



Christopher J. Medina
Detention and Deportation Officer
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
Dallas Field Office
8101 N. Stemmons Freeway
Dallas, TX
75247

22 February 2017

Dear Mr. Medina

I am writing to request the release of Sara Esmeralda Beltran Hernandez (A# 208-548-384) for humanitarian reasons pending a final decision on her claim for asylum. Her lawyer reports that Ms. Hernandez is suffering from a serious condition that requires urgent medical assistance.

Under international law, the U.S. government has an obligation to ensure that the human rights of migrants are respected, protected and fulfilled. International standards, including instruments to which the United States is a party, contain a strong presumption against the detention of immigrants and asylum seekers. For example, the International Covenant on Civil and Political Rights (ICCPR) clearly sets out the right to be free from arbitrary detention. Detention should only be used as a measure of last resort; it must be justified in each individual case and be subject to judicial review. Detention is only appropriate when authorities can demonstrate in each individual case that it is necessary and proportionate to the objective being achieved and on grounds prescribed by law, and that alternatives (such as reporting requirements, bail or financial deposits) would not be effective.

The U.N. Working Group on Arbitrary Detention has called on governments to ensure that “alternative and non-custodial measures, such as reporting requirements, should always be considered before resorting to detention.” A

limited number of specific purposes are recognized as legitimate grounds for detention under international standards, including verifying identity, protecting national security or public order, and preventing a person from absconding following an objective assessment of flight risk. Under the ICCPR, the Convention against Torture, and customary international law, the United States government is under an obligation not to return individuals to a situation in which he or she would be at risk of torture or other serious human rights abuses: the principle of non-refoulement. Such safeguards are imperative for protecting refugees fleeing violence and persecution.

Under U.S. law, all individuals apprehended at the border “shall be detained” pending deportation proceedings. U.S. law provides that these individuals may be released on parole on a case-by-case basis for “urgent humanitarian reasons” or for “significant public benefit” where the individual presents neither a security risk nor a risk of absconding. Immigration and Customs Enforcement policies provide Field Office Directors with discretion to parole individuals who have established a credible fear on a case by case basis for these same reasons – which includes persons whose continued detention is not in the public interest – as well as discretion when it comes to the continued detention of individuals suffering from medical emergencies. Both policies relate to the decision on whom to detain or to release on bond, supervision, personal recognizance or other condition. These policies remain in place following the recent guidance provided by the Department of Homeland Security’s memorandum on Implementing the President’s Border Security and Immigration Enforcement Improvements Policies, issued on 21 February 2017.

Ms. Hernandez, a 26-year-old mother of two, is in detention, pending an appeal on a court decision to remove her from the United States. She has been in detention since arriving at the U.S.-Mexico border on 4 November 2015. Despite having U.S. citizen family members who can guarantee her appearance at any future hearings on her case, she has been refused parole because she was considered a flight risk. Ms. Hernandez is claiming asylum in the U.S. as she said she had received death

threats from gang members in her home town in El Salvador. She said that this was because her partner is a police officer.

According to her lawyer, Ms. Hernandez collapsed in the detention center on Friday, 10 February, and staff then took her to Huguley Hospital, Fort Worth, Texas.

On Monday, 13 February, Ms. Hernandez's lawyer was able to have a short telephone conversation with Ms. Hernandez. Ms. Hernandez said that she had been diagnosed with a brain tumor and would soon be transferred for surgery. She also said that she had requested permission to speak to her mother but that this request was refused by ICE. The lawyer then requested that Ms. Hernandez be transferred to a hospital in New York City, close to where family members live, but this request was also rejected. When her relatives and lawyer called Huguley Hospital for further information they were told that she was not a registered patient there.

On 18 February, Sara was given permission to call her relatives for the first time since being taken to hospital eight days earlier. She said that her health had deteriorated drastically. She had begun to have convulsions and uncontrollable nose bleeding. Her head was in pain, and she said she was losing her ability to think clearly. She still has not received surgery. Her lawyer has twice requested to see her medical records, but been denied this. An ICE agent subsequently told the lawyer that Ms. Hernandez had not been diagnosed with a tumor, but had had a stroke.

On 22 February, staff at Huguley Hospital informed Ms. Hernandez that she would be transferred to another hospital where she would be operated on this Monday. Ms. Hernandez told her family that she was suffering from continual nose bleeds and headaches and was afraid she would die.

For these reasons, we request that you urgently release Ms. Hernandez for humanitarian reasons and that she be transferred immediately to a hospital where

she can receive appropriate treatment. Her family and attorneys should be kept fully informed of her movements and treatment. Thank you for your time and consideration of this request and I look forward to your response on this urgent matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Margaret Huang". The signature is fluid and cursive, with the first name "Margaret" written in a larger, more prominent script than the last name "Huang".

Margaret Huang
Executive Director
Amnesty International USA