

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARMEN ARACELY PABLO SEQUEN,
et al.,

Plaintiffs,

v.

POLLY KAISER, et al.,

Defendants.

Case No. 25-cv-06487-PCP

**ORDER GRANTING IN PART
MOTION FOR TEMPORARY
RESTRAINING ORDER**

Re: Dkt. No. 34

Petitioners-plaintiffs Ligia Garcia and Yulisa Alvarado Ambrocio (“petitioners”) move the Court *ex parte* for a temporary restraining order that would, among other things, require Ms. Garcia’s immediate release from her ongoing detention by agents of Immigration and Customs Enforcement (“ICE”) and prohibit ICE from re-arresting either petitioner without ten days’ notice and a pre-detention bond hearing.¹ For the reasons set forth below, the Court grants the requested order in part. The Court orders defendants to release Ms. Garcia from her ongoing detention and prohibits defendants from re-arresting or otherwise re-detaining Ms. Garcia without first providing her with a pre-detention bond hearing before an immigration judge at which the government establishes by clear and convincing evidence that her detention is necessary to prevent her flight or to protect the public. Because Ms. Alvarado Ambrocio is not currently being detained, the Court

¹ Petitioners ask the Court to order that they remain within the Northern District of California in order to preserve this Court’s jurisdiction over their petition. But it is well-established that “when the Government moves a habeas petitioner after she properly files a petition naming her immediate custodian, the District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner’s release.” *Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004). Petitioners also request that the Court prohibit their deportation during the pendency of the underlying case. In the absence of any evidence that either petitioner faces an imminent risk of deportation, however, that potential injury appears too remote to warrant emergency *ex parte* relief.

denies her request for issuance of an immediate temporary restraining order and will instead consider whether to issue preliminary injunctive relief after defendants have had an opportunity to respond to her motion.

BACKGROUND

The evidence before the Court establishes that Ms. Garcia is a 54-year-old asylum-seeker from Colombia. She suffers from high blood pressure and is hard of hearing in one ear. After Ms. Garcia entered the United States from Mexico, an agent of the Department of Homeland Security (“DHS”) arrested her and transported her to a nearby facility for processing. Shortly thereafter, around March 12, 2024, DHS charged Ms. Garcia with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i) and released Ms. Garcia on her own recognizance. DHS records from the time of Ms. Garcia’s release state that she “has no criminal history” and “does not appear to be a threat to national security, border security, or public safety.” When releasing Ms. Garcia, DHS served her with a notice to appear and placed her in full removal proceedings in immigration court. Ms. Garcia has resided in the United States for the 18 months since that time.

On September 18, 2025, Ms. Garcia appeared at the immigration court in San Francisco for a master hearing. She was unrepresented. During the hearing, the government moved to dismiss Ms. Garcia’s pending removal proceedings with the intent to pursue expedited removal under § 1225(b)(1). The immigration judge continued the hearing to allow Ms. Garcia to seek legal counsel and respond to the motion.

As Ms. Garcia exited the courtroom, ICE agents arrested her and took her to a holding area elsewhere in the building. ICE records from the time of Ms. Garcia’s second arrest again noted that she has no criminal history and stated that she “will remain in ICE custody pending [a] respon[se] to [the government’s] motion for dismissal.” Ms. Garcia is currently being held at the San Francisco Immigration Court.

Ms. Alvarado Ambrocio is a 24-year-old asylum seeker from Guatemala. After she entered the United States in April 2024, Ms. Alvarado Ambrocio—who was pregnant at the time—was arrested by DHS agents and placed in a detention center for two days. DHS then released Ms. Alvarado Ambrocio on her own recognizance pursuant to its authority under 8 U.S.C. § 1226 and

1 served her with a notice to appear in immigration court. Since her release, Ms. Alvarado Ambrocio
2 has lived in San Francisco with her now nine-month-old baby, her partner, and other family
3 members.

4 On September 11, 2025, Ms. Alvarado Ambrocio appeared at the San Francisco
5 Immigration Court with her breastfeeding infant for a routine hearing. During the hearing, the
6 government moved to dismiss Ms. Alvarado Ambrocio's asylum case. The immigration judge
7 continued the hearing for ten days to allow Ms. Alvarado Ambrocio to file a response. Before Ms.
8 Alvarado Ambrocio exited the courtroom, two attorneys warned her that ICE agents were waiting
9 outside to arrest her. With Ms. Alvarado Ambrocio's consent, the attorneys negotiated with ICE
10 on her behalf, securing an agreement that ICE would not detain her that day. Instead, ICE imposed
11 monitoring requirements on Ms. Alvarado Ambrocio, requiring that she present in person every six
12 months. While the ICE agents permitted Ms. Alvarado Ambrocio to leave the immigration court,
13 they did not state whether they would arrest her after her next immigration-court hearing on
14 October 16, 2025. Ms. Alvarado Ambrocio fears that she will be detained when she next appears
15 in immigration court.

16 Ms. Garcia and Ms. Alvarado Ambrocio, with representation of counsel, filed a petition for
17 a writ of habeas corpus and *ex parte* motion for a temporary restraining order on September 19,
18 2025. Among other claims, they contend that Ms. Garcia's arrest and detention does, and Ms.
19 Alvarado Ambrocio's arrest and detention would, violate the Due Process Clause of the Fifth
20 Amendment, both substantively (because defendants allegedly have no valid interest in detaining
21 petitioners) and procedurally (because defendants have not or would not provide pre-detention
22 bond hearings). The defendants are Sergio Albarran, Field Office Director for the San Francisco
23 ICE field office; Marcos Charles, Acting Executive Associate Director of ICE's Enforcement and
24 Removal Operations ("ERO") Division; Thomas Giles, Assistant Director for ICE ERO field
25 operations; Monica Burke, Acting Assistant Director of ICE's Custody Management Division;
26 Todd Lyons, Acting Director of ICE; Kristi Noem, Secretary of DHS; ICE; DHS; Sirce Owen,
27 Acting Director of the Executive Office for Immigration Review ("EOIR"); Pamela Bondi,
28 Attorney General of the United States; EOIR; the Department of Justice; and the United States of

America.

LEGAL STANDARDS

The standard for issuing a temporary restraining order is largely identical to the standard for issuing a preliminary injunction. *See Washington v. Trump*, 847 F.3d 1151, 1159 n.3 (9th Cir. 2017). Petitioners seeking such relief must establish that (1) they are “likely to succeed on the merits”; (2) they are “likely to suffer irreparable harm in the absence of preliminary relief”; (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, 21 (2008). “[I]f a plaintiff can only show that there are ‘serious questions going to the merits’—a lesser showing than likelihood of success on the merits—then a preliminary injunction may still issue if the ‘balance of hardships tips sharply in the plaintiff’s favor and the other two *Winter* factors are satisfied.’” *All. for the Wild Rockies v. Peña*, 865 F.3d 1211, 1217 (9th Cir. 2017) (quoting *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 F.3d 1281, 1291 (9th Cir. 2013)). The final two factors “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

Although the substantive standards for both motions are similar, the timeframe for a temporary restraining order is different. While a preliminary injunction remains in effect pending final resolution of the litigation, “a TRO ‘should be restricted to ... preserving the status quo and preventing irreparable harm just so long as is necessary to hold a [preliminary injunction] hearing and no longer.’” *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 779 (9th Cir. 2018) (quoting *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 423, 439 (1974)).

Federal Rule of Civil Procedure 65(b)(1) allows a temporary restraining order to be issued without notice to the opposing party—i.e., *ex parte*—only if “specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition” and “the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.”

ANALYSIS

As an initial matter, Ms. Garcia has satisfied the requirements for issuance of an *ex parte* order. The affidavit of petitioners' counsel demonstrates that Ms. Garcia will suffer immediate and irreparable injury, loss, or damage by virtue of her continued detention before respondents can be heard in opposition, and that counsel attempted to contact Civil Division chief Pamela Johann of the United States Attorney's Office for the Northern District of California on September 19, 2025.

Ms. Alvarado Ambrocio, however, has not satisfied the requirements for issuance of an *ex parte* order, as the record does not demonstrate that she will suffer immediate injury, loss, or damage in the time before defendants could respond to her motion. Ms. Alvarado Ambrocio is not presently detained, and her affidavit suggests that the date on which she next faces a risk of detention is October 16, 2025, when she is next scheduled to appear in immigration court. Indeed, Ms. Alvarado Ambrocio has remained out of custody throughout the week between her last appearance in immigration court and the filing of petitioners' motion for a temporary restraining order, suggesting that no arrest is imminent. For the same reason, Ms. Alvarado Ambrocio has not established a likelihood of irreparable harm in the absence of *ex parte* injunctive relief—the second *Winter* factor. The Court therefore denies the requested temporary restraining order as to Ms. Alvarado Ambrocio and will instead consider her request for interim injunctive relief after defendants have had an opportunity to respond.

With respect to the showing required to justify Ms. Garcia's requested relief, she has demonstrated a likelihood of success on the merits of her claim that her ongoing detention violates her procedural due process rights under the Due Process Clause of the Fifth Amendment.² The Court recently considered that issue under comparable circumstances in *Pablo Sequen v. Kaiser*, No. 25-CV-06487-PCP, __ F. Supp. 3d __, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025). For the reasons explained in far greater detail therein, a noncitizen like Ms. Garcia who was conditionally released into the United States has a significant liberty interest in remaining out of immigration

² Ms. Garcia asks the Court to prohibit her detention under any circumstances, contending that the government has no valid interest to justify her detention. Because the relief granted herein obviates any immediate need for the Court to address this substantive due-process issue, the Court will not do so at this time.

1 custody. *Id.* at *5. Because Ms. Garcia has resided in the United States for 18 months—certainly
 2 long enough to “begin[] to develop ... ties” and become “a part of our population”—the Fifth
 3 Amendment’s due process protections apply to that liberty interest. *Id.* at *5 (first quoting *Landon*
 4 *v. Plasencia*, 459 U.S. 21, 32–33 (1982); and then quoting *Yamataya v. Fisher*, 189 U.S. 86, 100–
 5 01 (1903)). The statutory procedures potentially available to Ms. Garcia do not satisfy that
 6 constitutional mandate. Even assuming that she will receive a post-arrest bond hearing before an
 7 immigration judge, there remains a substantial risk that the government is erroneously depriving
 8 Ms. Garcia of her liberty for so long as she remains detained given that the available record
 9 suggests that she is neither a flight risk nor a danger to the public *See id.* at *8; *Zadvydas v. Davis*,
 10 533 U.S. 678, 690 (2001). Given the apparent lack of a valid basis for Ms. Garcia’s detention and
 11 the limited cost of providing a custody hearing in immigration court, the government has at most a
 12 minimal countervailing interest in her continued detention. *See Pablo Sequen*, __ F. Supp. 3d. __,
 13 2025 WL 2650637 at *8; *Garro Pinchi v. Noem*, No. 5:25-cv-05632, __ F.Supp.3d __, 2025 WL
 14 2084921, at *6 (N.D. Cal. July 24, 2025). Taken together, the strength of Ms. Garcia’s liberty
 15 interest, the high likelihood of erroneous deprivation, and the government’s minimal
 16 countervailing interest demonstrate that Ms. Garcia is likely to succeed on the merits of her
 17 procedural due-process claim. *See Pablo Sequen*, __ F. Supp. 3d. __, 2025 WL 2650637 at *9;
 18 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

19 Ms. Garcia has also demonstrated a likelihood of irreparable injury in the absence of
 20 temporary relief due to her ongoing and likely unconstitutional deprivation of liberty. “The loss or
 21 threatened infringement upon [constitutional] rights for even minimal periods of time
 22 unquestionably constitutes irreparable injury.” *Cuviello v. City of Vallejo*, 944 F.3d 816, 832 (9th
 23 Cir. 2019) (citation modified). “When an alleged deprivation of a constitutional right is involved,
 24 most courts hold that no further showing of irreparable injury is necessary.” *Baird v. Bonta*, 81
 25 F.4th 1036, 1042 (9th Cir. 2023) (citation modified). “[I]t follows inexorably from [the Court’s]
 26 conclusion” that Ms. Garcia “will likely be deprived of [her] physical liberty unconstitutionally in
 27 the absence of the injunction ... that [she] ha[s] also carried [her] burden as to irreparable
 28 harm.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

The final two *Winter* factors, the balance of the equities and public interest, merge because the government is the opposing party. These factors also weight heavily in favor of granting a temporary restraining order. “Because public interest concerns are implicated when a constitutional right has been violated, all citizens have a stake in upholding the Constitution, meaning it is always in the public interest to prevent the violation of a party’s constitutional rights.” *Baird*, 81 F.4th at 1042 (citation modified). Further, “the Ninth Circuit has recognized that ‘the costs to the public of immigration detention are staggering.’” *Jorge M. F. v. Wilkinson*, No. 21-CV-01434, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021) (citation modified) (quoting *Hernandez*, 872 F.3d at 996). And where Ms. Garcia is suffering irreparable harm while in detention, the potential harm to the government—at worst, a short delay in detaining Ms. Garcia until it makes the requisite showing of necessity before a neutral decisionmaker—is minimal. *See id.* at *3; *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 14, 2025). In any case, enjoining the government from constitutional violations does not impose harm “in any legally cognizable sense.” *Zepeda v. U.S. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983).

Finally, Ms. Garcia’s immediate release is required to return her to the status quo. The “status quo” refers to the state of the parties’ relationship “before the action challenged in the complaint occurred.” *Youth 71Five Ministries v. Williams*, No. 24-101, __ F.4th __, 2025 WL 2385151, at *5 (Aug. 18, 2025). Here, that is the moment prior to Ms. Garcia’s likely illegal detention. *See Pablo Sequen*, __ F. Supp. 3d __, 2025 WL 2650637, at *4 n.2; *Kuzmenko v. Phillips*, No. 25-CV-00663, 2025 WL 779743, at *2 (E.D. Cal. Mar. 10, 2025) (granting a temporary restraining order requiring immediate release of the petitioner back to home confinement from custody, as a restoration of the status quo).

Because Ms. Garcia satisfies all of the requirements for temporary injunctive relief and such relief is necessary to restore the status quo, her motion for a temporary restraining order is granted. *See Pablo Sequen v. Kaiser*, No. 25-CV-06487-PCP, 2025 WL 2203419, at *3 (N.D. Cal. Aug. 1, 2025) (collecting similar cases). And because “there is no realistic likelihood of harm to the [respondents] from enjoining [their] conduct.” *Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003), no security is needed to ensure that respondents will be reimbursed for “costs and

1 damages sustained by ... hav[ing] been wrongfully enjoined or restrained.” Fed. R. Civ. P. 65(c).
2 The Court exercises its discretion under Rule 65(c) to dispense with the filing of bond. *Jorgensen*,
3 320 F.3d at 919.

4 CONCLUSION

5 For the foregoing reasons, it is hereby **ORDERED** that petitioners’ motion for a temporary
6 restraining order as to Ms. Garcia is **GRANTED** to preserve the status quo pending further
7 briefing and a hearing on this matter. Defendants are **ORDERED** to immediately release Ms.
8 Garcia from custody and are **ENJOINED AND RESTRAINED** from re-detaining Ms. Garcia
9 without providing her with a pre-deprivation hearing before a neutral decisionmaker. Should
10 defendants choose to conduct such a hearing, defendants are **ORDERED** to provide Ms. Garcia
11 with reasonable advance notice of the time and place of the hearing.

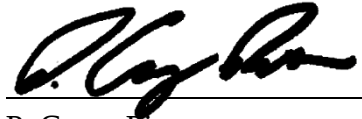
12 Petitioners’ motion for a temporary restraining order as to Ms. Alvarado Ambrocio is
13 **DENIED**. Her request will instead be construed as a motion for preliminary injunctive relief and
14 will be considered after defendants have had an opportunity to respond.

15 This Order shall remain in effect until October 2, 2025 at 5:00pm. The Amended
16 Complaint and Petition for Writ of Habeas Corpus (Dkt. No. 32), Motion for Temporary
17 Restraining Order (Dkt. No. 34), and this Order **SHALL** be served on defendants such that they
18 receive actual notice as soon as possible. Petitioners shall file proof of service or a status report by
19 no later than September 22, 2025. Defendants shall provide a status report confirming the release
20 of Ms. Garcia by no later than September 22, 2025 at 5:00pm.

21 Defendants are **ORDERED TO SHOW CAUSE** why a preliminary injunction should not
22 issue in favor of both Ms. Garcia and Ms. Alvarado Ambrocio on September 30, 2025 at 1:00pm.
23 The hearing will be held in-person in Courtroom 8 of this Court’s San José courthouse, located at
24 280 S. 1st Street, San José, CA 95113. Defendants shall file a response to petitioners’ motion by
25 no later than September 24, 2025. Any reply shall be filed by September 28, 2025.

26 **IT IS SO ORDERED.**
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Dated: September 19, 2025



P. Casey Pitts
United States District Judge

United States District Court
Northern District of California

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