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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
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10 JASBIR,
11 aka Jasbir, No Name
Petitioner,

Case No. **3:26-cv-00579-JES-BJW**

12 v.

**PETITIONER'S RESPONSE TO
RESPONDENTS**

13 **WARDEN**, Imperial Regional Adult Detention
14 Facility, **FIELD OFFICE DIRECTOR**, San
Diego Field Office, U.S. Immigration and
15 Customs Enforcement (ICE); **TODD M.
LYONS**, in his official capacity as Acting
16 Director of U.S. Immigration and Customs
Enforcement (ICE); **KRISTI NOEM**, in her
17 official capacity as Secretary of the U.S.
Department of Homeland Security
18 (**DHS**); **PAMELA BONDI**, in her official
capacity as Attorney General of the United
19 States,
Respondents.

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I. INTRODUCTION

Petitioner respectfully acknowledges the Court’s Order granting in part the Petition and directing Respondents to provide a bond determination hearing under 8 U.S.C. § 1226(a). While the Court’s Order affords important statutory relief, it does not adjudicate Petitioner’s independent requests for immediate release and injunctive relief based on ongoing constitutional violations, including Petitioner’s unlawful re-detention without a pre-deprivation hearing. The Order does not resolve Petitioner’s Emergency Motion for Temporary Restraining Order, which sought immediate protection from continued unlawful detention. Because Petitioner remains detained pursuant to conduct alleged to violate the Fifth Amendment, and because meaningful habeas and injunctive relief remains outstanding, the case is not moot and should remain open pending full resolution of all claims for relief.

II. RESPONDENTS’ SILENCE CONFIRMS PETITIONER’S ENTITLEMENT TO RELIEF

Respondents’ response to the Petition is remarkable not for what it argues, but for what it fails to contest. Respondents expressly concede that Petitioner is detained under 8 U.S.C. § 1226(a) and is entitled to a bond hearing.

Respondents are, however, entirely silent on two independent and dispositive grounds for relief raised in Petitioner’s filings:

- (1) Petitioner’s entitlement to temporary restraining and injunctive relief, and
- (2) the Government’s failure to provide a constitutionally required pre-deprivation hearing before re-detaining Petitioner.

1 Respondents offer no basis for denying relief. In the case at hand, where the has
2 Government failed to rebut constitutional claims raised in the habeas petition, the court should
3 treat the claims as conceded and immediately order the release of the petitioner.

4 **A. Respondents Do Not Oppose the Temporary Restraining Order**

5 Petitioner filed an Emergency Motion for Temporary Restraining Order seeking to
6 preserve this Court’s jurisdiction and prevent continued unlawful detention. Respondents’
7 response does not oppose, address, or even mention the TRO request. Respondents likewise do
8 not dispute any of the TRO factors: likelihood of success, irreparable harm, balance of equities,
9 or public interest. Their silence constitutes acquiescence.

10 Irreparable harm is self-evident in this case, that continued detention without lawful
11 process is a paradigmatic loss of liberty. Because Respondents do not contest irreparable harm,
12 the Court should grant immediate injunctive relief to prevent further unlawful custody and
13 immediately order the release of the petitioner.

14 **B. Respondents Do Not Dispute the Lack of a Pre-Deprivation Hearing**

15 Petitioner’s primary constitutional claim is that DHS re-detained her without notice and
16 without a hearing before a neutral decisionmaker, in violation of the Fifth Amendment.
17 Respondents do not deny this occurred. They do not argue that a hearing was provided. They do
18 not argue that a hearing was unnecessary. They do not cite any authority permitting warrantless,
19 hearing-less re-detention of a person previously released under INA § 236. This omission is
20 dispositive.
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22 The Supreme Court has long held that individuals previously released from custody
23 possess a protected liberty interest in continued freedom, and that the government must provide
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1 notice and a hearing before revoking that liberty absent extraordinary circumstances. *Morrissey*
2 *v. Brewer*, 408 U.S. 471, 482–88 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

3 Courts nationwide—including courts in this Circuit—have ordered immediate release
4 where DHS re-detains noncitizens without a pre-deprivation hearing. Petitioner cited numerous
5 such cases. Respondents do not attempt to distinguish them, refute them, or argue that Petitioner
6 falls outside their reasoning. Thus, because Respondents fail to rebut Petitioner’s due process
7 claim, the Court should deem it conceded and grant habeas relief on this independent
8 constitutional ground alone and immediately order the release of the petitioner.

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10 **C. A Bond Hearing in 10 Days Does Not Cure an Ongoing Constitutional Violation**

11 The Court in this matter has ordered on February 5, 2026, that a bond hearing take place
12 within ten days of the order. Petitioner does not merely seek a future bond hearing; she
13 challenges the lawfulness of her current detention. Detention that is unconstitutional at its
14 inception cannot be justified by a delayed administrative hearing when the hearing should have
15 been conducted before the deprivation of the respondent’s freedom. *Fuentes v. Shevin*, 407 U.S.
16 67, 81–82 (1972). Where detention is unlawful due to lack of due process, the court should order
17 immediate release, not delayed administrative remediation. Furthermore, Respondents’ staffing
18 concerns do not outweigh constitutional mandates.

19 **D. Imminent Merits Hearing Further Establishes Irreparable Harm and**
20 **Necessitates Immediate Release**

21 Petitioner’s irreparable harm is compounded by the imminence of her final individual
22 hearing on her asylum application, currently scheduled for February 20, 2026. That hearing will
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1 determine whether Petitioner is permitted to remain in the United States or is permanently
2 removed to a country where she fears persecution.

3 Meaningful participation in an asylum merits hearing requires substantial preparation
4 with counsel, including review of documentary evidence, witness preparation, and detailed
5 testimony practice. Continued detention severely restricts Petitioner’s ability to meet
6 confidentially with counsel, gather supporting evidence, and adequately prepare her testimony.
7 These impairments strike at the core of Petitioner’s statutory and constitutional rights to due
8 process and to a full and fair hearing.

9 As Petitioner’s final hearing is imminent, each additional day of unlawful detention
10 inflicts harm that cannot be remedied after the fact. A post hoc bond hearing ten days from now
11 would do nothing to restore lost preparation time, missed evidentiary opportunities, or
12 compromised attorney-client communication. This temporal reality further underscores why
13 immediate release—not delayed administrative process—is necessary to preserve Petitioner’s
14 constitutional rights and the integrity of the asylum adjudication itself.

15 The public interest likewise favors ensuring that asylum proceedings are decided on a
16 complete and fairly developed record, rather than one distorted by unlawful detention. Immediate
17 release is therefore necessary not only to remedy Petitioner’s ongoing deprivation of liberty, but
18 also to safeguard the fairness and legitimacy of the impending merits hearing.

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20 **II. THE COURT SHOULD GRANT THE TEMPORARY RESTRAINING ORDER OR**
21 **HABEAS CORPUS PETITION IMMEDIATELY FOR IMMEDIATE RELEASE**

22 Respondents do not oppose, address, or otherwise contest Petitioner’s Emergency Motion
23 for Temporary Restraining Order. Their silence constitutes a concession that the requirements for
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1 emergency injunctive relief are satisfied. Immediate entry of a Temporary Restraining Order is
2 required for two independent reasons.

3 First, Respondents concede that Petitioner is currently detained under 8 U.S.C. § 1226(a)
4 and is entitled to bond consideration. Continued detention without interim protection therefore
5 lacks any lawful justification. Where the Government concedes the absence of statutory authority
6 for continued detention, the court should grant immediate injunctive relief to prevent ongoing
7 constitutional harm.

8 Second, Respondents do not dispute that Petitioner was re-detained without notice and
9 without a pre-deprivation hearing before a neutral decisionmaker. The deprivation of physical
10 liberty without due process constitutes irreparable harm as a matter of law. Each additional day
11 of detention compounds that harm and independently violates the Fifth Amendment. Injunctive
12 relief cannot be delayed where the constitutional violation is ongoing.

13 Respondents' request for additional time to schedule a bond hearing does not cure the
14 present illegality of Petitioner's confinement and does not obviate the need for immediate
15 injunctive relief. A future hearing cannot retroactively legitimize detention that is unlawful
16 today.

17 Because Respondents have failed to oppose the TRO, failed to rebut irreparable harm,
18 and failed to justify continued detention, the Court should grant the Temporary Restraining
19 Order immediately or in the alternative grant Respondent's petition of habeas corpus and
20 immediately order the release of the petitioner.
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1 Respectfully submitted,

2 Dated: February 5, 2026

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/s/ Prince Girn

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