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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

Yessenia Alvarez Cabanillas,

Petitioner,

v.

GEO Group, Inc., a Florida corporation,
operating the California City Detention
Facility; Kristi NOEM, Secretary of the
Department of Homeland Security; Pamela
BONDI, U.S. Attorney General; in their
official capacity; Moises BECERRA, in his
official capacity as Field Office of
Immigration and Customs Enforcement,
Enforcement and Removal Operations.

Respondents.

Case Number: _____

**PETITIONER'S NOTICE OF
EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION &
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE, Petitioner respectfully requests that the Court grant her ex parte emergency motion for a temporary restraining order and preliminary injunction to enjoin Respondents from continuing her detention in violation of statutes and the United States Constitution. The grounds for this motion pursuant to are set forth in the writ of habeas corpus, accompanying brief, affidavits demonstrating irreparable injury, exhibits in support thereof, and the applicable law. A proposed order also accompanies this motion.

Date: December 22, 2025

Respectfully Submitted,
/s/ Mario Salgado
Mario Salgado, Esq.

CERTIFICATE OF SERVICE

I, Mario Salgado, am over the age of 18 years and maintain a business address located at 605 Market Street Suite 1111 in San Francisco, California 94105. I mailed the **PETITIONER'S NOTICE OF EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION & MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION [LOCAL RULE 231(c)(2),(d)(1)]** to:

1. GEO Group, Inc. Attn: Corporate Creations Network Inc. [C2250455] 7801 Folsom Boulevard, #202 Sacramento, CA 95826
2. Kristi NOEM, Secretary of the Department of Homeland Security, Office of the General Counsel; U.S. Department of Homeland Security; 245 Murray Lane, SW; Mail Stop 0485; Washington, D.C. 20258-0485.
3. Pamela BONDI, U.S. Attorney General, U.S. Department of Justice; 950 Pennsylvania Avenue, NW; Washington, D.C. 20530-0001 Civil Process Clerk & United States Attorney's Office for the Central District of California; 300 N. Los Angeles St. Suite 7516, Los Angeles, CA 90012.
4. Moises BECERRA, Field Office of Immigration and Customs Enforcement, Enforcement and Removal Operations, Department of Homeland Security, Office of the General Counsel; U.S. Department of Homeland Security; 245 Murray Lane, SW; Mail Stop 0485; Washington, D.C. 20258-0485.
5. Civil Process Clerk & United States Attorney's Office for the Central District of California; 300 N. Los Angeles St. Suite 7516, Los Angeles, CA 90012.

I swear under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

Date: December 22, 2025

/s/ Mario Salgado

Mario Salgado, Esq.

1 SALGADO & PERALTA, P.A.
2 Mario Salgado, SBN: 128533
3 605 Market Street, Suite 1111
4 San Francisco, CA 94105
5 Tel: (415) 401-8699

6 UNITED STATES DISTRICT COURT
7 CENTRAL DISTRICT OF CALIFORNIA
8 EASTERN DIVISION

9 Yessenia Alvarez Cabanillas,
10
11 Petitioner,

12 v.

13 GEO Group, Inc., a Florida corporation
14 operating the Adelanto ICE Processing Center;
15 Kristi NOEM, Secretary of the Department of
16 Homeland Security; Pamela BONDI, U.S.
17 Attorney General; in their official capacity;
18 Moises BECERRA, in his official capacity as
19 Field Office of Immigration and Customs
20 Enforcement, Enforcement and Removal
21 Operations.

22 Respondents.

Case Number: _____

**BRIEF IN SUPPORT OF PETITIONER'S
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

INTRODUCTION

23 Petitioner seeks immediate issuance of a temporary restraining order and preliminary
24 injunction to prevent the ongoing violation of her constitutional and statutory rights. Petitioner
25 has been deprived of her Fifth Amendment right to Due Process because she was re-arrested and
26 detained by the Department of Homeland Security without any prior notice, hearing, or neutral
27 determination that her re-detention was justified. *See Clene C.D. v. Robbins, et al.* No. 1:25-cv-
28 KES-SKO (HC) (E.D. Cal. Dec. 2, 2025); *Rodriguez Diaz v. Kaiser*, 2025 WL 3011852, at *6–8
(N.D. Cal. Sept. 16, 2025); *Guillermo M.R. v. Kaiser*, 2025 WL 1983677, at *8 (N.D. Cal. July
17, 2025); *Pinchi v. Noem*, 2025 WL 2084921, at *3–5 (N.D. Cal. July 25, 2025); *Ortega v.*

1 *Bonnar*, 415 F.Supp.3d 963, 939 (N.D. Cal. 2019). This abrupt deprivation of liberty constitutes
2 irreparable harm that cannot be remedied after the fact, as liberty, once lost, cannot be fully
3 restored.
4

5 Moreover, Petitioner is being denied a meaningful opportunity to challenge her detention
6 through a bond redetermination hearing, despite clear authority under 8 U.S.C. § 1226(a) and the
7 United States District Court's ruling in *Maldonado Bautista et al. v. Santacruz et al.*, No. 25-cv-
8 01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) which confirms that noncitizens detained in the
9 interior and not subject to mandatory detention are entitled to such hearings because they are not
10 arriving aliens. The Immigration Court's ongoing refusal to provide Petitioner with access to a
11 neutral adjudicator, coupled with the arbitrary presumption of detention in post-arrest
12 proceedings, further exacerbates the irreparable injury and underscores the urgent need for
13 judicial intervention.
14

15 Absent immediate relief, Petitioner will continue to suffer unlawful incarceration and
16 denied procedural protections to which she is legally entitled. A TRO and PI are therefore
17 necessary to preserve the status quo, protect Petitioner's liberty, and prevent ongoing
18 constitutional violations while this Court adjudicates the merits of her habeas petition.
19

20 **STATEMENT OF FACTS**

21 On September 25, 2023, Yessenia Alvarez-Cabanillas, a 31-year-old native and citizen of
22 Peru, entered the United States and was apprehended near Nogales, Arizona. (Exh. A, Form I-
23 213.) She was served with a Warrant for Arrest at approximately 6:05 p.m. and was released the
24 following day, September 26, 2023, at approximately 2:19 a.m., on her own recognizance
25 pursuant to § 236 of the Immigration and Nationality Act. (Exh. B, Form I-200; Exh. C, Form I-
26 286.)
27
28

1 Petitioner was subsequently served with a Notice to Appear placing her in removal
2 proceedings under § 240 of the Act and charging her as removable under § 212(a) of the Act.
3 (Exh. D, Form I-862.) Her master calendar hearing was scheduled for June 4, 2026, at 1:30 p.m.,
4 before the Immigration Court in San Francisco, California. Id.

5
6 Petitioner complied with all conditions of her release but missed a single check-in appointment
7 in October 2025.

8 On December 15, 2025, Petitioner appeared unannounced, accompanied by her attorney,
9 Gabriella Fernandez, to explain her failure to check in. The following occurred.

10 The ICE officer stated that Petitioner would be detained for missing the October 2025 check-in.
11 Counsel explained that Petitioner failed to appear because her daughter, who resides in Peru, had
12 suffered an injury, causing Petitioner significant distress. Counsel further explained that
13 Petitioner was working two jobs at the time and was experiencing anxiety and depression during
14 October 2025, for which she was taking medication that affected her mental clarity.

15 Counsel requested a lesser sanction, such as increased reporting requirements or placement on an
16 ankle monitor. The officer responded that no alternative was available. Counsel requested to
17 speak with a supervisor, but the officer denied the request, stating that the decision had already
18 been made. He further explained that because Petitioner waited too long between the October
19 and December check-ins, agency policy required detention.

20 The officer permitted Petitioner to make telephone calls to her family. This was her
21 second call to a family member. Prior to being taken to the fifth floor, counsel had instructed
22 Petitioner to notify her family that detention was possible. Petitioner spoke with a relative who
23 agreed to retain her personal information.

24 Counsel asked the officer what would happen next. The officer stated that

- 1 • Petitioner would be processed within 24 hours;
- 2 • She would likely be transferred to Bakersfield due to bed availability, though this
- 3 depended on space;
- 4 • She would likely receive her first call within approximately one week;
- 5 • She would likely receive information regarding a hearing date within one week; and
- 6 • She could be subject to further transfer depending on bed availability.
- 7

8 The officer then instructed Petitioner to place her belongings in her backpack, formally
9 arrested her, and escorted her out of the office with another female officer.

10 On December 18, 2025, Petitioner's cousin, spoke with Petitioner and confirmed that she was
11 being held in Bakersfield.

12 Today, December 19, 2025, Undersigned Counsel was unable to locate Petitioner using the
13 ICE detainee locator system, indicating that Petitioner may be in the process of being transferred
14 outside of this Court's jurisdiction. At 2:10 p.m. on today's date, Undersigned Counsel received
15 a notification that Petitioner is being held in Adelanto.

16 Petitioner's counsel previously sought a bond determination in a similar proceeding,
17 which was denied for lack of jurisdiction. Counsel believes that filing a bond redetermination
18 motion in this case would be futile. (Exh. E, IJ Order on Bond Determination).

19 Petitioner was in prison like conditions in the California City Detention Center awaiting
20 further proceedings when she was transferred to Adelanto ICE Processing Center. (Exh. F,
21 Counsel's Declaration).

22 ARGUMENT

23 A TRO and a preliminary injunction are both extraordinary remedies. In general,
24 "[t]emporary restraining orders are governed by the same standard applicable to preliminary
25

1 injunctions.” *Aiello v. One West Bank*, No. 2:10-cv-0227-GEB-EFB, 2010 WL 406092, at *1
2 (E.D. Cal. Jan. 29, 2010) (internal citations omitted); *see also* E.D. Cal. L.R. 231(a).

3
4 For both a TRO and a preliminary injunction, courts consider whether Petitioner has
5 established: “[1] that he is likely to succeed on the merits, [2] that he is likely to suffer
6 irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his
7 favor, and [4] that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*,
8 555 U.S. 7, 20 (2008). Petitioner must “make a showing on all four prongs” of
9 the *Winter* test. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). In
10 evaluating a petitioner's motion, a district court may weigh petitioner's showings on
11 the *Winter* elements using a sliding-scale approach. *Id.* A stronger showing on the balance of the
12 hardships may support issuing a preliminary injunction even where the petitioner shows that
13 there are “serious questions on the merits ... so long as the [petitioner] also shows that there is a
14 likelihood of irreparable injury and that the injunction is in the public interest.” *Id.* Simply put,
15 Petitioner must demonstrate, “that [if] serious questions going to the merits were raised [then]
16 the balance of hardships [must] tip[] sharply” in Petitioner's favor in order to succeed in a
17 request for a preliminary injunction. *Id.* at 1134–35.

18
19
20
21 Petitioner seeks emergency injunctive relief to halt her continued unlawful detention
22 following DHS's summary revocation of her release under the Alternatives to Detention
23 (“ATD”) program. For nearly three years, Petitioner lived in the community, complied with
24 immigration supervision, and actively litigated her asylum claim. DHS nonetheless re-arrested
25 her without notice, without a hearing, and without any determination by a neutral decision-maker
26 that a material change in circumstances rendered her a flight risk or danger to the community.
27 DHS now continues to detain Petitioner under the warrant-based custody framework of 8 U.S.C.
28

1 § 1226 while denying her access to a bond redetermination hearing to which she is statutorily
2 entitled. Absent immediate injunctive relief, Petitioner will remain unlawfully incarcerated in
3 violation of the Fifth Amendment and the Immigration and Nationality Act.
4

5 **I. Petitioner Has a Strong Likelihood of Success on the Merits Because She**
6 **Was Re-Arrested Without a Pre-Deprivation Hearing and Denied Bond Post-**
7 **Deprivation Based on The IJ's Defiance to *Maldonado Bautista et al. v.***
8 ***Santacruz et al.***

9 Petitioner is likely to succeed on the merits of her claim challenging her re-arrest and
10 continued detention without a bond redetermination hearing. It is firmly established that
11 individuals released under INA § 236(a) retain a protected liberty interest, and absent a material
12 change in circumstances justifying detention, they should remain free. *See Clene C.D. v.*
13 *Robbins, et al.* No. 1:25-cv-KES-SKO (HC) (E.D. Cal. Dec. 2, 2025); *Rodriguez Diaz v. Kaiser,*
14 2025 WL 3011852, at *6–8 (N.D. Cal. Sept. 16, 2025); *Guillermo M.R. v. Kaiser, 2025 WL*
15 1983677, at *8 (N.D. Cal. July 17, 2025); *Pinchi v. Noem, 2025 WL 2084921*, at *3–5 (N.D. Cal.
16 July 25, 2025); *Ortega v. Bonnar, 415 F.Supp.3d 963, 939* (N.D. Cal. 2019).
17

18 Here, the Government has not identified any change in circumstances warranting
19 revocation of Petitioner's release. Petitioner has at all times been cooperative with immigration
20 authorities and obeyed every term of supervision required of her. The circumstances leading to
21 Petitioner's arrest show that she is not a flight risk or danger to the community – to the contrary
22 – she has demonstrated compliance and cooperation. She had legitimate reasons for missing her
23 appointment and attempted to rectify the situation by appearing at the ICE office unannounced.
24

25 Moreover, allowing DHS to re-arrest Petitioner prior to an individualized determination
26 of danger or flight risk constitutes a potential abuse of process. Such preemptive detention
27 undermines the procedural safeguards designed to protect released individuals, particularly when
28 they have consistently complied with reporting requirements.

Petitioner is also likely to succeed because DHS and the IJs have elected to treat all who enter the United States without proper legal documentation as “arriving aliens” for purposes of detention—effectively ignoring the distinction between a person who enters the United States without inspection and a person who arrives at a Port of Entry as an arriving alien. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); “Interim Guidance Regarding Detention Authority for Applicants for Admission,” ICE Memorandum (July 8, 2025). A U.S. District Court Judge has recently struck this practice down and issued an Order for Summary Judgment, ruling specifically that this practice is unlawful. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873- SSS-BFM, Documents 81, 82 (C.D. Cal.).

Other U.S. District Court Judges have granted habeas corpus petitions where DHS has detained noncitizens previously encountered at the border – some of whom were processed for expedited removal and had those orders vacated by an immigration judge – when they were arrested without a warrant in violation of the discretionary procedures laid out in 8 U.S.C. § 1226(a) for interior arrests. *Jimenez v. FCI Berlin Warden*, No. 25-cv-326-LM-AJ at *10-11 (D.N.H. Sept. 8, 2025); *Romero v. Hyde*, --- F.Supp. 3d ----, 2025 WL 2403827, at *8 (D. Mass. Aug. 19, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 at *5, *8 (D. Mass. July 7, 2025).

The Immigration Judge’s decision to find a lack of jurisdiction in reliance of the invalidated reasoning of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) reinforces Petitioner’s position that she is being arbitrarily detained in violation of her rights before and after her detention. The Government wants her detained and removed despite twenty years of acknowledgement that “applicants for admission, [noncitizens]who are present without having been admitted or paroled will be eligible for bond and bond redetermination.” *Jimenez v. FCI*

1 *Berlin Warden*, No. 25-cv-326-LM-AJ (D. New Hampshire Sept. 8, 2025) at *16 citing 62 Fed.
2 Reg. 10312-01, 10323 (Mar. 6 1997). Petitioner is undeniably eligible for bond and the
3 Immigration Judge has jurisdiction to entertain a hearing.
4

5 **II. Petitioner is Suffering Irreparable Harm Because She Is Being Deprived of**
6 **Her Liberty.**

7 Petitioner faces immediate and irreparable harm absent relief. She is detained in
8 conditions that limit her freedom, and she risks imminent removal without an opportunity to
9 contest the basis for detention. Such deprivation of liberty cannot be remedied by monetary
10 damages.

11 **III. Balance of Equities Favor Petitioner As She Has Remained Cooperative**
12 **With Her Supervision.**

13 The equities favor Petitioner. The Government will suffer no substantial harm from a
14 temporary restraining order or injunction postponing detention or removal. DHS can continue to
15 monitor Petitioner while her case proceeds in the Immigration Court, ensuring compliance with
16 all legal obligations.
17

18 In contrast, Petitioner faces severe consequences from continued detention and the risk of
19 removal. She has already demonstrated compliance with reporting requirements, and her prior
20 release under § 236(a) reflects her low risk of flight or danger. Detaining her now, without
21 individualized determination, would constitute an abuse of authority and result in unnecessary
22 suffering. The equities tip strongly in favor of those whose liberty is at risk when procedural
23 safeguards have been disregarded.
24

25 /

26 /

27 /

IV. The Public Interest Is Not Favored In Housing Petitioner In A Prison When She Has Committed No Crime.

The public interest strongly favors protecting individuals from unlawful detention. Ensuring that DHS adheres to statutory and constitutional requirements promotes confidence in the immigration system, prevents arbitrary deprivation of liberty, and protects family unity.

Moreover, upholding the public interest requires preventing DHS from detaining or removing individuals prior to an individualized determination of risk. Allowing such hasty action would undermine procedural safeguards and create a precedent where detention can occur without proper evaluation of danger or flight risk. This is particularly important where, as here, removal would separate Petitioner from family members who remain in nondetained proceedings, further harming the community and undermining confidence in the system.

Date: December 22, 2025

Respectfully Submitted,

/s/ Mario Salgado
Mario Salgado, Esq.
SALGADO & PERALTA, P.A.

CERTIFICATE OF SERVICE

I, Mario Salgado, am over the age of 18 years and maintain a business address located at 605 Market Street Suite 1111 in San Francisco, California 94105. I mailed the **BRIEF IN SUPPORT OF PETITIONER'S TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION [LOCAL RULE 231(c)(3), (d)(2)(i)]**, to:

1. GEO Group, Inc. Attn: Corporate Creations Network Inc. [C2250455] 7801 Folsom Boulevard, #202 Sacramento, CA 95826
2. Kristi NOEM, Secretary of the Department of Homeland Security, Office of the General Counsel; U.S. Department of Homeland Security; 245 Murray Lane, SW; Mail Stop 0485; Washington, D.C. 20258-0485.
3. Pamela BONDI, U.S. Attorney General, U.S. Department of Justice; 950 Pennsylvania Avenue, NW; Washington, D.C. 20530-0001
4. Civil Process Clerk & United States Attorney's Office for the Central District of California; 300 N. Los Angeles St. Suite 7516, Los Angeles, CA 90012.
5. Moises BECERRA, Field Office of Immigration and Customs Enforcement, Enforcement and Removal Operations, Department of Homeland Security, Office of the General Counsel; U.S. Department of Homeland Security; 245 Murray Lane, SW; Mail Stop 0485; Washington, D.C. 20258-0485.

I also electronically filed the above referenced document to the court's filing system.

I swear under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

Date: December 22, 2025

/s/ Mario Salgado
Mario Salgado, Esq.