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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JENIFER NOHELIA HERNANDEZ LOPEZ,

Petitioner,

v.

SERGIO ALBARRAN, ET AL.,¹

Respondents.

CASE NO. 1:25-CV-01890-DAD-SCR

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

Oral Argument Waived

Petitioner Jenifer Nohelia Hernandez Lopez's re-detention is authorized by applicable re-detention regulations, with changed circumstances due to her failure to timely file for asylum. Under 8 C.F.R. § 241.13(i)(2), respondents must show a change in circumstances such that there is a "significant likelihood that petitioner may be removed in the reasonably foreseeable future." *See Escalante v. Noem, et al.*, Case No. 9:25-cv-00182-MJT, 2025 WL 2206113 at *3 (E.D. Tex. Aug. 2, 2025). Petitioner states in her Memorandum of Points and Authorities in Support of her Motion for a Temporary Restraining Order² she was detained upon entry to the United States in June 2023 when she entered "intending to

¹ Respondent moves to strike and to dismiss all unlawfully named officials under § 2241. A petitioner seeking habeas corpus relief is limited to name only the officer having custody of him as the respondent to the petition. 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024) (holding, that the warden of the private detention facility at which a non-citizen alien was held was the proper § 2241 respondent). Here, Petitioner's custodian is an administrator at the Golden State Annex in McFarland, California.

² Without cause, Petitioner also failed to serve a copy of their motion for temporary restraining order to respondents' counsel when they filed the motion on the afternoon on December 16, 2025. It was not until after the Court's minute order on December 17, 2025, that petitioner served a copy of the TRO motion. Petitioners also failed to provide the alien file number or any identifiers beyond her name,

1 seek asylum.” ECF No. 2, Attachment 1 at 2-3. She admits that she received a Notice to Appear for
2 removal proceedings in the San Francisco Immigration Court. *Id.* Under 8 C.F.R. §208.4(a)(2),
3 Petitioner needed to file her application within one year of arrival in the United States or prove that she
4 qualifies for a one-year extension to the asylum filing deadline. Failures to meet the filing deadlines for
5 asylum can result in prospective asylum applicants being issued Notices to Appear and being placed in
6 immigration proceedings for removal. *See Al Ramahi v. Holder*, 725 F.3d 1133, 1136 (9th Cir. 2013)
7 (holding that asylum applicants who applied two years after arrival in the United States did not timely
8 file for asylum, where late-filing petitioners were issued Notices to Appear and were placed in removal
9 proceedings upon rejection of their asylum applications for untimely filing).

10 Petitioner needed to file her application for asylum by June 2024 at the latest. Petitioner
11 concedes that she has not done so. In Petitioner’s Memorandum of Points, she states that she currently
12 “intends to apply for asylum in the United States.” ECF No. 2, Attachment 1 at 3. Like the petitioners in
13 *Al Ramahi*, it has now been over two years since she has entered the United States. Failing to file a
14 timely asylum petition is a material change in Petitioner’s circumstances. When she was initially
15 paroled, she intended to apply for asylum, and now she cannot apply due to her missing the statutory
16 deadline. Petitioner has not made any showing that extraordinary circumstances justified her failure to
17 meet the asylum filing deadline. Petitioner also has not demonstrated that she has another pathway
18 toward legal admission in the United States. This foreclosure of a path to legal status – the one Petitioner
19 said she intended to follow when she first arrived in the United States – by Petitioner’s own failure to
20 meet the filing deadline is a change in Petitioner’s circumstances over the course of her parole that
21 significantly increases the likelihood that she be removed in the future.

22 Petitioner was released under an Order of Release on Recognizance (“OREC”). *See Matter of*
23 *Cabrera-Fernandez, et al.*, 28 I&N Dec. 747 (BIA 2023) (explaining OREC and conditional parole
24 under INA § 236(a)(2)(B); 8 U.S.C. § 1226(a)(2)(B)). Persons released pursuant to OREC can be re-
25 detained at any time, for any reason. *See* INA § 236(b); 8 U.S.C. § 1226(b); 8 C.F.R. 236.1(c)(9).
26 Thus, not only was Petitioner’s re-detention lawful by the plain reading of the statute and regulations, it

27 _____
28 making it challenging to compare the instant facts with those in *Perez v. Albarran*, No. 1:25-CV-01540-
DAD-CSK (HC), 2025 WL 3187578 (E.D. Cal. Nov. 14, 2025).

1 was further substantiated by Petitioner's failure to file a timely asylum application that resulted in a
2 significant and material change to her pathways to legal status.

3 For the foregoing reasons, the United States respectfully requests that the Court deny Petitioner's
4 application for a TRO and deny Petitioner's Habeas petition. The government consents to the conversion
5 of this TRO to a motion for preliminary injunction.

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7 Dated: December 18, 2025

ERIC GRANT
United States Attorney

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9 By: /s/ CALVIN LEE
10 CALVIN LEE
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