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DETAINED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

DANIEL JAMES CUMMINS

Petitioner,

vs.

MOISES BECERRA, Field Office Director,
ICE/San Francisco;
RON MURRAY Warden, Mesa Verde ICE
Processing Center;
KRISTI NOEM, Secretary of Homeland
Security;
PAMELA BONDI, Attorney General of the
United States

Respondents.

Case No. 1:25-cv-01853-DC-AC

**REPLY TO GOVERNMENT'S
OPPOSITION AND MOTION TO
DISMISS & SUPPLEMENTAL BRIEF
IN SUPPORT OF EMERGENCY
MOTION FOR HABEAS RELIEF AND
IMMEDIATE RELEASE**

I. INTRODUCTION

Petitioner Daniel James Cummins respectfully submits this Reply to Respondents' Opposition and Motion to Dismiss. Respondents' brief misstates the factual record, fails to rebut the constitutional violations raised in the habeas petition, and ignores binding precedent in this Circuit and District. Mr. Cummins has been detained for over **three months** in ICE custody under a procedurally defective process that violates his **due process rights, medical rights, and statutory protections**. The Court should **deny the motion to dismiss** and grant **immediate habeas relief**.

II. GOVERNMENT'S POSITION MISCHARACTERIZES THE RECORD

A. There Was No Constitutionally Compliant Bond Hearing

The government claims Mr. Cummins received a "constitutionally compliant" bond hearing, citing the IJ order. But as the record shows, **Immigration Judge Mullins** improperly shifted the burden of proof to the noncitizen and relied solely on an **FBI RAP sheet** and **Form I-213**, both of which lack the evidentiary reliability required under **Matter of Guerra**, 24 I&N Dec. 37 (BIA 2006) and **Singh v. Holder**, 638 F.3d 1196 (9th Cir. 2011).

Respondents fail to mention that Mr. Cummins was **never convicted** of any criminal offense. The underlying arrest was **dismissed in full**, and despite this, the IJ accepted untested, unauthenticated allegations over sworn declarations and voluminous evidence filed by Mr. Cummins. No government witness testified. No cross-examination occurred. This violates **Singh**, where the Ninth Circuit held that immigration bond hearings must provide “the fundamental procedural protections of a neutral factfinder, opportunity to present evidence, and cross-examination.”

Moreover, the **same IJ** who denied bond and found him dangerous based on a RAP sheet **is now presiding over his asylum merits hearing**. This conflict, and the denial of a motion to recuse, demonstrates deep procedural unfairness.

B. The Government Fails to Address Medical Harm

The government's motion is notably **silent** on Mr. Cummins’ deteriorating medical condition. Mr. Cummins suffers from **Chronic Pulmonary Aspergillosis**, a complication from **Coccidioidomycosis (Valley Fever)**. He has not seen an infectious disease specialist since July 2024 when an 8cm x 4cm x 4cm lung mass was discovered at UCSF. He missed his scheduled follow-up due to his **false arrest** and **unlawful ICE detention** immediately upon release from jail.

He is being denied access to:

- Physician-ordered **CT scans**
- Evaluation by an **infectious disease specialist**
- Ability to prepare **medical expert reports/testimony** crucial to his asylum defense

This constitutes **irreparable harm**. See **Vuong v. Jennings**, No. 20-cv-03050 (N.D. Cal. 2020); **Zepeda Rivas v. Jennings**, 455 F. Supp. 3d 1029, 1039–40 (N.D. Cal. 2020) (recognizing denial of medical care as irreparable injury warranting release).

III. RESPONDENTS’ MOTION TO DISMISS FAILS

The Motion to Dismiss under **Rule 12(b)(6)** should be denied. Respondents assert the habeas petition is moot because a bond hearing occurred, but this is a **misstatement of law and fact**:

- Habeas is still appropriate to **challenge the adequacy** of a bond hearing. See **Singh, Phan v. I.N.S.**, 56 F.3d 1393 (9th Cir. 1995), and **Guerra**.
- The court has power to **release** if the hearing was flawed. See **Pensamiento v. McDonald**, 315 F. Supp. 3d 684 (D. Mass. 2018).
- In the Eastern District, courts have routinely **granted habeas relief post-bond hearing**

where the process was constitutionally deficient. See **Arellano v. Wolf**, No. 1:20-cv-00649-NONE-EPG (E.D. Cal. 2020); **Calderon v. Barr**, No. 1:20-cv-00796-NONE-EPG (E.D. Cal. 2020).

The record here reflects no meaningful judicial review occurred in immigration court. Daniel Cummins is **not a flight risk** he has an affidavit of support from his U.S. citizen fiancée, and a full parole request on file with ICE and he is **not dangerous** his only arrest was dismissed.

IV. CONTINUED DETENTION VIOLATES DUE PROCESS

If habeas is denied, Mr. Cummins will face **6–7 months of total ICE custody**, unable to access essential medical care or prepare expert testimony for his **January 13 hearing** a hearing where his **life-threatening condition is the central basis of relief**. This is a violation of both **procedural and substantive due process**. See:

- **Zadvydas v. Davis**, 533 U.S. 678 (2001)
- **Hernandez v. Sessions**, 872 F.3d 976 (9th Cir. 2017)
- **Doe v. Kelly**, 878 F.3d 710 (9th Cir. 2017)

V. PRAYER FOR RELIEF

For the foregoing reasons, the Court should:

1. **Deny the government’s Motion to Dismiss**
2. **Grant the Emergency Habeas Petition**
3. **Order immediate release of Mr. Cummins under reasonable supervision**

Date: January 12, 2026

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