

1 Jose F. Vergara 251342
2 Law Office of Jose F. Vergara
3 1990 North California Blvd., 8th Floor
4 Walnut Creek, CA 94596
5 Telephone: (925) 457-2090

6 Attorney for Petitioner
7 Thania Valentin Amarillo

8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **FRESNO DIVISION**

11
12 **THANIA VALENTIN AMARILLO**

13 *Petitioner,*

14
15 *v.*

16 Timothy S. ROBBINS, Field Office Director of the
17 Los Angeles Field Office of U.S. Immigration and
18 Customs enforcement; Todd M. LYONS, Acting
19 Director of U.S. Immigration and Customs
20 Enforcement; U.S. DEPARTMENT OF HOMELAND
21 SECURITY, Kristi NOEM, Secretary of the U.S.
22 Department of Homeland Security, Christopher
23 CHESTNUT, Warden, California City Corrections
24 Center, and Pamela BONDI, Attorney General of the
25 United States

26 *Respondents,*

Case No. 25-1146

**MOTION FOR TEMPORARY
RESTRAINING ORDER**

Note on Motion Calendar:

ORAL ARGUMENT REQUESTED

INTRODUCTION

Petitioner Thania Valentin Amarillo (“Petitioner”) is a Peruvian noncitizen detained by Immigration and Customs Enforcement (ICE) at the California City Corrections Center, in California City, California. She entered the United States in or around April 28, 2024, and she was subsequently released on parole on April 29, 2024 after a determination that she was not a flight risk or a danger to the community. For the next eighteen months, Petitioner complied with what was asked of her: appearing at all of her hearing in the Van Nuys Immigration Court, and filing her asylum application. She also adhered to all the conditions of her release, including telephonic and video check-ins as part of the Intensive Supervision Appearance Program (ISAP) and in person visits at the ISAP office. Nevertheless, on October 21, 2025, she was arrested at a check-in at the ISAP Bakersfield field office, without any notice or opportunity to respond to any allegation purportedly justifying her re-detention. She remains in detention at California city Corrections Center, separated from her immediate family and friends.

At no time prior to her arrest did Respondents provide Petitioner a hearing, let alone a hearing before a neutral decisionmaker at which ICE was required to justify her re-detention and show that she now poses a flight risk or danger to the community. Indeed, she was not provided any notice as to the reason for her re-detention, much less the written notice required under 8 C.F.R. § 212.5(e)(2) that must accompany a revocation of parole. Nor has she received any meaningful opportunity to respond to any allegations triggering her re-detention.

By denying her any notice and hearing, Respondents violated Petitioner’s right to due process. As a number of Federal District courts recently held, her ongoing detention is therefore unlawful, and her immediate release is required. (See e.g., *E.A. T.-B. v. Wamsley*, No. 25-cv-1192-KKE, --- F. Supp. 3d ---, 2025 WL 2402130, at *6 (W.D. Wash. Aug. 19, 2025) (ordering immediate release because “a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty”). Accordingly, Petitioner respectfully seeks

1 immediate relief from this Court to vindicate her right to liberty under the Fifth Amendment's Due
2 Process Clause.¹

3 **STATEMENT OF FACTS**

4 Petitioner Thania Valentin Amarillo ("Petitioner") is an asylum seeker who fled Peru due to her
5 active opposition to criminal groups with links to the Peruvian government. (Dec. of Jose Trinidad
6 Ceja, ¶ 1.) After Petitioner arrived in the United States on April 28, 2024, federal agents detained her
7 and took her to the Otay Mesa Immigration Processing center, in San Diego, California. Petitioner does
8 not believe she was not provided with a Notice and Order to expedited Removal during the time she
9 was in detention, stating that pursuant to Section 235(b)(1) of the Immigration and Naturalization Act,
10 Petitioner was inadmissible and therefore subject to removal. Instead, she was provided with a
11 document known as "A-File Jacket Starter." (Id. ¶2.) The document indicated her processing priority
12 was low, and that she had no criminal or prosecutorial history. In addition, the same document also
13 stated that in regards to the Consequence Delivery System Classification, Petitioner was receiving a
14 classification of "further immigration review awaiting." (Id.)

15 On the next day, on April 29, 2024, Petitioner was released and paroled into the United States
16 pursuant to 8 U.S.C. § 1182(d)(5) by immigration officials after they determined she was not a flight
17 risk or a danger to the community. (Id. ¶ 3.) When Petitioner was released, DHS officials provided her
18 with an Order of Release on Recognizance (Form I-220A), which stated that Petitioner was being
19 released pursuant to Section 236 of the Immigration and Naturalization Act. (Id.) She was also served
20 with a Notice to Appear. (Id.)

21 The following day, on April 30, 2024, Immigration proceedings were commenced against Petitioner
22 at the Van Nuys Immigration Court. Following commencement of proceedings, Petitioner appeared at
23 Master Calendar Hearings on December 9, 2024 and on April 29, 2025. She also filed an asylum
24
25

26 ¹ Together with the filing of the habeas petition and motion, counsel certifies that they are providing concurrent notice
27 regarding this filing to the U.S. Attorney's Office for the Central District of California via email at
28 USACAE.ECF2241@usdoj.gov and at Cheri.Buxbaum@usdoj.gov

1 application on January 18, 2025, and the Van Nuys Immigration Court scheduled an Individual hearing
2 for May 26, 2028. (Id. ¶4.)

3 Since the date of her release on April 29, 2024, Petitioner had formed links to the local community.
4 She had formed a relationship with Mr. Jose Trinidad Ceja, a United States citizen. They had started
5 dating in July 2024 and on August 25, 2025, Mr. Ceja asked for her hand in marriage. They had plans to
6 move together to Mr. Cejas home in December 2025 and they had agreed to have a wedding ceremony
7 in April 2026. (Id. ¶5.) As for her social life, Petitioner was attending classes at Bakersfield Adult
8 School, where she studied English and made friends. She also attended church at Our Lady of
9 Guadalupe Catholic Church with Mr. Ceja and his mother. (Id.) Petitioner did not work, doe to the fact
10 that immigration officials had informed her that she could only start working once she received an
11 employment authorization document. As a result, Mr. Ceja covered all of her expenses, including the
12 rent for the room Petitioner rented at 301 Scarlet Fire Drive, in Bakersfield, California. (Id.)

13 Petitioner also did everything the government asked her to do in the next eighteen months,
14 including complying with all terms of her monitoring program, which consisted in sending pictures or
15 videos of herself to ISAP on a weekly basis, and presenting herself in person at the ISAP office on a
16 monthly basis. (Id. ¶6.) She was also informed about the need to update her address with ISAP and of
17 her upcoming visit to ISAP which had been scheduled for October 21, 2025. (Id.) In regards to any
18 violations of her monitoring program, Petitioner was only aware of one possible incident on August 29,
19 2025, where she was ten minutes late in regards to her video check-in with ISAP. Other than that
20 incident, Petitioner was unaware of any other acts or omissions by her which might constitute a violation
21 of her monitoring program. (Id.)

22 In the morning of October 21, 2025, Petitioner was dropped off at the ISAP office by Mr. Ceja in
23 order to appear for her monthly in-person visit as she had been instructed. However, Petitioner was
24 promptly arrested by ICE officers, who told her she had missed an unspecified meeting. Petitioner
25 asked for more specific information, but the officers refused to provide any details about what they
26 claimed to be the violation. (Id. ¶7.) On the same day, Petitioner was transferred to the California City
27 Detention Center, in California City, California. (Id.)

Petitioner filed a habeas petition in this court along with the present motion. By means of the present motion, she now seeks immediate relief from her continued, unlawful detention.

ARGUMENT

Requirements for a temporary restraining order

On a motion for a TRO, the movant “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” (*Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and TRO standards are “substantially identical”).) A TRO may issue where “serious questions going to the merits [are] raised and the balance of hardships tips sharply in [plaintiff’s] favor.” (*All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (citation modified).) To succeed under the “serious question” test, Petitioner must also show that he is likely to suffer irreparable injury and that an injunction is in the public’s interest. (*Id.* at 1132.)

Petitioner is likely to succeed on the merits of her argument that her detention is unlawful because she was not afforded a pre-deprivation hearing

Due process requires Respondents to afford Petitioner a hearing before a neutral decisionmaker where ICE is required to justify re-detention *before* it occurs. In recent months, as DHS has detained many similarly-situated noncitizens, several courts—including District Courts in California—have held the same and ordered the immediate release of noncitizens who had been re-detained by DHS without a pre-deprivation hearing. (*See, e.g., E.A. T.-B.*, 2025 WL 2402130; *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, --- F. Supp. 3d ---, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).) In light of this, Petitioner is likely to succeed on her claim and the Court should order her immediate release. If Respondents continue to assert that her

1 detention is justified after her release, they may thereafter schedule a hearing where they bear the burden
2 of presenting clear and convincing evidence that her re-detention is warranted.

3 In regards to cases involving an immigrant being re-detained, the U.S. District Court for the
4 Western District of Washington recently explained in *E.A. T.-B.*, the three-factor test established in
5 *Mathews v. Eldridge*, 424 U.S. 319 (1976) is the controlling framework for determining what process
6 Petitioner is due. *Mathews* requires the Court to evaluate (1) “the private interest that will be affected by
7 the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures
8 used, and the probable value, if any, of additional or substitute procedural safeguard” and (3) “the
9 Government’s interest, including the function involved and the fiscal and administrative burdens that the
10 additional or substitute procedural requirement would entail.” (424 U.S. at 335; *see also Jorge M.F. v.*
11 *Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021) (applying *Mathews* factors to assess right to pre-
12 deprivation hearing); *Morrissey v. Brewer*, 408 U.S. 471, 482–84 (1972) (assessing parolee’s liberty
13 interests and the state’s interests to assess what process is due a parolee). Here, those factors strongly
14 favor Petitioner.

15 **A. Petitioner Has a Weighty Private Interest.**

16 Petitioner has an exceptionally strong interest in freedom from physical confinement and in a
17 hearing prior to any revocation of her liberty. Indeed, her “interest in not being detained is ‘the most
18 elemental of liberty interests[.]’” (*E.A. T.-B.*, 2025 WL 2402130, at *3 (alteration in original) (quoting
19 *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). “Freedom from imprisonment . . . lies at the heart of the
20 liberty that [the Due Process] Clause protects.” (*Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).) Thus,
21 “[d]etention, including that of a non-citizen, violates due process if there are not ‘adequate procedural
22 protections’ or ‘special justification[s]’ sufficient to outweigh one’s ‘constitutionally protected interest
23 in avoiding physical restraint.’” (*Perera v. Jennings*, 598 F. Supp. 3d 736, 742 (N.D. Cal. 2022) (second
24 alteration in original) (quoting *Zadvydas*, 533 U.S. at 690).) Similarly, the Ninth Circuit has held that
25 “[i]n the context of immigration detention, it is well-settled that ‘due process requires adequate
26 procedural protections to ensure that the government’s asserted justification for physical confinement
27 outweighs the individual’s constitutionally protected interest in avoiding physical restraint.’”
28

1 (*Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Singh v. Holder*, 638 F.3d 1196,
2 1203 (9th Cir. 2011)). The Supreme Court has long underscored this point. *See, e.g., Foucha v.*
3 *Louisiana*, 504 U.S. 71, 80 (1992) (“It is clear that commitment for any purpose constitutes a significant
4 deprivation of liberty that requires due process protection.” (citation omitted)).)

5 This principle applies with significant force given Petitioner’s initial release from detention on
6 parole. “The Supreme Court has repeatedly held that in at least some circumstances, a person who is in
7 fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that
8 entitles him to constitutional due process before he is re-incarcerated.” (*Hurd v. District of Columbia*,
9 864 F.3d 671, 683 (D.C. Cir. 2017).) As the *Hurd* court explains, this includes cases of “pre-parole
10 conditional supervision,” *id.* (citing *Young v. Harper*, 520 U.S. 143, 152 (1997)); “probation,” (*Id.*)
11 (citing *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)), and “parole,” (*Id.*) (citing *Morrissey*, 408 U.S. at
12 482).)

13 These principles apply with even more force here, where civil immigration detention is concerned,
14 than in cases involving renewed incarceration in the criminal context. As one court has explained,
15 “[g]iven the civil context, [a noncitizen’s] liberty interest is arguably greater than the interest of parolees
16 in *Morrissey*.” (*Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).) Parolees and
17 probationers have a diminished liberty interest because of their underlying convictions. (*See, e.g., United*
18 *States v. Knights*, 534 U.S. 112, 119 (2001) (“Probation is one point on a continuum of possible
19 punishments” (citation modified)); *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987) (“To a greater or
20 lesser degree, it is always true of probationers (as we have said it to be true of parolees) that they do not
21 enjoy the absolute liberty to which every citizen is entitled” (citation modified).) Nonetheless, even
22 in the criminal parole and supervised release context, courts have held that parolees cannot be re-
23 arrested without a due process hearing affording them the opportunity to contest the legality of their re-
24 incarceration. (*See, e.g., Hurd*, 864 F.3d at 684.)

25 Critically, in recent months and years, courts have repeatedly applied these principles to hold that
26 noncitizens have a strong liberty interest in cases involving re-detention. A person re-detained after a
27 prior release from ICE custody is “undoubtedly deprive[d] . . . of an established interest in his liberty.”
28

(*E.A. T.-B.*, 2025 WL 2402130, at *3.) Other courts have reached the same conclusion. (*See, e.g., Garcia*, 2025 WL 2420068, at *10) (“[P]arole allowed [the petitioner] to build a life outside detention, albeit under the terms of that parole. [Petitioner] has a substantial private interest in being out of custody which would allow him to continue in these life activities, including supporting his family.”); (*Pinchi*, 2025 WL 2084921, at *4) (“[Petitioner] has a substantial private interest in remaining out of custody. She has an interest in remaining in her home, continuing her employment, providing for her family, obtaining necessary medical care, maintaining her relationships in the community, and continuing to attend her church.”); (*Maklad*, 2025 WL 2299376, at *8 (similar).)

As in these cases, Petitioner has a strong interest in her liberty. Prior to her re-detention, Petitioner resided in Bakersfield, California for about eighteen months, having a relationship with her fiancé and making plans for her future with him, learning English at an adult school, and making friends at the same school and at church. She also was complying with all of her ISAP check-in requirements. (Decl. of Jose Trinidad Ceja, ¶¶ 1–5.). In addition, when she was released, she was informed that her release was pursuant to Section 236. She has substantial connections to this country, and her fiancé and friends are suffering in her absence. These facts show not only that Petitioner’s freedom is at stake, but that her absence is negatively affecting the life of her fiancé and her friends.

B. The Risk of Erroneous Deprivation Is High.

Second, “the risk of erroneous deprivation of Petitioner’s liberty interest in the absence of a pre-detention hearing is high.” (*E.A. T.-B.*, 2025 WL 2402130, at *4.) “That the Government may believe it has a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process.” (*Id.*) Her re-detention must still “bear[] [a] reasonable relation” to a valid government purpose—here, preventing flight or protecting the community against dangerous individuals. (*Zadvydas*, 533 U.S. at 690) (second alteration in the original) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Only a hearing before a neutral decisionmaker—where ICE must prove that re-detention is justified and that Petitioner poses a flight risk or danger—can ensure that this “reasonable relation” to a valid government purpose exists. But to date, only the “government enforcement agent” has made any decision about the propriety of detention, (*Coolidge v. New*

1 *Hampshire*, 403 U.S. 443, 450 (1971)), a far cry from the hearing before a neutral decisionmaker that
 2 due process requires, (see, e.g., *Shadwick v. City of Tampa*, 407 U.S. 345, 350 (1972) (“Whatever else
 3 neutrality and detachment might entail, it is clear that they require severance and disengagement from
 4 activities of law enforcement.”); see also *Gerstein v. Pugh*, 420 U.S. 103, 112 (1975) (similar).) In fact,
 5 Petitioner did not (and has not) even received a formal notice of the basis for her re-detention, much less
 6 any opportunity to respond to any allegations purporting to justify her re-detention or a hearing before a
 7 neutral decisionmaker.

8 The importance of a hearing before a neutral decisionmaker principle remains even though
 9 Petitioner might have initially been subject to mandatory detention under 8 U.S.C. § 1225(b)(1) or (b)(2)
 10 when he was processed for expedited removal. (See *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019).)
 11 This is because, as this Court explained in *E.A. T.-B.*, “Petitioner does not claim to be entitled to a
 12 hearing consistent with a particular statute: he argues that the Due Process Clause requires it.” (2025
 13 WL 2402130, at *4.) And due process requires such a hearing because “Petitioner’s circumstances have
 14 changed materially” since her release in November 2024. (*Lopez Reyes v. Bonnar*, 362 F. Supp. 3d 762,
 15 777 (N.D. Cal. 2019).) As noted above, she has formed deep connections to this country, residing in
 16 California, and working to support herself and her sister. “These facts show that a[] [pre-deprivation]
 17 hearing provide[s] additional safeguards under these circumstances.” (Id.; see also, e.g., *Jorge M.F.*, 534
 18 F. Supp. 3d at 1055) (“In any pre-detention hearing, the IJ would be required to consider any additional
 19 evidence from the eight-plus months since Petitioner was released.”); (*Garcia*, 2025 WL 2420068, at
 20 *10 (“[P]arole allowed [Petitioner] to build a life outside detention.”)).

21 **C. The Government’s Interest Is Minimal.**

22 Finally, “the government’s interest in detaining [Petitioner] or re-detaining [her] without a hearing
 23 is slight.” (*Maklad*, 2025 WL 2299376, at *8; *Ortega*, 415 F. Supp. 3d at 970) (“If the government
 24 wishes to re-arrest Ortega at any point, it has the power to take steps toward doing so; but its interest in
 25 doing so without a hearing is low.”). “[A]lthough [a pre-deprivation hearing] would have required the
 26 expenditure of finite resources (money and time) to provide Petitioner notice and hearing on [ISAP]
 27 violations before arresting and re-detaining her, those costs are far outweighed by the risk of erroneous
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1 deprivation of the liberty interest at issue.” (*E.A. T.-B.*, 2025 WL 2402130, at *5.) Notably, since her
2 release, Respondent “has continued to demonstrate that [she] poses neither a flight risk nor a danger to
3 the community,” holding an honest job and helping both herself and her spouse, and developing
4 friendships, among other factors. (*Pinchi*, 2025 WL 2084921, at *5.)

5 The government may claim that its interest in enforcing immigration laws weighs heavily in its
6 favor. But the government’s interest in immigration enforcement “is not at stake here; instead, it is the
7 much lower interest in detaining [Petitioner] pending removal without a bond hearing.” (*Perera*, 598 F.
8 Supp. 3d at 746.) Many other courts have observed the same. (See, e.g., *Zagal-Alcaraz v. ICE Field*
9 *Office*, No. 3:19-CV-01358-SB, 2020 WL 1862254, at *7 (D. Or. Mar. 25, 2020) (“The government
10 interest at stake here is not the continued detention of Petitioner, but the government’s ability to detain
11 him without a bond hearing.”), *report and recommendation adopted*, 2020 WL 1855189 (D. Or. Apr. 13,
12 2020). What is more, Petitioner has complied with the immigration laws: she was released on parole and
13 has been preparing to appear at her first Master Calendar Hearing, as the Immigration and Nationality
14 Act (INA) expressly permits. 8 U.S.C. § 1158. She also made all required check-ins with both ISAP and
15 ICE. Any claimed “enforcement” amounts to punishing and deterring people like Petitioner from
16 asserting the statutory rights that the INA expressly provides, rather than enforcing those laws.

17 In addition, the government’s interest is not limited to enforcement of the law; instead, it also
18 encompasses the interest of the “public,” including the administrative or financial burdens additional
19 process requires. (*Mathews*, 424 U.S. at 348.) Here, any cost in holding a hearing, should the
20 government choose to do so, is minimal. Moreover, any financial burden is outweighed by the costs of
21 detaining Petitioner prior to such a hearing. The public’s “interest lies on the side of affording fair
22 procedures to all persons, even though the expenditure of governmental funds is required.” (*Lopez v.*
23 *Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983).) This consideration also “cuts strongly in favor” of Mr.
24 Ramirez because when “[w]hen the Government incarcerates individuals it cannot show to be a poor
25 bail risk for prolonged periods of time, as in this case, it separates families and removes from the
26 community breadwinners, caregivers, parents, siblings and employees.” (*Velasco Lopez v. Decker*, 978
27 F.3d 842, 855 (2d Cir. 2020).)

1 In sum, Petitioner has demonstrated—or is likely to be able to demonstrate—that she “has a
2 protected liberty interest in his continuing release from custody, and that due process requires that Petitioner
3 receive a hearing before an immigration judge before he can be re-detained.” (*E.A. T.-B.*, 2025 WL 2402130,
4 at *5.)

5 **Petitioner will suffer irreparable harm absent an injunction.**

6 Petitioner must also show she is “likely to suffer irreparable harm in the absence of preliminary
7 relief.” (*Winter*, 555 U.S. at 20.) Irreparable harm is the type of harm for which there is “no adequate
8 legal remedy, such as an award of damages.” *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068
9 (9th Cir. 2014).

10 Here, Petitioner’s unlawful detention constitutes “a loss of liberty that is . . . irreparable.” (*Moreno*
11 *Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff’d in part, vacated*
12 *in part on other grounds, remanded sub nom. Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir. 2022);
13 *cf. Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013) (irreparable harm is met where
14 “preliminary injunction is necessary to ensure that individuals . . . are not needlessly detained” because
15 they are neither a danger nor a flight risk).) This is particularly true here, where Petitioner’s detention
16 also violates the Constitution. “Civil immigration detention violates due process outside of certain
17 special and narrow nonpunitive circumstances.” (*Rodriguez v. Marin*, 909 F.3d 252, 257 (9th Cir. 2018)
18 (citation modified).) As detailed above, Petitioner’s detention is outside of those “special and narrow
19 nonpunitive circumstances,” as the Due Process Clause forbids his detention without a pre-deprivation
20 hearing. These constitutional concerns also counsel in favor of finding that Petitioner has demonstrated
21 irreparable harm, for he has shown that his detention violates due process. (See *Baird v. Bonta*, 81 F.4th
22 1036, 1048 (9th Cir. 2023) (declaring that “in cases involving a constitutional claim, a likelihood of
23 success on the merits usually establishes irreparable harm”).)

24 Detention also inflicts substantial harm on Petitioner by separating her from her sister and friends.
25 Absent a TRO, Petitioner has no hope of being reunited with her sister and her friends and community.
26 Such “separation from family members” is an important irreparable harm factor. (*Leiva-Perez v.*
27 *Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011) (per curiam) (citation omitted); *see also, e.g., Washington*
28

1 *v. Trump*, 847 F.3d 1151, 1169 (9th Cir. 2017) (per curiam) (finding “separated families” to be a
2 “substantial injur[y] and even irreparable harm[.]”); *cf. Hernandez*, 872 F.3d at 996 (recognizing that
3 “government-compelled [family] separation” causes family members “trauma” and “other burdens”).)

4 In sum, Petitioner is suffering numerous and irreparable harms: detention itself, separation from
5 family and friends. All of these factors warrant a TRO.

6 **The balance of hardships and public interest weigh heavily in Petitioner’s favor.**

7 The final two factors for a preliminary injunction—the balance of hardships and public interest—
8 “merge when the Government is the opposing party.” (*Nken v. Holder*, 556 U.S. 418, 435 (2009).) Here,
9 as previously discussed, Petitioner faces weighty hardships: loss of liberty and separation from family
10 and friends. The government, by contrast, faces no hardship, as all it must do is release a person it
11 previously released and who has since lawfully resided in San Mateo County, California. Avoiding such
12 “preventable human suffering” strongly tips the balance in favor of Petitioner. (*Hernandez*, 872 F.3d at
13 996 (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983).)

14 What is more, “the public interest benefits from an injunction that ensures that individuals are not
15 deprived of their liberty and held in immigration detention because of . . . a likely [illegal] process.”
16 (*Hernandez*, 872 F.3d at 996.) Indeed, “in cases involving a constitutional claim, a likelihood of success
17 on the merits . . . strongly tips the balance of equities and public interest in favor of granting a
18 preliminary injunction.” (*Baird*, 81 F.4th at 1048.)

19 Accordingly, the balance of hardships and the public interest favor a temporary restraining order to
20 ensure that Respondents release Petitioner and to require a hearing before a neutral decisionmaker where the
21 government must demonstrate she poses a flight risk or danger before any re-detention.

22 **Immediate release is warranted.**

23 As in *E.A. T.-B.*, this Court should order Petitioner’s immediate release. “[A] post-deprivation
24 hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent
25 an erroneous deprivation of liberty.” (*E.A. T.-B.*, 2025 WL 2402130, at *6.) In other words, Petitioner’s
26 unlawful detention without a pre-deprivation hearing is *already* occurring, and only immediate release
27 remedies that issue. Moreover, the evidence here demonstrates that Petitioner has made every effort to
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1 follow the law: receiving parole, preparing for her removal proceedings by means of filing an asylum
2 application and changing venue, and complying with all ISAP ad ICE requirements. As a result, the
3 Court should order her immediate release and provide that Petitioner may only be re-detained if ICE
4 justifies re- detention by clear and convincing evidence at a hearing where ICE is required to
5 demonstrate Petitioner is a flight risk or danger to the community. (See, e.g., *Pinchi*, 2025 WL 2084921,
6 at *7; *Maklad* 2025 WL 2299376, at *10; *Garcia*, 2025 WL 2420068, at *13.)

7 **CONCLUSION**

8 For the foregoing reasons, Petitioner respectfully requests the Court grant her motion for a
9 temporary restraining order and order her immediate release.

10
11 Respectfully submitted,

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13 DATE: 11/24/2025

/S/ Jose F. Vergara

Jose F. Vergara

CA Bar No. 251342

vergarajf@hotmail.com

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16 COUNSEL FOR PETITIONER
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WORD COUNT CERTIFICATION

I certify that this memorandum contains 4,557 words, in compliance with the Local Civil Rules.

/S/ Jose F. Vergara

Jose F. Vergara

CA Bar No. 251342

vergarajf@hotmail.com

COUNSEL FOR PETITIONER