IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Case No:

KEILA DANIELA BRACHO CORTEZ,

Petitioner,

v.

PAMELA JO BONDI, in her official capacity as Attorney General of the United States,
KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,
TODD LYONS, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement,
George Valdez, in his official capacity as the Acting Field Office Director of the Denver Field Office, Enforcement and Removal Operations, Immigration and Customs Enforcement,

Respondents.

EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

INTRODUCTION

Petitioner, Keila Daniela Bracho Cortez ("Petitioner" or "Bracho Cortez"), by and through her undersigned counsel and pursuant to Federal and Rule of Procedure 65, moves for a temporary restraining order ("TRO") and Order to Show Cause Why a Preliminary Injunction ("PI") should not be issued on her Verified Petition for Writ of Habeas Corpus (the "Petition"). This preliminary relief is necessary to prevent the irreparable harm being inflicted upon Ms. Bracho Cortez through her continued unlawful and warrantless detention.

Ms. Bracho Cortez is a nursing student, a mother, and a resident of Colorado, who has lived peaceably in the United States since 2023. Ms. Bracho Cortez entered the United States near El Paso, Texas, where she immediately presented herself to immigration authorities to seek asylum. Since her lawful release into the interior, she has strictly complied with all reporting requirements.

On February 12, 2026, Ms. Bracho Cortez appeared for a routine, voluntary compliance check-in at the Immigration and Customs Enforcement ("ICE") office in Colorado. Despite her history of compliance and lack of any criminal record, she was abruptly seized by ICE officers without a warrant. Tellingly, Respondents have failed to provide a neutral, individualized determination of her custody status, confirming their intent to bypass the mandatory procedural safeguards of the Immigration and Nationality Act ("INA") and the Administrative Procedure Act ("APA").

Ms. Bracho Cortez's ongoing confinement constitutes an obvious violation of the Fourth and Fifth Amendments to the United States Constitution. As further detailed herein, Petitioner is likely to succeed on the merits, has and will continue to suffer irreparable harm to her liberty and family unity every day she remains confined, and the public interest overwhelmingly favors her immediate release. Because "injunctive relief is especially appropriate" in cases involving the deprivation of constitutional liberties, this Court should enjoin Respondents from continuing Petitioner's unlawful detention and order her immediate release or, at minimum, an immediate bond hearing.

This preliminary relief is necessary to prevent the irreparable harm being inflicted upon Petitioner through her continued unlawful and warrantless detention. Petitioner hereby restates and incorporates herein by reference her Petition and further states as follows:

STATEMENT OF FACTS

A. PETITIONER'S BACKGROUND AND COMPLIANCE HISTORY

Ms. Bracho Cortez is a citizen of Venezuela. On November 30, 2023, Ms. Bracho Cortez presented herself at the El Paso, Texas Port of Entry. Upon arrival, she expressed a fear of return to her home country and indicated her intent to seek asylum. Following her initial processing, on

December 1, 2023, she was served with an Order of Release on Recognizance, which is attached as **Exhibit A** to the Petition. The Department of Homeland Security ("DHS") thus chose to release her from physical custody under section 236(a) of the Immigration and Nationality Act ("INA"), pending the outcome of her removal proceedings. By releasing her on her own recognizance, the government determined that her detention was not required to ensure public safety or her future appearance at court hearings, provided she complies with the reporting conditions set forth in the order, attached as **Exhibit A** to the Petition.

Ms. Bracho Cortez and her husband fled to the United States following a history of severe mistreatment and political repression. While in Venezuela, she was subjected to threats and violence due to her participation in political protests. After fleeing to Colombia, the family continued to face targeted violence, including an incident where her husband was intercepted, beaten, and held captive for two days by a FARC dissident group. Following their relocation to Colorado, Ms. Bracho Cortez formally submitted an Application for Asylum and for Withholding of Removal attached as **Exhibit B** to the Petition and received her Employment Authorization Document attached as **Exhibit C** to the Petition. In her application, she affirmatively declared a fear of harm and torture if returned to her home country, specifically citing the "high level of power" held by the armed groups that persecuted her family.

From the time of her arrival until her detention two years later, Ms. Bracho Cortez lived a quiet and law-abiding life in Colorado with her husband and their five-year-old daughter. She was employed as a Teacher Assistant at [redacted] a preschool and childcare center, and was concurrently enrolled at the University of Denver. There, she was earning a degree in nursing after receiving a scholarship from [redacted] Throughout this period, Ms. Bracho

Cortez maintained an impeccable record of compliance with all reporting requirements, including her monthly ISAP check-ins, and she has no criminal history or history of flight.

B. WARRANTLESS SEIZURE AND CONTINUED DETENTION

On February 12, 2026, Ms. Bracho Cortez arrived for her monthly Intensive Supervision Appearance Program ("ISAP") check-in at the Denver ICE Field Office, located at 3600 S Yosemite St, Suite 100 Denver, Colorado. After being dropped off by her husband, Ms. Bracho Cortez expected the routine reporting process to last approximately one hour. Upon checking in at the front window and presenting her identification, Ms. Bracho Cortez was instructed to follow an official into a back office, a significant departure from her previous experiences where administrative inquiries regarding her residence and well-being were handled at the public counter.

Once inside, she was confronted by three ICE agents and abruptly informed she was being detained for "16 infractions" in the ISAP program. When Ms. Bracho Cortez contested this allegation, noting her history of diligent compliance, an agent dismissively stated that while her situation "wasn't serious" under the previous administration, her alleged non-compliance was now considered "a crime." The agents then proceeded to seize her personal property, including her University of Denver nursing textbooks, and issued direct threats against her family, stating that if her husband or children had been present at the facility, the agents "would take them too."

During the interrogation, agents presented Ms. Bracho Cortez with a document listing dates she was allegedly absent from the program. The document contained handwritten notations in blue ink but lacked her name, alien registration number, or other formal identifying information. Ms. Bracho Cortez clarified that on the date mentioned, she had not been absent but had arrived late, an occurrence from approximately 2025 for which administrative staff had expressly informed her

at the time that her late arrival was acceptable. Outside of this single excused occurrence, Ms. Bracho Cortez and her husband had attended every scheduled appointment on time. At no point during this process was Ms. Bracho Cortez shown a judicial warrant authorizing her arrest.

Ms. Bracho Cortez was handcuffed, led out of the facility through a basement door into a fenced area out of public sight, and taken by van to Denver Contract Detention Facility at 3130 North Oakland Street, Aurora, Colorado, where she has remained. Following the arrest, Ms. Bracho Cortez, who suffers from chronic high blood pressure, experienced a deterioration in her condition that required her to spend the first two days of her detention under medical supervision in the facility's infirmary.

LEGAL STANDARD

Petitioner is entitled to a temporary restraining order if she establishes that she is "[1] likely to succeed on the merits … [2] likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in [her] favor, and [4] that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (bracketed numbers added). Petitioner satisfies this standard. *See also Wiechmann v. Ritter*, 44 F. App'x 346, 347 (10th Cir. 2002) (the standard for a temporary restraining order is the same as the standard for a preliminary injunction).

ARGUMENT

I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS OF HER CLAIMS

Petitioner is likely to succeed on the merits of her claims because her warrantless and continued detention violated and continues to violate her Fifth Amendment rights to both substantive and procedural due process, as the government has no legitimate interest in detaining an obviously non-dangerous nursing student whom it previously deemed fit for release. It cannot

now continue to strip her of a long-standing liberty interest without any legitimate interest, let alone no notice or hearing. Furthermore, Respondents misapplied the INA, specifically 8 U.S.C. § 1225(b)(2)(A), which this District holds applies only to those "seeking admission" at the border and not established residents like Ms. Bracho Cortez who must be processed under the discretionary framework of § 1226(a). Because her seizure occurred during a voluntary appointment without a warrant or a showing of "likelihood of escape," it also constitutes an arbitrary and capricious action under the APA and a violation of the Fourth Amendment.

A. RESPONDENTS VIOLATED PETITIONER'S SUBSTANTIVE CONSTITUTIONAL DUE PROCESS RIGHTS

Ms. Bracho Cortez's detention violates her substantive due process rights under the Fifth Amendment. Noncitizens within the United States are entitled to due process, specifically the "freedom from unjustified physical restraint." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Because immigration detention is civil rather than punitive, it remains constitutional only if it bears a "reasonable relationship" to a legitimate government purpose, namely, preventing flight or protecting the community. *Id.* at 690–91. The government has no legitimate interest in detaining Ms. Bracho Cortez when she is neither a flight risk nor a danger—the only two constitutionally permissible reasons for immigration detention.

The government cannot now meet its burden of showing that Ms. Bracho Cortez poses a risk of flight or danger. Indeed, the government's own prior actions establish the contrary. On December 1, 2023, after an individualized interview at the El Paso Port of Entry, immigration authorities released Ms. Bracho Cortez on her own recognizance and subsequently authorized her to work in the United States. This release constitutes a formal admission by the government that

Ms. Bracho Cortez was safe to remain in the community—a determination that has been validated by her two years of impeccable conduct since.

Since her release, Ms. Bracho Cortez's ties to the United States have only strengthened, and her history of compliance remains unblemished. Longtime residence weighs against flight risk: "Courts have also made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties." *Escobar Molina v. U.S. Dep't of Homeland Sec.*, No. CV 25-3417 (BAH), 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases); *see also Mendoza Gutierrez v. Baltasar*, No. 1:25-cv-02720-RMR, 2025 WL 2962908, at *28 (D. Colo. Oct. 17, 2025) (finding petitioner unlikely to abscond where the record showed strong community ties and a history of compliance).

Because the government is not detaining Ms. Bracho Cortez to serve legitimate interests in protecting against danger or flight risk, her detention violates substantive due process under the Fifth Amendment, and this Court should order her immediate release. As this Court has recently recognized, while there is a general public interest in the enforcement of immigration laws, that interest does not grant Respondents "an unfettered right to detain noncitizens in contravention of the law or in violation of the noncitizens' Fifth Amendment rights." *Mendoza Gutierrez*, 2025 WL 2962908, at *30.

The government has no legitimate interest in the suspicionless detention of Ms. Bracho Cortez. Because she has lived peaceably in Colorado, for over two years, without a single arrest or criminal conviction, the government cannot argue that her detention is necessary to protect the public. Furthermore, her consistent residence and history of diligent compliance with her ISAP

check-ins demonstrate that she is not a flight risk. Any fiscal or administrative burden of providing a bond hearing is negligible compared to the profound deprivation of her liberty.

B. RESPONDENTS VIOLATED THE INA

Even if her detention were not a substantive due process violation, it remains legally unauthorized because Respondents are holding Ms. Bracho Cortez under the wrong statutory framework. Respondents likely claim that Ms. Bracho Cortez is subject to mandatory detention as an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A). However, this District has ruled that § 1225(b)(2)(A) applies to applicants "seeking admission," not to individuals like Ms. Bracho Cortez who have been living in the United States for years. When Ms. Bracho Cortez was "seeking admission" at the border in December of 2023, the government declined to detain her. She cannot now, more than two years from her entry, be retroactively "detained" under § 1225(b).

The INA prescribes three basic forms of lawful detention for noncitizens in removal proceedings, but Ms. Bracho Cortez fits none of them. First, 8 U.S.C. § 1231 is inapplicable as she is not subject to a final removal order. Second, 8 U.S.C. § 1226(c) does not apply because she has no criminal history. Third, 8 U.S.C. § 1225(b) is reserved for "applicants for admission" encountered at the border or ports of entry—not individuals like Ms. Bracho Cortez who have already entered and resided in the interior. *See Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018).

Respondents will likely claim that Ms. Bracho Cortez is mandatorily detained under 8 U.S.C. § 1225(b)(2)(A). But courts across the United States have overwhelmingly concluded that noncitizens like Ms. Bracho Cortez who entered the United States and are detained by ICE for removal proceedings while they are residing in the United States are not detained under § 1225(b)(2)(A). *See, e.g.*, *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL

3295903, at *13–14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way).

This Court has concluded the same time and again, repeatedly ruling that § 1225(b)(2)(A) applies to applicants "seeking admission," not to individuals like Ms. Bracho Cortez who have been living in the United States for years. Most recently, this Court held that 8 U.S.C. §§ 1225 and 1226, when read together, "cover (noncitizens) presenting at arrival (under § 1225) and then everybody else (under § 1226)." *See Yera v. Baltazar*, No. 1:26-cv-00476-SKC-SBP, 2026 U.S. Dist. LEXIS 34214, at *3–4 (D. Colo. Feb. 19, 2026).

In *Yera*, the Court found that because the Petitioner had resided in the United States continuously since his initial entry and release, he was "unlawfully detaining him under § 1225," and could only be properly detained under the discretionary framework of § 1226. *Id.* at *4. *See also Ekenge v. Baltazar*, No. 1:26-cv-00630-SBP, 2026 U.S. Dist. LEXIS 45855, at *7 (D. Colo. Mar. 5, 2026) (the court concluded that because the petitioner was previously released on an Order of Release on Recognizance, a form used exclusively for discretionary release under 8 U.S.C. § 1226(a), any subsequent re-detention must necessarily be governed by that same discretionary statute rather than the mandatory detention provisions of § 1225).

Ms. Bracho Cortez's arrest in Colorado, thousands of miles from the border and two years after her entry, is the quintessential example of interior enforcement. By its own terms and as this Court has repeatedly held, such circumstances trigger the discretionary protections of § 1226(a), not the mandatory border-entry provisions of § 1225. To hold otherwise would be to ignore both the geography of her arrest and the clear statutory divide established by the INA.

C. RESPONDENTS VIOLATED THE APA

Beyond the constitutional and statutory defects of her detention, Respondents' actions independently violate the Administrative Procedure Act ("APA"). The APA requires this Court to "hold unlawful and set aside" any agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). This standard mandates that federal agencies like ICE provide a "reasoned explanation" for their decisions, especially when those decisions represent a sudden departure from long-standing policy.

Respondents violated the APA by departing from decades of established agency procedure which treats individuals apprehended in the interior, who have established lives and no criminal records, as ineligible for individualized bond determinations under 8 U.S.C. § 1226(a). This sudden shift to a "no-bond" policy for established residents like Ms. Bracho Cortez constitutes an arbitrary and capricious change in agency position without reasoned justification.

Furthermore, as noted in *B.D.A.A. v. Bostock*, 2025 WL 3484912, at *7 (D. Or. Dec. 4, 2025), ICE officers must satisfy a two-prong test to establish probable cause for a warrantless arrest: (1) unlawful presence and (2) a likelihood of flight. Respondents' failure to establish any specific flight risk or danger prior to the arrest of Ms. Bracho-Cortez who was simply complying with the conditions of her release, violates INA arrest procedures and, by extension, the APA.

After living peaceably in Colorado for over two years without being deemed an enforcement priority, her sudden, warrantless arrest and detention without a showing of "changed circumstances" or a new threat to the community is a "legal wrong" under 5 U.S.C. § 702.

With limited exceptions, judicial review under the APA is available for "final agency action for which there is no other adequate remedy in a court." 5 U.S.C. § 704. Judicial review is available to any "person suffering legal wrong because of [the] agency action, or adversely affected

or aggrieved by [such] action." *Id.* § 702. As relevant here, the APA requires courts to "hold unlawful and set aside agency action" if they find such action to be "arbitrary [or] capricious"; "contrary to constitutional right"; or "in excess of statutory jurisdiction, authority, or limitations." *Id.* § 706(2)(A)–(C).

Because there is no other adequate remedy at law to challenge her indefinite detention, Ms. Bracho Cortez is entitled to judicial review of ICE's final agency action. As a direct result of this unauthorized seizure, she remains a person "adversely affected and aggrieved" within the meaning of 5 U.S.C. § 702.

D. RESPONDENTS VIOLATED PETITIONER'S PROCEDURAL DUE PROCESS RIGHTS

Beyond the substantive and statutory defects of her incarceration, the manner in which Ms. Bracho Cortez was re-detained constitutes a separate and independent violation of her Procedural Fifth Amendment rights. The Court should apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Under this Fifth Amendment framework, the Court weighs: (1) the private interest affected; (2) the risk of an erroneous deprivation of that interest through the procedures used; and (3) the government's interest, including any fiscal or administrative burdens.

Respondents' warrantless seizure and detention of Ms. Bracho Cortez infringes upon her most fundamental liberty interest: the right to be free from physical restraint. *Zadvydas*, 533 U.S. at 690. Her incarceration at the Denver Contract Detention Facility has forcibly severed her from her husband and five-year-old daughter, and derailed her academic and professional life as a nursing student and teacher assistant. These deep-seated community and familial ties represent the highest level of private interest recognized by the law.

The risk of erroneous deprivation here is extremely high. Respondents provided Ms. Bracho Cortez with no notice or ability to defend herself before a neutral decision-maker. Instead, ICE agents intercepted her during a routine administrative check-in at the ISAP office, failed to present a warrant, and summarily detained her based on alleged "infractions" that she was never given the opportunity to contest. Without a bond hearing or judicial oversight, there is no mechanism to prevent the arbitrary and erroneous imprisonment of individuals who, like Ms. Bracho Cortez, pose no threat to society and have a documented history of compliance.

The government has no legitimate interest in the detention of a noncitizen who poses neither a flight risk nor a danger. Ms. Bracho Cortez has lived peaceably in Colorado for over two years without a single arrest or conviction. Her consistent residence and diligent compliance with every ISAP requirement affirmatively demonstrate she is not a flight risk. Any administrative burden of providing a bond hearing is negligible compared to the "profound deprivation of her liberty." *See Mendoza Gutierrez*, 2025 WL 2962908, at *30.

Under the *Mathews* balancing test, the government's interest in administrative convenience cannot override Ms. Bracho Cortez's fundamental right to liberty. Because she was stripped of her freedom without notice, without a warrant, and without any opportunity to contest the basis for her re-detention, her ongoing incarceration is a textbook violation of procedural due process.

E. RESPONDENTS VIOLATED PETITIONER'S FOURTH AMENDMENT RIGHTS

Beyond the deprivation of her due process rights, the very inception of Ms. Bracho Cortez's detention was constitutionally infirm. The Fourth Amendment protects the "right of the people to be secure in their persons . . . against unreasonable searches and seizures," a protection that applies with full force to immigration arrests. Because an immigration arrest is a "seizure" of the person,

it must be supported by probable cause and, absent a warrant, must meet strict statutory exigency requirements.

"Probable cause requires a 'substantial probability' based on facts related to the individual." *Ramirez Ovando v. Noem*, No. 1:25-CV-03183-RBJ, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking). That determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

There is a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. *See* 8 U.S.C.§ 1357(a)(2). Specifically, an officer must have probable cause to believe the person is violating the immigration laws and that the person "is likely to escape before a warrant can be obtained," *i.e.*, is a flight risk. *Id.* Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

No reasonable officer could have concluded that Ms. Bracho Cortez was likely to escape before a warrant could be obtained. She was seized during a voluntary, regularly scheduled compliance check-in at an ICE-monitored facility, an environment that is the antithesis of a flight risk. Furthermore, her deep roots in the Colorado community, her status as a nursing student at the University of Denver, and her role as a mother to a five-year-old daughter all reinforce the "self-evident finding that the likelihood of escape is lower when the individual has resided in the country

for a lengthy period and has strong community ties." *Escobar Molina v. DHS*, 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025).

Regulations also provide that noncitizen arrested without a warrant must receive a custody determination within 48 hours of the arrest, unless there is "an emergency or other extraordinary circumstance" that requires "an additional reasonable period of time" to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make findings as to whether "release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). Similarly, upon information and belief, Ms. Bracho Cortez has received no such custody determination.

Because Respondents lacked any statutory basis for a warrantless arrest, they were constitutionally required to secure a prompt judicial determination of probable cause. Ms. Bracho Cortez has received no such determination, yet her detention at the Denver Contract Detention Facility has continued well beyond the 48-hour threshold, rendering it presumptively unconstitutional. This warrantless seizure, coupled with the ongoing refusal to provide a neutral probable cause or custody determination, violates the Fourth Amendment, the INA, and federal regulations. Accordingly, this Court should order her immediate release and the return of her unlawfully seized personal property.

II. PETITIONER WILL SUFFER IRREPARABLE HARM ABSENT INJUNCTIVE RELIEF

The threat of irreparable injury is "perhaps the single most important prerequisite for the issuance of a preliminary injunction." *Bishop & Co. v. Cuomo*, 799 P.2d 444, 447 (Colo. App.

1990) (quoting and citing cases). Generally, irreparable injury means "certain and imminent harm for which a monetary award does not adequately compensate." *Gitlitz v. Bellock*, 171 P.3d 1274, 1279 (Colo. App. 2007). Relevant here, the deprivation of a constitutional right constitutes irreparable harm per se. *See Free the Nipple-Fort Collins v. City of Fort Collins*, 916 F.3d 792, 805 (10th Cir. 2019) (holding that when a constitutional right is impaired, "no further showing of irreparable injury is required").

Ms. Bracho Cortez satisfies the requirement for a showing of irreparable harm because her ongoing detention constitutes a daily, cumulative deprivation of her fundamental constitutional liberties. It is well-settled in this Circuit that the "deprivation of a constitutional right... constitutes irreparable harm" and that "no further showing... is necessary" when individual rights like those protected by the Fourth and Fifth Amendments are at stake. *Id.* at 805. Because Ms. Bracho Cortez's detention is statutorily unauthorized and constitutionally infirm, every hour she remains in custody represents an injury that cannot be undone or compensated by money damages later.

Even if this Court were to decide the issue on statutory grounds, the irreparable injury would be clear. Petitioner suffers every day that she is unlawfully confined in immigration detention. She does not suffer alone. Her daughter suffers daily from separation from her mother who she has never been separated from in her life. The severance of these familial bonds, coupled with the severe financial hardship and the disruption of Ms. Bracho Cortez's nursing education, are injuries that money cannot remedy. Because these effects, once complied with, "cannot be undone," emergency relief is the only available mechanism to prevent a permanent deprivation of justice. *Free the Nipple*, 916 F.3d at 797 n.3. A temporary restraining order is necessary to prevent irreparable harm by continued, unlawful detention.

III. THE BALANCE OF EQUITIES AND THE PUBLIC INTEREST FAVOR GRANTING THE TEMPORARY RESTRAINING ORDER

When the government is the party opposing the injunction, the balance of equities and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). The government cannot suffer harm from an injunction that prevents it from engaging in an unlawful practice. *See Zepeda v. INS*, 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."). To the contrary, the Tenth Circuit has held, it is "always in the public interest to prevent the violation of a party's constitutional rights." *Free the Nipple-Fort Collins*, 916 F.3d at 807. Because Ms. Bracho Cortez's detention is both "contrary to her constitutional right" and in excess of the government's statutory authority, the public interest is served only by her release. *Mendoza Gutierrez v. Baltasar*, 2025 WL 2962908, at 30. If a temporary restraining order is not entered, the government would effectively have permission to ignore Due Process and the text of the INA. The public interest overwhelmingly favors entering a temporary restraining order and preliminary injunction.

CONCLUSION

This Court should find that Petitioner warrants a temporary restraining order and a preliminary injunction. Petitioner respectfully asks this Court to order her immediate release and to prohibit her re-detention unless the government provides seven days' notice and a hearing before a neutral arbiter in which it proves by clear and convincing evidence that Petitioner is a danger or flight risk. In the alternative, this Court should order that Respondents release Petitioner unless it provides Petitioner with a bond hearing before a neutral arbiter pursuant to 8 U.S.C. § 1226(a) within seven days. Petitioner further requests an order enjoining the government from transferring her custody to any facility outside of the District of Colorado pending the resolution of this case

and directing that any hearing the Court may set on this Motion be conducted remotely by videoconference or telephone.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Keila Daniela Bracho Cortez respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Immediately issue an Order to Show Cause declaring:
   a. Respondents have misclassified Ms. Bracho Cortez's detention under 8 U.S.C.§ 1225(b)(2)(A);
   b. Respondents cannot detain Ms. Bracho Cortez under 8 U.S.C. § 1226(a) because they did not have a warrant when they arrested her;
   c. Respondents have violated Ms. Bracho Cortez's rights under the APA, and the Fourth and Fifth Amendments of the United States Constitution;
   d. Respondents are enjoined from removing, transferring, or otherwise facilitating the transfer of Ms. Bracho Cortez out of the District of Colorado until the Court issues a final order on this Petition;
   e. Return all of Ms. Bracho Cortez's property including, but not limited to, all identification materials, documents of any kind, her phone, wallet, and books relating to her ongoing studies.
   f. Respondents must show cause within three days as to why this Petition should not be granted.

3. Issue a Writ of Habeas Corpus declaring that Ms. Bracho Cortez's detention by Respondents is unlawful and ordering Respondents, and any person in concert with them, to release Ms. Bracho Cortez from custody within twenty-four hours of this Court's order;

4. Retain jurisdiction over this matter to decide any future motion for an award of reasonable attorney's fees and costs under the Equal Access to Justice Act, as amended, 28 U.S.C. § 2412, Local Rule 54.3(a), and on any other basis justified under law;

5. In the alternative, should the Court not order Ms. Bracho Cortez's immediate release, Petitioner requests that the Court order Respondents to provide an individualized bond hearing before an Immigration Judge within three (3) days, where the burden of proof is on the government to justify continued detention by clear and convincing evidence; and

6. Grant Ms. Bracho Cortez any further relief that this Court deems to be just and proper.

Respectfully submitted this 16th day of March, 2026.

s/ Michael G. Congiu

Michael G. Congiu
LITTLER MENDELSON, P.C.
1300 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2136
Telephone: 612.313.7656
Facsimile: 612.630.9626
Email: mcongiu@littler.com

Pro bono attorneys for Petitioner Keila Daniela Bracho Cortez

VERIFICATION

I am submitting this verification on behalf of Petitioner Ms. Bracho Cortez, because I am one of Ms. Bracho Cortez's attorneys. My co-workers and I have exercised reasonable diligence

in investigating the factual assertions in this Petition for Writ of Habeas Corpus. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Ms. Bracho Cortez's detention status, are true and correct to the best of my knowledge.

Dated: March 16, 2026.

s/ Michael G. Congiu
Michael G. Congiu

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of March, 2026, a true and correct copy of the foregoing EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION was served via Certified Mail to the following parties:

Pamela Jo Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Secretary for DHS & Director for ICE
Todd Lyons, DHS/ICE, c/o
Office of the General Counsel
U.S. Department of Homeland Security 245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

George Valdez
Denver ICE Field Office
12445 E. Caley Avenue
Centennial, CO 80111

Kristi Noem
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington, D.C. 20528

s/ Elsa Lundin
Elsa Lundin, Legal Assistant