

District Judge Thomas S. Zilly
Magistrate Judge Michelle L. Peterson

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KENETH MENA TORRES,

Petitioner,

v.

CAMMILLA H. WAMSLEY, *et al.*,

Federal Respondents.

Case No. 3:25-cv-05772-TSZ-MLP

FEDERAL RESPONDENTS'¹
OPPOSITION TO PETITIONER'S
MOTION FOR TEMPORARY
RESTRAINING ORDER

Noted for Consideration:
September 15, 2025

I. INTRODUCTION

Petitioner Keneth Mena Torres fails to make a clear showing that he is entitled to the extraordinary remedy of a temporary restraining order ("TRO"). *See* Dkt. No. 6, Ex Parte Application for a TRO and Motion for Preliminary Injunction ("Motion" or "Mot."). Mena Torres contends that his mandatory detention and ineligibility for bond under 8 U.S.C § 1225(b)(2) is unlawful because the proper statutory detention for his detention arises under 8 U.S.C. § 1226(a). He is wrong.

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 U.S. Immigration and Customs Enforcement ("ICE") lawfully detains Mena Torres, a
2 citizen and national of Honduras, pursuant to Section 235(b) of the Immigration and Nationality
3 Act ("INA"), codified at 8 U.S.C. § 1225(b). He is subject to mandatory detention under Section
4 1225(b) because he entered the United States without admission or inspection. Therefore, Mena
5 Torres is an applicant for admission as defined Section 1225(b)(2)(A) and subject to mandatory
6 detention.² In the TRO motion, Mena Torres asserts that his mandatory detention violates the
7 Immigration and Nationality Act ("INA"), the Administrative Procedure Act ("APA"), and due
8 process. He seeks an order compelling his immediate release from immigration detention or for
9 this Court to release him on \$5,000 bond. This Court should deny the Motion.

10 Mena Torres has not demonstrated that the law and facts clearly favor the grant of
11 emergency mandatory injunctive relief here. Fatal to his request for a TRO, he has not
12 demonstrated an irreparable injury. In fact, if his alleged injury was found to be irreparable, then
13 every habeas claim would satisfy the injury requirement for emergency injunctive relief. Finally,
14 the balance of equities and public interest tilt against granting a TRO.

15 Furthermore, the mandatory injunction sought by Mena Torres would inappropriately have
16 this Court, on a time-compressed basis, grant him the ultimate relief that he seeks in his habeas
17 petition without the requisite showing of facts that clearly favor his position. *See Univ. of Texas*
18 *v. Camenisch*, 451 U.S. 390, 395 (1981) ("[I]t is generally inappropriate for a federal court at the
19 preliminary-injunction stage to give a final judgment on the merits"). As the Ninth Circuit has
20 emphasized, mandatory injunctive relief is "particularly disfavored," and courts should be
21 "extremely cautious" before granting it. *Garcia v. Google Inc.*, 786 F.3d 733, 740 (9th Cir. 2015)
22 (en banc); *Stanley v. Univ. of S. California*, 13 F.3d 1313, 1319 (9th Cir. 1994). Such relief is only
23

24 ² The application of Section 1225(b) to certain persons in removal proceedings at the Tacoma Immigration Court is
pending in a class action before a court in this District. *Rodriguez Vasquez v. Bostock*, No. 3:25-cv-05240-TMC.

1 appropriate when “the law and facts clearly favor the moving party,” not merely when there is a
2 likelihood of success.

3 Accordingly, Federal Respondents respectfully request that the Court deny Mena Torres’s
4 Motion. This Opposition is supported by the Declaration of Christopher Sica (“Sica Decl.”).

5 **II. FACTUAL BACKGROUND**³

6 Mena Torres is a native and citizen of the Honduras who entered the United States without
7 inspection on or around August 16, 2016, in Texas. Sica Decl., ¶ 3; Pet., ¶ 23. He was 11 or 12
8 years old at the time and an unaccompanied minor. Pet., ¶ 11.

9 The U.S. Department of Homeland Security (“DHS”) issued a Notice to Appear, charging
10 Mena Torres with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i). Sica Decl., ¶ 5. While he
11 was initially in custody of the Department of Health and Human Services’ Office of Refugee
12 Resettlement, he was released the following month. Sica Decl., ¶ 6. Mena Torres has an asylum
13 application pending with U.S. Citizenship and Immigration Services that was filed in May 2017.
14 Sica Decl., ¶ 7; Pet., ¶ 23. Once this asylum application was filed, the IJ administratively closed
15 Mena Torres’s removal proceedings. Sica Decl., ¶ 7; Pet., ¶ 25. He asserts that he also has a Form
16 I-730, Petition for Refugee/Asylee Relative, pending based on his mother’s asylee status. Pet.,
17 ¶¶ 26, 27.

18 On June 27, 2025, ICE filed a motion to recalendar Mena Torres’s removal proceedings
19 pursuant to the President’s Executive Order 14159. Sica Decl., ¶ 8. The IJ did not grant the
20 motion. *Id.*; Pet., ¶ 28.

21 On August 12, 2025, the U.S. Drug Enforcement Agency (“DEA”) in San Francisco
22 conducted a search warrant of premises that Mena Torres asserts is his home. Sica Decl., ¶ 9; Pet.,
23

24 ³ Undersigned counsel has not yet received Mena Torres’s Alien File (“A-File”). Thus, Federal Respondents cannot provide documentary evidence in support of many of the factual assertions. Federal Respondents will do so when responding to the habeas petition as undersigned counsel will have received the A-File by that time.

¶ 29. ICE was present at the search to assist the DEA. Sica Decl., ¶ 9. During the execution of the search warrant, ICE took Mena Torres into its custody. *Id.* He was transferred to the Northwest ICE Processing Center that same day. *Id.*

On August 29, 2025, an IJ denied Mena Torres's request for bond. Sica Decl., ¶ 10; Pet., ¶ 30. The IJ found that the court lacked jurisdiction to issue bond as Mena Torres was detained pursuant to 8 U.S.C. § 1225(b). Lambert Decl., Ex. A, Order of the IJ. In the alternative, and if it was later determined that the immigration court had jurisdiction, the IJ ordered that Mena Torres be released from custody on \$5,000 bond. *Id.*; Pet., ¶ 31.

III. STATUTORY BACKGROUND

A. Detention Under 8 U.S.C. § 1225

Congress established the expedited removal process in 8 U.S.C. § 1225 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 Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 106 (2020) (“[Congress] crafted a system for weeding out patently meritless claims and expeditiously removing the aliens making such claims from the country.”). Section 1225 applies to “applicants for admission” to the United States, who are defined as “alien[s] present in the United States who [have] not been admitted” or noncitizens “who arrive[] in the United States,” whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). 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 v. Rodriguez*, 583 U.S. 281, 287 (2018) (“[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)

1 Section 1225(b)(1) applies to “arriving aliens” and “certain other” noncitizens “initially
2 determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.”
3 *Id.*; 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). Section 1225(b)(1) allows for the expedited removal of
4 any noncitizen “described in” Section 1225(b)(1)(A)(iii)(II), as designated by the Attorney
5 General or Secretary of Homeland Security – that is, any noncitizen not “admitted or paroled into
6 the United States” and “physically present” fewer than two years – who is inadmissible under
7 Section 1182(a)(7) at the time of “inspection.” *See* 8 U.S.C. § 1182(a)(7) (categorizing as
8 inadmissible noncitizens without valid entry documents). Whether that happens at a port of entry
9 or after illegal entry is not relevant; what matters is whether, when an officer inspects a noncitizen
10 for admission under Section 1225(a)(3), that noncitizen lacks entry documents and so is subject to
11 Section 1182(a)(7). The Attorney General’s or Secretary’s authority to “designate” classes of
12 noncitizens as subject to expedited removal is subject to his or her “sole and unreviewable
13 discretion.” 8 U.S.C. § 1225(b)(1)(A)(iii); *see also American Immigration Lawyers Ass’n v. Reno*,
14 199 F.3d 1352 (D.C. Cir. 2000) (upholding the expedited removal statute).

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

1 Expedited removal proceedings under Section 1225(b)(1) include additional procedures if
2 a noncitizen indicates an intention to apply for asylum⁴ or expresses a fear of persecution, torture,
3 or return to the noncitizen's country. *See* 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 235.3(b)(4). If
4 the asylum officer or immigration judge does not find a credible fear, the noncitizen is "removed
5 from the United States without further hearing or review." 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I),
6 (b)(1)(C); 1252(a)(2)(A)(iii), (e)(2); 8 C.F.R. §§ 1003.42(f), 1208.30(g)(2)(iv)(A). If the asylum
7 officer or immigration judge finds a credible fear, the noncitizen is generally placed in full removal
8 proceedings under 8 U.S.C. § 1229a, but remains subject to mandatory detention. *See* 8 C.F.R. §
9 208.30(f); 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

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

19 2. Section 1225(b)(2)

20 Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*, 583 U.S.
21 at 287. It "applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* Under Section
22 1225(b)(2), a noncitizen "who is an applicant for admission" is subject to mandatory detention

23 _____
24 ⁴ Noncitizens must apply for asylum within one year of arriving in the United States, 8 U.S.C. § 1558(a)(2)(B), except
if the noncitizen can demonstrate "extraordinary circumstances" that justify moving that deadline. *Id.*
§ 1558(a)(2)(D).

1 pending full removal proceedings “if the examining immigration officer determines that [the] alien
2 seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. §
3 1225(b)(2)(A) (requiring that such noncitizens “be detained for a proceeding under section 1229a
4 of this title”); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (explaining that proceedings
5 under section 1229a are “full removal proceedings under section 240 of the INA”); *see also id.*
6 (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in
7 full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates
8 detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299). Still,
9 DHS has the sole discretionary authority to temporarily release on parole “any alien applying for
10 admission to the United States” on a “case-by-case basis for urgent humanitarian reasons or
11 significant public benefit.” *Id.* § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

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

13 Section 1226(a) provides for the arrest and detention of noncitizens “pending a decision on
14 whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under Section
15 1226(a), DHS may, in its discretion, detain a noncitizen during his removal proceedings, release
16 him on bond, or release him on conditional parole.⁵ By regulation, immigration officers can release
17 a noncitizen if he demonstrates that he “would not pose a danger to property or persons” and “is
18 likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). A noncitizen can also request
19 a custody redetermination (i.e., a bond hearing) by an immigration judge at any time before a final
20 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.
21 At a custody redetermination, the immigration judge may continue detention or release the
22

23 ⁵ Being “conditionally paroled under the authority of § 1226(a)” is distinct from being “paroled into the United States
24 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 noncitizen on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1).
2 Immigration judges have broad discretion in deciding whether to release a noncitizen on bond. *In*
3 *re Guerra*, 24 I. & N. Dec. 37, 39-40 (BIA 2006) (listing nine factors for immigration judges to
4 consider).

5 IV. LEGAL STANDARD

6 The standard for issuing a temporary restraining order is “substantially identical” to the
7 standard for issuing a preliminary injunction. *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*,
8 240 F.3d 832, 839 n.7 (9th Cir. 2001). “It frequently is observed that a preliminary injunction is
9 an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear*
10 *showing*, carries the burden of persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997)
11 (emphasis in original) (internal quotations omitted); *Winter v. Nat. Res. Def. Council, Inc.*, 555
12 U.S. 7, 22 (2008).

13 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on
14 the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the
15 balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter*, 555
16 U.S. at 20. Alternatively, a plaintiff can show that there are “serious questions going to the merits
17 and the balance of hardships tips sharply towards [plaintiff], as long as the second and third *Winter*
18 factors are satisfied.” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017)
19 (internal quotation omitted).

20 The purpose of preliminary injunctive relief is to preserve the status quo pending final
21 judgment, rather than to obtain a preliminary adjudication on the merits. *Sierra On-Line, Inc. v.*
22 *Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984). “A preliminary injunction can take
23 two forms.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 878 (9th
24 Cir. 2009). “A prohibitory injunction prohibits a party from taking action and ‘preserves the status

1 quo pending a determination of the action on the merits.” *Id.*, (internal quotation omitted). “A
2 mandatory injunction orders a responsible party to take action.” *Id.*, at 879 (internal quotation
3 omitted). “A mandatory injunction goes well beyond simply maintaining the status quo pendente
4 lite and is particularly disfavored.” *Id.* (internal quotation omitted). “In general, mandatory
5 injunctions are not granted unless extreme or very serious damage will result and are not issued in
6 doubtful cases.” *Id.* (internal quotation omitted). Where a plaintiff seeks mandatory injunctive
7 relief, “courts should be extremely cautious.” *Stanley*, 13 F.3d at 1319 (internal quotation
8 omitted). Thus, in a mandatory injunction request, the moving party “must establish that the law
9 and facts *clearly favor* [his] position, not simply that [he] is likely to succeed.” *Garcia*, 786 F.3d
10 at 740 (emphasis in original).

11 Here, rather than preserving the status quo, Mena Torres seeks mandatory injunctive relief
12 in the form of an order requiring his immediate release.

13 V. ARGUMENT

14 MENA TORRES DOES NOT SATISFY THE REQUIREMENTS 15 FOR PRELIMINARY RELIEF.

16 A. Mena Torres has not demonstrated that the law and facts clearly favor his position.

17 Likelihood of success on the merits is a threshold issue: “[W]hen a plaintiff has failed to
18 show the likelihood of success on the merits, [the court] need not consider the remaining three
19 *Winters* elements.” *Garcia*, 786 F.3d at 740 (internal quotation omitted). To succeed on a habeas
20 petition, Mena Torres must show that he is “in custody in violation of the Constitution or laws or
21 treaties of the United States.” *See* 28 U.S.C. § 2241. And because he is seeking mandatory
22 injunctive relief, he must demonstrate that the law and facts clearly favor his position. To be sure,
23 Mena Torres does not claim that he has lawful status in the United States or that he has been
24 subjected to prolonged detention. His main assertion is that his immigration detention is controlled

1 by 8 U.S.C. § 1226(a) (non-mandatory detention) rather than 8 U.S.C. § 1225(b) (mandatory
2 detention) as determined by the IJ. *See* TRO Mot., ¶¶ 22-26.⁶

3 This Court should reject Mena Torres's argument that Section 1226(a) governs his
4 detention. His detention is pursuant to Section 1225(b). Under 8 U.S.C. § 1225(a), an "applicant
5 for admission" is defined as an "alien present in the United States who has not been admitted or
6 who arrives in the United States." As described above, applicants for admission "fall into one of
7 two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings*, 583
8 U.S. at 287. Section 1225(b)(2) – the provision relevant here – is the "broader" of the two. *Id.* It
9 "serves as a catchall provision that applies to all applicants for admission not covered by §
10 1225(b)(1) (with specific exceptions not relevant here)." *Id.* And Section 1225(b)(2) mandates
11 detention. *Id.* at 297; *see also* 8 U.S.C. § 1225(b)(2); *Matter of Yajure Hurtado*, 29 I & N Dec.
12 216, 220 (BIA 2025) ("Aliens, like the respondent, who surreptitiously cross into the United States
13 remain applicants for admission until and unless they are lawfully inspected and admitted by an
14 immigration officer."); *Matter of Q. Li*, 29 I & N. Dec. 66, 69 (BIA 2025) ("[A]n applicant for
15 admission who is arrested and detained without a warrant while arriving in the United States,
16 whether or not at a port of entry, and subsequently placed in removal proceedings is detained under
17 section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond
18 under section 236(a) of the INA, 8 U.S.C. § 1226(a).").

19 The BIA recently issued a decision that confirms detention of noncitizens like Mena Torres
20 is subject to mandatory detention under Section 1225(b)(2). *Matter of Yajure Hurtado*, 29 I & N
21 Dec. 216 (BIA 2025). In that case, the noncitizen challenged the IJ's denial of his request for
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23 ⁶ Mena Torres also asserts a due process claim concerning the BIA review of his administrative appeal of the IJ's
24 Order. TRO Mot., ¶ 27. In the Petition, he alleges that a timely review of detention decisions must occur within sixty
days of the notice of appeal. Pet., ¶ 61. He asserts that he filed his appeal on September 3, 2025 – a week ago. TRO
Mot., ¶ 27. Thus, even under his own timeline, he has failed to demonstrate a due process violation.

1 custody redetermination due to a lack of jurisdiction. Like here, the IJ had determined that the
2 noncitizen was subject to mandatory detention under Section 1225(b)(2). *Id.*, at 216. Also similar
3 to Mena Torres, the noncitizen entered the United States without inspection. Approximately two
4 years after his entry, USCIS granted the noncitizen temporary protected status that expired on
5 April 2, 2025. *Id.*, at 216-17.

6 On April 8, 2025, the noncitizen – no longer under temporary protected status – was
7 apprehended and charged with the same charge of removability as Mena Torres, 8 U.S.C.
8 § 1182(a)(6)(A)(i), for being “[a]n alien present in the United States without being admitted or
9 paroled, who arrives in the United States at any time or place other than as designated by the
10 Attorney General.” *Id.*, at 217. At a hearing, an IJ determined that he had no jurisdiction to set
11 bond under the facts of the noncitizen’s case. *Id.* In the alternative, the IJ found that he would
12 have denied bond because the noncitizen was a flight risk. *Id.* The noncitizen appealed the
13 decision to the BIA. The BIA affirmed the IJ’s denial for lack of jurisdiction “because aliens who
14 are present in the United States without admission are applicants for admission as defined by
15 [Section 1225(b)(2)(A).” *Id.*, at 220.

16 Mena Torres incorrectly asserts that Section 1226(c)(1)(E) demonstrates that noncitizens
17 being charged as inadmissible, “including those who are present without admission or parole,” are
18 subject to detention pursuant to Section 1226(a). Mot., ¶ 23. Section 1226(c) applies to “detention
19 of criminal aliens,” which does not apply to Mena Torres. His citation to Section 1226(c)(E)(i)
20 (including aliens who are inadmissible under certain provisions of 8 U.S.C. § 1182) ignores that
21 those inadmissible aliens must also be “charged with,” “arrested for,” “convicted of,” or admitted
22 to having committed certain criminal acts. 8 U.S.C. § 1226(c)(1)(E)(ii). Thus, his has no
23 relevance to his detention.
24

1 Furthermore, nothing in the statutory text of Section 1226(c) purports to undermine or alter
2 the provisions of Section 1225(b)(2)(A), requiring that aliens that fall within the definition of the
3 statute “shall be detained for a proceeding under [INA] section 240.” Also, the fact that 8 U.S.C.
4 § 1226(c) mandates detention of a subset of the category of aliens that are also subject to mandatory
5 detention under 8 U.S.C. § 1225(b)(2)(A) is not a basis on which to determine that Section
6 1225(b)(2)(A) is null and void. *See Barton v. Barr*, 590 U.S. 222, 239 (2020) (holding that because
7 “redundancies are common in statutory drafting – sometimes in a congressional effort to be doubly
8 sure, sometimes because of congressional inadvertence or lack of foresight, or sometimes simply
9 because of the shortcomings of human communication,” – “[r]edundancy in one portion of a statute
10 is not a license to rewrite or eviscerate another portion of the statute contrary to its text”).

11 Therefore, Mena Torres is subject to mandatory detention under Section 1225(b)(2). His
12 TRO Motion should be denied because he has not demonstrated that the law and facts clearly favor
13 his position.

14 **B. Mena Torres has not shown irreparable harm.**

15 Mena Torres has not demonstrated that he will suffer irreparable injury absent the
16 mandatory injunctive relief he seeks. “The Ninth Circuit makes clear that a showing of immediate
17 irreparable harm is essential for prevailing on a [TRO].” *Juarez v. Asher*, 556 F. Supp.3d 1181,
18 1191 (W.D. Wash. 2021) (citing *Caribbean Marine Co., Inc. v. Bladridge*, 844 F.2d 668, 674 (9th
19 Cir. 1988)).

20 To do so, he must demonstrate “immediate threatened injury.” *Caribbean Marine Services*
21 *Co., Inc.*, 844 F.2d at 674 (citing *Los Angeles Memorial Coliseum Commission v. National*
22 *Football League*, 634 F.2d 1197, 1201 (9th Cir.1980)). Merely showing a “possibility” of
23 irreparable harm is insufficient. *See Winter*, 555 U.S. at 22. Moreover, mandatory injunctions are
24 not granted unless extreme or very serious damage will result. *Marlyn Nutraceuticals, Inc.*, 571

1 F.3d at 879 (internal citation omitted). “Issuing a preliminary injunction based only on a
2 possibility of irreparable harm is inconsistent with [the Supreme Court’s] characterization of
3 injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that
4 the plaintiff is entitled to such relief.” *Winter*, 555 U.S. at 22.

5 In sum, Mena Torres asserts that his detention and its purported effects constitutes
6 irreparable injury. *See* Mot., ¶¶ 13-16. But this irreparable harm argument “begs the constitutional
7 questions presented in [his] petition by assuming that [P]etitioner has suffered a constitutional
8 injury.” *Cortez v. Nielsen*, 19-cv-754, 2019 WL 1508458, at *3 (N.D. Cal. Apr. 5, 2019).
9 Moreover, Mena Torres’s “loss of liberty” is “common to all [noncitizens] seeking review of their
10 custody or bond determinations.” *See Resendiz v. Holder*, 12-cv-4850, 2012 WL 5451162, at *5
11 (N.D. Cal. Nov. 7, 2012). “[A] noncitizen must show that there is a reason specific to his or her
12 case, as opposed to a reason that would apply equally well to all aliens and all cases, that removal
13 would inflict irreparable harm[.]” *Taha v. Bostock*, No. 25-cv-649, 2025 WL 1126681, at *3 (W.D.
14 Wash. Apr. 16, 2025) (quoting *Leiva-Perez v. Holder*, 640 F.3d 962, 969 (9th Cir. 2011)).

15 Accordingly, Mena Torres has not made a clear showing that he will be subject to
16 immediate irreparable injury without the requested mandatory injunctive relief.

17 **C. The balance of the interests and public interests favor the Government.**

18 It is well settled that the public interest in enforcement of United States’ immigration laws
19 is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Blackie’s*
20 *House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (“The Supreme Court has
21 recognized that the public interest in enforcement of the immigration laws is significant.”) (citing
22 cases); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) (“There is always a public interest in
23 prompt execution of removal orders). This public interest outweighs Mena Torres’s private
24

1 interest here. He asks the Court to declare his detention unlawful, despite the Government's valid
2 reasons and statutory bases for detaining him.

3 Accordingly, this Court should deny his Motion.

4 **VI. CONCLUSION**

5 For the foregoing reasons, Mena Torres has not satisfied his high burden of establishing
6 entitlement to mandatory injunctive relief, and his Motion should be denied.

7 DATED this 10th day of September, 2025.

8 Respectfully submitted,

9 TEAL LUTHY MILLER
10 Acting United States Attorney

11 s/ Michelle R. Lambert

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21 *I certify that this memorandum contains 4,151*
22 *words, in compliance with the Local Civil Rules.*

23 *Attorneys for Federal Respondents*