

1 CRAIG H. MISSAKIAN (CABN 125202)
United States Attorney

2 PAMELA T. JOHANN (CABN 145558)
3 Chief, Civil Division

4 DOUGLAS JOHNS (CABN 314798)
Assistant United States Attorney

5 60 South Market Street, Suite 1200
6 San Jose, California 95113
7 Telephone: (415) 846-8947
8 FAX: (408) 535-5081
Douglas.Johns@usdoj.gov

9 Attorneys for Defendants-Respondents

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 CARMEN ARACELY PABLO SEQUEN,)
14 YULISA ALVARADO AMBROCIO,)
15 MARTIN HERNANDEZ TORRES, and LIGIA)
GARCIA,)

16 Plaintiffs-Petitioners,)

17 v.)

18 SERGIO ALBARRAN, MARCOS CHARLES,)
19 THOMAS GILES, MONICA BURKE, KRISTI)
20 NOEM, U.S. DEPARTMENT OF)
HOMELAND SECURITY, TODD M. LYONS,)
21 SIRCE E. OWEN, PAMELA BONDI, U.S.)
IMMIGRATION AND CUSTOMS)
22 ENFORCEMENT, UNITED STATES)
DEPARTMENT OF JUSTICE, EXECUTIVE)
OFFICE FOR IMMIGRATION AND)
23 REVIEW, UNITED STATES OF AMERICA,)

24 Defendants-Respondents.)

CASE NO. 25-cv-06487-PCP

**RESPONDENTS' OPPOSITION TO LIGIA
GARCIA'S MOTION FOR A TEMPORARY
RESTRAINING ORDER AND YULISA
ALVARADO AMBROCIO'S MOTION FOR A
PRELIMINARY INJUNCTION**

Re: Dkt. No. 36

Date: September 30, 2025

Time: 1:00 p.m.

Courtroom: Courtroom 8 – 4th Floor

Honorable P. Casey Pitts
United States District Judge

25
26
27
28 RESPONDENTS' OPPOSITION TO LIGIA GARCIA'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND
YULISA ALVARADO AMBROCIO'S MOTION FOR A PRELIMINARY INJUNCTION
25-CV-06487-PCP

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	STATUTORY BACKGROUND.....	3
A.	“Applicants for Admission” Under 8 U.S.C. § 1225.....	3
B.	Detention Under 8 U.S.C. § 1225.....	3
1.	Section 1225(b)(1).....	3
2.	Section 1225(b)(2).....	5
C.	Detention Under 8 U.S.C. § 1226(a).....	7
III.	FACTUAL BACKGROUND.....	9
A.	Yulisa Alvarado Ambrocio.....	9
B.	Ligia Garcia.....	10
IV.	PROCEDURAL BACKGROUND.....	10
A.	Sequen’s Habeas Case.....	10
B.	Alleged Class Action and Garcia and Ambrocio’s Habeas Cases.....	11
V.	ARGUMENT.....	12
A.	Legal Standard.....	12
B.	The Court Lacks Jurisdiction Over Garcia and Ambrocio’s Claims.....	13
1.	The Court Lacks Jurisdiction Over Garcia and Ambrocio’s Claims Because Sequen Already Received the Relief She Sought.....	13
2.	Garcia and Ambrocio Are Seeking to Improperly Bring Claims Challenging Their Confinement in Sequen’s Already Adjudicated Habeas Case.....	14
C.	Garcia and Ambrocio’s Motion Is Procedurally Improper, and Their Claims Should Be Dismissed and Severed From Sequen’s Already Adjudicated Habeas Case.....	15
D.	Garcia and Ambrocio Fail to Meet the High Bar for Injunctive Relief.....	18
1.	Garcia and Ambrocio Cannot Show a Likelihood of Success on the Merits.....	18
(i)	Under the Plain Text of § 1225, Garcia and Ambrocio Must Be Detained Pending the Outcome of Their Removal Proceedings.....	18
(ii)	The <i>Mathews</i> Factors Do Not Apply.....	20

RESPONDENTS’ OPPOSITION TO LIGIA GARCIA’S MOTION FOR A TEMPORARY RESTRAINING ORDER AND YULISA ALVARADO AMBROCIO’S MOTION FOR A PRELIMINARY INJUNCTION

1	(iii) Garcia and Ambrocio’s Detention Authority Cannot Be	
2	Converted to Section 1226(a)	21
3	2. Garcia and Ambrocio Cannot Establish Irreparable Harm.	22
4	3. The Balance of Equities and Public Interest Do Not Favor an	
5	Injunction.	23
6	E. Any Order Should Not Provide for Immediate Release and Should Not	
7	Reverse the Burden of Proof.....	24
8	VI. CONCLUSION	25

TABLE OF AUTHORITIES

CASES

PAGE(S)

<i>Abel v. United States</i> , 362 U.S. 217 (1960)	22
<i>Acord v. California</i> , No. 1:17-cv-01089-MSJ- (HC), 2017 WL 4699835 (E.D. Cal. Oct. 19, 2017)	15, 16, 17
<i>Al Otro Lado v. Executive Office for Immigration Review</i> , 138 F.4th 1102 (9th Cir. 2025)	6
<i>All. for Wild Rockies v. Cottrell</i> , 632 F.3d 1127 (9th Cir. 2011)	23
<i>American Immigration Lawyers Ass’n v. Reno</i> , 199 F.3d 1352 (D.C. Cir. 2000)	4
<i>Angov v. Lynch</i> , 788 F.3d 893 (9th Cir. 2015)	7
<i>Associated General Contractors of Cal., Inc. v. Coalition for Economic Equality</i> , 950 F.2d 1401 (9th Cir. 1991)	23
<i>Bautista v. L.A. Cnty.</i> , 216 F.3d 837 (9th Cir. 2000)	15
<i>Begay v. United States</i> , 553 U.S. 137 (2008)	6
<i>Biden v. Texas</i> , 597 U.S. 785 (2022)	6
<i>Buriev v. Warden, Geo. Broward Transitional Ctr.</i> , No. 25-cv-60459-ALTMAN, 2025 WL 1906626 (S.D. Fla. Mar. 18, 2025)	16, 17
<i>Carlson v. Landon</i> , 342 U.S. 524 (1952)	22, 23
<i>Coughlin v. Rogers</i> , 130 F.3d 1348 (9th Cir. 1997)	15
<i>Crawford v. Bell</i> , 599 F.2d 890 (9th Cir. 1979)	14
<i>Dave v. Ashcroft</i> , 363 F.3d 649 (7th Cir. 2004)	20, 21
<i>Demore v. Kim</i> , 538 U.S. 510 (2003)	20, 23

RESPONDENTS’ OPPOSITION TO LIGIA GARCIA’S MOTION FOR A TEMPORARY RESTRAINING ORDER AND
YULISA ALVARADO AMBROCIO’S MOTION FOR A PRELIMINARY INJUNCTION
25-CV-06487-PCP

1	<i>Dep't of Homeland Security v. Thuraissigiam</i> ,	
2	591 U.S. 103 (2020)	passim
3	<i>Doe v. Garland</i> ,	
4	109 F.4th 1188 (9th Cir. 2024)	15
5	<i>Drakes Bay Oyster Co. v. Jewell</i> ,	
6	747 F.3d 1073 (9th Cir. 2014)	23
7	<i>Florida v. United States</i> ,	
8	660 F. Supp. 3d 1239 (N.D. Fla. 2023)	9
9	<i>Gen. Contractors of Cal., Inc. v. Coal for Econ. Equity</i> ,	
10	950 F.2d 1401 (9th Cir. 1991)	23
11	<i>In re Burrell</i> ,	
12	415 F.3d 994 (9th Cir. 2005)	13, 14
13	<i>In re Guerra</i> ,	
14	24 I. & N. Dec. 37 (BIA 2006)	8
15	<i>Javier Ceja Gonzalez v. Noem</i> ,	
16	No. 5:25-cv-02054-ODW (C.D. Cal. Aug. 13, 2025)	24
17	<i>Jennings v. Rodriguez</i> ,	
18	583 U.S. 281 (2018)	3, 5, 6, 8, 19, 24
19	<i>Karczewski v. DCH Mission Valley LLC</i> ,	
20	862 F.3d 1006 (9th Cir. 2017)	19
21	<i>Kingdomware Technologies, Inc. v. United States</i> ,	
22	579 U.S. 162 (2016)	8
23	<i>Kleber v. CareFusion Corp.</i> ,	
24	914 F.3d 480 (7th Cir. 2019)	6
25	<i>Kucana v. Holder</i> ,	
26	558 U.S. 233 (2010)	4
27	<i>Landon v. Plasencia</i> ,	
28	459 U.S. 21 (1982)	20, 21
	<i>Lands Council v. McNair</i> ,	
	537 F.3d 981 (9th Cir. 2008)	23
	<i>Lopez Reyes v. Bonnar</i> ,	
	No. 18-cv-07429-SK, 2018 WL 7474861 (N.D. Cal. Dec. 24, 2018)	23
	<i>Lopez v. Brewer</i> ,	
	680 F.3d 1068 (9th Cir. 2012)	12
	RESPONDENTS' OPPOSITION TO LIGIA GARCIA'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND YULISA ALVARADO AMBROCIO'S MOTION FOR A PRELIMINARY INJUNCTION 25-CV-06487-PCP	

1	<i>Marin All. For Med. Marijuana v. Holder,</i>	
2	866 F. Supp. 2d 1142 (N.D. Cal. 2011)	23
3	<i>Mathews v. Eldridge,</i>	
4	424 U.S. 319 (1976)	20
5	<i>Matter of E-R-M- & L-R-M-,</i>	
6	25 I & N Dec. 520 (BIA 2011)	5
7	<i>Matter of Lemus,</i>	
8	25 I & N Dec. 734 (BIA 2012)	3, 7
9	<i>Matter of M-S-,</i>	
10	27 I. & N. 509 (2019)	8
11	<i>Matter of Q. Li,</i>	
12	29 I. & N. Dec. 66 (BIA 2025)	6
13	<i>Matter of Jonathan Javier Yajure Hurtado,</i>	
14	29 I. & N. Dec. 216 (BIA 2025)	7, 8, 18, 19, 24
15	<i>Muhammad v. Close,</i>	
16	540 U.S. 749 (2004)	14
17	<i>NASD Disp. Resol., Inc. v. Jud. Council of State of Cal.,</i>	
18	488 F.3d 1065 (9th Cir. 2007)	13
19	<i>Nettles v. Grounds,</i>	
20	830 F.3d 922 (9th Cir. 2016)	14
21	<i>Niz-Chavez v. Garland,</i>	
22	593 U.S. 155 (2021)	8-9
23	<i>Nken v. Holder,</i>	
24	556 U.S. 418 (2009)	23
25	<i>Ortega-Cervantes v. Gonzales,</i>	
26	501 F.3d 1111 (9th Cir. 2007)	7, 8
27	<i>Pena v. Hyde,</i>	
28	No. 25-11983-NMG, 2025 WL 2108913 (D. Mass. July 28, 2025)	7
	<i>Pinson v. Carvajal,</i>	
	69 F.4th 1059 (9th Cir. 2023)	14
	<i>Preminger v. Principi,</i>	
	422 F.3d 815 (9th Cir. 2005)	24
	<i>Reno v. Flores,</i>	
	507 U.S. 292 (1993)	22, 23

1	<i>Rodriguez Diaz v. Garland,</i>	
2	53 F.4th 1206 (9th Cir. 2022)	20, 22, 25
3	<i>Rudolph v. Cal. Two Bunch Return, LLC,</i>	
4	No. CV-16-00886 AB (KKx), 2017 WL 7101147 (C.D. Cal. May 19, 2017)	13
5	<i>Stormans, Inc. v. Selecky,</i>	
6	586 F.3d 1109 (9th Cir. 2009)	23
7	<i>Stuhlberg Int'l Sales Co. v. John D. Brush & Co.,</i>	
8	240 F.3d 832 (9th Cir. 2001)	12
9	<i>Ubiquity Press Inc. v. Baran,</i>	
10	No. 8:20-cv-01809-JLS-DFM, 2020 WL 8172983 (C.D. Cal. Dec. 20, 2020)	23
11	<i>United States ex rel. Knauff v. Shaughnessy,</i>	
12	338 U.S. 537 (1950)	20
13	<i>Villarreal v. R.J. Reynolds Tobacco Co.,</i>	
14	839 F.3d 958 (11th Cir. 2016)	6, 7
15	<i>Washington v. Sandoval,</i>	
16	No. C 10-0250 LHK (PR), 2011 WL 1522349 (N.D. Cal. Apr. 19, 2011)	15
17	<i>Weinberger v. Romero-Barcelo,</i>	
18	456 U.S. 305 (1982)	24
19	<i>Winter v. Natural Res. Def. Council, Inc.,</i>	
20	555 U.S. 7 (2008)	13
21	<i>Wong Wing v. United States,</i>	
22	163 U.S. 228 (1896)	22
23	<i>Zadydas v. Davis,</i>	
24	533 U.S. 678 (2001)	20

FEDERAL STATUTES

21	8 U.S. C. § 1182.....	3, 4, 7
22	8 U.S.C. § 1225	passim
23	8 U.S.C. § 1229a	passim
24	8 U.S.C. § 1252	passim
25	28 U.S.C. § 2254	15

FEDERAL REGULATIONS

8 C.F.R. § 208.30	5, 20
8 C.F.R. § 235.3	5, 6
8 C.F.R. § 236.1	7
8 C.F.R. § 1236.1	8
8 C.F.R. § 1003.42	5, 8

FEDERAL RULES OF CIVIL PROCEDURE

Federal Rule of Civil Procedure 18	15
Federal Rule of Civil Procedure 19	15
Federal Rule of Civil Procedure 20	15
Federal Rule of Civil Procedure 21	15

OTHER AUTHORITIES

<i>Designating Aliens for Expedited Removal</i> , 90 Fed. Reg. 8139 (Jan. 24, 2025)	4
---	---

Respondents respectfully submit the following opposition to Petitioners, Ligia Garcia (“Garcia”) and Yulisa Alvarado Ambrocio’s (“Ambrocio”), motion for a temporary restraining order and a preliminary injunction. *See* Pls.’ Mot. for TRO (“Mot.”), ECF Nos. 34, 35.¹

I. INTRODUCTION

On August 1, 2025, Petitioner, Carmen Aracely Pablo Sequen (“Sequen”), filed this habeas case seeking an order requiring her immediate release from custody and to prohibit her re-detention without a hearing prior to such re-detention where the Government bears the burden of proving, by clear and convincing evidence, that she is a flight risk or danger to the community. On that same day, Sequen filed an ex parte motion for a temporary restraining order, which the Court granted within a few hours. The Court’s order effectively granted Sequen all the relief she sought in her habeas case, including immediate release, and enjoined Respondents from re-detaining Sequen without notice and a pre-deprivation hearing. On August 28, 2025, the Court held a preliminary injunction hearing about Sequen, as the sole petitioner at that time, and the circumstances specific to her. On September 16, 2025, the Court issued a preliminary injunction, again awarding Sequen all the relief she sought in her habeas petition. Never once during those proceedings did Sequen tell Respondents or the Court about her intention to transform a case exclusively about her into a class action involving other people with no relationship to her and in varying procedural postures.

Less than 48 hours after the Court issued its order granting a preliminary injunction as to Sequen exclusively, her case ballooned into a class action adding three new Petitioners, Ambrocio, Garcia, and Martin Hernandez Torres, and nine new Respondents, Marcos Charles, Thomas Giles, Monica Burke, Sirce Owen, the U.S. Department of Homeland Security (“DHS”), the U.S. Immigration and Customs Enforcement, the U.S. Department of Justice, the Executive Office for Immigration Review, and the United States of America. More significantly, and without any notice to Respondents or the Court, or any

¹ By responding to Garcia and Ambrocio’s motion, Respondents are not waiving any challenge to the first amended complaint or the motion for class certification. *See* Pls.’ Am. Compl., ECF No. 32; Pls.’ Mot. for Class Certification, ECF No. 33. Nor are Respondents waiving any of their rights to appeal the order granting the preliminary injunction. *See* Order Granting Prelim. Inj., ECF No. 27.

1 adherence to the Federal Rules of Civil Procedure, Sequen seeks to turn her individual habeas petition into
2 a class action with new claims challenging her prior confinement that had not been brought previously
3 about a detention center in San Francisco that she is not being detained in. In sum, Petitioners' amended
4 complaint seeks to start an entirely new case about an entirely new set of issues that are different from
5 Sequen's habeas case about her personal circumstances.

6 Regardless of how opportunistic Petitioners are trying to be, or their desire to forum shop, the
7 Court must still have jurisdiction over their claims. Petitioners must also still follow the Federal Rules of
8 Civil Procedure to amend their pleading, join new parties, and assert new claims. Yet irrespective of such,
9 Petitioners filed, on the same day, another ex parte motion for a temporary restraining order that the Court
10 again granted (in part) without allowing Respondents a full and fair opportunity to respond. Their efforts
11 should be rejected. The Court lacks jurisdiction over Garcia and Ambrocio's claims because it already
12 granted Sequen the relief that she sought. Furthermore, the Court lacks jurisdiction over their claims
13 because the Ninth Circuit prohibits challenges of confinement claims from being brought in habeas cases.
14 Finally, Garcia and Ambrocio's claims are improperly joined in Sequen's case and therefore the Court
15 should dismiss and sever those claims.

16 Turning to the substance of Garcia and Ambrocio's claims, they have moved for an order seeking
17 Garcia's immediate release from custody, without requiring bond or electronic monitoring, and enjoining
18 Respondents from re-detaining them absent a pre-deprivation hearing before an immigration judge with at
19 least ten days' notice. *See* Mot. at 9. Yet under the applicable immigration statutes, Garcia and Ambrocio
20 are "applicants for admission" under 8 U.S.C. § 1225(b) who must be detained and cannot be released
21 except at the Secretary's discretion. These "applicants for admission," including those present without
22 being admitted or paroled ("PWAP"), "fall into one of two categories, those covered by § 1225(b)(1) and
23 those covered by § 1225(b)(2)," both of which are subject to mandatory detention. They are not entitled to
24 custody redetermination hearings, whether pre- or post-detention. Thus, and notwithstanding the lack of
25 jurisdiction and the procedural defects, Garcia and Ambrocio cannot show a likelihood of success on their
26 claims that they are entitled to custody redetermination hearings prior to re-detention. The Court should
27 deny the motion for that separate reason.

28 RESPONDENTS' OPPOSITION TO LIGIA GARCIA'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND
YULISA ALVARADO AMBROCIO'S MOTION FOR A PRELIMINARY INJUNCTION
25-CV-06487-PCP

II. STATUTORY BACKGROUND

A. “Applicants for Admission” Under 8 U.S.C. § 1225.

The Immigration and Nationality Act (“INA”) defines an “applicant for admission” as an “alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .).” 8 U.S.C. § 1225(a)(1); *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that “an alien who tries to enter the country illegally is treated as an ‘applicant for admission’”) (citing 8 U.S.C. § 1225(a)(1)); *Matter of Lemus*, 25 I & N Dec. 734, 743 (BIA 2012) (“Congress has defined the concept of an ‘applicant for admission’ in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission[.]”). However long they have been in this country, an alien who is present in the United States but has not been admitted “is treated as ‘an applicant for admission.’” *Jennings v. Rodriguez*, 583 U.S. 281 287 (2018). Moreover, under Section 212(a) of the INA, 8 U.S.C. § 1182(a), certain classes of aliens are inadmissible — and therefore ineligible to be admitted to the United States — including those “present in the United States without being admitted or paroled[.]” *Id.* § 1182(a)(6)(A)(i).

B. Detention Under 8 U.S.C. § 1225.

Applicants for admission, including those like Garcia and Ambrocio who are PWAP, may be removed from the United States by, *inter alia*, expedited removal under § 1225(b)(1), or full removal proceedings before an immigration judge under 8 U.S.C. § 1229a, pursuant to § 1225(b)(2). All applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings*, 583 U.S. at 287 (“[R]ead most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for applicants for admission until certain proceedings have concluded.”).

1. Section 1225(b)(1).

Congress established the expedited removal process in § 1225(b)(1) to ensure that the Executive could “expedite removal of aliens lacking a legal basis to remain in the United States.” *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Thuraissigiam*, 591 U.S. at 106. This provision authorizes immigration

officers to order certain inadmissible aliens “removed from the United States without further hearing or review.” Section 1225(b)(1) applies to “arriving aliens” and “certain other” aliens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). Section 1225(b)(1) allows for the expedited removal of any alien “described in” § 1225(b)(1)(A)(iii)(II), as designated by the Attorney General or Secretary of Homeland Security — that is, any alien not “admitted or paroled into the United States” and continuously “physically present” fewer than two years prior to the date of the determination of inadmissibility — who is inadmissible under § 1182(a)(7) at the time of “inspection.” *See* 8 U.S.C. § 1182(a)(7) (categorizing as inadmissible aliens without valid entry documents). Whether that happens at a port of entry or after illegal entry is not relevant; what matters is whether, when an officer inspects an alien for admission under § 1225(a)(3), that alien lacks entry documents and so is subject to § 1182(a)(7). The Attorney General’s or Secretary’s authority to “designate” classes of aliens as subject to expedited removal is subject to his or her “sole and unreviewable discretion.” 8 U.S.C. § 1225(b)(1)(A)(iii); *see also American Immigration Lawyers Ass’n v. Reno*, 199 F.3d 1352 (D.C. Cir. 2000) (upholding the expedited removal statute).

The Secretary (and earlier, the Attorney General) has designated categories of aliens for expedited removal under § 1225(b)(1)(A)(iii) on five occasions; most recently, restoring the expedited removal scope to “the fullest extent authorized by Congress.” *Designating Aliens for Expedited Removal*, 90 Fed. Reg. 8139 (Jan. 24, 2025). The notice enables DHS “to exercise the full scope of its statutory authority to place in expedited removal, with limited exceptions, aliens determined to be inadmissible under [8 U.S.C. § 1182(a)(6)(C) or (a)(7)] who have not been admitted or paroled into the United States and who have not affirmatively shown, to the satisfaction of an immigration officer, that they have been physically present in the United States continuously for the two-year period immediately preceding the date of the determination of inadmissibility,” who were not otherwise covered by prior designations. *Id.* at 8139–40.

Expedited removal proceedings under § 1225(b)(1) include additional procedures if an alien indicates an intention to apply for asylum or expresses a fear of persecution, torture, or return to the alien’s country. *See* 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 235.3(b)(4). In that situation, the alien is given a non-adversarial interview with an asylum officer, who determines whether the alien has a

1 “credible fear of persecution” or torture. *Id.* §§ 1225(b)(1)(A)(ii), (b)(1)(B)(iii)(II), (b)(1)(B)(iv), (v); *see*
 2 *also* 8 C.F.R. § 208.30; *Thuraissigiam*, 591 U.S. at 109–11 (describing the credible fear process). The
 3 alien may also pursue *de novo* review of that determination by an immigration judge. 8 U.S.C.
 4 § 1225(b)(1)(B)(iii)(III); 8 C.F.R. §§ 1003.42(d), 1208.30(g). During the credible fear process, an alien
 5 may consult with an attorney or representative and engage an interpreter. 8 C.F.R. § 208.30(d)(4), (5). But
 6 an alien subject to these procedures “shall be detained pending a final determination of credible fear of
 7 persecution and, if found not to have such a fear, until removed.” 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

8 If the asylum officer or immigration judge does not find a credible fear, the alien is “removed from
 9 the United States without further hearing or review.” 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I), (b)(1)(C);
 10 1252(a)(2)(A)(iii), (e)(2); 8 C.F.R. §§ 1003.42(f), 1208.30(g)(2)(iv)(A). If the asylum officer or
 11 immigration judge finds a credible fear, the alien is generally placed in full removal proceedings under 8
 12 U.S.C. § 1229a, but remains subject to mandatory detention. *See* 8 C.F.R. § 208.30(f); 8 U.S.C.
 13 § 1225(b)(1)(B)(iii)(IV).

14 Expedited removal under § 1225(b)(1) is a statutory procedure that is distinct from removal under
 15 § 1229a. Section 1229a governs full removal proceedings initiated by a notice to appear and conducted
 16 before an immigration judge, during which the alien may apply for relief or protection. By contrast,
 17 expedited removal under § 1225(b)(1) applies in narrower, statutorily defined circumstances — typically
 18 to individuals apprehended at or near the border who lack valid entry documents or commit fraud upon
 19 entry — and allows for their removal without a hearing before an immigration judge, subject to limited
 20 exceptions. For these aliens, DHS has discretion to pursue expedited removal under § 1225(b)(1) or
 21 § 1229a. *Matter of E-R-M- & L-R-M-*, 25 I & N Dec. 520, 524 (BIA 2011).

22 2. Section 1225(b)(2).

23 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583 U.S. at 287. It
 24 “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under Section 1225(b)(2), an
 25 alien “who is an applicant for admission” is subject to mandatory detention pending full removal
 26 proceedings “if the examining immigration officer determines that [the] alien seeking admission is not
 27 clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (requiring that such aliens

“be detained for a proceeding under section 1229a of this title”); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (explaining that proceedings under section 1229a are “full removal proceedings under section 240 of the INA”); *see also id.* (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299); 8 C.F.R. § 235.3(b)(3) (providing that an alien placed into § 1229a removal proceedings in lieu of expedited removal proceedings under § 1225(b)(1) “shall be detained” pursuant to § 1225(b)(2)). DHS has the sole discretionary authority to temporarily release on parole “any alien applying for admission to the United States” on a “case-by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A); *see also Biden v. Texas*, 597 U.S. 785, 806 (2022).

A narrow definition of “seeking admission” runs counter to Congress’s use of the phrase “or otherwise” in Section 1225(a)(3). The use of “or otherwise” to connect terms is a familiar legal construction where the specific items that precede that phrase are meant to be subsumed by what comes after it. *See, e.g., Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 963-64 (11th Cir. 2016) (en banc) (noting four Congressional statutes and three 11th Circuit procedural rules as exemplary of how the phrase “or otherwise” is to be construed such that “the first action is a subset of the second action”). As such, “or otherwise” operates as a catch-all category that serves to make clear that what precedes that phrase falls within the larger category that follows. *See Kleber v. CareFusion Corp.*, 914 F.3d 480, 482-83 (7th Cir. 2019) (analyzing the “or otherwise” phrase in a Congressional statute and determining that Congress’s “word choice is significant” in that it “employ[s] a catchall formulation”); *see also Al Otro Lado v. Executive Office for Immigration Review*, 138 F.4th 1102, 1119 (9th Cir. 2025) (finding that in 8 U.S.C. §§ 1225(a)(2) and (a)(3) “Congress took care to provide for the inspection of both the catch-all category of noncitizens ‘otherwise seeking admission’ and stowaways”). The catch-all formulation does not render the phrase preceding “or otherwise” as superfluous since “the specific items that precede it *are meant* to be subsumed by what comes after the ‘or otherwise.’” *Villarreal*, 839 F.3d at 964 (emphasis in original) (citing *Begay v. United States*, 553 U.S. 137, 153 (2008) (Scalia, J., concurring)). To treat what follows “or otherwise” and what precedes it “as separate categories, does not give effect to every word because it

reads ‘otherwise’ out of the statute.” *Villarreal*, 839 F.3d at 964. Thus, § 1225(b)(2) is not limited to aliens arriving at the border; it also covers aliens in the country’s interior who are present and not admitted. *See, e.g., Pena v. Hyde*, No. CV 25-11983-NMG, 2025 WL 2108913, at *1-3 (D. Mass. July 28, 2025) (holding that an alien released and later detained after a traffic stop “remains an applicant for admission” and “his continued detention is therefore authorized by § 1225(b)(2)(A)” consistent with constitutional due process).

Lastly, “seeking admission” is a term of art. *Matter of Lemus-Losa*, 25 I&N Dec. 734, 743 n.6 (BIA 2012). The INA provides that “many people who are not actually requesting permission to enter the United States in the ordinary sense [including aliens present in the United States who have not been admitted] are nevertheless deemed to be ‘seeking admission’ under immigration laws.” *Id.* at 743; *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 221 (BIA 2025); *see also Angov v. Lynch*, 788 F.3d 893, 898 (9th Cir. 2015). An alien “can ‘seek admission’ from anywhere in the world, for ‘example by applying for a visa at a consulate abroad.” *Matter of Lemus-Losa*, 25 I&N at 741.

C. Detention Under 8 U.S.C. § 1226(a).

A different statutory detention authority, 8 U.S.C. § 1226, applies to aliens who have been lawfully admitted into the United States but are removable and subject to removal proceedings. Section 1226(a) provides for the arrest and detention of these aliens “pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a), DHS may, in its discretion, detain an alien during his removal proceedings, release him on bond, or release him on conditional parole.² By regulation, immigration officers can release an alien if he demonstrates that he “would not pose a danger to property or persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). An alien can also request a custody redetermination (i.e., a bond hearing) by an immigration judge at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19. At a custody redetermination, the immigration judge may continue detention or release the alien on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). Immigration judges have

² Being “conditionally paroled under the authority of § 1226(a)” is distinct from being “paroled into the United States under the authority of § 1182(d)(5)(A).” *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2007) (holding that because release on “conditional parole” under § 1226(a) is not a parole, the alien was not eligible for adjustment of status under § 1255(a)).

1 broad discretion in deciding whether to release an alien on bond. *In re Guerra*, 24 I. & N. Dec. 37, 39–40
 2 (BIA 2006) (listing nine factors for immigration judges to consider).

3 Until recently, the Government interpreted § 1226(a) to be an available detention authority for
 4 aliens PWAP placed directly in full removal proceedings under § 1229a. *See, e.g., Ortega-Cervantes*, 501
 5 F.3d at 1116. However, legal developments have clarified that § 1225 is the sole applicable immigration
 6 detention authority for *all* applicants for admission. *See Jennings*, 583 U.S. at 297 (“Read most naturally,
 7 §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings
 8 have concluded.”). In *Jennings*, the Supreme Court explained that 8 U.S.C. § 1225(b) applies to all
 9 applicants for admission, noting that the language of 8 U.S.C. § 1225(b)(2) is “quite clear” and
 10 “unequivocally mandate[s]” detention. 583 U.S. at 300, 303 (explaining that “the word ‘shall’ usually
 11 connotes a requirement” (quoting *Kingdomware Technologies, Inc. v. United States*, 579 U.S. 162, 171
 12 (2016))). Similarly, the Attorney General, in *Matter of M-S-*, unequivocally recognized that 8 U.S.C. §§
 13 1225 and 1226(a) do not overlap but describe “different classes of aliens.” 27 I&N Dec. at 516. The
 14 Attorney General also held—in an analogous context—that aliens present without admission and placed
 15 into expedited removal proceedings are detained under 8 U.S.C. § 1225 even if later placed in 8 U.S.C. §
 16 1229a removal proceedings. 27 I&N Dec. at 518-19. In *Matter of Q. Li*, the Board of Immigration Appeals
 17 (BIA) held that an alien who illegally crossed into the United States between POEs and was apprehended
 18 without a warrant while arriving is detained under 8 U.S.C. § 1225(b). 29 I&N Dec. at 71. The BIA
 19 recently resolved the question of whether an alien PWAP released from DHS custody pursuant to INA §
 20 236(a) is an applicant for admission detained under INA § 235(b)(2)(A) in the affirmative. *Matter of*
 21 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

22 This ongoing evolution of the law makes clear that all applicants for admission are subject to
 23 detention under 8 U.S.C. § 1225(b). *Cf. Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021) (providing that
 24 “no amount of policy-talk can overcome a plain statutory command”); *see generally Florida v. United*
 25 *States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (explaining that “the 1996 expansion of § 1225(b) to
 26 include illegal border crossers would make little sense if DHS retained discretion to apply § 1226(a) and
 27

1 release illegal border crossers whenever the agency saw fit”).³ *Florida*’s conclusion “that § 1225(b)’s
2 ‘shall be detained’ means what it says and . . . is a mandatory requirement . . . flows directly from
3 *Jennings*.” *Florida*, 660 F. Supp. 3d at 1273.

4 **III. FACTUAL BACKGROUND**

5 **A. Yulisa Alvarado Ambrocio.**

6 Ambrocio is a native and citizen of Guatemala who entered the United States without inspection,
7 admission, or parole on or before April 25, 2024. On that date, Border Patrol Agents encountered
8 Ambrocio in El Paso, Texas near the Texas Border Patrol Sector. Ambrocio admitted to illegally crossing
9 the United States’ border without being inspected by an immigration officer at a designated Port of Entry.
10 She further admitted to being a citizen and national of Guatemala and not having the necessary legal
11 documents to enter, pass through, or remain in the United States. The Border Patrol Agents arrested
12 Ambrocio and transported her to the El Paso Hardened Facility in El Paso, Texas for further processing.
13 Ambrocio was deemed inadmissible pursuant to INA § 212(a)(6)(A)(i), processed as a “Notice to
14 Appear,” and released on her own recognizance—due to lack of detention space—under section
15 236(a)(2)(B) of the Immigration and Nationality Act.

16 On September 11, 2025, Ambrocio failed to report to Enforcement and Removal Operations
17 (“ERO”) as instructed. Ambrocio was encountered after a court hearing with another man, her child, and
18 two pro bono attorneys. Ambrocio did not have an explanation for why she failed to report. ERO did not
19 detain Ambrocio because she was breastfeeding her child. Ambrocio is currently not ICE custody.
20 Ambrocio was instructed that she must report in-person to ERO for an appointment on October 16, 2025.

25 ³ Though not binding, the U.S. District Court for the Northern District of Florida’s decision is
26 instructive here. *Florida* held that 8 U.S.C. § 1225(b) mandates detention of applicants for admission
27 throughout removal proceedings, rejecting the assertion that DHS has discretion to choose to detain an
28 applicant for admission under either 8 U.S.C. §§ 1225(b) or 1226(a). 660 F. Supp. 3d at 1275. The court
held that such discretion “would render mandatory detention under 8 U.S.C. § 1225(b) meaningless.” *Id.*
RESPONDENTS’ OPPOSITION TO LIGIA GARCIA’S MOTION FOR A TEMPORARY RESTRAINING ORDER AND
YULISA ALVARADO AMBROCIO’S MOTION FOR A PRELIMINARY INJUNCTION
25-CV-06487-PCP

B. Ligia Garcia.

Garcia is a native and citizen of Colombia who entered the United States without inspection, admission, or parole on or before March 12, 2024. On that date, Border Patrol Agents encountered Garcia near San Diego, California. Garcia entered the United States illegally from Mexico. Garcia admitted to illegally crossing the United States' border without being inspected by an immigration officer at a designated Port of Entry. She further admitted to being a citizen and national of Colombia and not having the necessary legal documents to enter, pass through, or remain in the United States. The Border Patrol Agents arrested Garcia and transported her to a facility for further processing. While in custody, Garcia failed to provide a valid address of a point of contact in the United States. Garcia was processed as a "Notice to Appear," deemed subject to removal pursuant to INA § 212(a)(6)(A)(i), and released on her own recognizance pursuant to INA § 236(a)(2)(B) because of a lack of bed space.

On September 18, 2025, Garcia appeared at the San Francisco Executive Office of Immigration Review ("EOIR") for a hearing, in which DHS moved to dismiss her case. The Immigration Judge provided Garcia with additional time to secure counsel and respond to the motion. After the hearing, Garcia was arrested and taken into custody. On September 19, 2025, and pursuant to the Court's Order (ECF No. 36), Respondents released Garcia from ICE custody in San Francisco. *See* Status Report About Pet.'s Release, ECF No. 41. Ligia's next immigration court hearing is scheduled for October 9, 2025.

IV. PROCEDURAL BACKGROUND

A. Sequen's Habeas Case.

On August 1, 2025, Sequen commenced this action by filing a writ of habeas corpus, ECF No. 1, and moving this Court *ex parte* for a temporary restraining order, ECF No. 6. Sequen alleged two claims in her habeas petition: (1) a violation of the Fifth Amendment to the United States Constitution arising out of "substantive due process"; and (2) a violation of the Fifth Amendment to the United States Constitution arising out of "procedural due process." *See* Pet. for Writ of Habeas Corpus at 13-14, ECF No. 1. The Court granted Sequen's *ex parte* motion within hours of its filing. ECF No. 7. The Court ordered Respondents to immediately release Sequen from custody and to file a status report by 5:00 p.m. on August 4, 2025, confirming that she had been released. *Id.* at 7. The Court enjoined the Government from

1 “re-detaining Ms. Pablo Sequen without notice and a pre-deprivation hearing before a neutral
2 decisionmaker.” *See id.* The initial order effectively granted the relief requested in the habeas petition.

3 On August 28, 2025, the Court held a hearing that lasted over 30 minutes about Sequen’s motion.
4 *See* Minute Entry, ECF No. 26. The hearing was exclusively about Sequen, the sole petitioner in this
5 habeas case at the time. During that hearing, Sequen never raised any issue pertaining to her prior
6 detention, time spent in custody, or conditions of confinement. At the end of the hearing, the Court asked
7 the parties to confer about the next steps of Sequen’s case if the Court granted the motion for a
8 preliminary injunction. Counsel for both parties agreed to do that.

9 On September 16, 2025, the Court issued an order granting a preliminary injunction as to Sequen.
10 *See* Order Granting Prelim. Inj., ECF No. 27. The Court’s order provides Sequen the relief that she sought
11 in her motion and habeas case. *See* Pet. for Writ of Habeas Corpus, ECF No. 1; ECF No. 6-1. The Court’s
12 order is exclusively about Sequen, who was still the sole petitioner in this habeas case at that time. *See*
13 Order Granting Prelim. Inj., ECF No. 27. From the date of the hearing (August 28, 2025) until the Court
14 issued a preliminary injunction (September 16, 2025), Sequen never mentioned that she planned to add
15 new parties to her habeas petition or file a class action. Nor did she attempt to confer with Respondents
16 about amending her habeas petition, adding new parties, or asserting new claims.

17 **B. Alleged Class Action and Garcia and Ambrocio’s Habeas Cases.**

18 On September 18, 2025, and less than 48 hours after the Court issued a preliminary injunction
19 exclusively as to Sequen, Petitioners Sequen, Garcia, Ambrocio, and Martin Hernandez Torres, filed a 54-
20 page amended complaint adding three new Petitioners, nine new Respondents, and asserting six new
21 claims. *See* Pls.’ Am. Compl., ECF No. 32. Petitioners never sought leave to file an amended complaint
22 that added new parties or new claims or conferred with Respondents.

23 Petitioners’ amended complaint challenges conditions of confinement, seeks declarations from the
24 Court, and attempts to enjoin Respondents from “subjecting” them to “illegal and unconstitutional
25 conditions.” *See* Pls. Am. Compl., ECF No. 32. More broadly, Petitioners challenge their conditions of
26 confinement at a location in San Francisco. Petitioners’ amended complaint seeks to start an entirely new
27 case about an entirely new set of issues that are different from Sequen’s habeas case about her personal

28 RESPONDENTS’ OPPOSITION TO LIGIA GARCIA’S MOTION FOR A TEMPORARY RESTRAINING ORDER AND
YULISA ALVARADO AMBROCIO’S MOTION FOR A PRELIMINARY INJUNCTION
25-CV-06487-PCP

1 circumstances. *Compare* Pet. for Writ of Habeas Corpus, ECF No. 1 with Pls. Am. Compl., ECF No. 32.

2 During the late evening on the same day they filed their amended complaint, Petitioners filed a
3 motion for class certification. Pls.' Mot. for Provisional Class Certification, ECF No. 33. Petitioners
4 noticed their motion for hearing on October 30, 2025. The same night, Garcia and Ambrocio filed their
5 motion for a temporary restraining order. *See* Mot.

6 Just as before with Sequen, the next day on September 19, 2025, the Court granted Garcia and
7 Ambrocio's *ex parte* motion in part and denied it in part. *See* Order Granting in Part Mot. for TRO at 8,
8 ECF No. 36. The Court once again ordered Respondents to immediately release Garcia from custody and
9 further enjoined them from re-detaining her "without providing her with a pre-deprivation hearing before
10 a neutral decisionmaker." *See id.* The Court denied Ambrocio's motion for a temporary restraining order
11 but construed it "as a motion for preliminary injunctive relief" that "will be considered after defendants
12 have had an opportunity to respond." *See id.* The Court set a hearing on Garcia and Ambrocio's motion on
13 September 20, 2025, in San Jose. *See id.* The Court's order will remain in effect until October 2, 2025. *See*
14 *id.* On September 19, 2025, and within two hours after the Court issued its order on the motion for a
15 temporary restraining order, Respondents released Garcia. *See* Resp'ts Status Report About Pet.'s Release,
16 ECF No. 41.

17 V. ARGUMENT

18 A. Legal Standard.

19 The standard for issuing a temporary restraining order is "substantially identical" to the standard
20 for issuing a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839
21 n.7 (9th Cir. 2001). Such an injunction is "an extraordinary and drastic remedy, one that should not be
22 granted unless the movant, by a clear showing, carries the burden of persuasion." *Lopez v. Brewer*, 680
23 F.3d 1068, 1072 (9th Cir. 2012). To obtain relief, the moving party must show that "he is likely to succeed
24 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the
25 balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. NRDC*, 555
26 U.S. 7, 20 (2008).

B. The Court Lacks Jurisdiction Over Garcia and Ambrocio's Claims.

1. The Court Lacks Jurisdiction Over Garcia and Ambrocio's Claims Because Sequen Already Received the Relief She Sought.

Under well-established case law, when a petitioner obtains the relief she seeks, the Court is devoid of subject matter jurisdiction. *See NASD Disp. Resol., Inc. v. Jud. Council of State of Cal.*, 488 F.3d 1065, 1068 (9th Cir. 2007) (remanding with instructions to dismiss the case where “[w]e cannot give the appellants any further relief because [intervening decisions] have already provided the relief sought by them in this case.”); *Rudolph v. Cal. Two Bunch Return, LLC*, No. CV-16-00886 AB (KKx), 2017 WL 7101147, at *2 (C.D. Cal. May 19, 2017) (dismissing for lack of subject matter jurisdiction where a “Plaintiff has already received all of the relief he seeks from the Court . . . his claim is moot and m[u]st be dismissed.”). Finally, courts have an obligation to consider mootness *sua sponte*, and should deny requested relief where it is superfluous. *In re Burrell*, 415 F.3d 994, 997 (9th Cir. 2005).

When Sequen filed her habeas case and motion for a temporary restraining order arising out of her specific circumstances, she sought the following relief: (1) a release from custody; (2) an order enjoining Respondents from re-detaining her; (3) an order enjoining Respondents from re-detaining her unless they demonstrate at a pre-deprivation hearing by clear and convincing evidence that she is a flight risk or a danger to the community; (4) an order prohibiting Respondents from transferring her out of the Northern District or removing her out of the country; and (5) a declaration that her arrest and detention violates the Due Process Clause. *See* ECF No. 1 at 15-16; ECF No. 6-1 at 19.

In its orders granting Sequen's motion and a preliminary injunction, the Court granted the relief she sought. The Court ordered that Respondents release Sequen, which they did. *See* ECF No. 7; *see also* Joint Status Report About Pet.'s Release, ECF No. 10. The Court enjoined Respondents from re-detaining Sequen during her proceeding “without providing her with a pre- detention bond hearing before a neutral immigration judge. *See* Order Granting Prelim. Inj. at 16, ECF No. 27. Based on the Court's order, Respondents cannot transfer Sequen out of the district. Throughout its order, the Court explains that Sequen is “entitled to due process under the Fifth Amendment.” *See id.* at 9. Because the Court granted Sequen all the relief she sought, it lacks jurisdiction over the new claims including those alleged by Garcia

1 and Ambrocio in their alleged class action. In addition, Sequen's claims, which Garcia and Ambrocio are
 2 seeking to join, are moot because the Court has already granted her requested relief.

3 **2. Garcia and Ambrocio Are Seeking to Improperly Bring Claims Challenging**
 4 **Their Confinement in Sequen's Already Adjudicated Habeas Case.**

5 Ninth Circuit precedent differentiates between habeas claims and claims challenging conditions of
 6 confinement. *See Nettles v. Grounds*, 830 F.3d 922, 927 (9th Cir. 2016). While "[c]hallenges to the
 7 validity of any confinement or to particulars affecting its duration are the province of habeas corpus;
 8 requests for relief turning on circumstances of confinement may be presented in a § 1983 action." *Id.*
 9 (quoting *Muhammad v. Close*, 540 U.S. 749, 750 (2004) (per curiam)). "The Ninth Circuit has long held
 10 that the "the writ of habeas corpus is limited to attacks upon the legality or duration of confinement" and
 11 "does not cover claims based on allegations 'that the terms and conditions of ... incarceration constitute
 12 cruel and unusual punishment.'" *See Pinson v. Carvajal*, 69 F.4th 1059, 1065 (9th Cir. 2023)
 13 (quoting *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979)). A district court lacks jurisdiction and
 14 properly dismisses a habeas petition that lies "outside the historic core of habeas corpus" and challenges
 15 conditions of confinement. *See id.* at 1075.

16 When Sequen filed her habeas petition, she alleged two claims arising out of the violation of her
 17 rights under the United States Constitution. *See* Pet. for Writ of Habeas Corpus at 13-14, ECF No. 1.
 18 Sequen did not challenge the conditions of her confinement. *See id.* Sequen never raised specific
 19 challenges to her confinement in her habeas petition, motion for a temporary restraining order, or at the
 20 hearing on her motion. The Court's order granting a preliminary injunction does not address the
 21 circumstances of Sequen's confinement. *See* Order Granting Prelim. Inj., ECF No. 27.

22 Neither Sequen, Garcia, nor Ambrocio are currently in detention. However, Sequen along with
 23 Garcia, Ambrocio, Martin Hernandez Torres, and an alleged class of individuals (ECF No. 33) seek to
 24 challenge their alleged conditions of confinement in addition to asserting petitions for writs of habeas
 25 corpus. *See generally* Pls.' Am. Compl., ECF No. 32. Under Ninth Circuit precedent, that is improper. *See*
 26 *Pinson*, 109 F.4th at 1075 (affirming the district court's dismissal of habeas petitions challenging
 27 conditions of confinement); *see also Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir. 2024) ("*Pinson*

1 solidified the rule that a habeas claim is one challenging the fact of confinement, rather than the conditions
 2 of confinement”). To the extent Garcia and Ambrocio’s claims rest on new claims added to Sequen’s
 3 habeas case challenging their confinement, they are improper and must be dismissed.

4 **C. Garcia and Ambrocio’s Motion Is Procedurally Improper, and Their Claims Should**
 5 **Be Dismissed and Severed From Sequen’s Already Adjudicated Habeas Case.**

6 Rule 18, Rule 19, Rule 20, and Rule 21 govern the joinder of parties under the Federal Rules of
 7 Civil Procedure. Rule 18 states that “[a] party asserting a claim, counterclaim, crossclaim, or third-party
 8 claim may join, as independent or alternative claims, as many claims as it has against an opposing party.”
 9 Fed. R. Civ. P. 18(a). Rule 20 generally allows a plaintiff to bring claims against more than one defendant
 10 if: (1) the claims arise “out of the same transaction, occurrence, or series of transactions or occurrences,”
 11 and (2) there is a “question of law or fact common to all defendants.” Fed. R. Civ. P. 20(a)(1)-(2) Under
 12 Rule 21, “[o]n motion or on its own, the court may at any time, on just terms, add or drop a party” or
 13 “sever any claim against a party.” Fed. R. Civ. P. 21.

14 The “same transaction” requirement in Rule 20 refers to “similarity in the factual background of a
 15 claim; claims that arise out of a systematic pattern of events” and have a “very definite logical
 16 relationship” arise out of the same transaction and occurrence. *See Washington v. Sandoval*, No. C 10-
 17 0250 LHK (PR), 2011 WL1522349, at *2 (N.D. Cal. Apr. 19, 2011) (quoting *Bautista v. L.A. Cnty.*, 216
 18 F.3d 837, 842–43 (9th Cir.2000) (Reinhardt, J., concurring)). In addition, “the mere fact that all [of a
 19 plaintiff’s] claims arise under the same general law does not necessarily establish a common question of
 20 law or fact.” *Coughlin v. Rogers*, 130 F.3d 1348, 1351 (9th Cir. 1997). Claims “involv[ing] different legal
 21 issues, standards, and procedures” do not involve common factual or legal questions. *Id.*

22 “There is no authority for permitting multiple petitioners to file a single habeas petition under 28
 23 U.S.C. § 2254, and doing so generally is not permitted.” *Acord v. California*, No. 1:17-cv-01089-MJS
 24 (HC), 2017 WL 4699835, at *1 (E.D. Cal. Oct. 19, 2017). “Allowing multiple petitioners to proceed on a
 25 single petition presents a multitude of difficulties” because “[t]here may be allegations, defenses,
 26 evidence, or legal theories that are distinctly applicable to each petitioner.” *Id.* It would also appear to
 27 contravene the prohibition contained in 8 U.S.C. § 1252(f)(1), which states that “no court (other than the

Supreme Court) shall have the jurisdiction or authority to enjoin or restrain . . . other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.” 8 U.S.C. § 1252(f)(1). Indeed, “courts across the country agree that two petitioners cannot join a single habeas petition.” *See Buriev v. Warden, Geo, Broward Transitional Ctr.*, No. 25-cv-60459-ALTMAN, 2025 WL 1906626, at *1 (S.D. Fla. Mar. 18. 2025) (collecting cases rejecting the joinder of multiple petitioners to a habeas petition).

As a starting point, the addition of Garcia and Ambrocio as new parties asserting new claims does not satisfy the Federal Rules of Civil Procedure governing joinder. Garcia and Ambrocio are *new* parties asserting *new* claims seeking to join Sequen’s previously litigated habeas case. In her habeas case, Sequen sought relief for circumstances specific to her and asserted claims based on alleged violations of her rights arising under the United States Constitution. *See* Pet. for Writ of Habeas Corpus, ECF No. 1. Before Garcia and Ambrocio were added to Sequen’s habeas case, among a total of 12 other new parties, Sequen did not take any procedural step to join any new party or add any new claim. Here, Garcia and Ambrocio are seeking to improperly join Sequen’s habeas case; thus, their claims should be severed and dismissed.

Next, Garcia and Ambrocio do not satisfy the joinder requirements because all their claims do not arise out of the “same transaction” as Sequen’s habeas case. Garcia, Ambrocio, and Sequen’s circumstances are all materially different. To start, Sequen is not in custody, and the Court has granted the relief she sought in her habeas case. *See* Order Granting Prelim. Inj. at 16, ECF No. 27. In contrast, Garcia has been released from custody but has not proffered any evidence that Respondents intend to detain her again. *See generally* Mot.; *see also* Resp’ts Status Report About Pet.’s Release, ECF No. 41. Lastly, Ambrocio is not in custody, and Respondents allowed her to remain out of custody because she was breastfeeding her child. Ambrocio has not proffered any evidence that Respondents intend to change their position and detain her while she is breastfeeding her child.

While Sequen and Ambrocio are from Guatemala, Garcia is from Colombia. Neither Sequen, Garcia, nor Ambrocio is currently being detained at 630 Sansome Street in San Francisco, the location at issue in the amended complaint. *See* Pls.’ Am. Compl. at 1-4, ECF No. 32. Based on Ambrocio’s motion,

1 it is unclear whether she has ever been detained at 630 Sansome Street in San Francisco. *See* Pls.’ Am.
2 Compl. ¶¶ 199-210 (describing the allegations specific to Ambrocio); *see also* Mot. (same).

3 As the person who initiated the case at issue (ECF No. 1), Sequen must demonstrate that her initial
4 case arises out of the “same transaction” as Garcia and Ambrocio’s claims. *See Washington*, 2011
5 WL1522349, at *2. However, Sequen cannot satisfy that requirement and especially now given that her
6 habeas case has been adjudicated. Sequen, Garcia, and Ambrocio’s claims all arise out of different
7 circumstances and different facts that “are distinctly applicable to each petitioner.” *See Acord*, 2017 WL
8 4699835, at *1. That, among other reasons, is why “courts across the country agree that two petitioners
9 cannot join a single habeas petition.” *See Buriev*, 2025 WL 1906626, at *1.

10 Finally, allowing Garcia and Ambrocio to join Sequen’s already litigated habeas case as new
11 parties asserting new claims promotes forum shopping and questionable litigation tactics. Allowing Garcia
12 and Ambrocio to not only join their habeas claims with Sequen’s litigated habeas case but also an entirely
13 new set of claims about their confinement would allow petitioners to pick which courtroom they want to
14 be in to assert any immigration-related claims. Courtrooms around this district and the United States are
15 regularly deciding immigration-related issues including habeas cases. Litigants, like Garcia and
16 Ambrocio, should file their respective claims in the appropriate district and venue and not stack habeas
17 cases on top of one another. Sequen’s case about her own circumstances should not be permitted to serve
18 as the foundation for every other petitioner who wants to bring a habeas challenge.

19 Moreover, there is no justification for Garcia and Ambrocio waiting to join Sequen’s habeas case
20 that has been pending since August 1, 2025. Garcia and Ambrocio were clearly prepared to join Sequen’s
21 case before filing their amended complaint and motion. Less than 48 hours after the Court issued an order
22 granting a preliminary injunction as to Sequen, Petitioners filed a 54-page amended complaint (ECF No.
23 32) and a 26-page motion for class certification (ECF No. 33) along with 12 supporting declarations (ECF
24 Nos. 33-1-12). At least one of the declarations is dated nine days before Petitioners’ flurry of filings,
25 which suggests their filing blitz had been planned for some time, likely contingent on a favorable outcome
26 in Sequen’s motion for a preliminary injunction. *See* Decl. of Nikolas de Bremaeker, ECF No. 33-10
27 (declaration dated September 9, 2025). At the time Petitioners filed their amended complaint and motion

28 RESPONDENTS’ OPPOSITION TO LIGIA GARCIA’S MOTION FOR A TEMPORARY RESTRAINING ORDER AND
YULISA ALVARADO AMBROCIO’S MOTION FOR A PRELIMINARY INJUNCTION
25-CV-06487-PCP

for class certification, some of the added Respondents had not even been properly served, and service is still questionable as to the United States and the allegedly joined federal components. *See* Fed. R. Civ. P. 4(i) (prescribing the rules for “Serving the United States and Its Agencies, Corporations, Officers or Employees”). Like all litigants, petitioners should be required to follow the Federal Rules of Civil Procedure for joining claims and parties.

D. Garcia and Ambrocio Fail to Meet the High Bar for Injunctive Relief.

1. Garcia and Ambrocio Cannot Show a Likelihood of Success on the Merits.

(i) Under the Plain Text of § 1225, Garcia and Ambrocio Must Be Detained Pending the Outcome of Their Removal Proceedings.

Garcia and Ambrocio cannot show a likelihood of success on their claims that they are entitled to a custody determination hearing prior to re-detention. This is because both Garcia and Ambrocio are “applicants for admission” due to their presence in the United States without having been either “admitted or paroled.” Such aliens are subject to the mandatory detention framework of 8 U.S.C. § 1225(b) that specifically applies to them, not the general provisions of § 1226(a). Indeed, less than three weeks ago, on September 5, 2025, the Board of Immigration Appeals found that based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. *See Matter of Jonathan Javier Yajure Hurtado*, 29 I & N Dec. 216, 224 (BIA 2025).

Respondents recognize that recent district court decisions have concluded that § 1225(b) is not applicable to other aliens who were conditionally released in the past under § 1226(a). *See Ramirez Clavijo v. Kaiser*, No. 5:25-cv-06248-BLF (N.D. Cal. Aug. 21, 2025); *Hernandez Nieves v. Kaiser*, No. 3:25-cv-06921-LB (N.D. Cal. Sept. 3, 2025); Order Granting Prelim. Inj., ECF No. 27. Respondents respectfully disagree with these non-binding decisions and orders. According to the plain language of INA § 235(b)(2)(A), applicants for admission in INA § 240 removal proceedings “*shall* be detained.” INA § 235(b)(2)(A) (emphasis added). Such aliens are thus ineligible for a custody redetermination hearing before an Immigration Judge. *Yajure Hurtado*, 29 I&N Dec. at 218-19.

1 Taken together, the plain language of Sections 1225(a) and 1225(b) indicates that applicants for
2 admission, including those “present” in the United States, are subject to mandatory detention under
3 Section 1225(b). When there is “an irreconcilable conflict in two legal provisions,” then “the specific
4 governs over the general.” *Karczewski v. DCH Mission Valley LLC*, 862 F.3d 1006, 1015 (9th Cir. 2017).
5 While § 1226(a) applies generally to aliens who are “arrested and detained pending a decision on”
6 removal, § 1225 applies specifically to “applicants for admission” — *i.e.*, aliens present in the United
7 States who have not been admitted. Because Garcia and Ambrocio fall within this latter category, the
8 specific detention authority under § 1225 controls over the general authority found at § 1226(a).

9 As aliens PWAP subject to mandatory detention under § 1225(b), Garcia and Ambrocio are not
10 entitled to custody redetermination hearings at any time, whether pre- or post-detention. *Jennings*, 583
11 U.S. at 297 (“[N]either § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings.”).
12 In addition, although DHS initially elected to place Garcia and Ambrocio in full removal proceedings
13 under § 1229a, they remain individuals PWAP who are amenable to expedited removal due to their
14 presence in the United States without having been either “admitted or paroled” or physically present in the
15 United States continuously for the two-year period immediately preceding the date of the determination of
16 inadmissibility. *Yajure Hurtado*, 29 I&N Dec. at 218-19.

17 Given that Garcia and Ambrocio’s full removal proceedings are still pending, their detention is
18 mandatory under § 1225(b)(2). If the immigration court grants DHS’s motions to dismiss Garcia and
19 Ambrocio’s § 240 removal proceedings and DHS decides to arrest and detain them, they will be ineligible
20 for release except via a grant of humanitarian parole from the Secretary because their detention authority
21 will shift to § 1225(b)(1). Garcia and Ambrocio will be subject to expedited removal under 8 U.S.C.
22 § 1252(e)(2) and, as is the case under § 1225(b)(2), cannot challenge their mandatory detention. 8 U.S.C.
23 § 1225(b)(1)(B)(iii)(IV) (“Any alien subject to the procedures under this clause shall be detained pending
24 a final determination of credible fear of persecution and, if found not to have such a fear, until removed.”).
25 However, as noted above, if an asylum officer or immigration judge finds a credible fear of persecution or
26 torture for any petitioner, that petitioner may be placed in full removal proceedings under 8 U.S.C.
27 § 1229a, *see* 8 C.F.R. § 208.30(f), although they will still remain subject to mandatory detention under

§ 1225(b)(2)(A). Thus, because § 1225(b) prohibits the release of all applicants for admission placed in removal proceedings, including Garcia and Ambrocio, they cannot succeed on their claim that they are entitled to an opportunity to contest their re-detention.

(ii) The *Mathews* Factors Do Not Apply.

Given their status as “applicants for admission” subject to mandatory detention, Garcia and Ambrocio’s reliance on *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) is misplaced. See *Rodriguez Diaz v. Garland*, 53 F.4th 1206 (9th Cir. 2022). The Supreme Court has consistently upheld mandatory civil immigration detention without utilizing the multi-factor “balancing test” of *Mathews*. See *Demore v. Kim*, 538 U.S. 510 (2003) (upholding mandatory detention under 8 U.S.C. § 1226(c)); cf. *Zadvydas v. Davis*, 533 U.S. 678 (2001) (upholding mandatory detention under 8 U.S.C. § 1231(a)(6) for six months after the 90-day removal period).

In any event, applicants for admission like Garcia and Ambrocio, who were not admitted or paroled into the country, lack a liberty interest in additional procedures, including a custody redetermination hearing. *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (“[A]n alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative”); *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 542 (1950) (“At the outset we wish to point out that an alien who seeks admission to this country may not do so under any claim of right.”). Indeed, for “applicants for admission” like Garcia and Ambrocio who are amenable to § 1225(b)(1), 8 U.S.C. § 1225(b)(1)(A)(iii)(II) — “[w]hatever the procedure authorized by Congress . . . is due process,” whether or not they are apprehended at the border or after entering the country. *Knauff*, 338 U.S. at 544; accord *Thuraissigiam*, 591 U.S. at 138–139 (“This rule would be meaningless if it became inoperative as soon as an arriving alien set foot on U.S. soil.”). These aliens — including Garcia and Ambrocio — have “only those rights regarding admission that Congress has provided by statute.” *Thuraissigiam*, 591 U.S. at 140; see *Dave v. Ashcroft*, 363 F.3d 649, 653 (7th Cir. 2004). Garcia and Ambrocio are entitled only to the protections set forth by statute, and “the Due Process Clause provides nothing more.” *Thuraissigiam*, 591 U.S. at 140.

(iii) **Garcia and Ambrocio's Detention Authority Cannot Be Converted to Section 1226(a)**

As applicants for admission, Garcia and Ambrocio's detention is governed by the framework set out in § 1225(b), as set forth above. To the extent recent District Court decisions have concluded in other cases that § 1226(a) could apply, those non-binding decisions have relied on the Government's prior invocation of 1226(a) in the petitioners' proceedings, and have failed to address the Government's textual argument for why the more specific provisions of § 1225 apply here. *See, e.g., Ramirez Clavijo v. Kaiser*, No. 5:25-cv-06248-BLF (N.D. Cal. Aug. 21, 2025) (finding that the government's "election to place Petitioner in full removal proceedings under § 1229a and releasing Petitioner under § 1226(a) provided Petitioner a liberty interest that is protected by the Due Process Clause"). They were also decided prior to the Board of Immigration Appeals' September 5, 2025 decision in *Yajure Hurtado*.

The fact that Garcia and Ambrocio were previously released does not change the analysis or conclusion. Indeed, pursuant to the comprehensive statutory framework created by Congress, an alien's conditional release is not the type of "lawful entry into this country" that is necessary to "establish[] connections" that could form a liberty interest requiring additional process, and he or she remains an "applicant for admission" who is "at the threshold of initial entry," and subject to mandatory detention under § 1225. *Thuraissigiam*, 591 U.S. at 106–07 ("While aliens who have established connections in this country have due process rights in deportation proceedings, the Court long ago held that Congress is entitled to set the conditions for an alien's lawful entry into this country and that, as a result, an alien at the threshold of initial entry cannot claim any greater rights under the Due Process Clause.").

The Supreme Court's holding in *Thuraissigiam* is consistent with its earlier holding in *Landon*. In *Landon*, the Court observed that only "once an alien gains admission to our country and begins to develop the ties that go with permanent residence [does] his constitutional status change[]." 459 U.S. at 32. In *Thuraissigiam*, the Court reiterated that "established connections" contemplate "an alien's lawful entry into this country." 591 U.S. at 106–07. Here, Garcia and Ambrocio were neither admitted nor paroled, nor lawfully present in this country as required by *Landon* and *Thuraissigiam* to claim due process rights beyond what § 1225(b) provides. They instead remain "applicants for admission" who — even if released

1 into the country “for years pending removal” — continue to be “‘treated’ for due process purposes ‘as if
2 stopped at the border.’” *Thuraissigiam*, 591 U.S. at 139–140 (explaining that such aliens remain “on the
3 threshold” of initial entry).

4 But even if this Court were to find that § 1226(a), and not the mandatory detention framework of
5 § 1225(b), applies here, Garcia and Ambrocio would still not be entitled to pre-detention hearings before
6 an immigration judge. Rather, for aliens detained under § 1226(a), “an ICE officer makes the initial
7 custody determination” *post*-detention, which the alien can later request to have reviewed by an
8 immigration judge. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022). The Supreme Court
9 has long upheld the constitutionality of the basic process of immigration detention. *See, e.g., Reno v.*
10 *Flores*, 507 U.S. 292, 309 (1993) (rejecting procedural due process claim that “the INS procedures are
11 faulty because they do not provide for automatic review by an immigration judge of the initial
12 deportability and custody determinations”); *Abel v. United States*, 362 U.S. 217, 233–34 (1960) (noting
13 the “impressive historical evidence of acceptance of the validity of statutes providing for administrative
14 deportation arrest from almost the beginning of the Nation”); *Carlson v. Landon*, 342 U.S. 524, 538
15 (1952) (“Detention is necessarily a part of this deportation procedure.”); *Wong Wing v. United States*, 163
16 U.S. 228, 235 (1896) (“We think it clear that detention or temporary confinement, as part of the means
17 necessary to give effect to the provisions for the exclusion or expulsion of aliens, would be valid.”). Thus,
18 under § 1226(a), aliens are not guaranteed *pre*-detention review by immigration judge review, and may
19 instead only seek review of their detention by an ICE official once they are in custody — a process that
20 the Ninth Circuit has found constitutionally sufficient in the prolonged-detention context. *See Rodriguez*
21 *Diaz*, 53 F.4th at 1196–97.

22 2. Garcia and Ambrocio Cannot Establish Irreparable Harm.

23 In addition to their failure to show a likelihood of success on the merits, Garcia and Ambrocio do
24 not meet their burden of establishing that they will be irreparably harmed absent a temporary restraining
25 order or preliminary injunction. The “deprivation of liberty” is a harm that “is essentially inherent in
26 detention,” and therefore “the Court cannot weigh this strongly in favor of” Garcia and Ambrocio. *Lopez*
27 *Reyes v. Bonnar*, No 18-cv-07429-SK, 2018 WL 7474861 at *10 (N.D. Cal. Dec. 24, 2018). It is also

1 countervailed by authority mandating — and upholding — their categorical detention as lawful.

2 Indeed, the alleged infringement of constitutional rights is insufficient where, as here, petitioners
3 fail to demonstrate “a sufficient likelihood of success on the merits of [their] constitutional claims to
4 warrant the grant of a preliminary injunction.” *Marin All. For Med. Marijuana v. Holder*, 866 F. Supp. 2d
5 1142, 1160 (N.D. Cal. 2011) (quoting *Assoc’d Gen. Contractors of Cal., Inc. v. Coal for Econ. Equity*,
6 950 F.2d 1401, 1412 (9th Cir. 1991)). Further, any alleged harm from the fact of detention alone is
7 insufficient because “detention during deportation proceedings [is] a constitutionally valid aspect of the
8 deportation process.” *Demore*, 538 U.S. at 523; *see also Flores*, 507 U.S. at 306; *Carlson*, 342 U.S. at
9 538. And as noted by the Ninth Circuit in *Rodriguez Diaz*, if treated as detention under Section 1226(a),
10 the risk of erroneous deprivation and value of additional process is small due to the procedural safeguards
11 that Section 1226(a) provides. Accordingly, Garcia and Ambrocio cannot establish that their lawfully
12 authorized mandatory detention would cause irreparable harm.

13 3. The Balance of Equities and Public Interest Do Not Favor an Injunction.

14 When the Government is a party, the balance of equities and public interest merge. *Drakes Bay*
15 *Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435
16 (2009)). Further, where a moving party only raises “serious questions going to the merits,” the balance of
17 hardships must “tip sharply” in their favor. *All. for Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th
18 Cir. 2011) (quoting *The Lands Council v. McNair*, 537 F.3d 981, 987 (9th Cir. 2008)). Here, the
19 Government has a compelling interest in the steady enforcement of its immigration laws. *See, e.g.*,
20 *Demore*, 538 U.S. at 523; *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009) (holding that the
21 court “should give due weight to the serious consideration of the public interest” in enacted laws); *see also*
22 *Ubiquity Press Inc. v. Baran*, No 8:20-cv-01809-JLS-DFM, 2020 WL 8172983, at *4 (C.D. Cal. Dec. 20,
23 2020) (“the public interest in the United States’ enforcement of its immigration laws is high”).

24 Garcia and Ambrocio’s claimed harms cannot outweigh this public interest in the application of
25 the law, particularly since courts “should pay particular regard for the public consequences in employing
26 the extraordinary remedy of injunction.” *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982)
27 (citation omitted). Recognizing the availability of a temporary restraining order under these circumstances

would permit any “applicant for admission” subject to § 1225(b) to obtain additional review simply because he or she was conditionally released — even if that release is expressly conditioned on appearing at removal proceedings for *unlawful* entry — circumventing the comprehensive statutory scheme that Congress enacted. That statutory scheme — and judicial authority upholding it — likewise favors the Government. While it is “always in the public interest to protect constitutional rights,” if, as here, a petitioner has not shown a likelihood of success on the merits of her claim, that public interest does not outweigh the competing public interest in enforcement of existing laws. *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005). The public and governmental interest in applying the established procedures for “applicants for admission,” including their lawful, mandatory detention, *see* 8 U.S.C. § 1225(b); *Jennings*, 583 U.S. at 297, is significant.

E. Any Order Should Not Provide for Immediate Release and Should Not Reverse the Burden of Proof

The Court should deny Garcia and Ambrocio’s motion for the reasons set forth above. If the Court is inclined to grant any relief, it should deny the specific relief requested by Garcia and Ambrocio. *See* Mot. at 9. First, and although Respondents already released Garcia (ECF No. 41) immediate release is improper where Garcia and Ambrocio are subject to mandatory detention. More recently, in *Yajure Hurtado*, the Board of Immigration Appeals found “[t]he Immigration Judge properly held that he lacked authority to hear the respondent’s request for a bond as the respondent is an applicant for admission and is subject to mandatory detention.” *See Matter of Jonathan Javier Yajure Hurtado*, 29 I & N Dec. 216, 229 (BIA 2025). If the Court is inclined to grant any relief, such relief should be limited to providing Garcia and Ambrocio with a bond hearing while they remain detained. *See, e.g., Javier Ceja Gonzalez v. Noem*, No. 5:25-cv-02054-ODW (C.D. Cal. Aug. 13, 2025) (ordering the government to “release Petitioners or, in the alternative, provide each Petitioner with an individualized bond hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) within seven (7) days of this Order”).

Moreover, at any bond hearing, Garcia and Ambrocio should each have the burden of demonstrating that they are not a flight risk or danger to the community. It would be improper to reverse the burden of proof and place it on the Government in these circumstances. *See Rodriguez Diaz*, 53 F.4th

1 at 1210-12 (“Nothing in this record suggests that placing the burden of proof on the government was
2 constitutionally necessary to minimize the risk of error, much less that such burden-shifting would be
3 constitutionally necessary in all, most, or many cases.”).

4 **VI. CONCLUSION**

5 The Government respectfully requests that the Court deny Garcia and Ambrocio’s motion, dismiss
6 their claims, and sever their claims from Sequen’s already adjudicated habeas case.

7 DATED: September 24, 2025

Respectfully submitted,

8
9 CRAIG H. MISSAKIAN
United States Attorney

10 /s/ Douglas Johns
11 DOUGLAS JOHNS
Assistant United States Attorney

12 *Attorneys for Respondents-Defendants*
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27