mateo, in California on April 2, 2024. (Id., ¶3.) On April 13, 2024, Petitioner notified
3 DHS/ICE about their new address. (Id.) She was instructed to appear in person as the ICE San
4 Francisco Field Office on May 20, 2024. (Id.) As per the instructions provided by ICE, Petitioner
5 appeared for her initial in person check-in at the ICE San Francisco field office. (Id.) After
6 interviewing Petitioner, ICE agents removed her ankle monitor and instructed Petitioner to return to the
7 ICE San Francisco Field Office again for a in-person check-in on May 22, 2025. (Id.) Petitioner was
8 also provided with a cell phone, which containing a monitoring app. Petitioner was instructed to take
9 selfie-pictures on a monthly basis. (Id.)

10 In or around May 22, 2024, Petitioner filed a Motion to Change Venue with the Immigration Court.
11 (Id., ¶4.) The Immigration Court granted the Motion to Change Venue and a Master Calendar Hearing
12 was scheduled for Petitioner and her family with the San Francisco Immigration Court for March 13,
13 2026. (Id.)

14 Per the ICE officer instructions, following her in-person visit to ICE on May 20, 2024, Petitioner
15 started taking selfie pictures on a monthly basis. (Id., ¶5.) Until the date of her arrest on November 1,
16 2025, she only missed taking a selfie-picture on two occasions. The first occasion was in or around
17 August 2024, when Petitioner missed taking a selfie-picture because she forgot to charge her cellphone.
18 (Id.) However, on the following day, Petitioner sent a picture after she noticed that her cell phone
19 battery had died and she proceeded with recharging her cell phone. (Id.) When Petitioner returned to
20 the ICE San Francisco Field Office on May 22, 2025, the ICE officer mentioned she had missed taking a
21 selfie picture on August 2024. (Id.) After Petitioner explained the circumstances which led her to only
22 take the picture the next day, the ICE Officer told her that she did not need to worry about the incident.
23 (Id.) In regards to the second occasion where Petitioner missed taking a selfie-picture, the circumstances
24 were exactly the same as the incident of August 2024. Petitioner took a picture on the next day. (Id.)

25 In preparation for her removal proceedings, Petitioner and her family started working on their case.
26 Petitioner and her spouse retained an office to prepare an asylum application to be filed with the San
27 Francisco Immigration office. (Id., ¶6.) The same was submitted to the San Francisco Immigration
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1 Court by mail on March 17, 2024 by the legal services provider, and Petitioner was named as a
2 beneficiary in the application. (Id.) At the time of the submission of the application with the
3 immigration court, Petitioner and her spouse believed they had retained the services of an attorney, but
4 they later discovered that the individual who prepared the asylum application was a paralegal. (Id.) In
5 addition, without Petitioner's knowledge, the filing was rejected due to the fact that a proof of service
6 was missing. The same was subsequently re-filed in court on December 2, 2025 by Petitioner's spouse,
7 once he became aware that the submission had been rejected. (Id.)

8 To the best of her knowledge, Petitioner complied with all ISAP requirements during the eighteen
9 months following her May 20, 2024 visit to ICE. (Id., ¶7.) These requirements included phone and
10 picture check-ins through the ISAP mobile phone application (ISAP app). (Id.) With exception of the
11 incidents of August 2024 and October 2025, Petitioner submitted a photo via the app every time she was
12 instructed via text to do so. (Id.) In addition, Petitioner appeared at the ICE Field Office in San
13 Francisco on every date indicated in her Form I-220A. (Id.)

14 Since her entry into the United States on March 29, 2024, Petitioner had been living a productive
15 life. (Id., ¶8.) Until the time of her arrest, Petitioner had been working as a house cleaner, which
16 allowed her to provide for her family. (Id.) Petitioner was happy about the fact her minor daughter was
17 thriving as a student at San Mateo High School. (Id.) Petitioner also attended religious services with
18 her spouse at St. Timothy Catholic Church, in the city of San Mateo, where she was able to make
19 numerous friends. (Id.)

20 On November 1, 2025, Petitioner was at her home with her minor daughter when Immigration
21 and Custom Enforcement ("ICE") agents knocked at her front door. (Id., ¶9.) When Petitioner opened
22 the door, she was promptly detained by the ICE agents, who told Petitioner they had a warrant for her
23 arrest and that she was being detained because she had missed sending them a selfie-picture. (Id.)
24 Petitioner tried to explain that although she had missed taking pictures on two occasions, she had taken a
25 picture on the next day. (Id.) However, the ICE officers disregarded Petitioner and proceeded with
26 taking her away. (Id.) All this occurred in the presence of Petitioner's daughter. (Id.) On the same day,
27 Petitioner was transferred to the California City Detention Center, in California City, California. (Id.)
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1 Due to Petitioner’s absence, her family is suffering. (Id., ¶10.) Petitioner’s daughter has been
2 suffering from depression-like symptoms. (Id.) In addition, Petitioner’s family also has been
3 experiencing financial difficulties now that Petitioner is detained. (Id.)

4 Petitioner filed a habeas petition in this court along with the present motion. By means of the
5 present motion, she now seeks immediate relief from her continued, unlawful detention.

6 ARGUMENT

7 Requirements for a temporary restraining order

8 On a motion for a TRO, the movant “must establish that he is likely to succeed on the merits, that he
9 is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in
10 his favor, and that an injunction is in the public interest.” (*Winter v. Nat. Res. Def. Council, Inc.*, 555
11 U.S. 7, 20 (2008); *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir.
12 2001) (noting that preliminary injunction and TRO standards are “substantially identical”).) A TRO
13 may issue where “serious questions going to the merits [are] raised and the balance of hardships tips
14 sharply in [plaintiff’s] favor.” (*All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011)
15 (citation modified).) To succeed under the “serious question” test, Petitioner must also show that he is
16 likely to suffer irreparable injury and that an injunction is in the public’s interest. (Id. at 1132.)

17 **Petitioner is likely to succeed on the merits of her argument that her detention is unlawful because** 18 **she was not afforded a pre-deprivation hearing**

19 Due process requires Respondents to afford Petitioner a hearing before a neutral decisionmaker
20 where ICE is required to justify re-detention *before* it occurs. In recent months, as DHS has detained
21 many similarly-situated noncitizens, several courts—including District Courts in California—have held
22 the same and ordered the immediate release of noncitizens who had been re-detained by DHS without a
23 pre-deprivation hearing. (*See, e.g., E.A. T.-B.*, 2025 WL 2402130; *Valdez v. Joyce*, No. 25 CIV. 4627
24 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-
25 deprivation hearing); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, --- F. Supp. 3d ---, 2025 WL 2084921
26 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL
27 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025
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1 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar.) In light of this, Petitioner is likely to succeed on her
2 claim and the Court should order her immediate release. If Respondents continue to assert that
3 Petitioner’s detention is justified after her release, they may thereafter schedule a hearing where they
4 bear the burden of presenting clear and convincing evidence that her re-detention is warranted.

5 In regards to cases involving an immigrant being re-detained, the U.S. District Court for the
6 Western District of Washington recently explained in *E.A. T.-B.*, the three-factor test established in
7 *Mathews v. Eldridge*, 424 U.S. 319 (1976) is the controlling framework for determining what process
8 Petitioner is due. *Mathews* requires the Court to evaluate (1) “the private interest that will be affected by
9 the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures
10 used, and the probable value, if any, of additional or substitute procedural safeguard” and (3) “the
11 Government’s interest, including the function involved and the fiscal and administrative burdens that the
12 additional or substitute procedural requirement would entail.” (424 U.S. at 335; *see also Jorge M.F. v.*
13 *Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021) (applying *Mathews* factors to assess right to pre-
14 deprivation hearing); *Morrissey v. Brewer*, 408 U.S. 471, 482–84 (1972) (assessing parolee’s liberty
15 interests and the state’s interests to assess what process is due a parolee). Here, those factors strongly
16 favor Petitioner.

17 **A. Petitioner Has a Weighty Private Interest.**

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

7 This principle applies with significant force given Petitioner’s initial release from detention on
8 parole. “The Supreme Court has repeatedly held that in at least some circumstances, a person who is in
9 fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that
10 entitles him to constitutional due process before he is re-incarcerated.” (*Hurd v. District of Columbia*,
11 864 F.3d 671, 683 (D.C. Cir. 2017).) As the *Hurd* court explains, this includes cases of “pre-parole
12 conditional supervision,” *id.* (citing *Young v. Harper*, 520 U.S. 143, 152 (1997)); “probation,” (*Id.*)
13 (citing *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)), and “parole,” (*Id.*) (citing *Morrissey*, 408 U.S. at
14 482.)

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

1 Critically, in recent months and years, courts have repeatedly applied these principles to hold that
2 noncitizens have a strong liberty interest in cases involving re-detention. A person re-detained after a
3 prior release from ICE custody is “undoubtedly deprive[d] . . . of an established interest in his liberty.”
4 (*E.A. T.-B.*, 2025 WL 2402130, at *3.) Other courts have reached the same conclusion. (*See, e.g.*,
5 *Garcia*, 2025 WL 2420068, at *10) (“[P]arole allowed [the petitioner] to build a life outside detention,
6 albeit under the terms of that parole. [Petitioner] has a substantial private interest in being out of custody
7 which would allow him to continue in these life activities, including supporting his family.”); (*Pinchi*,
8 2025 WL 2084921, at *4) (“[Petitioner] has a substantial private interest in remaining out of custody.
9 She has an interest in remaining in her home, continuing her employment, providing for her family,
10 obtaining necessary medical care, maintaining her relationships in the community, and continuing to
11 attend her church.”); (*Maklad*, 2025 WL 2299376, at *8 (similar).)

12 As in these cases, Petitioner has a strong interest in her liberty. Prior to her re-detention, Petitioner
13 resided in the city of San Mateo, in San Mateo County, California for one year and eight months, living
14 with her spouse and their teenager child. She also had a steady job as a housecleaner, which permitted
15 her to help support her family. Petitioner also had made friends through the church both her spouse and
16 her attended. Petitioner also had been complying with all her ISAP check-in requirements. (Edwin
17 Vladimir Cordova Morejon Decl. ¶¶ 1–9.). In addition, when Petitioner was released, she was informed
18 that her release was pursuant to Section 236. Petitioner also has substantial connections to this country,
19 and her spouse and teenager child are suffering in her absence. These facts show not only that
20 Petitioner’s freedom is at stake, but that her absence is negatively affecting the life of her fiancé and
21 child.

22 **B. The Risk of Erroneous Deprivation Is High.**

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

13 The importance of a hearing before a neutral decisionmaker principle remains even though
14 Petitioner might have initially been subject to mandatory detention under 8 U.S.C. § 1225(b)(1) or (b)(2)
15 when he was processed for expedited removal. (See *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019).)
16 This is because, as this Court explained in *E.A. T.-B.*, “Petitioner does not claim to be entitled to a
17 hearing consistent with a particular statute: he argues that the Due Process Clause requires it.” (2025
18 WL 2402130, at *4.) And due process requires such a hearing because “Petitioner’s circumstances have
19 changed materially” since her release on August 9, 2022. (*Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762,
20 777 (N.D. Cal. 2019).) As noted above, she has formed deep connections to this country, residing in
21 California, and working to support herself and her family. “These facts show that a[] [pre-deprivation]
22 hearing provide[s] additional safeguards under these circumstances.” (*Id.*; see also, e.g., *Jorge M.F.*, 534
23 F. Supp. 3d at 1055) (“In any pre-detention hearing, the IJ would be required to consider any additional
24 evidence from the eight-plus months since Petitioner was released.”); (*Garcia*, 2025 WL 2420068, at
25 *10 (“[P]arole allowed [Petitioner] to build a life outside detention.”).

1 **C. The Government's Interest Is Minimal.**

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

12 The government may claim that its interest in enforcing immigration laws weighs heavily in its
13 favor. But the government's interest in immigration enforcement "is not at stake here; instead, it is the
14 much lower interest in detaining [Petitioner] pending removal without a bond hearing." (*Perera*, 598 F.
15 Supp. 3d at 746.) Many other courts have observed the same. (See, e.g., *Zagal-Alcaraz v. ICE Field*
16 *Office*, No. 3:19-CV-01358-SB, 2020 WL 1862254, at *7 (D. Or. Mar. 25, 2020) ("The government
17 interest at stake here is not the continued detention of Petitioner, but the government's ability to detain
18 him without a bond hearing."), *report and recommendation adopted*, 2020 WL 1855189 (D. Or. Apr. 13,
19 2020). What is more, Petitioner has complied with the immigration laws: she was released on parole and
20 had been preparing to appear at her first Master Calendar Hearing, as the Immigration and Nationality
21 Act (INA) expressly permits. 8 U.S.C. § 1158. She also made all required check-ins with ICE. Any
22 claimed "enforcement" amounts to punishing and deterring people like Petitioner from asserting the
23 statutory rights that the INA expressly provides, rather than enforcing those laws.

24 In addition, the government's interest is not limited to enforcement of the law; instead, it also
25 encompasses the interest of the "public," including the administrative or financial burdens additional
26 process requires. (*Mathews*, 424 U.S. at 348.) Here, any cost in holding a hearing, should the
27 government choose to do so, is minimal. Moreover, any financial burden is outweighed by the costs of
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1 detaining Petitioner prior to such a hearing. The public’s “interest lies on the side of affording fair
2 procedures to all persons, even though the expenditure of governmental funds is required.” (*Lopez v.*
3 *Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983).) This consideration also “cuts strongly in favor” of
4 Petitioner because when “[w]hen the Government incarcerates individuals it cannot show to be a poor
5 bail risk for prolonged periods of time, as in this case, it separates families and removes from the
6 community breadwinners, caregivers, parents, siblings and employees.” (*Velasco Lopez v. Decker*, 978
7 F.3d 842, 855 (2d Cir. 2020).)

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

12 **Petitioner will suffer irreparable harm absent an injunction.**

13 Petitioner must also show she is “likely to suffer irreparable harm in the absence of preliminary
14 relief.” (*Winter*, 555 U.S. at 20.) Irreparable harm is the type of harm for which there is “no adequate
15 legal remedy, such as an award of damages.” *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068
16 (9th Cir. 2014).

17 Here, Petitioner’s unlawful detention constitutes “a loss of liberty that is . . . irreparable.” (*Moreno*
18 *Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff’d in part, vacated*
19 *in part on other grounds, remanded sub nom. Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir. 2022);
20 *cf. Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013) (irreparable harm is met where
21 “preliminary injunction is necessary to ensure that individuals . . . are not needlessly detained” because
22 they are neither a danger nor a flight risk).) This is particularly true here, where Petitioner’s detention
23 also violates the Constitution. “Civil immigration detention violates due process outside of certain
24 special and narrow nonpunitive circumstances.” (*Rodriguez v. Marin*, 909 F.3d 252, 257 (9th Cir. 2018)
25 (citation modified).) As detailed above, Petitioner’s detention is outside of those “special and narrow
26 nonpunitive circumstances,” as the Due Process Clause forbids her detention without a pre-deprivation
27 hearing. These constitutional concerns also counsel in favor of finding that Petitioner has demonstrated
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1 irreparable harm, for he has shown that his detention violates due process. (See *Baird v. Bonta*, 81 F.4th
2 1036, 1048 (9th Cir. 2023) (declaring that “in cases involving a constitutional claim, a likelihood of
3 success on the merits usually establishes irreparable harm”).)

4 Detention also inflicts substantial harm on Petitioner by separating her from her family. Absent a
5 TRO, Petitioner has no hope of being reunited with her family and community. Such “separation from
6 family members” is an important irreparable harm factor. (*Leiva-Perez v. Holder*, 640 F.3d 962, 969–70
7 (9th Cir. 2011) (per curiam) (citation omitted); see also, e.g., *Washington v. Trump*, 847 F.3d 1151,
8 1169 (9th Cir. 2017) (per curiam) (finding “separated families” to be a “substantial injur[y] and even
9 irreparable harm[]”); cf. *Hernandez*, 872 F.3d at 996 (recognizing that “government-compelled [family]
10 separation” causes family members “trauma” and “other burdens”).)

11 In sum, Petitioner is suffering numerous and irreparable harms: detention itself, separation from
12 family and friends. All of these factors warrant a TRO.

13 **The balance of hardships and public interest weigh heavily in Petitioner’s favor.**

14 The final two factors for a preliminary injunction—the balance of hardships and public interest—
15 “merge when the Government is the opposing party.” (*Nken v. Holder*, 556 U.S. 418, 435 (2009).) Here,
16 as previously discussed, Petitioner faces weighty hardships: loss of liberty and separation from family
17 and friends. The government, by contrast, faces no hardship, as all it must do is release a person it
18 previously released and who has since lawfully resided in Alameda County, California. Avoiding such
19 “preventable human suffering” strongly tips the balance in favor of Petitioner. (*Hernandez*, 872 F.3d at
20 996 (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983).)

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

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

4 **Immediate release is warranted.**

5 As in *E.A. T.-B.*, this Court should order Petitioner's immediate release. "[A] post-deprivation
6 hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent
7 an erroneous deprivation of liberty." (*E.A. T.-B.*, 2025 WL 2402130, at *6.) In other words, Petitioner's
8 unlawful detention without a pre-deprivation hearing is *already* occurring, and only immediate release
9 remedies that issue. Moreover, the evidence here demonstrates that Petitioner has made every effort to
10 follow the law: receiving parole, preparing for her removal proceedings by means of filing an asylum
11 application and changing venue, and complying with all ISAP and ICE requirements. As a result, the
12 Court should order her immediate release and provide that Petitioner may only be re-detained if ICE
13 justifies re- detention by clear and convincing evidence at a hearing where ICE is required to
14 demonstrate Petitioner is a flight risk or danger to the community. (See, e.g., *Pinchi*, 2025 WL
15 2084921, at *7; *Maklad* 2025 WL 2299376, at *10; *Garcia*, 2025 WL 2420068, at *13.)

16 **CONCLUSION**

17 For the foregoing reasons, Petitioner respectfully requests the Court grant her motion for a
18 temporary restraining order and order her immediate release.

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20 Respectfully submitted,

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22 DATE: 12/04/2025

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WORD COUNT CERTIFICATION

I certify that this memorandum contains 5,019 words, in compliance with the Local Civil Rules.

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