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8
9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11
12 LESLIE YURANI HORTUA

13 Petitioner,

14 vs.

15 CHRISTOPHER CHESTNUT, WARDEN OF
16 CALIFORNIA CITY DETENTION CENTER,

17 DAVID MARIN, DIRECTOR OF LOS
18 ANGELES FIELD OFFICE, U.S.
19 IMMIGRATION AND CUSTOMS
ENFORCEMENT;

20 KRISTI NOEM, SECRETARY OF THE U.S.
21 DEPARTMENT OF HOMELAND SECURITY;
AND

22 PAM BONDI, ATTORNEY GENERAL OF
23 THE UNITED STATES,

24 IN THEIR OFFICIAL CAPACITIES,

25 Respondents

**PETITIONER'S REPLY IN SUPPORT OF
EMERGENCY TEMPORARY
RESTRAINING ORDER**

Case No. 1:25-cv-01670-TLN-JDP

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27 PETITIONER'S REPLY IN SUPPORT OF EMERGENCY TEMPORARY RESTRAINING
28 ORDER

**PETITIONER'S REPLY IN SUPPORT OF EMERGENCY TEMPORARY
RESTRAINING ORDER**

1. Respondents do not dispute the central facts that frame this application: Petitioner lived in the community for more than two years under ICE supervision, complied with every reporting requirement, and presented for her scheduled check-ins without issue. ICE was fully aware of her December 2024 shoplifting arrest when she appeared for her April 2025 check-in; the agency nonetheless reaffirmed her release, concluding that she posed neither a danger nor a flight risk. Criminal court later dismissed the matter without a conviction after Petitioner completed minor conditions. Yet, on October 3, 2025—without notice, explanation, or an opportunity to be heard—ICE summarily seized her at a check-in and placed her in detention. Respondents' opposition offers no lawful basis for this action and does not identify any statutory or regulatory authority permitting re-detention under these circumstances.

ICE Lacked Authority to Re-Detain Petitioner Based Solely on a Dismissed Arrest

2. Respondents' position reduces to the claim that a shoplifting citation—one that resulted in no conviction, was dismissed as de minimis, and was known to ICE for nearly a year—retroactively constituted a “violation” warranting physical incarceration. See Exhibit A, Proof of Dismissal and Completion of Diversion in Santa Clara Citation Case. But an arrest alone is not evidence of dangerousness or noncompliance. The Ninth Circuit has long recognized that arrests are inherently unreliable and cannot support adverse custody decisions without factual development. *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017). Criminal court's dismissal of the case is affirmative evidence that the conduct at issue was not sufficiently serious to support a conviction. ICE itself treated the arrest as insufficient to justify detention when it reviewed Petitioner's case at her April 2025 check-in and continued her release. There is no changed circumstance between April and October 2025 that could render a resolved, low-level arrest a lawful basis for sudden re-incarceration.

Petitioner Has A Protected Liberty Interest in Her Continued Release, and Due Process Required a Pre-Deprivation Hearing Before ICE Could Revoke That Liberty

3. The Due Process clause prohibits deprivations of life, liberty, and property without due process of law. U.S. Const. amend. V. Due process rights extend to noncitizens present in the United States, including those subject to final removal orders. *Zadvydas*, 533 U.S. at 693–94, 121 S.Ct. 2491; *see Trump v. J.G.G.*, 604 U.S. 670, 673, 145 S.Ct. 1003, 221 L.Ed.2d 529 (2025) (“ ‘It is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.”) (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S.Ct. 1439, 123 L.Ed.2d 1 (1993)). The fundamental requirements of procedural due process are that a person be afforded notice and opportunity to be heard “at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976); *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG, 2025 WL 2898985, at *4 (S.D. Cal. Oct. 10, 2025)

4. Respondents do not dispute that Petitioner possesses a liberty interest protected by the Due Process Clause. Courts repeatedly recognize that individuals previously released from immigration detention enjoy conditional liberty analogous to the parole-type interests described in *Morrissey v. Brewer* and *Gagnon v. Scarpelli*. *See Young v. Harper*, 520 U.S. 143, 147–49 (1997) (pre-parole constitutes a protected liberty interest requiring pre-deprivation hearing). As the Supreme Court explained in *Morrissey*, a person living in the community is able “to work, to be with family and friends and to form the other enduring attachments of normal life,” and revocation of that liberty “inflicts a grievous loss.” 408 U.S. at 482. That is precisely the position Petitioner occupied at the time ICE seized her.

5. Courts in this circuit have repeatedly applied *Morrissey*’s framework to individuals released from ICE custody, holding that they possess a liberty interest requiring notice and a meaningful opportunity to be heard before re-detention. *See Estrada-Samayoa v. Cruz*, 2025 WL 3268280, at *6 (E.D. Cal. Nov. 24, 2025) (finding a protected liberty interest for a noncitizen

PETITIONER’S REPLY IN SUPPORT OF EMERGENCY TEMPORARY RESTRAINING ORDER

1 released on recognizance, and holding that revocation requires pre-deprivation process); *Reyes v.*
2 *LaRose*, 2025 WL 3171743, at *5 (S.D. Cal. Nov. 13, 2025); *Rodriguez Rodriguez v. Kaiser*,
3 2025 WL 2855193, at *5–6 (E.D. Cal. Sept. 4, 2025); *Arzate v. Andrews*, 2025 WL 2230521, at
4 *4 (E.D. Cal. Aug. 4, 2025); *Guillermo M.R. v. Kaiser*, 2025 WL 1983677, at *4 (N.D. Cal. July
5 17, 2025) (liberty interest inherent in release from ICE detention); *Ortega v. Kaiser*, 2025 WL
6 1771438, at *3 (N.D. Cal. June 26, 2025). Petitioner’s release—spanning more than two years,
7 during which she developed deep ties to her community and consistently complied with
8 supervision—fits squarely within this line of cases.

9 6. Under *Morrissey*, *Gagnon*, and *Mathews v. Eldridge*, 424 U.S. 319 (1976), the
10 government may not revoke conditional liberty without providing, *before the deprivation occurs*,
11 notice of the alleged violation, disclosure of the evidence, and an opportunity to contest the basis
12 for revocation before a neutral decisionmaker. ICE afforded Petitioner none of these protections.
13 Her seizure on October 3 therefore violated the Due Process Clause independent of any statutory
14 question.

15 **ICE’s Failure to Follow Its Own Regulations Governing Revocation of Release**
16 **Independently Renders the Detention Unlawful**

17 7. Revocation of an Order of Supervision is governed by 8 C.F.R. §§ 241.4 and 241.13.
18 These regulations require written notice of the reasons for revocation and a prompt informal
19 interview at which the individual may respond to the alleged basis for re-detention. ICE may not
20 revoke supervision by ambush; the regulations expressly prohibit summary re-detention without
21 these prerequisites.

22 8. Courts in this district consistently hold that these procedures are mandatory and that
23 failure to follow them violates due process. See, e.g., *Uzzhina v. Chestnut*, 2025 WL 3458787, at
24 *3 (E.D. Cal. Dec. 2, 2025); *Bui v. Warden of Otay Mesa*, 2025 WL 2988356, at *3 (S.D. Cal.
25 Oct. 23, 2025); *Diaz v. Wofford*, 2025 WL 2581575, at *7–8 (E.D. Cal. Sept. 5, 2025);
26 *Constantinovici v. Bondi*, 2025 WL 2898985, at *5 (S.D. Cal. Oct. 10, 2025). Respondents do not

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1 contend that any notice was issued, that any interview took place, or that the revocation process
2 was followed. ICE's complete departure from the governing regulations is itself an independent
3 due-process violation requiring relief.

4 **Petitioner Continues to Suffer Irreparable Harm, and the Balance of Equities Favors Relief**

5 9. Respondents do not dispute that Petitioner has no convictions, complied with supervision
6 for years, and was permitted to remain at liberty even after ICE reviewed the December 2024
7 arrest. Nor do they meaningfully contest the evidence regarding medical and psychological risks
8 associated with continued confinement at California City. The Ninth Circuit has recognized that
9 substandard medical and psychiatric care in immigration detention constitutes irreparable harm.
10 *Hernandez*, 872 F.3d at 995. There is no countervailing governmental interest sufficient to justify
11 detention obtained through procedurally deficient means. As courts have emphasized, the
12 government lacks any legitimate interest in detaining individuals who have been determined not
13 to pose a danger or flight risk when less restrictive alternatives can ensure appearance. See
14 *Estrada-Samayoa*, 2025 WL 3268280, at 6.

15 10. For all these reasons, Respondents have not identified any lawful basis for Petitioner's re-
16 detention or any justification for the absence of pre-deprivation process. Because the record
17 shows a complete absence of notice, a complete absence of process, and a complete absence of
18 lawful authority for re-detention, relief is not merely warranted—it is required. The Court should
19 grant the requested temporary restraining order and direct Petitioner's immediate release or, at a
20 minimum, require that ICE provide a constitutionally adequate revocation hearing before a
21 neutral adjudicator without delay.

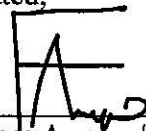
22 **Petitioner's Position Regarding Conversion and Hearing**

23 11. In accordance with the Court's minute order, Petitioner is amenable to conversion of the
24 Motion for Temporary Restraining Order into a Motion for Preliminary Injunction. Petitioner
25 does not request a hearing at this time, but defers to the Court's discretion should oral argument
26 be deemed helpful.

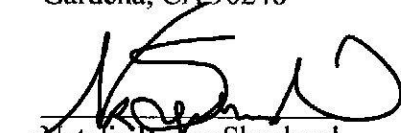
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28 ORDER

1 Dated: December 5, 2025

2 Respectfully submitted,

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