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DETAINED

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

KARLA PAOLA PAREDES CHUMBIRIZO

Petitioner,

vs.

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

LEANNA LUNDY Warden, Mesa Verde ICE
Processing Center;

KRISTI NOEM, Secretary of Homeland
Security;

PAMELA BONDI, Attorney General of the
United States

Respondents.

Case No.

**PETITIONER'S REPLY IN SUPPORT
OF EMERGENCY APPLICATION
FOR TEMPORARY RESTRAINING
ORDER AND PETITION FOR WRIT
OF HABEAS CORPUS**

I. INTRODUCTION

Respondents' opposition rests on a **single incorrect premise** that Petitioner is subject to mandatory detention under **8 U.S.C. § 1225(b)** and **fails to address the core facts driving this emergency**: (1) Petitioner is detained without any bond hearing or Immigration Judge assigned; (2) the government **misstates the record** regarding her length of residence and pending relief; and (3) Respondents **do not dispute the medical injury and delayed care** that constitute irreparable harm.

Because Respondents' legal theory is wrong and their factual omissions are dispositive, the Court should grant the requested emergency relief.

II. RESPONDENTS MISCLASSIFY THE GOVERNING DETENTION STATUTE

Respondents assert that Petitioner is an "applicant for admission" subject to § 1225(b) mandatory detention. That assertion is **incorrect as a matter of Ninth Circuit law** and contradicted by the record.

Once a noncitizen has been **released into the interior** and later **re-detained**, the governing statute is **INA § 236 (8 U.S.C. § 1226)**, not § 1225. *Prieto-Romero v. Clark*, 534 F.3d 1053, 1059–60 (9th Cir. 2008); *Casas-Castrillon v. DHS*, 535 F.3d 942, 948 (9th Cir. 2008). Section 1226(a) detainees are **bond-eligible** and entitled to an individualized custody determination. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

Respondents' reliance on non-binding district court decisions does not overcome controlling Ninth Circuit authority—particularly where those cases did not involve a prior release into the interior, a complete absence of EOIR process, or detention-caused physical injury.

III. RESPONDENTS MISSTATE PETITIONER'S LENGTH OF PRESENCE AND IGNORE THE EOIR RECORD

Respondents suggest Petitioner has been present in the United States for "approximately one year." That statement is **flatly contradicted by the exhibits already before the Court**.

- **Exhibit 3 (TRO)** is the **EOIR docket**, confirming that Petitioner's case was **docketed on May 30, 2022**.
- **Exhibit 9 (TRO)** is Petitioner's **Form I-589**, confirming asylum was **filed on December 15, 2022**.

Accordingly, Petitioner has been **continuously present for more than three and a half years**, not "approximately one year." This misstatement improperly minimizes Petitioner's equities and community ties—factors that are directly relevant to custody and due process analysis. *Matter of Guerra*, 24 I&N Dec. at 40.

IV. RESPONDENTS IGNORE PENDING RELIEF AND IMMEDIATE-RELATIVE EQUITIES

Respondents further imply that Petitioner lacks viable relief, an implication belied by the record. Petitioner has a **U.S. citizen mother**, rendering her **statutorily eligible for immigration relief as an immediate relative**. While the merits of relief are not before this Court, **eligibility for relief materially reduces any alleged flight risk** and is a relevant consideration in custody determinations. *Matter of Guerra*, 24 I&N Dec. at 40.

Respondents' silence on these equities further underscores the inadequacy of their opposition.

V. RESPONDENTS DO NOT DISPUTE THE MEDICAL INJURY OR IRREPARABLE HARM

Critically, Respondents **do not address let alone rebut any of the medical evidence** submitted with Petitioner's emergency application. They do not dispute that:

- Petitioner has a **documented orthopedic condition**;
- ICE assigned her to an **upper bunk** despite that condition;
- She **fell and re-injured her surgically repaired foot**; and
- **Medical evaluation and accommodation were delayed**.

Where the government fails to controvert evidence of medical harm, the Court may treat such facts as undisputed for purposes of emergency relief. *Gordon v. County of Orange*, 888 F.3d 1118, 1124–25 (9th Cir. 2018); *Jones v. Blanas*, 393 F.3d 918, 933 (9th Cir. 2004). Physical injury and the loss of constitutional rights constitute **irreparable harm as a matter of law**. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

VI. THE TRO STANDARD IS SATISFIED

Respondents do not meaningfully contest the **Winter** factors. On this record:

1. **Likelihood of Success**: Prolonged detention under § 1226 without a bond hearing violates due process. *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017).
2. **Irreparable Harm**: Undisputed physical injury and ongoing medical risk.
3. **Balance of Equities**: Petitioner is non-violent, medically vulnerable, and supported by U.S. citizen family.

4. **Public Interest:** Preventing unconstitutional detention and medical neglect. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

VII. CONCLUSION

Respondents' opposition misstates the governing law, mischaracterizes the factual record, and ignores undisputed medical harm. Because Petitioner has shown a clear entitlement to emergency relief, the Court should **grant the TRO and order immediate release**, or, at minimum, order a **prompt bond hearing and immediate medical accommodation**.

Dated: **December 18, 2025**

Respectfully submitted,

/S/RobertG.Cummings
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