

Honorable Thomas S. Zilly

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

ROSA PADILLA PAZ,

Petitioner,

v.

JULIO HERNANDEZ et al.,

Respondents.

Case No. 2:26-cv-1394

**MOTION FOR A TEMPORARY
RESTRAINING ORDER**

Noted for Consideration:
April 24, 2025

INTRODUCTION

Petitioner Rosa Padilla Paz ("Rosa") files this motion for a temporary restraining order (TRO) ordering her immediate release. On April 18, 2026, Rosa's former foster son and nephew Jacobo, who had been supporting Rosa's 20-year-old daughter Jennifer to care for Rosa's other two minor daughters (one with serious medical conditions), died suddenly and unexpectedly in the family home. Rosa was Jacobo's former legal guardian and is Jacobo's legal next-of-kin—and thus, the only person who can coordinate with the Medical Examiner's Office regarding the autopsy, retrieving his body and making arrangements for his internment.

Immediate release is warranted here because there is no lawful basis for Rosa's detention. Rosa previously sought bond before the immigration court on October 8, 2025. The IJ found her to be a flight risk, ignoring 262 pages of supporting evidence Rosa filed, demonstrating, *inter alia*, that she is a mother to three U.S.-citizen daughters, including a 15-year-old diagnosed with major depressive disorder, anxiety, and autism spectrum disorder; that she was certified by the San

1 Francisco Police Department as having been the victim of violent criminal crimes and human
2 trafficking in the United States and is assisting with the pending criminal investigation and would
3 receive ongoing support from Victim Witness program at the District Attorney's Office if
4 released; that she has pending applications for T and U nonimmigrant status with USCIS; that her
5 convictions from 2007 and 2014 were vacated because her trafficker coerced her to commit those
6 offenses and thus she lacked the requisite mens rea; that a recidivism expert found *no* reason for
7 concern if Rosa is released; and that she has other deep ties to this country through the community
8 of support that would welcome her home if released.

9 On April 18, Rosa's immigration counsel notified the immigration court of the exigent
10 circumstances and supplemented Rosa's pending motion for a changed-circumstances bond
11 hearing with information regarding Jacobo's death. On April 22, 2026, the IJ denied the motion,
12 stating only that Rosa had failed to establish material changed circumstances and that she remains
13 subject to mandatory detention. Petitioner has since moved expeditiously to prepare this filing
14 and seek this restraining order.

15 Rosa is likely to succeed on the merits of this case for two separate, but related reasons.
16 First, her continued detention violates substantive due process, where it has lasted for nearly a
17 year, is projected to last much longer, she is plainly not a flight risk or danger, and the conditions
18 of her detention are punitive. Second, and relatedly, the IJ's prior decision finding Rosa to be a
19 flight risk and danger was an abuse of discretion, given the coercion underlying her only criminal
20 history and vacatur of her old criminal convictions (which mean they ceased to exist) and the
21 overwhelming positive equities and deep ties she has to this country.

22 Rosa also satisfies the other TRO factors. While Petitioner acknowledges that this Court
23 has been reluctant to grant TROs seeking release following the Court's General Order 10-25, this
24 case presents exceptional and unique circumstances that justify that remedy here. Rosa is needed
25 to make arrangements following her nephew's death (for whom she is next of kin), to mourn a
26 person she considered a son, and now, to help care again for her daughters, which Jacobo assisted
27 with while she has been in detention. Every day of continued detention inflicts irreparable

1 constitutional injury, and the unfolding family tragedy exacerbates this harm. The balance of
2 equities and public interest weigh decisively in Rosa's favor: the government has no legitimate
3 interest in detaining a trafficking survivor who poses no danger or flight risk, while the public
4 interest is served by vindicating constitutional rights and enabling a single mother to care for her
5 U.S.-citizen family members. Rosa respectfully requests that this Court order her immediate
6 release.

7 Petitioner seeks a ruling on this motion by Tuesday, April 28, given her nephew's recent
8 death and the urgent need to make arrangements for the body and funeral. Concurrent with the
9 filing of this habeas petition and motion, counsel has emailed Michelle Lambert, the immigration
10 coordinator for the U.S. Attorney's Office, as well as the email address provided in General Order
11 10-25. Petitioner does not seek an ex parte ruling and recognizes that Respondents should be
12 afforded an opportunity to respond to this motion. She and her counsel have moved expeditiously
13 to compile the voluminous evidence necessary for this motion and prepare the arguments based
14 on that evidence.

15 STANDARD OF REVIEW

16 To warrant a TRO, a movant must show that: (1) they are "likely to succeed on the merits;"
17 (2) they are "likely to suffer irreparable harm in the absence of preliminary relief;" (3) "the
18 balance of equities tips in [their] favor;" and (4) "an injunction is in the public interest." *All. for*
19 *the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat. Res.*
20 *Def. Council, Inc.*, 555 U.S. 7, 20 (2008)); see *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*,
21 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting the analyses for issuing a temporary restraining
22 order and a preliminary injunction are substantially the same). Where the government is the
23 opposing party, the third and fourth factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). In
24 this Circuit, even if the movant raises only "serious questions" as to the merits of their claims, the
25 court can grant relief if the balance of hardships tips "sharply" in their favor. *All. for the Wild*
26 *Rockies*, 632 F.3d at 1135. All factors here weigh decisively in Rosa's favor.

STATEMENT OF FACTS

1 Rosa is a thirty-seven-year-old single mother of three U.S. citizen children, ages 11, 15,
2 and 20. Exh. E at 18-21 (birth certificates); 28 (declaration of daughter Jennifer Bonilla). Rosa fled
3 severe violence in Honduras and came to the United States in 2004. *See* Ex. E at 5.

4
5 In the United States, she survived almost a decade of severe domestic violence and human
6 trafficking as a teen and young woman. *See* Ex. E at 5-7 (declaration of Rosa), 24 (declaration of
7 Rosa's daughter regarding domestic violence she witnessed), 65-67 (declaration of neighbor Rubi
8 Guzman regarding physical and verbal abuse and death threats she witnessed committed against
9 Rosa), 71-74 (declaration of neighbor Hilda Castellanos regarding physical and verbal abuse and
10 death threats she witnessed committed against Rosa), 79 (declaration of neighbor Fareedah McCoy
11 describing abuse she heard through the shared wall), 84 (declaration of niece Katheryne Dubon
12 who lived with Rosa as a child and witnessed domestic violence he committed against her), 88
13 (letter from nephew Jacobo Padilla who lived with Rosa and witnessed domestic violence); *see*
14 *also* Ex. R, New Bond Evidence, at 108-12 (T visa I-914 Supplement B); 192-96 (U visa I-918
15 Supplement B).

16 Through strangulation, rape, and death threats against Rosa and her family, her abuser
17 forced her to assist him in selling drugs. *See* Ex. E at 6-7. Though she was convicted in 2010 of
18 one count of transportation of a controlled substance under Cal. Health and Safety Code § 11352
19 and in 2014 of one count of accessory after the fact to a felony under Cal. Pen. Code § 32, those
20 convictions have been vacated as legally invalid under California Penal Code § 236.15 because
21 they occurred due to her violent and exploitative relationship. *See* Ex. F at 14-18 (vacatur of 2010
22 conviction under Cal. Pen. Code § 236.15); Ex. H at 30 (vacatur of 2014 conviction under Cal.
23 Pen. Code § 236.15).

24 Rosa was finally able to escape her abuser in 2014 and has been raising her children as a
25 single mother. She has had no further law enforcement contact since that time and has lived a
26 tranquil, law-abiding life in San Francisco, caring for her children, volunteering at their school and
27 in the community, working, and paying taxes. *See* Ex. R at 147; Ex. F (criminal history chart); Ex.

1 G at 5 (2025 I-213 summary of criminal history); Ex. E at 9-10 (declaration of Rosa), 28-32
 2 (declaration of daughter Jennifer Bonilla); 39-40 (letter from Joc Wilson, Manager at the
 3 Sunnydale Resource Center who has known Rosa for almost two decades), 97 (letter of support
 4 from daughter S.C.P's school principal), 99-100 (letter of support from after school provider) 114-
 5 24 (Tax Returns); Ex. R at 251 (letter of support from family liaison at daughters' elementary
 6 school), 254-55 (letter of support from outreach coordinator & community liaison at local
 7 community center), 257-66 (letters of support from other community members).

8 Since Rosa's detention by ICE on June 2, 2025, her 20-year-old daughter Jennifer has born
 9 the responsibility of caring for her two younger siblings while also attending college and working.
 10 See Ex. 4 at 30. This past weekend, Rosa's nephew Jacobo—who had been helping care for her
 11 daughters—died unexpectedly. See Ex. V (Office of the Chief Medical Examiner, San Francisco,
 12 verification of death letter). Rosa obtained legal guardianship of Jacobo when he was a child and
 13 raised him like a son. See Ex. E at 88 (letter of nephew Jacobo Padilla); Ex. U (Guardianship
 14 Order). For the past 10 months, Jacobo has provided crucial supports Rosa's three children. See
 15 Ex. A ¶¶ 19-22. Rosa is now needed to inter Jacobo's body and arrange for his funeral as his next
 16 of kin. *Id.* ¶ 23.

17 In October 2025, Rosa appeared before Immigration Judge (IJ) John Odell for a bond
 18 hearing. See Ex. B, Decl. of Hayley Upshaw ¶ 16. Rosa's bond hearing was initially scheduled for
 19 October 8, 2025. *Id.* ¶ 17. Rosa filed hundreds of pages of supporting evidence with the
 20 immigration court. See generally Ex. C (psychological evaluation), Ex. D (expert declaration of
 21 DV expert); Ex. E (evidence in support of bond); Ex. F (criminal history chart including vacatur
 22 orders). The evidence she filed in support of her release on bond included certified criminal court
 23 records including the vacatur from two of her criminal convictions; declarations from DV and
 24 trafficking experts; letters from family and friends who had direct knowledge of the abuse she
 25 suffered in the past by her abuser and changes they'd witnessed since Rosa had escaped the
 26 relationship; letters from her daughters' schools and community organizations that had interacted
 27 with Rosa over the years; birth certificates for her children; her own tax returns and those of her

1 daughter Jennifer and co-sponsor Joc Wilson; her lease for the fixed address where she had lived
2 prior to detention and would live upon release; and letters from her daughters' therapists and
3 E.B.P.'s psychologist regarding the deleterious impact Rosa's detention was having on them. *Id.*
4 At the hearing, the IJ stated that he required the police reports for the drug related arrests be filed
5 as well and set the bond hearing over to October 21, 2025. *See* Ex. B, Decl. of Hayley Upshaw
6 ¶ 19. Rosa subsequently filed the reports, along with a vacatur order of her last remaining
7 conviction. She also included a declaration from a former San Francisco Police Commission board
8 member from 2010 through 2014 (the two years that Rosa sustained drug-related arrests) stating
9 that she was not aware of any policies or protocols at that time to screen individuals with drug-
10 related arrests to determine if they were DV or trafficking survivors. *See* Ex. H at 5-31 (Police
11 Reports), 33-34 (Declaration of Angela Chan), 36 (vacatur order).

12 The only evidence DHS counsel submitted were records of her vacated 2010 conviction,
13 multiple forms I-213 from her 2010 and 2025 immigration arrests, and a copy of the IJ order
14 denying her applications for asylum and related protections, which had been issued after a hearing
15 on October 10, 2025, and for which she was in the process of filing a timely appeal. *See* Ex. B,
16 Decl. of Hayley Upshaw ¶ 18, 22; Ex. G (DHS filing); Ex. I (DHS additional filing). Nevertheless,
17 at the bond hearing on October 21, 2025, denied bond, finding that he lacked jurisdiction but that
18 in the alternative, he would deny bond because he believed Rosa was a danger and a flight risk.
19 *See* Ex. B, Decl. of Hayley Upshaw ¶ 23; Ex. J (Bond Minute Order)

20 After filing applications for T and U visa applications, Rosa sought a new bond hearing.
21 Ex. B, Decl. of Hayley Upshaw ¶ 33; *see generally* Ex. Q (Motion for Bond Hearing Based on
22 Changed Circumstances); Ex. R (New Bond Evidence). That request was still pending when
23 Jacobo died, and Rosa supplemented the pending request for a new bond hearing with this
24 evidence. Ex. B, Decl. of Hayley Upshaw ¶¶ 34-35. Yet despite the exigent circumstances of her
25 nephew's death, the uncontested evidence that Rosa is a trafficking survivor, and the hundreds of
26 pages in the bond record regarding her long residence in this country, deep ties to the community,
27 and history of crime-free life since leaving her abuser, the immigration court denied her a new

1 bond hearing, citing DOJ Executive Office for Immigration Review (“EOIR”) policy that she is
2 subject to mandatory detention and finding no changed circumstances. *See* Ex. T.

3 **ARGUMENT**

4 The ordinary factors governing a TRO take on heightened urgency in this case. Rosa seeks
5 her immediate release because she is the legal next-of-kin to her nephew and former foster son
6 who died six days ago, and is needed to claim his body and arrange his burial. Each day of
7 continued detention compounds an irreparable harm that no later order can undo: the funeral Rosa
8 cannot help plan, the body she cannot help claim, the psychological harm and trauma suffered by
9 her U.S.-citizen children. As set forth below, Rosa is likely to succeed on the merits of her claims
10 and the balance of equities tips sharply in her favor.

11 **I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.**

12 **A. The IJ Abused His Discretion and Ignored Binding Precedent in Denying Bond.**

13 Petitioner is likely to succeed on her argument that the IJ abused his discretion and made
14 errors of law when (1) denying Petitioner’s original October 2025 bond hearing, and (2) denying
15 Petitioner’s motion for changed circumstances bond hearing on April 22, 2026. *See Martinez v.*
16 *Clark*, 124 F.4th 775, 784-85 (9th Cir. 2024). In several recent cases, the Courts in this District
17 and elsewhere have concluded that the Tacoma IJs have made unreasoned bond decisions and
18 ordered the petitioner’s release. *See Lima Soriano v. Hernandez*, No. 2:26-CV-00900-DGE, --- F.
19 Supp. 3d ----, 2026 WL 969764 (W.D. Wash. Apr. 10, 2026); *Vasquez Lopez v. Hernandez*, No.
20 C26-0775 TSZ, --- F. Supp. 3d ----, 2026 WL 984151 (W.D. Wash. Apr. 13, 2026); *Escalante*
21 *Perez v. Hernandez*, No. C26-0956 TSZ, 2026 WL 1004559 (W.D. Wash. Apr. 14, 2026); *Garcia*
22 *Ortiz v. Henkey*, No. 1:26-CV-00043-BLW, 2026 WL 948275, at *4 (D. Idaho Apr. 7, 2026);
23 *W.T.M. v. Bondi*, No. 25-cv-2428, 2026 WL 262583 (W.D. Wash. Jan. 30, 2026). Like this case,
24 each of these cases involved an individual who has lived in the United States for decades and has
25 deep ties to it via U.S. citizen children and other family. Yet in these cases, the IJ denied bond
26 based on flight risk, and in some cases, based on danger due to criminal conduct that is now
27

1 “essentially ancient history.” *Vasquez Lopez*, 2026 WL 984151, at *3.

2 At Rosa’s October 2025 bond hearing, the IJ erroneously found that he lacked jurisdiction
3 to grant bond, and in the alternative that Rosa was a flight risk and danger to the community. *See*
4 Ex. J (IJ minute order denying bond), K (IJ bond memorandum). In so doing, the IJ failed to
5 consider the entire record, misapplied BIA agency guidance and Ninth Circuit law, and abused his
6 discretion by denying bond for Rosa. The IJ repeated these same errors when denying Rosa’s April
7 2026 motion for a changed circumstances bond hearing, ignoring the entire supplemental record
8 Rosa submitted and again stating instead that he lacked jurisdiction. *See* Ex. T.

9 As an initial matter, there can be no dispute that Rosa is must be considered detained under
10 8 U.S.C. § 1226(a). She is a member of the Bond Denial Class in *Rodriguez Vazquez v. Hermosillo*,
11 No. 3:25-cv-05240 (W.D. Wash.), and by virtue of the Court’s declaratory judgment in that case,
12 must be considered detained under § 1226(a).¹

13 Nor can there be any serious dispute that the IJ abused his discretion in finding Rosa to be
14 a flight risk and danger. First, as to the danger finding, the IJ committed multiple, clear errors.
15 First, the IJ ignored the California state court orders vacating Rosa’s convictions, instead looking
16 to the underlying police reports to conclude that the criminal conduct was serious and that Rosa
17 was not a victim. *See* Exh. K, IJ Bond Memorandum at 1; *compare* Ex. F at 14-18 (vacatur of 2010
18 conviction under Cal. Pen. Code § 236.15); Ex. H at 36 (vacatur of 2014 conviction under Cal.
19 Pen. Code § 236.15), 33-34 (Declaration of former San Francisco Police Commission board
20 member from 2010 through 2014 stating that she was not aware of any policies or protocols at that
21 time to screen individuals with drug-related arrests to determine if they were DV or trafficking
22 survivors, so it was not surprising that the information was not included in the police reports at the

23
24 ¹ Ms. Padilla Paz previously sought habeas relief as a class member in *Rodriguez Vazquez v.*
25 *Hermosillo*, No. 3:25-cv-05240 (W.D. Wash.). However, that petition was denied because of the
26 flight risk and danger findings, which the *Rodriguez Vazquez* court has held must first be
27 addressed to obtain relief as a *Rodriguez Vazquez* class member. *See Corrales Castillo v.*
Wamsley, No. 2:25-cv-02172-TMC, 2025 WL 3204370, at *2-3 (W.D. Wash. Nov. 17, 2025).
The questions of flight risk and danger and substantive due process were neither litigated nor
decided, and Rosa now brings those claims via this habeas petition.

time), 36 (vacatur order); *cf. Garcia Ortiz*, 2026 WL 948275, at *4 (faulting IJ for “assum[ing] that the contents of the police report would have indicated Petitioner’s dangerousness”). Second, and relatedly, he disregarded the voluminous evidence from the evidence packet demonstrating that Rosa committed these crimes because of her extremely hostile, violent, and controlling partner, and that she is now at a very low risk of recidivism. Ex. K, IJ Bond Memorandum at 1-2; *compare* Ex. E at 5-7, 24, 65-67, 71-74, 79, 84, 88; Ex. F at 14-18 (vacatur of 2010 conviction under Cal. Pen. Code § 236.15); Ex. H at 30 (vacatur of 2014 conviction under Cal. Pen. Code § 236.15); Ex. R at 447-66 (Psychological Evaluation and Risk Assessment); *see also, e.g., Larita-Martinez v. INS*, 220 F.3d 1092, 1095 (9th Cir. 2000) (due process claim that BIA failed to review all relevant evidence submitted in suspension of deportation case). Third, the IJ failed to consider that under binding Ninth Circuit precedent, an IJ “must” consider “the recency and severity of [an] offense[],” [as] “a [offense] could have occurred years ago, and the [noncitizen] could well have led an entirely law-abiding life since then.” *Singh v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011), *abrogated on other grounds as recognized by Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022). Here, that principle is particularly applicable, as the IJ concluded that Rosa’s arrests from 12-15 years before her detention made her a danger, notwithstanding the fact that those occurred when she was being coerced to assist her abusive partner in his drug sales. *See, e.g., Vasquez Lopez*, 2026 WL 984151, at *3 (overturning danger finding based on criminal activity from the mid-2000s).

Second, IJ Odell also abused his discretion in finding Rosa a flight risk. Here, Rosa has deep ties to this country via her three U.S. citizen children, decades of residence in the San Francisco area, a long period of stable life as a single mother since leaving her abusive partner, community ties through friends and other family who support, and a history of employment and tax payments. *See* Ex. E at 9-10 (declaration of Rosa regarding employment and her children’s needs), 28-32 (declaration of daughter Jennifer Bonilla); 39-40 (letter from Joc Wilson, Manager at the Sunnydale Resource Center who has known Rosa for almost two decades), 97 (letter of support from daughter S.C.P.’s school principal), 99-100 (letter of support from after school

1 provider) 114-24 (Tax Returns); Ex. R at 251 (letter of support from family liaison at daughters'
2 elementary school), 254-55 (letter of support from outreach coordinator & community liaison at
3 local community center), 257-66 (letters of support from other community members). Courts in
4 this District have repeatedly found that similar equities demonstrate a person is not a flight risk as
5 a matter of law and that the Tacoma IJs abuse their discretion when concluding otherwise. *See*,
6 *e.g.*, *Vasquez Lopez*, 2026 WL 984151, at *3 (“[P]etitioner has demonstrated the requisite abuse
7 of discretion. The record unequivocally contradicts the immigration judge’s finding of
8 dangerousness and flight risk. Petitioner has children who are citizens of, and therefore rooted in,
9 the United States, other family members in the local area, steady employment, and community
10 connections developed over a 20-year period.”); *Escalante Perez*, 2026 WL 1004559 at *2 (“The
11 record unequivocally contradicts the immigration judge’s flight-risk finding” due to petitioner’s
12 family “steady employment, and community connections developed during an over-ten-year
13 period.”); *Lima Soriano*, 2026 WL 969764 at *5 (finding that IJ Odell abused discretion in denying
14 bond on flight risk and ordering release); *Garcia Ortiz*, 2026 WL 948275, at *3 (overturning flight
15 risk finding where “Petitioner submitted evidence including his family ties to Idaho, consistent
16 filing of taxes, steady employment, and compliance with criminal court conditions when released
17 on bond for his DUI”). As these cases reflect, the equities here overwhelmingly demonstrate that
18 an IJ abuses their discretion by denying bond based on flight risk for long-time U.S. residents with
19 deep ties to this country through family, community connections, and employment history. Indeed,
20 BIA precedent itself underscores that these are among the most critical factors that an IJ must
21 consider. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 805 (BIA 2020).

22 The IJ appeared to fault Rosa and determine that she is a flight risk because her pending
23 asylum application is on appeal and because she was removed twice before. But this is no different
24 than in other cases. *See, e.g., Lima Soriano*, 2026 WL 969764 at *2, 5. And that is because what
25 matters most for flight risk purposes is a person’s ties and stability in this country *in the present*,
26 not actions many years ago, or even the strength of an application for relief. Indeed, in *Matter of*
27 *Patel*, the BIA reversed an IJ order granting release on a \$500 bond, instead ordering that the

1 person be released on their own recognizance. 15 I. & N. Dec. 666, 666–67 (BIA 1976).² In so
 2 holding, the Board explained that the IJ had erred in relying on the fact that the noncitizen
 3 “overstayed his visa” and the fact that “the visa petition of which he is the beneficiary was denied
 4 because he lacked a labor certification.” *Id.* at 667. The Board then observed that “[t]hese factors
 5 bear little if any relevance to the issue of whether or not the respondent is likely to appear for his
 6 deportation proceeding.” *Id.* The same principle applies here with respect to Rosa’s old removals
 7 and pending applications for relief.

8 In sum, the IJ abused his discretion in denying Rosa bond and concluding that she is a
 9 categorical flight risk and danger, and that no bond or conditions of release could mitigate these
 10 concerns. Accordingly, Rosa is likely to succeed on the merits of this claim.

11 **B. Petitioner’s Detention Violates the Fifth Amendment’s Due Process Clause.**

12 Rosa is also likely to succeed on her claim that her continued detention independently
 13 violates substantive due process. Closely related to this first claim is Rosa’s second claim in this
 14 case: that her continued detention violated substantive due process. “Freedom from
 15 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
 16 the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). “The
 17 touchstone of due process is protection of the individual against arbitrary action of government,”
 18 *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the exercise of power without any
 19 reasonable justification in the service of a legitimate government objective,” *Cnty. of Sacramento*
 20 *v. Lewis*, 523 U.S. 833, 846 (1998). “Substantive due process requires that all forms of civil
 21 detention, including immigration detention, bear a ‘reasonable relation’ to a non-punitive
 22 purpose.” *A.F.A.M. v. Albarran*, No. 25-CV-10492-AMO, 2025 WL 3752190, at *4 (N.D. Cal.
 23 Dec. 22, 2025) (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). “The Supreme Court has
 24 recognized only two permissible non-punitive purposes for immigration detention: ensuring a
 25

26 ² While the statutory scheme for bond hearings has changed since *Matter of Patel*, its analysis
 27 of what is relevant for addressing flight risk remains good law. *See, e.g., Matter of R-A-V-P-*, 27
 I. & N. Dec. at 805 (citing *Patel*’s flight risk analysis).

1 noncitizen's appearance at immigration proceedings and preventing danger to the community."
 2 *Id.* (citing *Zadvydas*, 533 U.S. at 690-92); *see also Hernandez v. Sessions*, 872 F.3d 976, 994 (9th
 3 Cir. 2017) ("[T]he government has no legitimate interest in detaining individuals who have been
 4 determined not to be a danger to the community and whose appearance at future immigration
 5 proceedings can be reasonably ensured by a lesser bond or alternative conditions.").

6 In a case analyzing a substantive due process challenge to criminal pre-trial detention, the
 7 Ninth Circuit identified the following factors as relevant: (1) the length of detention; (2) the
 8 prosecution's contribution to delay; and (3) "evidence supporting detention under [the] Bail
 9 Reform Act." *United States v. Torres*, 995 F.3d 695, 708-09 (9th Cir. 2021). Since *Torres*, district
 10 courts have applied its analysis to the immigration context, identifying five factors for ruling on
 11 when ICE detention violates substantive due process: (1) the length of detention; (2) the
 12 government's contribution to any delay; (3) the evidence supporting the determination that
 13 detention is warranted to prevent flight risk or community danger; (4) whether the government
 14 interests could be protected through less restrictive means; and (5) the conditions of detention and
 15 how they compare to criminal incarceration. *See Doe v. Becerra*, 723 F. Supp. 3d 688, 692 (N.D.
 16 Cal. 2024). Here, pursuant to this test, Rosa's civil detention does not serve its only permissible
 17 regulatory goals—safeguarding the community and ensuring her appearance for removal
 18 proceedings. *See Zadvydas*, 533 U.S. at 690. When a noncitizen "poses no danger and is not a
 19 flight risk, all the government does in requiring detention is separate families and remove from
 20 the community breadwinners, caregivers, parents, siblings and employees." *Black v. Decker*, 103
 21 F.4th 133, 154 (2d Cir. 2024) (citation modified).

22 **1. Rosa's length of detention of detention favors finding a substantive due**
 23 **process violation.**

24 Rosa's detention has lasted nearly twice the length of detention the Supreme Court
 25 found was "presumptively reasonable" in *Zadvydas*. *See* 533 U.S. at 701 ("Congress previously
 26 doubted the constitutionality of detention for more than six months"). Notably, Rosa served a
 27 total of 17 days in county jail for all of her old and now-vacated convictions. Yet to date, she

1 has now spent 327 days in ICE custody, which is meant to be non-punitive. Courts have
 2 regularly recognized that this length of detention is one that requires due process protections.
 3 *See, e.g., Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1118 (W.D. Wash. 2019) (noting that
 4 17 months of detention was a “very long time” that “strongly favor[ed] granting a bond
 5 hearing); *Maliwat v. Scott*, No. 2:25-CV-00788-TMC, 2025 WL 2256711, at *4 (W.D. Wash.
 6 Aug. 7, 2025) (collecting cases granting bond hearings at, inter alia, nine, ten, eleven, and
 7 twelve months of detention); *Cardozo v. Bostock*, No. 2:25-CV-00871-TMC-BAT, 2025 WL
 8 2597521, at *5 (W.D. Wash. July 29, 2025) (detention of ten months favored granting bond
 9 hearing), *R&R adopted in part, rejected in part*, No. 2:25-CV-00871-TMC, 2025 WL 2592275
 10 (W.D. Wash. Sept. 8, 2025); *Gonzalez v. Bonnar*, No. 18-cv-05321-JSC, 2019 WL 330906,
 11 at *5 (N.D. Cal. Jan. 25, 2019) (detention of just over a year that would last several more
 12 months favored granting bond hearing); *Martinez v. Clark*, No. 2:18-1669-RAJ-MAT, 2019
 13 WL 5968089, at *1 (W.D. Wash. May 23, 2019), *R&R adopted*, No. 18-CV-01669-RAJ, 2019
 14 WL 5962685 (W.D. Wash. Nov. 13, 2019) (detention of thirteen months favored granting bond
 15 hearing). While these cases cited here focused on procedural due process protections, their
 16 analysis of the length of detention applies with equal force here.

17 2. The delay factor is neutral.

18 Here, the delay factor favors Rosa or is neutral. Rosa’s removal proceedings have not
 19 been significantly delayed and she has pursued in good faith relief that she is entitled to seek. If
 20 anything, the fact that her case has taken months to decide is delay attributable to the
 21 government. *See Djelassi v. ICE Field Off. Dir.*, 434 F. Supp. 3d 917, 923 (W.D. Wash. 2020)
 22 (“[T]he record reflects that delay in this case is a product of the BIA’s and Ninth Circuit’s
 23 “crowded dockets,” which courts typically attribute to the Government—not the Petitioner.”).
 24 And “Petitioner is entitled to raise legitimate defenses to removal . . . and such challenges to
 25 h[er] removal cannot undermine h[er] claim that detention” violates due process. *Martinez v.*
 26 *Clark*, No. C18-1669-RAJ-MAT, 2019 WL 5968089, at *10 (W.D. Wash. May 23, 2019), *report*
 27 *and recommendation adopted*, No. 18-CV-01669-RAJ, 2019 WL 5962685 (W.D. Wash. Nov.

13, 2019); *see also Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015) (courts “cannot effectively punish [petitioners] for choosing to exercise their legal right to challenge the Government’s case against them” (citation modified)), *abrogated on other grounds by Jennings v. Rodriguez*, 138 S. Ct. 830, 844 (2018).

This detention is also likely to continue for much longer, as Rosa’s appeal of her removal order remains pending, and after that, she is entitled to file a petition for review with the Ninth Circuit Court of Appeals. This process is likely to take well over a year, at a minimum. *See, e.g., Diaz Reyes v. Wolf*, No. 2:20-cv-0377-JLR-MAT, 2020 WL 6820903, at *6 (W.D. Wash. Aug. 7, 2020) (finding 9–12-month Ninth Circuit appeal process favors a bond hearing); *Martinez*, 2019 WL 5968089, at *9 (finding that a 6-month BIA appeal process and 12–20-month Ninth Circuit appeal process supported granting the petitioner’s request for a bond hearing).

3. Rosa is not a flight risk or a danger to the community.

As detailed above, Rosa is neither a flight risk nor a danger to the community. First, Rosa’s history of arrests while she was a trafficking victim over 12 years ago cannot show, without more, that she is a current danger to the community. Ninth Circuit and BIA precedent indicate that the mere existence of a prior criminal record is not dispositive of danger. *See Singh*, 638 F.3d at 1206 (“[N]ot all criminal convictions conclusively establish that a [noncitizen] presents a danger[,] even where the crimes are serious enough to render the [noncitizen] removable.”). Rather, the recency, severity, and nature of the offenses must be considered. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006); *Matter of R-A-V-P-*, 27 I. & N. Dec. at 805. Here, all facts support the finding that Rosa is not a danger.

Rosa’s only criminal history is now decades old and took place when she was not acting under her own free will but under physical and sexual violence and threats of death. *See Ex. E* at 6-7 (declaration of Rosa), 24 (declaration of Rosa’s daughter regarding domestic violence she witnessed), 65-67 (declaration of neighbor Rubi Guzman regarding physical and verbal abuse and death threats she witnessed committed against Rosa), 71-74 (declaration of neighbor Hilda Castellanos regarding physical and verbal abuse and death threats she witnessed

1 committed against Rosa), 79 (declaration of neighbor Fareedah McCoy describing abuse she
2 heard through the shared wall), 84 (declaration of niece Katheryne Dubon who lived with Rosa
3 as a child and witnessed domestic violence he committed against her), 88 (letter from nephew
4 Jacobo Padilla who lived with Rosa and witnessed domestic violence. Though she was
5 convicted in 2010 of one count of transportation of a controlled substances under Cal. Health
6 and Safety Code § 11352 and in 2014 of one count of accessory after the fact to a felony under
7 Cal. Pen. Code § 32, those convictions have been vacated as legally invalid under California
8 Penal Code § 236.15 because they occurred due to the violence of which she was victim. *See*
9 Ex. F at 14-18 (vacatur of 2010 conviction under Cal. Pen. Code § 236.15); Ex. H at 30 (vacatur
10 of 2014 conviction under Cal. Pen. Code § 236.15).

11 Notably, since escaping her abuser in 2014, Rosa has been raising her children as a
12 single mother with no further law enforcement contact. *See* Ex. R at 147; Ex. E at 8; Ex. F
13 (criminal history chart); *see also* Ex. G at 5 (2025 I-213 summary of criminal history). From
14 2014 until her arrest by ICE on June 2, 2025, Rosa lived a law-abiding life in San Francisco,
15 caring for her children, volunteering at their school and in the community, working, and paying
16 taxes. *See* Ex. E at 9-10 (declaration of Rosa), 28-32 (declaration of daughter Jennifer Bonilla);
17 39-40 (letter from Joc Wilson, Manager at the Sunnydale Resource Center who has known
18 Rosa for almost two decades), 97 (letter of support from daughter S.C.P.'s school principal),
19 99-100 (letter of support from after school provider) 114-124 (Tax Returns); Ex. R at 251
20 (letter of support from family liaison at daughters' elementary school), 254-55 (letter of
21 support from outreach coordinator & community liaison at local community center), 257-66
22 (letters of support from other community members).

23 Dr. Trombley, a clinical psychologist and recidivism expert, also found that Rosa posed
24 a very low risk of possible recidivism. *See* Ex. R at 447-66 (Psychological Evaluation and Risk
25 Assessment). Using an objective Risk Management assessment tool, Dr. Trombley noted that
26 Rosa is significantly older than at the time she was arrested and re-arrest rates decrease with
27 age, women recidivize at much lower rates than men, and that "social data, such as the number

1 of children and quality of family relationships” is correlated with lower recidivism. Dr.
2 Trombley also noted that Rosa “has lived in the free community for approximately 12 years
3 without so much as a traffic ticket.” *Id.* at 453-55. On these bases, she found that “pertaining
4 to the examinee’s future violence and reoffense risk, there are no specific or expected areas of
5 concern.” *Id.*

6 Rosa also poses no risk of flight, much less a risk that cannot be mitigated. Rosa has
7 lived in the United States for over two decades. She has a stable address where she has lived
8 for years with her children. She has extensive family and community support. If released, she
9 would return to that same home, in the same community.

10 Rosa is working with the San Francisco police on their open investigation into her
11 trafficking and the crimes committed against her. *See* Exh. R, New Bond Evidence, Tab E, T
12 Visa I-914 Supplement B. She is prima facie eligible for both a T visa and U visa and filed
13 both applications with USCIS promptly after receiving the necessary law enforcement
14 certifications. *See* Ex. R, New Bond Evidence, at 108-112 (T visa I-914 Supplement B); 192-
15 96 (U visa I-918 Supplement B), 68-152 (T visa application), 154-228 (U visa application).³
16 Both applications are currently pending with USCIS. *See* Ex. R at 68-68 (I-914, T visa receipt
17 notice), 154-55, (I-918, U visa receipt notice) and 70-71, 156-57 (I-192 inadmissibility waivers
18 receipt notices). Rosa completed the necessary biometrics and is awaiting a bona fide
19 determination pursuant to 8 C.F.R. § 214.205. *See* Ex. R at 230-37. Rosa also awaits a final
20 decision on her asylum, withholding of removal and CAT applications. Although her
21 applications were denied by the immigration court, she appealed the IJ’s decision and her
22 appeal remains pending before the BIA. *See* Ex. B, Decl. of Hayley Upshaw ¶ 24.

23
24 ³ The copies of the T and U visa applications filed in the bond motion included the receipt
25 notices, all USCIS forms and attachments, the cover letter with legal argument and complete
26 index of evidence filed for each visa application but because much of the evidence including
27 letters from corroborating witnesses, photographs, psychological evaluation, DV expert report of
Prof. Kaur are voluminous and duplicates of documents already were already in the bond record,
counsel did not file those duplicative documents.

1 If released, Rosa would return to the same home where she lived at the time of her
2 detention by ICE, in the same community where she and her children have resided for almost
3 all of the past two decades. *See* Ex E at 13, 23, 32, 39-40, 50. Rosa has strong community
4 support from friends, neighbors, and family members who will assist her in attending court
5 and any ICE check ins while she waits for a decision on her applications for protection. *See*
6 Exh. E at 31-32, 39-40, 65-89, 97-103; *See also* Ex. R (New Bond Evidence) at 251-267.

7 Moreover, even if there were strong evidence of flight risk or danger, it “cannot justify
8 unlimited civil detention.” *See Torres*, 995 F.3d at 710. Due process “always requires some
9 degree of balance and proportionality.” *Doe v. Becerra*, 732 F. Supp. 3d 1071, 1086 (N.D. Cal.
10 2024). Rosa’s current detention is disproportionate given the evidence that she poses no risk
11 to the community.

12 **4. Rosa’s detention is carceral in nature**

13 At over ten months at NWIPC, Rosa’s civil detention is already excessive relative to
14 its regulatory purpose. This is particularly true given the carceral nature of her detention. The
15 reason this matters is that “a presumption of punitive conditions arises” in civil confinement
16 “where the individual is detained under conditions identical to, similar to, or more restrictive
17 than” criminal incarceration. *See Jones*, 393 F.3d at 934; *Doe*, 732 F. Supp. 3d at 1080-81; *see*
18 *also Youngberg v. Romeo*, 457 U.S. 307, 321–22 (1982) (requiring civil detainees be given
19 “more considerate treatment” than criminal detainees). “[T]he government’s choice to detain
20 noncitizens like [Rosa] in a crowded facility, with operations outsourced to a private
21 contractor, informs the due process consideration of how long is too long.” *See Doe*, 732 F.
22 Supp. 3d at 1089 (“[H]arsh conditions multiply the burden on liberty for any given period.”).

23 As this Court has repeatedly recognized, the conditions at NWIPC “are similar to those
24 in many prisons and jails,” despite Rosa’s ostensible status as a “civil” detainee. *Diaz Reyes*,
25 2020 WL 6820903 *7; *see also Parada Calderon v. Bostock*, Case. No. 2:24-cv-01619-MJP-
26 GJL, 2025 WL 879718, at *4 (W.D. Wash March 21, 2025) (concluding this factor favored
27 petitioner in procedural due process habeas); *Sarr v. Scott*, 765 F. Supp. 3d 1091, 1100–033

(W.D. Wash. 2025) (reviewing extensive evidence regarding conditions of detention at NWIPC and agreeing with petitioner that “the conditions . . . at NWIPC are similar or possibly worse than those . . . penal institutions”); *id.* at 1103 (citing cases); *Toktosunov v. Wamsley*, Case No. 2:25-cv-1724-TL, 2025 WL 3492858, at *5 (W.D. Wash. Dec. 5, 2025) (concluding this factor favored petitioner in procedural due process habeas petition); *Duvine v. Hermosillo*, Case No. 25-cv-2583-SKV, 2026 WL 183374 at *2 (W.D. Wash. Jan. 9, 2026) (same); *Kumar v. Hermosillo*, Case No. 2:26-cv-00389-JNW, 2026 WL 523276 at *2 (W.D. Wash. Feb. 25, 2026) (same). Indeed, for all intents and purposes, NWIPC is a prison.

Rosa’s experience of NWIPC as a prison—or something worse—is consistent with this Court’s observations in these cases. Indeed, the conditions Rosa has experienced are worse than the jail in which she spent a total of 17 days across her entire past criminal history. *See* Ex. A, Rosa Habeas Decl. at ¶ 6. She is provided only two sets of clothes and the underwear and bras are often stained and broken, leading her to develop rashes. *Id.* ¶ 7. She has witnessed women being put in “the hole”—solitary confinement—for 15 or 30 days for breaking a rule, leaving her feeling terrified. *Id.* ¶ 9. She has struggled to have adequate time communicating with her daughters, as the private prison company charges her approximately \$60 per week to make calls, and her daughters cannot easily visit in-person from California due to the expense and the facility’s limitations on visits. *Id.* ¶¶ 15-16. Most significantly, the medical and mental health care are “very limited,” which is challenging for Rosa as she has dealt with nightmares and intrusive memories due to the past violence she has suffered, as well as the sudden death of her nephew. *Id.* ¶¶ 12, 14. No one has been allowed to hug her as she processes this trauma.

5. Less restrictive alternatives can meet the government’s objectives.

To the extent Rosa poses any risk of danger or flight, the government’s objectives can be met through less restrictive means. “If alternatives can mitigate risks and protect the government’s interests” then detention is “unconstitutionally punitive.” *Doe*, 732 F. Supp. 3d at 1088; *see also Hernandez*, 872 F.3d at 991. Alternatives to detention (“ATD”), including in-person check-ins with ICE, electronic monitoring, and phone calls from the Intensive

Supervision Appearance Program (“ISAP”), have a high success rate at achieving the primary purpose of civil immigration detention: ensuring that noncitizens appear at future hearings. *Zadvydas*, 533 U.S. at 690; *Hernandez*, 872 F.3d at 991. The Ninth Circuit has observed that ISAP, which relies on various alternative release conditions, resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings. *Id.*

* * * * *

For the foregoing reasons, Rosa is likely to succeed on the merits of her claims. At a minimum, Rosa presents at least “serious question[s] going to the merits” of her claims, alongside a “balance of hardships” tipping decidedly in her favor as outlined below. *All. for the Wild Rockies*, 632 F.3d at 1135.

II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE INJURY ABSENT A TRO.

Every day Rosa is unlawfully detained in violation of Due Process inflicts an irreparable injury upon her. “It is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (citation modified). The unlawful deprivation of physical liberty is a quintessential irreparable harm. *See Hernandez*, 872 F.3d at 994 (holding that plaintiffs were irreparably harmed “by virtue of the fact that they [we]re likely to be unconstitutionally detained for an indeterminate period of time”); *see also, e.g., Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing that “[a]ny amount of actual jail time is significant, and has exceptionally severe consequences for the incarcerated individual” (citation modified)); *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1137 (W.D. Wash. 2025) (granting TRO motion seeking immediate release because of the irreparable harm of unlawful detention).

Rosa and her children are suffering acute harm now because of an unexpected death in the

1 immediate family. This past weekend, Rosa's nephew Jacobo—who had been helping care for
 2 her daughters—died unexpectedly. *See See* Ex. V (Office of the Chief Medical Examiner, San
 3 Francisco, verification of death letter). Rosa obtained legal guardianship of Jacobo when he was
 4 a child and raised him like a son. *See* Ex. E at 88 (letter of nephew Jacobo Padilla); Ex. U
 5 (Guardianship Order). For the past 10 months, Jacobo has provided crucial support to Rosa's three
 6 children. *See* Ex. A ¶¶ 19-22. Rosa is now needed to inter Jacobo's body and arrange for his
 7 funeral as his next of kin. *Id.* ¶ 23. *Id.* Rosa is a single mother and needs to be present to help her
 8 three children process their grief and to help care for them. *Id.* ¶¶ 22-23. Furthermore, Rosa is
 9 grieving Jacobo's death herself yet is unable to receive basic comforts like a hug from her fellow
 10 detainees who see her suffering due to the rules and regulations of the detention facility. *Id.* ¶ 12.

11 Rosa could not reasonably have filed her habeas petition and motion for TRO any earlier.
 12 She first pursued administrative remedies, filing a motion for a changed-circumstances bond
 13 hearing supported by more than 260 pages of new evidence. *See* Ex. B, Decl. of Hayley Upshaw
 14 ¶¶ 24, 32-33. On April 18, counsel supplemented that motion with notice of Jacobo's death. *Id.* ¶¶
 15 34-35. On Wednesday, April 22, the IJ denied the motion. *See* Ex. T (IJ Order Denying Motion
 16 for Bond Hearing). Rosa's counsel has since worked to file this motion as expeditiously as
 17 possible.

18 Counsel recognizes that, in light of the Court's General Order 10-25 providing a timely
 19 briefing schedule on habeas petitions, motions for a TRO seeking release are disfavored. But this
 20 case presents exceptional circumstances involving the death of a person to whom Rosa acted as a
 21 mother and for whom she is next of kin. And that is the reason immediate relief, rather than full
 22 briefing, is appropriate here.⁴ Rosa thus brings this habeas petition and accompanying motion for
 23 a TRO to urgently request her release from custody so that she may provide for and comfort her
 24 daughters, and to engage in the necessary coordination to retrieve Jacobo's body and prepare for

25 ⁴ Alternatively, the Court could expedite full briefing in this matter by requesting a response to
 26 the petition within three days—Monday, April 27—and then issuing an expedited ruling, thus
 27 entering final judgment and resolving this matter. *See* 28 U.S.C. § 2243 (providing that
 custodian's response to a petition "shall be returned within three days").

1 his funeral.

2 **III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST WEIGH**
3 **STRONGLY IN PETITIONER'S FAVOR.**

4 When the government is the party opposing the request for emergency relief, the balance
5 of the equities and the public interest merge. *Env't Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991
6 (9th Cir. 2020) (citing *California v. Azar*, 911 F.3d 558, 581 (9th Cir. 2018)). Here, the balance
7 of equities overwhelmingly favors Rosa, who faces irreparable injury in the form of acute
8 suffering to herself and her children if the TRO is not granted. See Section II, *supra*; *Hernandez*,
9 872 F.3d at 996 (when "[f]aced with . . . preventable human suffering, . . . the balance of hardships
10 tips decidedly in plaintiffs' favor" (citation modified)).

11 The public interest likewise weighs strongly in Rosa's favor. Rosa survived almost a
12 decade of domestic abuse and human trafficking as a young woman. Through strangulation, rape,
13 and death threats against her and her daughters, Rosa's trafficker forced her to sell drugs. The
14 convictions related to actions her trafficker coerced her to take have been vacated as legally
15 invalid under California Penal Code § 236.15. Rosa has not been arrested since she escaped her
16 abuser. For over a decade, she lived a tranquil, law-abiding life, caring for her children as a single
17 mother, working, and paying taxes, until she was arrested by ICE in June 2025. Rosa is assisting
18 law enforcement with an active investigation into her trafficking and other crimes committed
19 against. She has pending applications for U and T visas based on her victimization and assistance
20 with the law enforcement investigations, as well as a pending appeal in her removal case.

21 Respondents' ongoing detention of Rosa clearly violates federal law and the Constitution.
22 Therefore, granting emergency relief will promote the public interest by upholding the rule of
23 law. "[N]either equity nor the public's interest are furthered by allowing violations of federal law
24 to continue." *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022); see also *Index Newspapers*
25 *LLC v. U.S. Marshals Serv.*, 977 F.3d 817, 838 (9th Cir. 2020) ("It is always in the public interest
26 to prevent the violation of a party's constitutional rights."); *Hernandez*, 872 F.3d at 996 ("The
27 public interest benefits from an injunction that ensures that individuals are not deprived of their

1 liberty and held in immigration detention because of bonds established by a likely unconstitutional
2 process.”).

3 SECURITY

4 No security is necessary here. Courts “may dispense with the filing of a bond when,” as
5 here, “there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.”
6 *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003). It is also proper to waive the bond
7 requirement in cases raising constitutional claims, because “to require a bond would have a
8 negative impact on plaintiff’s constitutional rights, as well as the constitutional rights of other
9 members of the public.” *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 738 (C.D.
10 Cal. 1996). Finally, Rosa’s showing of a high likelihood of success on the merits supports the
11 court’s waiving of bond in this case. *See, e.g., People of State of Cal. ex rel. Van De Kamp v.*
12 *Tahoe Reg’l Plan. Agency*, 766 F.2d 1319, 1326 (9th Cir.), *amended*, 775 F.2d 998 (9th Cir. 1985).

13 CONCLUSION

14 Given the exigent and unfolding family tragedy and the unique and irreparable harms
15 outlined above, Petitioner respectfully requests the Court grant a TRO that (1) immediately
16 releases Petitioner from Respondents’ custody.

17 Respectfully submitted this 24th day of April, 2026.

18 s/ Aaron Korthuis

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s/ Hayley Upshaw*

Hayley Upshaw

20 *I certify that this motion contains 8,217 words, in*
21 *compliance with the Local Civil Rules.*

22 s/ Leila Kang

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