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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 Adelanto ICE Processing Center;
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: 5:25-cv-03484-ODW-PVC

Petitioner's Reply

INTRODUCTION

Petitioner remains “in custody” for purposes of habeas corpus despite Respondent’s assertion of compliance with the Court’s TRO, as she continues to face significant restrictions on her liberty, including an ankle monitor. Respondent’s mootness argument is therefore without merit. Moreover, Respondent improperly attempts to transform these habeas proceedings into a pre-deprivation hearing to undermine the merits of her motion for preliminary injunction, which is inappropriate. Respondent’s main defense is that Petitioner’s re-arrest was justified by 8 U.S.C. § 1226(a), but it overlooks 8 U.S.C. § 1226(b) that limits arrests on the original warrant for parolees and individuals released on bond – both of which Petitioner is not. Respondent’s re-

1 cast of Petitioner's writ of habeas corpus petition as solely a reliance on this Court's
2 interpretation of Constitutional rights to a pre-deprivation hearing is without merit when it is the
3 failure to follow 8 U.S.C. § 1226(a) that is the crux of this Petition. At bottom, Petitioner's
4 detention violated both her statutory and constitutional rights.

6 ARGUMENT

7 I. Petitioner Remains "In Custody" and Mootness Does Not Apply

8 Petitioner is "in custody" because her release remains subject to substantial restraints,
9 including electronic monitoring. *See Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017)
10 [orders of supervision]. Jurisdiction attached when the petition was filed and is not defeated by
11 subsequent release. *See Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) ("Once federal
12 jurisdiction has attached in the district court, it is not defeated by the release of the petitioner
13 prior to completion of proceedings on such application."). *See also Abdala v. I.N.S.*, 488 F.3d
14 1061, 1064-65 (9th Cir. 2007) (describing the "collateral consequences" doctrine, where so long
15 as a petitioner was in custody at the time a petition was filed and remains subject to actual
16 collateral consequences that the petition could successfully address, his petition remains live).
17 Respondent's mootness argument is therefore legally and factually unsupported. The ankle
18 monitor continues the detention the TRO was meant to remove.

22 II. Respondent Cannot Convert Habeas Proceedings Into a Pre-Detention Hearing

23 Respondent's attempt to litigate Petitioner's flight risk based on Petitioner's explanation
24 for her nonappearance based on her mental state is inappropriate. These proceedings cannot be
25 repurposed to cure the constitutional violations that occurred when Petitioner was detained
26 without a hearing. Moreover, Petitioner was detained without an Attorney General's warrant of
27 arrest pursuant to 8 U.S.C. § 1226(a) and taken back into custody despite the DHS's lack of
28

1 authority under 8 U.S.C. § 1226(b). *See below*. The re-arrest was unlawful at its inception.
2 Habeas corpus protects against precisely this type of unlawful restraint.

3 **III. Petitioner's Detention Violated 8 U.S.C. § 1226(a) and the Regulations**

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5 Petitioner's detention violated 8 U.S.C. § 1226(a) because she was released on her own
6 recognizance. Her re-arrest was only authorized if she were a parolee or released on bond, but
7 she did not fit into either of those categories or release. 8 U.S.C. § 1226(b). Thus, her re-arrest
8 violated 8 U.S.C. § 1226, which is alleged in the writ of habeas corpus petition as her second
9 claim for relief. Although the Government claims that this Court has invented an extra statutory
10 right to a pre-deprivation hearing based on its interpretation of the Constitution, that claim is
11 without merit because the United States Court of Appeals has recognized such a right in the
12 context of convicted criminal parolees who are re-apprehended. *See Johnson v. Williford*, 682
13 F.2d 868, 873 (9th Cir. 1982)[return of criminal parolee to custody after erroneous release and
14 lack of interest in recapture is inconsistent with "fundamental principles of liberty and justice."].
15 Prior to the recent immigration crack down, the United States District Court for the Northern
16 District in *Ortega v. Bonnar*, 415 F.Supp.3d 963, 939 (N.D. Cal. 2019) applied the rights of
17 citizens on criminal parole in *Morrissey v. Brewer*, 408 U.S. 471, 481-82 (1972) to noncitizen
18 civil immigration detainees. The Government's interest in detaining all noncitizens under
19 tortured interpretations of sections 1225 or 1226 of the United States Code violates both their
20 statutory and Constitutional rights.
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23

24 **CONCLUSION**

25 categories or release 226(a) and her constitutional rights, and the Court should reject
26 Respondent's attempts to evade its statutory obligations.
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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 Reply** to: GEO Group, Inc. Attn: Corporate Creations Network Inc. [C2250455] 7801 Folsom Boulevard, #202 Sacramento, CA 95826

I served Respondent's BONDI, NOEM, and BECERRA through the U.S. Attorney's Office
Via this electronic 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: January 2, 2026

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