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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTER DISTRICT OF CALIFORNIA

BARBARA GOMES MARQUES MAY,

Petitioner,

vs.

THOMAS GILES, ET AL

Respondents.

Case No.: 2:25-cv-08816

**NOTICE OF EX PARTE APPLICATION
FOR TEMPORARY RESTRAINING
ORDER AND/OR PRELIMINARY
INJUNCTION**

To Respondents and to their attorney(s) of record:

PLEASE TAKE NOTICE that pursuant to Federal Rule of Civil Procedure 65 and Local Rule 7-19, Petitioner, by counsel, applies ex parte for an immediate Temporary Restraining Order. Petitioner respectfully requests an order enjoining Respondents from transferring her out of Adelanto ICE Processing Facility during the pendency of her motion to reopen and habeas petition, and for such other relief as set forth below.

RELIEF SOUGHT

Petitioner seeks an order (1) prohibiting Respondents from transferring her from Adelanto ICE Processing Facility while her removal is stayed and while her motion to reopen and habeas petition are pending; (2) requiring Respondents to provide her access to her

1 prescribed Nalu Neurostimulation System for pain management or equivalent medical care; (3)
2 assuring reasonable access to her attorney and husband at Adelanto; and (4) any further relief
3 the Court deems just.
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5 Petitioner also respectfully asks this Court to set this matter for a hearing on Petitioner's
6 Motion for Preliminary Injunction.

7 Date: October 3, 2025

8 Respectfully submitted,
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11 /s/ Marcelo Gondim

12 _____
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Respondents.

Case No.: 2:25-cv-08816

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR TEMPORARY
RESTRAINING ORDER AND/OR
PRELIMINARY INJUNCTION**

Pursuant to Federal Rules of Civil Procedure (“FRCP”) Rule 65 and Local Rules 7-19,
Petitioners respectfully move this Court to enter an immediate temporary restraining order and
preliminary injunction against Respondents. The Court may grant a temporary restraining order
if Petitioners demonstrate: (1) a substantial likelihood of success on the merits; (2) a likelihood
of suffering irreparable injury without the restraining order; (3) that the threatened injury to it
outweighs the harm the restraining order would cause other litigants; and (4) that the restraining
order would not be averse to the public interest. Petitioner bears the burden of clearly satisfying
all four prongs *See Alliance for the Wild Rockies v. Cottrell*, [632 F.3d 1127, 1135](#) (9th Cir.
[2011](#)).

I. INTRODUCTION AND FACTUAL BACKGROUND

Petitioner, Barbara Gomes Marques May, is a noncitizen married to a U.S. citizen, with an approved I-130 and a pending motion to reopen her removal proceedings. On September 30, 2025, she filed a motion to reopen her in absentia removal order, and her removal is now stayed by the Immigration Court.

On October 2, 2025, Petitioner was returned to the Adelanto ICE Processing Facility. However, Petitioner and her counsel have reasons to believe that ICE intends to transfer her out of Adelanto at any time, including during the weekend, to an undisclosed location.

Even if these suspicions turned out to be wrong, no harm would have been inflicted on the Respondents for being ordered to refrain from doing something they had no intention to do.

During previous ICE transfers, Petitioner was subjected to inhumane conditions, including prolonged shackling, sleep deprivation, denial of food and water for hours, and forced to sleep on floors without adequate bedding. She has a medical condition requiring use of a Nalu Neurostimulation System for pain, which ICE left in Louisiana and has not returned to her. Her health is deteriorating as a result.

Transfer out of Adelanto will again separate Petitioner from her counsel and husband and severely impede her access to the courts and to her legal remedies, while exposing her to further inhumane conditions.

II. LEGAL STANDARD

"Federal Rule of Civil Procedure 65 governs preliminary injunctions and temporary restraining orders. Fed. R. Civ. P. 65. The standard for both forms of relief is the same. *Stuhlbarg Int'l Sales Co. v. Brush & Co.*, 240 F.3d 832 (9th Cir. 2001).

1 A preliminary injunction is an “extraordinary remedy never awarded as of right.” *Winter*
2 *v. Natural Res. Def. Council, Inc.*, 129 S.Ct. 365, 172 L.Ed.2d 249, 555 U.S. 7, 77 USLW 4001
3 (2008). The Court may issue a preliminary injunction if Petitioner establishes: (1) likelihood of
4 success on the merits; (2) likelihood of irreparable harm in the absence of preliminary relief;
5 (3) that the balance of equities tips in his favor; and (4) that an injunction is in the public interest.

7 Where a case involves government action, courts also consider the public interest,
8 “Because ‘the party opposing injunctive relief is a government entity’ here, the third and fourth
9 factors ‘merge.’” *Nken v. Holder*, 129 S.Ct. 1749, 173 L.Ed.2d 550, 556 U.S. 418, 77 USLW
10 4310 (2009).

12 The Ninth Circuit weighs these factors on a sliding scale, such that where there are only
13 “serious questions going to the merits”, that is, less than a “likelihood of success” on the
14 merits—a preliminary injunction may still issue so long as “the balance of hardships tips sharply
15 in the Petitioner’s favor” and the other two factors are satisfied. *Shell Offshore, Inc. v.*
16 *Greenpeace, Inc.*, 709 F.3d 1281, 1291 (9th Cir. 2013) (quoting *Alliance for the Wild Rockies*
17 *v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011)); *Short v. Brown*, 893 F.3d 671 (9th Cir. 2018).

19 III. ARGUMENT

20 A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS

21 In a habeas petition challenging civil immigration detention, Respondents must show
22 cause for continued detention. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Rodriguez v.*
23 *Robbins*, 715 F.3d 1127, 1135–36 (9th Cir. 2013).

25 Here, Respondents cannot justify detention: (1) Removal is stayed by the Immigration
26 Court; (2) Petitioner has an approved I-130 and is married to a U.S. citizen; (3) Petitioner is not a
27 flight risk, has no criminal record, and is not a danger to the community; and (4) No plausible
28

1 basis exists for transferring her far from her counsel, husband, and the Court where her petition is
2 pending.

3 Actions that obstruct counsel access, family unity, and the ability to pursue legal
4 remedies are clear constitutional violations. See *Orantes-Hernandez v. Thornburgh*, 919 F.2d
5 549, 565 (9th Cir. 1990); *Devitri v. Cronen*, 289 F. Supp. 3d 287 (D. Mass. 2018); *Jones v.*
6 *Blanas*, 393 F.3d 918, 931–33 (9th Cir. 2004).

8 **B. PETITIONER WILL SUFFER IRREPARABLE HARM**

9 Transfer will expose Petitioner to further inhumane conditions: prolonged shackling,
10 severe sleep deprivation, deprivation of food and water, and lack of necessary medical care. Such
11 conditions violate the Due Process Clause. See *Jones v. Blanas*, 393 F.3d 918, 931–33 (9th Cir.
12 2004); *Frailhat v. ICE*, 445 F. Supp. 3d 709, 733–34 (C.D. Cal. 2020).

13 Separation from counsel and family, and the inability to meaningfully litigate her pending
14 motion to reopen, also constitute irreparable harm.

15 **C. THE BALANCE OF EQUITIES AND PUBLIC INTEREST FAVOR RELIEF**

16 There is no public interest in detaining or transferring a non-dangerous, non-flight-risk
17 individual with a stayed removal order. The balance of equities and public interest
18 overwhelmingly favor protecting Petitioner's health, rights, and access to counsel.
19

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Petitioner respectfully requests that this Court:

- 22
- 23 1. Immediately issue a Temporary Restraining Order prohibiting Respondents from transferring
 - 24 Petitioner out of the Adelanto ICE Processing Facility pending further order of this Court;
 - 25
 - 26 2. Order Respondents to provide Petitioner access to her Nalu Neurostimulation System or, if not
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possible, to arrange for equivalent pain management by qualified medical professionals;

3. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted on October 3, 2025.



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Counsel for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2025, I electronically filed the foregoing PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION by using the CM/ECF system, in accordance with U.S. District Court for the Central District of California's CM/ECF Administrative Procedures and Local Rules. Notice of this filing will be sent out to all parties by operation of the Court's electronic filing system.



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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

BARBARA GOMES MARQUES MAY,

Petitioner,

vs.

THOMAS GILES, ET AL

Respondents.

No. 2:25-cv-08816

PROPOSED ORDER GRANTING PETITIONER'S APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY
INJUNCTION

ORDER

The Court finds that Petitioners have met the requirements for a temporary restraining order and preliminary injunction.

IT IS HEREBY ORDERED:

1. Respondents, their agents, employees, officers, and all persons acting in concert with them are enjoined from transferring Petitioner from the Central District of California, including the Adelanto Detention Facility or any other facility within this District, to any location outside this District while Petitioner's habeas corpus petition is pending before this Court;
2. Respondents shall ensure that Petitioner has continued access to counsel, including the ability to communicate confidentially and meet with her attorney as reasonably necessary to litigate her habeas petition;

1 3. Respondents are prohibited from taking any action that would frustrate this Court's
2 jurisdiction over Petitioner's pending habeas petition;

3 4. This Order shall remain in effect until further order of this Court;
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5
6 **IT IS SO ORDERED.**
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9 Date: _____
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11 United States District Judge
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