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**FILED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

FEB 04 2026

MITCHELL R. ELFERS  
CLERK

**UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF NEW MEXICO**

Anne-Ly Annuk,

Petitioner,

v.

PAMELA BONDI, Attorney  
General of the United States;  
KRISTI NOEM, Secretary  
of the Department of  
Homeland Security  
("DHS"); MARY DE  
ANDA-YBARRA, El Paso  
Field Office Director  
Immigration and Customs  
Enforcement and Removal  
Operations ("ICE/ERO");  
TODD LYONS, Acting  
Director of Immigration  
Customs Enforcement  
("ICE") U.S. Immigration  
and Customs Enforcement;  
DORA CASTRO, Warden of  
the Otero County Processing  
Center,

Respondents.

Case No.: 26 cv 269 KWR/DLM

**PETITIONER'S  
APPLICATION FOR A  
TEMPORARY  
RESTRAINING ORDER;  
POINTS AND AUTHORITIES  
IN SUPPORT OF MOTION  
FOR TEMPORARY  
RESTRAINING ORDER**

To date, hundreds of federal judges, including judges of this Court, have concluded that Respondents' recently adopted detention regime is unlawful. *See, e.g., Requejo Roman v. Castro*, No. 2:25-cv-1076 (D.N.M. Jan. 12, 2026); *Velasquez Salazar v. Dedos*, \_\_\_ F. Supp. 3d \_\_\_, 2025 WL 2676729 (D.N.M. 2025). On December 19, 2025, Judge Sykes entered a final judgment certifying a nationwide class action and declaring that "the proper interpretation of the INA preserves a noncitizen's right to an individualized bond hearing after arrest." *Lazaro Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv- 01873 (C.D.Cal. Nov. 25, 2025).

Further, on December 11, 2025, the Seventh Circuit concluded the Department of Homeland Security and the U.S. Immigration and Customs Enforcement were "not likely to succeed on the merits of their argument" regarding "mandatory detention under § 1225(b)(2)(A)." *Castanon-Nava v. U.S. Dep't of Homeland Sec.*, No. 25-3050, 2025 WL3552514, at \*9 (7th Cir. Dec. 11, 2025).

Pursuant to Rule 65(b)(1) of the Federal Rules of Civil Procedure, Petitioner hereby moves the Court for emergency relief in the form of a temporary restraining order directing Respondents to release Petitioner from their custody.

This application is supported by the Memorandum of Points and Authorities.

## INTRODUCTION

In the interest of expedition and in light of the ongoing irreparable harm,

Petitioner hereby incorporates and respectfully refers the Court to her Verified Petition for a full statement of the facts giving rise to this motion. In sum, this case presents facts like recent cases in which courts have provided swift interim relief: On January 5, 2026, Respondents entered Petitioner's home in Minneapolis, Minnesota without her consent and without any judicial warrant. They tackled her, dragged her from her residence, and transported her to New Mexico. Petitioner was not seized because she posed a danger or flight risk. She was arrested pursuant to an unlawful enforcement scheme driven by an "ill-conceived and incompetently-implemented government pursuit of daily deportation quotas." *Conejo Arias v. Noem*, No. SA-26-CV-415-FB, at 1–2 (W.D. Tex. Jan. 31, 2026).<sup>1</sup>

Respondents' conduct violated the Fourth Amendment. The Constitution guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." *Id.* at 2. Yet Respondents entered Petitioner's home without any warrant issued by a neutral magistrate and without probable cause determined by an independent judicial officer. Nor can Respondents rely on executive-issued paperwork to justify their actions. As one

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<sup>1</sup> *Conejo Arias v. Noem*, No. SA-26-CV-415-FB, at 1–2 (W.D. Tex. Jan. 31, 2026) (granting habeas relief and ordering the immediate release of an asylum seeker and his minor child; condemning the government's detention policy as driven by deportation quotas, criticizing the government's "ignorance of an American historical document called the Declaration of Independence," and warning that "the perfidious lust for unbridled power and the imposition of cruelty in its quest know no bounds and are bereft of human decency.")

District Court explained: “Administrative warrants issued by the executive branch to itself do not pass probable cause muster. That is called the fox guarding the henhouse. The Constitution requires an independent judicial officer.” *Id.* at 2. Here, no independent judicial officer authorized the entry into Petitioner’s home or her seizure. The Constitution therefore “trumps this administration’s detention” of Petitioner under these circumstances. *Id.* at 2

Further, this detention violates Petitioner's due process rights and causes her irreparable, ongoing harm. The unconstitutional deprivation of "physical liberty" "unquestionably constitutes irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed, "[f]reedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Petitioner thus respectfully requests that this Court issue a temporary restraining order (1) prohibiting the government from transferring or removing Petitioner pending these proceedings; and (2) ordering immediate release.

### **ARGUMENT**

To warrant a TRO, a plaintiff “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The

purpose of a temporary restraining order “is to preserve the status quo [ante]” before a final decision on the merits. *Resolution Trust Corp v. Cruce*, 972 F.2d 1195, 1198 (10th Cir. 1992). The status quo ante is defined as “as the last peaceable uncontested status existing between the parties before the dispute developed.” *Free the Nipple-Fort Collins v. City of Fort Collins, Colo.*, 916 F.3d 792, 798 n. 3 (10th Cir. 2019).

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

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

Petitioner here, who has no criminal record and who has lived in the country for nearly 28 years, is neither a danger nor a flight risk. Therefore, her re-detention is not justified by a legitimate purpose. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*,

905 F.3d 1137 (9th Cir. 2018) ("Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk."). Nothing has transpired since to disturb that finding.

First, because Petitioner had no criminal history since arriving in this country in 1998, with no intervening criminal history or arrests since her release, there is no credible argument that she is a danger to the community.

Second, as to flight risk, the question is whether custody is reasonably necessary to secure a person's appearance at immigration court hearings and related check-ins. *See Hernandez*, 872 F.3d at 990-91. There is no basis to argue that Petitioner, who has resided in this country for 28 years without a single immigration infraction, is a flight risk. Moreover, Petitioner has viable paths toward immigration relief, further mitigating any risk of flight. *See Padilla v. U.S. Immigr. and Customs Enf't*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023) (holding that there is not a legitimate concern of flight risk where plaintiffs have bona fide asylum claims and desire to remain in the United States). Petitioner has filed an application for adjustment of status. She has every intention of continuing with her case and attending court. Respondents have no evidence to suggest otherwise.

In sum, Petitioner's actions since Respondents first released her confirm that she is neither a danger nor flight risk. Accordingly, Petitioner's ongoing detention

is unconstitutional, and due process principles require her release.

**B. Petitioner Is Likely to Succeed on Her Fourth Amendment Claim  
Based on an Unlawful Residential Arrest**

In addition to her strong Fifth Amendment claims, Petitioner is likely to succeed on the merits of her Fourth Amendment claim. The Fourth Amendment guarantees “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,” and requires that any warrant issue only upon probable cause determined by a neutral and detached magistrate. U.S. Const. amend. IV. These protections apply to noncitizens inside the United States. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984); *Almeida-Sanchez v. United States*, 413 U.S. 266, 273 (1973).

Warrantless arrests at or at the threshold of the home are presumptively unreasonable. *Payton v. New York*, 445 U.S. 573, 586–87, 590 (1980). A front porch is part of the home’s curtilage and is entitled to the same constitutional protection as the home itself. *Florida v. Jardines*, 569 U.S. 1, 6–7 (2013); *Collins v. Virginia*, 584 U.S. 586, 593 (2018). Absent consent or exigent circumstances, law enforcement officers may not effect an arrest at a residence without a judicial warrant supported by probable cause. *Payton*, 445 U.S. at 590; *Steagald v. United States*, 451 U.S. 204, 211–12 (1981).

Here, Respondents forced themselves into Petitioner's home, dragged Petitioner from her home, and arrested Petitioner on the front porch of her home without a judicial warrant and without consent or exigent circumstances. The government cannot rely on an administrative warrant to justify that seizure. As one district court recently held in an immigration habeas case arising from a residential arrest, "Administrative warrants issued by the executive branch to itself do not pass probable cause muster. That is called the fox guarding the henhouse. The Constitution requires an independent judicial officer." *Conejo Arias v. Noem*, No. SA-26-CV-415-FB, at 2 (W.D. Tex. Feb. 31, 2026). Federal courts have consistently rejected attempts by immigration officers to substitute executive-issued documents for judicial warrants when effecting arrests at or in the home. *Lopez-Rodriguez v. Mukasey*, 536 F.3d 1012, 1017–18 (9th Cir. 2008); *United States v. Madrid-Quezada*, 403 F. Supp. 3d 1016, 1021–22 (D.N.M. 2019).

Because Petitioner's seizure violated the Fourth Amendment, the detention that flows from that unlawful arrest is constitutionally tainted. Where custody originates in an unconstitutional seizure, continued detention is not reasonably related to any legitimate governmental objective and violates both the Fourth and Fifth Amendments. *Gerstein v. Pugh*, 420 U.S. 103, 111–12 (1975); *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This

independent constitutional violation further establishes Petitioner's likelihood of success on the merits.

**C. Petitioner's detention without the opportunity to contest her detention before a neutral decision-maker violates procedural due process.**

Noncitizens living in the United States like Petitioner have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. 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." *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d 671,683 (D.C. Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (holding the same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context).

Accordingly, the Supreme Court has repeatedly held that individuals released from custody on bond, parole, or other forms of conditional release have a protected interest in their ongoing liberty, because "[t]he parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Morrissey*, 408 U.S. at 482. "By whatever name, the[ir] liberty

is valuable and must be seen within the protection of the [Due Process Clause]." *Id.* This liberty interest also applies to noncitizens, including those who have been conditionally released from immigration custody. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019); *Garcia*, 2025 WL 1927596, at \*4 (agreeing with petitioner that release on immigration bond "create[d] a powerful interest for Petitioner in his continued liberty."). Petitioner thus has a protected liberty interest in her freedom from physical custody.

Once a petitioner has established a protected liberty interest, as Petitioner has done here, courts in this circuit apply the *Mathews* test to determine what procedural protections are due. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Under that test, the court weighs: (1) the private interest affected; (2) the risk of erroneous deprivation and probable value of procedural safeguards; and (3) the government's interest. *Id.*

In this case, the factors weigh heavily in favor of releasing Petitioner and prohibiting her re-detention without a custody hearing at which the government bears the burden of proof.

First, the private interest affected in this case is profound. Petitioner's interest here "is the most significant liberty interest there is—the interest in being free from imprisonment." *Velasco Lopez*, 978 F.3d at 851 (citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). "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.” *Zadvydas*, 533 U.S. at 690. And “[c]ase after case instructs us that in this country liberty is the norm and detention ‘is the carefully limited exception.’” *Velasco Lopez*, 978 F.3d at 851 (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

Moreover, although “the liberty interest of a noncitizen detained under section 1226(a) may . . . be slightly less weighty than that of individuals facing indefinite and prolonged detention,” it is “only slightly less.” *Hernandez-Lara*, 10 F.4th at 29 (noting that “[t]he exact length of detention under section 1226(a) is impossible to predict and can be quite lengthy”). As the Second Circuit noted in *Velasco Lopez*, “[d]etention under [section] 1226(a) is frequently prolonged because it continues until all proceedings and appeals are concluded.” 978 F.3d at 852. “Absent release on bond, detention lasts through the initial removal determination proceedings (which themselves can take months or years) and all inter-agency and federal court appeals, even where an individual has prevailed and the [g]overnment appeals.” *Id.*

Finally, it is important to recognize that the deprivation of liberty that individuals detained under section 1226(a) experience is “not the result of a criminal adjudication.” *See id.* at 851; *see also Hernandez-Lara*, 10 F.4th at 36 (“Unlike section 1226(c), section 1226(a) applies to a wide swath of noncitizens,

many of whom . . . have no criminal record at all.”). This, too, heightens Petitioner’s interest in her liberty.

Second, "the risk of an erroneous deprivation [ of liberty] is high" where, as here, "[the petitioner] has not received any bond or custody redetermination hearing." *A.E. v. Andrews*, No.1:25-cv-00107, 2025 WL 1424382, at \*5 (E.D. Cal. May 16, 2025) (quoting *Jimenez v. Wolf*, No.19-cv-07996-NC, 2020 WL 510347, at \*3 (N.D. Cal Jan. 30, 2020)); see also *Diep v. Wofford*, No. 1 :24-cv-01238, 2025 WL 6047444, at \*5 (E.D. Cal. Feb. 25, 2025).

Here, Petitioner was denied any meaningful bond hearing because Respondents refused to provide an Estonian interpreter, her native language and the only language she speaks. In open court, Respondents stated that Petitioner would not be permitted to have a bond hearing in the future unless she could "think of" another language she speaks, preferably English. When Petitioner explained that she does not speak English or any language other than Estonian, the immigration judge denied her bond.

In such circumstances, when Respondents have provided no procedural safeguards, "the probable value of additional procedural safeguards, i.e., a bond hearing, is high." *A.E.*, 2025 WL 1424382, at \*5. This is especially true here, where there is no finding, and no evidence, that Petitioner poses a flight risk or danger to the community. Instead, Petitioner’s continued detention rests solely on

Respondents' refusal to provide a language interpreter necessary for her to exercise her right to a custody determination. Neither administrative convenience nor linguistic barriers constitute a lawful justification to deny a bond hearing to a person who does not pose a flight risk or danger to the community.

Where, as here, the government refuses to provide an interpreter after acknowledging that the detainee cannot understand the proceedings without one and denies a bond hearing on the ground that no interpreter will be found in the future, the resulting deprivation of a custody determination is directly "attributable to the Government," regardless of intent. *Belqasim v. Garland*, No. 2:25-cv-01282-LK-TLF, Report & Recommendation adopted at 19–21 (W.D. Wash. Oct. 28, 2025).

And when detention is maintained solely because the government has declined to furnish the language access necessary for any lawful custody determination to occur at all, continued confinement violates due process and cannot be justified by administrative convenience or by linguistic barriers of the government's own making. *Id.* at 22–23, 27–28.

Because the private interest in freedom from immigration detention is substantial, due process also requires that in cases like this one, the government bears the burden of proving "by clear and convincing evidence that the [noncitizen] is a flight risk or danger to the community." *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); see *Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024)

(holding that government properly bore burden by clear and convincing evidence in court-ordered bond hearing); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at \*8 (E.D. Cal. Mar. 3, 2025) (ordering pre-deprivation bond hearing in which government bears burden by clear and convincing evidence).

Third, the government's interest in detaining Petitioner without first providing notice and submitting to a custody hearing is negligible. Immigration courts routinely conduct custody hearings, which impose a "minimal" cost to the government. *See Doe*, 2025 WL 691664, at \*6; *A.E.*, 2025 WL 1424382, at \*5. Petitioner has no opportunity to demonstrate compliance or lack of risk because Respondents refused to permit her to participate meaningfully in any custody hearing at all. There is no reason to believe that providing an interpreter and holding a bond hearing would undermine any legitimate governmental interest. In similar cases, courts have ruled that re-detaining noncitizens without a pre-deprivation hearing in which the government bears the burden of proof violates due process and have granted the emergency relief Petitioner seeks here. *See, e.g., Ben Khadaj v. Bostock*, No. 2:25-cv-00871-TMC, at 3–4 (W.D. Wash. Sept. 8, 2025) (holding that delays caused by the government's failure to provide an appropriate interpreter are attributable to the government and weigh in favor of finding continued detention unconstitutional); *Belqasim v. Garland*, No. 2:25-cv-01282-LK-TLF, 2025 WL 3170929, Report & Recommendation, adopted at 19–21, 27–

28 (W.D. Wash. Nov. 13, 2025) (holding that when the government fails to provide a qualified interpreter despite notice of a detainee's language needs, resulting delays are attributable to the government, and continued detention violates the Due Process Clause); *Doe v. Chestnut*, No. 1:25-cv-01372-CDB, 2025 WL 3295154, at \*2–\*3, \*9 (E.D. Cal. Nov. 26, 2025) (recognizing that inability to proceed in immigration court due to the government's failure to secure an interpreter supports a due process claim where detention continues without any meaningful custody determination).

In short, Respondents violated Petitioner's due process rights when they detained her without providing a meaningful opportunity to contest her detention through a bond hearing before a neutral arbiter. Here, only an order releasing Petitioner and enjoining continued detention would return the parties to the “last uncontested status which preceded the pending controversy.” *Doe v. Noem*, F. Supp. 3d \_\_\_, 2025 WL 1141279, at \*9 (W.D. Wash. Apr. 17, 2025) (quoting *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); see also *Valdez*, 2025 WL 1707737, at \*4–\*5 (ordering petitioner's immediate release as remedy for procedural due process violation).

## **II. Petitioner Will Suffer Irreparable Harm in the Absence of a TRO.**

In the absence of a TRO, Petitioner will continue to be unlawfully detained by Respondents and denied a bond hearing before an IJ. Petitioner has now been

detained without a bond hearing for weeks. “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. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention constitutes “a loss of liberty that is . . . irretrievable.” *United States v. Khanna*, 703 F. Supp. 3d 1309, 1316 (N.D. Okla. 2023). It is well established that “[t]he deprivation, or threat of deprivation, of a constitutional right is sufficient, standing alone, to constitute irreparable injury.” *Herrera v. Santa Fe Pub. Sch.*, 792 F. Supp. 2d 1174, 1182 (D.N.M. 2011); *Kikumura v. Hurley*, 242 F.3d 950, 963 (10th Cir. 2001).

The Fourth Amendment violation independently establishes irreparable harm. The Supreme Court has long recognized that unlawful seizure of the person is a paradigmatic constitutional injury. *Gerstein*, 420 U.S. at 114. When an individual is seized without a judicial warrant and held in custody, the injury is not merely procedural but a direct deprivation of bodily liberty. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Constitution. *Zadvydas*, 533 U.S. at 690. Courts consistently hold that the deprivation of Fourth Amendment rights constitutes irreparable injury. *Awad v. Ziriak*, 670 F.3d 1111, 1131 (10th Cir. 2012). Here, Petitioner remains confined as the direct result of an unconstitutional residential arrest.

Each day of continued detention compounds the original Fourth Amendment violation and inflicts a continuing injury that cannot be remedied after the fact.

### **III. The Balance of Equities Tips in Petitioner's Favor and a TRO is in the Public Interest.**

Because the government is a party, these two factors are considered together. *Nken v. Holder*, 556 U.S. 418, 435 (2009). The Tenth Circuit held that it is always in the public interest to prevent the violation of a party's constitutional rights. *See Verlo v. Martinez*, 820 F.3d 1113, 1127-28 (10th Cir. 2016); *see also Fish v. Kobach*, 840 F.3d 710 (10th Cir. 2016) (holding that the public interest is served by ensuring compliance with federal law).

Because the policy preventing Petitioner from obtaining bond is inconsistent with federal law, the balance of hardships and the public interest weigh in favor of a preliminary injunction. This is because it would not be equitable or in the public's interest to permit the government to continue enforcing an unconstitutional policy where no adequate remedy at law exists. *See Awad v. Ziriya*, 670 F.3d 1111, 1116 (10th Cir. 2012) ("We conclude there was no abuse of discretion" in granting a preliminary injunction to prevent enforcement of an unconstitutional amendment). Indeed, Respondents cannot suffer cognizable harm from an injunction that merely ends unlawful conduct and restores the status quo, because "where a defendant with notice in an injunction proceeding completes the acts sought to be enjoined the court

may by mandatory injunction restore the status quo,” and a court may “compel the defendant to undo what he has wrongfully done.” *Doe v. Bd. of Regents of the Univ. of Colo.*, 100 F.4th 1251, 1263 (10th Cir. 2024) (quoting *Porter v. Lee*, 328 U.S. 246, 251 (1946), and *Mills v. Green*, 159 U.S. 651, 654 (1895)).

The balance of equities also weighs decisively in Petitioner’s favor because Respondents have no legitimate interest in continuing detention that originated in a Fourth Amendment violation. “The 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 proceedings can be reasonably ensured by less restrictive means.” *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017).

The public interest strongly favors enforcing the Fourth Amendment and preventing warrantless home arrests unsupported by judicial authorization. It is always in the public interest to prevent the violation of constitutional rights. *Verlo v. Martinez*, 820 F.3d 1113, 1127–28 (10th Cir. 2016). The Fourth Amendment’s warrant requirement reflects “the fundamental requirement that an independent judicial officer determine probable cause before the executive may invade the home.” *Payton*, 445 U.S. at 585–86.

### CONCLUSION

For the foregoing reasons, the Court should grant Petitioner's Application for a Temporary Restraining Order. Petitioner asks the Court to order immediate release.

Dated: February 2, 2026.



Anne-Ly Annuk  
Otero County Processing Center  
26 McGregor Range Road  
Chaparral, NM 88081

**CERTIFICATION PURSUANT TO FEDERAL RULE OF CIVIL  
PROCEDURE 65(b)(1)(B)**

I, Anne-Ly Annuk, certify as follows:

Pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure, I hereby certify that on February 2, 2026, I emailed Ryan Ellison, U.S. Attorney for the District of New Mexico. I provided a copy of the Application for a Temporary Restraining Order, Memorandum of Points and Authorities, to Mr. Ellison by emailing copies to ryan.ellison@usdoj.gov. Notice was provided as soon as practicable under the circumstances, given the urgent and time-sensitive nature of the relief requested.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.



\_\_\_\_\_  
Anne-Ly Annuk  
Otero County Processing Center  
26 McGregor Range Road  
Chaparral, NM 88081

Dated: February 2, 2026