

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

BETTY YADIRA CONTENTO ANDRADE,

Petitioner,

v.

PETER BERG, in his official capacity as the
St. Paul Field Office Director for U.S.
Immigration and Customs Enforcement;
TODD LYONS, in his official capacity as
Acting Director, U.S. Immigration and
Customs Enforcement; KRISTI NOEM, in
her official capacity as Secretary of the
United States Department of Homeland
Security, and PAMELA BONDI, Attorney
General of the United States,

Respondents.

Case No. 0:26-cv-00075

**PETITIONER'S EMERGENCY
MOTION FOR PRELIMINARY
INJUNCTION OR
TEMPORARY
RESTRAINING ORDER**

Expedited Hearing Requested

I. INTRODUCTION

Mr. Betty Yadira Contento Andrade, (“Petitioner”), brings the instant motion for Temporary Restraining Order (“TRO”) or Preliminary Injunction (“Motion”) seeking injunctive relief and challenging Respondents’ actions in detaining Petitioner. On information and belief, she was arrested by Respondents on January 7, 2026, and remains in detention. There was no lawful basis for DHS to arrest and detain Petitioner because she was previously released on her own recognizance and no facts or circumstances have changed since her release for Respondents to support the revocation of her release from custody and redetention without due process.

On January 7, 2026, Petitioner urgently filed a petition for writ of habeas corpus (“petition”) (Doc. No. 1) challenging her rearrest as unlawful and seeking an order from this Court for her release. The petition lodged jurisdiction with this Court.


Petitioner seeks injunctive relief to prevent Respondents from unlawfully detaining her and seeks declaratory and injunctive relief to remedy violations of her constitutional and statutory rights. Finally, as explained in detail in the petition, Petitioner motion and petition are properly before this Court. *See* No. 1.

II. FACTUAL AND PROCEDURAL BACKGROUND

A. Ms. Contento Andrade was unlawfully taken into ICE custody and remains detained despite being previously released from detention on own recognizance.

On information and belief, on January 7, 2026, Petitioner was rearrested and taken into Immigration and Customs Enforcement custody while on her way to work in

Minneapolis, Minnesota. Petitioner is a citizen and national of Ecuador. As a member of

 Petitioner was physically targeted not only by teachers in school and other students but was also a victim of a sexual assault by a member of her family suffering severe injuries. She fled to seek protection in the United States. On or about January 15, 2022, Petitioner came to or near the port of entry at or near Presidio, Texas to seek asylum. Respondents arrested and detained Petitioner. On information and belief, based on the individualized facts of Petitioner's case, Respondent DHS released Petitioner from its custody on an Order of Release on Recognizance pursuant to 8 U.S.C. § 1226(a). On or about July 25, 2022, Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a. Respondents alleged that Petitioner was inadmissible to the United States under 8 U.S.C. § 1182(a)(6)(A)(i) and commanded that Petitioner appear for a hearing in immigration court. Petitioner applied for asylum at the Fort Snelling Immigration Court in Minnesota on or about September 22, 2023. Petitioner has complied with all legal obligations including her hearings and deadlines scheduled for Petitioner by the Court.

Last year, Ms. Contento Andrade gave birth to a USC son who is now about one-and-a-half-years-old. She has never been separated from him. She is nursing and prior to her rearrest breastfeed her son multiple times per day.

Now, despite complying with all conditions of her pending removal proceedings as well as the conditions of her release on own recognizance, DHS continues to hold her, away from her son. Ms. Contento Andrade has and will continue to suffer significant

irreparable harm if she remains detained.

III. ARGUMENT

A. **Ms. Contento Andrade is entitled to a temporary restraining order and preliminary injunction.**

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

- (1) the probability that the moving party will succeed on the merits;
- (2) the threat of irreparable harm to the moving party;
the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and
- (3) whether the issuance of a TRO is in the public interest.

See Dataphase Sys., Inc. v. C.L. Sys., Inc., 640 F.2d 109, 114 (8th Cir. 1981); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Consideration of these four factors does not require mathematical precision but rather should be flexible enough to encompass the particular circumstances of each case. *See id.* at 113. The basic question is whether the balance of equities so favors the moving party “that justice requires the court to intervene to preserve the status quo until the merits are determined.” *Id.* Although the probability of success on the merits is the predominant factor, the Eighth Circuit has “repeatedly emphasized the importance of a showing of irreparable harm.” *Caballo Coal Co. v. Ind. Mich. Power Co.*, 305 F.3d 796, 800 (8th Cir. 2002). Here, all four factors weigh in favor of granting injunctive relief.

1. **Ms. Contento Andrade is likely to succeed on the merits of her petition for writ of habeas corpus.**

Writs of habeas corpus “may be granted by the Supreme Court, any justice

thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a). “The writ of habeas corpus shall not extend to a prisoner unless...He is in custody in violation of the Constitution or laws or treaties of the United States. 8 U.S.C. § 2241(c)(2).

a. Ms. Contento Andrade’s rearrest and detention are in violation of Due Process.

i. Noncitizens like Ms. Contento Andrade are protected by the Fifth Amendment.

The federal courts have held that noncitizens are entitled to guarantees of the Fifth Amendment. *Sanchez-Velasco v. Holder*, 593 F.3d 733, 737 (8th Cir. 2010); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) (“all aliens[] are clearly protected by the Fifth and Fourteenth Amendments”). Courts treat Equal Protection and Due Process rights under the Fifth Amendment in the same manner as Equal Protection Claims under the Fourteenth Amendment. *Wienberger v. Wiesenfeld*, 420 U.S. 636 (1975).

Due process is only implicated when governmental decisions deprive an individual of “liberty” or “property” interests within the meaning of the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693-94 (2001); *Plyler v. Doe*, 457 U.S. 202, 210 (1987); *Mathews v. Diaz*, 426 U.S. 67 (1976); *Yamataya v. Fisher*, 189 U.S. 86 (1903); *see also Rusu v. INS*, 296 F.3d 316, 321-22 (4th Cir. 2002).

The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be...deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Youngberg v. Romeo*, 457 U.S. 307 (1982). This vital liberty interest is at stake when an individual is subject to detention by ICE. *See Zadvydas*, 533 U.S. at 690 (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem”); *Kiareldeen v. Reno*, 71 F.Supp.2d 402, 409-10, 413 (D.N.J. 1999) (holding that, in analyzing due process in the immigration context, the first factor in the procedural due process analysis, “the petitioner’s private interest in his physical liberty, must be accorded the utmost weight.”).

ii. Respondents rearrested and detained Ms. Contento Andrade without a lawful or factual basis, in violation of due process.

Ms. Contento Andrade is likely to succeed in demonstrating that she is in custody in violation of the Constitution and laws of the United States. *See* 8 U.S.C. § 2241(c)(3). In addition to violating the Constitution, Respondents are also violating the Administrative Procedure Act (“APA”), 28 U.S.C. § 2241, 5 U.S.C. §§ 701 and 101 *et. seq.* and 8 U.S.C. §§ 1101 *et. seq.* by denying Ms. Contento Andrade her constitutional right to due process, arbitrarily and capriciously, thus exceeding their authority under the Immigration and Nationality Act (“INA”).

Here, Ms. Contento Andrade was not arrested for a legitimate purpose and continues to be held without a legitimate purpose. She was previously released on her

own recognizance and there was no factual or legal basis for her rearrest or revocation of her prior release on own recognizance. The consequences of Respondents' illegal actions is that Ms. Contento Andrade has been in ICE custody in violation of due process and immigration laws of the United States.

iii. Respondents continue holding Ms. Contento Andrade in detention in violation of Due Process and without any legitimate basis.

Immigration detention is civil and must “bear a reasonable relation to the purpose for which the individual [is detained]” so that it is “nonpunitive in purpose and effect.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (cleaned up). There are only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See id.*; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017). Civil detention cannot be a “mechanism for retribution,” *Kansas v. Crane*, 534 U.S. 407, 412 (2002) (internal quotation marks omitted), because “[r]etribution and deterrence are not legitimate nonpunitive governmental objectives,” *Bell v. Wolfish*, 441 U.S. 520, 539 n.20 (1979). And unlawful detention necessarily harms Ms. Contento Andrade. *See Barker v. Wingo*, 407 U.S. 514, 532 (1972) (detention has a “serious,” “detrimental impact on the individual”); *Hernandez*, 872 F.3d at 994 (unconstitutional detention for an indeterminate period is irreparable harm); *Doe v. Becerra*, 704 F. Supp. 3d 1006, 1017 (N.D. Cal. 2023), abrogated on other grounds by *Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024) (““Liberty is the norm; every moment of [detention] should be justified.””) (alteration in original) (citation omitted).

Civil confinement of non-citizens must be limited to the underlying purpose justifying the detention. *Zadvydas*, 533 U.S. at 690. “Once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

The procedural history of Ms. Contento Andrade’s case further demonstrates that DHS is acting in a manner meant to punish her for exercising her statutory and constitutional right to pursue relief from removal. Respondents have previously found that Ms. Contento Andrade was not subject to mandatory detention and did not pose a threat to the community or flight risk and released her on own recognizance. Despite there being no evidence sufficient to persuade a neutral arbiter to redetain Ms. Contento Andrade, DHS rearrested her and Ms. Contento Andrade remains in detention. Respondents have presented no evidence to justify Ms. Contento Andrade’s redetention.

Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take that individual back into custody by revoking the individual’s release when the facts and circumstances warrant it. Revocation and return to custody is authorized only based on the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9). Thus, despite being granted release from custody, Ms. Contento Andrade was retained without any indication of the actual factual or legal basis for the revocation of her prior release. As a

result, her detention is for illegitimate, deterrent and punitive purposes—not in accordance with the lawful, Congressional purposes of civil immigration detention—and should be enjoined. For the aforementioned reasons, it is likely that Ms. Contento Andrade will succeed on the merits of her petition.

iv. All *Mathews* factors weigh in Ms. Contento Andrade's favor and she is thus likely to succeed on the merits of her petition for writ of habeas corpus.

A *Mathews* analysis supports finding Ms. Contento Andrade's Fifth Amendment rights and fundamental liberty interests outweigh any putative governmental interests, and are owed additional procedural protections. *Mathews* requires weighing:

First, the private interest that will be affected by the official action;

second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

Mathews v. Eldridge, 424 U.S. 319, 335, 96 S. Ct. 893, 903, 47 L. Ed. 2d 18 (1976).

The private interest here includes Ms. Contento Andrade's Fifth Amendment rights. Ms. Contento Andrade has participated in immigration proceedings in good faith from the very beginning of her entry to the United States and after she was released from custody by Respondents. Depriving her of the opportunity to continue her

proceedings by indefinitely detaining her is a violation of her right to fair proceedings. Further, Ms. Contento Andrade's Fifth and Fourteenth Amendment liberty interest in caring for her family has been violated. The parental right to care for one's child without undue state interference has long been recognized. *Pierce v. Soc'y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 534–35, 45 S. Ct. 571, 573, 69 L. Ed. 1070 (1925) (“The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.”); *see also Santosky v. Kramer*, 455 U.S. 745, 758–59, 102 S. Ct. 1388, 1397, 71 L. Ed. 2d 599 (1982); *see also Lassiter v. Dep't of Soc. Servs. of Durham Cnty., N. C.*, 452 U.S. 18, 27, 101 S. Ct. 2153, 2159–60, 68 L. Ed. 2d 640 (1981) (This Court's decisions have by now made plain beyond the need for multiple citation that a parent's desire for and right to ‘the companionship, care, custody and management of his or her children’ is an important interest that ‘undeniably warrants deference and, absent a powerful countervailing interest, protection.’”) (internal quotation modified).

Ms. Contento Andrade's detention has interfered with her ability to nurse her child. This is a considerable interference in the parent-child relationship and combined with her Fifth Amendment interest sum to a weighty personal interest. The first *Mathews* factor thus weighs heavily in favor of Ms. Contento Andrade.

The Respondent's course of action has substantially increased the risk of erroneous deprivation of rights and a return to standard proceedings would significantly mitigate that risk. As argued above, the revocation of her release on own recognizance without any changes to her facts or circumstances since the agency made its initial

custody determination is a procedural deficit that necessarily increases the risk of erroneous deprivation. The second *Mathews* factor thus weighs heavily in favor of Ms. Contento Andrade.

The Respondents have no articulable interest in detaining Ms. Contento Andrade. The existing procedures addressing revocation of release are adequate to vindicate any government interest in Ms. Contento Andrade's case. Given that the Respondents have presented no evidence as to flight risk, public safety, or other grounds on which to base a government interest in her detention, it would not be proper to find there is any interest in their detaining Ms. Contento Andrade. The third *Mathews* factor thus does not counterbalance Ms. Contento Andrade's weighty interests, and the sum of the *Mathews* factors weigh in her favor.

v. Ms. Contento Andrade has been and continues to be prejudiced by the government's violating her due process rights.

In order to prevail on a claim asserting the deprivation of due process, a petitioner must also show "actual prejudice." *Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010) (citation omitted). Actual prejudice occurs if "an alternate result may well have resulted without the violation." *Id.* (citation omitted) (internal quotations omitted); see also *Lazaro v. Mukasey*, 527 F.3d 977, 981 (9th Cir. 2008) (explaining that prejudice is not necessary where agency action was ultra vires). "To show prejudice, [a petitioner] must present plausible scenarios in which the outcome of the proceedings would have been different if a more elaborate process were provided." *Morales Izquierdo v. Gonzales*, 486 F.3d 484, 495 (9th Cir. 2007) (citation omitted) (internal

quotations omitted). Ms. Aguilar Maldonado is clearly prejudiced by her continued, unjustified detention. She has been redetained without any notice even though she was initially released from custody and has not violated any of the conditions imposed upon her. Additionally, she has been separated from her recently born son and is nursing. As such, she faces irreparable injury.

2. Ms. Contento Andrade will continue to face irreparable harm if emergency relief is not granted.

It is well established that deprivation of constitutional rights constitutes “irreparable injury” and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976). *See also Planned Parenthood of Minnesota, Inc. v. Citizens for Community Action*, 558 F.2d 861, 867 (8th Cir. 1977). When an alleged deprivation of constitutional rights is involved, no further showing of irreparable injury is necessary. *Planned Parenthood of Minnesota*, 558 F.2d at 867 (citing 11 C. Wright & A. Miller, *Federal Practice & Procedures: Civil* § 2948 at 439 (1973)); *Ng v. Bd. of Regents of the Univ. of Minn.*, 64 F.4th 992, 998 (8th Cir. 2023) (“[T]he denial of a constitutional right is a cognizable injury and an irreparable harm.”); *Hernandez*, 872 F.3d at 994–95; *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”). Further, Ms. Contento Andrade is irreparably harmed because her redetention bears no “reasonable relation” to its purpose. *Deqa M. Y.*, 2020 WL 4928321, at *3; *see Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing “[a]ny amount of actual jail time is significant and has exceptionally severe consequences for the incarcerated individual” (cleaned up)

(internal quotation marks omitted) (citation omitted)).

In the present case, Ms. Contento Andrade's Fifth Amendment rights are being violated because ICE agents, at the direction of Respondents, continue to detain her despite no change in the facts and circumstances of her case after her initial release from custody. Indeed, she was arrested without prior notice as to the reasons for her release being revoked. Courts across the country have held that DHS detention constitutes irreparable injury where it deprives non-citizens of their liberty, access to counsel, and access to their families. Ms. Contento Andrade faces the same irreparable harm, including loss of her ability to support her United States citizen minor son due to her inability to work despite having a valid Employment Authorization Document. Indeed, Ms. Contento Andrade has already been irreparably harmed by the loss of her liberty having spent time in unlawful immigration detention, harming her relationship with her son and harming her ability to be gainfully employed.

As noted above, Ms. Contento Andrade's interests as a mother are a weighty Constitutional right. The parental right to care for one's child without undue state interference has long been recognized. *Pierce v. Soc'y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 534–35, 45 S. Ct. 571, 573, 69 L. Ed. 1070 (1925) (“The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.”); *see also Santosky v. Kramer*, 455 U.S. 745, 758–59, 102 S. Ct. 1388, 1397, 71 L. Ed. 2d 599 (1982); *see also Lassiter v. Dep't of Soc. Servs. of Durham Cnty., N. C.*, 452 U.S. 18, 27, 101 S. Ct. 2153, 2159–60, 68 L. Ed. 2d 640 (1981) (This Court's decisions have by now made plain beyond the need for multiple

citation that a parent's desire for and right to ‘the companionship, care, custody and management of his or her children’ is an important interest that ‘undeniably warrants deference and, absent a powerful countervailing interest, protection.’”) (internal quotation modified). Ms. Contento Andrade has not been able to nurse her son throughout the duration of her detention.

On information and belief, she experiences great distress at being unable to nurse her child for his healthy development. At the time of this writing, she has been unable to communicate with her relatives or counsel². Ms. Contento Andrade cannot effectively plan to coordinate care for her son from detention indefinitely and has rational concerns of how this will impact her son.

Ms. Contento Andrade’s separation from her son with no definite date for reunification or clear termination is punitive. The harm to Ms. Contento Andrade’s family relationship is punitive. The manifest mental, physical, and emotional injury. Ms. Contento Andrade has suffered is not merely punitive, but disproportionate to the point of cruelty and beyond any legitimate state interest.

Following the rulings in *Elrod* and *Planned Parenthood of Minnesota*, these Fifth Amendment violations involving deprivations of due process constitute irreparable injury to Ms. Contento Andrade and justify issuance of a temporary restraining order. Ms. Contento Andrade’s liberty has been and continues to be restricted in violation of her constitutional rights.

3. Respondents will face no injury or harm if emergency relief is granted.

² The publicly available portal to determine the location of individuals taken into custody by ICE, <https://locator.ice.gov/odls/#/results> still does not provide Ms. Contento Andrade’s exact location despite her arrest taking place in the early hours of January 7, 2026.

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221, 1236-7 (10th Cir. 2005).

Ms. Contento Andrade's harms, discussed above, are weighty; these harms are the direct result of Respondents' conduct in denying Ms. Contento Andrade's due process as required under the Constitution. In fact, Ms. Contento Andrade's continued detention is actually a burden for Respondents in that her unnecessary and unexplained detention is costly to the U.S. government. ICE itself has previously recognized similarly situated noncitizens should not be detained. "Generally, ICE should not detain, arrest, or take into custody for an administrative violation of the immigration laws individuals known to be pregnant, postpartum, or nursing unless release is prohibited by law or exceptional circumstances exist." ICE Directive 11032.4, 1. The 2021 directive also notes that the time from birth is not relevant and mothers who are still nursing should not be detained. *Id.* at 3.

Possible injuries to the government, should the restraining order be granted, are minimal and possibly nonexistent. Ms. Contento Andrade is seeking to be released from custody back to her home in the United States so that she can continue her work and care for her family. To date, Respondents have offered no justification for Ms. Contento Andrade's continued and ongoing detention, particularly considering that Respondents previously determined that she is not a danger to the community or a significant flight risk and released her on her own recognizance.

Considering her lack of criminal record and her primary interest in reunification with her USC minor children, it is hard to imagine how Respondents may establish either a danger to the community or a flight risk that could justify indefinite detention. Without any justification being offered for Ms. Contento Andrade's detention, it is impossible to surmise the harm that might befall the government if she is released.

For the aforementioned reasons, the irreparable harm to Ms. Contento Andrade that will occur should ICE fail to release her clearly outweighs any burden to Respondents in indefinitely keeping her detained. As this Court held in *Morrison*, 602 F.Supp. at 1484, the balance of harms supports the release of Ms. Contento Andrade even though the federal or state government may not be able to recover lost custodial time should Respondents' constitutional interpretation prevail. This insignificant harm is outweighed by the substantial harm facing Ms. Contento Andrade. Ms. Contento Andrade's harms include deprivations of due process and the unlawful redetention by ICE depriving Ms. Contento Andrade of liberty. Because Ms. Contento Andrade is in Respondents' custody, she faces the extreme hardship of deprivation of her due process rights and liberty, and separation from her family and community unless this Motion is granted.

4. The issuance of a TRO is in the public interest.

The public—and therefore the government—has an interest in protecting the rights of people in detention and ensuring the rule of law. *See Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”). “It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d

990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994)). Additionally, there is critical public interest in ensuring executive agencies act lawfully. Respondents “cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). Respondents have already considered Ms. Contento Andrade’s criminal and immigration history and determined that she is not a danger to the community or a significant flight risk and should she be released on her own recognizance.

The protection of individuals’ constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government’s power to skew, alter, or improperly affect legal proceedings related to an individual’s property or liberty interest(s). To ensure the protection of Ms. Contento Andrade’s constitutional rights, and to protect against overzealous federal government intrusion of constitutional rights of others in similar situations, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from continuing to detain Ms. Contento Andrade.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country’s legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

B. Ms. Contento Andrade has complied with the requirements

of Rule 65.

Finally, as set forth *supra*, Ms. Contento Andrade asks this Court to find that she has complied with the requirements of Rule 65, Fed.R.Civ.P., for the purpose of granting a temporary restraining order. Respondents have been provided with a copy of the instant motion and supporting documents and are on notice. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Under the circumstances of this case, however, Ms. Contento Andrade respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from continuing to detain Ms. Contento Andrade, and/or to refrain from giving Respondents' unlawful actions legal effect, should not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. Of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

IV. CONCLUSION

For all of the foregoing reasons, Petitioner asks this Court to grant her Motion for a Temporary Restraining Order and Preliminary Injunction to:

1. Declare that the actions of Respondents as set forth in Ms. Contento Andrade's Petition, Motion, and Memorandum of Law violated the Fifth Amendment of the United States Constitution, 28 U.S.C. § 2241, and the

APA.

2. Enjoin Respondents from continuing to detain Ms. Contento Andrade in their custody during the pendency of her petition for writ of habeas corpus before this Court.
3. If Petitioner is not immediately released from Respondents' custody, enjoin Respondents from transferring Petitioner to a detention facility out of this District where she would lose access to his counsel and support network.
4. Grant Petitioner such other relief as the Court deems appropriate and just.

Dated: January 7, 2026

/s/ Magdalena Metelska, Esq.
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Attorney for Petitioner

VERIFICATION OF PETITION

Pursuant to 28 U.S.C. § 2242 I, Magdalena Metelska, declare as follows:

1. I am an attorney licensed to practice law and am counsel of record for Petitioner, Betty Yadira Contento Andrade, in this action.
2. I have drafted the foregoing Motion for Preliminary Injunction or Temporary Restraining Order on behalf of Petitioner.
3. Petitioner was detained by U.S. Immigration and Customs Enforcement (“ICE”) on or about January 7, 2026, and due to the immediacy of her detention, Petitioner has not yet had a meaningful opportunity to review or verify the Petition personally.
4. The factual allegations in the Petition are based upon information provided to me by her relative, as well as my review of available records and information obtained in the course of my representation of Petitioner in her removal proceedings at the Fort Snelling, Immigration Court.
5. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 7th day of January, 2026.

/s/ Magdalena Metelska, Esq.
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