

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION

LEIDY SANCHEZ BALLESTROS

PETITIONER

v.

CIVIL NO. 3:25-CV-594-RGJ

TODD M. LYONS, Acting Director, or his agent,
United States Immigration and Customs Enforcement;
SAMUEL OLSON; Field Office Director, Chicago
Field Office, Immigration and Customs Enforcement;
and, KRISTI NOEM, Secretary of the United States
Department of Homeland Security;
JASON WOOSLEY, Grayson County Jailer

RESPONDENTS

**RESPONDENTS' OPPOSITION TO PETITIONER'S HABEAS PETITION AND
MOTION FOR TEMPORARY RESTRAINING ORDER**

Respondents,¹ Todd Lyons, in his official capacity as Acting Director for U.S. Immigration and Customs Enforcement (ICE), and Samuel Olson, Field Office Director for the Chicago Field Office of ICE, and Kristi Noem, in her official capacity as Secretary for the Department of Homeland Security oppose Petitioner's request for a writ of habeas corpus and motion for temporary restraining order. Both should be denied. Petitioner claims she is detained under 8 U.S.C. § 1226, which provides her the opportunity to move for a bond hearing before an immigration judge. She should be

¹ The federal respondents are Kristi Noem, in her official capacity as Secretary for the Department of Homeland Security, and Todd Lyons, in his official capacity as Acting Director for U.S. Immigration and Customs Enforcement (ICE), and Samuel Olson, in his official capacity as Field Office Director, Chicago Field Office, U.S. Immigration and Customs Enforcement. 28 U.S.C. § 517 allows the Office of the United States Attorney to make appearances in court to attend to the United States' interests, and consistent with that statute and *Roman v. Ashcroft*, 340 F.3d 314, 319-20 (6th Cir. 2003), this filing attends to the United States' interests to the extent that the petition names Jason Woosley, Grayson County Jailer as a party.

ordered to exhaust her administrative remedies. Further, Petitioner has not, and will not, suffer irreparable injury because the Grayson County Detention Center is providing adequate medical care, and no medical conditions necessitate immediate release.

FACTUAL BACKGROUND

I. Petitioner unlawfully entered the United States in April 2024.

Petitioner, a citizen of Colombia, entered the United States with her current spouse without authorization or inspection and not at a port of entry in April 2024, near El Paso, Texas. [Doc. 1, PageID#24.] Petitioner was notified at or near that time that she was subject to removal under 8 U.S.C. § 1182(a)(6)(A)(i) and placed in removal proceedings. [Id.] Plaintiff was not admitted or paroled after inspection by an Immigration Officer. [Id.] After being placed in removal proceedings, Petitioner was released on her own recognizance and provided a Notice to Appear before an immigration judge in Newark, New Jersey, in May 2028. [Id.]

II. Petitioner's proceedings in immigration court.

On January 13, 2025, Petitioner filed a I-589 Application for Asylum. [Id., PageID#44.] On June 9, 2025, Petitioner was detained by ICE after she appeared before an immigration judge and her full removal proceedings were terminated on ICE's motion to dismiss. [Id., PageID#35.] ICE argued that its regulatory authority allowed it to move Petitioner from full removal proceedings to expedited proceedings because expedited proceedings were in the best interest of the government. [Id., PageID#29-30 (citing 8 C.F.R. §§ 239.2(a)(7), 1239.2(c))]; see also *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA

2025). Petitioner has appealed that decision to the Board of Immigration Appeals (BIA). [*Id.*, PageID#7, ¶ 25.] Consequently, expedited removal proceedings have not commenced.

Before the immigration judge dismissed Petitioner's removal proceedings, Petitioner filed a motion for bond, claiming that she is being detained under 8 U.S.C. § 1226 and she is not a flight risk and does not pose a danger to the community. [Exhibit 1, Bond Motion at 1-5.] She then withdrew her bond motion before the immigration judge could rule on it. [Ex. 1, at 6.] In this matter, Petitioner again asserts that she is detained under 8 U.S.C. § 1226, which authorizes a bond hearing, not 8 U.S.C. § 1225 (as ICE contends), which does not allow for a bond hearing. [Doc. 1, PageID#18-19.] Regardless of whether Petitioner is detained under 8 U.S.C. § 1225 or 8 U.S.C. § 1226, because she has filed an asylum application, her removal is temporarily stayed until that application is adjudicated.

III. Petitioner's detention in the Grayson County Detention Center.

On or about June 11, Petitioner was moved to the Grayson County Detention Center (GCDC). Petitioner claims that, while at GCDC, she is not receiving adequate treatment for her medical conditions, "including the brain tumor, gastrointestinal issues, nausea, and vomiting, despite the urgent need for care." [Doc. 1, Page ID#8; Doc. 3, PageID#97.] Petitioner, however, has received significant care to address her medical conditions—to include a CT scan that did not find evidence of a brain tumor. [Doc. 22-1 at 35-38, 96-107.] The doctor recorded: "CT of the head was done which is unremarkable. Patient was given some headache cocktail. Patient said that she feel[s] a

lot better.” [*Id.* at 101.] Indeed, following her treatment of several conditions in June, GCDC has informed counsel that there have been no medical issues with Petitioner. [Doc. 22-2.] Petitioner’s declaration basically restates that the care documented in the medical records was provided. [Doc. 23-1.]

LEGAL BACKGROUND

For more than a century, the immigration laws have authorized immigration officials to charge noncitizens as removable from the country, arrest noncitizens subject to removal, and detain noncitizens during their removal proceedings. *See Abel v. United States*, 362 U.S. 217, 232–37 (1960). In the INA, Congress enacted a multi-layered statutory scheme for the civil detention of noncitizens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. “The rule has been clear for decades: “[d]etention during deportation proceedings [i]s . . . constitutionally valid.” *Banyee v. Garland*, 115 F.4th 928 (8th Cir. 2024) (citing *Demore v. Kim*, 538 U.S. 510, 523 (2003)); *see Demore*, 538 U.S. at 523 n.7 (“In fact, prior to 1907 there was no provision permitting bail for *any* aliens during the pendency of their deportation proceedings.”); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) (“Detention is necessarily a part of this deportation procedure.”).

I. Detention under 8 U.S.C. § 1225.

Section 1225 applies to “applicants for admission,” who are defined as “alien[s] present in the United States who [have] not been admitted” or “who arrive[] in the United States.” 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two

categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *see also Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

Section 1225(b)(1) applies to arriving aliens and “certain other” noncitizens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These noncitizens are generally subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the individual “indicates an intention to apply for asylum . . . or a fear of persecution,” immigration officers will refer the alien for a credible fear interview. *Id.*

§ 1225(b)(1)(A)(ii). An individual “with a credible fear of persecution” is “detained for further consideration of the application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the individual does not indicate an intent to apply for asylum, express a fear of persecution, or is “found not to have such a fear,” he is detained until removed. *Id.*

§§ 1225(b)(1)(A)(i), (B)(iii)(IV).

Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under § 1225(b)(2), an individual “who is an applicant for admission” shall be detained for a removal proceeding “if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A); *see Matter of Q. Li*, 29 I.&N. Dec. 66, 68 (BIA 2025) (“for aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A),

mandates detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299).

II. Detention under 8 U.S.C. § 1226(a).

Section 1226 “generally governs the process of arresting and detaining . . . aliens pending their removal.” *Jennings*, 583 U.S. at 288. Section 1226(a) provides that “an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). The Attorney General and the Department of Homeland Security (“DHS”) thus have broad discretionary authority to detain a noncitizen during removal proceedings.² See 8 U.S.C. § 1226(a)(1) (DHS “may continue to detain the arrested alien” during the pendency of removal proceedings); *Nielsen v. Preap*, 139 S. Ct. 954, 966 (2019) (highlighting that “subsection (a) creates authority for *anyone’s* arrest or release under § 1226—and it gives the Secretary broad discretion as to both actions”).

When a noncitizen is apprehended, a DHS officer makes an initial custody determination. See 8 C.F.R. § 236.1(c)(8). DHS “may continue to detain the arrested alien.” 8 U.S.C. § 1226(a)(1). “To secure release, the alien must show that he does not

² Although the relevant statutory sections refer to the Attorney General, the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), transferred all immigration enforcement and administration functions vested in the Attorney General, with few exceptions, to the Secretary of Homeland Security. The Attorney General’s authority—delegated to immigration judges, see 8 C.F.R. § 1003.19(d)—to detain, or authorize bond for noncitizens under section 1226(a) is “one of the authorities he retains . . . although this authority is shared with [DHS] because officials of that department make the initial determination whether an alien will remain in custody during removal proceedings.” *Matter of D-J-*, 23 I. & N. Dec. 572, 574 n.3 (A.G. 2003).

pose a danger to the community and that he is likely to appear for future proceedings.” *Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2280–81 (2021) (citing 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999)).

If DHS decides to release the noncitizen, it may set a bond or place other conditions on release. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8). If DHS determines that a noncitizen should remain detained during the pendency of his removal proceedings, the noncitizen may request a bond hearing before an immigration judge. *See* 8 C.F.R. §§ 236.1(d)(1), 1003.19, 1236.1(d). The immigration judge then conducts a bond hearing and decides whether to release the noncitizen, based on a variety of factors that account for the noncitizen’s ties to the United States and evaluate whether the noncitizen poses a flight risk or danger to the community. *See Guerra*, 24 I.&N. Dec. 37, 40 (BIA 2006);³ *see also* 8 C.F.R. § 1003.19(d).

Section 1226(a) does not provide a noncitizen with a right to release on bond. *See Matter of D-J-*, 23 I. & N. Dec. at 575 (citing *Carlson*, 342 U.S. at 534). Nor does § 1226(a) explicitly address the burden of proof that should apply or any particular factor that must be considered in bond hearings. Rather, it grants DHS and the Attorney General broad discretionary authority to determine whether to detain or release a noncitizen

³ The BIA has identified the following non-exhaustive list of factors the immigration judge may consider: “(1) whether the alien has a fixed address in the United States; (2) the alien’s length of residence in the United States; (3) the alien’s family ties in the United States, and whether they may entitle the alien to reside permanently in the United States in the future; (4) the alien’s employment history; (5) the alien’s record of appearance in court; (6) the alien’s criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) the alien’s history of immigration violations; (8) any attempts by the alien to flee prosecution or otherwise escape from authorities; and (9) the alien’s manner of entry to the United States.” *Guerra*, 24 I. & N. Dec. at 40.

during his removal proceedings. *See id.* If, after the bond hearing, either party disagrees with the decision of the immigration judge, that party may appeal that decision to the BIA. *See* 8 C.F.R. §§ 236.1(d)(3), 1003.19(f), 1003.38, 1236.1(d)(3).

LEGAL STANDARDS GOVERNING TRO MOTIONS

“[T]he purpose of a [temporary restraining order] under Rule 65 is to preserve the status quo so that a reasoned resolution of a dispute may be had.” *Moore v. U.S. Ctr. for SafeSport*, 685 F. Supp. 3d 490, 494 (E.D. Mich. 2023) (brackets in original) (quoting *Procter & Gamble Co. v. Bankers Tr. Co.*, 78 F.3d 219, 226 (6th Cir. 1996)). “The standard for issuing a temporary restraining order is logically the same as for a preliminary injunction with emphasis, however, on irreparable harm given that the purpose of a temporary restraining order is to maintain the status quo.” *Moore v. U.S. Ctr. for SafeSport*, 685 F. Supp. 3d 490, 495 (E.D. Mich. 2023) (internal citation omitted). Parties seeking these extraordinary remedies “must meet several requirements. They must show a likelihood of success on the merits. They must show irreparable harm in the absence of the injunction. They must show that the balance of equities favors them. And they must show that the public interest favors an injunction.” *Sisters for Life, Inc. v. Louisville-Jefferson Cnty.*, 56 F.4th 400, 403 (6th Cir. 2022).

Where, as in this case, the temporary restraining order sought “would alter, rather than preserve, the status quo by commanding some positive act . . . the requested relief should be denied unless the facts and law clearly favor the moving party.” *Taylor v. Peone*, 2024 WL 3572907, at *2 (M.D. Tenn. July 29, 2024) (citing *Glauser-Nagy v. Med. Mut. of Ohio*, 987 F. Supp. 1002, 1011 (N.D. Ohio 1997)). Plaintiff “must satisfy a

heightened burden . . . as to both the likelihood-of-success prong and on the balance of the harms." *Taylor*, 2024 WL 3572907, at *2.

ARGUMENT

I. The Court should deny the petition and motion for TRO because Petitioner has failed to litigate to completion a motion for bond before an immigration judge.

8 C.F.R. §§ 236.1(d)(1), 1003.19, 1236.1(d) provide for an immigration judge to consider Petitioner's request for bond. Upon Petitioner's motion, the immigration judge will consider the bond request and decide whether the judge has jurisdiction and, if so, whether she should be released. Petitioner previously filed a motion for bond, but she withdrew it before the motion was resolved. [Ex. 1.] Petitioner agreed that a bond hearing was a proper resolution of this matter, and the Court should find that is the optimal first step towards resolving this matter.

The doctrine of prudential exhaustion supports requiring Petitioner to exhaust the process for seeking bond from the immigration judge. The Northern District of Ohio recently imposed a prudential exhaustion requirement on a habeas petitioner by utilizing a test the Sixth Circuit has tacitly endorsed. *Torrealba v. U.S. Dep't of Homeland Sec.*, 2025 WL 2444114, 2025 U.S. Dist. LEXIS 164153, at *23-24, n.16 (N.D. Ohio Aug. 25, 2025) (citing *Rabi v. Sessions*, 2018 U.S. App. LEXIS 19661 (July 16, 2018)). Prudential exhaustion should be ordered when:

- (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision;
- (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and

(3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

Id. (quoting *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007)).

In consideration of the foregoing factors, the Court should find, just like the *Torrealba* court, that administrative exhaustion is required. 2025 U.S. Dist. LEXIS 164153, at *24-29; *see also Villalta v. Greene*, 2025 WL 2472886, 2025 U.S. Dist. LEXIS 169688 (N.D. Ohio Aug. 5, 2025); *Castillo Lachapel v. Joyce*, 2025 WL 1685576, 2025 U.S. Dist. LEXIS 115808 (S.D.N.Y. June 16, 2025) (citing other cases). With regard to the first element, immigration judges routinely adjudicate bond motions and are familiar with the relevant statutory and regulatory framework. An immigration judge should be allowed to apply his/her expertise to Petitioner's request for release on bond.

The second factor also favors exhaustion. *Torrealba*, 2025 U.S. Dist. LEXIS 164153, at *27. Habeas should not be a substitute for the prescribed process for seeking release from custody. Permitting Petitioner to obtain release without first adjudicating her detention before the immigration judge will encourage others to do likewise.

Furthermore, this case is not like the other matters in which the Court has granted a habeas petition. Among the differences, in *Beltran Barrera v. Tindall*, 3:25-cv-541 (W.D. Ky.), and *Singh v. Lewis*, 4:25-cv-96 (W.D. Ky.), immigration judges had already granted bond motions and set bond amounts. The petitioners were not then released because ICE was appealing those bond decisions. Petitioner in this case is not similarly situated because she has not already obtained a favorable bond determination.

This case also involves different facts than *Matter of Q. Li*, 29 I. & N. Dec. 66, 67 (BIA 2025). In *Q. Li*, like here, the petitioner was subject to a notice to appear, but the petitioner in *Q. Li* was paroled under 8 U.S.C. § 1182(d)(5)(A), meaning his detention is under 8 U.S.C. § 1225. Petitioner here was released on her own recognizance, which she contends is a form of conditional parole under 8 U.S.C. § 1226(a). [Doc. 11, PageID#144-45.] Petitioner's situation is also different than that of the petitioner in *Yajure Hurtado*, 29 I&N Dec. 216. Petitioner here was detained shortly after she entered the United States illegally and was identified as subject to removal under 8 U.S.C. § 1182(a)(6)(A)(i). [Doc. 1, PageID#6.] The petitioner in *Yajure Hurtado*, in contrast, entered the United States in November 2022 undetected. 29 I&N Dec. 216. He then obtained Temporary Protected Status for several months during 2024 and 2025. *Id.* at 216-17. Several days after that status expired in April 2025, the petitioner was apprehended by immigration officials. *Id.* at 217. Here, the immigration judge may conclude that one or both of those cases suggest Petitioner is ineligible for bond because she is detained under 8 U.S.C. § 1225, but neither case compels that conclusion. Consequently, Petitioner is not being ordered to go through a futile effort.

The third factor is closely related. Allowing the immigration judge to determine whether Petitioner is eligible for bond may preclude the need for judicial review. *Torrealba*, 2025 U.S. Dist. LEXIS 164153, at *26.

Those factors favor requiring exhaustion, but a court can override the balance tipping in favor of exhaustion if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable

injury will result, or the administrative proceedings would be void." *Torrealba*, 2025 U.S. Dist. LEXIS 164153, at *28 (quotation omitted). The remedy the immigration judge can provide is the same as the Court, and as discussed above, the pursuit isn't futile. Finally, although Petitioner obviously wants to be released from detention, "continued imprisonment does not constitute irreparable harm." *Martin v. Puzio*, 2025 WL 1678472, 2025 U.S. Dist. LEXIS 112790, at *7 (D. Conn. June 13, 2025) (citing cases). "If incarceration alone were the irreparable injury complained of, then the exception would swallow the rule that the INS administrative remedies must be exhausted before resorting to the federal courts." *Givah v. McElroy*, 1997 WL 782078, at *4, 1997 U.S. Dist. LEXIS 20136, at *13 (S.D.N.Y. Dec. 19, 1997).

The Court should conclude that Petitioner has available to her an expeditious and effective means to challenge her detention and order her to pursue a bond determination from an immigration judge.

II. Petitioner's medical conditions are being treated at the Grayson County Detention Center and do not justify a temporary restraining order.

Petitioner alleges that her continued detention jeopardizes her physical health, alleging that she "is not receiving treatment for any of her current medical conditions, some of which, like her brain tumor, may be life threatening without timely treatment." [Doc. 1, PageID#20.] She further claims that she is "not receiving her medication for her abdominal issues or her mental health concerns of depression, anxiety, and sleeplessness. She was and could receive treatment for some or all of these issues while she was at liberty in Chicago before the government detained her." [*Id.* at PageID#20-

21.] Petitioner concludes by stating that because the government is denying her “treatment for potentially life-threatening medical ailments while keeping her in custody, and because such treatments may be available to her upon release, as a matter of due process Ms. Sanchez is entitled to a writ of habeas corpus for her immediate release.” [Doc. 1, PageID#21; *see also* Doc. 3, PageID#97, 103, 106.] However, these allegations are not supported by the facts; Petitioner is receiving appropriate medical care.

In her Petition for Writ, Petitioner filed several treatment records that pre-date her incarceration at the GCDC. The completeness of these records cannot be verified, but there are several facts in her history worth noting.

Over one year ago, on May 7, 2024, Petitioner had a neurosurgery consultation in Chicago, Illinois, where she presented with headaches that were “unbearable,” occurring sporadically throughout the day. [Doc. 1, PageID#85.] Petitioner’s history indicates that these headaches were sometimes relieved by Tylenol or Motrin and that she claimed a history of a diagnosed brain tumor in Columbia several years ago with imaging that was of an unknown type. [*Id.*] The medical providers found no focal neurological deficits and a review of symptoms was otherwise negative. [*Id.*, PageID#87.] The plan of care and diagnosis was to schedule Petitioner for a brain MRI to rule out a brain tumor and to refer her to neurology for evaluation and management of her headaches. *Id.* The only prescription medication she was taking in May 2024 was an iron supplement. [*Id.*, PageID#86.]

On August 30, 2024, Petitioner appears to have presented at John H. Stroger, Jr. Hospital in Chicago, Illinois, again complaining of headaches. She was scheduled for an MRI on March 17, 2025. [*Id.*, PageID#80.] However, there is no evidence in the medical records submitted by the Petitioner that an MRI was ever performed or, if one was, what the result of the MRI showed.

On May 11, 2025, one month before her detention, Petitioner was admitted to the emergency department at Cook Community Hospital in Chicago, Illinois, complaining of left flank pain over the past five days that was associated with nausea and vomiting and a near fainting episode earlier in the day. [Doc. 1, PageID#73-74.] She again claimed a diagnosed brain tumor. [*Id.*] CT imaging of her abdominal region was ordered, which found no evidence of acute process in the abdomen or pelvis and did not find nephrolithiasis or evidence of pyelonephritis. [Doc. 1, PageID#77.] Petitioner was discharged with a diagnosis of flank pain and prescribed famotidine (once daily for acid reflux) and ondansetron (to be taken every 8 hours for nausea). [*Id.*]

On June 11, 2025, Petitioner was booked into the GCDC a little after 8 pm. [Doc. 22-1 at 2-3.]. Medical records obtained from GCDC and produced to the Court indicate that Petitioner has received appropriate medical care and a recent CT scan suggests that she does not have a brain tumor. [Doc. 22-1 at 35-38, 96-107.]

At the time of her booking, Petitioner was placed on heightened suicide watch and ordered to be evaluated by mental health professionals within 12 hours due to a reported overdose of sleeping pills in September 2024. [Doc. 22-1 at 15.] However, during the following morning, GCDC found Petitioner vomiting up blood and quickly

provided her with medical care. [*Id.* at 13.] Petitioner was transported to the Owensboro Health Twin Lakes Medical Center's Emergency Department ("Owensboro Health") due to headaches and vomiting blood. [*Id.* at 96.] A CT scan was ordered of Petitioner's brain which was found to be unremarkable and normal. [*Id.* at 101, 106-07.] Petitioner was given a "headache cocktail" and discharged with a diagnosis of an occipital headache. [*Id.* at 102.] Owensboro Health's medical team did not prescribe any medications beyond the "headache cocktail" administered on site. [*Id.*]

Throughout June 2025, GCDC continued to provide medical care – both physical and mental – to Petitioner. On June 14, 2025, a mental health practitioner visited with Petitioner and prescribed a 10-day treatment of Buspirone for depression. [*Id.* at 59-65.] On June 15, 2025, she was started on Ibuproferen and Tylenol to help control migraine pain. [*Id.* at 74.] On June 16, 2025, Petitioner again reported vomiting, and the jail staff noticed a small amount of blood on floor. [*Id.* at 77.] Upon evaluation, GCDC's nurse determined that because Petitioner had been recently treated for this at Owensboro Health, she would treat Petitioner with a one-time dose of Mylanta. [*Id.*]

On June 17, 2025, mental health professionals visited with Petitioner. Petitioner denied any current suicidal ideations, and it was determined that her documented suicide attempt, believed to be September 2024, was wrong. Instead, it occurred years earlier after [REDACTED] [*Id.* at 91.] Two days later, on June 19, 2025, because Petitioner remained in control of her behavior for over 48 hours and denied feeling suicidal, her risk level was reduced to moderate watch and a reevaluation of her mental health was going to be scheduled. [*Id.* at 117.] Subsequent

mental health visits occurred on June 20 and June 21, and Petitioner was then reduced from moderate watch to low watch. [*Id.* at 122-23.]

GCDC's counsel, following production of these medical records, confirmed that Petitioner has experienced no further medical issues after June 2025. [Doc. 22-2.]

Petitioner's declaration does not substantially depart from the medical records. She was identified as a high-risk patient due to perceived mental health concerns. [*See, e.g.,* Doc. 22-1 at 55, 59, 113.] To try to keep Petitioner safe, she was kept in a single safe cell and provided finger food and a smock and limited sheets. [*Id.* at 55.] Within a few days, GCDC reclassified Petitioner due to their observations and she joined the regular inmate population and was given normal provisions. [*Id.* at 120, 124.] To the extent Petitioner has a lump on her arm, the records clearly show that GCDC is responsive to her concerns. She should report that to GCDC staff; but, in any event, that doesn't appear to be an irreparable injury. Finally, Petitioner's claim that the doctor who conducted the CT scan wanted to do further testing is not supported by the medical record. The doctor discharged Petitioner with instructions only to follow up with primary care. [*Id.* at 101.] And on June 14—two days after the CT scan—she was seen by a nurse at GCDC. [*Id.* at 59.]

A temporary restraining order is "an extraordinary remedy which should be granted only if the movant carries his or her burden of proving that the circumstances clearly demand it." *Overstreet v. Lexington-Fayette Urban County Government*, 305 F.3d 566, 573 (6th Cir. 2002). Petitioner should not prevail on her TRO motion because she should be ordered to seek relief from an immigration judge, who is able to consider her

health information when making a bond determination. Further, Petitioner will not suffer irreparable injury. Petitioner has not presented facts that clearly demonstrate she is entitled to any extraordinary remedy.

CONCLUSION

Petitioner's detention is authorized. She should be ordered to first seek relief from her detention from an immigration judge.

Respectfully submitted,

KYLE G. BUMGARNER
United States Attorney

/s/ Timothy D. Thompson
Michael D. Ekman
Timothy D. Thompson
Assistant United States Attorneys
717 W. Broadway
Louisville, KY 40202
502.625.7102
502.625.6110 (fax)
Michael.Ekman@usdoj.gov
Timothy.thompson@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2025, I filed this document via CM/ECF,
which will automatically provide service to all counsel of record.

KYLE G. BUMGARNER

United States Attorney
Western District of Kentucky

/s/ Timothy D. Thompson

Timothy D. Thompson
Assistant United States Attorney