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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
Portland Division**

C-G-S-, an adult,

Petitioner,

v.

LAURA HERMOSILLO, et al.,

Respondents.

Case No. 3:26-cv-00087

A# XXX-XXX-758

**PETITIONER'S REPLY
IN SUPPORT OF THEIR MOTION FOR
TEMPORARY RESTRAINING ORDER**

I. LEGAL STANDARDS

The Ninth Circuit applies two tests for issuance of a TRO. The first test is “the proper legal standard for preliminary injunctive relief requires a party to demonstrate (1) ‘that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest.’” *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).

Under the second test, a TRO is appropriate if “serious questions going to the merits were raised and the balance of the hardships tips sharply in the plaintiff’s favor,” thereby allowing preservation of the status quo when complex legal questions require further inspection or deliberation. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134- 35 (9th Cir. 2011). This supports the court’s entry of a TRO if the plaintiff also shows there is a likelihood of irreparable injury and that the injunction is in the public interest. *Id.* at 1135.

II. ARGUMENT

A. Petitioner will suffer irreparable harm.

C-G-S-’s unlawful detention constitutes an irreparable loss of liberty. *See 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 C-G-S-’s 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

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(9th Cir. 2018) (citation omitted). C-G-S's detention is outside of those "special and narrow nonpunitive circumstances," as the Due Process Clause forbids her detention without a pre-deprivation hearing. These constitutional concerns also counsel in favor of finding that C-G-S- has demonstrated irreparable harm, for she has shown that her detention violates due process. *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 C-G-S- by separating her from her family members. Absent a TRO, C-G-S- has no hope of being reunited with her two U.S. citizen children, ages 6 and 2, for whom C-G-S- is the sole parent, as well as with her other family members and community. 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"). Relatedly, C-G-S-'s inability to provide for her children constitutes the type of "potential economic hardship" that supports a finding of irreparable harm. *Leiva-Perez*, 640 F.3d at 969–70; *see also Gonzalez Rosario v USCIS*, 365 F. Supp. 3d 1156, 1162 (W.D. Wash. 2018) (recognizing a "negative impact on human welfare" when noncitizens "are unable to financially support themselves or their loved ones").

B. Petitioner is likely to succeed on the merits.

1. Initiation of Immigration proceedings do not foreclose petitioner's claims for relief

Respondent refers to an inapposite Third Circuit case to argue that Petitioner cannot bring her claim. To the contrary, this court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

2. Seizure with no probable cause

Respondents incorrectly posited that the Fourth Amendment does not apply in immigration detainments such as C-G-S-'s. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

Reasonable suspicion for an immigration stop cannot be based "on broad profiles which cast suspicion on entire categories of people without any individualized suspicion of the particular person to be stopped." *United States v. Rodriguez Sanchez*, 23 F.3d 1488, 1492 (9th Cir. 1994). Rather, reasonable suspicion must be "particularized and objective," *United States v. Arvizu*, 534 U.S. 266, 273 (2002), meaning the officer has reasonable suspicion as to "the particular person being stopped." *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (en banc). Information obtained from an officer's lawful questioning "may provide

the basis for a subsequent arrest.” 8 C.F.R. § 287.8(b)(3).

Here, Respondents provide no indication that the initial stop of the vehicle that C-G-S- was traveling in and subsequent questioning of C-G-S- was lawful. The reference to the other individual in the car under investigation does not explain why the agency questioned C-G-S- about her country of origin, giving rise to suspicion that she was stopped and questioned for unlawful basis such as her race.

3. Due process

Respondents do not address in their response the application of the Due Process Clause which applies regardless of whether the noncitizen’s presence is lawful, unlawful, temporary, permanent and regardless of whether detention falls under § 1225 or § 1226. *See Zadvydas v. Davis*, 533 U.S. at 693; *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (“[I]t is well-established that the Due Process Clause stands as a significant constraint on the manner in which the political branches may exercise their plenary authority.”).

Here, C-G-S- was arrested and detained without issuance of a warrant or opportunity to otherwise contest her detainment. Respondents do not contest this fact. Thus, Respondents’ stop, arrest, and continued detention of Petitioner are violations of her due process rights under the Fifth Amendment to the U.S. Constitution.

C. Respondent does not address balance of equities and the public interest

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). Respondents failed to address these factors in their response.

Here, C-G-S- faces weighty hardships: loss of liberty and separation from family. The government, by contrast, faces no hardship, as all it must do is release a person who had previously resided in Oregon without criminal issues or other derogatory factors. Avoiding such “preventable human suffering” strongly tips the balance in favor of C-G-S-. *Hernandez*, 872 F.3d at 996 (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)).

The public has an interest in making sure that persons are not detained without due process of law. The public also has an interest in not separating children from their parents. What the petitioner asks for here is basic fair treatment by the respondents, which is always in the public interest.

For these reasons, Petitioner asks the court to grant the TRO.

Dated: January 16, 2026.

/s/

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