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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Monica Liliana ROBLES RODRIGUEZ,

Petitioner,

v.

Todd M. LYONS, Acting Director,
Immigration and Customs Enforcement; Brian
ACUNA, Acting Field Office Director of
Enforcement and Removal Operations, New
Orleans; Sergio ALBARRAN, Field Office
Director of Enforcement and Removal
Operations, San Francisco Field Office, U.S.
Immigration and Customs Enforcement; Kristi
NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
Attorney General of the United States;
EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW; Christopher CHESTNUT, Warden,
California City Detention Facility,

Respondents.

Case No. 1:25-CV-02001-KES-BAM

**PETITIONER'S REPLY TO
RESPONDENTS' OPPOSITION TO
PETITIONER'S EX PARTE MOTION
FOR TEMPORARY RESTRAINING
ORDER**

PETITIONER'S DHS NUMBER:



On January 22, 2026, Respondents submitted a statement from Supervisory Detention and Deportation Officer of ICE, Rigoberto Gilbert, attesting that the bottom portion of Form I-860, Notice and Order of Expedited Removal, is not completed or signed until the expedited removal is executed, meaning the noncitizen is physically removed from the United States.

In more than one case represented by undersigned counsel, however, the bottom portion of Form I-860 has been completed and signed even though the noncitizens remained physically present in the United States and the expedited removal orders had not been executed.

Petitioner contends that she is not subject to expedited removal or mandatory detention under 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) because her Form I-860 demonstrates that ICE failed to properly execute the form. Specifically, ICE did not sign the form, did not obtain supervisory concurrence, and did not sign to confirm that ICE personally served Petitioner with the expedited removal order.

Under 8 C.F.R. § 235.3(b)(2)(i):

...The examining immigration officer shall advise the alien of the charges against him or her on Form I-860, Notice and Order of Expedited Removal, and the alien shall be given an opportunity to respond to those charges in the sworn statement. After obtaining supervisory concurrence in accordance with paragraph (b)(7) of this section, the examining immigration official shall serve the alien with Form I-860 and the alien shall sign the reverse of the form acknowledging receipt. Interpretative assistance shall be used if necessary to communicate with the alien.

8 C.F.R. § 235.3(b)(2)(i).

The regulations clearly require the examining immigration officer to obtain supervisory review of the removal order before it is entered under 8 U.S.C. § 1225(b)(1). *See* 8 C.F.R. § 235.3(b)(7). In this case, Respondents failed to comply with these regulatory requirements when issuing the expedited removal order against Petitioner.

As a result of Respondents' noncompliance with the regulations, there is no legally operative expedited removal order.

Even more troubling, Respondents attempted to execute a defective and improperly executed removal order against Petitioner, seeking to wrongfully remove her from the United States and separate her from her United States citizen spouse. Respondents' actions are egregious, and they should be enjoined from re-detaining Petitioner.

For the foregoing reasons, Petitioner respectfully request that the Court grant the motion for a temporary restraining order and order Respondents to immediately release her from custody.

DATED this 23rd day of January, 2026.

Respectfully submitted,

By: /s/Connie Chan
Connie Chan
Attorney for Petitioner