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7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 Sonia Afang MESEE ENGONGA,

11 Petitioner,

12 v.

13 Kristi NOEM, Secretary, U.S.
14 Department of Homeland Security;
15 Pamela BONDI, U.S. Attorney General;
16 Todd LYONS, Acting Director,
17 Immigration and Customs Enforcement;
18 Jaime RIOS, Director, Los Angeles Field
19 Office, Immigration and Customs
20 Enforcement, Enforcement and Removal
21 Operations; Fereti SEMAIA, Warden,
22 Adelanto ICE Processing Center;
23 EXECUTIVE OFFICE FOR
24 IMMIGRATION REVIEW;
25 IMMIGRATION AND CUSTOMS
26 ENFORCEMENT; and U.S.
27 DEPARTMENT OF HOMELAND
28 SECURITY,

Respondents.

Case No. 25-cv-03479

**PETITIONER'S EX PARTE
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE**

1 Pursuant to Rule 65(b)(1) of the Federal Rules of Civil Procedure, Petitioner
2 hereby moves the Court for emergency relief in the form of a temporary restraining
3 order (“TRO”). Petitioner seeks an order to preserve the status quo prior to her
4 unlawful detention – namely, her release on an order of her own recognizance
5 (“OREC”).
6

7
8 Petitioner seeks this emergency relief because her re-detention is depriving her
9 of constitutional rights and is causing immediate and irreparable injury in the form
10 of the unlawful deprivation of her liberty.
11

12 The TRO sought by Petitioner is an order: (1) requiring Respondents to
13 immediately release her on her OREC and enjoining them from re-detaining her
14 absent further order of this Court; (2) in the alternative, ordering Petitioner’s
15 immediate release from Respondents’ custody and enjoining Respondents from re-
16 detaining her unless they demonstrate at a pre-deprivation bond hearing, by clear and
17 convincing evidence, that she is a flight risk or danger to the community, such that
18 her physical custody is required. Petitioner also seeks a temporary restraining order
19 enjoining the Respondents from relocating Petitioner outside of the Central District
20 of California pending final resolution of this case. Petitioner also requests the Court
21 schedule oral argument as soon as the Court’s calendar allows and the parties are
22 available, should it be necessary to resolve this motion.
23
24
25

26 Petitioner further moves for the issuance of an order to show cause as to why
27 a preliminary injunction should not issue.
28

1 This application is supported by the Memorandum of Points and Authorities,
2 accompanying exhibits, as well as any additional submissions that may be considered
3 by the Court.
4

5 Respondent's position on this motion is unknown as of the filing of this
6 request. *See* attached Certificate of Counsel.
7

8 DATED: December 21, 2025

s/ Keli M. Reynolds
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CERTIFICATE OF COUNSEL

Pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure, L.R. 7-19.1, and L.R. 65-1, I hereby certify that on December 20, 2025 at approximately 9:00am, I sent an email to Daniel Beck, AUSA, Chief, Complex and Defensive Litigation Section, U.S. Attorney's Office, Central District of California. In the email, I provided Mr. Beck a summary of Petitioner's claims. Mr. Beck has not responded as of this filing.

I will provide a copy of the Application for a Temporary Restraining Order, Memorandum of Points and Authorities, Supporting Exhibits, and Petition for Writ of Habeas Corpus to Mr. Beck by emailing copies to Daniel.Beck@usdoj.gov shortly after filing the pleadings via CM/ECF.

Respectfully Submitted,

DATED: December 21, 2025

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28 DEPARTMENT OF HOMELAND
SECURITY,

Respondents.

**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF EX PARTE
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE**

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INTRODUCTION

Petitioner, Sonia Afang MESEE ENGONGA, (“Petitioner”) is a citizen of Equatorial Guinea who has lived in the United States since July 2022, when she sought asylum at the U.S.-Mexico border. On or about October 3, 2022, after determining that she did not present a flight risk or danger to the community, the Department of Homeland Security (“DHS”) released Petitioner from custody on her own recognizance (“OREC”) pursuant to parole authority in 8 U.S.C. § 1182(d)(5)(A). Petitioner was unexpectedly arrested in Riverside, California on August 14, 2025, by Immigration and Customs Enforcement (“ICE”) officers after she was released from local police custody without any charges. Petitioner is detained at the ICE Adelanto Processing Center in Adelanto, California.

Because DHS continues to treat Petitioner as seeking admission at the border, even though they paroled her into the United States when she sought admission, they have detained her pursuant to 8 U.S.C. § 1225(b)(2)(A) and determined she is ineligible to be released on bond during the pendency of her remaining removal hearing process.

On May 15, 2025, the Board of Immigration Appeals (“BIA” or “Board”), a component of EOIR, issued a precedent decision binding on all immigration judges, holding that an immigration judge (“IJ”) has no authority to consider bond requests for any person who is released from detention on parole and whose parole is subsequently terminated. *See Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). The Board

1 determined that such individuals are subject to mandatory detention under 8 U.S.C.
2 § 1225(b)(2)(A) and therefore ineligible to be released on bond.

3
4 As a result of the binding authority in *Matter of Q. Li*, Petitioner has not had a
5 bond redetermination hearing since her re-detention.

6 Petitioner's ongoing detention violates her Fifth Amendment substantive due
7 process right under the U.S. Constitution because she is neither a flight risk nor a
8 danger to the community. In addition, her detention violates her procedural due
9 process rights because her OREC was revoked without any notice or any opportunity
10 to contest her detention before a neutral arbiter. Finally, her re-detention violated her
11 Fourth Amendment right to be free of unlawful arrest.

12
13
14 Petitioner therefore seeks a Temporary Restraining Order ("TRO") that
15 requires Respondents to immediately release her from custody and to enjoin
16 Respondents from re-detaining her: (1) absent further order of this Court; or (2)
17 absent the provision of a pre-deprivation hearing before a neutral arbiter, at which
18 Respondents will bear the burden of proving by clear and convincing evidence that
19 she is a flight risk or a danger to the community.

20
21
22 Petitioner also seeks an Order prohibiting Respondents from relocating her
23 outside of the Central District pending final resolution of this litigation.

24 25 **STATEMENT OF FACTS**

26 Petitioner has resided in the United States since July 2022, after she entered
27 the United States and sought asylum relief at the U.S.-Mexico border. *See*
28

1 Declaration of Petitioner, Sonia Afang Messee Engonca (“Petitioner Decl.”) at ¶2. She
2 was detained by DHS for a few months before she was released on OREC on parole
3 on or about October 3, 2022. *Id.* at ¶3; *see also* Ex. A, ICE Form I-220A, Order of
4 Release on Recognizance, Oct. 3, 2022. Petitioner was arrested by local law
5 enforcement in Riverside, California, on or about August 8, 2025, but no charges
6 were filed as a result of the arrest and, thus, she has no criminal history to trigger
7 mandatory detention pursuant to 8 U.S.C. § 1226(c) or on any other basis. *See*
8 Petitioner Decl. at ¶9.

9
10
11 Concurrent with her OREC release, Petitioner was placed in removal
12 proceedings before the Santa Ana Immigration Court pursuant to 8 U.S.C. § 1229a
13 on the nondetained docket. *See id.* at ¶4. It is believed that DHS charged Petitioner
14 with being inadmissible under 8 U.S.C. §§ 1182(a)(6)(A)(i) and/or (a)(7)(A)(i)(I) as
15 someone who is present without admission in the United States and who lacked
16 proper entry documents at the time she is seeking admission. Petitioner never failed
17 to attend any scheduled hearing that required her presence and she complied with
18 ICE check-ins. *Id.*; *see also* Ex. A at 2. She has an asylum application pending with
19 the immigration court. *See* Petitioner Decl. at ¶4.

20
21
22 Petitioner’s spouse also has an asylum application pending with the
23 immigration court. *Id.* at ¶7. She has a total of four children – three from her previous
24 marriage, all of whom live in Equatorial Guinea, and a 2-year-old U.S. citizen son
25 she shares with her current spouse. *Id.* at ¶¶5-6. Petitioner has medical issues that
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27
28

1 concern her while she is in detention. Her son has been experiencing sudden vomiting
2 and diarrhea since her detention. *Id.* at ¶5. She suffers from anemia, which fatigues
3 her. *Id.*
4

5 On August 8, 2025, Petitioner was arrested in Riverside, California, by local
6 police, but no criminal charges were brought by the prosecutor's office. *Id.* at ¶9; *see*
7 *also*, Ex. D, screenshot of Riverside County Jail Information System (showing
8 release per Cal. Penal Code § 825, which requires charges to be filed within 48
9 hours). Upon her release from local law enforcement custody on August 14, 2025,
10 ICE officers detained Petitioner and transferred her to ICE Adelanto Processing
11 Center in Adelanto, California, where she remains. Petitioner Decl. at ¶ 10-11.
12
13

14 No bond determination hearing has taken place for Petitioner during her
15 custody. *Id.* at ¶11. However, the immigration court is bound by the Board's
16 precedent decision in *Matter of Q. Li*, which deprives an immigration judge of bond
17 jurisdiction over Petitioner.
18
19

20 ARGUMENT

21 The requirements for granting a Temporary Restraining Order are
22 "substantially identical" to those for granting a preliminary injunction. *Stuhlbarg Int'l*
23 *Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).
24

25 Petitioner must demonstrate that (1) she is likely to succeed on the merits of
26 his claims; (2) she is likely to suffer irreparable harm in the absence of preliminary
27 relief; (3) the balance of equities tips in her favor; and (4) an injunction is in the
28

1 public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). A sliding
2 scale test may be applied, and an injunction should be issued when there is a stronger
3 showing on the balance of hardships, even if there are “serious questions on the
4 merits ... so long as the plaintiff also shows a likelihood of irreparable harm and that
5 the injunction is in the public interest.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d
6 1127, 1135 (9th Cir. 2011); see also *Flathead-Lolo-Bitterroot Citizen Task Force v.*
7 *Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024). Petitioner satisfies the criteria, and a
8 TRO should be granted.
9
10
11

12 **I. Petitioner Is Likely To Succeed On The Merits Of Her Claims.**

13 Petitioner’s ongoing detention violates her Fifth Amendment substantive due
14 process right because she is neither a flight risk nor a danger to the community. In
15 addition, her re-detention violates her procedural due process rights because her
16 OREC was revoked without any notice or any opportunity to contest her detention
17 before a neutral arbiter. Finally, her re-arrest and detention by Respondents after she
18 had already appeared in court on her civil immigration charge and absent any material
19 change in circumstances is an unreasonable seizure in violation of the Fourth
20 Amendment.
21
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24 The Constitution establishes due process rights for “all ‘persons’ within the
25 United States, including [noncitizens], whether their presence here is lawful,
26 unlawful, temporary, or permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th
27 Cir. 2017) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)). These due process
28

1 rights are both substantive and procedural. These protections extend to noncitizens
2 facing detention, as “[i]n our society liberty is the norm, and detention prior to trial
3 or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S.
4 739, 755 (1987). Accordingly, “[f]reedom from imprisonment—from government
5 custody, detention, or other forms of physical restraint—lies at the heart of the liberty
6 that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

9 Substantive due process thus requires that all forms of civil detention—
10 including immigration detention—bear a “reasonable relation” to a non-punitive
11 purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has
12 recognized only two permissible non-punitive purposes for immigration detention:
13 ensuring a noncitizen’s appearance at immigration proceedings and preventing
14 danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*,
15 538 U.S. 510, 519–520, 527–528, 531 (2003). Even DHS’s discretionary parole
16 authority under 8 U.S.C. § 1182(d)(5) is not “unbounded,” but must be “reasonable
17 and reasonably explained.” *De Andrade v. Moniz*, --- F.Supp.3d ----, 2025 WL
18 2841844, * 3 (D. Mass. Oct. 7, 2025) (quoting *Biden v. Texas*, 597 U.S. 785, 806–
19 807 (2022)).

23 Here, Petitioner is not a flight risk or a danger to the community. Prior to her
24 detention, she attended all non-detained removal hearings and ICE check-ins as
25 ordered. An asylum application remains pending before immigration court. *See e.g.*,
26 *Noori v. Larose*, 2025 WL 2800149, *13 (S.D. Ca. Oct. 1, 2025) (unpub) (noting that
27
28

1 a paroled noncitizen should not be returned to custody unless the purposes of the
2 parole have been served); *Orellana v. Francis*, 2025 WL 2402780, *5 (E.D.N.Y.
3 Aug, 19, 2025) (unpub) (noting that the purpose of parole was not satisfied when an
4 asylum seeker had not completed the asylum process and granting the petitioner
5 release because his re-detention violated the Administrative Procedure Act). Simply
6 put, she has never absconded from immigration authorities but rather has been
7 engaging with the legal procedures laid out in immigration law for those who wish
8 to request immigration status in the United States. Notwithstanding the single arrest
9 she has from August, Petitioner has never been charged with any crime, and there is
10 no evidence that she otherwise presents a danger to the community. Clearly,
11 Petitioner's re-detention serves no non-punitive purpose.
12

13
14 In addition, the procedural component of the Due Process Clause prohibits the
15 government from imposing even permissible physical restraints without adequate
16 procedural safeguards. Generally, "the Constitution requires some kind of a hearing
17 before the State deprives a person of liberty or property." *Zinerman v. Burch*, 494
18 U.S. 113, 127 (1990). Noncitizens who are released from immigration custody, as
19 Petitioner was in 2022, have a recognized liberty interest in continuing to be free
20 from government detention. *See Ortega v. Bonnar*, 415 F. Supp.3d 963, 970 (N.D.
21 Ca. 2019).
22

23
24 Once a noncitizen has a protected liberty interest, the *Mathews* test applies to
25 determine what procedural protections are due before immigration officials can re-
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28

1 detain the noncitizen. Under that test, this Court must weigh: (1) the private interested
2 affected; (2) the risk of erroneous deprivation and probable value of procedural
3 safeguards; and (3) the government's interest. *Mathews v. Eldridge*, 424 U.S. 319,
4 335 (1976).

6 In this case, the private interest at stake is clearly weighty – Petitioner's liberty
7 has been severely curtailed for 129 days as she has remained unlawfully in ICE
8 custody without the ability to obtain release on bond. See 8 C.F.R.
9 § 1003.19(h)(2)(i)(B); *Fernandez Lopez v. Wofford*, 2025 WL 2959319, *4 (E.D. Ca.
10 Oct. 17, 2025) (unpub) (finding a noncitizen granted parole at the border has a liberty
11 interest in her conditional release and that such a parolee has an implicit right to
12 remain at liberty); *Abduraimov v. Andrews*, 2025 WL 2912307, *6 (E.D. Ca. Oct. 14,
13 2025) (unpub) (finding that immigration parole has a “legitimate and reasonably
14 strong private liberty interest”); *Noori*, 2025 WL 2800149 at *10 (parolee developed
15 a private interest in remaining free in the one year he has resided in the United States
16 since entry); *Munoz Materano v. Arteta*, 2025 WL 2630826, *13 (S.D.N.Y. Sept. 12,
17 2025) (unpub); *Ramirez Tesara v. Wamsley*, --- F.Supp.3d ----, 2025 WL 2637663,
18 *3 (W.D. Wash. Sept. 12, 2025) (finding that parolee's liberty interest did not expire
19 with his parole agreement); see also *Y-Z-L-H- v. Bostock*, --- F.Supp.3d ----, 2025
20 WL 1898025, *14 (D. Ore. July 9, 2025) (finding detention of a parolee who had not
21 completed his asylum process to be arbitrary and capricious and ordering immediate
22 release).

1 In addition, the risk of erroneous deprivation is high. When Respondents
2 released Petitioner after her entry into the country in 2022, they did so because they
3 determined she was not a flight risk or a danger to the community. *See e.g.,*
4 *Fernandez Lopez*, 2025 WL 2959319 at *4 (quoting 8 U.S.C. § 1182(d)(5)(A)). Prior
5 to her re-detention in August 2025, Petitioner had no notice of Respondents' intention
6 to re-detain her and no opportunity to contest that action. In the over four months that
7 she has been in ICE custody, Petitioner has not been afforded a bond redetermination
8 hearing, cutting off any avenue for review of her custody status in the existing
9 immigration court framework. Because the private interest in freedom from
10 immigration detention is substantial, due process requires the government to bear the
11 burden of proving by clear and convincing evidence that Petitioner is a flight risk or
12 danger to the community before re-detaining her. *See e.g., Fernandez Lopez*, 2025
13 WL 2959319 at *8; *J.S.H.M. v. Wofford*, 2025 WL 2938808, *16 (E.D. Ca. Oct. 16,
14 2025) (unpub); *Abduraimov*, 2025 WL 2912307 at *9; *Mata Velasquez v. Kurzdorfer*,
15 --- F.Supp.3d ----, 2025 WL 1953796, *17 (W.D.N.Y. July 16, 2025) (detention of
16 parolee without a reasoned explanation or changed circumstances and without a
17 meaningful opportunity to be heard violates due process).

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24 Finally, the government's interest in re-detaining Petitioner without first
25 providing notice and a custody hearing is minimal. *See e.g., Fernandez Lopez*, 2025
26 WL 2959319 at *6; *J.S.H.M.*, 2025 WL 2938808 at *18; *Noori*, 2025 WL 2800149
27 at *11 ("Respondents did not provide Petitioner individualized notice and reasoning
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1 prior to his arrest and detention on June 12, 2025 and have presented no legitimate
2 reason for why those decisions were made. Any governmental interest of efficient
3 administration of immigration laws...does not outweigh these first two
4 factors.”). Bond hearings are a routine part of immigration court proceedings,
5 imposing a minimal cost to the government. *See Doe v. Becerra*, --- F.Supp.3d ----,
6 2025 WL 691664, *6 (E.D. Ca. March 3, 2025). Petitioner is represented by counsel,
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8 has a demonstrated record of attendance at all immigration-related proceedings, and
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10 has incentive to comply with her OREC so that she can regularize her status to remain
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12 in this country with her family. There is no reason to think that her compliance will
13 change if she is released pending a pre-deprivation custody hearing.

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15 Thus, all three *Mathews* factors favor Petitioner, and she has established a
16 likelihood of success on her due process claims under the Fifth Amendment.

17
18 Finally, Petitioner is likely to succeed on her claim that her re-detention
19 violates her right under the Fourth Amendment to be free from unlawful seizure. The
20 Fourth Amendment prohibits government officials from repeatedly arresting
21 individuals on the same probable cause. *See Williams v. Dart*, 967 F.3d 625, 634 (7th
22 Cir. 2020) (“[T]he primary purpose of an arrest is to ensure the arrestee appears to
23 answer charges... Once the arrestee appears before the court, the purpose of the initial
24 seizure has been accomplished. Further seizure requires a court order or new cause;
25 the original probable cause determination is no justification.”).
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1 Applying this principle to the immigration context, this prohibition means that
2 a person who immigration authorities released from initial custody cannot be
3 rearrested “solely on the ground that he is subject to removal proceedings” and
4 without some new, intervening cause. *Saravia v. Sessions*, 280 F. Supp. 3d 1168,
5 1196 (N.D. Cal. 2017), *aff’d sub nom., Saravia for A.H. v. Sessions*, 905 F.3d 1137
6 (9th Cir. 2018). Courts have long recognized that permitting such rearrests could
7 result in “harassment by continual rearrests.” *United States v. Holmes*, 452 F.2d 249,
8 261 (7th Cir. 1971).

9 Here, Petitioner was released from custody by DHS in October 2022 on OREC
10 and placed in removal proceedings to answer to civil immigration charges. She was
11 arrested by local law enforcement in August 2025, but no charges were pressed by
12 prosecutors. Petitioner has appeared at all removal hearings that required her presence
13 and complied with all required ICE check-ins. However, on August 14, 2025,
14 Petitioner was re-arrested by ICE and placed back into immigration detention.
15 Because there was no material change in circumstances and Respondents have failed
16 to provide that one exists, it is likely that Petitioner can show that her re-arrest was
17 solely on the ground of her removal proceedings, which is the same reason she was
18 detained by DHS in 2022 and thus her re-arrest violates her constitutional rights.

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25 **II. Petitioner Will Suffer Irreparable Harm In The Absence Of A TRO.**

26 In the absence of a TRO, Petitioner is at risk of continued unlawful detention.
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28 The Petitioner has now been detained for 129 days.

1 “Freedom from imprisonment—from government custody, detention, or other
2 forms of physical restraint—lies at the heart of the liberty” that the Due Process
3 Clause protects. *Zadvydas v. Davis*, 533 U.S. at 690. Detention constitutes “a loss of
4 liberty that is . . . irreparable.” *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169,
5 1181 (W.D. Wash. 2020) (*Moreno II*), *aff’d in part, vacated in part on other grounds,*
6 *remanded sub nom. Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir. 2022). It “is
7 well established that the deprivation of constitutional rights unquestionably
8 constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir.
9 2012) (citation modified); *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir.
10 2005). *See also Hernandez*, 872 F.3d at 994–95 (“Thus, it follows inexorably from
11 our conclusion that the government’s current policies [which fail to consider financial
12 ability to pay immigration bonds] are likely unconstitutional—and thus that members
13 of the plaintiff class will likely be deprived of their physical liberty unconstitutionally
14 in the absence of the injunction—that Plaintiffs have also carried their burden as to
15 irreparable harm.”); *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-
16 BFM (C.D. Cal. July 28, 2025), Order Granting Temporary Restraining Order, Dkt.
17 14 at 9 (“[T]he Court finds that the potential for Petitioners’ continued detention
18 without an initial bond hearing would cause immediate and irreparable injury, as this
19 violates statutory rights afforded under § 1226(a).”)

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Petitioner has also already been grievously harmed by her re-detention. She
has been separated from her 2-year-old U.S. citizen son for over four months.

1 Petitioner has been sidelined as her son goes through bouts of diarrhea and vomiting,
2 which is uncommon for her normally healthy son. She also has to tend to her anemia,
3 which weakens her. Under these circumstances, the absence of a TRO will allow her
4 continued unlawful detention, which will cause Petitioner irreparable injury.
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6 **III. The Balance Of Equities Tips In Petitioner's Favor And A TRO Is In**
7 **The Public Interest.**

8 Because the government is a party, these two factors are considered together.
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10 *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, the balance favors Petitioner.

11 The likelihood of Petitioner's success on the merits, combined with the
12 established constitutional framework that requires the government to proceed
13 lawfully when re-detaining noncitizens it previously released on parole and on
14 OREC, strongly tips the balance of equities in Petitioner's favor. "There is generally
15 no public interest in the perpetuation of unlawful agency action. To the contrary,
16 there is a substantial public interest in having governmental agencies abide by the
17 federal laws that govern their existence and operations." *See League of Women*
18 *Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (internal quotation
19 marks and citations omitted).
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23 Petitioner's constitutional right to be free of unlawful detention weighs heavily
24 in the public interest. As the revocation of Petitioner's OREC without notice or the
25 opportunity to contest the revocation, her continued detention without any hearing
26 before a neutral arbiter, and her re-detention with no material changes in
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1 circumstances violate her constitutional rights, there can be no public interest in
2 prolonging that circumstance. *See e.g., Washington v. DeVos*, 481 F.Supp.3d 1184,
3 1197 (W.D. Wash. 2020).

4
5 Respondents cannot show here how the government's interests overcome the
6 irreparable injury to Petitioner. As noted above, the hardship for Petitioner is
7 concrete and severe, while the imposition on the government is minimal. At worst, if
8 Respondents truly believe Petitioner is a flight risk or a danger to the community,
9 they will be required to provide her with a bond hearing demonstrating that, during
10 which they will need to prove one of those factors exist before they can re-detain
11 her. The continued deprivation of Petitioner's liberty, when weighed against the
12 minimal imposition of release and a pre-deprivation bond hearing, tip sharply in favor
13 of the issuance of a TRO.
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17 **IV. The Court Should Not Require Petitioner To Provide Security.**

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19 The Court should not require a bond under Fed. R. Civ. P. Rule 65(c). This
20 rule permits a court to grant preliminary injunctive relief "only if the movant gives
21 security in an amount that the court considers proper to pay the costs and damages
22 sustained by any party found to have been wrongfully enjoined or restrained." FRCP
23 65(c). But it is well established that Rule 65(c) does not impose a mandatory
24 requirement for a bond, but rather "invests the district court 'with discretion as to the
25 amount of security required, if any.'" *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th
26 Cir. 2003) (quoting *Barahona-Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir.
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1 1999)). In particular, “[t]he district court may dispense with the filing of a bond when
2 it concludes there is no realistic likelihood of harm to the defendant from enjoining
3 his or her conduct.” *Johnson v. Courturier*, 572 F.3d 1067, 1086 (9th Cir.
4 2009). Here, there is no realistic likelihood of harm to Respondents if the Court grants
5 the requested TRO, and it would pose a significant hardship on Petitioner who is
6 incarcerated to have a bond imposed. The Court should exercise its discretion and
7 waive the requirement to post a bond under Rule 65(c).
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10 **V. Prudential Exhaustion Is Not Required.**
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12 Prudential exhaustion does not require Petitioner to be forced to endure the
13 very harm she is seeking to avoid by appealing the IJ bond order denial to the BIA
14 and waiting many months for a decision from the BIA. “[T]here are a number of
15 exceptions to the general rule requiring exhaustion, covering situations such as where
16 administrative remedies are inadequate or not efficacious,... [or] irreparable injury
17 will result...” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation omitted).
18
19 In addition, a court may waive an exhaustion requirement when “requiring resort to
20 the administrative remedy may occasion undue prejudice to subsequent assertion of
21 a court action.” *McCarthy v. Madigan*, 503 U.S. 140, 146–47 (1992), *superseded by*
22 *statute on other grounds as stated in Booth v. Churner*, 532 U.S. 731, 739–41 (2001).
23
24 “Such prejudice may result... from an unreasonable or indefinite time frame for
25 administrative action.” *Id.* at 147 (citing cases). Here, the exceptions regarding
26 irreparable injury and agency delay apply and warrant waiving any prudential
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1 exhaustion requirement.

2 **A. Futility**

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4 Futility is an exception to the prudential exhaustion requirement. The BIA has
5 held that an IJ has no authority to consider bond requests for a noncitizen who is
6 released from detention on parole and whose parole is subsequently terminated. *See*
7 *Matter of Q. Li*. The Board determined that such individuals are subject to mandatory
8 detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on
9 bond. As the immigration judge assigned to Petitioner's case is bound by *Matter of*
10 *Q. Li*, a bond redetermination hearing and an appeal to the BIA of an expected denied
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12 bond release would be futile.
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14 **B. Irreparable Injury**

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16 Irreparable injury is an exception to any prudential exhaustion requirement.
17 Because Petitioner was denied bond and ordered mandatorily detained, each day she
18 remains in detention is one in which her constitutional rights have been violated.
19 Similarly situated district courts have repeatedly recognized this fact. As one court
20 has explained, "because of delays inherent in the administrative process, BIA review
21 would result in the very harm that the bond hearing was designed to prevent:
22 prolonged detention without due process." *Hechavarria v. Whitaker*, 358 F. Supp. 3d
23 227, 237 (W.D.N.Y. 2019) (internal quotation marks omitted).
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27 Petitioner asserts constitutional claims and has a "fundamental" interest in a
28 bond hearing where the government addresses how she has become a flight risk or

1 danger to the community since her OREC, as “freedom from imprisonment is at the
2 ‘core of the liberty protected by the Due Process Clause.’” *Hernandez*, 872 F.3d at
3 993 (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

4
5 Moreover, the irreparable injury Petitioner faces extends beyond a chance at
6 physical liberty. There are other “irreparable harms imposed on anyone subject to
7 immigration detention[.]” *Hernandez*, 872 F.3d at 995. These include “subpar
8 medical and psychiatric care in ICE detention facilities.” *Id.*¹

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10 **C. Agency Delay**

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12 Third, the BIA’s delays in adjudicating bond appeals warrant excusing any
13 exhaustion requirement. A court’s ability to waive exhaustion based on delay is
14 especially broad here given the interests at stake. As the Ninth Circuit has explained,
15 Supreme Court precedent “permits a court under certain prescribed circumstances to
16 excuse exhaustion where ‘a claimant’s interest in having a particular issue resolved
17 promptly is so great that deference to the agency’s judgment [of a lack of finality] is
18 inappropriate.’” *Klein v. Sullivan*, 978 F.2d 520, 523 (9th Cir. 1992) (alteration in
19 original) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 330 (1976)). Of course, as
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24 ¹ See also, “A former DACA recipient died in ICE custody [at Adelanto Detention
25 Center]. Did officials ignore his pleas for help?”, Los Angeles Times, Sept. 23,
26 2025, available at: [https://www.latimes.com/california/story/2025-09-23/former-](https://www.latimes.com/california/story/2025-09-23/former-daca-recipient-dies-in-ice-custody-after-being-hospitalized)
27 [daca-recipient-dies-in-ice-custody-after-being-hospitalized](https://www.latimes.com/california/story/2025-09-23/former-daca-recipient-dies-in-ice-custody-after-being-hospitalized); “Moldy food, dirty
28 towels: Critics warn of inhumane conditions at [Adelanto Detention Center]
California’s largest detention center”, Los Angeles Times, June 20, 2025, available
at: [https://www.latimes.com/california/story/2025-06-20/unsanitary-overcrowded-](https://www.latimes.com/california/story/2025-06-20/unsanitary-overcrowded-and-inhumane-red-flags-raised-about-conditions-in-adelanto-detention-center)
[and-inhumane-red-flags-raised-about-conditions-in-adelanto-detention-center](https://www.latimes.com/california/story/2025-06-20/unsanitary-overcrowded-and-inhumane-red-flags-raised-about-conditions-in-adelanto-detention-center).

1 noted above, Petitioner's interest here in physical liberty is a "fundamental" one.
2 *Hernandez*, 872 F.3d at 993. Moreover, the Supreme Court has explained that
3 "[r]elief [when seeking review of detention] must be speedy if it is to be effective."
4
5 *Stack v. Boyle*, 342 U.S. 1, 4 (1951).

6 Despite this fundamental interest and the Supreme Court's admonition that
7 only speedy relief is meaningful, the BIA takes over half a year in most cases to
8 adjudicate an appeal of a decision denying bond. In these cases, noncitizens in
9 removal proceedings often remain locked up in a detention facility with conditions
10 "similar . . . to those in many prisons and jails" and separated from family. *Rodriguez*,
11 583 U.S. at 329 (Breyer, J., dissenting); *see also, e.g., Hernandez*, 872 F.3d at 996.
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14 CONCLUSION

15 For the foregoing reasons, the Court should grant Petitioner's Application for
16 a Temporary Restraining Order and Order to Show Cause.
17

18 Respectfully Submitted,
19

20 DATED: December 21, 2025

21 s/ Keli M. Reynolds
22 KELI M. REYNOLDS
23 Olmos & Reynolds Law Group, LLP
24 Attorney for Petitioner
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WORD COUNT CERTIFICATION

The undersigned, counsel of record for Petitioner certifies that this Memo contains
5,291 words, which complies with the word limit of L.R. 11-6.1.

s/ Keli M. Reynolds
KELI M. REYNOLDS
Attorney for Petitioner

LIST OF EXHIBITS IN SUPPORT

- A. I-220A Order of Release on Recognizance, Oct. 1, 2022**
- B. Evidence of Reporting on OREC**
- C. ICE Detainee Locator current showing detention**
- D. Riverside County Sheriff Release Information**