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Law student intern appearing pursuant to 8 C.F.R. 1292.1(a)(2)

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

KARLA PAOLA PAREDES CHUMBIRIZO

Case No.

Petitioner,

vs.

MOISES BECERRA, Field Office Director,
ICE/San Francisco;

LEANNA LUNDY Warden, California City
ICE Processing Center;

KRISTI NOEM, Secretary of Homeland
Security;

PAMELA BONDI, Attorney General of the
United States

Respondents.

**EMERGENCY APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER FOR IMMEDIATE
RELEASE UNDER FED. R. CIV. P. 65(b)**

I. INTRODUCTION AND NATURE OF EMERGENCY

Petitioner **Karla Paola Paredes Chumbirizo** respectfully applies for an **emergency Temporary Restraining Order and immediate release** because she faces **ongoing and irreparable physical harm** while being unlawfully detained without due process.

Petitioner is a **medically vulnerable civil detainee** with a documented orthopedic disability involving prior ankle and foot surgery with implanted metal hardware. Despite clear notice of her condition, ICE placed her in an **upper bunk**, causing her to **fall and re-injure her surgically repaired foot**. ICE then delayed medical care, delayed pain management, and delayed accommodation, subjecting her to unnecessary suffering and risk of permanent injury.

At the same time, Petitioner has been detained **without a bond hearing, without a Master Calendar Hearing, and without any meaningful opportunity to be heard**, even though she is **bond-eligible under INA § 236(a)** and poses **no danger and no flight risk**.

This is not a speculative injury. The harm has already occurred and is continuing. **Immediate judicial intervention is required.**

II. EX PARTE RELIEF IS WARRANTED (RULE 65(b))

Under **Rule 65(b)(1)**, a court may issue a TRO without notice where:

1. **Immediate and irreparable injury** will occur before the opposing party can be heard; and
2. Counsel certifies efforts to provide notice or explains why notice should not be required.

A. Immediate and Irreparable Harm Exists

Petitioner is currently detained in conditions that have already caused **physical injury** and continue to pose a serious risk of **worsening orthopedic damage**, chronic pain, and permanent impairment.

Courts consistently hold that:

- Physical injury, pain, and medical deterioration constitute **irreparable harm**
- Constitutional violations themselves constitute irreparable injury

See *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012); *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

B. Notice Is Impracticable

ICE has:

- Failed to respond to repeated medical requests
- Failed to respond to custody advocacy
- Failed to provide any hearing date

Further delay to await ICE's response would **expose Petitioner to further injury**. Notice would therefore defeat the purpose of emergency relief.

III. FACTUAL BACKGROUND (EXPANDED)

A. Petitioner Is a Civil Detainee With Strong Equities

Petitioner is detained under INA § 236(a). She:

- Has no criminal history
- Is not subject to mandatory detention
- Is not an arriving alien
- Has extensive family and community ties
- Has a financially stable U.S.-based sponsor willing to house and supervise her

Petitioner's detention is purely civil and regulatory. It cannot be punitive.

Wong Wing v. United States, 163 U.S. 228, 237 (1896).

B. Petitioner's Serious Medical Condition Was Known to ICE

Prior to and during detention, ICE was placed on notice that Petitioner:

- Suffered multiple fractures to her foot and ankle
- Underwent surgery with metal hardware implantation
- Suffers chronic pain, swelling, and limited mobility
- Requires accommodation to avoid re-injury

Despite this, ICE failed to implement basic safety measures.

C. ICE's Actions Directly Caused Physical Injury

ICE assigned Petitioner to an **upper bunk**, ignoring her documented disability.

As a direct result:

- Petitioner **fell from the bunk**
- Re-injured her surgically repaired foot
- Experienced severe swelling, pain, and difficulty walking
- Requested medical assistance and accommodation

ICE:

- Delayed medical evaluation
- Delayed pain medication

- Delayed reassignment to a lower bunk
- Subjected Petitioner to avoidable pain and humiliation

This conduct constitutes **deliberate indifference** under Ninth Circuit law.

D. Total Absence of Due Process

Petitioner has:

- Never received a Master Calendar Hearing
- Never received a bond hearing
- Had a bond request accepted with no hearing scheduled
- Received no response to parole or medical requests

She remains in **procedural limbo**, detained indefinitely without judicial review.

IV. LEGAL STANDARD FOR TRO

A TRO is warranted where the moving party shows:

1. Likelihood of success on the merits
2. Likelihood of irreparable harm
3. Balance of equities tips in her favor
4. Injunction is in the public interest

Winter v. NRDC, 555 U.S. 7, 20 (2008).

In constitutional cases, these factors are often satisfied simultaneously.

IV. ARGUMENT

A. Petitioner Is Likely to Succeed on the Merits

1. Prolonged § 236(a) Detention Without Hearing Violates Due Process

Civil immigration detention must bear a reasonable relation to its purpose.

Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

The Ninth Circuit requires **individualized custody review**.

Hernandez v. Sessions, 872 F.3d 976, 990 (9th Cir. 2017).

Petitioner has received **no custody review whatsoever**.

2. Petitioner Is Statutorily Bond-Eligible

Under INA § 236(a) and *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006), Petitioner is entitled to a bond hearing.

Any reliance on *Matter of Hurtado* would be legally erroneous, as that decision applies **only to arriving aliens**.

3. Medical Neglect Violates the Fifth Amendment

Civil detainees are entitled to reasonable medical care.

Gordon v. County of Orange, 888 F.3d 1118, 1124–25 (9th Cir. 2018).

ICE’s conduct—ignoring known disability, assigning an upper bunk, delaying treatment—meets the standard for unconstitutional conditions of confinement.

B. Petitioner Faces Ongoing Irreparable Harm

- Physical pain and worsening injury
- Risk of permanent orthopedic damage
- Psychological trauma
- Continued unconstitutional detention

Courts routinely find irreparable harm where medical needs are unmet.

See *Jones v. Blanas*, 393 F.3d 918, 933 (9th Cir. 2004).

C. Balance of Equities Decisively Favors Petitioner

Petitioner:

- Is non-violent
- Is medically vulnerable
- Has strong supervision available
- Has already suffered injury

The government’s interest in continued detention is minimal.

Release—or at minimum removal from harmful conditions—poses no risk.

D. The Public Interest Favors Immediate Relief

The public has a strong interest in:

- Preventing unconstitutional detention
- Ensuring humane treatment of detainees
- Upholding due process

Melendres, 695 F.3d at 1002.

V. REQUESTED EMERGENCY RELIEF

Petitioner respectfully requests that the Court **immediately**:

1. **Order Petitioner's release from ICE custody**, pending resolution of her habeas petition; **or**, in the alternative
2. Order ICE to provide:
 - o Immediate release to a medically safe environment; or
 - o Immediate transfer to appropriate medical care outside detention;
3. Order ICE to cease detaining Petitioner absent a bond hearing within **7 days**;
4. Grant any other relief the Court deems just and proper.

VI. CONCLUSION

Petitioner is a medically vulnerable civil detainee who has already been physically injured due to ICE's failures and who remains detained without process. The Constitution does not permit continued inaction.

Emergency relief is necessary now.

Respectfully submitted,

Date: December 15, 2025

/s/RobertG.Cummings
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Case No.

**MEMORANDUM OF POINTS AND
AUTHORITIES**
IN SUPPORT OF EMERGENCY
APPLICATION FOR TEMPORARY
RESTRAINING ORDER
AND ORDER FOR IMMEDIATE RELEASE

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF EMERGENCY APPLICATION FOR TEMPORARY RESTRAINING
ORDER AND ORDER FOR IMMEDIATE RELEASE

I. INTRODUCTION

This case presents an **extraordinary convergence of constitutional violations** requiring immediate judicial intervention. Petitioner **Karla Paola Paredes Chumbirizo** is a **medically vulnerable civil detainee** who has been:

1. Detained under **INA § 236(a)** without a bond hearing;
2. Denied even a **Master Calendar Hearing**;
3. Subjected to **constitutionally deficient medical care**; and
4. **Physically injured in ICE custody** as a direct result of the government's deliberate indifference.

Despite documented orthopedic disabilities—including prior ankle and foot surgery with implanted metal hardware—ICE placed Petitioner in an **upper bunk**, causing her to **fall and re-injure her surgically repaired foot**. ICE then delayed medical evaluation, delayed pain management, and delayed accommodation, exposing Petitioner to **ongoing pain and risk of permanent injury**.

At the same time, ICE and EOIR have **completely failed to provide procedural process**. Petitioner remains detained in a **legal vacuum**, with no bond hearing, no immigration court hearing, no meaningful response from ICE, and no administrative remedy capable of preventing further harm.

Under settled Supreme Court and Ninth Circuit law, this combination of **unlawful detention, medical neglect, and procedural deprivation** satisfies every element required for emergency relief under **Rule 65(b)**.

II. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDER

A temporary restraining order is warranted where the moving party demonstrates:

1. A likelihood of success on the merits;
2. A likelihood of irreparable harm absent relief;
3. That the balance of equities tips in her favor; and
4. That an injunction is in the public interest.

Winter v. Nat. Res. Def. Council, 555 U.S. 7, 20 (2008).

In the Ninth Circuit, these elements are evaluated on a **sliding scale**, such that “serious questions going to the merits” combined with a balance of hardships sharply favoring the movant can justify relief. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011).

Where constitutional violations are alleged, the standards for irreparable harm and public interest are often satisfied simultaneously. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

III. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS

A. Prolonged Civil Immigration Detention Without Process Violates Due Process

Immigration detention is **civil, not punitive**. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896). As such, it must bear a **reasonable relation to its regulatory purpose**. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

The Ninth Circuit has made clear that **prolonged detention under INA § 236(a)** without individualized custody review violates due process. *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017). Even shorter periods of detention become unconstitutional where the detainee is denied a meaningful opportunity to be heard. *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011).

Here, Petitioner has received:

- **No bond hearing**
- **No Master Calendar Hearing**
- **No custody redetermination of any kind**

This complete denial of process alone establishes a strong likelihood of success on the merits.

B. Petitioner Is Statutorily Bond-Eligible Under INA § 236(a)

Petitioner is detained under **INA § 236(a)**, which expressly authorizes release on bond or conditional parole. Entry without inspection does **not** eliminate bond eligibility. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

Any reliance on *Matter of Hurtado* is misplaced. That decision applies **only to arriving aliens**, not to noncitizens detained after entry. Courts routinely reject ICE's attempt to expand *Hurtado* beyond its narrow holding.

Thus, ICE's failure to provide a bond hearing is not only unconstitutional—it is **statutorily unlawful**.

C. Denial of a Master Calendar Hearing Violates Fundamental Due Process

The Fifth Amendment guarantees noncitizens the right to a **meaningful opportunity to be heard**. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

By failing to provide even an initial Master Calendar Hearing, the government has deprived Petitioner of:

- The ability to plead to charges;
- The ability to seek relief;
- The ability to challenge custody;
- Any judicial oversight whatsoever.

Detention without access to the immigration court constitutes a **structural due process violation** warranting habeas relief. *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 565–66 (9th Cir. 1990).

D. ICE's Medical Neglect Violates the Fifth Amendment

Civil detainees are entitled to **reasonable medical care** and protection from deliberate indifference. *Gordon v. County of Orange*, 888 F.3d 1118, 1124–25 (9th Cir. 2018).

ICE knew or should have known that Petitioner:

- Had a surgically repaired ankle and foot;
- Had implanted metal hardware;
- Had limited mobility and chronic pain.

Despite this knowledge, ICE:

- Assigned her to an upper bunk;
- Failed to provide accommodation;
- Caused foreseeable injury;
- Delayed medical care and pain management after the injury.

This conduct satisfies the Ninth Circuit's standard for unconstitutional conditions of confinement. See *Jones v. Blanas*, 393 F.3d 918, 933 (9th Cir. 2004) (civil detainees may not be subjected to conditions amounting to punishment).

IV. PETITIONER FACES ONGOING IRREPARABLE HARM

A. Physical Injury and Medical Deterioration Constitute Irreparable Harm

Courts consistently hold that:

- Physical pain,
- Risk of permanent injury,
- Worsening medical conditions

constitute irreparable harm. *M.R. v. Dreyfus*, 697 F.3d 706, 733 (9th Cir. 2012).

Petitioner has already suffered a fall, reinjury, swelling, and pain. Continued detention exposes her to **further injury and permanent impairment**.

B. Constitutional Violations Are Per Se Irreparable

The loss of constitutional rights, even temporarily, constitutes irreparable harm. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

Petitioner continues to suffer:

- Unlawful detention;
- Denial of access to court;
- Medical neglect.

Each day of continued detention compounds the harm.

V. THE BALANCE OF EQUITIES SHARPLY FAVORS PETITIONER

Petitioner:

- Is non-violent;
- Has no criminal history;
- Has strong family and financial support;
- Is medically vulnerable;

- Has already been injured in custody.

By contrast, the government's interest in continued detention is minimal and speculative. Release poses **no danger and no flight risk**, particularly where alternatives to detention are available.

When weighed against physical injury and constitutional harm, the equities overwhelmingly favor Petitioner. *Rodriguez v. Robbins*, 715 F.3d 1127, 1144 (9th Cir. 2013).

VI. THE PUBLIC INTEREST FAVORS IMMEDIATE RELIEF

The public has a profound interest in:

- Ensuring compliance with the Constitution;
- Preventing arbitrary detention;
- Protecting medically vulnerable detainees;
- Maintaining the integrity of the judicial process.

Courts repeatedly recognize that “it is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres*, 695 F.3d at 1002.

VII. EX PARTE RELIEF IS WARRANTED UNDER RULE 65(b)

ICE’s repeated non-responsiveness, combined with ongoing medical risk, makes notice impracticable. Delay would expose Petitioner to further injury. Courts routinely grant ex parte relief in detention cases involving imminent medical harm. See *Doe v. Kelly*, 878 F.3d 710, 728 (9th Cir. 2017).

VIII. CONCLUSION

Petitioner is a **civil detainee**, not a criminal. She has been detained without hearings, without medical protection, and without due process. She has already been injured as a result of ICE’s deliberate indifference.

The Constitution does not permit continued inaction.

For these reasons, the Court should **grant the Emergency TRO and order Petitioner's immediate release**, or, at minimum, order her removal from harmful detention conditions pending resolution of her habeas petition.

Respectfully submitted,

Date: December 16, 2025

/S/RobertG.Cummings
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