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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

**SUPPLEMENTAL BRIEF ON COURT'S
JURISDICTION TO ISSUE TRO
PREVENTING REMOVAL**

I. INTRODUCTION

Petitioner respectfully submits this reply to clarify the narrow relief sought in her *Ex Parte* Application for a Temporary Restraining Order ("TRO"). Petitioner does not seek immediate release from custody. Rather, she seeks a limited TRO to prevent her transfer from the Adelanto Detention Center to another detention facility outside this Court's jurisdiction while her habeas corpus petition and her pending Motion to Reopen her removal proceedings remain under consideration.

The government's opposition misconstrues the nature of the relief sought. Transfer at this juncture would irreparably harm Petitioner's access to counsel, interfere with her pending proceedings before the Los Angeles Immigration Court, and risk divesting both this Court and the Immigration Court of jurisdiction over her case.

II. THE COURT'S JURISDICTION AND EQUITABLE POWER TO GRANT A TRO

A. Petitioner Seeks to Preserve the Status Quo and Prevent Irreparable Harm

A TRO is warranted where the petitioner demonstrates a likelihood of immediate and irreparable harm absent judicial intervention. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008). The purpose of a TRO is to preserve the status quo and prevent the very harm that would render future relief meaningless. *See Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S. 423, 439 (1974). Here, Petitioner seeks nothing more than to maintain her current detention location—Adelanto Detention Center—while her pending habeas corpus petition and Motion to Reopen in absentia remain under review.

The harm at issue is clear, concrete, and imminent. ICE has broad discretion to transfer detainees at any time, often with little or no notice to counsel or family. Such transfers can occur overnight and may move a detainee hundreds or thousands of miles from her attorney and her family support network. If Petitioner is transferred to another facility, particularly one outside the Central District of California, she will lose the ability to meaningfully communicate and coordinate with her attorney of record, who is based in Los Angeles and has been representing her since her detention.

Petitioner’s counsel has visited her in person at Adelanto and is able to meet with her to discuss filings, evidence, and strategy in her ongoing case. If Petitioner is transferred to a remote facility, such as one in Louisiana, Texas, or Arizona—where ICE frequently relocates detainees—those in-person meetings will become impossible. Counsel will be forced to rely on unpredictable phone access or video calls, which are often delayed or unavailable, severely undermining the preparation and submission of filings in both her immigration and federal court proceedings. Courts have consistently recognized that interference with attorney-client communication constitutes irreparable harm. *See Devitri v. Cronen*, 289 F. Supp. 3d 287, 296

1 (D. Mass. 2018) (granting TRO to prevent transfer where “access to counsel and the court
2 would be severely impaired”); *R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 191 (D.D.C. 2015)
3 (holding that “unjustified separation of detainees from their counsel constitutes irreparable
4 harm”). *See also Orantes-Hernandez v. Meese*, 685 F. Supp. 1488, 1509 (C.D. Cal. 1988).

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6 In addition, Petitioner’s Motion to Reopen *in Absentia* remains pending before the Los
7 Angeles Immigration Court. Venue properly lies in that court because Petitioner’s removal
8 order was issued there, and the motion seeks reopening of those same proceedings. Under 8
9 C.F.R. § 1003.20(b), the immigration court with administrative control over the Record of
10 Proceedings retains jurisdiction unless a change of venue is formally granted. Transferring
11 Petitioner to a distant facility may lead ICE or the Executive Office for Immigration Review
12 (“EOIR”) to attempt to change venue, thereby complicating or even divesting the Los Angeles
13 court of jurisdiction. Such disruption would undermine the integrity of ongoing judicial
14 proceedings and could result in inconsistent adjudications or unnecessary procedural delay.

15
16 This Court likewise currently exercises proper habeas jurisdiction over Petitioner
17 because she is detained within the Central District of California. *See Rumsfeld v. Padilla*, 542
18 U.S. 426, 443 (2004) (jurisdiction for a habeas petition lies in the district of confinement). If
19 Petitioner is transferred outside this District, the government may argue that this Court no
20 longer has jurisdiction over her custodian, potentially rendering her habeas petition moot or
21 requiring dismissal. Such an outcome would effectively deny Petitioner meaningful access to
22 judicial review and force her to begin anew in another jurisdiction—precisely the kind of
23 procedural harm that equitable relief is designed to prevent.

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25 Moreover, transfer would separate Petitioner from her family, who live in Central
26 California and provide critical emotional and logistical support for her case. Courts have
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1 acknowledged that disruption of family contact, particularly where family members are
2 assisting with evidence and documentation for ongoing immigration matters, constitutes
3 irreparable harm. *See Orantes-Hernandez v. Meese*, 685 F. Supp. 1488, 1509 (C.D. Cal. 1988)
4 (enjoining transfer practices that interfered with detainees' ability to communicate with counsel
5 and family).

6
7 In sum, maintaining Petitioner at the Adelanto Detention Center is essential to preserve
8 her constitutional right to access counsel and the courts, ensure the orderly resolution of her
9 pending immigration and habeas proceedings, and prevent the jurisdictional confusion and
10 personal hardship that would result from an out-of-state transfer. The TRO sought here merely
11 preserves the status quo while these proceedings are pending—an equitable and narrowly
12 tailored form of relief well within this Court's authority.

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15 **B. The Balance of Equities Strongly Favors Maintaining Petitioner at Adelanto**

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17 Petitioner is not seeking release from custody in this current TRO, but simply to
18 maintain the status quo by remaining detained at Adelanto while her legal matters proceed. This
19 request imposes no burden or prejudice on the government. ICE has already designated
20 Adelanto as Petitioner's place of detention, and maintaining her there for a limited period while
21 her motion to reopen in absentia and habeas corpus petition are resolved preserves judicial
22 efficiency and fairness. In contrast, transferring Petitioner to a different state or facility would
23 inflict substantial prejudice on her rights and interests.

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25 The harm to Petitioner from transfer is both concrete and imminent. Relocation to a
26 different facility would:
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1 1. Sever in-person access to counsel. Petitioner's attorney is located in Los Angeles and
2 has met with her at Adelanto; travel to a different state would make meaningful
3 consultation impossible and impair case preparation.
4
5 2. Sever family visitation. Petitioner's family resides in the Southern California area, and
6 transfer would prevent in-person visits, increasing emotional distress and undermining
7 her ability to receive necessary support while detained.
8
9 3. Risk disrupting jurisdiction and venue. Petitioner's motion to reopen *in absentia* is
10 pending before the Los Angeles Immigration Court, which has proper venue based on
11 her last hearing location and her current detention. Transfer could result in disputes over
12 jurisdiction, potentially delaying or derailing adjudication of her claims.
13
14 4. Impede access to the habeas forum. This Court currently has jurisdiction over
15 Petitioner's habeas petition because she is detained in this district. A transfer would risk
16 depriving the Court of jurisdiction or creating further legal complications.
17
18 Courts in the Ninth Circuit and elsewhere have consistently recognized that transfers
19 that impair access to counsel or undermine the integrity of judicial proceedings warrant careful
20 scrutiny. In *Arevalo v. Ashcroft*, 344 F.3d 1, 14 (1st Cir. 2003), the court held that district courts
21 may issue injunctions to prevent removals or transfers that interfere with habeas jurisdiction.
22 Similarly, in *Belbacha v. Bush*, 520 F.3d 452, 458 (D.C. Cir. 2008), the court emphasized that
23 the balance of equities favors preserving a detainee's ability to access the courts and counsel
24 over speculative logistical concerns.

25 The government bears no concrete justification for moving Petitioner at this critical
26 juncture. There is no claim that continued detention at Adelanto imposes any undue burden on
27 ICE or the facility, and no exigency exists that would outweigh the substantial harm to
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1 Petitioner. By contrast, transfer would materially prejudice her ability to litigate her case,
2 exercise her constitutional rights, and maintain access to her attorney and family.

3 Accordingly, the balance of equities strongly favors maintaining Petitioner at Adelanto
4 until the Court has resolved her motion to reopen and her habeas petition. This narrow request is
5 necessary to ensure fairness, protect constitutional rights, and avoid irreparable harm.
6

7 **C. Public Interest Supports Preserving Access to Counsel and Judicial Review**

8 The public has a strong and compelling interest in ensuring that immigration detainees
9 retain meaningful access to counsel and the courts. These are not abstract or discretionary
10 concerns — they are core constitutional principles. Due process requires that individuals subject
11 to government detention have the ability to consult with counsel, prepare their cases, and
12 challenge the lawfulness of their detention. Transfer of a detainee in a manner that undermines
13 these rights would erode public confidence in the fairness and legitimacy of the immigration
14 system.
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16 As the Supreme Court recognized in *Nken v. Holder*, 556 U.S. 418, 436 (2009), “[t]here
17 is always a public interest in prompt execution of removal orders, but there is also a public
18 interest in ensuring that statutory and constitutional rights are not wrongly denied.” This Court
19 has an obligation to weigh both interests — and here, the public interest strongly supports
20 preserving the status quo to protect those rights while the legal process runs its course.
21

22 Meaningful access to counsel and the courts is especially critical in immigration
23 proceedings. The ability to confer in person with counsel is often essential to developing legal
24 strategy, reviewing confidential documents, preparing filings, and responding to procedural
25 developments. When a detainee is transferred to another facility, particularly one in a different
26 state, these protections are significantly diminished. The practical consequence is that the
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1 detainee's ability to participate effectively in her own defense is compromised, potentially
2 depriving her of a fair hearing.

3 Here, Petitioner's motion to reopen *in absentia* is pending before the Los Angeles
4 Immigration Court, which has proper venue for her case. This Court also retains jurisdiction
5 over the habeas petition so long as she remains within the District. Transfer to another
6 jurisdiction would risk disrupting both proceedings, delaying review of her claims, and
7 potentially extinguishing her ability to obtain meaningful relief. Such a result would undermine
8 not only Petitioner's rights but also the public interest in orderly and efficient judicial review of
9 immigration cases.
10

11 Moreover, the public has an interest in ensuring that the immigration system treats all
12 individuals with dignity and fairness. Transferring a detainee away from her family, legal
13 counsel, and the court without a compelling justification is contrary to those principles and risks
14 inflicting unnecessary harm. Courts have consistently recognized that maintaining access to
15 counsel and the courts is an important public interest justifying injunctive relief. See *Frailhat v.*
16 *U.S. Immigration & Customs Enf't*, 16 F.4th 613, 636 (9th Cir. 2021) ("The public interest
17 favors preventing irreparable harm to noncitizens and protecting their constitutional rights").
18

19 Accordingly, the public interest strongly supports granting a temporary restraining order
20 to prevent Petitioner's transfer out of Otay Mesa. Such relief would preserve her ability to
21 access her attorney and the court, safeguard due process, and ensure that judicial review
22 proceeds without unnecessary disruption.
23

24 25 **III. CONCLUSION**

26 For the foregoing reasons, Petitioner has clearly satisfied the standard for a temporary
27 restraining order. She has demonstrated a likelihood of success on the merits of her claims as
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1 well as of the TRO that her transfer would violate her constitutional rights to due process and
2 access to counsel, as well as her ability to obtain meaningful judicial review. She faces
3 immediate and irreparable harm if transferred, including loss of access to her attorney,
4 disruption of her pending motion to reopen *in absentia* before the Los Angeles Immigration
5 Court, separation from her family, and the risk of jurisdictional complications. The balance of
6 equities strongly favors maintaining the status quo by preserving her detention at Otay Mesa
7 while her legal matters proceed. Finally, the public interest is best served by ensuring that
8 detainees have meaningful access to counsel and the courts, and that the integrity of judicial
9 review is preserved. Accordingly, this Court should grant Petitioner's motion for a temporary
10 restraining order and enjoin Respondents from transferring her to another detention facility
11 pending resolution of her habeas petition and motion to reopen.
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14 Date: October 6, 2025

15 Respectfully submitted,
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