

**ROXANA V. MURO**  
California State Bar No. 344966  
**LAW OFFICES OF ROXANA V. MURO**  
510 W. 6th Street, Suite 506  
Los Angeles, CA 90014  
Tel.: (213) 622-4700  
Fax: (213) 622-4701  
Email: roxanamuro@rvmimmigrationlaw.com

Attorney for Petitioner Mateo Juan Andres

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

|                      |                                    |
|----------------------|------------------------------------|
| MATEO JUAN ANDRES    | ) Case No. 2:25-cv-07946           |
| SALVADOR,            | )                                  |
|                      | )                                  |
| Petitioner,          | )                                  |
|                      | )                                  |
| v.                   | ) PETITIONERS' FOR <i>EX PARTE</i> |
|                      | ) APPLICATION FOR                  |
| Kristi NOEM, et al., | ) TEMPORARY RESTRAINING            |
|                      | ) ORDER AND ORDER TO               |
| Respondents.         | ) SHOW CAUSE RE:                   |
|                      | ) PRELIMINARY INJUNCTION           |

---

1 Petitioners hereby make this Ex Parte Application for a Temporary  
2 Restraining Order and Order to Show Cause Re: Preliminary Injunction pursuant  
3 to Federal Rule of Civil Procedure 65 and 5 U.S.C. § 705. Petitioner is a young  
4 man who entered the United States as an Unaccompanied Alien Child (“UAC”)  
5 and has resided here since October 2021. On June 26, 2025, arrested as a part of a  
6 largescale immigration action in Home Depot in Glendale, California. Petitioner  
7 is now detained at the Adelanto Detention Facility, where he has remained for  
8 over a month. 17. On July 2, 2025, Petitioner filed a motion for bond pursuant to  
9 8 C.F.R. § 1236, arguing that he could not be subject to mandatory detention  
10 under section 235(b) of the INA, 8 U.S.C. § 1225(b), because he entered the  
11 United States as a UAC, who cannot be subjected to the mandatory detention  
12 provisions of 8 U.S.C. § 1225(b).  
13

14 On August 4, 2025, the Immigration Judge denied Petitioner’s motion for  
15 bond, finding the Court lacked jurisdiction to consider bond redetermination  
16 hearings. The refusal to hold a bond hearing violates the Immigration and  
17 Nationality Act and due process. Petitioner now seeks a temporary restraining  
18 order requiring that the immigration judge hold a bond hearing. Expedited relief  
19 is necessary to prevent irreparable injury before a hearing on a preliminary  
20 injunction may be held.  
21

22 Petitioners request that the Court issue a temporary restraining order and  
23 order to show case re: preliminary injunction in the form of the proposed order  
24  
25  
26  
27  
28

1 submitted concurrently with this Application. This Application is based on the  
2 Petition for Writ of Habeas Corpus and exhibits in support thereof.  
3  
4  
5  
6

7 Dated: August 22, 2025

/s/ Roxana V. Muro

8 Attorney for Petitioner Roxana V. Muro  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

TABLE OF CONTENTS

|                                                                                                    |    |
|----------------------------------------------------------------------------------------------------|----|
| I. INTRODUCTION .....                                                                              | 8  |
| II. STATEMENT OF FACTS .....                                                                       | 10 |
| III. ARGUMENT .....                                                                                | 11 |
| A. PETITIONERS ARE LIKELY TO SUCCEED ON THE MERITS<br>OF THEIR CLAIMS. ....                        | 12 |
| 1. Petitioners Is Not Subject to Mandatory Detention.....                                          | 12 |
| B. PETITIONERS WILL SUFFER IRREPARABLE HARM IN THE<br>ABSENCE OF A TRO. ....                       | 16 |
| C. THE BALANCE OF EQUITIES TIPS IN PETITIONERS' FAVOR<br>AND A TRO IS IN THE PUBLIC INTEREST. .... | 17 |
| D. PRUDENTIAL EXHAUSTION IS NOT REQUIRED. ....                                                     | 23 |
| 1. Futility .....                                                                                  | 19 |
| 2. Irreparable injury .....                                                                        | 20 |
| 3. Agency delay .....                                                                              | 21 |
| E. THERE IS NO JURISDICTIONAL HURDLE BARRING RELIEF .....                                          | 23 |
| IV. CONCLUSION .....                                                                               | 25 |



**TABLE OF AUTHORITIES**

**FEDERAL CASES**

|                                                                                                                                  |            |
|----------------------------------------------------------------------------------------------------------------------------------|------------|
| <i>All. for the Wild Rockies v. Cottrell</i> , <u>632 F.3d 1127</u> (9th Cir. 2011) .....                                        | 11         |
| <i>Blandon v. Barr</i> , <u>434 F.Supp. 3d 30</u> (W.D.N.Y. 2020) .....                                                          | 21         |
| <i>Booth v. Churner</i> , <u>532 U.S. 731</u> (2001). ....                                                                       | 18         |
| <i>Cortez v. Sessions</i> , <u>318 F. Supp. 3d 1134</u> (N.D. Cal. 2018) .....                                                   | 21         |
| <i>Flathead-Lolo-Bitterroot Citizen Task Force v. Montana</i> , <u>98 F.4th</u><br><u>1180</u> (9th Cir. 2024) .....             | 11         |
| <i>Flores v. Sessions</i> , <u>862 F.3d 863, 866</u> (9th Cir. 2017).....                                                        | 14         |
| <i>Foucha v. Louisiana</i> , <u>504 U.S. 71</u> (1992) .....                                                                     | 21         |
| <i>Gomes v. Hyde</i> , No. 1:25-CV-11571-JEK, <u>2025 WL 1869299</u> (D.<br>Mass. July 7, 2025). ....                            | 8          |
| <i>Hechavarria v. Whitaker</i> , <u>358 F. Supp. 3d 227</u> (W.D.N.Y. 2019) .....                                                | 20, 23     |
| <i>Hernandez v. Sessions</i> , <u>872 F.3d 976</u> (9th Cir. 2017) .....                                                         | 16, 21, 22 |
| <i>Jennings v. Rodriguez</i> , <u>583 U.S. 281</u> (2018) .....                                                                  | 12         |
| <i>J.O.P. v. U.S. Dept. of Homeland Security, et. al.</i> , 8:19-cv-01944 (SD Mary.<br>2020).....                                | 15         |
| <i>Klein v. Sullivan</i> , <u>978 F.2d 520</u> (9th Cir. 1992) .....                                                             | 22         |
| <i>Laing v. Ashcroft</i> , <u>370 F.3d 994</u> (9th Cir. 2004) .....                                                             | 18         |
| <i>Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al.</i> , 5:25-<br>cv-01873-SSS-BFM (C.D. Ca. Jul. 28, 2025) ..... | 8          |
| <i>Lopez Reyes v. Bonnar</i> , No. 18-CV-07429-SK, <u>2018 WL 7474861</u><br>(N.D. Cal. Dec. 24, 2018) .....                     | 21         |
| <i>Marroquin Ambriz v. Barr</i> , <u>420 F. Supp. 3d 953</u> (N.D. Cal. 2019) .....                                              | 21         |
| <i>Mathews v. Eldridge</i> , <u>424 U.S. 319</u> (1976) .....                                                                    | 22         |
| <i>McCarthy v. Madigan</i> , <u>503 U.S. 140</u> (1992), .....                                                                   | 18         |
| <i>Melendres v. Arpaio</i> , <u>695 F.3d 990</u> (9th Cir. 2012) .....                                                           | 16         |
| <i>Montoya Echeverria v. Barr</i> , No. 20-CV-02917-JSC, 2020 WL                                                                 |            |

|    |                                                                                        |        |
|----|----------------------------------------------------------------------------------------|--------|
| 1  | 2759731 (N.D. Cal. May 27, 2020) .....                                                 | 21, 22 |
| 2  | <i>Moreno Galvez v. Cuccinelli</i> , <u>387 F. Supp. 3d 1208</u> (W.D. Wash.           |        |
| 3  | 2019) .....                                                                            | 5, 17  |
| 4  | <i>Moreno Galvez v. Cuccinelli</i> , <u>492 F. Supp. 3d 1169</u> (W.D. Wash.           |        |
| 5  | 2020) .....                                                                            | 16     |
| 6  | <i>Moreno Galvez v. Jaddou</i> , <u>52 F.4th 821</u> (9th Cir. 2022) .....             | 16     |
| 7  | <i>Nken v. Holder</i> , <u>556 U.S. 418</u> (2009) .....                               | 17     |
| 8  | <i>Ortega-Rangel v. Sessions</i> , <u>313 F. Supp. 3d 993</u> (N.D. Cal. 2018) .....   | 21     |
| 9  | <i>Perez v. Wolf</i> , <u>445 F. Supp. 3d 275</u> (N.D. Cal. 2020) .....               | 21     |
| 10 | <i>Reno v. Am.-Arab Anti-Discrimination Comm.</i> , <u>525 U.S. 471</u> (1999) .....   | 24     |
| 11 | <i>Rodriguez Diaz v. Barr</i> , No. 4:20-CV-01806-YGR, <u>2020 WL</u>                  |        |
| 12 | <u>1984301</u> (N.D. Cal. Apr. 27, 2020) .....                                         | 21     |
| 13 | <i>Rodriguez v. Bostock</i> , No. 3:25-CV-05240-TMC, <u>2025 WL 1193850</u> ,          |        |
| 14 | (W.D. Wash. Apr. 24, 2025) .....                                                       | 8      |
| 15 | <i>Rodriguez v. Robbins</i> , <u>715 F.3d 1127</u> (9th Cir. 2013). .....              | 18     |
| 16 | <i>Rodriguez Vazquez v. Bostock</i> , No. 3:25-CV-05240-TMC, <u>2025 WL</u>            |        |
| 17 | <u>1193850</u> (W.D. Wash. June 6, 2025) .....                                         | 19     |
| 18 | <i>Stack v. Boyle</i> , <u>342 U.S. 1</u> (1951) .....                                 | 22     |
| 19 | <i>Stuhlbarg Int'l Sales Co. v. John D. Brush &amp; Co.</i> , <u>240 F.3d 832</u> (9th |        |
| 20 | Cir. 2001) .....                                                                       | 11     |
| 21 | <i>Torres v. Barr</i> , <u>976 F.3d 918</u> (9th Cir. 2020) (en banc) .....            | 13     |
| 22 | <i>Valle del Sol Inc. v. Whiting</i> , <u>732 F.3d 1006</u> (9th Cir. 2013) .....      | 17, 18 |
| 23 | <i>Vasquez Perdomo et al., v. Noem</i> , __ F. 4th __ No. 25-4312, <u>2025</u>         |        |
| 24 | <u>WL 2181709</u> (9th Cir. Aug. 1, 2025) .....                                        | 10     |
| 25 | <i>Vasquez Perdomo v. Noem</i> , No. 2:25-CV-05605-MEMF-SP, <u>2025</u>                |        |
| 26 | <u>WL 1915964</u> (C.D. Cal. July 11, 2025). .....                                     | 9      |
| 27 | <i>Villalta v. Sessions</i> , No. 17-CV-05390-LHK, <u>2017 WL 4355182</u>              |        |
| 28 | (N.D. Cal. Oct. 2, 2017) .....                                                         | 20     |
|    | <i>Warsoldier v. Woodford</i> , <u>418 F.3d 989</u> (9th Cir. 2005) .....              | 16     |
|    | <i>Winter v. Nat. Res. Def. Council</i> , <u>555 U.S. 7</u> (2008).....                | 11     |

*Zadvydas v. Davis*, 533 U.S. 678 (2001). ..... 16

**FEDERAL STATUTES**

8 U.S.C. § 1182(a)(6)(A)(i) ..... 8

8 U.S.C. § 1225(a)(1) ..... 9

8 U.S.C. § 1225(b)(2) ..... 12, 15

8 U.S.C. § 1225(b)(2)(A) ..... 8, 13, 18, 24

8 U.S.C. § 1226(a) ..... 7, 9, 11, 12

8 U.S.C. § 1252(g) ..... 23



## I. INTRODUCTION

Petitioner Mateo Juan Andres Salvador seeks a Temporary Restraining Order (hereinafter “TRO”) that requires Respondents to release him from custody or to provide him with an individualized bond hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) within seven days of the issuance of a TRO.

Although Petitioner was present and residing in the United States for four years at the time of his immigration arrest, he was subjected to a new DHS policy issued on July 8, 2025, titled *Interim Guidance Regarding Detention Authority for Applicants for Admission*,<sup>1</sup> which instructs all ICE employees to consider anyone arrested within the United States and charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) to be an “applicant for admission” under U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. The new DHS policy was issued “in coordination with the Department of Justice (DOJ).” Id. Petitioner is detained at the Adelanto ICE Processing Center and has been denied a bond hearing by an IJ based on this new policy.

The denial of bond hearings to the Petitioner and their ongoing detention on the basis of the new DHS policy violates the plain language of the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* See *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al.*, 5:25-cv-01873-SSS-BFM, Dkt # 14 (C.D. Ca. Jul. 28, 2025); *Rodriguez v. Bostock*, No. 3:25-CV-

---

<sup>1</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.



1 05240-TMC, 2025 WL 1193850, at \*16 (W.D. Wash. Apr. 24, 2025); *Gomes v.*  
2 *Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at \*9 (D. Mass. July 7,  
3 2025).  
4

5 Despite the new DHS policy's assertions to the contrary, 8 U.S.C. §  
6 1225(b)(2)(A) does not apply to individuals like Petitioner who cannot be subject  
7 to mandatory detention under section 235(b) of the INA, 8 U.S.C. § 1225(b),  
8 because he entered the United States as an Unaccompanied Alien Child  
9 (hereinafter "UAC"), who cannot be subjected to the mandatory detention  
10 provisions of 8 U.S.C. § 1225(b).  
11  
12

13 Respondents' new legal interpretation set forth in the policy is plainly  
14 contrary to the statutory framework and contrary to decades of agency practice  
15 applying § 1226(a) to people like Petitioner, a UAC. Respondents' new policy  
16 and the resulting ongoing detention of Petitioner without a bond hearing is  
17 depriving Petitioner of statutory and constitutional rights and unquestionably  
18 constitutes irreparable injury.  
19  
20  
21

22 Petitioner therefore seeks a Temporary Restraining Order enjoining  
23 Respondents from continuing to detain him unless Petitioner is provided an  
24 individualized bond hearing before an immigration judge pursuant to 8 U.S.C. §  
25 1226(a) within seven days of the TRO.  
26  
27

28 Petitioner also seeks an Order prohibiting Respondents from relocating  
Petitioner outside of the Central District pending final resolution of this litigation.

1       **II. STATEMENT OF FACTS**

2           Petitioner has resided in the United States for four years. On June 26,  
3  
4       2025, he was arrested by immigration authorities as part of a widescale  
5  
6       immigration enforcement action in Los Angeles County. Within this action,  
7  
8       Petitioner was mistreated and taken for no other reason than his racial  
9  
10      presentation, as addressed by the temporary restraining order in *Vasquez*  
11      *Perdomo v. Noem*, No. 2:25-CV-05605-MEMF-SP, [2025 WL 1915964](#) (C.D.  
12      Cal. July 11, 2025). There, the Court found that there was evidence that  
13      impermissible factors such as race, language, employment, and location, were  
14      being used to detain individuals in a during a largescale immigration action in  
15      Los Angeles. This finding was affirmed by the Ninth Circuit. *Vasquez Perdomo*  
16      *et al., v. Noem*, \_\_ F. 4th \_\_ No. 25-4312, [2025 WL 2181709](#) (9th Cir. Aug. 1,  
17      2025) *application for administrative stay pending before the Supreme Court* No.  
18      25A169 (filed Aug. 7, 2025).

19  
20  
21           Petitioner is now detained at the Adelanto ICE Processing Center in  
22      Adelanto, California and has been placed in removal proceedings. Ex. H. He was  
23      charged with having entered the United States without inspection. [8 U.S.C. §](#)  
24      [1182\(a\)\(6\)\(A\)\(i\)](#). Id. Petitioner requested a bond hearing before an immigration  
25      judge.  
26

27  
28           On August 4, 2025, the immigration judge denied Petitioner's request for a  
    bond hearing based on lack of jurisdiction. Ex. G. The Immigration Judge

(hereinafter, “IJ”) determined that she lacked jurisdiction to conduct bond proceedings because she believed Petitioner was an applicant for admission. *Id.* The IJ cited *Matter of Q Li*, 29 I&N Dec. 66 (BIA 2025), reasoning that because Petitioner was apprehended at entry, he is considered an applicant for admission under section 235(b) of the INA, 8 U.S.C. § 1225(b).

Petitioner has now been detained in immigration custody without a right to bond for nearly two months.

### III. ARGUMENT

The requirements for granting a Temporary Restraining Order are “substantially identical” to those for granting a preliminary injunction. *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

Petitioner must demonstrate that (1) he is likely to succeed on the merits of his claims; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). A sliding scale test may be applied and an injunction should be issued when there is a stronger showing on the balance of hardships, even if there are “serious questions on the merits ... so long as the plaintiff also shows a likelihood of irreparable harm and that the injunction is in the public interest.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011); *see also Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024).



Petitioner satisfies the criteria and a TRO should be granted.

A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIM.

Petitioner is likely to succeed on his claim that his ongoing detention by Respondents under 8 U.S.C. § 1225(b)(2), and the denial of bond hearing before an immigration judge is unlawful.

The text, context, and legislative and statutory history of the Immigration and Nationality Act all demonstrate that 8 U.S.C. § 1226(a) governs their detention.

1. Petitioner Is Not Subject To Mandatory Detention.

The plain text of § 1226 demonstrates that subsection (a) applies to Petitioner. 8 U.S.C. § § 1225(b)(2) should not be read to apply to everyone who is in the United States “who has not been admitted.” Section 1226(a) covers those who are present within and residing within the United States and who are not at the border seeking admission. The text of § 1225 reinforces this interpretation. As the Supreme Court recognized, § 1225 is concerned “primarily [with those] seeking entry,” *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018), i.e., cases “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible,” *id.* at 287.

Paragraphs (b)(1) in § 1225 concerns “expedited removal of inadmissible arriving [noncitizens]”—encompasses only the “inspection” of certain “arriving” noncitizens and other recent entrants the Attorney General designates, and only



1 those who are “inadmissible under section 1182(a)(6)(C) or § 1182(a)(7).” 8  
2 U.S.C. § 1225(b)(1)(A)(i). These grounds of inadmissibility are for those who  
3  
4 misrepresent information to an examining immigration officer or do not have  
5  
6 adequate documents to enter the United States. Thus, subsection (b)(1)’s text  
7  
8 demonstrates that it is focused only on people arriving at a port of entry or who  
9  
10 have recently entered the United States and not those already residing here.

11 Paragraph (b)(2) in § 1225 is similarly limited to people applying for  
12  
13 admission when they arrive in the United States. The title explains that this  
14  
15 paragraph addresses the “[i]nspection of other [noncitizens],” i.e., those  
16  
17 noncitizens who are “seeking admission,” but who (b)(1) does not address. *Id.* §  
18  
19 1225(b)(2), (b)(2)(A). By limiting (b)(2) to those “seeking admission,” Congress  
20  
21 confirmed that it did not intend to sweep into this section individuals like  
22  
23 Petitioner, who has already entered and is now residing in the United States. An  
24  
25 individual submits an “application for admission” only at “the moment in time  
26  
27 when the immigrant actually applies for admission into the United States.” *Torres*  
28  
29 *v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (en banc). Indeed, in *Torres*, the en  
30  
31 banc Court of Appeals rejected the idea that § 1225(a)(1) means that anyone who  
32  
33 is presently in the United States without admission or parole is someone “deemed  
34  
35 to have made an actual application for admission.” *Id.* (emphasis omitted). That  
36  
37 holding is instructive here too, as only those who take affirmative acts, like  
38  
39 submitting an “application for admission,” are those who can be said to be

1 “seeking admission” within § 1225(b)(2)(A). Otherwise, that language would  
2 serve no purpose, violating a key rule of statutory construction. *See Shulman*, 58  
3 F.4th at 410–11.

4  
5 Here, Petitioner was classified as an unaccompanied alien child under 6  
6 U.S.C. § 279(g) when he was first detained after entering the United States, he  
7 was never subject to 8 U.S.C. § 1225(b)(2)(A), at his time of entry, but to 8  
8 U.S.C. § 1232(b). Ex. B. Instead, per 8 U.S.C. § 1232(b), requires the release of  
9 the unaccompanied alien child from Department custody – and placement with  
10 either the Secretary of Health and Human Services or an appropriate guardian  
11 within 72 hours of the initial detention. Federal authorities followed the  
12 procedures outlined in 8 U.S.C. § 1232(b), promptly notifying Health and Human  
13 Services (hereinafter “HHS”) and transferring Petitioner to the Office of Refugee  
14 Resettlement (hereinafter “ORR”) custody. Ex. B.

15  
16 His detention can now only be authorized by 8 U.S.C. § 1226(a), and he is  
17 entitled to a custody redetermination hearing under the statute. *See Flores v.*  
18 *Sessions*, 862 F.3d 863, 866 (9th Cir. 2017), because “persons under the age of  
19 eighteen at the time of entering the United States are subject to a separate regime,  
20 maintained by the ORR, within the HHS. Specifically, pursuant to 6 U.S.C. §  
21 279(b)(1), ORR makes all placement decisions involving UACs to ensure they  
22 are not released on their own recognizance. 6 U.S.C. § 279(b)(1)(C),(D),(b)(2).  
23 Section 1232(c) of Title 8 of the United States Code, requires that UACs in HHS  
24  
25  
26  
27  
28

1 custody be "promptly placed in the least restrictive setting that is in the best  
2 interest of the child," subject to considerations of danger to self, danger to the  
3 community, or risk of flight, and limits placement in a secure facility to children  
4 who have been determined to pose a danger to self or others, or who have been  
5 charged with crimes. *Id. see also J.O.P. v. U.S. Dept. of Homeland Security, et.*  
6 *al.*, 8:19-cv-01944 (SD Mary. 2020) (holding that those classified as  
7 "unaccompanied alien children" upon entry are still subject to the unaccompanied  
8 alien child provisions even after attaining 18 years of age and may still file an  
9 initial asylum application with USCIS even if they have turned 18 years old prior  
10 to filing the asylum application).

11 The new DHS and EOIR policy and the IJ order denying bond to Petitioner  
12 on this basis ignore all this and instead focus on the definition of "applicant for  
13 admission" at § 1225(a)(1) (*see* "Interim Guidance Regarding Detention  
14 Authority for Applicants for Admission", ICE, July 8, 2025), which defines an  
15 "applicant for admission" as a person who is "present in the United States who  
16 has not been admitted or who arrives in the United States," 8 U.S.C. §  
17 1225(a)(1).

18 Significantly, in deeming that all noncitizens who entered without  
19 inspection are necessarily encompassed by the mandatory detention provision at  
20 § 1225(b)(2), the DHS and EOIR policy ignores that the provision does not  
21 simply address applicants for admission. The new policy and the IJs'



1 implementation ignores the statutory language in § 1226 that expressly  
2 encompasses persons who have entered the United States and are present without  
3 admission. Thus, Petitioner will prevail regardless of the scope of § 1225(a)(1)’s  
4 definition of “applicant for admission.”  
5

6  
7 B. PETITIONER WILL SUFFER IRREPARABLE HARM IN THE  
8 ABSENCE OF A TRO.

9 In the absence of a TRO, Petitioner will continue to be unlawfully detained  
10 by Respondents pursuant to § 1225(b)(2) and denied a bond hearing before an IJ.  
11 Petitioner has now been without a bond hearing for two months. “Freedom from  
12 imprisonment—from government custody, detention, or other forms of physical  
13 restraint—lies at the heart of the liberty” that the Due Process Clause protects.  
14  
15 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention constitutes “a loss of  
16 liberty that is . . . irreparable.” *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d  
17 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff’d in part, vacated in part on*  
18 *other grounds, remanded sub nom. Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th  
19 Cir. 2022). It “is well established that the deprivation of constitutional rights  
20 unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d  
21 990, 1002 (9th Cir. 2012) (citation modified); *Warsoldier v. Woodford*, 418 F.3d  
22 989, 1001-02 (9th Cir. 2005). *See also Hernandez v. Sessions*, 872 F.3d 976,  
23 994–95 (9th Cir. 2017) (“Thus, it follows inexorably from our conclusion that the  
24 government’s current policies [which fail to consider financial ability to pay  
25 immigration bonds] are likely unconstitutional—and thus that members of the  
26  
27  
28

1 plaintiff class will likely be deprived of their physical liberty unconstitutionally  
2 in the absence of the injunction—that Plaintiffs have also carried their burden as  
3 to irreparable harm.”); *Maldonado Bautista et al. v. Santacruz, et al.*, No. 5:25-  
4 cv- 01873-SSS-BFM (C.D. Calif. July 28, 2025), Order Granting Temporary  
5 Restraining Order, Dkt. 14 at 9 (“[T]he Court finds that the potential for  
6 Petitioners’ continued detention without an initial bond hearing would cause  
7 immediate and irreparable injury, as this violates statutory rights afforded under  
8 §1226(a).”)

12 C. THE BALANCE OF EQUITIES TIPS IN PETITIONER’S FAVOR  
13 AND A TRO IS IN THE PUBLIC INTEREST.

14 Because the government is a party, these two factors are considered  
15 together. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Petitioners have established  
16 that the public interest factor weighs in their favor because their claims assert that  
17 the new policy has violated federal laws. *See Valle del Sol Inc. v. Whiting*, 732  
18 F.3d 1006, 1029 (9th Cir. 2013). Because the policy preventing Petitioners from  
19 obtaining bond “is inconsistent with federal law, . . . the balance of hardships and  
20 public interest factors weigh in favor of a preliminary injunction.” *Moreno*  
21 *Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (*Moreno I*);  
22 *see also Moreno Galvez*, 52 F.4th 821, 832 (9th Cir. 2022) (affirming in part  
23 permanent injunction issued in *Moreno II* and quoting approvingly district  
24 judge’s declaration that “it is clear that neither equity nor the public’s interest are  
25 furthered by allowing violations of federal law to continue”). This is because “it  
26  
27  
28

1 would not be equitable or in the public’s interest to allow the [government] . . . to  
2 violate the requirements of federal law, especially when there are no adequate  
3 remedies available.” *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir.  
4 2013) (second alteration in original) (citation omitted). Indeed, Respondent  
5 “cannot suffer harm from an injunction that merely ends an unlawful practice.”  
6 *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013).

9  
10 D. PRUDENTIAL EXHAUSTION IS NOT REQUIRED.

11 Prudential exhaustion does not require Petitioner to be forced to endure the  
12 very harm he is seeking to avoid by appealing the IJ bond orders to the Board of  
13 Immigration Appeals and waiting many months for a decision from the BIA.  
14 “[T]here are a number of exceptions to the general rule requiring exhaustion,  
15 covering situations such as where administrative remedies are inadequate or not  
16 efficacious, . . . [or] irreparable injury will result . . .” *Laing v. Ashcroft*, 370 F.3d  
17 994, 1000 (9th Cir. 2004) (citation omitted). In addition, a court may waive an  
18 exhaustion requirement when “requiring resort to the administrative remedy may  
19 occasion undue prejudice to subsequent assertion of a court action.” *McCarthy v.*  
20 *Madigan*, 503 U.S. 140, 146–47 (1992), *superseded by statute on other grounds*  
21 *as stated in Booth v. Churner*, 532 U.S. 731, 739–41 (2001). “Such prejudice  
22 may result . . . from an unreasonable or indefinite time frame for administrative  
23 action.” *Id.* at 147 (citing cases). Here, the exceptions regarding irreparable injury  
24  
25  
26  
27  
28



1 and agency delay apply and warrant waiving any prudential exhaustion  
2 requirement.

3  
4 1. Futility

5 Futility is an exception to the prudential exhaustion requirement. Petitioner  
6 has been subjected to the new DHS policy issued on July 8, 2025 instructing all  
7 ICE employees to consider anyone arrested within the United States and charged  
8 with being inadmissible under § 1182(a)(6)(A)(i) to be an “applicant for  
9 admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory  
10 detention. The DHS policy states it was issued “in coordination with the  
11 Department of Justice (DOJ).” See “*Interim Guidance Regarding Detention*  
12 *Authority for Applicants for Admission*”, ICE, July 8, 2025. IJs function within  
13 the Executive Office for Immigration Review which is a component of the  
14 Department of Justice. Petitioner has been denied a bond hearing by an IJ based  
15 on this new policy.

16  
17 Further, the most recent unpublished BIA<sup>2</sup> decision on this issue held that  
18 persons like Petitioner are subject to mandatory detention as applicants for  
19 admission. See BIA Decision, Case No. XXX-XXX-269, May 22, 2025. Finally,  
20 in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are  
21 defendants, DOJ has affirmed its position that individuals like Petitioner are  
22 applicants for admission and subject to detention under § 1225(b)(2)(A). See

23  
24  
25  
26  
27  
28  

---

<sup>2</sup> Available at <https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf>.

1 Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV- 05240-TMC  
2 (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31. *See also Maldonado Bautista et al.*  
3  
4 *v. Santacruz, et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Calif. July 28, 2025),  
5 Order Granting Temporary Restraining Order, Dkt. 14 at 11 (in a case with  
6 identical facts and legal arguments, the Court stated it “was unconvinced that the  
7 administrative process would self-correct in light of the DHS Guidance Notice.”  
8 The Court also noted “DHS’s unequivocal commitment to the contested legal  
9 authority in [the] matter[.]”) Under these facts, appeals to the BIA would be  
10 futile.  
11  
12

## 13 2. Irreparable Injury

14 Irreparable injury is an exception to any prudential exhaustion requirement.  
15 Because Petitioner was denied bond and ordered mandatorily detained, each day  
16 they remain in detention is one in which their statutory and constitutional rights  
17 have been violated. Similarly situated district courts have repeatedly recognized  
18 this fact. As one court has explained, “because of delays inherent in the  
19 administrative process, BIA review would result in the very harm that the bond  
20 hearing was designed to prevent: prolonged detention without due process.”  
21 *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) (internal  
22 quotation marks omitted). Indeed, “if Petitioner is correct on the merits of his  
23 habeas petition, then Petitioner has *already* been unlawfully deprived of a  
24 [lawful] bond hearing [,] [and] . . . each additional day that Petitioner is detained  
25  
26  
27  
28

1 without a [lawful] bond hearing would cause him harm that cannot be repaired.”  
2 *Villalta v. Sessions*, No. 17-CV-05390-LHK, [2017 WL 4355182](#), at \*3 (N.D. Cal.  
3 Oct. 2, 2017) (internal quotation marks and brackets omitted); *see also Cortez v.*  
4 *Sessions*, [318 F. Supp. 3d 1134, 1139](#) (N.D. Cal. 2018) (similar). Other district  
5 courts have echoed these points.<sup>3</sup>

8 Petitioner asserts both statutory and constitutional claims and has a  
9 “fundamental” interest in a bond hearing, as “freedom from imprisonment is at  
10 the ‘core of the liberty protected by the Due Process Clause.’” *Hernandez*, [872](#)  
11 [F.3d at 993](#) (quoting *Foucha v. Louisiana*, [504 U.S. 71, 80](#) (1992)).

13 Moreover, the irreparable injury Petitioner faces extends beyond a chance  
14 at physical liberty. There are several “irreparable harms imposed on anyone  
15 subject to immigration detention[.]” *Hernandez*, [872 F.3d at 995](#). These include  
16 “subpar medical and psychiatric care in ICE detention facilities.” *Id.*

### 19 3. Agency Delay

20  
21 Third, the BIA’s delays in adjudicating bond appeals warrant excusing any  
22 exhaustion requirement. A court’s ability to waive exhaustion based on delay is  
23 especially broad here given the interests at stake. As the Ninth Circuit has

---

25  
26 <sup>3</sup> *See, e.g., Perez v. Wolf*, [445 F. Supp. 3d 275, 286](#) (N.D. Cal. 2020); *Blandon v. Barr*, [434](#)  
27 [F. Supp. 3d 30, 37](#) (W.D.N.Y. 2020); *Marroquin Ambriz v. Barr*, [420 F. Supp. 3d 953, 961](#) (N.D.  
28 Cal. 2019); *Ortega-Rangel v. Sessions*, [313 F. Supp. 3d 993, 1003–04](#) (N.D. Cal. 2018);  
*Montoya Echeverria v. Barr*, No. 20-CV-02917-JSC, [2020 WL 2759731](#), at \*6 (N.D. Cal. May  
27, 2020); *Rodriguez Diaz v. Barr*, No. 4:20-CV-01806-YGR, [2020 WL 1984301](#), at \*5 (N.D.  
Cal. Apr. 27, 2020); *Birru v. Barr*, No. 20-CV-01285-LHK, [2020 WL 1905581](#), at \*4 (N.D. Cal.  
Apr. 17, 2020); *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, [2018 WL 7474861](#), at \*7 (N.D.  
Cal. Dec. 24, 2018).



1 explained, Supreme Court precedent “permits a court under certain prescribed  
2 circumstances to excuse exhaustion where ‘a claimant’s interest in having a  
3 particular issue resolved promptly is so great that deference to the agency’s  
4 judgment [of a lack of finality] is inappropriate.” *Klein v. Sullivan*, 978 F.2d  
5 520, 523 (9th Cir. 1992) (alteration in original) (quoting *Mathews v. Eldridge*,  
6 424 U.S. 319, 330 (1976)). Of course, as noted above, Petitioner’s interest here in  
7 physical liberty is a “fundamental” one. *Hernandez*, 872 F.3d at 993. Moreover,  
8 the Supreme Court has explained that “[r]elief [when seeking review of  
9 detention] must be speedy if it is to be effective.” *Stack v. Boyle*, 342 U.S. 1, 4  
10 (1951).

11  
12 Despite this fundamental interest and the Supreme Court’s admonition that  
13 only speedy relief is meaningful, the BIA takes over half a year in most cases to  
14 adjudicate an appeal of a decision denying bond. In these cases, noncitizens in  
15 removal proceedings often remain locked up in a detention facility with  
16 conditions “similar . . . to those in many prisons and jails” and separated from  
17 family. *Rodriguez*, 583 U.S. at 329 (Breyer, J., dissenting); *see also, e.g.,*  
18 *Hernandez*, 872 F.3d at 996.

19  
20 District courts facing situations like the one at issue here acknowledged  
21 that the BIA’s months-long review is unreasonable and results in ongoing injury  
22 to the detained individual. *See, e.g., Perez*, 445 F. Supp. 3d at 286.

1 Indeed, as one district judge observed, “the vast majority of . . . cases . . .  
2 have ‘waived exhaustion . . . where several additional months may pass before  
3 the BIA renders a decision on a pending appeal [of a custody order].” *Montoya*  
4 *Echeverria*, 2020 WL 2759731, at \*6 (quoting *Rodriguez Diaz*, 2020 WL  
5 1984301, at \*5); *see also Hechavarria*, 358 F. Supp. 3d at 237–38 (citing  
6 *McCarthy* and BIA delays as reason to waive prudential exhaustion requirement).  
7  
8 Additionally, the issues presented in this petition are questions of statutory  
9 interpretation which are “unlikely to require agency consideration to generate a  
10 proper record to reach a proper decision.” *Maldonado Bautista et al. v.*  
11 *Santacruz, et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Calif. July 28, 2025),  
12 Order Granting Temporary Restraining Order, Dkt. 14 at 11.

13  
14  
15  
16 E. THERE IS NO JURISDICTIONAL HURDLE BARRING RELIEF

17  
18 Finally, nothing in the Immigration and Nationality Act precludes this  
19 Court from granting the TRO.

20  
21 The “zipper clause” at 8 U.S.C. § 1252(b)(9), which channels “[j]udicial  
22 review of all questions of law . . . including interpretation and application of  
23 constitutional and statutory provisions, arising from any action taken . . . to  
24 remove an alien from the United States” to the appropriate federal court of  
25 appeals, does not apply because that section applies only to review of removal  
26 orders, and Petitioner does not seek review of orders of removal but of custody.  
27  
28 *Maldonado Bautista et al. v. Santacruz, et al.*, No. 5:25-cv-01873-SSS-BFM

1 (C.D. Calif. July 28, 2025), Order Granting Temporary Restraining Order, Dkt.  
2 14 at 4-5.

3  
4 The bar to review at 8 U.S.C. § 1252(g) strips all courts of jurisdiction to  
5 hear “any cause or claim by or on behalf of any alien arising from the decision or  
6 action by the Attorney General to commence proceedings, adjudicate cases, or  
7 execute removal orders against any alien under this chapter.” The Supreme Court  
8 previously characterized § 1252(g) as a narrow provision, applying “only to three  
9 discrete actions that the Attorney General may take: her ‘decision or action’ to  
10 ‘commence proceedings, adjudicate cases, or execute removal orders.’” *Reno v.*  
11 *Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (emphasis in  
12 original). In doing so, the Supreme Court found it “implausible that the mention  
13 of *three discrete events* along the road to deportation was a shorthand way to  
14 referring to *all claims arising from* deportation proceedings.” *Id.* (emphasis  
15 added). Petitioners’ challenge to their detention does not fall within these discrete  
16 actions. *Maldonado Bautista et al. v. Santacruz, et al.*, No. 5:25-cv-01873-SSS-  
17 BFM (C.D. Calif. July 28, 2025), Order Granting Temporary Restraining Order,  
18 Dkt. 14 at 5.

19  
20 Finally, 8 U.S.C. § 1252(a), titled “Judicial Review of Orders of  
21 Removal,” Section 1252(a)(2) contains four subsections, which outlines  
22 categories of claims that are not subject to judicial review. § 1252(a)(2)(A)–(D).  
23 None of these subsections precluding judicial review apply to this matter, as the  
24



1 specified statutory provisions do not cite to § 1225(b)(2)(A) or § 1226(a), which  
2 are the two provisions Petitioner challenges. Thus, no part of § 1252 deprives this  
3 Court of jurisdiction. *Maldonado Bautista et al. v. Santacruz, et al.*, No. 5:25-cv-  
4 01873- SSS-BFM (C.D. Calif. July 28, 2025), Order Granting Temporary  
5 Restraining Order, Dkt. 14 at 6.  
6  
7

8 As such, the Court has jurisdiction over Petitioners' challenge to their detention.  
9

#### 10 **IV. CONCLUSION**

11 For the foregoing reasons, the Court should grant Petitioner's Application for  
12 a Temporary Restraining Order and Order to Show Cause.  
13

14 Dated: August 25, 2025

Respectfully Submitted,  
S/Roxana V. Muro

15  
16 Roxana V. Muro (CA SBN#344966)  
17 Law Offices of Roxana V. Muro  
18 510 W. 6th Street, Suite 506  
19 Los Angeles, CA 90014  
20 Tel.: (213) 622-4700  
21 Fax: (213) 622-4701  
22 Email:  
23 roxanamuro@rvmimmigrationlaw.com  
24  
25  
26  
27  
28

**WORD COUNT CERTIFICATION**

The undersigned, counsel of record for Petitioner certifies that this Memo contains 4, 084 words, which complies with the word limit of L.R. 11-6.1.

Dated: August 25, 2025

Respectfully Submitted,  
/s/Roxana V. Muro

Roxana V. Muro (CA SBN#344966)  
Law Offices of Roxana V. Muro  
510 W. 6th Street, Suite 506  
Los Angeles, CA 90014  
Tel.: (213) 622-4700  
Fax: (213) 622-4701  
Email:  
roxanamuro@rvmimmigrationlaw.com

**CERTIFICATE OF SERVICE**

I hereby certify that on August 25, 2025, I electronically filed the foregoing Petitioners' For Ex Parte Application for Temporary Restraining Order and Order to Show Cause Re: Preliminary Injunction with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to those attorneys of record registered on the CM/ECF system. All other parties shall be served in accordance with the Federal Rules of Civil Procedure.

Dated: August 25, 2025

Respectfully Submitted,  
/s/Roxana V. Muro

Roxana V. Muro (CA SBN#344966)  
Law Offices of Roxana V. Muro  
510 W. 6th Street, Suite 506  
Los Angeles, CA 90014  
Tel.: (213) 622-4700  
Fax: (213) 622-4701  
Email:  
roxanamuro@rvmimmigrationlaw.com