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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

FABIOLA PILLE-VALERIO,
Petitioner,

vs.

BRANDON JONES, SUPERINTENDENT,
HILAND MOUNTAIN CORRECTIONAL
FACILITY;

LAURA HERMOSSILO, FIELD OFFICE
DIRECTOR, SEATTLE FIELD OFFICE,
UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT;

TODD LYONS, ACTING DIRECTOR,
UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT;

MARKWAYNE MULLIN, SECRETARY
OF U.S. DEPARTMENT OF HOMELAND
SECURITY;

TODD BLANCHE, ACTING UNITED
STATES ATTORNEY GENERAL,

Respondents.

Case No.

**NOTICE OF MOTION; MOTION
FOR TEMPORARY RESTRAINING
ORDER; MEMORANDUM OF
POINTS AND AUTHORITIES**

To: Acting U.S. Attorney Michael Heyman

PLEASE TAKE NOTICE that Petitioner Pille-Valerio, by and through counsel, hereby files the instant Motion for Temporary Restraining Order, along with the supporting documents and exhibits. Petitioner is currently detained at the Anchorage Correctional Complex and requests that the Court consider this motion on an emergency basis for the reasons below. **Petitioner has given notice to the Government, which has rejected the request to stipulate to temporary relief.**

INTRODUCTION

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Petitioner moves this Court for an order enjoining Respondents Department of Homeland Security (DHS), United States Immigration and Customs Enforcement (ICE), Todd Blanche in his official capacity as the U.S. Attorney General, and the Warden of the Anchorage Correctional Center where Petitioner is incarcerated, **to release Petitioner from custody or, in the alternative, refrain from transferring Petitioner to a facility outside of Alaska until she is afforded a constitutionally adequate opportunity to challenge reinstatement of the prior removal order, and a constitutionally adequate opportunity to plead her claim for reasonable fear of removal.** As set forth below, the United States has failed to comply with its own rules, procedures and statutes when it issued the order of removal.

The reasons in support of this Motion are set forth in the accompanying Memorandum of Points and Authorities. This Motion is based on the Petition for Writ of Habeas Corpus, as well as the attached Exhibits.

As set forth in the Points and Authorities in support of this Motion, this case warrants a temporary restraining order due to Ms. Pille-Valerio's weighty liberty interest under the Due Process Clause of the Fifth Amendment in remedying her unlawful re-incarceration, which was imposed without a reinstatement proceeding that conforms to federal law and due process. The only mechanism to ensure that she is not removed from this District in violation of her due process rights is a temporary restraining order from this Court. WHEREFORE, Ms. Pille-Valerio prays that this Court grant her request for a temporary restraining order **to release her from custody or, in the alternative, to enjoin ICE/DHS from transferring her to a location outside of Alaska until Petitioner is afforded a constitutionally adequate opportunity to challenge reinstatement of the prior removal order, as well as plead her claim for reasonable fear of removal.**

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioner Ms. Pille-Valerio was arrested yesterday, May 11, 2026, by Immigration and Customs Enforcement officials. She is currently being held in custody as an immigration detainee at the Hiland Mountain Correctional Complex and is expected to be transferred to a facility outside Alaska within the next 24 hours.

Ms. Pille-Valerio has lived in Alaska for 20 years and has five children, all of whom are U.S. citizens. ICE alleged that Ms. Pille-Valerio is subject to a prior order of removal which was issued in absentia on January 20, 2004. **However, the underlying removal order was issued in violation of Petitioner's right to due process. Specifically, Petitioner was not provided with a list of free legal service providers and was not given an opportunity to obtain free or low-cost legal help. Petitioner also contests whether she was given notice and an opportunity to appear at the removal hearings held in January 2004. As a result, Petitioner was not given an opportunity to present her case to the Immigration Judge before the immigration court issued the in-absentia removal order on January 21, 2004.**

Finally, although petitioner has given notice that she has a reasonable fear of returning to Mexico, she has not yet been referred to an asylum officer for an interview to determine whether she has a reasonable fear of persecution or torture. 8 C.F.R. 241.8(e). Nor have her potential claims to lawful immigration status via family-based immigration or re-opening of her prior immigration case been decided.

PETITIONER 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).

The standard for issuing a TRO is the same as the standard for issuing a preliminary injunction. *See Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n. 7 (9th Cir. 2001) (explaining that the analysis for temporary restraining orders and preliminary injunctions is “substantially identical”). **When seeking a TRO or PI, plaintiffs must establish: (1) they are “likely to succeed on the merits” of their claims, (2) they are “likely to suffer irreparable harm in the absence of a preliminary injunction,” (3) “the balance of equities tips in [their] favor” and (4) “an injunction is in the public interest.”** *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

The Court may weigh the request for a preliminary injunction with a sliding-scale approach. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). Even if Petitioner does not show a likelihood of success on the merits, the Court may still grant a temporary restraining order if he raises “serious questions” as to the merits of his claims, the balance of hardships tips “sharply” in his favor, and the remaining equitable factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As set forth in more detail below, Petitioner satisfies both standards.

ARGUMENT

A. Applying the *Winter* factors, Petitioner Can Establish Grounds for a Temporary Restraining Order

1. Likelihood of Success on the Merits.

Petitioner is likely to succeed on the merits of her Due Process claims regarding the constitutionality of her detention, which is the consequence of a final order of removal that was issued without notice and advisement of her right to counsel. Although the REALID Act stripped district courts of the power to exercise judicial review of final orders of removal under 28 U.S.C. § 2241, *see* 8 U.S.C. 1252(a)(5), this Court has the power to determine whether Petitioner’s ongoing detention and confinement pursuant to that underlying final order of removal comports with due process.

Procedural due process requires notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333–34 (1976). To state a claim for a violation of procedural due process rights, a petitioner must establish (1) a protected property or liberty interest, and (2) a denial of adequate procedural protections. *ASSE Int’l, Inc. v. Kerry*, 803 F.3d 1059, 1073 (9th Cir. 2015). The Court must also consider “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1207 (9th Cir. 2022) *quoting Mathews*, 424 U.S. at 335.

In this case, Petitioner’s liberty interest is substantial. Petitioner’s interest in not being detained is “the most elemental of liberty interests” *Hamdi v. Rumsfeld*, 542 U.S.

507, 529 (2004)). As the Ninth Circuit noted in *S. v. Holder*, 638 F.3d 1196 (9th Cir. 2011), “The Supreme Court has repeatedly recognized that civil commitment for *any* purpose constitutes a significant deprivation of liberty.” *Id.*, 638 F.3d at 1204 *quoting Addington v. Texas*, 441 U.S. 418, 425-27 (1979).

The second factor, risk of an erroneous deprivation of liberty, also weighs in Petitioner’s favor. *See, e.g., Ledesma Gonzalez*, 2025 WL 2841574, at *8; *Barrenechea v. Albarran*, No. CV25-7883-VC, 2025 WL 2717279, at *1 (N.D. Cal. Sept. 22, 2025); *Manzanarez*, 2025 WL 3247258, at *4 *quoting A.E. v. Andrews*, No. 25-cv-00107-KES-SKO, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025). Petitioner explains that she was not advised that she had the right to free legal assistance prior to the issuance of the removal order in January, 2004. The failure to provide Petitioner with notice of her legal right to counsel meant that Petitioner was deprived of a fair opportunity to challenge the grounds for her deportation, and/or seek judicial review of the deportation order. This deprivation was compounded by the fact that Petitioner did not speak, read, or understand English well at that time. Without any procedural safeguards to determine whether the final order of removal was justified, the probative value of additional procedural safeguards is high. Moreover, it appears as though Petitioner is pursuing lawful immigration status via an application for a family-based adjustment of status, as well as re-opening of her historic immigration case. Neither of these has been fully presented or decided, let alone heard. The risk of an erroneous deprivation of liberty is thus high.

The final factor, the government's interest in detaining an immigrant based on a defective order that was issued in absentia and without notice and advisement of the right to counsel is negligible. Moreover, it would be less of a fiscal and administrative burden for the Government to allow Petitioner to return home to await a determination on her reasonable fear application, and present her other claims for adjustment of status, than to continue to detain her in a detention facility. *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 14, 2025) ("[T]he Ninth Circuit has recognized that the costs to the public of immigration detention are staggering.")

2. Irreparable Harm.

The Ninth Circuit has recognized “the irreparable harms imposed on anyone subject to immigration detention.” *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1253 (W.D. Wash. 2025) (citing *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017)) (“For example ... subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained.”). “In the absence of an injunction, harms such as these will continue to occur needlessly on a daily basis.” *Hernandez*, 872 F.3d at 995. “It is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). “As other courts that have faced this issue have explained, the violation of petitioner’s statutory rights causes ‘immediate and irreparable injury.’” *Lepe v. Andrews*, 801 F. Supp. 3d 1104, 1119 (E.D. Cal. 2025) (citations omitted). Here, Petitioner is being deprived of

her physical freedom, and absent relief will continue to suffer irreparable harm by this restraint. Petitioner’s imminent transfer outside this district would also cause irreparable harm. She will be at a great distance from her attorneys, family, and documents—all that she needs to defend against her removal from the United States.

3. Balance of Equities.

The consideration of the balance of equities and the public interest in an injunction merge when the government is a party. *Yang v. Kaiser*, No. 2:25-CV-02205-DAD-AC (HC), 2025 WL 2791778, at *10 (E.D. Cal. Aug. 20, 2025) (citing *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009))).

“It is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 247, 272 (1976)). Moreover, “[t]he Ninth Circuit has recognized ‘irreparable harms imposed on anyone subject to immigration detention’ including ‘the economic burdens imposed on detainees and their families as a result of detention.’ ” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017); *Leiva-Perez v. Holder*, 640 F.3d 962, 969-970 (9th Cir. 2011) (the inability to pursue a petition for review may constitute irreparable harm). The evidence here demonstrates that Petitioner’s family is suffering because of her absence. *See* Declaration of Ismael Hernandez.

4. An Injunction is in the Public Interest.

“It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Furthermore, “[j]ust as the public has an interest in the orderly and efficient administration of this country’s immigration laws, the public has a strong interest in upholding procedural protections against unlawful detention.” *Hoac*, 2025 WL 1993771, at *6 (internal quotation marks omitted).

Respondents “cannot reasonably assert that [they are] harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. U.S. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983); *see also Rodriguez v. Robbins*, 715 F. 3d 1127, 1145 (9th Cir. 2013) (“[The government] cannot suffer harm from an injunction that merely ends an unlawful practice[.]”).

REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Grant this Motion for a Temporary Restraining Order, releasing Petitioner from ICE custody;
3. Declare that Petitioner’s arrest and detention violate the Due Process Clause of the Fifth Amendment;
4. Enjoin Respondents from transferring Petitioner outside this District or removing Petitioner pending these proceedings;

5. Order Respondents to refrain from rearresting or re-detaining Petitioner unless they provide 14 days' advance notice of a pre-deprivation hearing authorized by a neutral adjudicator.

DATED this 12th day of May, 2026.

Respectfully submitted,
FEDERAL PUBLIC DEFENDER
FOR THE DISTRICT OF ALASKA

/s/ Daniel Poulson

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Certificate of Service:

I hereby certify that on May 12, 2026, the foregoing and any attachments was filed with the Clerk of Court for the United States District Court for the District of Alaska at newcvcases@akd.uscourts.gov.

A courtesy copy of the foregoing was provided to the following by email on March 12, 20226:

Acting United States Attorney Michael Heyman at michael.heyman@usdoj.gov

Assistant United States Attorney Jacki Traini at jackie.traini@usdoj.gov

Assistant United States Attorney Christopher Schroeder at christopher.schroeder@usdoj.gov .

/s/ Daniel Poulson