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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Maria Aide Vargas-Murillo,

Petitioner-Plaintiff,

v.

Pam Bondi, in her Official Capacity,
Attorney General of the United States; et
al.

Respondents-Defendants.

Case No.

A. 

**MOTION FOR
TEMPORARY
RESTRAINING ORDER**

**POINTS AND
AUTHORITIES IN
SUPPORT OF EX PARTE
MOTION FOR
TEMPORARY
RESTRAINING ORDER
AND MOTION FOR
PRELIMINARY
INJUNCTION**

Challenge to Unlawful Incarceration;
Request for Declaratory and
Injunctive Relief

NOTICE OF MOTION

Petitioner Client Name applies to this honorable Court for a temporary restraining order enjoining Respondents Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), and Pam Bondi, in her official capacity as the U.S. Attorney General, (1) from continuing to detain Petitioner based on an unlawful action by ICE, (2) ordering his immediate release from immigration detention; and (3) from removing Petitioner from the United States.

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

Dated: September 16, 2025 Respectfully submitted,

/s/ Siovhan Ayala

Siovhan Ayala

Attorney for Petitioner-Plaintiff Client
Name

1 **I. INTRODUCTION**

2 Respondents unlawfully detain Petitioner, Maria Aide Vargas-Murillo, under
3 a mistaken assertion that INA § 235(b)(2) requires mandatory detention of
4 individuals who entered without inspection. Ms. Vargas-Murillo entered the United
5 States on January 7, 2004, and has lived in Arizona for more than twenty-one years.
6 She is not an “arriving alien” at the border but a long-term resident, properly
7 detained under INA § 236(a), which authorizes bond hearings.

8 The Board of Immigration Appeals’ recent decision in *Matter of Yajure*
9 *Hurtado*, 29 I&N Dec. 216 (BIA 2025), does not compel a different result. Federal
10 habeas courts are not bound by BIA precedent, and numerous courts, including in
11 this Circuit have rejected DHS’s attempt to expand § 235(b)(2) to the interior.
12 Because DHS has improperly invoked § 235(b)(2), Petitioner has been deprived of
13 the opportunity for an individualized bond hearing and remains in unlawful
14 detention in violation of the INA, the APA, and the Constitution.

15 Ms. Vargas-Murillo meets the TRO standard. She is likely to succeed on the
16 merits, he faces immediate and irreparable harm from unlawful detention, and the
17 equities and public interest weigh heavily in his favor.

18
19 **II. STATEMENT OF FACTS AND CASE**

20 Petitioner Ms.Vargas-Murillo is a native and citizen of Mexico. She entered
21 the United States without inspection on or about January 17, 2004, and has resided
22 in Arizona for more than twenty-one years. During this time, she established strong
23 family and community ties.

24
25 Ms.Vargas-Murillo applied for release on bond before the Immigration Court.
26 His request was denied on the ground that DHS has classified her as subject to
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1 mandatory detention under INA § 235(b)(2), making her categorically ineligible for
2 a bond hearing.

3 Historically, individuals in Ms.Vargas-Murillo’s position—those who entered
4 without inspection but were apprehended years later inside the United States—were
5 detained under § 236(a) and provided bond hearings before an Immigration Judge.
6 For decades, immigration judges adjudicated such custody matters under § 236(a).
7 Indeed, the BIA in *Yajure* acknowledged this longstanding practice, noting that
8 immigration courts have historically granted bond hearings to noncitizens
9 apprehended in the interior who had entered without inspection. *Id.* at 225.
10

11 Ms.Vargas-Murillo has been detained without the opportunity for a bond hearing.
12 He has requested relief through counsel, but DHS continues to maintain that his
13 custody is mandatory. Without judicial intervention, he faces indefinite detention
14 without due process, despite his long-standing residence in the United States and his
15 eligibility for release on bond under § 236(a).
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17 **LEGAL STANDARD**

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19 Ms. Vargas-Murillo is entitled to a temporary restraining order if he
20 establishes that he is “likely to succeed on the merits, . . . likely to suffer irreparable
21 harm in the absence of preliminary relief, that the balance of equities tips in [his]
22 favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def.*
23 *Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int’l Sales Co. v. John D. Brush &*
24 *Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and
25 temporary restraining order standards are “substantially identical”). Even if
26 Ms.Vargas-Murillo does not show a likelihood of success on the merits, the Court
27 may still grant a temporary restraining order if he raises “serious questions” as to
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1 the merits of his claims, the balance of hardships tips “sharply” in his favor, and the
2 remaining equitable factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*,
3 632 F.3d 1127 (9th Cir. 2011). As set forth in more detail below, Ms.Vargas-
4 Murillo overwhelmingly satisfies the standards for a temporary restraining order.

5 **III. ARGUMENT**

6 **A. MS. VARGAS-MURILLO WARRANTS A TEMPORARY** 7 **RESTRAINING ORDER**

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

17 **1. Ms. Vargas-Murillo is Likely to Succeed on the Merits of His** 18 **Claim That He be Released from Detention**

19 Ms. Vargas Murillo is likely to succeed on his claim that, in his particular
20 circumstances, his current detention is unlawful because the Due Process Clause
21 and the statute.

22 The District of Arizona has recognized that when the government seeks to
23 revoke or stay a noncitizen’s release from custody, due process under the Fifth
24 Amendment requires a meaningful opportunity to be heard before the deprivation
25 occurs. *See Organista v. Sessions*, No. CV-18-00285-PHX-GMS (D. Ariz. Feb. 8,
26 2018). Applying the familiar three-factor test from *Mathews v. Eldridge*, 424 U.S.
27 319 (1976), the court weighed 1) the private liberty interest at stake; 2) the risk of
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1 erroneous deprivation; and 3) the burden on the government – “the fundamental
2 requirement of due process – the opportunity to be heard at a meaningful time and
3 manner.” *Organista*, No. CV-18-00285-PHX-GMS, at 4.; *City of Los Angeles v.*
4 *David*, 538 U.S. 715, 717 (2003). In weighing the *Matthews* factors, the court
5 declared that “there is no meaningful dispute that Petitioner has a liberty interest in
6 being heard before the BIA can prolong his detention.” *Organista*, No. CV-18-
7 00285-PHX-GMS, at 4.

8 Likewise, federal district courts in California have repeatedly recognized
9 that the demands of due process and the limitations on DHS’s authority to revoke a
10 noncitizen’s bond or parole set out in DHS’s stated practice and *Matter of Sugay*
11 both require a pre-deprivation hearing for a noncitizen on bond, like Ms. Vargas-
12 Murillo *before* ICE re-detains her. *See, e.g., Ortega v. Bonnar*, 415 F. Supp. 3d 963
13 (N.D. Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312,
14 at *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST,
15 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021);); *Romero v. Kaiser*, No. 22-cv-
16 02508-TSH, 2022 WL 1443250, at *3-4 (N.D. Cal. May 6, 2022) (Petitioner would
17 suffer irreparable harm if re-detained, and required notice and a hearing before any
18 re-detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 1382859, at
19 *3 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing re-arrest
20 at plaintiff’s ICE interview when he had been on bond for more than five years).
21 *See also Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, *4
22 (E.D. Cal. Mar. 3, 2025) (holding the Constitution requires a hearing before any re-
23 arrest).
24

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

3 **a. Ms. Vargas Murillo Has a Protected Liberty Interest in**
4 **His Conditional Release**

5 Ms.Vargas-Murillo's liberty from immigration custody is protected by the
6 Due Process Clause: "Freedom from imprisonment—from government custody,
7 detention, or other forms of physical restraint—lies at the heart of the liberty that
8 [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

9 Since January 1, 2013, Ms.Vargas-Murillo has lived continuously in Arizona,
10 where he has worked, supported his family, and built enduring community ties. He
11 was apprehended more than a decade after his entry, far from the border. Despite
12 these circumstances, DHS has categorized her as an "applicant for admission" under
13 § 235(b)(2) and placed her in mandatory detention, denying her the opportunity for
14 an individualized bond hearing. Accordingly, she retains a weighty liberty interest
15 under the Fifth Amendment in avoiding continued incarceration. *See Young v.*
16 *Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82
17 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972).

18 In *Morrissey*, the Supreme Court examined the "nature of the interest" that a
19 parolee has in "his continued liberty." 408 U.S. at 481-82. The Court noted that,
20 "subject to the conditions of his parole, [a parolee] can be gainfully employed and
21 is free to be with family and friends and to form the other enduring attachments of
22 normal life." *Id.* at 482. The Court further noted that "the parolee has relied on at
23 least an implicit promise that parole will be revoked only if he fails to live up to the
24 parole conditions." *Id.* The Court explained that "the liberty of a parolee, although
25 indeterminate, includes many of the core values of unqualified liberty and its
26 termination inflicts a grievous loss on the parolee and often others." *Id.* In turn,
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1 “[b]y whatever name, the liberty is valuable and must be seen within the protection
2 of the [Fifth] Amendment.” *Morrissey*, 408 U.S. at 482.

3 This basic principle—that individuals have a liberty interest in their
4 conditional release—has been reinforced by both the Supreme Court and the circuit
5 courts on numerous occasions. *See, e.g., Young v. Harper*, 520 U.S. at 152 (holding
6 that individuals placed in a pre-parole program created to reduce prison
7 overcrowding have a protected liberty interest requiring pre-deprivation process);
8 *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released on felony
9 probation have a protected liberty interest requiring pre-deprivation process). As
10 the First Circuit has explained, when analyzing the issue of whether a specific
11 conditional release rises to the level of a protected liberty interest, “[c]ourts have
12 resolved the issue by comparing the specific conditional release in the case before
13 them with the liberty interest in parole as characterized by *Morrissey*.” *Gonzalez-*
14 *Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and
15 citation omitted). *See also, e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683
16 (D.C. Cir. 2017) (“a person who is in fact free of physical confinement—even if
17 that freedom is lawfully revocable—has a liberty interest that entitles her to
18 constitutional due process before he is re-incarcerated”) (citing *Young*, 520 U.S. at
19 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

20 In fact, it is well-established that an individual maintains a protectable liberty
21 interest even where the individual obtains liberty through a mistake of law or fact.
22 *See id.*; *Gonzalez-Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873
23 (9th Cir. 1982) (noting that due process considerations support the notion that an
24 inmate released on parole by mistake, because he was serving a sentence that did
25 not carry a possibility of parole, could not be re-incarcerated because the mistaken
26 release was not his fault, and he had appropriately adjusted to society, so it “would
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1 be inconsistent with fundamental principles of liberty and justice” to return her to
2 prison) (internal quotation marks and citation omitted).

3 Here, when this Court “‘compar[es] the release in [Ms.Vargas-Murillo’s
4 case], with the liberty interest in parole as characterized by *Morrissey*,” they bear
5 similar features in liberty interests. *See Gonzalez-Fuentes*, 607 F.3d at 887. Just as
6 in *Morrissey*, Ms.Vargas-Murillo’s release “enables her to do a wide range of things
7 open to persons,” including to live at home, work, care for his family, for whom
8 he is the financial provider, and “be with family and friends and to form the other
9 enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482.

10
11 **b. Ms. Vargas-Murillo’s Liberty Interest Mandates His**
12 **Release from Unlawful Custody**

13 “Adequate, or due, process depends upon the nature of the interest affected.
14 The more important the interest and the greater the effect of its impairment, the
15 greater the procedural safeguards the [government] must provide to satisfy due
16 process.” *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc)
17 (citing *Morrissey*, 408 U.S. at 481-82). This Court must “balance [Ms.Vargas-
18 Murillo’s] liberty interest against the [government’s] interest in the efficient
19 administration of” its immigration laws to determine what process he is owed to
20 ensure that ICE does not unconstitutionally deprive her of his liberty. *Id.* at 1357.
21 Under the test set forth in *Mathews v. Eldridge*, this Court must consider three
22 factors in conducting its balancing test: “first, the private interest that will be
23 affected by the official action; second, the risk of an erroneous deprivation of such
24 interest through the procedures used, and the probative value, if any, of additional
25 or substitute procedural safeguards; and finally the government’s interest, including
26 the function involved and the fiscal and administrative burdens that the additional
27 or substitute procedural requirements would entail.” *Haygood*, 769 F.2d at 1357
28

1 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

2 The Supreme Court “usually has held that the Constitution requires some
3 kind of a hearing *before* the State deprives a person of liberty or property.”
4 *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a
5 “special case” where post-deprivation remedies are “the only remedies the State
6 could be expected to provide” can post-deprivation process satisfy the requirements
7 of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where “one of the
8 variables in the *Mathews* equation—the value of deprivation safeguards—is
9 negligible in preventing the kind of deprivation at issue” such that “the State cannot
10 be required constitutionally to do the impossible by providing deprivation process,”
11 can the government avoid providing pre-deprivation process. *Id.*

12 Because, in this case, the provision of a bond hearing is both possible and
13 essential to preventing an erroneous deprivation of liberty, ICE is required to
14 provide Ms.Vargas-Murillo the opportunity for an individualized bond
15 determination before a neutral decisionmaker. *See Morrissey*, 408 U.S. at 481-82;
16 *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985;
17 *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744
18 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil
19 commitment proceedings may not constitutionally be held in jail pending the
20 determination as to whether they can ultimately be recommitted). Under *Mathews*,
21 “the balance weighs heavily in favor of [Ms.Vargas-Murillo’s] liberty” and requires
22 a deprivation hearing before a neutral adjudicator.

23
24 **i. Ms. Vargas-Murillo’s Private Interest in His**
25 **Liberty is Profound**

26 The private interest at stake, freedom from physical restraint, is “at the core
27 of the liberty protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S.
28

1 71, 80 (1992); see also *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom
2 from imprisonment—from government custody, detention, or other forms of
3 physical restraint—lies at the heart of the liberty that [the Due Process] Clause
4 protects.”).

5 Ms. Vargas-Murillo entered the United States without inspection on January
6 17, 2004, and has lived continuously in Arizona for more than twenty-one years.
7 During this time, he has worked, supported his family, and formed enduring ties in
8 his community. He was apprehended in the interior more than a decade after his
9 entry, not at the threshold of the border.

10 As the Supreme Court recognized in *Morrissey v. Brewer*, 408 U.S. 471,
11 482–83 (1972), even conditional liberty carries profound constitutional
12 significance. A person who is free in the community “can be gainfully employed
13 and is free to be with family and friends and to form the other enduring attachments
14 of normal life.” *Id.* The Court further noted that terminating such liberty “inflicts a
15 grievous loss on the parolee and often others,” and emphasized that “[b]y whatever
16 name, the liberty is valuable and must be seen within the protection of the [Fifth]
17 Amendment.” *Id.*

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19
20 So too here. Ms. Vargas-Murillo’s long-standing residence, family
21 responsibilities, and deep community ties reflect a profound liberty interest that
22 cannot lawfully be extinguished through misclassification as an “applicant for
23 admission” under § 1225(b)(2). By detaining her without any opportunity for an
24 individualized custody determination, Respondents have arbitrarily deprived her of
25 the very liberty the Constitution protects..

26
27 **ii. The Government’s Interest in Continued**
28 **Incarceration of Ms. Vargas-Murillo’s is Low and**

**the Burden on the Government to Refrain from
Releasing Her is Minimal**

The government's interest in maintaining mandatory detention and without allowing a bond hearing is low, and when weighed against Ms. Vargas-Murillo's significant private interest in his liberty, the scale tips sharply in favor of enjoining Respondents from keeping her in unlawful custody. It becomes abundantly clear that the *Mathews* test favors Ms. Vargas-Murillo when the Court considers that the process she seeks—a bond proceeding to which she is entitled to—is a standard course of action for the government. Providing Ms. Vargas-Murillo with a bond hearing before this Court (or a neutral decisionmaker) to determine whether there is clear and convincing evidence that Ms. Vargas-Murillo is a flight risk or danger to the community would impose only a *de minimis* burden on the government, because the government routinely provides this sort of hearing to individuals like Ms. Vargas-Murillo. Continuing to detain her under § 235(b)(2), despite his eligibility for a bond hearing under § 236(a), is unlawful.

As immigration detention is civil, it can have no punitive purpose. The government's only interest in holding an individual in immigration detention can be to prevent danger to the community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any basis for detaining Ms. Vargas-Murillo under the mandatory detention provisions of § 235(b)(2), because he entered the United States more than a decade ago and was apprehended in the interior, not at the border. She properly falls under § 236(a), which authorizes a bond hearing. The government's interest in detaining Ms. Vargas-Murillo at this time is extremely low. Moreover, the "fiscal and administrative burdens" that his immediate release is nonexistent in this case. *See Mathews*, 424 U.S. at 334-35.

1 Ms.Vargas-Murillo does not seek a unique or expensive form of process, but rather
2 release from unlawful detention, where removal is not reasonably foreseeable.

3 As the Ninth Circuit noted in 2017, which remains true today, “[t]he costs to
4 the public of immigration detention are ‘staggering’: \$158 each day per detainee,
5 amounting to a total daily cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996.

6 Releasing Ms.Vargas-Murillo from unlawful custody and enjoining
7 Ms.Vargas-Murillo’s continued detention is far *less* costly and burdensome for the
8 government than keeping her detained. *Hernandez*, 872 F.3d at 996.

9 Due process also requires consideration of alternatives to detention at any
10 custody redetermination hearing that may occur. The primary purpose of
11 immigration detention is to ensure a noncitizen’s appearance during removal
12 proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this
13 purpose if there are alternatives to detention that could mitigate risk of flight. *See*
14 *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention
15 must be considered in determining whether Ms.Vargas-Murillo’s continued
16 incarceration is warranted.

17 As the above-cited authorities show, Ms.Vargas-Murillo is likely to succeed
18 on his claim that the current detention is unlawful. And, at the very minimum, she
19 clearly raises serious questions regarding this issue, thus also meriting a TRO. *See*
20 *Alliance for the Wild Rockies*, 632 F.3d at 1135.

22 **2. Ms. Vargas-Murillo Will Suffer Irreparable Harm** 23 **Absent Injunctive Relief**

24 Ms. Vargas-Murillo will suffer irreparable harm were he to remain detained
25 after being deprived of his liberty and subjected to unlawful incarceration by
26 immigration authorities without being provided the constitutionally adequate
27 process that this motion for a temporary restraining order seeks. Detainees in ICE
28 custody are held in “prison-like conditions.” *Preap v. Johnson*, 831 F.3d 1193, 1195

1 (9th Cir. 2016). As the Supreme Court has explained, “[t]he time spent in jail
2 awaiting trial has a detrimental impact on the individual. It often means loss of a
3 job; it disrupts family life; and it enforces idleness.” *Barker v. Wingo*, 407 U.S. 514,
4 532-33 (1972); *accord Nat’l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d
5 1365, 1369 (9th Cir. 1984). Moreover, the Ninth Circuit has recognized in “concrete
6 terms the irreparable harms imposed on anyone subject to immigration detention”
7 including “subpar medical and psychiatric care in ICE detention facilities, the
8 economic burdens imposed on detainees and their families as a result of detention,
9 and the collateral harms to children of detainees whose parents are detained.”
10 *Hernandez*, 872 F.3d at 995. The government itself has documented alarmingly
11 poor conditions in ICE detention centers. *See, e.g.*, DHS, Office of Inspector
12 General (OIG), Summary of Unannounced Inspections of ICE Facilities Conducted
13 in Fiscal Years 2020-2023 (2024) (reporting violations of environmental health and
14 safety standards; staffing shortages affecting the level of care detainees received for
15 suicide watch, and detainees being held in administrative segregation in
16 unauthorized restraints, without being allowed time outside their cell, and with no
17 documentation that they were provided health care or three meals a day).¹

19 As detailed *supra*, Ms. Vargas-Murillo contends that his continued detention
20 violates his due process rights under the Constitution. It is clear that “the deprivation
21 of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres*
22 *v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S.
23 347, 373 (1976)). Thus, a temporary restraining order is necessary to prevent
24 Vargas-Murillo from suffering irreparable harm by being subject to unlawful and
25 unjust detention.

27
28 ¹ Available at <https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf>
(last accessed Feb. 6, 2024).

1 **3. The Balance of Equities and the Public Interest Favor**
2 **Granting the Temporary Restraining Order**

3 The balance of equities and the public interest undoubtedly favor granting
4 this temporary restraining order.

5 First, the balance of hardships strongly favors Ms.Vargas-Murillo. The
6 government cannot suffer harm from an injunction that prevents it from engaging
7 in an unlawful practice. *See Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983)
8 (“[T]he INS cannot reasonably assert that it is harmed in any legally cognizable
9 sense by being enjoined from constitutional violations.”). Therefore, the
10 government cannot allege harm arising from a temporary restraining order or
11 preliminary injunction ordering it to comply with the Constitution.

12 Further, any burden imposed by requiring the ICE to release Ms.Vargas-
13 Murillo from unlawful custody is both *de minimis* and clearly outweighed by the
14 substantial harm he will suffer as if he is detained. *See Lopez v. Heckler*, 713 F.2d
15 1432, 1437 (9th Cir. 1983) (“Society’s interest lies on the side of affording fair
16 procedures to all persons, even though the expenditure of governmental funds is
17 required.”).

18 A temporary restraining order is in the public interest. First and most
19 importantly, “it would not be equitable or in the public’s interest to allow [a party]
20 . . . to violate the requirements of federal law, especially when there are no adequate
21 remedies available.” *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th
22 Cir. 2014) (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir.
23 2013)). If a temporary restraining order is not entered, the government would
24 effectively be granted permission to detain Ms.Vargas-Murillo in violation of the
25 requirements of Due Process. “The public interest and the balance of the equities
26 favor ‘prevent[ing] the violation of a party’s constitutional rights.’” *Ariz. Dream*
27 *Act Coal.*, 757 F.3d at 1069 (quoting *Melendres*, 695 F.3d at 1002); *see also*
28

1 *Hernandez*, 872 F.3d at 996 (“The public interest benefits from an injunction that
2 ensures that individuals are not deprived of their liberty and held in immigration
3 detention because of bonds established by a likely unconstitutional process.”); *cf.*
4 *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) (“Generally, public
5 interest concerns are implicated when a constitutional right has been violated,
6 because all citizens have a stake in upholding the Constitution.”).

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

9 **IV. CONCLUSION**

10 For all the above reasons, this Court should find that Ms.Vargas-Murillo
11 warrants a temporary restraining order and a preliminary injunction ordering that
12 Respondents (1) release her from his unlawful custody; and (2) refrain from
13 sending her to any place outside of the United States.

14 Dated: September 16, 2025

Respectfully submitted,

16 /s/ Siovhan Ayala

17 Siovhan Ayala
18 Attorney for Petitioner-Plaintiff