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Attorneys for *Petitioner* Ana Gisela Valle Garcia

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

Ana Gisela Valle Garcia,

Petitioner,

v.

Christopher CHESTNUT, Warden,
California City Correctional Facility;

Todd M. LYONS, Acting Director,
Immigration and Customs Enforcement, U.S.
Department of Homeland Security;

Kristi NOEM, in her Official Capacity,
Secretary, U.S. Department of Homeland
Security; and

Pam BONDI, in her Official Capacity,
Attorney General of the United States;

Respondents - Defendants,

No.

PETITIONER'S NOTICE OF MOTION
AND EMERGENCY EX PARTE MOTION
FOR TEMPORARY RESTRAINING
ORDER

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

Challenge to Unlawful Incarceration;
Request for Declaratory and Injunctive
Relief

NOTICE OF MOTION AND EX PARTE MOTION

PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court for the Eastern District of California, that Petitioner, Ana Gisela Valle Garcia ("Ms. Valle Garcia") will and hereby does move for a temporary restraining order pursuant to Federal Rules of Civil Procedure 65(b) and Civil Local Rule 65-1. Because Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the United States, Petitioner respectfully requests that this Court (1) orders Petitioner's immediate release from Respondent's custody pending these proceedings, without requiring bond or electronic monitoring, or, in the alternative, (2) orders Petitioner's immediate release from Respondents' custody and, within 14 days, order a pre-deprivation bond hearing before the San Francisco Immigration Court, where Respondents will have the burden of proof to show, by clear and convincing evidence, that Petitioner is a danger or a flight risk. To preserve this Court's jurisdiction, Petitioner further seeks an order (3) enjoining Respondents from deporting Petitioner during the pendency of this proceeding. Enjoins Respondents (1) from continuing to detain Petitioner based on an unlawful action by ICE, (2) orders her immediate release from Respondents' custody; and (3) from re-arresting Ms. Valle Garcia 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.

Consistent with Civil L.R. 65-1, Petitioner seeks relief at the earliest possible opportunity. Petitioner filed this motion the same day she filed her Petition for Writ of Habeas Corpus. Her Writ of Habeas Corpus stated that she would be filing this motion forthwith.

If the Court deems oral argument necessary, Petitioner requests to appear by video.

Dated: December 17, 2025 Respectfully submitted,

/s/ Robert Beles

Robert J Beles

Attorney for Petitioner-Plaintiff Ana
Gisela Valle Garcia

1 **I. INTRODUCTION**

2 Respondents unlawfully detained Petitioner-Plaintiff Ms. Valle Garcia on November 9,
3 2025. Ms. Valle Garcia was detained during a routine check-in at the ICE Enforcement and
4 Removal Center in Bakersfield, California. Ms. Valle Garcia entered the United States without
5 inspection on April 2, 2022. Ms. Valle Garcia was detained upon entering the United States. On
6 April 30, 2022, Ms. Valle Garcia was released from custody on her own recognizance after a
determination was made that Ms. Valle Garcia was not a flight risk nor a danger to society.

7 The Department of Homeland Security (“DHS”) handed Ms. Valle Garcia a Notice to
8 Appear with the immigration court. In 2023, Petitioner hired an immigration attorney to file her
9 asylum application. Since arriving to the United States, Ms. Valle Garcia has attended every
10 immigration appointment that she was required to attend. Ms. Valle Garcia has no criminal
11 history.

12 On November 9, 2025, she presented herself to a regularly scheduled ICE appointment
13 where she was informed that she violated and ISAP appointment when she did not appear at the
14 door. The ISAP officer arrived at her regularly scheduled appointment and left the house after
15 knocking on the door for one minute. Ms. Valle Garcia did not hear the initial knock was at
16 home but unable to make it to the door in the minute that the ISAP officer waited for her at the
door. This happened on August 28, 2025.

17 When Ms. Valle Garcia went to her ICE appointment on November 9, 2025, she was
18 detained for the supposed violation of August 28, 2025. The ICE officer also accused Ms. Valle
19 Garcia of not properly taking a picture of herself with the ISAP Application but did not tell her
20 when that happened.

21 Ms. Valle Garcia is not an applicant for admission to the United States, Ms. Valle Garcia
22 has lived in the United States for over three and a half years. She currently resides with her
significant other in Bakersfield, California.

23 At the time of detention, Ms. Valle Garcia was stay at home mother who was supporting
24 her three-year-old son in the United States. Ms. Valle Garcia suffers from health issues which
25 require medications which have not been available to her while in custody.

26 Ms. Valle Garcia’s summary arrest and indefinite detention flout the Constitution. The
27 only legitimate interests that civil immigration detention serves are mitigating the risk of flight
28 and preventing danger to the community. When those interests are absent, the Fifth Amendment’s

1 Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and
2 detaining Ms. Valle Garcia without making any affirmative showing of immigration violations,
3 flight risk or danger to the community, the government violated Petitioner's procedural due
4 process rights. At the very least, she was constitutionally entitled to a hearing before a neutral
5 decisionmaker at which the government should have justified her detention.

6 Ms. Valle Garcia must be accorded her 5th amendment due process rights as affirmed in
7 the US Supreme Court case *Department of Homeland Security v. Thuraissigium*, 140 S.Ct. 1959
8 (2020), Specifically, in *Thuraissigium*, the Supreme Court Stated: "aliens who have established
9 connections in this country have due process rights in deportation proceedings,"

10 As a result of her arrest and detention, Ms. Valle Garcia is suffering irreparable and
11 ongoing harm. The unconstitutional deprivation of "physical liberty" unquestionably constitutes
12 irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed,
13 "[f]reedom from imprisonment—from government custody, detention, or other forms of physical
14 restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v.*
15 *Davis*, 533 U.S. 678, 690 (2001). Ms. Valle Garcia's arrest and detention have caused and will
16 cause immediate, tremendous, and ongoing harm, which include health problems that may result
17 in hospitalization and/or death due to her ongoing health issues, hygiene, sleep and nutrition
18 deprivation, family separation, emotional and economic harm, loss of employment, and
19 psychological harm.

20 In light of this irreparable harm, and because she is likely to succeed on the merits of her
21 due process claims, Ms. Valle Garcia respectfully requests that this Court issue an Ex Parte
22 temporary restraining order ("TRO") immediately releasing her from custody and enjoining the
23 government from re-arresting her absent the opportunity to contest that arrest at a hearing before
24 a neutral decision maker. Confronted with substantially identical facts and legal issues, this and
25 other courts in this circuit have recently granted the exact relief Petitioner seeks.

26 See *J.O.L.R. v Wofford*, 2025 WL 2718631 * 11 (E.D. Cal Sept. 23, 2025); *R.D.T.M. v Wofford*,
27 2025 WL 2617255 * 11 (E.D. Cal Sept. 9, 2025), *Garro Pinchi v. Noem*, 2025 WL 1853763, *4
28 (N.D. Cal. July 4, 2025), converted to preliminary injunction at __ F. Supp. 3d __, 2025 WL
2084921 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal. July
11, 2025) (granting preliminary injunction).

To maintain this Court’s jurisdiction, the Court should also prohibit the government from transferring Ms. Valle Garcia out of this District and removing her from the country until these proceedings have concluded.

II. STATEMENT OF FACTS AND CASE

Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign targeting people who are not in status, many of whom have pending applications for asylum or other relief. This “coordinated operation” is “aimed at dramatically accelerating deportations” by arresting people at the courthouse, USCIS interviews, or at the ICE office and placing them into expedited removal. The Trump administration implemented a policy to drastically increase immigration arrests to a target of at least 3,000 per day. According to White House officials, such as Stephen Miller, this directive prioritized arrest numbers over individuals’ criminal history, encouraging agents to conduct mass round-ups in public spaces rather than targeted investigations.

As a result, arrests of non-citizens with no criminal record surged by over 800%, and two-thirds of those deported had no criminal history. This focus on quantity over public safety led to a new and aggressive tactic: systematically arresting immigrants at courthouses and ICE appointments, regardless of the status of their legal cases. This has created a climate of fear, discouraging people from attending their mandatory hearings or ICE appointments.

In addition, individuals are now held for extended periods, sometimes days, in temporary holding cells that are not designed for overnight or prolonged detention, often under inhumane conditions. Government officials have justified these harsh conditions not as a matter of necessity, but as an intentional deterrent, which is not a constitutionally permissible reason for detention.

Ms. Valle Garcia has lived in the United States for over three and half years. She has many friends and family members in the United States. At the time of detention, Ms. Valle Garcia was providing for her three-year-old son. Ms. Valle Garcia has no criminal history anywhere in the world. She has established strong connections to the United States.

Ms. Valle Garcia’s arrest and detention have caused and will cause immediate, tremendous, and ongoing harm, which includes health problems which could lead to hospitalization and/or death, hygiene, sleep, and nutrition deprivation, family separation, emotional and economic harm to her family and USC child, loss of employment, and

1 psychological harm. Ms. Valle Garcia is not a flight risk, as evidenced by her deep ties to the
2 community, including her family in the US. She is not a danger to the community. Her detention
3 serves no legitimate purpose.

4 This case has substantial factual and legal support to be granted, resulting in Ms. Valle
5 Garcia's release from custody, and enjoining DHS from detaining Ms. Valle Garcia pending a
6 hearing before a neutral adjudicator, to substantiate a material change in circumstances indicating
7 that Ms. Valle Garcia is either a flight risk or a danger to the community.

8 Intervention from this Court is therefore required to ensure that Ms. Valle Garcia is
9 released from her current custody based on her unlawful arrest, returned to her home in
10 Bakersfield, California, where ICE can then provide her with a hearing before determining to re-
arrest her pursuant to the Due Process Clause of the Fifth Amendment.

11 **III. LEGAL STANDARD**

12 Ms. Valle Garcia is entitled to a temporary restraining order if she establishes that she is
13 "likely to succeed on the merits...likely to suffer irreparable harm in the absence of preliminary
14 relief, that the balance of equities tips in [her] favor, and that an injunction is in the public
15 interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int'l Sales Co.*
16 *v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction
17 and temporary restraining order standards are "substantially identical"). Even if Ms. Valle Garcia
18 does not show a likelihood of success on the merits, the Court may still grant a temporary
19 restraining order if she raises "serious questions" as to the merits of her claims, the balance of
20 hardships tips "sharply" in his favor, and the remaining equitable factors are satisfied. *Alliance*
21 *for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As set forth in more detail below,
Ms. Valle Garcia overwhelmingly satisfies both standards.

22 Furthermore, the requirements for issuing a temporary restraining order without notice
23 are met here. See Fed. R. Civ. P. 65(b). Ms. Valle Garcia has attempted to secure her release
24 from ICE but has received no response. Ms. Valle Garcia also set out specific facts demonstrating
25 that immediate and irreparable injury, loss, or damage may result before respondents can be heard
26 in opposition. See *Pinchi v. Noem*, No. 25-cv-05632-RML, 2025 L 1853763, at *4 (N.D. Cal.
27 July 4, 2025); *J.O.L.R. v Wofford*, 2025 WL 2718631 * 11 (E.D. Cal Sept. 23, 2025); *R.D.T.M.*
28 *v Wofford*, 2025 WL 2617255 * 11 (E.D. Cal Sept. 9, 2025)(granting ex parte temporary
restraining order in similar circumstances).

IV. ARGUMENT

A. Ms. Valle Garcia WARRANTS A TEMPORARY RESTRAINING ORDER

A temporary restraining order should be issued if “immediate and irreparable injury, loss, or irreversible damage will result” to the applicant in the absence of an order. Fed. R. Civ. P. 65(b). The purpose of a temporary restraining order is to prevent irreparable harm before a preliminary injunction hearing is held. See *Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974). Ms. Valle Garcia is likely to remain in unlawful custody in violation of her due process rights without intervention by this Court. Ms. Valle Garcia will continue to suffer irreparable injury if she continues to be detained without due process.

1. Ms. Valle Garcia is likely to succeed on the merits because her detention violates substantive due process.

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

To comply with substantive due process, the government’s deprivation of an individual’s liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is “civil, not criminal,” and “nonpunitive in purpose and effect,” must be justified by either (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; see *Hernandez*, 872 F.3d at 994 (“[T]he 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.”). When these rationales are absent, immigration detention serves no legitimate government purpose and becomes impermissibly punitive, violating a person’s substantive due process rights. See *Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the government’s interests in preventing flight and danger); see also *Mahdawi v. Trump*, No. 2:25-

1 CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after
2 finding petitioner may “succeed on his Fifth Amendment claim if he demonstrates either that the
3 government acted with a punitive purpose or that it lacks any legitimate reason to detain him”).

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

12 Ms. Valle Garcia is neither a danger nor a flight risk. Therefore, her detention is both
13 punitive and not justified by a legitimate purpose, violating her substantive due process rights.
14 Ms. Valle Garcia’s ongoing detention is unconstitutional, and substantive due process principles
15 require her immediate release.

16 **2. Ms. Valle Garcia is Likely to Succeed on the Merits of Her Claim That in
17 This Case the Constitution Requires a Hearing Before a Neutral Adjudicator
18 Prior to Any Re-Incarceration by ICE.**

19 Ms. Valle Garcia is likely to succeed on her claim that, in her particular circumstances,
20 her current detention is unlawful because the Due Process Clause of the Constitution prevents
21 Respondents from detaining her without first providing a pre-deprivation hearing before a neutral
22 adjudicator where the government demonstrates by clear and convincing evidence that she is a
23 danger to the public or a flight risk.

24 Courts analyze procedural due process claims, such as this one, in two steps: the first asks
25 whether a protected liberty interest exists under the Due Process Clause, and the second examines
26 the procedures necessary to ensure that any deprivation of that protected liberty interest accords
27 with the Constitution. See *Kentucky Dep’t of Corrections v. Thompson*, 490 U.S. 454, 460 (1989).

28 **a. Ms. Valle Garcia Has a Protected Liberty Interest**

The Due Process Clause protects Ms. Valle Garcia’s liberty from immigration custody:
“Freedom from imprisonment—from government custody, detention, or other forms of physical

1 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v.*
 2 *Davis*, 533 U.S. 678, 690 (2001).

3 Ms. Valle Garcia has an established life in California. Ms. Valle Garcia has lived in the
 4 United States for over three and a half years. She resides with her husband and son in Bakersfield,
 5 California. At the time of detention, Ms. Valle Garcia has no criminal history anywhere in the
 6 world. Ms. Valle Garcia suffers from health issues which require medications.

7 **b. Ms. Valle Garcia’s Liberty Interest Mandates Her Release from**
Unlawful Custody And A Hearing Before any Re-Arrest.

8 Ms. Valle Garcia asserts that, here, (1) where her detention would be civil; (2) where she
 9 has viable immigration relief; (3) where no circumstances exist that would justify her lawful
 10 detention; and (4) where ICE’s move to arrest as many people as possible under the new
 11 administration’s initiative, due process mandates that she be released from her unlawful custody
 12 and receive notice and a hearing before a neutral adjudicator before any re-arrest or revocation
 13 of her custody release.

14 “Adequate, or due, process depends upon the nature of the interest affected. The more
 15 important the interest and the greater the effect of its impairment, the greater the procedural
 16 safeguards the [government] must provide to satisfy due process.” *Haygood v. Younger*, 769 F.2d
 17 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey v. Brewer*, 408 U.S. 471, at 481-82
 18 (1972)). This Court must “balance [Ms. Valle Garcia’s] liberty interest against the
 19 [government’s] interest in the efficient administration of” its immigration laws to determine what
 20 process she is owed to ensure that ICE does not unconstitutionally deprive her of her liberty. *Id.*
 21 at 1357. Under the test outlined in *Mathews v. Eldridge*, this Court must consider three factors in
 22 conducting its balancing test: “first, the private interest that will be affected by the official action;
 23 second, the risk of an erroneous deprivation of such interest through the procedures used, and the
 24 probative value, if any, of additional or substitute procedural safeguards; and finally the
 25 government’s interest, including the function involved and the fiscal and administrative burdens
 26 that the additional or substitute procedural requirements would entail.” *Haygood*, 769 F.2d at
 27 1357 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

28 The Supreme Court “usually has held that the Constitution requires some kind of a
 hearing before the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S.
 113, 127 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies

are “the only remedies the State could be expected to provide” can the post-deprivation process satisfy the requirements of due process. *Zinerman*, 494 U.S. at 985. Moreover, only where “one of the variables in the *Mathews* equation—the value of pre-deprivation safeguards—is negligible in preventing the kind of deprivation at issue” such that “the State cannot be required constitutionally to do the impossible by providing pre-deprivation process,” can the government avoid providing pre-deprivation process. *Id.*

Because, in this case, the provision of a pre-deprivation hearing is both possible and valuable to prevent an erroneous deprivation of liberty, ICE is required to provide Ms. Valle Garcia with notice and a hearing prior to any incarceration. See *Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinerman*, 494 U.S. at 985; see also *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982). Under *Mathews*, “the balance weighs heavily in favor of [Ms. Valle Garcia’s] liberty” and requires a pre-deprivation hearing before a neutral adjudicator.

i. Ms. Valle Garcia Private Interest in Her Liberty is Profound.

What is at stake in this case for Ms. Valle Garcia is one of the most profound individual interests recognized by our legal system: whether ICE may unilaterally detain a non-citizen and be able to take away her physical freedom, i.e., her “constitutionally protected interest in avoiding physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)(internal quotation omitted). “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). See also *Zadvydas*, 533 U.S. at 690 (“Freedom 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.”); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

Thus, there is a profound private interest at stake in this case, which must be weighed heavily when determining what process she is owed under the Constitution. See *Mathews*, 424 U.S. at 334-35.

ii. The Government’s Interest in Incarcerating Ms. Valle Garcia Without a Hearing is Low and the Burden on the Government to Refrain from Re-Arresting Her Unless and Until She is Provided a Hearing is Minimal

1 The government's interest in maintaining an unlawful detention without a due process
2 hearing is low, and when weighed against Ms. Valle Garcia's significant private interest in her
3 liberty, the scale tips sharply in favor of enjoining Respondents (1) from keeping her in unlawful
4 custody; (2) re-arresting Ms. Valle Garcia unless and until the government demonstrates to a
5 neutral adjudicator by clear and convincing evidence that she is a flight risk or danger to the
6 community; and (3) removing her from the United States in violation of an agency order and
7 district court injunction. It becomes abundantly clear that the *Mathews* test favors Ms. Valle
8 Garcia when the Court considers that the process she seeks—notice and a bond hearing before a
9 neutral decision maker—is a standard course of action for the government. Providing Ms. Valle
10 Garcia with a hearing before this Court (or a neutral decision maker) to determine whether there
11 is clear and convincing evidence that Ms. Valle Garcia is a flight risk or danger to the community
12 would impose only a de-minimis burden on the government, because the government routinely
13 provides this sort of hearing to individuals like Ms. Valle Garcia.

13 As immigration detention is civil in nature, it cannot serve a punitive purpose. The
14 government's only interest in holding an individual in immigration detention can be to prevent
15 danger to the community or to ensure a noncitizen's appearance at immigration proceedings. See
16 *Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any
17 basis for detaining Ms. Valle Garcia since she has lived at liberty with her community, without
18 any criminal or civil traffic infractions and has attended all court hearings and ICE check-ins.
19 The government's interest in detaining Ms. Valle Garcia currently is extremely low. That ICE
20 has a new policy to make a minimum number of arrests each day under the new administration
21 does not constitute a valid reason to detain her.

21 Moreover, the "fiscal and administrative burdens" that her immediate release and a lawful
22 pre-detention hearing would impose is nonexistent in this case. See *Mathews*, 424 U.S. at 334-
23 35. Ms. Valle Garcia does not seek a unique or expensive form of process, but rather a routine
24 hearing. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to the public
25 of immigration detention are 'staggering': \$158 each day per detainee, amounting to a total daily
26 cost of \$6.5 million." *Hernandez*, 872 F.3d at 996. It is only fair to say these costs have increased
27 in the past 8 years.

27 Alternatively, providing Ms. Valle Garcia with a hearing before this Court (or a neutral
28 decision-maker) regarding release from custody is a routine procedure that the government

1 provides to those in immigration detention facilities daily. At that hearing, the Court would have
2 the opportunity to determine whether circumstances justify her arrest and detention. But there is
3 no justifiable reason to incarcerate Ms. Valle Garcia before such a hearing takes place.

4 Releasing Ms. Valle Garcia from unlawful custody and enjoining Ms. Valle Garcia's
5 arrest until ICE (1) moves for a custody re-determination before an IJ and (2) demonstrates by
6 clear and convincing evidence that Ms. Valle Garcia is a flight risk or danger to the community
7 is far less costly and burdensome for the government than keeping her detained to a total daily
8 cost of over \$6.5 million. *Hernandez*, 872 F.3d at 996.

9 **iii. Without a Due Process Hearing Prior to Any Arrest, the Risk of an**
10 **Erroneous Deprivation of Liberty is High, and Process in the Form of**
11 **a Constitutionally Compliant Hearing Where ICE Carries the Burden**
12 **Would Decrease That Risk.**

13 Releasing Ms. Valle Garcia from unlawful custody and providing Ms. Valle Garcia a pre-
14 deprivation hearing would decrease the risk of her being erroneously deprived of her liberty.
15 Before Ms. Valle Garcia can be lawfully detained, she should have been provided with a hearing
16 before a neutral adjudicator at which the government is held to show that there are sufficient
17 circumstances to detain her. Clear and convincing evidence exists to establish that Ms. Valle
18 Garcia is not a danger to the community or a flight risk.

19 The procedure Ms. Valle Garcia seeks—a hearing in front of a neutral adjudicator at
20 which the government must prove by clear and convincing evidence to justify her detention. “A
21 neutral judge is one of the most basic due process protections.” *Castro-Cortez v. INS*, 239 F.3d
22 1037, 1049 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548
23 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation of liberty
24 under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone, makes
25 custody determinations. *Diouf v. Napolitano* (“*Diouf IP*”), 634 F.3d 1081, 1091-92 (9th Cir.
26 2011).

27 Due process also requires consideration of alternatives to detention at any custody
28 redetermination hearing that may occur. The primary purpose of immigration detention is to
ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697.

Detention is not reasonably related to this purpose if there are alternatives to incarceration
that could mitigate the risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly,

1 alternatives to detention must be considered in determining whether Ms. Valle Garcia's
2 reincarceration is warranted.

3 As the above-cited authorities show, Ms. Valle Garcia is likely to succeed in her claim
4 that the current arrest and detention that ICE effected November 9, 2025, are unlawful. The Due
5 Process Clause requires notice and a hearing before a neutral decision-maker before any
6 reincarceration by ICE. And, at the very minimum, she clearly raises serious questions regarding
7 this issue, thus also meriting a TRO. See *Alliance for the Wild Rockies*, 632 F.3d at 1135.

8 **3. Ms. Valle Garcia Will Suffer Irreparable Harm Absent Injunctive Relief**

9 Ms. Valle Garcia will suffer irreparable harm if she remains detained after being deprived
10 of her liberty and subjected to unlawful incarceration by immigration authorities without being
11 provided with the constitutionally adequate process that this motion for a temporary restraining
12 order seeks. Detainees in ICE custody are held in "prison-like conditions." *Preap v. Johnson*,
13 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, "[t]he time spent in
14 jail awaiting trial has a detrimental impact on the individual. It often means loss of a job; it
15 disrupts family life; and it enforces idleness." *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972);
16 accord *Nat'l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th Cir. 1984).

17 Moreover, the Ninth Circuit has recognized in "concrete terms the irreparable harms
18 imposed on anyone subject to immigration detention," including "subpar medical and psychiatric
19 care in ICE detention facilities, the economic burdens imposed on detainees and their families as
20 a result of detention, and the collateral harms to children of detainees whose parents are
21 detained." *Hernandez*, 872 F.3d at 995.

22 The government itself has documented alarmingly poor conditions in ICE detention
23 centers. See, e.g., DHS, Office of Inspector General (OIG), Summary of Unannounced
24 Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024) (reporting violations
25 of environmental health and safety standards; staffing shortages affecting the level of care
26 detainees received for suicide watch, and detainees being held in administrative segregation in
27 unauthorized restraints, without being allowed time outside their cell, and with no documentation
28 that they were provided health care or three meals a day).

Conditions at the California City Detention Facility – where plaintiff is being held - are
so inhumane that the ACLU recently filed a Class Action lawsuit detailing the grotesque,

1 inhumane, and substandard conditions of the facility. *Gomez Ruiz v. U.S. Immigration and*
2 *Customs Enforcement*, (N.D. Cal. Case 3:25-cv-09757, filed 11/12/25).

3 As detailed supra, Petitioner contends that her arrest, absent a hearing before a neutral
4 adjudicator, violates her due process rights under the Constitution. It is clear that “the deprivation
5 of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695
6 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Thus, a
7 temporary restraining order is necessary to prevent Ms. Valle Garcia from suffering irreparable
8 harm by being subject to unlawful and unjust detention.

9 **4. The Balance of Equities and the Public Interest Favor Granting the**
10 **Temporary Restraining Order.**

11 The balance of equities and the public interest undoubtedly favor granting this temporary
12 restraining order. First, the balance of hardships strongly favors Ms. Valle Garcia. The
13 government cannot suffer harm from an injunction that prevents it from engaging in an unlawful
14 practice. See *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) (“[T]he INS cannot reasonably
15 assert that it is harmed in any legally cognizable sense by being enjoined from constitutional
16 violations.”). Therefore, the government cannot allege harm arising from a temporary restraining
17 order or preliminary injunction ordering it to comply with the Constitution.

18 Further, any burden imposed by requiring the ICE to release Ms. Valle Garcia from
19 unlawful custody and refrain from re-arrest unless and until she is provided with a hearing before
20 a neutral arbitrator is both de minimis and clearly outweighed by the substantial harm she will
21 suffer as if she is detained. See *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) (“Society’s
22 interest lies on the side of affording fair procedures to all persons, even though the expenditure
23 of governmental funds is required.”).

24 A temporary restraining order is in the public interest. First and most importantly, “it
25 would not be equitable or in the public’s interest to allow [a party] . . . to violate the requirements
26 of federal law, especially when there are no adequate remedies available.” *Ariz. Dream Act Coal.*
27 *v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014) (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d
28 1006, 1029 (9th Cir. 2013)). If a temporary restraining order is not entered, the government would
effectively be granted permission to detain Ms. Valle Garcia 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.”).

Therefore, the public interest overwhelmingly favors entering a temporary restraining order and preliminary injunction.

V. CONCLUSION

For all the above reasons, this Court should find:

(1) that Ms. Valle Garcia warrants a temporary restraining order and a preliminary injunction ordering that Respondents Declare that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment;

(2) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately and schedule a bond hearing before an immigration judge;

(3) Declare immediately that Defendants are prohibited from moving Petitioner outside of the jurisdiction of the Eastern District of California and enjoin Defendants from sending her to any place outside of the United States;

(4) Enjoin defendant from re-detaining Petitioner without a pre-deprivation hearing before an immigration judge where the Government bears the burden of proving that circumstances have materially changed, rendering Petitioner a danger to the community or a flight risk;

(5) Order Defendants to file a written declaration attesting to full compliance with these obligations.

(6) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(7) Grant any further relief this Court deems just and proper.

Dated: December 17, 2025

Respectfully submitted,

/s/ Robert Beles

Robert J. Beles

Attorney for Petitioner

Ana Gisela Valle Garcia

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed the events described in the Petition with the Petitioner. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on December 17, 2025, in Oakland, CA.

/s/ Robert Beles
Robert J. Beles
Attorney for Petitioner
Ana Gisela Valle Garcia