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Attorney for Petitioner

**UNITED STATES DISTRICT COURT**
**CENTRAL DISTRICT OF CALIFORNIA**

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| FRISCA INYI RAMIREZ CLAVIJO<br><br>*Petitioner*,<br><br>v.<br><br>WARDEN ADELANTO DETENTION FACILITY, ET AL.<br><br>*Respondents*. | Case No.: 5:25-cv-03203-RGK-AJR<br><br>**PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER** |

## INTRODUCTION

Petitioner, Frisca Inyi Ramirez Clavijo by and through her counsel, Alfonso Morales, hereby moves this honorable Court for a temporary restraining order enjoining the Respondents from continuing to detain her and ordering her immediate release from immigration detention. This motion is based upon Federal Rule of Civil Procedure 65.

## NOTICE TO OPPOSING PARTY

As of the date of this filing, no counsel has entered an appearance on behalf of Respondents in this matter. Accordingly, Petitioner's counsel is unable to provide notice of this application to opposing counsel.

## LEGAL STANDARD

On a motion for a TRO, the movant "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of

equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and TRO standards are "substantially identical"). A TRO may issue where "serious questions going to the merits [are] raised and the balance of hardships tips sharply in [plaintiff's] favor." All. for the *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (second alteration in original) (citation omitted). To succeed under the "serious question" test, Petitioner must also show that he is likely to suffer irreparable injury and that an injunction is in the public's interest. *Id.* at 1132

Mrs. Ramirez satisfies all of these requirements. Accordingly, as other courts have done in other immigration detention cases, this Court should use its equitable power to order his immediate release. See *Chernykh v. Valdez*, CV 16-2184-RGK, 2017 WL 3000013 (C.D. Cal. May 22, 2017) (granting immigrant detainee's motion for preliminary injunction ordering her release pending disposition of habeas corpus petition); *Seretse-Khama v. Ashcroft*, 215 F. Supp. 2d 37, 54 (D.D.C. 2002) (ordering preliminary injunction releasing immigration detainee); *Ali v. Ashcroft*, 213 F.R.D. 390, 406 (W.D. Wash. 2003) (granting injunctive relief ordering release of detainees with final removal orders), aff'd, 346 F.3d 873 (9th Cir. 2003), opinion withdrawn on denial of reh'g sub nom. *Ali v. Gonzales*, 421 F.3d 795 (9th Cir. 2005), as amended on reh'g (Oct. 20, 2005).

## ARGUMENT

### A. Petitioner Is Likely to Succeed on the Merits

Petitioner is likely to succeed on the merits of his habeas petition because Respondents are detaining her under the wrong statutory framework, depriving her of the procedural protections Congress guaranteed under § 1226(a) and violating the Due Process Clause of the Fifth Amendment.

Petitioner was arrested inside the United States, issued a Notice to Appear, and placed directly into full removal proceedings under § 1229a. Under *Jennings v. Rodriguez*, § 1226 governs the detention of individuals already present in the United States in § 240 proceedings, while § 1225(b) applies primarily to individuals seeking entry. 583 U.S. 830, 288–303 (2018). Petitioner was never inspected at a port of entry, never placed in expedited removal, and therefore cannot be subjected to § 1225(b)'s mandatory-detention scheme.

Courts addressing nearly identical facts have uniformly held that individuals arrested in the interior are detained under § 1226(a), not § 1225(b). See, e.g., *Mosqueda*, 2025 WL 2591530, at *6; *Salazar*, 2025 WL 2676729, at *4; *Buenrostro-Mendez*, 2025 WL 2886346, at *3. The Central District of California's TRO in *Maldonado Bautista v. Santacruz* confirmed this statutory framework and enjoined DHS from misclassifying interior-arrest individuals as § 1225(b) detainees. The court extended its conclusions to the broader Bond Eligible Class, which includes individuals, like Petitioner, who entered without inspection, were not apprehended at arrival, and are not otherwise subject to mandatory detention.

Respondents' misclassification has denied Petitioner the individualized bond hearing required under § 1226(a)'s discretionary structure. Prolonged detention without such a hearing raises serious due process concerns. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021). Petitioner has lived in the United States since 2022. She has strong family and community ties in the United States, including a strong connection to her parish and her children's school. She has no criminal history. She has submitted extensive evidence demonstrating she is neither a danger nor a flight risk. Had DHS followed the correct statutory framework, she would have been entitled to seek release before a neutral adjudicator.

Because Respondents lack statutory and constitutional authority to continue detaining Petitioner without a § 1226(a) bond hearing, Petitioner is very likely to succeed on the merits of her habeas petition.

**B. Petitioner Faces Immediate and Irreparable Harm**

Parties seeking a TRO must also show they are "likely to suffer irreparable harm in the absence of preliminary relief." *Winter*, 555 U.S. at 20. Irreparable harm is the type of harm for which there is "no adequate legal remedy, such as an award of damages." *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014).

First, Petitioner's health is deteriorating, and detention places her at serious risk of irreparable harm. Irreparable harm is also established where a preliminary injunction is necessary to preserve the health of someone in a detention setting. *See, e.g., Jones v. Texas Dep't of Criminal Justice*, 880 F.3d 756, 759 (5th Cir. 2018).

Here, Petitioner faces ongoing and escalating medical harm that warrants immediate injunctive relief. Since entering ICE custody, Petitioner's health has deteriorated in ways that worsen each day. [*See* Exhibit A: "Declaration of Petitioners Husband Regarding Detention Concerns"]. In detention she has suffered from "insomnia, anxiety, symptoms of depression that worsen with each passing day." *Id.* Her inability to sleep is compounded by constant anxiety about her young children's wellbeing. She is experiencing depression from being forcibly separated from her family, and uncertainty about their well-being in her absence. Prolonged detention under these conditions places Petitioner at serious risk of lasting psychological harm. These injuries are cumulative, difficult to reverse, and incapable of being fully remedied through later relief, and therefore constitute irreparable harm warranting immediate emergency intervention.

In addition, Petitioners unlawful detention constitutes "a loss of liberty that is . . . irreparable." *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (Moreno II), aff'd in part, vacated in part on other grounds, remanded sub nom. *Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir. 2022); cf. *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013) (irreparable harm is met where "preliminary injunction is necessary to ensure that individuals . . . are not needlessly detained" because they are neither a danger nor a flight risk). This is particularly true here, where Petitioners detention also violates the Constitution. Civil immigration detention violates due process outside of 'certain special and narrow nonpunitive circumstances.'" *Rodriguez v. Marin*, 909 F.3d 252, 257 (9th Cir. 2018) (citation omitted).

As detailed above, Petitioners detention falls outside those circumstances because she is detained under § 1226(a) yet has been denied the individualized custody determination that statute requires. The Due Process Clause prohibits such detention where the government has failed to provide a constitutionally adequate bond process, and the ongoing deprivation of a meaningful opportunity to seek release renders her confinement unlawful. These constitutional concerns also counsel in favor of finding that Petitioner has demonstrated irreparable harm, for she has shown that her detention violates both the statute and the Constitution. *See Baird v. Bonta*, 81 F.4th 1036, 1048 (9th Cir. 2023) (declaring that "in cases involving a constitutional claim, a likelihood of success on the merits usually establishes irreparable harm").

Detention also inflicts substantial harm on Petitioner by separating her from her family members. Absent a TRO, Petitioner has no hope of being reunited with family. Such "separation from family members" is an important irreparable harm factor. *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011) (per curiam) (citation omitted); see also, e.g., *Washington v. Trump*, 847 F.3d 1151, 1169 (9th Cir. 2017) (per curiam) (finding "separated families" to be a "substantial injur[y] and even irreparable harm[]"); cf. *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017)

(recognizing that "government-compelled [family] separation" causes family members "trauma" and "other burdens").

In sum, Petitioner is suffering numerous and irreparable harms: detention itself, separation from her family, and mental health harm. All of these circumstances warrant granting the TRO.

**C. The Balance of Equities and Public Interest Decisively Favor Granting the TRO**

The final two factors for a preliminary injunction—the balance of hardships and public interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, Petitioner faces weighty hardships: loss of liberty, separation from family, significant stress and mental health issues. The government, by contrast, faces no hardship, as all it must do is release a person who is legally entitled to release. Avoiding such "preventable human suffering" strongly tips the balance in favor of Petitioner. *Hernandez*, 872 F.3d at 996 (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

In addition, Petitioners detention "is inconsistent with federal law, . . . the balance of hardships and public interest factors weigh in favor of a preliminary injunction." *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (*Moreno I*); *see also Moreno Galvez*, 52 F.4th at 832 (affirming in part permanent injunction issued in Moreno II and quoting approvingly district judge's declaration that "it is clear that neither equity nor the public's interest are furthered by allowing violations of federal law to continue"). This is because "it would not be equitable or in the public's interest to allow the [government] . . . to violate the requirements of federal law, especially when there are no adequate remedies available." *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013) (second alteration in original) (citation omitted). Indeed, Respondents "cannot suffer harm from an injunction that merely ends an unlawful practice." *Rodriguez*, 715 F.3d at 1145. "The public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and

held in immigration detention because of . . . a likely [illegal bond] process." *Hernandez*, 872 F.3d at 996.4

The balance of equities overwhelmingly favors Petitioner. Granting relief imposes minimal burden on the Government, while denying relief exposes Petitioner to ongoing unlawful detention and escalating mental health risks. Petitioner has deep community and family ties and has no criminal history. Dozens of letters of support previously submitted with his petition confirm that Petitioner is a caring, non-dangerous individual with strong moral character. She presents no risk of flight and would have been a strong candidate for release had DHS not improperly denied her access to an individualized bond hearing under § 1226(a). In contrast, each additional day in detention threatens further deterioration of her mental health. The equities clearly weigh in Petitioner's favor.

The public interest also supports granting a TRO. The public has a strong and well-recognized interest in ensuring that immigration detention remains lawful, humane, and consistent with statutory and constitutional limits. The public interest is not served by permitting DHS to detain individuals under an improper statutory framework or to expose them to preventable mental anguish and family separation. Nor is it served by withholding the bond procedures Congress expressly established in § 1226(a). Ensuring access to due process, preventing unnecessary medical risk, and enforcing the statutory limits on civil immigration detention are all firmly aligned with public policy.

Accordingly, the balance of hardships and the public interest favor a temporary restraining order to ensure that Respondents comply with federal law and release Petitioner.

## REQUESTED RELIEF

Petitioner respectfully requests that this Court:

1. Order immediate release from ICE custody due to the combination of unlawful detention, family separation, and urgent mental health risk; or

2. In the alternative, order that Petitioner receive a bond hearing within 48 hours before a neutral adjudicator;

3. Grant any additional relief the Court deems just and proper

**CONCLUSION**

For the foregoing reasons, Petitioner requests that the Court grant temporary restraining order, enjoining Respondents from further harming Petitioner and ordering Respondents to immediately release her from ICE custody or in the alternative, order that Petitioner receive a bond hearing within 48 hours before a neutral adjudicator.

Dated this 24 day of December 2025.

Respectfully submitted,

/s/ Alfonso Morales
Alfonso Morales, Esq.
*Attorney for Frisca Inyi Ramirez Clavijo*

# INDEX IN SUPPORT OF TRO

## FRISCA INYI RAMIREZ CLAVIJO

| EXHIBIT | DESCRIPTION |
|---|---|
| A | COPY OF DECLARATION FROM PETITIONERS HUSBAND, JOSE WILSON TURRIAGO GUTIERREZ |

# EXHIBIT A

To Whom It May Concern,

With deep respect, I am writing to you to request your compassion and support in the situation my family is going through. My wife, Frisca Inyt Clavijo Ramirez, has been detained since September 23, 2025, and this separation has left a profound mark on all of us.

Frisca's absence has not only affected my life as a husband, but it has also deeply impacted our children, J[redacted] aged 13, and M[redacted] aged 11. The absence of their mother has created an emotional void, causing sadness, anxiety, and growing distress day by day.

In her separation from her family, Frisca has also suffered personally: she has experienced insomnia, anxiety, and symptoms of depression that worsen with each passing day. Every day apart from us is another challenge for her emotional and physical well-being.

Therefore, with humility and hope, we request that Frisca's release be considered, allowing for the recovery of our home's stability and harmony, and giving our children the opportunity to grow up in an emotionally healthy environment.

We deeply appreciate your understanding and support during this crucial time for our family.

With all my gratitude,

José Wilson Turriago Gutiérrez

**CERTIFICATE OF SERVICE**

I hereby certify that on December 24, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which constitutes service on all parties or counsel by electronic means as reflected on the Notice of Electronic Filing.

/s/Alfonso Morales
Alfonso Morales
*Attorney for Frisca Inyi Ramirez Clavijo*