UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MERI PETROSYAN,

Petitioner,

v.

PAMELA BONDI, *et al.*

Respondents.

Case No. 5:25-cv-03240-CV (ASx)

ORDER GRANTING IN PART EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

[DOC. # 3]

On December 2, 2025, Petitioner Meri Petrosyan ("Petitioner") filed an Ex Parte Application for Temporary Restraining Order ("Application"). Doc. # 2 ("App."). On December 5, 2025, Respondents filed an Opposition, and on December 6, 2025, Petitioner filed a Reply. Doc. # 5 ("Opp."); Doc. # 10 ("Reply"). Having reviewed and considered all the briefing filed with respect to the Application, the Court finds that oral argument is not necessary to resolve the Application, *see* Fed. R. Civ. P. 78(b); C.D. L. Civ. R. 7-15; *Willis v. Pac. Mar. Ass'n*, 244 F.3d 675, 684 n.2 (9th Cir. 2001), and concludes as follows.

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I. INTRODUCTION

On December 2, 2025, Petitioner filed a Verified Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (the "Petition") against the U.S. Department of Homeland Security ("DHS"); Pamela Bondi, in her official capacity as the Attorney General; Kristi Noem, in her official capacity as Secretary of DHS; F. Semaia, the Warden of Adelanto Detention Facility; and Ernesto Santacruz, Jr., in his official capacity as Immigration Customs and Enforcement ("ICE") Field Office Director (collectively, "Respondents"). Doc. # 1 ("Pet.") ¶¶ 13–17. The Petition includes three causes of action for (1) Violation of the Fifth Amendment to the United States Constitution (Substantive Due Process – Detention) (*id.* ¶¶ 29–33); (2) Violation of the Fifth Amendment to the United States Constitution (Procedural Due Process – Detention) (*id.* ¶¶ 34–40); and (3) Violation of the Fourth Amendment to the Constitution (Unlawful Arrest) (*id.* ¶¶ 41–47).

The Petition seeks a writ of habeas corpus ordering Petitioners' immediate release, a declaration that her arrest and detention violate the Due Process Clause of the Fifth Amendment and the Fourth Amendment, and an order enjoining Respondents from re-detaining Petitioner "unless her re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community." *Id.* at prayer for relief.

Similarly, the Application seeks a Temporary Restraining Order ("TRO") "(1) requiring Respondents to immediately release Petitioner on her own recognizance and enjoining them from re-detaining her absent further order of this court;" or "(2) in the alternative, ordering Petitioner's immediate release from Respondents' custody and enjoining Respondents from re-detaining her unless Respondents demonstrate at a pre-deprivation bond hearing, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community, such that her physical custody is required." Doc. # 3 at 2.

II. FACTUAL BACKGROUND

Petitioner is a citizen of Armenia with no criminal history. *Id.* ¶ 12; Doc. # 3-4 (Declaration of Amy Lenhert) ¶ 3. She is the mother of two daughters—one 4 years old,

the other twenty-one months old. *Id.* Since September 2025, Petitioner has been held in DHS custody at the Adelanto Detention Facility in Adelanto, California. Pet. ¶ 12.

In November 2024, Petitioner presented herself at the U.S. border. *Id.* ¶¶ 3, 45; Doc. # 1-1 at 1. DHS agents arrested her and charged her with a civil violation of U.S. immigration law. Pet. ¶ 45. On or around November 22, 2024, Customs and Border Protection ("CBP") paroled her into the United States on her own recognizance after determining that she was neither a flight risk nor a danger to the community. *Id.* ¶¶ 3, 45; Doc. # 1-1 at 1. Her parole was valid until November 21, 2025. *Id.* Petitioner's husband and two daughters were likewise paroled. Pet. ¶ 3.

On November 22, 2024, DHS commenced removal proceedings by filing and serving a Notice to Appear in the North Los Angeles Immigration Court. *Id.* ¶ 5; Doc. # 1-2. Petitioner applied for asylum on April 23, 2025 and appeared at all required hearings before that court until her detention in September 2025. Pet. ¶ 7.

As a condition of parole, Petitioner was required to report periodically to DHS, and she complied. *Id.* ¶¶ 3, 6. On September 25, 2025, Petitioner and her husband appeared, as instructed, for a regular ICE check-in. *Id.* ¶ 8. There, without prior notice, ICE detained her. The agency pointed to no new facts. The charge was the same 2024 civil violation for which she had already been appearing in court. *Id.* ¶¶ 7, 8, 46. ICE transferred her to the Adelanto ICE Detention Center, where she remains. *Id.* ¶ 8. ICE placed an ankle monitor on her husband and allowed him to return home. *Id.*

ICE gave Petitioner no explanation for revoking her release, and no individualized evidence that she posed either a danger or a flight risk. *Id.* ¶¶ 9, 10. Nor did it offer her any hearing before a neutral decisionmaker to justify the abrupt reversal. *Id.* ¶ 11. Her detention and separation from her young family have caused significant emotional and psychological distress. Doc. # 3-4 ¶ 3. To date, Respondents have not explained their decision to re-detain Petitioner. *See generally* Doc. # 7.

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III. LEGAL STANDARD

The standard for issuing a temporary restraining order and preliminary injunction under Federal Rule of Civil Procedure 65 is the same. *Six v. Newsom*, 462 F. Supp. 3d 1060, 1067 (C.D. Cal. 2020); *see also Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that a temporary restraining order and preliminary injunction involve "substantially identical" analysis). Like a preliminary injunction, a temporary restraining order is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008).

Under *Winter*, a plaintiff seeking a temporary restraining order must establish four elements: "(1) a likelihood of success on the merits, (2) that the plaintiff will likely suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tip in its favor, and (4) that the public interest favors an injunction." *Wells Fargo & Co. v. ABD Ins. & Fin. Servs., Inc.*, 758 F.3d 1069, 1071 (9th Cir. 2014) (citing *Winter*, 555 U.S. at 20). Courts in this circuit also employ "an alternative 'serious questions' standard, also known as the 'sliding scale' variant of the *Winter* standard," *Fraihat v. U.S. Immigr. & Customs Enf't*, 16 F.4th 613, 635 (9th Cir. 2021), in which the four *Winter* elements are "balanced, so that a stronger showing of one element may offset a weaker showing of another." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). Under this approach, a temporary restraining order may be warranted where there are "'serious questions going to the merits' and a hardship balance that tips sharply toward the plaintiff," so long as the other *Winter* factors are also met. *Id.* at 1132.

IV. DISCUSSION

In her Application, Petitioner contends that her continued detention violates substantive due process under the Fifth Amendment because she presents neither a flight risk nor a danger to the community. She further argues that her detention violates procedural due process, as DHS revoked her release without notice and without any opportunity to contest that decision before a neutral arbiter. Doc. # 3-1 at 7.

As an initial matter, Respondents argue that Petitioner is not entitled to *ex parte* relief because she has not met the *Mission Power* standard, which requires a showing that (1) the movant will be "irreparably prejudiced if the underlying motion is heard according to regular noticed motion procedures," and (2) the movant is without fault in creating the crisis necessitating *ex parte* relief. *Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995); *see also Azam v. Brown*, 714 F. App'x 663, 665 (9th Cir. 2017). Specifically, Respondents point to the fact that Petitioner was detained on September 25 2025, but did not file the Petition and Application until December 2, 2025. Doc. # 6 at 7, 11–12.

As explained in Section IV.B, Petitioner has shown that she will suffer irreparable prejudice without ex parte relief: she will remain detained despite allegations that her detention violates her Fifth Amendment due process rights. And it was Respondents—not Petitioner—who created the circumstances requiring ex parte intervention by detaining her without notice or a hearing. The Court therefore rejects Respondents' argument that Petitioner's delay in filing forecloses ex parte relief.

A. Likelihood of Success on the Merits

Petitioner has shown a likelihood of success on the merits.

Respondents argue that there is no due process violation because they have discretionary authority to revoke Petitioner's parole and re-detain her under 8 C.F.R. § 212.5(e)(2)(i). Opp. at 10–11. While DHS authority to revoke Petitioner's parole is discretionary, (see *Hassan v. Chertoff*, 593 F.3d 785, 789 (9th Cir. 2010)), Respondents' decision to re-detain Petitioner without providing notice or a hearing is nonetheless reviewable by this Court given Petitioner's constitutional claims. *Id.* ("We retain jurisdiction to review constitutional claims, even when those claims address a discretionary decision.") (alterations removed); *see also*, *Kwai Fun Wong v. United States*, 373 F.3d 952, 963 (9th Cir.2004) ("[D]ecisions that violate the Constitution cannot be 'discretionary,' so claims of constitutional violations are not barred.").

Under the Due Process Clause of the Fifth Amendment to the United States Constitution, no person shall be "deprived of life, liberty, or property, without due process of law." U.S. CONST. amend. V. That interest is particularly weighty when government detention is at issue. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty the [Due Process] Clause protects.").

These due process rights apply to noncitizens residing in the United States, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *see also Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) ("It is well established that the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings." (citation omitted)). This includes noncitizens who have been released on discretionary parole. *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *16 (W.D.N.Y. July 16, 2025) (holding that constitutional due process is required before discretionary parole can be revoked); *see also Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (finding that petitioner had a liberty interest in remaining out of custody on bond). Indeed, Respondents appear to concede this in their opposition when recognizing that some process before re-detention is required. *See* Doc. # 6 at 10–11.

Having established a protectable liberty interest, the remaining question is what process is required before Respondents can re-detain Petitioner. *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). "The constitution typically 'requires some kind of a hearing before the State deprives a person of liberty or property,'" particularly because the loss of liberty "cannot be fully compensated after the fact." *Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC (EMC), 2025 WL 2637503, at *5 (N.D. Cal. Sept. 12, 2025) (quoting *Zinermon v. Burch*, 494 U.S. 113, 127 (1990)).[1]

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[1] The Court cannot accept Respondents' view that, because the statutes and regulations they invoke do not mention a hearing, the Due Process Clause does not require one. *See* Doc. #6 at 10–11. *First*, statutory and regulatory schemes do not necessarily define the minimum process required by the Constitution. *See, e.g., Mata Velasquez*, 794 F. Supp. 3d at 146 (holding that the Due Process Clause required an opportunity

When determining what procedures are required by due process, courts apply the three-part test of *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts must consider three factors: (1) "the private interest" at stake; (2) "the risk of an erroneous deprivation" without additional procedures and "the probable value . . . of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail." 424 U.S. at 335.

1. Private Interest at Stake

First, Petitioner gained a liberty interest in her continued freedom when she was initially released on parole. *Calderon v. Kaiser*, 25-cv-06695-AMO, 2025 WL 2430609, at *3 (N.D. Cal. Aug. 22, 2025); *Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, at *5 (E.D. Cal. Mar. 3, 2025). For example, in *Calderon*, the petitioner challenged her detention after she had been previously released into the United States on her own recognizance. 2025 WL 2430609, at *1. The district court found that the petitioner had a significant private interest in remaining out of custody because she had an interest in remaining in her home, continuing her employment, and obtaining necessary medical care. *Id.* at 3.

As in *Calderon*, Petitioner acquired a liberty interest when she was first released from custody by DHS, and she has a private interest in maintaining her liberty. Moreover, there is no dispute that Petitioner has maintained that liberty interest because Respondents

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to be heard in addition to the 8 C.F.R. § 212.5(e)(2)(i) requirements before parole revocation). *Second*, Respondents did not satisfy § 212.5(e)(2)(i) by serving Petitioner with a notice of removal proceedings on November 22, 2024, as they suggest. *See* Doc. # 6 at 11. "8 C.F.R. § 212.5(e) requires written notice of the termination of parole except where the immigrant has departed or when the specified period of parole has expired." *E.A.P.C. v. Wofford*, No. 1:25-CV-01546-JLT-CDB, 2025 WL 3289185, at *6 (E.D. Cal. Nov. 25, 2025). Petitioner's parole was not terminated until September 2025, so the November 2024 notice of removal proceedings—issued the same day her parole began—cannot serve as notice of an early parole termination. Indeed, the Notice to Appear does not mention the revocation of parole. *See generally* Doc. # 3-3. *Third*, Respondents' reliance on 8 U.S.C. § 1231 is misplaced. By its terms, the statute applies to "aliens ordered removed," (see § 1231(a)) and the record provides no indication that Petitioner is subject to a final removal order.

offer no evidence that she violated any conditions of her release or committed any crimes. *See Valencia Zapata v. Kaiser*, No. 25-cv-07492-RFL, 2025 WL 2741654, at *8 (N.D. Cal. Sept. 26, 2025). Respondents "cannot now about-face and extinguish these liberty interests by pursuing mandatory detention against Petitioners." *Id.* at *9.

Accordingly, the Court finds that Petitioner has a significant private interest in her continued liberty, and thus the first *Mathews* factor favors Petitioner.

2. Risk of Erroneous Deprivation

The second *Mathews* factor also favors Petitioner because the risk of erroneous deprivation is high absent a pre-deprivation hearing. Civil immigration detention must be "nonpunitive in purpose" and bear a "reasonable relation" to the authorized statutory purposes of preventing flight and danger to the community. *Zadvydas*, 533 U.S. at 690 (citation omitted). Accordingly, by releasing her in 2024, immigration officers necessarily determined that Petitioner was neither a flight risk nor a danger to the community. Courts have consistently recognized that, in similar circumstances, the risk of erroneous deprivation is substantial when the government provides no new evidence that a petitioner has become a flight risk, a danger to the community, or otherwise violated the conditions of release. *See, e.g.*, *Aviles-Mena v. Kaiser*, No. 25-cv-06783-RFL, 2025 WL 2578215, at *5 (N.D. Cal. Sept. 5, 2025) (finding that a pre-detention hearing was necessary to reduce the risk of erroneous deprivation where petitioner was previously paroled, and nothing in the record suggested he had become a security or flight risk); *Calderon*, 2025 WL 2430609, at *3 (finding that a pre-detention hearing was necessary where petitioner had attended all immigration proceedings and had no criminal history).

Here, Respondents have presented no evidence that Petitioner became a flight risk or posed a danger to the community before she was arrested and detained. Indeed, she was arrested when she appeared at the regularly scheduled ICE check-in, which she properly appeared for. Given that Respondents have presented no concrete reason for Petitioner's arrest and detention pursuant to a valid state interest, the Court finds that the risk of erroneous deprivation is high absent a pre-deprivation hearing.

3. Respondents' Interest

Third and finally, this Court joins other recent district court decisions in concluding that Respondents' interest in re-detaining Petitioner without a pre-deprivation hearing is low because the CBP "previously made the determination to release [her], and there is no evidence in the record of any changed circumstances that might cause [CBP] to reconsider its parole determination." *See Aviles-Mena*, 2025 WL 2578215, at *6; *Valencia Zapata*, 2025 WL 2741654, at *11; *see also*, *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) ("[T]he government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions."). Furthermore, "[i]n immigration court, custody hearings are routine and impose a 'minimal' cost." *Singh v. Andrews*, No. 25-cv-00801-KES-SKO (HC), 2025 WL 1918679, at *8 (E.D. Cal. July 11, 2025) (quoting *Becerra*, 2025 WL 691664, at *6). Accordingly, Respondents' interest in keeping Petitioner detained is outweighed by Petitioner's liberty interest in her continued freedom.

Because all three *Mathews* factors favor Petitioner, the Court concludes that Petitioner has demonstrated, at the very least, a serious question going to the merits of her procedural due process claim.[2]

B. Irreparable Harm

Petitioner is likely to suffer irreparable harm in the absence of a TRO because she is detained, which constitutes a loss of liberty that is irreparable. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Hernandez*, 872 F.3d at 994 (9th Cir. 2017) (quoting *Melendres v. Arpaio*, 695 F.3d 990,

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[2] Because the serious questions prong is satisfied as to Petitioner's procedural due process claim, the Court does not reach the likelihood of success as to Petitioner's remaining substantive due process claim or Fourth Amendment claim. *See All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1139 (9th Cir. 2011); *see also Pablo Sequen v. Albarran*, No. 25-cv-06487-PCP, 2025 WL 2935630, at *5 n.1 (N.D. Cal. Oct. 15, 2025) (declining to address substantive due process claim after determining that a procedural due process claim was likely to succeed on the merits).

1002 (9th Cir. 2012)); *see also Aviles-Mena*, 2025 WL 2578215, at *6 (finding irreparable harm where the government maintained that it could terminate petitioner's parole at any time without a pre-detention hearing). Moreover, Petitioner's counsel has attested that the separation from her young children is causing Petitioner psychological and emotional harm. Doc. # 3-4 ¶ 3.

Although a delay in filing may indicate "a lack of urgency and irreparable harm,"[3] this is not always the case. For example, in *Abdelsalam v. Barr*, the government argued that a non-citizen petitioner was not entitled to *ex parte* relief enjoining the government from removing him from the country because he waited two months to file suit. No. EDCV 20-2608 JGB (KKx), 2021 WL 4734615, at *4 (C.D. Cal. Feb. 18, 2021). Nonetheless, the Court granted the request because, notwithstanding the delay, the petitioner faced an "immediate threat" of removal. *Id.*

Similar to *Abdelsalam*, the Court finds that, notwithstanding Petitioner's delay, she faces the "immediate threat" of being deprived of her constitutional rights through her improper detention.

While the delay here was slightly longer than in *Abdelsalam*, the Court finds that a two-and-a-half-month delay is not a bar to issuing a TRO. In other cases, courts have granted *ex parte* relief despite much longer delays as long as the moving party provided a sufficient justification. *See, e.g.*, *In re Homaidan*, 650 B.R. 372, 423–24 (Bankr. E.D.N.Y. 2022) (granting *ex parte* relief despite delay of more than two years caused by plaintiff's good faith investigation of their claims); *Marks Org., Inc. v. Joles*, 784 F. Supp. 2d 322, 333 (S.D.N.Y. 2011) (holding that "delay alone" from attorney's investigation of underlying facts does not require denial of preliminary relief).

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[3] *Estrada v. Blythe St. Apartments*, L.P., No. CV 16-6823 PA (AFMx), 2016 WL 11521545, at *2 (C.D. Cal. Dec. 2, 2016) (quoting *Oakland Tribune, Inc. v. Chronicle Publ'g Co.*, 762 F.2d 1374, 1377 (9th Cir. 1985)).

Accordingly, the Court finds that Petitioner's delay in filing her *ex parte* request while she was detained does not negate the clear threat of irreparable harm.

C. Balance of Equities and Public Interest

Where the government is the opposing party, balancing of the equities and the public interest merge. *See Nken v. Holder*, 556 U.S. 418, 435 (2009). Thus, the Court asks whether any significant "public consequences" would result from issuing the TRO. *Winter*, 555 U.S. at 24.

As other courts have recognized, "the public has a strong interest in upholding procedural protections against unlawful detention." *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020). And the government "cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations." *Zepeda v. U.S. Immigr. & Nat. Serv.*, 753 F.2d 719, 727 (9th Cir. 1983). Likewise, in the absence of an injunction, Petitioner will continue to experience prolonged detention.

Petitioner has not been shown to be a flight risk or a danger to the community; accordingly the government can provide her notice and a hearing before a neutral arbiter if they seek to re-detain her.

D. Appropriate Remedy

While the Court has found that Petitioner has made the requisite showing for the Court to grant a TRO, it must address the scope and content of the TRO. Petitioner asks the Court to issue an order: "(1) requiring Respondents to immediately release Petitioner on her own recognizance and enjoining them from re-detaining her absent further order of this court;" or "(2) in the alternative, ordering Petitioner's immediate release from Respondents' custody and enjoining Respondents from re-detaining her unless Respondents demonstrate at pre-deprivation bond hearing, by clear and convincing evidence that Petitioner is a flight risk or danger to the community, such that her physical custody is required." Doc. # 3 at 2.

The Court first addresses Respondents' argument that immediate release is not a narrowly tailored remedy. Specifically, Respondents argue that the remedy should be limited to either (1) rectify any procedural deficiency, or (2) order that Petitioner be afforded a bond hearing. Doc. # 6 at 13. However, as noted above, the procedural deficiency is the fact that Petitioner was not afforded the *pre-detention* hearing she was constitutionally guaranteed. *See Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC (EMC), 2025 WL 2637503, at *5 (N.D. Cal. Sept. 12, 2025) ("The constitution typically 'requires some kind of a hearing *before* the State deprives a person of liberty or property.'" (quoting *Zinermon v. Burch*, 494 U.S. 113, 127 (1990))) (emphasis in original). Therefore, the only way to rectify a procedural deficiency is to order her immediate release, and order that she cannot be re-detained without a pre-detention hearing.

Respondents cite three cases to support their position that ordering immediate release is not sufficiently tailored, but all of them are off point. *See* Doc. # 6 at 13–7. In two of these cases, the district courts found that the petitioner failed to establish a procedural due process violation, unlike in this case. *See Doe v. Smith*, No. CV 18-11363-FDS, 2018 WL 4696748, at *9–10 (D. Mass. Oct. 1, 2018); Order, *Ton v. Noem*, No. 5:25-cv-02033-SB-AGR, at 4–5 (C.D. Cal. Sept. 3, 2025), Doc. # 17. Moreover, although Judge Blumenfeld's order in *Ton v. Noem* suggests that ordering immediate release may not be appropriate in the context of an APA claim, his analysis is not relevant here since petitioner is not alleging an APA violation. *See* Order, *Ton v. Noem*, at 8. In the remaining case, the court found that even if petitioner was deprived of his procedural rights, he was not entitled to immediate release because his removal was imminent, which is also not the case here. *See Ahmad v. Whitaker*, No. C18-287-JLR-BAT, 2018 WL 6928540, at *5–7 (W.D. Wash. Dec. 4, 2018), *report and recommendation adopted*, No. C18-287-JLR, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019).

Second, although the Court finds that Petitioner has made the requisite showing for the Court to grant her immediate release, and to order that she cannot be re-detained without a pre-detention hearing, it cannot grant Petitioner's requested relief in full. Specifically,

Petitioner asks the Court to enjoin Respondents from re-detaining her unless they (1) obtain a further order from this Court or (2) demonstrate at a pre-deprivation bond hearing, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community, such that her physical custody is required." *See* Doc. # 3-5 at 1–2.

Though the Ninth Circuit imposed a clear-and-convincing requirement in proceedings under § 1226(c) involving prolonged detention of noncitizens with serious criminal convictions, *see Singh v. Holder*, 638 F.3d 1196, 1205 (9th Cir. 2011), *Rodriguez Diaz v. Garland* concluded that the constitutionally required procedures for § 1226(c) do not impact the constitutionally required procedures under § 1226(a)—which provides for bond hearing in cases where noncitizens are arrested within the United States—in part because § 1226(a) involves various other statutory protections that are unavailable under § 1226(c). *Rodriguez Diaz*, 53 F.4th at 1203. Analyzing the issue directly, *Rodriguez Diaz* concluded that a clear-and-convincing standard was not constitutionally required in § 1226(a) proceedings, absent an additional factual showing indicating that such a standard was required by the circumstances of the case. *See id.* at 1213. The Ninth Circuit then denied rehearing en banc. *Rodriguez Diaz v. Garland*, 83 F.4th 1177, 1178 (9th Cir. 2023).

Though Petitioner's pre-detention hearing would not technically be a proceeding under § 1226(a), the reason for requiring a pre-detention hearing in this case mirrors the reason for having a § 1226(a) hearing. Specifically, Petitioner is subject to discretionary, not mandatory, detention. *Compare* 8 U.S.C. § 1226(a), *with* 8 U.S.C. § 1226(c). As such, Petitioner has not shown that she is entitled to a hearing at which the government must meet its burden by clear and convincing evidence. *See Valencia Zapata*, 2025 WL 2741654, at *13.

Accordingly, the Court finds only that Petitioner must receive notice and a pre-deprivation hearing before Respondents can re-detain her.

V. CONCLUSION

For the foregoing reasons, the Court GRANTS IN PART Petitioner's Application and ORDERS as follows:

1. Respondents are ordered to immediately release Petitioner from custody and are enjoined and restrained from re-detaining Petitioner without notice and a pre-detention hearing.

2. To preserve the Court's jurisdiction, respondents are enjoined from transferring, relocating, or removing Petitioner outside of the Central District of California pending final resolution of this case or further order of the Court, unless executing a final order of removal issued against Petitioner.

4. This temporary restraining order shall take immediate effect and expires at **5:00 p.m. PT on December 26, 2025**. The temporary restraining order may be extended for good cause or upon Respondents' consent.

5. Respondents are ordered to show cause why a preliminary injunction should not issue. *See* C.D. Cal. L. R. 65-1. Respondents must file any written response to the Order to Show Cause no later than **December 17, 2025 by 5:00 p.m. PT**. Failure to file a response by this deadline shall be deemed as consent to the granting of a Preliminary Injunction. Petitioner shall file a reply no later than **December 19, 2025 by 5:00 p.m. PT**.

6. The Court shall decide, after reviewing the parties' papers, whether to hold a hearing on the Order to Show Cause or to take the Order to Show Cause under submission.

IT IS SO ORDERED.

Dated: 12/12/25

Cynthia Valenzuela
HON. CYNTHIA VALENZUELA
UNITED STATES DISTRICT JUDGE