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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

Maria Romero Rebolledo,

Petitioner,

v.

Christopher CHESTNUT, Warden,
California City Correctional Facility;

Todd M. LYONS, Acting Director,
Immigration and Customs Enforcement, U.S.
Department of Homeland Security;

Kristi NOEM, in her Official Capacity,
Secretary, U.S. Department of Homeland
Security; and

Pam BONDI, in her Official Capacity,
Attorney General of the United States;

Respondents - Defendants,

No.

PETITIONER'S NOTICE OF MOTION
AND EMERGENCY EX PARTE MOTION
FOR TEMPORARY RESTRAINING
ORDER

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF EX
PARTE MOTION FOR TEMPORARY
RESTRAINING ORDER

Challenge to Unlawful Incarceration;
Request for Declaratory and Injunctive
Relief

NOTICE OF MOTION AND EX PARTE MOTION

PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court for the Eastern District of California, that Petitioner, Maria Romero Rebolledo ("Ms. Romero Rebolledo") will and hereby does move for a temporary restraining order pursuant to Federal Rules of Civil Procedure 65(b) and Civil Local Rule 65-1. Because Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the United States, Petitioner respectfully requests that this Court (1) orders Petitioner's immediate release from Respondent's custody pending these proceedings, without requiring bond or electronic monitoring, or, in the alternative, (2) orders Petitioner's immediate release from Respondents' custody and, within 14 days, order a pre-deprivation bond hearing before the San Francisco Immigration Court, where Respondents will have the burden of proof to show, by clear and convincing evidence, that Petitioner is a danger or a flight risk. To preserve this Court's jurisdiction, Petitioner further seeks an order (3) enjoining Respondents from deporting Petitioner during the pendency of this proceeding. Enjoins Respondents (1) from continuing to detain Petitioner based on an unlawful action by ICE, (2) orders her immediate release from Respondents' custody; and (3) from re-arresting Ms. Romero Rebolledo until she is afforded a hearing before a neutral decisionmaker, as required by the Due Process clause of the Fifth Amendment, to determine whether circumstances have materially changed such that her re-incarceration would be justified because there is clear and convincing evidence establishing that she is a danger to the community or a flight risk.

Consistent with Civil L.R. 65-1, Petitioner seeks relief at the earliest possible opportunity. Petitioner filed this motion the same day she filed his Petition for Writ of Habeas Corpus. Her Writ of Habeas Corpus stated that she would be filing this motion forthwith.

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

Dated: December 17, 2025

Respectfully submitted,

/s/ Robert J. Beles
Robert Beles
Attorney for Petitioner-Plaintiff
Maria Romero Rebolledo

1 **I. INTRODUCTION**

2 Respondents unlawfully detained Petitioner-Plaintiff Ms. Romero Rebolledo on October
3 14, 2025. Ms. Romero Rebolledo was detained at an ISAP check in after on October 14, 2025.
4 Ms. Romero Rebolledo entered the United States without inspection on March 4, 2019. Ms.
5 Romero Rebolledo was detained upon entering the United States. Ms. Romero Rebolledo was
6 immediately released from custody on her own recognizance after a determination was made that
7 Ms. Romero Rebolledo was not a flight risk nor a danger to society.

8 The Department of Homeland Security (“DHS”) handed Ms. Romero Rebolledo a Notice
9 to Appear with the immigration court dated March 6, 2019. On November 25, 2024, Petitioner
10 filed an asylum application with USCIS. Ms. Romero Rebolledo has attended every immigration
11 court, ICE and ISAP appointment that she was required to attend. Ms. Romero Rebolledo has no
12 criminal history.

13 Ms. Romero Rebolledo is not an applicant for admission to the United States, Ms. Romero
14 Rebolledo has lived in the United States for over six years. She currently resides with his fiancé
15 and two children in Porterville, California.

16 At the time of detention, Ms. Romero Rebolledo was taking care of her husband and adult
17 children while she waited for her asylum hearing.

18 Ms. Romero Rebolledo’s summary arrest and indefinite detention flout the Constitution.
19 The only legitimate interests that civil immigration detention serves are mitigating the risk of
20 flight and preventing danger to the community. When those interests are absent, the Fifth
21 Amendment’s Due Process Clause squarely prohibits detention. Additionally, by summarily
22 arresting and detaining Ms. Romero Rebolledo without making any affirmative showing of
23 immigration violations, flight risk or danger to the community, the government violated
24 Petitioner’s procedural due process rights. At the very least, she was constitutionally entitled to
25 a hearing before a neutral decisionmaker at which the government should have justified her
26 detention.

27 Ms. Romero Rebolledo must be accorded his 5th amendment due process rights as
28 affirmed in the US Supreme Court case *Department of Homeland Security v. Thuraissigium*, 140
S.Ct. 1959 (2020), Specifically, in *Thuraissigium*, the Supreme Court Stated: “aliens who have
established connections in this country have due process rights in deportation proceedings,”

As a result of her arrest and detention, Ms. Romero Rebolledo is suffering irreparable and ongoing harm. The unconstitutional deprivation of “physical liberty” unquestionably constitutes irreparable injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017). Indeed, “[f]reedom 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.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Ms. Romero Rebolledo’s arrest and detention have caused and will cause immediate, tremendous, and ongoing harm, which include health problems that may result in hospitalization and/or death due to her ongoing health issues, hygiene, sleep and nutrition deprivation, family separation, emotional and economic harm, loss of employment, and psychological harm.

In light of this irreparable harm, and because she is likely to succeed on the merits of her due process claims, Ms. Romero Rebolledo respectfully requests that this Court issue an Ex Parte temporary restraining order (“TRO”) immediately releasing her from custody and enjoining the government from re-arresting her absent the opportunity to contest that arrest at a hearing before a neutral decision maker. Confronted with substantially identical facts and legal issues, this and other courts in this circuit have recently granted the exact relief Petitioner seeks. See *J.O.L.R. v Wofford*, 2025 WL 2718631 * 11 (E.D. Cal Sept. 23, 2025); *R.D.T.M. v Wofford*, 2025 WL 2617255 * 11 (E.D. Cal Sept. 9, 2025), *Garro Pinchi v. Noem*, 2025 WL 1853763, *4 (N.D. Cal. July 4, 2025), converted to preliminary injunction at __ F. Supp. 3d __, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal. July 11, 2025) (granting preliminary injunction).

To maintain this Court’s jurisdiction, the Court should also prohibit the government from transferring Ms. Romero Rebolledo out of this District and removing her from the country until these proceedings have concluded.

II. STATEMENT OF FACTS AND CASE

Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign targeting people who are not in status, many of whom have pending applications for asylum or other relief. This “coordinated operation” is “aimed at dramatically accelerating deportations” by arresting people at the courthouse, USCIS interviews, or at the ICE office and placing them into expedited removal. The Trump administration implemented a policy to drastically increase immigration arrests to a target of at least 3,000 per day. According to White House officials, such

1 as Stephen Miller, this directive prioritized arrest numbers over individuals' criminal history,
2 encouraging agents to conduct mass roundups in public spaces rather than targeted investigations.

3 As a result, arrests of non-citizens with no criminal record surged by over 800%, and two-
4 thirds of those deported had no criminal history. This focus on quantity over public safety led to
5 a new and aggressive tactic: systematically arresting immigrants at courthouses and ICE
6 appointments, regardless of the status of their legal cases. This has created a climate of fear,
discouraging people from attending their mandatory hearings or ICE appointments.

7 In addition, individuals are now held for extended periods, sometimes days, in temporary
8 holding cells that are not designed for overnight or prolonged detention, often under inhumane
9 conditions. Government officials have justified these harsh conditions not as a matter of
10 necessity, but as an intentional deterrent, which is not a constitutionally permissible reason for
11 detention.

12 Ms. Romero Rebolledo has lived in the United States for over six years. She has many
13 friends and family members in the United States. At the time of detention, Ms. Romero Rebolledo
14 lived with her fiancé and children. Ms. Romero Rebolledo has no criminal history anywhere in
the world. She has established strong connections to the United States.

15 Ms. Romero Rebolledo's arrest and detention have caused and will cause immediate,
16 tremendous, and ongoing harm, which includes serious health problems which could lead to
17 hospitalization and/or death, hygiene, sleep, and nutrition deprivation, family separation,
18 emotional and economic harm to her family, lack of employment, and psychological harm. Ms.
19 Romero Rebolledo is not a flight risk, as evidenced by her deep ties to the community, including
20 her relatives in the US. She is not a danger to the community. She is a law-abiding person. Her
detention serves no legitimate purpose.

21 This case has substantial factual and legal support to be granted, resulting in Ms. Romero
22 Rebolledo release from custody, and enjoining DHS from detaining Ms. Romero Rebolledo
23 pending a hearing before a neutral adjudicator, to substantiate a material change in circumstances
24 indicating that Ms. Romero Rebolledo is either a flight risk or a danger to the community.

25 Intervention from this Court is therefore required to ensure that Ms. Romero Rebolledo
26 is released from her current custody based on her unlawful arrest, returned to her home in
27 Porterville, California, where ICE can then provide her with a hearing before determining to re-
28 arrest her pursuant to the Due Process Clause of the Fifth Amendment.

III. LEGAL STANDARD

Ms. Romero Rebolledo is entitled to a temporary restraining order if she establishes that she is “likely to succeed on the merits...likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [her] 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 temporary restraining order standards are “substantially identical”). Even if Ms. Romero Rebolledo does not show a likelihood of success on the merits, the Court may still grant a temporary restraining order if she raises “serious questions” as to the merits of her claims, the balance of hardships tips “sharply” in his favor, and the remaining equitable factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As set forth in more detail below, Ms. Romero Rebolledo overwhelmingly satisfies both standards.

Furthermore, the requirements for issuing a temporary restraining order without notice are met here. See Fed. R. Civ. P. 65(b). Ms. Romero Rebolledo has attempted to secure her release from ICE but has received no response. Ms. Romero Rebolledo also set out specific facts demonstrating that immediate and irreparable injury, loss, or damage may result before respondents can be heard in opposition. See *Pinchi v. Noem*, No. 25-cv-05632-RML, 2025 L 1853763, at *4 (N.D. Cal. July 4, 2025); *J.O.L.R. v Wofford*, 2025 WL 2718631 * 11 (E.D. Cal Sept. 23, 2025); *R.D.T.M. v Wofford*, 2025 WL 2617255 * 11 (E.D. Cal Sept. 9, 2025)(granting ex parte temporary restraining order in similar circumstances).

IV. ARGUMENT

A. Ms. Romero Rebolledo WARRANTS A TEMPORARY RESTRAINING ORDER

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

1 **1. Ms. Romero Rebolledo is likely to succeed on the merits because her**
2 **detention violates substantive due process.**

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.”
5 *Zadvydas*, 533 U.S. at 693. “The touchstone of due process is protection of the individual against
6 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the
7 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). “Freedom from
9 imprisonment—from government custody, detention, or other forms of physical restraint—lies
at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690.

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

22 The Supreme Court has recognized that noncitizens may bring as-applied challenges to
23 detention, including so-called “mandatory” detention. *Demore v. Kim*, 538 U.S. 510, 532-33
24 (2003) (Kennedy, J., concurring) (“Were there to be an unreasonable delay by the INS in pursuing
25 and completing deportation proceedings, it could become necessary then to inquire whether the
26 detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but
27 to incarcerate for other reasons.”); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019) (“Our decision
28

today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—that is, constitutional challenges to applications of the statute as we have now read it.”).

Ms. Romero Rebolledo is neither a danger nor a flight risk. Therefore, her detention is both punitive and not justified by a legitimate purpose, violating her substantive due process rights. Ms. Romero Rebolledo’s ongoing detention is unconstitutional, and substantive due process principles require her immediate release.

2. Ms. Romero Rebolledo is Likely to Succeed on the Merits of Her Claim That in This Case the Constitution Requires a Hearing Before a Neutral Adjudicator Prior to Any Re-Incarceration by ICE.

Ms. Romero Rebolledo is likely to succeed on her claim that, in her particular circumstances, her current detention is unlawful because the Due Process Clause of the Constitution prevents Respondents from detaining her without first providing a pre-deprivation hearing before a neutral adjudicator where the government demonstrates by clear and convincing evidence that she is a danger to the public or a flight risk.

Courts analyze procedural due process claims, such as this one, in two steps: the first asks whether a protected liberty interest exists under the Due Process Clause, and the second examines the procedures necessary to ensure that 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).

a. Ms. Romero Rebolledo Has a Protected Liberty Interest

The Due Process Clause protects Ms. Romero Rebolledo’s liberty from immigration custody: “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.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Ms. Romero Rebolledo has an established life in California. Ms. Romero Rebolledo has lived in the United States for over six years. She resides with her husband and children in Porterville, California. At the time of detention, Ms. Romero Rebolledo worked in multiple jobs. Ms. Romero Rebolledo has no criminal history anywhere in the world. Ms. Romero Rebolledo has complied with all conditions of her release.

b. Ms. Romero Rebolledo’s Liberty Interest Mandates Her Release from Unlawful Custody And A Hearing Before any Re-Arrest.

1 Ms. Romero Rebolledo asserts that, here, (1) where her detention would be civil; (2)
2 where she has viable immigration relief; (3) where no circumstances exist that would justify her
3 lawful detention; and (4) where ICE's move to arrest as many people as possible under the new
4 administration's initiative, due process mandates that she be released from her unlawful custody
5 and receive notice and a hearing before a neutral adjudicator before any re-arrest or revocation
6 of her custody release.

7 "Adequate, or due, process depends upon the nature of the interest affected. The more
8 important the interest and the greater the effect of its impairment, the greater the procedural
9 safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d
10 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey v. Brewer*, 408 U.S. 471, at 481-82
11 (1972)). This Court must "balance [Ms. Romero Rebolledo's] liberty interest against the
12 [government's] interest in the efficient administration of" its immigration laws to determine what
13 process she is owed to ensure that ICE does not unconstitutionally deprive her of her liberty. *Id.*
14 at 1357. Under the test outlined in *Mathews v. Eldridge*, this Court must consider three factors in
15 conducting its balancing test: "first, the private interest that will be affected by the official action;
16 second, the risk of an erroneous deprivation of such interest through the procedures used, and the
17 probative value, if any, of additional or substitute procedural safeguards; and finally the
18 government's interest, including the function involved and the fiscal and administrative burdens
19 that the additional or substitute procedural requirements would entail." *Haygood*, 769 F.2d at
20 1357 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

21 The Supreme Court "usually has held that the Constitution requires some kind of a
22 hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S.
23 113, 127 (1990) (emphasis in original). Only in a "special case" where post-deprivation remedies
24 are "the only remedies the State could be expected to provide" can the post-deprivation process
25 satisfy the requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where "one
26 of the variables in the *Mathews* equation—the value of pre-deprivation safeguards—is negligible
27 in preventing the kind of deprivation at issue" such that "the State cannot be required
28 constitutionally to do the impossible by providing pre-deprivation process," can the government
avoid providing pre-deprivation process. *Id.*

Because, in this case, the provision of a pre-deprivation hearing is both possible and
valuable to prevent an erroneous deprivation of liberty, ICE is required to provide Ms. Romero

1 Rebolledo with notice and a hearing prior to any incarceration. See *Morrissey*, 408 U.S. at 481-
 2 82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinerman*, 494 U.S. at 985; see also
 3 *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982). Under *Mathews*, “the balance weighs heavily
 4 in favor of [Ms. Romero Rebolledo’s] liberty” and requires a pre-deprivation hearing before a
 5 neutral adjudicator.

6 **i. Ms. Romero Rebolledo Private Interest in Her Liberty is Profound.**

7 What is at stake in this case for Ms. Romero Rebolledo is one of the most profound
 8 individual interests recognized by our legal system: whether ICE may unilaterally detain a non-
 9 citizen and be able to take away her physical freedom, i.e., her “constitutionally protected interest
 10 in avoiding physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)(internal
 11 quotation omitted). “Freedom from bodily restraint has always been at the core of the liberty
 12 protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). See also
 13 *Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment—from government custody, detention,
 14 or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause
 15 protects.”); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

16 Thus, there is a profound private interest at stake in this case, which must be weighed
 17 heavily when determining what process she is owed under the Constitution. See *Mathews*, 424
 18 U.S. at 334-35.

19 **ii. The Government’s Interest in Incarcerating Ms. Romero Rebolledo
 20 Without a Hearing is Low and the Burden on the Government to
 21 Refrain from Re-Arresting Her Unless and Until She is Provided a
 22 Hearing is Minimal**

23 The government’s interest in maintaining an unlawful detention without a due process
 24 hearing is low, and when weighed against Ms. Romero Rebolledo significant private interest in
 25 her liberty, the scale tips sharply in favor of enjoining Respondents (1) from keeping her in
 26 unlawful custody; (2) re-arresting Ms. Romero Rebolledo unless and until the government
 27 demonstrates to a neutral adjudicator by clear and convincing evidence that she is a flight risk or
 28 danger to the community; and (3) removing her from the United States in violation of an agency
 order and district court injunction. It becomes abundantly clear that the *Mathews* test favors Ms.
 Romero Rebolledo when the Court considers that the process she seeks—notice and a bond
 hearing before a neutral decision maker—is a standard course of action for the government.

1 Providing Ms. Romero Rebolledo with a hearing before this Court (or a neutral decision maker)
2 to determine whether there is clear and convincing evidence that Ms. Romero Rebolledo is a
3 flight risk or danger to the community would impose only a de minimis burden on the
4 government, because the government routinely provides this sort of hearing to individuals like
5 Ms. Romero Rebolledo.

6 As immigration detention is civil in nature, it cannot serve a punitive purpose. The
7 government's only interest in holding an individual in immigration detention can be to prevent
8 danger to the community or to ensure a noncitizen's appearance at immigration proceedings. See
9 *Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any
10 basis for detaining Ms. Romero Rebolledo since she has lived at liberty with her community,
11 without any criminal or civil traffic infractions and has attended all court hearings and ICE check-
12 ins. The government's interest in detaining Ms. Romero Rebolledo currently is extremely low.
13 That ICE has a new policy to make a minimum number of arrests each day under the new
14 administration does not constitute a valid reason to detain her.

15 Moreover, the "fiscal and administrative burdens" that her immediate release and a lawful
16 pre-detention hearing would impose is nonexistent in this case. See *Mathews*, 424 U.S. at 334-
17 35. Ms. Romero Rebolledo does not seek a unique or expensive form of process, but rather a
18 routine hearing. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to the
19 public of immigration detention are 'staggering': \$158 each day per detainee, amounting to a
20 total daily cost of \$6.5 million." *Hernandez*, 872 F.3d at 996. It is only fair to say these costs
21 have increased in the past 8 years.

22 Alternatively, providing Ms. Romero Rebolledo with a hearing before this Court (or a
23 neutral decision-maker) regarding release from custody is a routine procedure that the
24 government provides to those in immigration detention facilities daily. At that hearing, the Court
25 would have the opportunity to determine whether circumstances justify her arrest and detention.
26 But there is no justifiable reason to incarcerate Ms. Romero Rebolledo before such a hearing
27 takes place.

28 Releasing Ms. Romero Rebolledo from unlawful custody and enjoining Ms. Romero
Rebolledo's arrest until ICE (1) moves for a custody re-determination before an IJ and (2)
demonstrates by clear and convincing evidence that Ms. Romero Rebolledo is a flight risk or

1 danger to the community is far less costly and burdensome for the government than keeping her
2 detained to a total daily cost of over \$6.5 million. *Hernandez*, 872 F.3d at 996.

3 **iii. Without a Due Process Hearing Prior to Any Arrest, the Risk of an**
4 **Erroneous Deprivation of Liberty is High, and Process in the Form of**
5 **a Constitutionally Compliant Hearing Where ICE Carries the Burden**
6 **Would Decrease That Risk.**

7 Releasing Ms. Romero Rebolledo from unlawful custody and providing Ms. Romero
8 Rebolledo a pre-deprivation hearing would decrease the risk of her being erroneously deprived
9 of his liberty. Before Ms. Romero Rebolledo can be lawfully detained, she should have been
10 provided with a hearing before a neutral adjudicator at which the government is held to show that
11 there are sufficient circumstances to detain her. Clear and convincing evidence exists to establish
12 that Ms. Romero Rebolledo is not a danger to the community or a flight risk.

13 The procedure Ms. Romero Rebolledo seeks a hearing in front of a neutral adjudicator at
14 which the government must prove by clear and convincing evidence to justify her detention. “A
15 neutral judge is one of the most basic due process protections.” *Castro-Cortez v. INS*, 239 F.3d
16 1037, 1049 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548
17 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation of liberty
18 under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone, makes
19 custody determinations. *Diouf v. Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir.
20 2011).

21 Due process also requires consideration of alternatives to detention at any custody
22 redetermination hearing that may occur. The primary purpose of immigration detention is to
23 ensure a noncitizen’s appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697.

24 Detention is not reasonably related to this purpose if there are alternatives to incarceration
25 that could mitigate the risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly,
26 alternatives to detention must be considered in determining whether Ms. Romero Rebolledo’s
27 reincarceration is warranted.

28 As the above-cited authorities show, Ms. Romero Rebolledo is likely to succeed in her
claim that the current arrest and detention that ICE effected November 21, 2025, are unlawful.
The Due Process Clause requires notice and a hearing before a neutral decision-maker before any
reincarceration by ICE. And, at the very minimum, she clearly raises serious questions regarding
this issue, thus also meriting a TRO. See *Alliance for the Wild Rockies*, 632 F.3d at 1135.

3. Ms. Romero Rebolledo Will Suffer Irreparable Harm Absent Injunctive Relief

Ms. Romero Rebolledo will suffer irreparable harm if she remains detained after being deprived of her liberty and subjected to unlawful incarceration by immigration authorities without being provided with the constitutionally adequate process that this motion for a temporary restraining order seeks. Detainees in ICE custody are held in “prison-like conditions.” *Preap v. Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, “[t]he time spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job; it disrupts family life; and it enforces idleness.” *Barker v. Wingo*, 407 U.S. 514, 532-33 (1972); accord *Nat’l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th Cir. 1984).

Moreover, the Ninth Circuit has recognized in “concrete terms the irreparable harms imposed on anyone subject to immigration detention,” including “subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained.” *Hernandez*, 872 F.3d at 995.

The government itself has documented alarmingly poor conditions in ICE detention centers. *See, e.g.*, DHS, Office of Inspector General (OIG), Summary of Unannounced Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024) (reporting violations of environmental health and safety standards; staffing shortages affecting the level of care detainees received for suicide watch, and detainees being held in administrative segregation in unauthorized restraints, without being allowed time outside their cell, and with no documentation that they were provided health care or three meals a day).

Conditions at the California City Detention Facility – where plaintiff is being held - are so inhumane that the ACLU recently filed a Class Action lawsuit detailing the grotesque, inhumane, and substandard conditions of the facility. *Gomez Ruiz v. U.S. Immigration and Customs Enforcement*, (N.D. Cal. Case 3:25-cv-09757, filed 11/12/25).

As detailed supra, Petitioner contends that her arrest, absent a hearing before a neutral adjudicator, violates her due process rights under the Constitution. It is clear that “the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Thus, a

temporary restraining order is necessary to prevent Ms. Romero Rebolledo from suffering irreparable harm by being subject to unlawful and unjust detention.

4. The Balance of Equities and the Public Interest Favor Granting the Temporary Restraining Order.

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

Further, any burden imposed by requiring the ICE to release Ms. Romero Rebolledo from unlawful custody and refrain from re-arrest unless and until she is provided with a hearing before a neutral arbitrator is both de minimis and clearly outweighed by the substantial harm she will suffer as if she is detained. See *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) (“Society’s interest lies on the side of affording fair procedures to all persons, even though the expenditure of governmental funds is required.”).

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

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

3 **V. CONCLUSION**

4 For all the above reasons, this Court should find:

5 (1) that Ms. Romero Rebolledo warrants a temporary restraining order and a preliminary
6 injunction ordering that Respondents Declare that Petitioner's detention violates the Due Process
7 Clause of the Fifth Amendment;

8 (2) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately
9 and schedule a bond hearing before an immigration judge;

10 (3) Declare immediately that Defendants are prohibited from moving Petitioner outside
11 of the jurisdiction of the Eastern District of California and enjoin Defendants from sending her
12 to any place outside of the United States;

13 (4) Enjoin defendant from re-detaining Petitioner without a pre-deprivation hearing
14 before an immigration judge where the Government bears the burden of proving that
15 circumstances have materially changed, rendering Petitioner a danger to the community or a
16 flight risk;

17 (5) Order Defendants to file a written declaration attesting to full compliance with these
18 obligations.

19 (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and
20 on any other basis justified under law; and

21 (7) Grant any further relief this Court deems just and proper.

22 Dated: December 17, 2025

Respectfully submitted,

23 /s/ Robert Beles

24 Robert J. Beles

25 Attorney for Petitioner

26 Maria Romero Rebolledo

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed the events described in the Petition with the Petitioner. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on December 17, 2025, in Oakland, CA.

/s/ Robert Beles
Robert J. Beles
Attorney for Petitioner
Maria Romero Rebolledo