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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

SANDRA QUISPE

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.

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

Petitioner **Sandra Quispe**, by and through undersigned counsel, respectfully applies for an **Emergency Temporary Restraining Order (“TRO”) and Order for Immediate Release** pursuant to **Federal Rule of Civil Procedure 65(b)**, enjoining Respondents from removing, transferring, or otherwise altering Petitioner’s custodial status and ordering her **immediate release**, or alternatively her immediate return to this District, pending adjudication of her emergency petition for writ of habeas corpus.

This application is brought **ex parte** because **Petitioner’s whereabouts are currently unknown to counsel**, she was removed from her housing unit at approximately **6:00 a.m. on December 25, 2025**, after counsel entered representation on **December 24, 2025**, and there is a **substantial risk that ICE will complete removal before the Court can act**.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This is an extraordinary emergency warranting immediate judicial intervention.

Petitioner is a **civil immigration detainee** who was **denied access to counsel, threatened with force, physically restrained, forced to provide fingerprints without consent, ignored during a medical emergency, and then removed at 6:00 a.m. with her belongings**, without notice to counsel, **less than twelve hours after counsel formally entered representation**.

As of the time of filing, **counsel does not know where Petitioner is**, whether she remains in ICE custody, or whether she has already been placed on a removal flight. ICE has refused to disclose her location or custodial status.

Absent immediate injunctive relief, this Court's jurisdiction will be rendered meaningless.

II. FACTUAL BACKGROUND (SUMMARY)

On **December 23, 2025**, ICE officers demanded that Petitioner sign documents and provide fingerprints. Petitioner **explicitly demanded to speak with counsel**. ICE **denied her request**, threatened force, physically restrained her, twisted her arm behind her back, and forcibly obtained fingerprints without consent.

Immediately thereafter, Petitioner experienced **chest pain, dizziness, and difficulty breathing**. Officers dismissed her condition until other detainees intervened.

On **December 24, 2025**, undersigned counsel **emailed ICE to formally enter representation**, attached a **Form G-28**, and directed ICE to **cease all direct contact** with Petitioner absent counsel authorization.

At approximately **6:00 a.m. on December 25, 2025**, ICE **removed Petitioner from her housing unit**, instructed her to **take all of her belongings**, and transferred her **without notice to counsel**.

Petitioner's **current whereabouts are unknown**.

III. LEGAL STANDARD

A TRO may issue where the movant 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 the movant's favor; and

4. That an injunction is in the public interest.

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

Ex parte relief is appropriate where notice would itself risk irreparable harm.

Fed. R. Civ. P. 65(b).

IV. ARGUMENT

A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS

1. Civil Immigration Detention Is Subject to Constitutional Limits

Immigration detention is civil and non-punitive.

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

Detention accompanied by **coercion, force, denial of counsel, and secrecy** exceeds constitutional authority.

2. ICE Intentionally Interfered With Petitioner's Right to Counsel

Petitioner **explicitly demanded counsel** and was denied. ICE then proceeded with coercive custodial actions and later removed her without notice to counsel.

Intentional interference with access to counsel violates due process.

Orantes-Hernandez v. Thornburgh, 919 F.2d 549, 565–66 (9th Cir. 1990).

3. ICE Used Excessive Force Against a Civil Detainee

Use of force against civil detainees must be objectively reasonable.

Kingsley v. Hendrickson, 576 U.S. 389, 396–97 (2015).

The force used here was unnecessary, punitive, and unconstitutional.

4. ICE Was Deliberately Indifferent to Serious Medical Needs

Ignoring chest pain, dizziness, and breathing difficulty constitutes deliberate indifference.

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

5. ICE's Secret Transfer Constitutes Evasion of Judicial Review

Early-morning transfers without notice to counsel—particularly after notice of impending habeas litigation—constitute irreparable constitutional injury.

Boumediene v. Bush, 553 U.S. 723, 783 (2008).

B. PETITIONER FACES IMMEDIATE AND IRREPARABLE HARM

Petitioner's whereabouts are unknown. Counsel cannot communicate with her, ensure her safety, or prevent removal. Once removed, habeas relief becomes **illusory**, and this Court's jurisdiction will be nullified.

Nken v. Holder, 556 U.S. 418, 435 (2009).

Ongoing violations of constitutional rights constitute irreparable harm per se.

Elrod v. Burns, 427 U.S. 347, 373 (1976).

C. THE BALANCE OF EQUITIES AND PUBLIC INTEREST FAVOR RELIEF

ICE suffers no legitimate harm from pausing removal or releasing a civil detainee. The public has a compelling interest in preventing constitutional abuse and preserving judicial review.

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

ICE has already acted **without notice** and removed Petitioner after counsel entered representation. Providing further notice risks immediate removal before the Court can act.

Fed. R. Civ. P. 65(b); Flynt Distrib. Co. v. Harvey, 734 F.2d 1389, 1394 (9th Cir. 1984).

V. REQUESTED RELIEF

Petitioner respectfully requests that the Court:

1. **Issue an immediate Temporary Restraining Order** enjoining ICE from removing or transferring Petitioner;
2. **Order Respondents to immediately disclose Petitioner's location and custodial status;**
3. **Order Petitioner's immediate release from ICE custody**, or alternatively her immediate return to this District;
4. **Bar any further contact with Petitioner absent counsel authorization;**
5. **Order preservation of all evidence;** and
6. Set an **expedited hearing** on a preliminary injunction.

Respectfully submitted,

Date: December 25, 2025

/S/RobertG.Cummings
Robert G. Cummings
Attorney for Petitioner

Gina Herrera

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

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Processing Center;

KRISTI NOEM, Secretary of Homeland
Security;

PAMELA BONDI, Attorney General of the
United States

Respondents.

Case No.

**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 emergency requiring immediate judicial intervention.

Petitioner **Sandra Quispe** is a civil immigration detainee whose **whereabouts are currently unknown to counsel** after ICE removed her from her housing unit at approximately **6:00 a.m. on December 25, 2025**, instructed her to take all of her belongings, and transferred her **without notice to counsel, less than twelve hours after counsel formally entered representation on December 24, 2025**.

This transfer occurred against the backdrop of grave constitutional violations: Petitioner was **explicitly denied access to counsel, threatened with force, physically restrained, forced to provide fingerprints without consent, and ignored during a medical emergency.**

As of the time of filing, **ICE has refused to disclose Petitioner's location, custodial status, or whether removal is imminent or already underway.** Counsel cannot communicate with Petitioner, ensure her safety, or prevent removal.

Absent immediate injunctive relief, Petitioner faces **irreparable harm**, including removal without judicial review and the complete frustration of this Court's habeas jurisdiction. An ex parte Temporary Restraining Order and Order for Immediate Release are therefore warranted.

II. FACTUAL BACKGROUND (SUMMARY)

On **December 23, 2025**, ICE officers demanded that Petitioner sign documents and provide fingerprints. Petitioner **explicitly demanded to speak with counsel** before signing or fingerprinting any document. ICE officers **affirmatively denied her request.**

When Petitioner refused to comply, ICE officers threatened that compliance would occur **"the easy way or by force."** Officers then **physically restrained her**, twisted her arm behind her back, pushed her against a desk, and **forcibly obtained fingerprints without consent.**

Immediately afterward, Petitioner experienced **chest pain, dizziness, and difficulty breathing.** Officers initially dismissed her condition until other detainees repeatedly intervened.

On **December 24, 2025**, undersigned counsel **emailed ICE Enforcement and Removal Operations to formally enter representation**, attached a **Form G-28**, and directed ICE to **cease all direct contact** with Petitioner absent counsel authorization.

At approximately **6:00 a.m. on December 25, 2025**, ICE **removed Petitioner from her housing unit**, instructed her to **take all of her belongings**, and transferred her **without notice to counsel.**

Petitioner's whereabouts are currently unknown.

III. LEGAL STANDARD

A Temporary Restraining Order may issue 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 the movant's favor; and

4. That an injunction is in the public interest.

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

Under **Federal Rule of Civil Procedure 65(b)**, a court may issue a TRO **ex parte** where immediate and irreparable injury will occur before the adverse party can be heard, and where notice would itself risk that harm.

IV. ARGUMENT

A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS

1. Civil Immigration Detention Is Subject to Strict Constitutional Limits

Immigration detention is **civil, not punitive**, and must comply with the Fifth Amendment's Due Process Clause.

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

Detention accompanied by **coercion, physical force, denial of counsel, medical neglect, and secrecy** exceeds constitutional authority and is unlawful.

2. ICE Intentionally Interfered With Petitioner's Right to Counsel

Petitioner **explicitly demanded to speak with counsel** and was denied. ICE then proceeded with coercive custodial actions and later transferred her without notice to counsel after counsel formally entered representation.

Intentional interference with access to counsel violates due process.

Orantes-Hernandez v. Thornburgh, 919 F.2d 549, 565–66 (9th Cir. 1990).

Any governmental action taken after denial of counsel—particularly under threat or force—is constitutionally infirm.

3. ICE Used Excessive Force Against a Civil Detainee

Use of force against civil detainees is governed by an **objective reasonableness** standard. *Kingsley v. Hendrickson*, 576 U.S. 389, 396–97 (2015).

Physically restraining Petitioner, twisting her arm behind her back, and forcibly obtaining fingerprints without consent was **unnecessary, punitive, and unconstitutional**.

4. ICE Was Deliberately Indifferent to Serious Medical Needs

Ignoring a detainee experiencing chest pain, dizziness, and difficulty breathing constitutes deliberate indifference.

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

Such conduct independently violates due process and supports habeas relief.

5. ICE's Secret Transfer Constitutes Evasion of Judicial Review

Early-morning transfers without notice to counsel—particularly after notice of representation and impending habeas litigation—constitute **evasion of judicial review** and irreparable constitutional injury.

Boumediene v. Bush, 553 U.S. 723, 783 (2008);

Orantes-Hernandez, 919 F.2d at 557.

B. PETITIONER FACES IMMEDIATE AND IRREPARABLE HARM

Petitioner's **whereabouts are unknown to counsel**. Counsel cannot communicate with her, ensure her safety, or prevent removal.

Once removed, habeas relief becomes **illusory**, and this Court's jurisdiction is effectively nullified.

Nken v. Holder, 556 U.S. 418, 435 (2009);

Leiva-Perez v. Holder, 640 F.3d 962, 969–70 (9th Cir. 2011).

Ongoing violations of constitutional rights—loss of liberty, denial of counsel, and physical harm—constitute irreparable injury as a matter of law.

Elrod v. Burns, 427 U.S. 347, 373 (1976).

C. THE BALANCE OF EQUITIES SHARPLY FAVORS PETITIONER

ICE suffers no cognizable harm from pausing removal or releasing a civil detainee pending judicial review. Petitioner, by contrast, faces loss of liberty, bodily harm, and permanent deprivation of constitutional rights.

D. THE PUBLIC INTEREST FAVORS IMMEDIATE RELIEF

The public has a compelling interest in ensuring that the government does not **abuse civil detainees, deny access to counsel, or evade judicial oversight**. Upholding constitutional limits on executive detention serves the public interest.

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

Ex parte relief is necessary because ICE has already acted **without notice**, transferring Petitioner early in the morning after counsel entered representation. Providing further notice would risk immediate removal before the Court can act.

Fed. R. Civ. P. 65(b); *Flynt Distrib. Co. v. Harvey*, 734 F.2d 1389, 1394 (9th Cir. 1984).

V. CONCLUSION

Petitioner has demonstrated a strong likelihood of success on the merits, immediate and irreparable harm, that the balance of equities favors relief, and that the public interest supports intervention.

Accordingly, the Court should **grant the Emergency Temporary Restraining Order and Order for Immediate Release**, enjoin ICE from removing or transferring Petitioner, compel immediate disclosure of her whereabouts, and order her immediate release pending further proceedings.

Date: December 25, 2025

/S/RobertG.Cummings
Robert G. Cummings
Attorney for Petitioner