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

Zoila Jut Sarax De Vasquez,

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, Zoila Jut Sarax De Vasquez (“Ms. Jut Sarax De Vasquez”) 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 Adelanto 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. Jut Sarax De Vasquez 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 her 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 24, 2025 Respectfully submitted,

/s/ Robert Beles
Robert J Beles
Attorney for Petitioner-Plaintiff
Zoila Jut Sarax De Vasquez

1 **I. INTRODUCTION**

2 Respondents unlawfully detained Petitioner-Plaintiff Ms. Jut Sarax De Vasquez on
3 November 6, 2025. Ms. Jut Sarax De Vasquez is a native and citizen of Guatemala. Ms. Jut
4 Sarax De Vasquez entered the United States with inspection on July 26, 2023 seeking asylum.
5 When Ms. Jut Sarax De Vasquez arrived in the United States, federal agents briefly detained her,
6 determined that she was not a flight risk or danger to the community, and released her on her
7 own recognizance with a notice to appear for removal proceedings in immigration court. Since
8 then, Petitioner had done everything the government asked her to do; she has diligently attended
9 every Immigration and Customs Enforcement (“ICE”) and United States Citizenship and
10 Immigration Services (“USCIS”) appointment and check-in.

11 On November 6, 2025, Ms. Jut Sarax De Vasquez was detained during a routine ICE
12 visit. She was informed that she had violated an ISAP by not properly downloading a pictures
13 on her phone.

14 Ms. Jut Sarax De Vasquez does not have a final order of deportation. Her case is pending
15 with the Board of Immigration Appeals (“BIA”). When Ms. Jut Sarax De Vasquez was released
16 from ICE custody upon entering the United States, the immigration authorities gave her an order
17 of supervision and a copy of a Notice to Appear in Immigration Court. The authorities informed
18 Ms. Jut Sarax De Vasquez that she would have to appear at all ICE appointments and court
19 hearings.

20 Over the last two and a half years in which she has lived at liberty, Ms. Jut Sarax De
21 Vasquez has complied with all obligations of supervision and ICE orders. Ms. Jut Sarax De
22 Vasquez never missed immigration court. Ms. Jut Sarax De Vasquez filed an appeal to the Board
23 of Immigration Appeals on November 1, 2024 and that case is currently pending.

24 Ms. Jut Sarax De Vasquez is not an applicant for admission to the United States, Ms. Jut
25 Sarax De Vasquez has lived in the United States for over two and a half years. She currently
26 resides with her significant other and children in Lamont, California. Ms. Jut Sarax De Vasquez
27 has been in removal proceedings since arriving to the United States.

28 Ms. Jut Sarax De Vasquez’s summary arrest and indefinite detention flout the
Constitution. The only legitimate interests that civil immigration detention serves are mitigating
the risk of flight and preventing danger to the community. When those interests are absent, the
Fifth Amendment’s Due Process Clause squarely prohibits detention. Additionally, by

1 summarily arresting and detaining Ms. Jut Sarax De Vasquez without making any affirmative
2 showing of immigration violations, flight risk or danger to the community, the government
3 violated Petitioner's procedural due process rights. At the very least, she was constitutionally
4 entitled to a hearing before a neutral decisionmaker at which the government should have
5 justified her detention.

6 Ms. Jut Sarax De Vasquez must be accorded her 5th amendment due process rights as
7 affirmed in the US Supreme Court case *Department of Homeland Security v. Thuraissigium*, 140
8 S.Ct. 1959 (2020), Specifically, in *Thuraissigium*, the Supreme Court Stated: "aliens who have
9 established connections in this country have due process rights in deportation proceedings,"

10 As a result of her arrest and detention, Ms. Jut Sarax De Vasquez is suffering irreparable
11 and ongoing harm. The unconstitutional deprivation of "physical liberty" unquestionably
12 constitutes irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017).
13 Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms of
14 physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."
15 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Ms. Jut Sarax De Vasquez's arrest and detention
16 have caused and will cause immediate, tremendous, and ongoing harm, which include health
17 issues, hygiene, sleep and nutrition deprivation, family separation, emotional and economic
18 harm, loss of employment, and psychological harm.

19 In light of this irreparable harm, and because she is likely to succeed on the merits of her
20 due process claims, Ms. Jut Sarax De Vasquez respectfully requests that this Court issue an Ex
21 Parte temporary restraining order ("TRO") immediately releasing her from custody and enjoining
22 the government from re-arresting her absent the opportunity to contest that arrest at a hearing
23 before a neutral decision maker. Confronted with substantially identical facts and legal issues,
24 this and other courts in this circuit have recently granted the exact relief Petitioner seeks.
25 See *J.O.L.R. v Wofford*, 2025 WL 2718631 * 11 (E.D. Cal Sept. 23, 2025); *R.D.T.M. v Wofford*,
26 2025 WL 2617255 * 11 (E.D. Cal Sept. 9, 2025), *Garro Pinchi v. Noem*, 2025 WL 1853763, *4
27 (N.D. Cal. July 4, 2025), converted to preliminary injunction at __ F. Supp. 3d __, 2025 WL
28 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. Jut Sarax De Vasquez 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 as Stephen Miller, this directive prioritized arrest numbers over individuals' criminal history, encouraging agents to conduct mass round-ups in public spaces rather than targeted investigations.

As a result, arrests of non-citizens with no criminal record surged by over 800%, and two-thirds of those deported had no criminal history. This focus on quantity over public safety led to a new and aggressive tactic: systematically arresting immigrants at courthouses and ICE 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.

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

Ms. Jut Sarax De Vasquez has lived in the United States for over two and a half years. Her family lives in Lamont, California. At the time of detention, Ms. Jut Sarax De Vasquez was living in Lamot, California working in agriculture. She still suffers from a work injury when she fell from an orange tree. Ms. Jut Sarax De Vasquez has no criminal history anywhere in the world. She has established strong connections to the United States.

Ms. Jut Sarax De Vasquez's arrest and detention have caused and will cause immediate, tremendous, and ongoing harm, which includes health problems which could lead to hospitalization and/or death, hygiene, sleep, and nutrition deprivation, family separation,

1 emotional and economic harm, loss of employment, and psychological harm. Ms. Jut Sarax De
2 Vasquez is not a flight risk, as evidenced by her deep ties to the community, including her
3 relatives in the US. She is not a danger to the community. She is a law-abiding person. Her
4 detention serves no legitimate purpose.

5 This case has substantial factual and legal support to be granted, resulting in Ms. Jut Sarax
6 De Vasquez release from custody, and enjoining DHS from detaining Ms. Jut Sarax De Vasquez
7 pending a hearing before a neutral adjudicator, to substantiate a material change in circumstances
8 indicating that Ms. Jut Sarax De Vasquez is either a flight risk or a danger to the community.

9 Intervention from this Court is therefore required to ensure that Ms. Jut Sarax De Vasquez
10 is released from her current custody based on her unlawful arrest, returned to her home in
11 Lamont, California, where ICE can then provide her with a hearing before determining to re-
12 arrest her pursuant to the Due Process Clause of the Fifth Amendment.

13 **III. LEGAL STANDARD**

14 Ms. Jut Sarax De Vasquez is entitled to a temporary restraining order if she establishes
15 that she is “likely to succeed on the merits...likely to suffer irreparable harm in the absence of
16 preliminary relief, that the balance of equities tips in [her] favor, and that an injunction is in the
17 public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlberg Int’l*
18 *Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary
19 injunction and temporary restraining order standards are “substantially identical”). Even if Ms.
20 Jut Sarax De Vasquez does not show a likelihood of success on the merits, the Court may still
21 grant a temporary restraining order if she raises “serious questions” as to the merits of her claims,
22 the balance of hardships tips “sharply” in his favor, and the remaining equitable factors are
23 satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As set forth in
24 more detail below, Ms. Jut Sarax De Vasquez overwhelmingly satisfies both standards.

25 Furthermore, the requirements for issuing a temporary restraining order without notice
26 are met here. See Fed. R. Civ. P. 65(b). Ms. Jut Sarax De Vasquez has attempted to secure her
27 release from ICE but has received no response. Ms. Jut Sarax De Vasquez also set out specific
28 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. Jut Sarax De Vasquez 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. Jut Sarax De Vasquez is likely to remain in unlawful custody in violation of her due process rights without intervention by this Court. Ms. Jut Sarax De Vasquez will continue to suffer irreparable injury if she continues to be detained without due process.

1. Ms. Jut Sarax De Vasquez is likely to succeed on the merits because her detention violates substantive due process.

The Due Process Clause applies to “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. “The touchstone of due process is protection of the individual against arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the exercise of power without any reasonable justification in the service of a legitimate government objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). “Freedom from 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.

To comply with substantive due process, the government’s deprivation of an individual’s liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is “civil, not criminal,” and “nonpunitive in purpose and effect,” must be justified by either (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; see *Hernandez*, 872 F.3d at 994 (“[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.”). When these rationales are absent, immigration detention serves no legitimate government purpose and becomes impermissibly punitive, violating a person’s substantive due process rights. See *Jackson v.*

1 *Indiana*, 406 U.S. 715, 738 (1972) (detention must have a “reasonable relation” to the
 2 government’s interests in preventing flight and danger); see also *Mahdawi v. Trump*, No. 2:25-
 3 CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after
 4 finding petitioner may “succeed on his Fifth Amendment claim if he demonstrates either that the
 5 government acted with a punitive purpose or that it lacks any legitimate reason to detain him”).

6 The Supreme Court has recognized that noncitizens may bring as-applied challenges to
 7 detention, including so-called “mandatory” detention. *Demore v. Kim*, 538 U.S. 510, 532-33
 8 (2003) (Kennedy, J., concurring) (“Were there to be an unreasonable delay by the INS in pursuing
 9 and completing deportation proceedings, it could become necessary then to inquire whether the
 10 detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but
 11 to incarcerate for other reasons.”); *Nielsen v. Preap*, 586 U.S. 392, 420 (2019) (“Our decision
 12 today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—that is,
 13 constitutional challenges to applications of the statute as we have now read it.”).

14 Ms. Jut Sarax De Vasquez is neither a danger nor a flight risk. Therefore, her detention
 15 is both punitive and not justified by a legitimate purpose, violating her substantive due process
 16 rights. Ms. Jut Sarax De Vasquez’s ongoing detention is unconstitutional, and substantive due
 17 process principles require her immediate release.

18 **2. Ms. Jut Sarax De Vasquez is Likely to Succeed on the Merits of Her Claim**
 19 **That in This Case the Constitution Requires a Hearing Before a Neutral**
 20 **Adjudicator Prior to Any Re-Incarceration by ICE.**

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

26 Courts analyze procedural due process claims, such as this one, in two steps: the first asks
 27 whether a protected liberty interest exists under the Due Process Clause, and the second examines
 28 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. Jut Sarax De Vasquez Has a Protected Liberty Interest

1 The Due Process Clause protects Ms. Jut Sarax De Vasquez's liberty from immigration
 2 custody: "Freedom from imprisonment—from government custody, detention, or other forms of
 3 physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."
 4 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

5 Ms. Jut Sarax De Vasquez has an established life in California. Ms. Jut Sarax De Vasquez
 6 has lived in the United States for over two and a half years. She resides in Lamont, California.
 7 Ms. Jut Sarax De Vasquez has not missed any court hearings or ICE appointments. Ms. Jut Sarax
 8 De Vasquez has no criminal history anywhere in the world. Ms. Jut Sarax De Vasquez's friends
 and family reside in Lamont, California. Ms. Jut Sarax De Vasquez worked in agriculture.

9 **b. Ms. Jut Sarax De Vasquez's Liberty Interest Mandates Her Release from**
 10 **Unlawful Custody And A Hearing Before any Re-Arrest.**

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

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

1 The Supreme Court “usually has held that the Constitution requires some kind of a
 2 hearing before the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S.
 3 113, 127 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies
 4 are “the only remedies the State could be expected to provide” can the post-deprivation process
 5 satisfy the requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where “one
 6 of the variables in the *Mathews* equation—the value of pre-deprivation safeguards—is negligible
 7 in preventing the kind of deprivation at issue” such that “the State cannot be required
 8 constitutionally to do the impossible by providing pre-deprivation process,” can the government
 9 avoid providing pre-deprivation process. *Id.*

10 Because, in this case, the provision of a pre-deprivation hearing is both possible and
 11 valuable to prevent an erroneous deprivation of liberty, ICE is required to provide Ms. Jut Sarax
 12 De Vasquez with notice and a hearing prior to any incarceration. See *Morrissey*, 408 U.S. at 481-
 13 82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985; see also
 14 *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982). Under *Mathews*, “the balance weighs heavily
 15 in favor of [Ms. Jut Sarax De Vasquez’s] liberty” and requires a pre-deprivation hearing before
 16 a neutral adjudicator.

17 **i. Ms. Jut Sarax De Vasquez Private Interest in Her Liberty is**
 18 **Profound.**

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

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

1 ii. **The Government’s Interest in Incarcerating Ms. Jut Sarax De**
2 **Vasquez Without a Hearing is Low and the Burden on the**
3 **Government to Refrain from Re-Arresting Her Unless and Until She**
 is Provided a Hearing is Minimal

4 The government’s interest in maintaining an unlawful detention without a due process
5 hearing is low, and when weighed against Ms. Jut Sarax De Vasquez’ significant private interest
6 in her liberty, the scale tips sharply in favor of enjoining Respondents (1) from keeping her in
7 unlawful custody; (2) re-arresting Ms. Jut Sarax De Vasquez unless and until the government
8 demonstrates to a neutral adjudicator by clear and convincing evidence that she is a flight risk or
9 danger to the community; and (3) removing her from the United States in violation of an agency
10 order and district court injunction. It becomes abundantly clear that the *Mathews* test favors Ms.
11 Jut Sarax De Vasquez when the Court considers that the process she seeks—notice and a bond
12 hearing before a neutral decision maker —is a standard course of action for the government.
13 Providing Ms. Jut Sarax De Vasquez with a hearing before this Court (or a neutral decision
14 maker) to determine whether there is clear and convincing evidence that Ms. Jut Sarax De
15 Vasquez is a flight risk or danger to the community would impose only a de-minimis burden on
16 the government, because the government routinely provides this sort of hearing to individuals
17 like Ms. Jut Sarax De Vasquez.

18 As immigration detention is civil in nature, it cannot serve a punitive purpose. The
19 government’s only interest in holding an individual in immigration detention can be to prevent
20 danger to the community or to ensure a noncitizen’s appearance at immigration proceedings. See
21 *Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any
22 basis for detaining Ms. Jut Sarax De Vasquez since she has lived at liberty with her community,
23 without any criminal or civil traffic infractions and has attended all court hearings and ICE check-
24 ins. The government’s interest in detaining Ms. Jut Sarax De Vasquez currently is extremely low.
25 That ICE has a new policy to make a minimum number of arrests each day under the new
26 administration does not constitute a valid reason to detain her.

27 Moreover, the “fiscal and administrative burdens” that her immediate release and a lawful
28 pre-detention hearing would impose is nonexistent in this case. See *Mathews*, 424 U.S. at 334-
35. Ms. Jut Sarax De Vasquez does not seek a unique or expensive form of process, but rather a
routine hearing. As the Ninth Circuit noted in 2017, which remains true today, “[t]he costs to the
public of immigration detention are ‘staggering’: \$158 each day per detainee, amounting to a

1 total daily cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996. It is only fair to say these costs
2 have increased in the past 8 years.

3 Alternatively, providing Ms. Jut Sarax De Vasquez with a hearing before this Court (or a
4 neutral decision-maker) regarding release from custody is a routine procedure that the
5 government provides to those in immigration detention facilities daily. At that hearing, the Court
6 would have the opportunity to determine whether circumstances justify her arrest and detention.
7 But there is no justifiable reason to incarcerate Ms. Jut Sarax De Vasquez before such a hearing
8 takes place.

9 Releasing Ms. Jut Sarax De Vasquez from unlawful custody and enjoining Ms. Jut Sarax
10 De Vasquez’s arrest until ICE (1) moves for a custody re-determination before an IJ and (2)
11 demonstrates by clear and convincing evidence that Ms. Jut Sarax De Vasquez is a flight risk or
12 danger to the community is far less costly and burdensome for the government than keeping her
13 detained to a total daily cost of over \$6.5 million. *Hernandez*, 872 F.3d at 996.

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

18 Releasing Ms. Jut Sarax De Vasquez from unlawful custody and providing Ms. Jut Sarax
19 De Vasquez a pre-deprivation hearing would decrease the risk of her being erroneously deprived
20 of her liberty. Before Ms. Jut Sarax De Vasquez can be lawfully detained, she should have been
21 provided with a hearing before a neutral adjudicator at which the government is held to show that
22 there are sufficient circumstances to detain her. Clear and convincing evidence exists to establish
23 that Ms. Jut Sarax De Vasquez is not a danger to the community or a flight risk.

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

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

4 Detention is not reasonably related to this purpose if there are alternatives to incarceration
5 that could mitigate the risk of flight. See *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly,
6 alternatives to detention must be considered in determining whether Ms. Jut Sarax De Vasquez's
7 reincarceration is warranted.

8 As the above-cited authorities show, Ms. Jut Sarax De Vasquez is likely to succeed in her
9 claim that the current arrest and detention that ICE effected November 6, 2025, are unlawful.
10 The Due Process Clause requires notice and a hearing before a neutral decision-maker before any
11 reincarceration by ICE. And, at the very minimum, she clearly raises serious questions regarding
12 this issue, thus also meriting a TRO. See *Alliance for the Wild Rockies*, 632 F.3d at 1135.

13 **3. Ms. Jut Sarax De Vasquez Will Suffer Irreparable Harm Absent 14 Injunctive Relief**

15 Ms. Jut Sarax De Vasquez will suffer irreparable harm if she remains detained after being
16 deprived of her liberty and subjected to unlawful incarceration by immigration authorities
17 without being provided with the constitutionally adequate process that this motion for a
18 temporary restraining order seeks. Detainees in ICE custody are held in "prison-like conditions."
19 *Preap v. Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained,
20 "[t]he time spent in jail awaiting trial has a detrimental impact on the individual. It often means
21 loss of a job; it disrupts family life; and it enforces idleness." *Barker v. Wingo*, 407 U.S. 514,
22 532-33 (1972); accord *Nat'l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th
23 Cir. 1984).

24 Moreover, the Ninth Circuit has recognized in "concrete terms the irreparable harms
25 imposed on anyone subject to immigration detention," including "subpar medical and psychiatric
26 care in ICE detention facilities, the economic burdens imposed on detainees and their families as
27 a result of detention, and the collateral harms to children of detainees whose parents are
28 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

1 of environmental health and safety standards; staffing shortages affecting the level of care
2 detainees received for suicide watch, and detainees being held in administrative segregation in
3 unauthorized restraints, without being allowed time outside their cell, and with no documentation
4 that they were provided health care or three meals a day).

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

9 As detailed supra, Petitioner contends that her arrest, absent a hearing before a neutral
10 adjudicator, violates her due process rights under the Constitution. It is clear that “the deprivation
11 of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695
12 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Thus, a
13 temporary restraining order is necessary to prevent Ms. Jut Sarax De Vasquez from suffering
14 irreparable harm by being subject to unlawful and unjust detention.

15 **4. The Balance of Equities and the Public Interest Favor Granting the** 16 **Temporary Restraining Order.**

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

24 Further, any burden imposed by requiring the ICE to release Ms. Jut Sarax De Vasquez
25 from unlawful custody and refrain from re-arrest unless and until she is provided with a hearing
26 before a neutral arbitrator is both de minimis and clearly outweighed by the substantial harm she
27 will suffer as if she is detained. See *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)
28 (“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

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

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

15 **V. CONCLUSION**

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

17 (1) that Ms. Jut Sarax De Vasquez warrants a temporary restraining order and a
18 preliminary injunction ordering that Respondents Declare that Petitioner’s detention violates the
19 Due Process Clause of the Fifth Amendment;

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

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

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

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

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

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

4 Dated: December 24, 2025

Respectfully submitted,

6 /s/ Robert Beles

7 Robert J. Beles

8 Attorney for Petitioner

Zoila Jut Sarax De Vasquez

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 24, 2025, in Oakland, CA.

/s/ Robert Beles

Robert J. Beles

Attorney for Petitioner

Zoila Jut Sarax De Vasquez