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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION
13
14

15 JENIFER NOHELIA HERNANDEZ LOPEZ,

16 Petitioner,

17 v.

18 SERGIO ALBARRAN, Field Office Director
of the San Francisco Immigration and Customs
19 Enforcement Office; CHRISTOPHER
CHESTNUT, Warden of the California City
20 Detention Facility, KRISTI NOEM, Secretary
of the United States Department of Homeland
21 Security; TODD LYONS, Acting Director of
United States Immigration and Customs
22 Enforcement; PAMELA BONDI, Attorney
General of the United States, acting in their
23 official capacities,

24 Respondents.
25

Case No. 1:25-cv-01890-DAD-SCR

**PETITIONER'S REPLY IN SUPPORT
OF EX PARTE MOTION FOR
TEMPORARY RESTRAINING ORDER**

26 Petitioner Jenifer Nohelia Hernandez Lopez ("Mrs. Hernandez Lopez" or "Petitioner")
27 offers this brief reply to Respondents' arguments in opposition to her *ex parte* motion for
28 temporary restraining order. Respondents argue that Mrs. Hernandez is properly re-detained

1 because of a change in circumstances. Respondents do not explain how anything has changed to
 2 make Mrs. Hernandez Lopez a danger or flight risk.

3 Respondents rely solely on *Escalante v. Noem, et al.*, Case No. 9:25-cv-00182-MJT,
 4 2025 WL 2206113 at *3 (E.D. Tex. Aug. 2, 2025) [*“Escalante”*] for the proposition that Mrs.
 5 Hernandez Lopez may be re-detained because there is a “significant likelihood that petitioner
 6 may be removed in the reasonably foreseeable future.” ECF 9, 1:18-19. To support this claim,
 7 Respondents contend that her failure to file for asylum within one year of entry creates a
 8 significant likelihood that she may be removed in the foreseeable future. *Id.*, 1:16-17. And that
 9 Mrs. Hernandez Lopez “cannot apply [for asylum] due to her missing the statutory deadline.”
 10 *Id.*, 2:15-16.

11 According to *Escalante*, “upon revocation of supervised release, it is the Service’s
 12 burden to show a significant likelihood that the alien may be removed.” *Escalante*, at *3. In
 13 granting habeas relief in *Escalante*, the court found the petitioner could avoid deportation
 14 because he “**may** succeed on his reasonable fear claim.” *Id.*, at *4 (emphasis added). “A remote
 15 possibility of an eventual removal is not analogous to a significant likelihood that removal will
 16 occur in the reasonably foreseeable future.” *Id.*, (internal citation omitted.) Here, Respondents
 17 fail to meet this burden because, like the petitioner in *Escalante*, Mrs. Hernandez Lopez’s
 18 potential for legal status allowing her to remain in the United States has not been foreclosed.

19 There are *many* exceptions to the one-year filing requirement. “There is a statutory
 20 exception to this one-year filing deadline: an alien may file a late application by demonstrating
 21 to the satisfaction of the Attorney General either (1) “the existence of changed circumstances
 22 which materially affect the applicant’s eligibility for asylum” or (2) “extraordinary
 23 circumstances relating to the delay in filing.” *Al Ramahi v. Holder*, 725 F.3d 1133, 1135 (9th
 24 Cir. 2013) (citing 8 U.S.C. § 1158(a)(2)(D)).¹ Here, whether those exceptions apply to Mrs.
 25 Hernandez Lopez’s forthcoming asylum application are questions to be adjudicated when her
 26 asylum application is filed. Mrs. Hernandez Lopez may still be granted asylum (or may remain
 27 in the country through some other statutory provision), and Respondents have failed to meet

28 ¹ Of note, this is the very case Respondents rely upon.

1 their burden to prove otherwise. Of course, none of this has anything to do with whether Ms.
2 Hernandez Lopez (a young mother) is a flight risk or danger such that she should go through
3 this process while confined in a former facility of the California Department of Corrections and
4 Rehabilitation (a repurposed prison).

5 On this record, there appear to be no reasons to distinguish this case from others the
6 Court has ruled on. On December 17, 2015, the Court issued a minute order stating in relevant
7 part, that the Respondents opposition “shall substantively address whether any provision of law
8 or fact in this case would distinguish it from this court's decision in *Perez v. Albarran*, No. 1:25-
9 CV-01540-DAD-CSK (HC), 2025 WL 3187578 (E.D. Cal. Nov. 14, 2025), and other similar
10 cases previously decided by this court, or otherwise indicate that the matter is not substantively
11 distinguishable.” ECF 5. If the Government did not have time to fully investigate prior to
12 responding to the TRO,² the reason for the press of business is the Government’s ongoing, daily
13 unconstitutional practice of re-detaining people without notice, hearing, or *material* change in
14 circumstances.

15 For the foregoing reasons, Petitioner respectfully requests the Court grant Mrs.
16 Hernandez Lopez’s ex parte motion for a temporary restraining order.

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18 DATED: December 19, 2025

STOEL RIVES LLP

19 /s/ Matthew D. Segal

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27 ² Contrary to Respondents contentions (ECF 9, p.1, n. 2), Respondents were provided with Mrs.
28 Hernandez Lopez’s alien registration number and the ex parte motion at 4:14 PM on December
16, 2025. Declaration of Corey M. Day in Support of Reply, ¶ 3-5, Ex. A.