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9
10 **UNITED STATES DISTRICT COURT**
11
12 **EASTERN DISTRICT OF CALIFORNIA**
13

14 ANASTASIYA UZZHINA,

15 Petitioner-Plaintiff,

16 v.

17 CHRISTOPHER CHESTNUT, Warden of
18 California City Detention Center;

19 SERGIO ALBARRAN, Acting Director, San
20 Francisco Field Office, U.S. Immigration and
21 Customs Enforcement;

22 TODD LYONS, Acting Director, U.S. Immigration
23 and Customs Enforcement;

24 KRISTI NOEM, Secretary of the U.S. Department
25 of Homeland Security,

26 PAM BONDI, Attorney General of the United
27 States,

28 Respondents-Defendants.

No.

**EX-PARTE MOTION FOR
TEMPORARY RESTRAINING ORDER**

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

NOTICE OF MOTION

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and Rule 231 of the Local rules of this Court, Petitioner hereby moves this Court for an order that Defendants Department of Homeland Security (“DHS”), United States Immigration and Customs Enforcement (“ICE”), Pam Bondi, in her official capacity as the U.S. Attorney General, and Christopher Chestnut, in his official capacity as Warden at California City Detention Facility in California City, California be enjoined from continuing to detain Petitioner-Plaintiff Anastasiya Uzzhina (“Ms. Uzzhina”) and, following her release, be enjoined from re-detaining her without first providing her with a hearing before a neutral adjudicator, as required by the Due Process clause of the Fifth Amendment. Ms. Uzzhina additionally seeks to enjoin Respondents from removing Petitioner from the United States to any third country to which she does not have a removal order (i.e. any country other than Russia and Kazakhstan) without first providing her with constitutionally-compliant procedures.

The reasons in support of this Motion are set forth in the accompanying Memorandum of Points and Authorities. This Motion is based on the concurrently-filed Declaration of Lina Baroudi, Declaration of Lina Baroudi in Support of the Petition for Writ of Habeas Corpus. As set forth in the Points and Authorities in support of this Motion, Petitioner raises that she warrants a temporary restraining order due to her weighty liberty interest under the Due Process Clause of the Fifth Amendment in remedying her unlawful detention, where that detention appears indefinite and which was imposed absent a pre-deprivation due process hearing.

WHEREFORE, Petitioner prays that this Court grant her request for a temporary restraining order requiring ICE to immediately release her from custody (to enjoin the unlawful ongoing detention), enjoining Respondents from re-detaining her before providing her a hearing before a neutral adjudicator prior to any re-detention, and enjoining Respondents from removing her to any

1 third country without first providing her with constitutionally-compliant procedures. The only
2 mechanism to ensure that she is not continuously unlawfully detained in violation of her due process
3 rights is a temporary restraining order from this Court.

4 Undersigned counsel emailed Civil Chief Edward Olsen in the civil division for the United
5 States Attorney's Office for the eastern District of California on November 19, 2025 at 12:10PM
6 with a draft of Ms. Uzzhina's petition for writ of habeas corpus and informed him that both the
7 habeas petition and motion for a temporary restraining order will be filed today.
8

9 Dated: November 19, 2025

Respectfully Submitted,

10 /s/Lina Baroudi
11 Lina Baroudi
12 Attorney for Petitioner-Plaintiff
13 Anastasiya Uzzhina
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1 **I. INTRODUCTION**

2
3 Petitioner-Plaintiff, Anastasiya Uzzhina ("Ms. Uzzhina" or "Petitioner-Plaintiff"), by and
4 through her undersigned counsel, hereby files this motion for a temporary restraining order and
5 preliminary injunction to enjoin the DHS and ICE from her ongoing immigration detention in its
6 custody and immediately release her. Ms. Uzzhina also seeks an order enjoining Respondents from
7 re-detaining her unless and until she is afforded notice and a hearing before neutral adjudicator prior
8 to any future re-detention where DHS bears the burden of demonstrating that her removal is
9 reasonably foreseeable and otherwise whether circumstances have changed such that her re-
10 detention would be justified (i.e. whether she poses a danger or is a flight risk), and where the
11 neutral adjudicator must further consider whether, in lieu of detention, alternatives to detention exist
12 to mitigate any risk that DHS may establish, as well as an order enjoining Respondents from
13 removing her to any third country without first providing her with constitutionally-compliant
14 procedures.
15

16 Mr. Uzzhina is a stateless individual who has lived in the United States since approximately
17 2003. On April 29, 2004, an immigration judge ("IJ") ordered her removed to Russia and, in the
18 alternative, to Kazakhstan. Due to ICE's inability to execute her removal (and despite her
19 cooperation), Ms. Uzzhina was released on an Order of Supervision. She has been reporting to ICE
20 on a first weekly, then monthly, then annual, basis since June 2012. Because the likelihood of her
21 removal is not reasonably foreseeable, her detention by ICE must be held unlawful as it is limitless
22 in duration. She has also never been ordered removed to any third country or notified of such
23 potential removal. Ms. Uzzhina's detention is both unconstitutional because it is indefinite, and
24 illegal because it does not comport with the regulations, and she was otherwise not provided any pre-
25 deprivation hearing before her recent detention by ICE. Based on these circumstances, she raises
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1 three ways in which her ongoing detention is unlawful and must be enjoined, and as well requests an
2 injunction against removal to a third country in case that is in the offing:

3 First, once a noncitizen is so released, their re-detention is limited by regulation, statute and
4 the constitution. By statute and regulation, only in specific circumstances (that do not apply here)
5 does ICE have the authority to re-detain a noncitizen previously ordered removed. 8 U.S.C. § 1231;
6 8 C.F.R. §§ 241.4(l)(1)-(2). The ability of ICE to simply arrest someone following their release om
7 OSUP, however, is further limited by the Due Process Clause because it is well-established that
8 individuals released from incarceration have a liberty interest in their freedom. In turn, due process
9 requires that Ms. Uzzhina be released from unlawful re-detention because she was not provided
10 notice and a hearing before a neutral adjudicator.

11
12 Second, following her release, the same principles must apply, such that in the future Ms.
13 Uzzhina be provided with notice and a hearing, prior to any re-detention, at which DHS bears the
14 burden of justifying her re-detention (to a neutral adjudicator who is not part of ICE or DHS or the
15 Department of Justice) and at which Ms. Uzzhina will be afforded the opportunity to advance her
16 arguments as to why she should not be re-detained.

17
18 Third, the Supreme Court has limited the potentially indefinite post-removal order detention
19 to a maximum of six months, because removal is not reasonably foreseeable. *Zadvydas v. Davis*, 533
20 U.S. 678, 701 (2001). Because Ms. Uzzhina is a stateless individual who does not have citizenship
21 or a travel document from any country, her removal is not reasonably foreseeable in this case, and
22 the government has not provided her with notice, evidence, or an opportunity to be heard on this
23 issue before arbitrarily and unilaterally detaining her. Despite stating that the government
24 “determined [that she] can be expeditiously removed from the United States” in her Revocation of
25 Release, ICE has not identified to which country they intend to expeditiously remove Ms. Uzzhina.
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1 Thus, her continued detention is indefinite and thus unconstitutionally prolonged, and the only
2 remedy is her immediate release.

3 Ms. Uzzhina meets the standard for a temporary restraining order. She will continue to suffer
4 immediate and irreparable harm stemming from her unlawful re-detention absent an order from this
5 Court enjoining the government from further unlawful detention by ordering her release from
6 detention, and enjoining future re-detention unless and until she receives a hearing before a neutral
7 adjudicator. She would also suffer immediate and irreparable harm if removed to a third country
8 where her life could be in danger. For that reason, she also seeks an order enjoining Defendants from
9 removing her to any third country without first being provided with constitutionally-compliant
10 procedures providing her adequate notice and an opportunity to demonstrate if her life is in danger or
11 she stands a high risk of torture – all of which are demanded by the Constitution. Since holding
12 federal agencies accountable to constitutional demands is in the public interest, the balance of
13 equities and public interest are also strongly in Ms. Uzzhina's favor.
14

16 **II. STATEMENT OF FACTS AND THE CASE**

17 Ms. Uzzhina was born in St. Petersburg, Russia, but moved to Kazakhstan as a child.
18 Ms. Uzzhina entered the United States on a J-1 nonimmigrant visa on June 7, 2003 using a
19 temporary Russia passport. Her subsequently-filed application for asylum was referred to the San
20 Francisco Immigration Court with the issuance of a Notice to Appear, alleging that she is a “native
21 of Soviet Union” and “a citizen of Russia.” On April 29, 2004, an Immigration Judge ordered her
22 removed to Russia and, in the alternative, to Kazakhstan. The Board of Immigration Appeals
23 affirmed the IJ's decision on August 9, 2005. The U.S. Court of Appeals for the Ninth Circuit denied
24 her petition for review on March 12, 2012. Ms. Uzzhina has a final order of removal.
25

26 On May 8, 2008, Ms. Uzzhina married her U.S. citizen spouse, who filed a Form I-
27 130, Petition for Alien Relative on her behalf; that petition was approved on May 8, 2009. Although
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1 Ms. Uzzhina has filed two motions to reopen and implored ICE multiple to join her in a motion to
2 reopen her removal proceedings to allow her to adjust her status to that of a lawful permanent
3 resident based on her approved petition, those attempts have not been fruitful.

4 On June 14, 2012, Ms. Uzzhina self-surrendered herself to ICE for removal. According to
5 ICE's internal document (Form I-213), Ms. Uzzhina "has made efforts to obtain a Russian and
6 Kazakhstan travel document or passport." *See* Declaration of Lina Baroudi ("*LB Decl.*") at Exh. B
7 (*Form I-213*) at 2. She "provided letters from Consulate of Russia and Kazakhstan stating neither
8 country recognizes her as a citizen." *Id. See also LB Decl.* at Exh. F (*Letters from Russian*
9 *Consulate*); Exh. G (*Letter from Kazakh Consulate*). Ms. Uzzhina was placed on an Order of
10 Supervision, and ICE noted that "[f]urther followup will be made with the Russian or Kazakstan
11 [sic] Governments if appropriate in order to obtain a travel document for removal." *See LB Decl.* at
12 Exh. C (*Order of Supervision*).

13 For the last thirteen years, Ms. Uzzhina has been living her life in the U.S., checking in with
14 ICE weekly, then monthly, and then yearly. Her last check in was in about May 2025. On about
15 October 7, 2025 Ms. Uzzhina pled no contest to a misdemeanor violation of Cal. Vehicle Code
16 23152(b). Because this was her first offense ever, Ms. Uzzhina served four days of home detention,
17 paid fines, and is currently on three years of informal probation.

18 On November 14, 2025, ICE agents approached Ms. Uzzhina in her driveway and
19 detained her. They provided her with a Revocation of Release which stated:
20

21 ICE determined you can be expeditiously removed from the United States pursuant to the
22 outstanding order of removal against you issued to you by an immigration judge on or about
23 April 29, 2004. You are advised that ICE has determined that you have violated conditions of
24 your release that were listed in the Order of Supervision you were issued at the time of your
25 release from ICE custody.

26 *See LB Decl.* at Exh. D (*Notice of Revocation of Release*). In ICE's custody, Ms. Uzzhina had a very
27

1 brief informal interview with a deportation officer, who noted:

2 On 11/14/25, I conducted an initial informal interview of the detainee listed above in order to
3 afford the alien an opportunity to respond to the reasons for revocation of his or her order of
4 supervision stated in the notification letter. At the interview, the alien made the following
oral response regarding the reasons for revocation:

5 Subject claims that the Embassy of Russia has already denied a travel document on
6 several occasions [sic].

7 *See LB Decl. at Exh. E (Alien Informal Interview Upon Revocation of Order of Supervision Under 8*
8 *C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i)).* At the bottom of the page, the pre-typed statement does not
9 indicate whether Ms. Uzzhina provided a written statement or documents; indeed, none of the
10 options were circled on the page:

11 The detainee [did] [did not] provide a written statement. The detainee [did] [did not] provide
12 any documents. Any documents provided are attached.

13 *Id.*

14 On Sunday, November 16, 2025, undersigned counsel entered her appearance as counsel
15 via the ICE Enforcement and Removal Operations online system. Since then, she has been trying to
16 speak to someone at ICE about her client; specifically, to inform them that Ms. Uzzhina is
17 represented and to clarify to which country ICE had “determined [that she] can be expeditiously
18 removed from the United States.” On Tuesday, November 18, 2025, undersigned counsel sent
19 another email to the ICE San Francisco Field Office and Bakersfield Sub-Office, notifying them that
20 she was counsel for Ms. Uzzhina and had been unsuccessful in her multiple attempts to reach anyone
21 at ICE by phone or email since Sunday. She also notified them that Ms. Uzzhina’s medications had
22 been misplaced and she desperately needed them [REDACTED]
23 [REDACTED]

24 [REDACTED] Ten minutes later, counsel received a response from the
25 ICE Bakersfield Sub-Office acknowledging her last email and noting that ICE was “looking into the
26 below information.” To date, counsel has not received a response and Ms. Uzzhina has not received
27 [REDACTED]
28

1 her medication. Without her medications, Ms. Uzzhina is suffering – “spiraling” as described by her
2 spouse.

3 Over the last thirteen years in which she has lived at liberty, Ms. Uzzhina has focused
4 on living her life with her husband, taking care of her health, and exceling in her employment.
5 She has complied with the terms of her Order of Supervision, regularly renewed her employment
6 authorization, and attended her check-in appointments. She has never missed a check-in
7 appointment. Other than her conviction last month, Ms. Uzzhina has no criminal history anywhere in
8 the world. For more than thirteen years, ICE has not moved to detain Ms. Uzzhina.

9
10 In recent months, ICE has engaged in highly publicized arrests of individuals who
11 presented no flight risk or danger, often with no prior notice that anything regarding their status was
12 amiss or problematic, whisking them away to faraway detention centers without warning.

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14 **III. LEGAL STANDARD**

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

2 **A. MS. UZZHINA WARRANTS A TEMPORARY RESTRAINING ORDER**

3 A temporary restraining order should be issued if “immediate and irreparable injury, loss, or
4 irreversible damage will result” to the applicant in the absence of an order. Fed. R. Civ. P. 65(b). The
5 purpose of a temporary restraining order is to prevent irreparable harm before a preliminary
6 injunction hearing is held. *See Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck*
7 *Drivers Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974). Ms. Uzzhina’s continuous,
8 indefinite detention violates her due process rights, and so too did her detention prior to receiving a
9 hearing before a neutral adjudicator. Ms. Uzzhina has already suffered irreparable injury in the form
10 of incarceration and will continue to suffer irreparable injury each day he remains detained without
11 due process.
12

13
14 The Court should enjoin further detention because Ms. Uzzhina is likely to succeed on the
15 merits of claims one, two, and three below, and should enjoin removal to a third country other than
16 Russia and Kazakhstan without the constitutionally required procedures, because she is likely to
17 succeed on the merits claim four below. Ms. Uzzhina asks the Court to grant all or part of the
18 requested injunction.

19 **1. Ms. Uzzhina is Likely to Succeed on the Merits of Her Claim That, in**
20 **Violation of Clear Supreme Court Precedent, Her Detention is**
21 **Unconstitutional Because it is Indefinite.**

22 First, Ms. Uzzhina is likely to succeed on her claim that, in her particular circumstances, the
23 Due Process Clause of the Constitution prevents Respondents from detaining her because she is
24 stateless without travel documents and, therefore, her indefinite detention would be unconstitutional
25 because there is no end in sight. Following a final order of removal, ICE is directed by statute to
26 detain an individual for ninety (90) days in order to effectuate removal. 8 U.S.C. § 1231(a)(2). This
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1 ninety (90) day period, also known as “the removal period,” generally commences as soon as a
2 removal order becomes administratively final. 8 U.S.C. § 1231(a)(1)(A); § 1231(a)(1)(B). ICE chose
3 not to detain Ms. Uzzhina because she was cooperating with their efforts to obtain travel documents
4 from Russia and/or Kazakhstan. Indeed, as ICE’s own internal documents show, the agency
5 recognized that as a stateless individual with no right to return to any country, the likelihood of her
6 removal was not reasonably foreseeable. *See LB Decl. at Exh. B (Form I-213)*.

8 If ICE fails to remove an individual during the ninety (90) day removal period, the law
9 requires ICE to release the individual under conditions of supervision, including periodic reporting.
10 8 U.S.C. § 1231(a)(3) (“If the alien . . . is not removed within the removal period, the alien, pending
11 removal, shall be subject to supervision.”). Limited exceptions to this rule exist. Specifically, ICE
12 “may” detain an individual beyond ninety days if the individual was ordered removed on certain
13 criminal grounds or is determined to pose a danger or flight risk. 8 U.S.C. § 1231(a)(6). However,
14 ICE’s authority to detain an individual beyond the removal period under such circumstances is not
15 boundless. Rather, it is constrained by the constitutional requirement that detention “bear a
16 reasonable relationship to the purpose for which the individual [was] committed.” *Zadvydas v.*
17 *Davis*, 533 U.S. 678, 690 (2001). Because the principal purpose of the post-final-order detention
18 statute is to effectuate removal (and not to be punitive), detention bears no reasonable relation to its
19 purpose if removal cannot be effectuated. *Id.* at 697.

22 The Supreme Court has addressed the fact that the statute is silent regarding the limits on
23 post-final order detention, and as definitively held that such detention has the potential to be
24 indefinite and such indefinite detention would be unconstitutional. Thus, there must be constitutional
25 limits on post-final order detention. Specifically, the Supreme Court held that post final order
26 detention is only authorized for a “period reasonably necessary to secure removal,” a period that the
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1 Court determined to be presumptively six months. *Id.* at 699-701. After this six-month period, if a
2 detainee provides “good reason” to believe that his or her removal is not significantly likely in the
3 reasonably foreseeable future, “the Government must respond with evidence sufficient to rebut that
4 showing.” *Id.* at 701. If the government cannot do so, the individual must be released.
5

6 In light of the Supreme Court limitations imposed on the statutory scheme, the government
7 updated the regulations to be consistent with those constitutionally required limitations on indefinite
8 detention. Under those regulations, detainees are entitled to release even before six months of
9 detention, as long as removal is not reasonably foreseeable. *See* 8 C.F.R. § 241.13(b)(1) (authorizing
10 release after ninety days where removal not reasonably foreseeable). Moreover, under the Supreme
11 Court’s constitutional limitations on indefinite detention, as the period of post-final-order detention
12 grows, what counts as “reasonably foreseeable” must conversely shrink. *Zadvydas* at 701. In this
13 case, Ms. Uzzhina was placed on an OSUP specifically because her removal was not foreseeable at
14 all. And nothing has changed. If ICE is permitted to continue detaining her now, under the
15 possibility she might be removed somewhere, someday, simply because she has a removal order,
16 then she very likely will be detained in ICE custody essentially forever. In the absence of actually
17 obtaining a travel document from a country that will accept Ms. Uzzhina, her removal is not
18 foreseeable at all, let alone reasonably. *See Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal.
19 July 16, 2025) (“Respondents have not provided any details about why a travel document could not
20 be obtained in the past, nor have they attempted to show why obtaining a travel document is more
21 likely this time around.”); *Liu v. Carter*, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025) (finding
22 that the respondents had not shown that removal was reasonably foreseeable where they did not
23 provide evidence why seeking travel documentation was more likely to be successful this time
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1 around or describe other actions taken to make the petitioner's removal more likely). Therefore, re-
2 detention is unconstitutional.

3 **2. Ms. Uzzhina is Likely to Succeed on the Merits of Her Claim That Her**
4 **Detention is Unlawful Because it is in Violation of the Regulations.**

5 Ms. Uzzhina's re-detention is separately unlawful because the controlling regulations specify
6 the circumstances that permit her detention, and Respondents have not established that
7 circumstances have changed regarding the foreseeability of her removal which is required under
8 those regulations.

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10 By regulation, noncitizens with final removal orders who are released from detention after a
11 post-order custody review are subject to an OSUP, which is documented on Form I-220B. 8 C.F.R. §
12 241.4(j). After an individual has been released on an OSUP, the regulations further specify that ICE
13 cannot revoke such an order without cause or adequate legal process. 8 C.F.R. §§ 241.13(i)(2)-(3).

14 Under the regulations, ICE has the authority to re-detain a noncitizen previously ordered
15 removed only in specific circumstances, such as where an individual violates any condition of
16 release or there are changed circumstances regarding the reasonable foreseeability of removal. 8
17 U.S.C. § 1231; 8 C.F.R. § 241.4(l)(1)-(2); 8 C.F.R. § 241.13(i). Although Ms. Uzzhina incurred a
18 criminal conviction, there is no evidence of changed circumstances in the record. *See LB Decl.* at
19 Exh. D (*Revocation of Release*) (noting that ICE "determined [that she] can be expeditiously
20 removed from the United States" without indicating where). The fact that Respondents have
21 announced that Ms. Uzzhina can be "expeditiously removed from the United States" is not a
22 sufficient changed circumstance, especially where they have not indicated to which country they
23 intended to expeditiously remove her.
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3. Ms. Uzzhina is Likely to Succeed on the Merits of Her Claim That Due Process Requires That She Should Have Been Afforded a Hearing Before a Neutral Adjudicator Prior to Any Detention by ICE, and She is Entitled to Such a Hearing Prior to Any Future Re-Detention.

Ms. Uzzhina is likely to succeed on her claim that fundamental principles of due process require that she cannot be detained by ICE without first being provided a pre-deprivation hearing before a neutral adjudicator where the government shows that her removal is reasonably foreseeable and that circumstances have changed since her release in 2012, including that Ms. Uzzhina is now a danger or a flight risk.

Even if ICE had fully complied with the procedures set forth in the controlling regulations, ICE's regulatory authority to unilaterally re-detain Ms. Uzzhina is proscribed by the Due Process Clause because it is well-established that individuals released from incarceration have a liberty interest in their freedom. *See e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("a person who is in fact free of physical confinement – even if that freedom is lawfully revocable – has a liberty interest that entitles him to constitutional due process before he is re-incarcerated"). In turn, to protect that interest, on the particular facts of Ms. Uzzhina's case, due process required notice and a hearing, prior to any arrest, at which she was afforded the opportunity to advance her arguments as to why he should not be re-detained. This never occurred.

Courts analyze these procedural due process claims in two steps: (1) whether there exists a protected liberty interest, and (2) the procedures necessary to ensure any deprivation of that protected liberty interest accords with the Constitution. *See Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460 (1989). The Due Process Clause of the Constitution prevents Respondents from arresting Ms. Uzzhina without providing a pre-deprivation hearing before a

1 neutral adjudicator where the government demonstrates by clear and convincing evidence that there
2 has been a material change in circumstances such that she is now a danger or a flight risk.

3 The Due Process Clause applies to “all ‘persons’ within the United States, including
4 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*
5 *v. Davis*, 533 U.S. 678, 693 (2001). “The touchstone of due process is protection of the individual
6 against arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including
7 “the exercise of power without any reasonable justification in the service of a legitimate government
8 objective.” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

10 “Freedom from imprisonment – from government custody, detention, or other forms of
11 physical restraint – lies at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690.
12 To comply with substantive due process, the government’s deprivation of an individual’s liberty
13 must be justified by a sufficient purpose. Therefore, immigration detention, which is “civil, not
14 criminal,” and “nonpunitive in purpose and effect,” must be justified by either (1) dangerousness or
15 (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir.
16 2017) (“[T]he government has no legitimate interest in detaining individuals who have been
17 determined not to be a danger to the community and whose appearance at future immigration
18 proceedings can be reasonably ensured by a lesser bond or alternative conditions.”). When these
19 rationales are absent, immigration detention serves no legitimate government purpose and becomes
20 impermissibly punitive, violating a person’s substantive due process rights. *See Jackson v. Indiana*,
21 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the government’s interests
22 in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25-CV-389, 2025 WL 1243135,
23 at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding petitioner may “succeed
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1 on his Fifth Amendment claim if he demonstrates either that the government acted with a punitive
2 purpose or that it lacks any legitimate reason to detain him”).

3 Courts analyze these procedural due process claims in two steps: (1) whether there exists a
4 protected liberty interest, and (2) the procedures necessary to ensure any deprivation of that
5 protected liberty interest accords with the Constitution. *See Kentucky Dep’t of Corrections v.*
6 *Thompson*, 490 U.S. 454, 460 (1989).

8 **a. Ms. Uzzhina Has a Protected Liberty Interest in Her Release**

9 Ms. Uzzhina’s liberty from immigration custody, a form of civil detention, is protected by
10 the Due Process Clause: “Freedom from imprisonment—from government custody, detention, or
11 other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause
12 protects.” *Zadvydas, supra*, 533 U.S. at 690.

13 For more than thirteen years, Ms. Uzzhina has exercised that freedom under her release from
14 ICE custody in June 2012. She thus retains a weighty liberty interest under the Due Process Clause
15 of the Fifth Amendment in avoiding incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47
16 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-
17 483 (1972). Moreover, the Supreme Court has recognized that post-removal order detention is
18 potentially indefinite and thus unconstitutional without some limitation. *Zadvydas*, 533 U.S. at 701.
19 Because of Ms. Uzzhina’s statelessness, her removal is not foreseeable at all, let alone reasonably.
20 Therefore, any detention is unconstitutional.

21 Just as importantly, Ms. Uzzhina has been presenting himself before ICE for her regular
22 check-in appointments for the past thirteen years, where ICE did not seek to arrest her during this
23 time. ICE instead gave her a future date and time to appear again each year, which she did. For the
24 past thirteen years, she has also devoted herself to her family and her career. Individuals – including
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1 noncitizens – released from incarceration have a liberty interest in their freedom. *Zadvydas*, 533 U.S.
2 at 696 (recognizing the liberty interest of noncitizens on OSUPs); *Getachew v. INS*, 25 F.3d 841 (9th
3 Cir. 1994) (noting that “[i]t is well-established that the due process clause applies to protect
4 immigrants”). This is further reinforced by *Morrissey*, in which the Supreme Court recognized the
5 protected liberty rights under the Due Process Clause of a criminal detainee who was released on
6 parole from incarceration. 408 U.S. at 481-82. The Court noted that, “subject to the conditions of his
7 parole, [a parolee] can be gainfully employed and is free to be with family and friends and to form
8 the other enduring attachments of normal life”—thus, those released on parole have a protected
9 liberty interest, even where that liberty is subject to conditions. *Id.* at 482. *See also Young v. Harper*,
10 520 U.S. at 152 (holding that individuals placed in a pre-parole program created to reduce prison
11 overcrowding have a protected liberty interest requiring pre-deprivation process); *Gagnon, supra*,
12 411 U.S. at 781-82 (holding that individuals released on felony probation have a protected liberty
13 interest requiring pre-deprivation process). In fact, so fundamental to due process is the concept of
14 liberty that it is even well established that an individual maintains a protectable liberty interest where
15 the individual obtains liberty through a mistake of law or fact. *See id.*; *Gonzalez-Fuentes v. Molina*,
16 607 F.3d 864, 887 (1st Cir. 2010); *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (noting
17 that due process considerations support the notion that an inmate released on parole by mistake,
18 because he was serving a sentence that did not carry a possibility of parole, could not be re-
19 incarcerated because the mistaken release was not his fault, and he had appropriately adjusted to
20 society, so it “would be inconsistent with fundamental principles of liberty and justice” to return him
21 to prison) (internal quotation marks and citation omitted). Here, when this Court ““compar[es] the
22 specific conditional release in [Petitioner’s case], with the liberty interest in parole as characterized
23 by *Morrissey*,”” it is clear that they are strikingly similar. *See Gonzalez-Fuentes*, 607 F.3d at 887.

1 Just as in *Morrissey*, Ms. Uzzhina's release "enables [her] to do a wide range of things open to
2 persons'" who have never been in custody, including to live at home, take care of her physical and
3 mental health, work with her community, and "be with family and friends and to form the other
4 enduring attachments of normal life." *Morrissey*, 408 U.S. at 482. Moreover, Ms. Uzzhina is not a
5 criminal detainee, but a civil detainee, and thus the due process considerations of her liberty should
6 be even weightier than the courts have already found apply in the criminal context. Precedent from
7 the Supreme Court and the Ninth Circuit make clear that she has a strong liberty interest in her
8 continued release from detention.
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10 **b. Ms. Uzzhina's Liberty Interest Mandated a Due Process Hearing**
11 **Before any Detention and, Once Released, Mandates Such a Hearing**
12 **Prior to Any Re-Detention.**

13 Ms. Uzzhina asserts that, here, (1) where her detention is civil, (2) where he has diligently
14 complied with ICE's reporting requirements on a regular basis, and (3) where on information and
15 belief ICE officers would arrest Ms. Uzzhina. merely to fulfill an arrest quota because her removal is
16 not reasonably foreseeable and potentially indefinite, due process mandates that she is required to
17 receive notice and a hearing before a neutral adjudicator prior to any re-arrest.

18 "Adequate, or due, process depends upon the nature of the interest affected. The more
19 important the interest and the greater the effect of its impairment, the greater the procedural
20 safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d
21 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must
22 "balance [Petitioner's] liberty interest against the [government's] interest in the efficient
23 administration of" its immigration laws in order to determine what process she is owed to ensure that
24 ICE does not unconstitutionally deprive her of her liberty. *Id.* at 1357. Under the test set forth in
25 *Mathews v. Eldridge*, 424 U.S. 319, 332-35 (1976) this Court must consider three factors in
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1 conducting its balancing test: “first, the private interest that will be affected by the official action;
2 second, the risk of an erroneous deprivation of such interest through the procedures used, and the
3 probative value, if any, of additional or substitute procedural safeguards; and finally the
4 government’s interest, including the function involved and the fiscal and administrative burdens that
5 the additional or substitute procedural requirements would entail.” *Haygood*, 769 F.2d at 1357
6 (citing *Mathews*, 424 U.S. at 335. The Supreme Court “usually has held that the Constitution
7 requires some kind of a hearing before the State deprives a person of liberty or property.” *Zinermon*
8 *v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a “special case” where post-
9 deprivation remedies are “the only remedies the State could be expected to provide” can post-
10 deprivation process satisfy the requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover,
11 only where “one of the variables in the *Mathews* equation—the value of predeprivation safeguards –
12 is negligible in preventing the kind of deprivation at issue” such that “the State cannot be required
13 constitutionally to do the impossible by providing predeprivation process,” can the government
14 avoid providing pre-deprivation process. *Id.* Because, in this case, the provision of a pre-deprivation
15 hearing are both possible and valuable to preventing an erroneous deprivation of liberty, ICE was
16 required to provide Ms. Uzzhina with notice and a hearing prior to any re-incarceration and
17 revocation of her OSUP. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones v.*
18 *Blanas*, 393 F.3d 918, 932 (9th Cir. 2004); *Zinermon*, 494 U.S. at 985; *see also Youngberg v.*
19 *Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that
20 individuals awaiting involuntary civil commitment proceedings may not constitutionally be held in
21 jail pending the determination as to whether they can ultimately be recommitted). Under *Mathews*,
22 “the balance weighs heavily in favor of [Petitioner’s] liberty” and required a pre-deprivation hearing
23 before a neutral adjudicator, which ICE failed to provide.
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i. Ms. Uzzhina's Interest in Her Liberty is Profound

Under *Morrissey* and its progeny, individuals conditionally released from serving a criminal sentence have a liberty interest that is “valuable.” *Morrissey*, 408 U.S. at 482. In addition, the principles espoused in *Hurd v. District of Columbia*, 864 F.3d 671 (D.C. Cir. 2017) and *Johnson, supra* – that a person who is in fact free of physical confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles him to constitutional due process before he is re-incarcerated – apply with even greater force to individuals like Ms. Uzzhina, who have also been placed on an OSUP in lieu of custody are facing civil (not criminal) detention. Parolees and probationers have a diminished liberty interest given their underlying convictions. *See, e.g., United States v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987). Nonetheless, even in the criminal parolee context, the courts have held that the parolee cannot be re-arrested without a due process hearing in which they can raise any claims they may have regarding why their re-incarceration would be unlawful. *See Gonzalez-Fuentes*, 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, Ms. Uzzhina, as a civil detainee, retains a truly weighty liberty interest even though she was under conditional release prior to her re-arrest. What is at stake in this case for Ms. Uzzhina is one of the most profound individual interests recognized by our legal system: whether ICE may unilaterally nullify a prior release decision and be able to take away her physical freedom, i.e., her “constitutionally protected interest in avoiding physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted). “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). *See also Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

ii. The Government's Interest in Keeping Ms. Uzzhina in Custody is Low and the Burden on the Government to Release Her from Custody is Minimal

The government's interest in keeping Ms. Uzzhina in detention without a due process hearing is low, and when weighed against her significant private interest in her liberty, the scale tips sharply in favor of releasing her from custody. It becomes abundantly clear that the *Mathews* test favors Petitioner when the Court considers that the process Petitioner seeks – release from civil custody after she has already been sentenced by a criminal court for her conviction, and ICE already released Ms. Uzzhina, and where nothing in the interim has changed to warrant re-detention after —is a standard course of action for the government. Providing Ms. Uzzhina with a future hearing before a neutral adjudicator to determine whether her removal is reasonably foreseeable and if there is otherwise evidence that she is a flight risk or danger to the community would impose only a *de minimis* burden on the government, because the government routinely conducts these reviews for individuals in Petitioner's same circumstances. 8 C.F.R. § 241.4(e)-(f).

As immigration detention is civil, it can have no punitive purpose. The government's only interests 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. Moreover, the Supreme Court has made clear that indefinite detention of noncitizens who cannot be removed to the countries of the removal order, is unconstitutional. In this case, the government cannot plausibly assert that it had a sudden interest in detaining Ms. Uzzhina due to alleged dangerousness, or due to a change in the foreseeability of her removal. Moreover, Ms. Uzzhina has always had a removal order since before her release, and yet is not a flight risk because she has continued to appear before ICE as requested for each and every appointment that has been scheduled. *See Morrissey*, 408 U.S. at 482 (“It is not sophistic to attach greater importance to a

1 person's justifiable reliance in maintaining his conditional freedom so long as he abides by the
2 conditions on his release, than to his mere anticipation or hope of freedom'" (quoting *United States*
3 *ex rel. Bey v. Connecticut Board of Parole*, 443 F.3d 1079, 1086 (2d Cir. 1971). What has changed,
4 however, is that ICE has a new policy to make a minimum number of arrests each day under the new
5 administration – but that does not constitute a material change in circumstances or increase the
6 government's interest in detaining him.¹

8 Moreover, as discussed previously, nothing has changed regarding the lack of foreseeability
9 of her removal from the U.S. Keeping her free from custody until ICE assesses and demonstrates to
10 a neutral adjudicator that Ms. Uzzhina is actually a flight risk or danger to the community, or that her
11 detention is not going to be indefinite, is far less costly and burdensome for the government than
12 keeping her detained. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to
13 the public of immigration detention are 'staggering': \$158 each day per detainee, amounting to a
14 total daily cost of \$6.5 million." *Hernandez*, 872 F.3d at 996.

16 **iii. Without Release from Custody, the Risk of an**
17 **Erroneous Deprivation of Liberty is High**

18 Releasing Ms. Uzzhina from civil custody, and ensuring she is provided a pre-deprivation
19 hearing in the future, would decrease the risk of her being erroneously deprived of her liberty.
20 Before she can be lawfully detained, she must be provided with a hearing before a neutral
21 adjudicator at which the government is held to show that her detention will not be indefinite (that is,
22 her removal is reasonably foreseeable), or that the circumstances have changed since her release in
23 2012 such that evidence exists to establish that she is a danger to the community or a flight risk.

26 ¹ See "Trump officials issue quotas to ICE officers to ramp up arrests," Washington Post
27 (January 26, 2025), available at:
28 <https://www.washingtonpost.com/immigration/2025/01/26/icearrests-raids-trump-quota/>.

1 Under the process that ICE maintains is lawful – which affords Ms. Uzzhina no process
2 whatsoever – ICE can simply re-detain her at any point if the agency desires to do so, as ICE did on
3 November 14, 2025. Ms. Uzzhina has already been erroneously deprived of her liberty when she was
4 recently detained, and the risk she will continue to be deprived is high if ICE is permitted to keep her
5 in detention after making a unilateral decision to detain her. The regulation at 8 C.F.R. § 241.4(I)
6 permits ICE to unilaterally re-detain individuals, even for an accidental error in complying with the
7 conditions, for example. After re-arrest, ICE makes its own, one-sided custody determination and
8 can decide whether the agency wants to hold her. 8 C.F.R. § 241.4(e)-(f).

10 By contrast, the procedure Ms. Uzzhina seeks—release from custody, and that she be
11 provided a future hearing in front of a neutral adjudicator prior to any re-detention at which the
12 government will establish that her detention will not be indefinite, or otherwise that the
13 circumstances have changed since her release in 2012 to justify her detention – is much more likely
14 to produce accurate determinations regarding these factual disputes. See *Chalkboard, Inc. v. Brandt*,
15 902 F.2d 1375, 1381 (9th Cir.1989) (when “delicate judgments depending on credibility of witnesses
16 and assessment of conditions not subject to measurement” are at issue, the “risk of error is
17 considerable when just determinations are made after hearing only one side”). “A neutral judge is
18 one of the most basic due process protections.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir.
19 2001), abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth
20 Circuit has noted that the risk of an erroneous deprivation of liberty under *Mathews* can be decreased
21 where a neutral adjudicator, rather than ICE alone, makes custody determinations. *Diouf v.*
22 *Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir. 2011).

25 Due process also requires consideration of alternatives to detention at any custody
26 redetermination hearing that may occur. The primary purpose of immigration detention is to ensure
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1 removal if reasonably foreseeable. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to
2 this purpose if, as here, removal is not actually foreseeable. Accordingly, alternatives to detention
3 must be considered – including reinstatement of her OSUP – in determining whether Ms. Uzzhina’s
4 detention is warranted.

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6 **4. Ms. Uzzhina is Likely to Succeed on the Merits of Her Claim That She is**
7 **Entitled to Constitutionally Adequate Procedures Prior to Any Third**
8 **Country Removal**

9 Finally, Ms. Uzzhina is likely to succeed on the merits of her claim that she must be
10 provided with constitutionally adequate procedures – including notice and an opportunity to respond
11 and apply for fear-based relief – to being removed to any third country. Under the INA, Respondents
12 have a clear and non-discretionary duty to execute final orders of removal only to the designated
13 countries of removal. The statute explicitly states that a noncitizen “shall remove the [noncitizen] to
14 the country the [noncitizen] . . . designates.” 8 U.S.C. § 1231(b)(2)(A)(ii) (emphasis added). And
15 even where a noncitizen does not designate the country of removal, the statute further mandates that
16 DHS “shall remove the alien to a country of which the alien is a subject, national, or citizen. *See* 8
17 U.S.C. § 1231(b)(2)(D); *see also generally Jama v. ICE*, 543 U.S. 335, 341 (2005). As the Supreme
18 Court has explained, such language “generally indicates a command that admits of no discretion on
19 the part of the person instructed to carry out the directive,” *Nat’l Ass’n of Home Builders v.*
20 *Defenders of Wildlife*, 551 U.S. 644, 661 (2007) (quoting *Ass’n of Civilian Technicians v. Fed.*
21 *Labor Relations Auth.*, 22 F.3d 1150, 1153 (D.C. Cir. 1994)); *see also Black’s Law Dictionary* (11th
22 ed. 2019). Accordingly, any imminent third country removal fails to comport with the statutory
23 obligations set forth by Congress in the INA and is unlawful. Moreover, prior to any third country
24 removal, ICE must provide Ms. Uzzhina with sufficient notice and an opportunity to respond and
25 apply for fear-based relief as to that country, in compliance with the INA, due process, and the
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1 binding international treaty: The Convention Against Torture and Other Cruel, Inhuman or
2 Degrading Treatment or Punishment.²

3 Currently, DHS has a policy of removing or seeking to remove individuals to third countries
4 without first providing constitutionally adequate notice of third country removal, or any meaningful
5 opportunity to contest that removal if the individual has a fear of persecution or torture in that
6 country. *See LB Decl.* at Exh. A (*DHS Policy Regarding Third Country Removal*). Instead, the
7 policy squarely violates the INA because it does not take into account, or *even mention*, an
8 individual's designated countries of removal – thereby fully contravening the statutory instruction
9 that DHS must only remove an individual to the designated countries of removal. U.S.C. §
10 1231(b)(2)(A)(ii).
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12 Further, the policy plainly violates the United States' obligations under the Convention
13 Against Torture and principles of due process because it allows DHS to provide individuals with no
14 notice whatsoever prior to removal to a third country, so long as that country has provided
15 "assurances" that deportees from the United States "will not be persecuted or tortured." *Id.* If, in
16 turn, the country has not provided such an assurance, then DHS officers must simply inform an
17 individual of removal to that third country, but are not required to inform them of their rights to
18 apply for protection from removal to that country under the Convention Against Torture. *Id.* Rather,
19 noncitizens instead must already be aware of their rights under this binding international treaty, and
20 must affirmatively state a fear of removal to that country in order to receive a fear-based interview to
21 screen for their eligibility for protection under the Convention Against Torture. *Id.* Even so, the
22 screening interview is hardly a meaningful opportunity for individuals to apply for fear-based relief,
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26 ² United Nations, Convention Against Torture and Other Cruel, Inhuman or Degrading
27 Treatment or Punishment (Dec. 10, 1984), available at:
28 [https://www.ohchr.org/en/instrumentsmechanisms/instruments/convention-against-torture-and-](https://www.ohchr.org/en/instrumentsmechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading)
[other-cruel-inhuman-or-degrading](https://www.ohchr.org/en/instrumentsmechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading).

1 because the interview happens within 24 hours after an individual states a fear of removal to a
 2 recently-designated third country, which hardly provides for any time to consult with an attorney or
 3 prepare any evidence for the interview. *Id.* And, in actuality, the screening interview is not a
 4 screening interview at all, because USCIS officers under the policy are instructed to determine at this
 5 interview “whether the alien would more likely than not be persecuted on a statutorily protected
 6 ground or tortured in the country of removal” – which is the standard for protection under the
 7 Convention Against Torture that immigration judges apply after a full hearing in Immigration Court.
 8 *Id.* Then, if the USCIS officer determines that the noncitizen has not met this standard, they will then
 9 be removed to the third country to which they claimed, and tried to demonstrate within 24 hours, a
 10 fear of persecution or torture. *Id.* Finally, there is no indication that any of this process will occur in
 11 an individual’s native language. *Id.* This is nothing more than a fig leaf of due process meant to
 12 deprive individuals of the protection that the law and treaty are supposed to provide them.

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 15 Clearly, this policy violates the Convention Against Torture, which instructs that the United
 16 States cannot remove individuals to countries where they will face torture, because the policy allows
 17 DHS to swiftly remove noncitizens to countries where they very well may face torture if those
 18 countries simply provide the United States with “assurances” that deportees will not be tortured. *Id.*
 19 Moreover, the policy puts the onus of individuals to be aware of their rights under the Convention
 20 Against Torture — which is a treaty that binds the United States government — instead of ensuring
 21 that DHS officials make individuals aware of their rights, which would more squarely comport with
 22 DHS’s obligations under the treaty not to remove individuals to countries where they face torture. *Id.*
 23 For similar reasons, the policy also violates principles of due process, because it does not provide
 24 individuals with notice or any meaningful opportunity to apply for fear-based relief. *Id.* Again, the
 25 policy allows individuals to be removed to third countries without any notice or an opportunity to be
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1 heard if that country merely promises that deportees will not face torture there, and if individuals are
2 otherwise unaware of their right to seek fear-based relief. *Id.*

3 The U.S. District Court for the District of Massachusetts previously issued a nationwide
4 preliminary injunction blocking such third country removals without notice and a meaningful
5 opportunity to apply for relief under the Convention Against Torture. *D.V.D., et al. v. U.S.*
6 *Department of Homeland Security, et al.*, No. 25-10676-BEM (D. Mass. Apr. 18, 2025). The U.S.
7 Supreme Court has since granted the government's motion to stay the injunction on June 23, 2025,
8 just before the Court published *Trump v. Casa*, No. 24A884 (June 27, 2025) limiting nationwide
9 injunctions. Thus, the Supreme Court's order, which is not accompanied by an opinion, signals only
10 disagreement with the nature, and not the substance, of the nationwide preliminary injunction.³ This
11 is made clear by the Court's decision in *Trump v. J.G.G.*, 604 U.S. ____ (2025), where the Court
12 explained that the putative class plaintiffs there had to seek relief in individual habeas actions (as
13 opposed to injunctive relief in a class action) against the implementation of Proclamation No. 10903
14 related to the use of the Alien Enemies Act to remove non-citizens to a third country. Regardless,
15 ICE appears to be emboldened and intent to implement its campaign to send noncitizens to far
16 corners of the planet – places they have absolutely no connection to whatsoever – in violation of
17 individuals' due process rights.
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21

22 ³ The Supreme Court's July 3, 2025 order in *U.S. Department of Homeland Security, et al. v.*
23 *D.V.D., et al.*, 606 U. S. ____ (2025) further reinforces that the Supreme Court only disagrees
24 with the means of a nationwide injunction, and not the underlying substance of the nationwide
25 injunction. There, the Court held that the stay of the preliminary injunction divests remedial
26 orders stemming from that injunction of enforceability, and cited to *United States v. Mine*
27 *Workers*, 330 U. S. 258, 303 (1947) for the proposition that: "The right to remedial relief falls
with an injunction which events prove was erroneously issued and a fortiori when the injunction
or restraining order was beyond the jurisdiction of the court." *Id.* In any event, the remedial order
at issue involved six individuals who had *already* been removed from the United States to a third
country, and is therefore distinct from this case, where Ms. Uzzhina remains in the United States
and this Court, therefore, continues to have jurisdiction over her case.

1 Ms. Uzzhina's removal to a third country would violate her due process rights unless she is
2 first provided with sufficient notice and a meaningful opportunity to apply for protection under the
3 Convention Against Torture; accordingly, intervention by this Court is necessary to protect those
4 rights.

5
6 **5. Ms. Uzzhina will Suffer Irreparable Harm Absent Injunctive Relief**

7 Ms. Uzzhina will suffer irreparable harm if she is deprived of her liberty and subjected to
8 indefinite detention by immigration authorities without being provided the constitutionally adequate
9 process (a future pre-deprivation hearing before a neutral adjudicator prior to re-detention) that this
10 motion for a temporary restraining order seeks. Detainees in civil ICE custody are held in "prison-
11 like conditions" which have real consequences for their lives. *Preap v. Johnson*, 831 F.3d 1193,
12 1195 (9th Cir. 2016). As the Supreme Court has explained, "[t]he time spent in jail awaiting trial has
13 a detrimental impact on the individual. It often means loss of a job; it disrupts family life; and it
14 enforces idleness." *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972); accord *Nat'l Ctr. for Immigrants*
15 *Rights, Inc. v. INS*, 743 F.2d 1365, 1369 (9th Cir. 1984). Moreover, the Ninth Circuit has recognized
16 in "concrete terms the irreparable harms imposed on anyone subject to immigration detention"
17 including "subpar medical and psychiatric care in ICE detention facilities, the economic burdens
18 imposed on detainees and their families as a result of detention, and the collateral harms to children
19 of detainees whose parents are detained." *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).
20 Finally, the government itself has documented alarmingly poor conditions in ICE detention centers.
21

22
23 Ms. Uzzhina has been on an OSUP for more than thirteen years. During that time, she has
24 married a U.S. citizen, built a successful career, and taken care of her physical and mental health.

25 Further, Ms. Uzzhina will suffer irreparable harm were she to be removed to a third country
26 without first being provided with constitutionally-compliant procedures to ensure that her right to
27

1 apply for fear-based relief is protected. Individuals removed to third countries under DHS's policy
 2 have reported that they are now stuck in countries where they do not have government support, do
 3 not speak the language, and have no network.⁴ Others removed in violation of their prior grant of
 4 protection under the Convention Against Torture have reported that they faced severe torture at the
 5 hands of government agents.⁵ It is clear that "the deprivation of constitutional rights 'unquestionably
 6 constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting
 7 *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Thus, a temporary restraining order is necessary to
 8 prevent Ms. Uzzhina from suffering irreparable harm from an unlawful and unjust detention, and by
 9 being summarily removed to any third country where she may face persecution or torture.
 10

11 **6. The Balance of Equities and the Public Interest Favor Granting the**
 12 **Temporary Restraining Order**

13 The balance of hardships strongly favors Ms. Uzzhina. Her detention is potentially indefinite,
 14 and her summary removal to any third country where she may face persecution or torture would
 15 violate the INA, binding international treaty, and her due process rights. The government cannot
 16 suffer harm from an injunction that prevents it from engaging in an unlawful practice. *See Zepeda v.*
 17 *INS*, 753 F.2d 719, 727 (9th Cir. 1983).
 18

19 Further, any burden imposed by requiring the Respondents to release Ms. Uzzhina from
 20 custody (and provided notice and a hearing before an Immigration Judge prior to any future re-
 21 detention) is both *de minimis* and clearly outweighed by the substantial harm he will suffer as long
 22 as he continues to be detained. *See Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)
 23

24 ⁴ NPR, "Asylum seekers deported by the U.S. are stuck in Panama unable to return home (May
 25 5, 2025), available at: [https://www.npr.org/2025/05/05/nx-s1-5369572/asylum-seekers-](https://www.npr.org/2025/05/05/nx-s1-5369572/asylum-seekers-deported-by-the-u-s-are-stuck-in-panama-unable-to-return-home)
[deported-by-the-u-s-are-stuck-in-panama-unable-to-return-home](https://www.npr.org/2025/05/05/nx-s1-5369572/asylum-seekers-deported-by-the-u-s-are-stuck-in-panama-unable-to-return-home).

26 ⁵ NPR, "Abrego Garcia says he was severely beaten in Salvadoran prison" (July 3, 2025),
 27 available at: [https://www.npr.org/2025/07/03/g-s1-75775/abrego-garcia-el-salvador-](https://www.npr.org/2025/07/03/g-s1-75775/abrego-garcia-el-salvador-prison-beaten-torture)
[prison-beaten-torture](https://www.npr.org/2025/07/03/g-s1-75775/abrego-garcia-el-salvador-prison-beaten-torture).
 28

1 (“Society’s interest lies on the side of affording fair procedures to all persons, even though the
2 expenditure of governmental funds is required.”). Similarly, any burden of requiring Respondents
3 not to remove Ms. Uzzhina to any third country is outweighed by the substantial harm she may
4 suffer if removed to a country where she will face persecution or torture. *See id.*

5
6 Finally, a temporary restraining order is in the public interest. First and most importantly, “it
7 would not be equitable or in the public’s interest to allow [a party] . . . to violate the requirements of
8 federal law, especially when there are no adequate remedies available.” *Ariz. Dream Act Coal. v.*
9 *Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014) (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006,
10 1029 (9th Cir. 2013)). If a temporary restraining order is order is not entered, the government would
11 effectively be granted permission to detain Ms. Uzzhina, and/or to summarily remove her to any
12 third country, in violation of the requirements of Due Process. “The public interest and the balance
13 of the equities favor ‘prevent[ing] the violation of a party’s constitutional rights.’” *Ariz. Dream Act*
14 *Coal.*, 757 F.3d at 1069 (quoting *Melendres*, 695 F.3d at 1002); *see also Hernandez*, 872 F.3d at 996
15 (“The public interest benefits from an injunction that ensures that individuals are not deprived of
16 their liberty and held in immigration detention because of bonds established by a likely
17 unconstitutional process.”); *cf. Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) (“Generally,
18 public interest concerns are implicated when a constitutional right has been violated, because all
19 citizens have a stake in upholding the Constitution.”).

22 IV. CONCLUSION

23 For all the above reasons, Ms. Uzzhina warrants a temporary restraining order that
24 Respondents release her from custody, not re-detain her unless she is afforded notice and a hearing
25 before an neutral adjudicator on whether her detention is not indefinite, and further whether it is
26 justified by evidence that she is a danger to the community or a flight risk, and not remove her to any
27 third country without first providing her with constitutionally-compliant procedures.

1 Dated: November 19, 2025

Respectfully submitted,

2 /s/ Lina Baroudi

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