

**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND**

Karolay FLORES ALVAREZ

Petitioner,

No. 8:26-cv-00706

v.

Kristi Noem, et. al

Respondents.

**PETITIONER'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND  
MEMORANDUM IN SUPPORT THEREOF**

## **MOTION AND MEMORANDUM OF LAW**

Petitioner Karolay FLORES-ALVAREZ respectfully moves this Honorable Court for an emergency order preventing his continued detention, in violation of, inter alia, his constitutional rights.

### **I. INTRODUCTION**

Petitioner FLORES-ALVAREZ is a 32-year-old native and citizen of Peru. Petitioner entered the United States on or about February 25, 2024, with her minor son. Petitioner was apprehended by CBP at the U.S. border and was subsequently released under an order of supervision. Petitioner is the sole and primary caregiver of her twelve-year-old son. He does not have anyone to care for him since his mother's recent detention. Her son is currently in school, and to the best of our knowledge, ICE has not arranged for a responsible adult to pick up the child from school.

Following the executive orders of President Donald Trump and their implementation by Respondents, Petitioner believes that Respondents have adopted a blanket policy to detain and immediately remove noncitizens, irrespective of any individualized circumstances, including dire circumstances. Respondents have demonstrated that they will apply this policy to her as they have her in physical custody.

Petitioner seeks an emergency order from this Court to halt her continued detention.

### **II. FACTUAL BACKGROUND**

#### **A. Petitioner FLORES-ALVAREZ's background and case posture**

Petitioner FLORES-ALVAREZ is a thirty-two-year-old female native and citizen of Peru who has resided in the United States since 2024. Petitioner was apprehended upon her entry at the U.S. border with her minor son. Petitioner was subsequently released under orders of supervision and placed into removal proceedings. Petitioner currently resides with her twelve-

year-old son. She is his sole caregiver and provider. He does not currently have anyone to care for or even pick him up from school today, as his mother is in ICE detention.

Yesterday, February 19, 2026, Petitioner attended her asylum merits hearing. At her hearing, Petitioner was not allowed the opportunity to proceed with her asylum application, as her application was pretermitted based on the Asylum Cooperative Agreements with Ecuador and Honduras. Petitioner was thereafter ordered removed to Ecuador or Honduras. Although Petitioner had 30 days to file her appeal, she promptly filed it with the Board of Immigration Appeals on February 19, 2026, the same day the decision was issued. (See Petitioner's Exhibit 1). Her appeal is now pending before the BIA and, thus, she does not have a final administrative order of removal.

Petitioner was required to report to ICE/ISAP in Baltimore regularly, and she consistently did so. However, on February 20, 2026, when Petitioner arrived at Baltimore ICE/ISAP for her reporting appointment, she was abruptly arrested by ICE officials without a warrant and detained without explanation or just cause. Petitioner is held at the Immigration and Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable and inhumane conditions.

**B. Executive Orders and Respondents' Blanket Policy**

On January 20, 2025, President Donald Trump signed several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order ("EO") setting out a series of interior immigration enforcement actions. This EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures "that protect the public safety and national security interests of the American people, including by ensuring the successful enforcement of final orders of removal."

These actions have resulted in Respondents adopting a blanket policy, where ICE is currently arresting, detaining, and removing people like Petitioner, without an individualized consideration of their cases. Under these new policies, ICE/ERO has detained Petitioner.

### C. LEGAL STANDARDS

The standard for issuing a TRO is the same as the standard for issuing a preliminary injunction. *See New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977). A TRO is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). The proper legal standard for preliminary injunctive relief requires a party to demonstrate (1) that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest. *Dewhurst v. Century Aluminum Co.*, 649 F.3d 287, 290 (4th Cir. 2011).

As an alternative to this test, a preliminary injunction is appropriate if “serious questions going to the merits were raised and the balance of the hardships tips sharply in the plaintiff’s favor,” thereby allowing preservation of the status quo when complex legal questions require further inspection or deliberation. *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 813 (4th Cir. 1991).

### III. ARGUMENT

Petitioner’s Motion for a Temporary Restraining Order should be granted because she is likely to suffer irreparable harm in the absence of preliminary relief, she is likely to succeed on the merits, and the balance of the equities and public interest weigh in favor of emergency relief.

**A. Petitioner will likely suffer irreparable harm if not granted preliminary relief**

If this Court does not grant a temporary restraining order, Petitioner will continue to be detained by ICE officials. Her continued detention will result in Petitioner losing contact with her minor son, family, employment, and local counsel.

Respondents' actions already are and will continue to cause irreparable harm to Petitioner by unlawfully separating her from her family and community in the United States. If Petitioner remains detained, her twelve-year-old son, who depends on her as his sole caregiver for emotional, psychological, and financial support, will suffer profound hardship. Her son does not currently have anyone to care for him or even pick him up from school today. Petitioner plays an essential and irreplaceable role in her son's life during his formative years, a critical period of emotional, cognitive, and social development. Her daily presence provides stability, guidance, and a sense of security that cannot be replicated in her absence. Prolonged separation at this stage risks lasting emotional harm and disruption to the child's well-being. These circumstances constitute irreparable harm. *See e.g., Int'l Refugee Assistance Project v. Trump*, 883 F.3d 233, 320 (4th Cir. 2018), *vacated on other grounds*, 138 S. Ct. 2710, 201 L. Ed. 2d 1094 (2018) (stating that "[p]rolonged and indefinite separation of parents, children, siblings, and partners create not only temporary feelings of anxiety but also lasting strains on the most basic human relationships" and therefore constitutes irreparable harm); *Leiva-Perez v. Holder*, 640 F.3d 962, 969-70 (9th Cir. 2011) (stating that "separation from family members, medical needs, and potential economic hardship" are important factors when assessing irreparable harm).

Additionally, Petitioner's continued detention will deprive her of proximity to her family, friends, community support, distance her from access to his local counsel, and impede her ability to engage in these immediate judicial proceedings. *See Arroyo v. United States Dep't of Homeland Sec.*, 2019 WL 2912848, at \*17 (C.D. Cal. June 20, 2019) (observing that "a significant burden on

the attorney-client relationship, without a showing of underlying prejudice to the removal proceedings, may be sufficient to establish a legal injury sufficient to justify injunctive relief”), citing *Comm. of Cent. Am. Refugees v. I.N.S.*, 795 F.2d 1434, 1439 (9th Cir.), amended on other grounds, 807 F.2d 769 (9th Cir. 1986); see also *Escobar-Grijalva v. I.N.S.*, 206 F.3d 1331, 1335 (9th Cir.), amended on other grounds, 213 F.3d 1221 (9th Cir. 2000) (“Deprivation of the statutory right to counsel deprives [a noncitizen] asylum-seeker of the one hope he has to thread a labyrinth almost as impenetrable as the Internal Revenue Code.”).

As alleged in Petitioner’s habeas petition, Respondents’ actions will also violate her constitutional right to due process. It is well established “that a deprivation of a constitutional right, ‘for even minimal periods of time, unquestionably constitutes irreparable injury.’” *Miranda v. Garland*, 34 F.4th 338, 365 (4th Cir. 2022), quoting *Elrod v. Burns*, 427 U.S. 347, 373, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976).

**B. Petitioner is likely to succeed on the merits of her habeas petition**

Petitioner requests habeas relief from this Court on the grounds that Respondents’ decision to continue to detain her under a blanket enforcement policy is (1) arbitrary and capricious and in violation of Respondents’ own governing regulations and policies and (2) a violation of her Fourth and Fifth Amendment rights.

First, Petitioner is likely to succeed on her due process claim. The Fifth Amendment’s Due Process Clause protects noncitizens from arbitrary government action. See *Romero v. Bondi*, 150 F.4th 332, 340 (4th Cir. 2025). Due process requires that detention and removal decisions be rational, individualized, and consistent with the law. By detaining Petitioner, Respondents have deprived her of liberty without lawful justification. Because there has been no articulated real change in her circumstances, the decision to detain her now is irrational and arbitrary, violating her right to due process.

Petitioner should at least be entitled to a bond hearing before being deprived of her liberty interest. Petitioner entered the United States in 2024 and was initially apprehended at the border. DHS thereafter issued a Notice to Appear, placing her in standard removal proceedings and designating her as a noncitizen “present in the United States without admission or parole.” After releasing Petitioner into the United States, DHS subjected her to re-detention during a routine check-in appointment. Because DHS elected to proceed under regular removal proceedings and treated Petitioner as already present in the United States, her subsequent detention is governed by the discretionary framework of 8 U.S.C. § 1226(a), not the mandatory detention provisions of 8 U.S.C. § 1225. Petitioner’s re-detention without an individualized bond hearing, therefore, violates both substantive and procedural due process. *Said v. Noem*, No. 3:25-cv-00938-MOC, 2025 LX 592150 (W.D.N.C. Dec. 17, 2025); *Velasquez v. Noem*, Civil Action No. GLR-25=3215, 2025 LX 400577 (D. Md. Oct. 27, 2025); *Maldonado de Leon v. Baker*, Civil Action No. 25-30840TDC, 2025 LX 473505 (D.MD. Oct. 23, 2025).

Moreover, before depriving Petitioner of her liberty interest, she should at least be afforded an opportunity to be heard. Procedural due process requires, at a minimum, an opportunity to be heard “at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Applying the *Mathews* factors, courts consistently find that: (a) the private interest in freedom from physical restraint is “the most elemental of liberty interests”; (b) the risk of erroneous deprivation is high where detention occurs without a hearing; and (c) the government’s interest in immediate detention without process is minimal. *See P.T. v. Hermosillo*, No. 2:2025cv02259 (W.D.W.A) (applying *Mathews* and finding detention unconstitutional where ICE failed to provide pre-deprivation process); *see also Ngha v. Noem*, No. 8:25-C-V-04055-BAH, 2025 (D. Md. Dec. 11, 2025). Applying the facts of Petitioner’s case, the *Mathews, supra*, factors

weigh heavily in her favor, particularly where her liberty interest was abridged without adequate procedural protections, the risk of erroneous deprivation of her liberty interest is high, as the government has articulated no change in circumstances to justify detention, and the government's interest in her detention without process is minimal. *See See Artiga v. Genalo*, No. 25-CV-5208, Mem. & Order at 19 (E.D.N.Y. Oct. 5, 2025). Due to Petitioner's unique circumstances, including her minor son, for whom she is the sole caregiver and provider, and no criminal record, Petitioner should at least be provided an opportunity to be heard before she is deprived of her fundamental liberty interest.

Furthermore, a statute or policy permitting indefinite detention or removal to a country where a person faces grave danger raises serious constitutional concerns. As the Supreme Court has made clear, "[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). The Fifth Amendment, therefore, prohibits the government from depriving an individual of liberty through indefinite detention. Furthermore, detention where removal cannot occur within a reasonably foreseeable future is unconstitutional. *Id.* Here, Petitioner's detention is unconstitutional, as her removal is not reasonably foreseeable. Petitioner appeal is pending before the Board of Immigration Appeals, which could potentially last many years. Therefore, her detention violates due process protections. *See id.*

Further, Petitioner is also likely to succeed on the merits of her Fourth Amendment claim. The Fourth Amendment protects individuals, including noncitizens, from unreasonable seizures. U.S. Const. amend. IV. Civil immigration arrests must be supported by lawful authority and cannot be arbitrary or unreasonable.

Here, Petitioner was arrested without a warrant when she arrived at her routine ICE check-in appointment. Respondents did not possess a judicial warrant and have articulated no exigent circumstances, probable cause, or individualized justification for their arrest.

The warrantless seizure of Petitioner under these circumstances was unreasonable. Petitioner was not fleeing and posed no risk to public safety. Arresting her while she was presenting herself to ICE, without articulation of probable cause or individualized circumstances, constitutes an arbitrary seizure in violation of the Fourth Amendment.

Further, the continued detention flowing from this unlawful arrest compounds the constitutional violation. A seizure that begins unlawfully cannot be justified retroactively by post-hoc enforcement rationales. Where, as here, Respondents lacked lawful authority to arrest Petitioner in the first instance, her continued detention remains constitutionally infirm.

Finally, Petitioner is likely to succeed on the merits of her claim under the Administrative Procedure Act (“APA”). Under the APA, a court shall “hold unlawful and set aside agency action” that is arbitrary and capricious. 5 U.S.C. § 706(2)(A). An agency action is arbitrary and capricious if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

Here, ICE’s decision to detain Petitioner, who is currently in removal proceedings, is the sole caregiver for her twelve-year-old minor son, has no criminal record, and has strong family and community ties in Maryland, is arbitrary and capricious. Despite this, Respondents abruptly

detained Petitioner without articulating any change in factual circumstances, legal authority, or public-safety justification.

Moreover, ICE's conduct contravenes its own detention and supervision framework under 8 C.F.R. §§ 241.4–241.5, which require individualized custody determinations and consideration of factors such as danger to the community and flight risk before taking a noncitizen into custody. Petitioner has no criminal record and poses no threat to public safety. The failure to consider these mandatory factors renders Respondents' actions arbitrary and capricious under, *inter alia*, *State Farm*, 463 U.S. at 43.

For the above-noted reasons, Petitioner is likely to succeed on the merits of her habeas corpus petition and/or TRO.

**C. The balance of the equities and public interest factors tip sharply in favor of preliminary relief.**

Petitioner has established that “the balance of the equities tip in [his] favor and that an injunction is in the public interest” because he is eligible for relief, he is not a flight risk, and he is not a danger to the community. *See Winter*, 555 U.S. at 20. When the federal government is a party, the balance of the equities and public interest factors merge. *See Nken v. Holder*, 556 U.S. 418, 435 (2009).

The balance of hardships tips substantially in favor of Petitioner. “[I]n addition to the potential hardships facing [Petitioner] in the absence of the injunction, the court ‘may consider . . . the indirect hardship to their friends and family members.’” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017), quoting *Golden Gate Rest. Ass'n v. City & Cty. of San Francisco*, 512 F.3d 1112, 1126 (9th Cir. 2008).

Petitioner's detention and transfer would harm not only her, but also her twelve-year-old son, family, and community. Petitioner lives in Aspen Hill, Maryland, has stable employment, and

has local counsel. Without immediate intervention from this Court, Petitioner will suffer severe and irreparable harm. These circumstances constitute the very definition of irreparable injury warranting this Court's immediate intervention.

There is also a strong public interest in maintaining Petitioner's presence in her local community, where her family resides, where her local counsel is, and where she is known as a compassionate and caring member of the community.

The merits of the due process violations that Petitioner has raised in his habeas petition further weigh for the public interest toward emergency relief. Moreover, "it is well-established that the public interest favors protecting constitutional rights." *Leaders of a Beautiful Struggle v. Balt. Police Dep't*, 2 F.4th 330, 346 (4th Cir. 2021). In addition, "the public interest also benefits from a preliminary injunction that ensures that federal statutes are construed and implemented in a manner that avoids serious constitutional questions." *Rodriguez v. Robbins*, 715 F.3d 1127, 1146 (9th Cir. 2013).

Even when considered from a fiscal perspective, the public interest in the efficient allocation of the government's fiscal resources weighs in favor of emergency relief here. As the Ninth Circuit has explained, "The costs to the public of immigration detention are "staggering": \$158 each day per detainee, amounting to a total daily cost of \$6.5 million. Supervised release programs cost much less by comparison: between 17 cents and 17 dollars each day per person." *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017). The interests of the general public will not be served by Petitioner's continued detention, where he has no criminal record, is eligible for relief, and is neither a flight risk nor a danger to the community.

By contrast, any public interest favoring Petitioner's continued detention is weak or non-existent. Respondents do not appear to have any legitimate reason to suspect that the public safety

or national security may somehow be at risk if the motion for a temporary restraining order is granted. Any interest in effectuating Petitioner's continued detention is outweighed by Petitioner's FLORES-ALVAREZ's exceptional qualities.

#### **IV. CONCLUSION**

For the foregoing reasons, Petitioner FLORES-ALVAREZ respectfully requests that this Honorable Court grant her motion for a temporary restraining order to release Petitioner from detention.

Dated: February 20, 2026

/s/ Ronald D. Richey  
Ronald D. Richey, Esq.  
MD Bar# 0906240005  
Law Office of Ronald D. Richey  
19785 Crystal Rock Dr., Ste. 307  
Germantown, MD 20874  
T: (301) 738-2338  
info@immigrationlawrichey.com  
Attorney for Petitioner

**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND**

Karolay FLORES ALVAREZ

Petitioner,

No. **8:26-cv-00706**

v.

Kristi Noem, et. al

Respondents.

**ORDER**

Upon consideration of Petitioner's Motion for a Temporary Restraining Order and Memorandum in support thereof, it is on this \_\_\_\_ day of February 2026, by the United States District Court for the District of Maryland:

ORDERED that Petitioner's Motion for a Temporary Restraining Order BE and HEREBY IS GRANTED; and it is further

ORDERED that Respondents must immediately release Petitioner and/or provide her with a bond hearing within a reasonable amount of time.

---

The Honorable Brendan Abell Hurson  
United States District Judge