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UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

MERI PETROSYAN,
Alien # [redacted]

Petitioner,

v.

PAMELA BONDI, in her official capacity as Attorney General,

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,

U.S. DEPARTMENT OF HOMELAND SECURITY,

F. SEMAIA, in his official capacity as Warden of Adelanto Detention Facility,

ERNESTO SANTACRUZ, JR., in his official capacity as Acting ICE Field Office Director,

Respondents.

Case No. 5:25-cv-03240-CV-AS

REPLY IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER

I. INTRODUCTION

On December 2, 2025, Meri Petrosyan (Petitioner), filed a petition for a writ of habeas corpus challenging her unlawful detention. She filed a motion for a temporary restraining order (TRO) that same day. Respondents have filed an opposition to the motion, arguing that she does not merit a TRO because her re-detention does not violate her due process rights, that she delayed too long in seeking a TRO, and that the appropriate remedy would be requesting a bond hearing under 8 U.S.C. § 1226 (a). This response follows.

II. ARGUMENT

A. Petitioner's re-detention was in violation of her substantive and procedural due process rights and is therefore unlawful.

This case involves a petitioner who was released from custody by Respondents and paroled into the United States in November 2024, and who was subsequently re-detained by Respondents 10 months later without notice or process, or the ability to contest such re-detention before a neutral arbiter. Although Petitioner is an "arriving alien" and falls within the provisions of 8 U.S.C. § 1225 which authorize DHS to detain her,[1] DHS exercised its discretionary authority to

[1] Respondents' opposition discusses the distinction between the detention provisions of 8 U.S.C. § 1225(b)(2) and 8 U.S.C. § 1226(a), and the recent litigation surrounding the government's new interpretation of the provisions of § 1225(b). Dkt. 6, at 6-7. However, this discussion is not relevant to the case at hand. Petitioner does not fall within the category of individuals who were previously considered detained under 8 U.S.C. § 1226(a), and thus eligible to seek bond before

parole Petitioner after she was initially detained and placed her in removal proceedings where she has applied for asylum with her husband and daughters. Because DHS exercised its discretion to release and parole Petitioner, she has a liberty interest in remaining free from detention. *See, J.S.H.M. v. Wofford,* 2025 WL 2938808 at *14 (E.D. Cal. Oct.16, 2025) (Even noncitizens who fall under the mandatory detention provisions of 8 U.S.C. § 1225 have a liberty interest created when they are released on their own recognizance).

Respondents argue that "the government's authority to re-detain individuals that ICE previously released on parole does not require an intensive evidentiary procedure," and that "[t]he INA does not provide for a pre-detention hearing," citing 8 U.S.C. § 1231. Dkt. 6, at 10. But 8 U.S.C. § 1231 governs individuals detained post-removal order in the so-called "removal period," and is completely irrelevant to Petitioner's case. Petitioner's removal proceedings are currently pending, and she has no final order of removal. Thus, whether 8 U.S.C. § 1231 provides for a pre-detention hearing has no bearing on the case at hand.

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an Immigration Judge. Petitioner was apprehended at entry, charged as an arriving alien, and subsequently paroled into the United States for removal proceedings. The law prohibits Immigration Judges from granting bond to such individuals as discussed in Petitioner's TRO. Dkt. 3-1, at 10, 11.

More importantly, Respondents' statement that the ability to re-detain noncitizens previously paroled into the United States "does not require an intensive evidentiary procedure" (Dkt. 6, at 10) seems to acknowledge that at least *some* procedure is required prior to such re-detention. Indeed, courts have repeatedly recognized that noncitizens released from DHS custody upon their parole into the United States have a liberty interest, guaranteed by the Due Process clause of the Constitution, in remaining out of government custody. *See, J.S.H.M. v. Wofford,* 2025 WL 2938808 at *14 (E.D. Cal. Oct.16, 2025); *Padilla v. Bowen,* 2025 WL 325168 at *6 (C.D. Cal. Nov. 21, 2025) ("While the government may have "the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody, she has a protected liberty interest in remaining out of custody.") (citing *Pinchi v. Noem,* 792 F. Supp. 3d. 1025, 1032 (N.D. Cal. 2025); *Ortega v. Bonnar,* 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) ("Just as people on parole and probation status have a liberty interest, so too does Petitioner have a liberty interest in remaining out of custody on bond."); *Zinermon v. Burch,* 494 U.S. 113, 127 (1990) (A "non-citizen's "private interest in remaining out of immigration custody is substantial."); *Sun v. Santacruz,* 2025 WL 2730235, *5 (C.D. Cal. Aug. 26, 2025), citing *Nak Kim Choeun v. Marin,* 442 F. Supp. 3d 1233, 1245 (C.D. Cal. 2020) (holding that noncitizens released from immigration

custody on general orders of supervision have a liberty interest in their freedom); *Ortega v. Kaiser,* 2025 WL 2243616, at *5 (N.D. Cal. Aug. 6, 2025) (similar).

And Respondents' opposition does not in any way rebut the complete failure of the DHS to provide any notice, any opportunity to respond, or any hearing before a neutral arbiter prior to Petitioner's re-detention. Petitioner's assertion that her detention serves no non-punitive purpose likewise remains unrebutted. Respondents provide no evidence (and indeed none exists) to show that she is a flight risk, or that she is a danger to the community, such that her re-detention is justified. *Hernandez v. Sessions,* 872 F.3d 976, 994 (9th Cir. 2017) ("the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions.").

B. Petitioner's Circumstances are Sufficiently Urgent to Warrant a TRO

Respondents also argue that immediate release is inappropriate because Petitioner is required "to demonstrate that it could not have been sought earlier." Dkt. 6, at 12. But Respondents fail to recognize the reality of Petitioner's circumstances – she is detained by immigration authorities, far from her spouse and children, and limited in her ability to seek relief without counsel who is competent in federal litigation. She acted with reasonable speed considering her extremely

challenging circumstances. And, the length of her detention does not make it any less unlawful; if anything, each day she is detained increases the irreparable harm that she is suffering. Petitioner has done nothing to "create the crisis" she now faces. *Cf.* Dkt. 6, at 12. Any suggestion by Respondents that the filing of this motion was designed to "surprise opposing counsel" and "force him or her to drop all other work to respond on short notice" is without merit or support. *Cf. Id.* Indeed, any crisis faced by opposing counsel in the form of a wave of TRO applications is a crisis wholly of Respondents' creation; they have made the decision to arrest non-citizens *en masse* without providing them any process. Accordingly, a TRO ordering immediate release is the appropriate relief in this matter.

C. Release from custody is the appropriate remedy for Petitioner's un-lawful re-detention.

Respondent argues that the appropriate remedy for any violation would be to "rectify[] the procedural deficiency," or "Petitioner simply seeking a bond hearing consistent with her rights as a detainee." Dkt. 6, at 13. Respondent does not further elaborate on how the violations that occurred should be "rectified." Petitioner contends that the proper remedy is to restore the *status quo ante* and order her immediate release from custody and the provision of a pre-deprivation custody

hearing before any attempt by Respondents to re-detain her. The cases cited by Respondents do not support a contrary conclusion.

The petitioner in *Ahmad v. Whitaker*, 2018 WL 6928540 *1 (W.D. Wash. Dec. 4, 2018) (unpub) was a former lawful permanent resident, who had been ordered deported as an aggravated felon after a child molestation conviction. He was placed on Order of Supervision (OSUP) after immigration officials were unable to deport him to Afghanistan and detained at a check in appointment 12 years later. *Id.* The District Court determined that ICE's failure to follow the regulations governing an OSUP did not require immediate release since officials had obtained a travel document and could now effectuate his removal order.[2] *Id.* at *5.

[2] Notably, several District Courts have disagreed with the *Ahmad* court's conclusion that the failure to abide by the regulatory procedures for an OSUP revocation is not an actionable injury. *See e.g.*, *Ceesay v. Kurzdorfer*, 781 F.Supp.3d 137, 163-165, 166 (W.D.N.Y. May 2, 2025) (collecting cases, concluding that the failure to provide the informal interview violated the detainee's due process rights, and concluding that the detainee was entitled to immediate release); *K.E.O. v. Woosley*, 2025 WL 2553394, *5-7 (W.D. Ky. Sept. 4, 2025) (unpub) (ordering release for failure to provide informal interview); *Santamaria Orellana v. Baker*, 2025 WL 244087, *7 (D. Md. Aug. 25, 2025) (unpub) (failure to provide interview violates due process); *Delkash v. Noem*, 2025 WL 2683988, *5-7 (C.D. Cal. Aug. 28, 2025) (unpub) (noting requirement for notice and informal interview and granting immediate release); *Zhu v. Genalos*,--- F.Supp.3d ---, 2025 WL 2452352, *9 (S.D.N.Y. Aug. 26, 2025) (unpub).

The petitioner in *Doe v. Smith*, 2018 WL 4696748, *7 (D. Mass. Oct. 1, 2018) (unpub), similarly sought to challenge the revocation of his OSUP by arguing her attorney should have been notified 30 days in advance of the informal interview required by the regulations. The District Court found no such notice requirement in the regulation. Doe also challenged the timing of her informal interview, but the court concluded that ICE had complied with the regulation by providing an interview. *Id.* at *9 ("It therefore appears, based on the record before the Court, that ICE complied with the regulation."). Thus, unlike Petitioner, Doe received some procedural due process in connection with the revocation of her release.

The petitioner in *Long Ton v. Noem*, 5:25-cv-02033-SB-AGR, was also subject to a final order of removal and challenged the revocation of his OSUP. *See* Dkt. 17, p. 7. The petitioner, however, failed to specify how ICE had violated the regulations – whether he had been given notice of the reason for the revocation or provided with an informal interview. *Id.* The District Court's dicta regarding whether release would be an appropriate remedy seemed more concerned with the fact that Long Ton had requested an equitable remedy to cure a violation under the Administrative Procedure Act, rather to vindicate a constitutional right. *Id.*

In short, the OSUP revocation regulations (and thus, the cases cited by Respondent) have no bearing on Petitioner's situation – she is not subject to a final

removal order, and she was not released on an OSUP. She asserts a violation of her constitutional right to due process, and the equitable remedy of a TRO ordering her immediate release is the appropriate remedy.

Finally, the suggestion that Petitioner may seek a bond hearing "consistent with her rights as a detainee," (Dkt. 6, at 13) not only conflicts with Respondents' earlier argument that Petitioner is not eligible for such a hearing and thus any request would be "futile" (Dkt. 6, at 6), but it is contrary to the regulations which do not permit Petitioner to seek such a hearing during removal proceedings. *See,* 8 C.F.R. § 1003.19(h)(2)(i)(B).

Petitioner is not pursuing her "single most preferred procedural approach" in seeking a TRO. Dkt. 6, at 15**.** She is pursuing her *sole remedy* to alleviate the irreparable harm she is experiencing due to her unlawful detention.[3]

D. **Petitioner is suffering and will continue to suffer irreparable harm due to her unlawful re-detention**.

Respondents contend that Petitioner's unlawful detention is not irreparable harm. Dkt 6 at 15. But deprivation of liberty without due process constitutes irreparable harm. *Padilla v. Bowen,* 2025 WL 3251368 at *9., *citing Hernandez v. Sessions,* 872 F.3d at 994-95. Petitioner's detention is the result of violations of her rights to procedural and substantive due process. Such constitutional violations are

[3] Respondent's removal counsel did submit a request for humanitarian release to ICE on October 1, 2025. See Exh. A. That request was ignored.

sufficient to show irreparable harm. *Padilla v. Bowen,* 2025 WL 3251368 at *9, ("It is well-established that the first factor is especially important when a plaintiff alleges a constitutional violation and injury. If a plaintiff in such a case shows he is likely to prevail on the merits, that showing usually demonstrates he is suffering irreparable harm no matter how brief the violation."), citing *Baird v. Bonta,* 81 F.4th 1026, 1040 (9th Cir. 2023).; *see also, Mata Velasquez v. Kurzdorfer,* 794 F.Supp.3d 128, 154 (W.D. NY 2025) ("[T]here is no question that unlawful detention causes irreparable harm, and the government's argument to the contrary is deeply troubling.").

Moreover, the Ninth Circuit has recognized the "irreparable harms imposed on anyone subject to immigration detention," including "subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained." *Hernandez v. Sessions,* 872 F.3d at 995. Here Petitioner is separated from her husband and her two young daughters who are of tender age, causing extreme emotional and psychological distress to all.

E. **The public interest weighs in favor of Petitioner**.

This final factor likewise favors Petitioner. "[T]he public has a strong interest in upholding procedural protections against unlawful detention." *Vargas v. Jennings*, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020). And the government "cannot

reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations." *Zepeda v. U.S. Immigr. & Nat. Serv.*, 753 F.2d 719, 727 (9th Cir. 1983).

I. CONCLUSION

For the foregoing reasons, as well as those articulated in the initial moving papers, Petitioner respectfully submits that she has met the criteria for a temporary restraining order. She asks the Court to order her immediate release and to enjoin Respondents from re-detaining her: (1) absent further order of this Court; or (2) absent the provision of a pre-deprivation hearing before a neutral arbiter, at which Respondents will bear the burden of proving by clear and convincing evidence that she is a flight risk or a danger to the community.

RESPECTFULLY SUBMITTED this 6th day of December, 2025

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TABLE OF EXHIBITS

Exhibit A: Parole Request (excerpts)