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10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12

13 Laura Beatriz PUNINA
CHIMBOLEMA,

14 Petitioner,

15 v.
16

17 Pamela BONDI, in her official capacity
as Attorney General, *et al*,

18 Respondents.
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No. 5:25-cv-02578-VBF-RAO

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

Honorable Valerie B. Fairbank
United States District Judge

I. INTRODUCTION

Petitioner Laura Beatriz Punina Chimbolema has filed a Petition for Writ of Habeas Corpus (Dkt. 1) challenging her detention pending resolution of removal proceedings. Dkt. 1 (“Petition” or “Pet.”). Petitioner has filed an *ex parte* application for a Temporary Restraining Order (Dkt. 2) requiring her immediate release. Dkt. 2 (the “TRO Application”). The TRO Application should be denied because Petitioner is lawfully detained under 8 U.S.C. § 1225(b)(2). And to the extent that Petitioner disagrees and wishes to obtain a bond hearing before an Immigration Judge, she can do that the way numerous other litigants have in this District: Seeking a bond hearing pursuant to Section 1226(a). Petitioner argues that the BIA’s September 5, 2025 order in *Matter of Jonathan Javier Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) found that detainees like her were not entitled to such bond hearings because they are detained under 8 U.S.C. § 1225(b)(2). That is indeed the government’s position. But Petitioner neglects to mention that District Judges in the Central District of California have nonetheless ruled that detainees are entitled to a bond hearing under § 1226(a), *Matter of Yajure* notwithstanding. *See e.g. Henberto Arreola Armenta, et al. v. Kristi Noem, et al.*, 5:25-cv-02416-JFW-SP, Dkt. no. 7 (September 16, 2025 decision by Hon. Judge Walter granting TRO and ordering §1226(a) bond hearing); *Moises Salomon Zaragoza Mosqueda et al. v. Kristi Noem et al.*, 5:25-cv-02304-CAS-BFM (September 8, 2025 decision by Hon. Judge Snyder granting TRO and ordering § 1226(a) bond hearing).

Remedies sought by preliminary injunctive relief must be narrowly tailored to the harm at issue, rather than granting the requested ultimate relief by TRO at the very outset of the case. *See e.g. Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022) (“And we note that even when there are deficiencies in individual § 1226(a) proceedings, they may be redressable through means short of major changes to the burden of proof.”). Here, if any relief would be appropriate, it would be determining whether Petitioner has a right to a bond hearing in Immigration Court.

That point of basic remedy law is particularly critical here given that the Petitioner

1 was detained back on **June 17, 2025**. *See* Petition, ¶ 7. In filing an *ex parte* TRO
2 Application on **September 29, 2025**, she has delayed well over three months after her
3 detention date. She facially does not meet the demanding standard for seeking *ex parte*
4 TRO relief relative to her putatively unlawful detention.

5 Petitioner cites *Zadvydas v. Davis*, 533 U.S. 678 (2001), but that case involved
6 post-removal order detention, and held that up to six months of such detention was
7 presumptively reasonable. Here, Petitioner has been detained much less than that.

8 Petitioner argues that ICE's decision, on the day she entered the United States on
9 October 23, 2023, to release her on her own recognizance requires an extensive pre-
10 arrest hearing before an Immigration Court if the government ever thereafter decided to
11 arrest her again. But the law does not impose such an elaborate pre-arrest proceeding,
12 nor would it make sense to impose such a negative consequence on ICE for deciding to
13 release somebody on their own recognizance. Petitioner was not previously ordered
14 released by an Immigration Court, over ICE's objection. Instead, she was released by
15 ICE, at its own discretion. The government has very broad authority to revoke release,
16 and it has broad authority to detain noncitizens pursuant to removal proceedings. There
17 does not appear to be any appellate authority authorizing the imposition of pre-detention
18 Immigration Court hearings, particularly when the noncitizen was not released by a
19 finding of an Immigration Judge, but rather by ICE's discretion.

20 Accordingly, the TRO Application should be denied.

21 **II. RELEVANT FACTS AND PROCEDURAL HISTORY**

22 Petitioner is a citizen of Ecuador (Pet. ¶ 21), who entered the United States on
23 approximately October 30, 2023. *Id.* ¶ 2. Federal agents arrested Petitioner in 2023 and
24 charged her with a violation of civil immigration law, later releasing her on her own
25 recognizance with a notice to appear in immigration court. *Id.* ¶ 52. Petitioner alleges
26 that, on June 17, 2025, she attended a master calendar hearing at the West Los Angeles
27 Immigration Court, and, at that time, the Department of Homeland Security ("DHS")
28 moved to dismiss her proceedings. *Id.* ¶ 7. Petitioner alleges she was then detained by

1 U.S. Immigration and Customs Enforcement (“ICE”) agents, and she was taken to the
2 Adelanto ICE Processing Center. *Id.* ¶¶ 7 & 8. Petitioner alleges that ICE issued a Notice
3 to Appear on June 22, 2025. *Id.* ¶ 9. Petitioner is next scheduled for a master calendar
4 immigration hearing on October 22, 2025. *Id.* ¶ 10.

5 Petitioner filed the instant Petition on September 24, 2025, and she filed the TRO
6 five days later.

7 **III. STATUTORY BACKGROUND**

8 **A. Detention under 8 U.S.C. § 1225**

9 Section 1225 applies to “applicants for admission,” who are defined as “alien[s]
10 present in the United States who [have] not been admitted” or “who arrive[] in the United
11 States.” 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two categories,
12 those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*,
13 583 U.S. 281, 287 (2018).

14 Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially
15 determined to be inadmissible due to fraud, misrepresentation, or lack of valid
16 documentation.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens are generally subject
17 to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien
18 “indicates either an intention to apply for asylum . . . or a fear of persecution,” immigration
19 officers will refer the alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). An alien
20 with “a credible fear of persecution” is “detained for further consideration of the
21 application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to
22 apply for asylum, express a fear of persecution, or is “found not to have such a fear,” he
23 is detained until removed. *Id.* §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

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

1 § 1225(b)(2)(A); *see Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“for aliens
2 arriving in and seeking admission into the United States who are placed directly in full
3 removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A),
4 mandates detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583
5 U.S. at 299). Still, the DHS has the sole discretionary authority to temporarily release on
6 parole “any alien applying for admission to the United States” on a “case-by-case basis
7 for urgent humanitarian reasons or significant public benefit.” *Id.* § 1182(d)(5)(A); *see*
8 *Biden v. Texas*, 597 U.S. 785, 806 (2022).

9 **B. Detention under 8 U.S.C. § 1226(a)**

10 Section 1226 provides for arrest and detention “pending a decision on whether the
11 alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a), the
12 government may detain an alien during his removal proceedings, release him on bond, or
13 release him on conditional parole.¹ By regulation, immigration officers can release aliens
14 if the alien demonstrates that he “would not pose a danger to property or persons” and “is
15 likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). An alien can also
16 request a custody redetermination (i.e., a bond hearing) by an immigration judge (“IJ”) at
17 any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R.
18 §§ 236.1(d)(1), 1236.1(d)(1), 1003.19.

19 At a custody redetermination, the IJ may continue detention or release the alien on
20 bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). IJs have broad
21 discretion in deciding whether to release an alien on bond. *In re Guerra*, 24 I. & N. Dec.
22 37, 39–40 (BIA 2006) (listing nine factors for IJs to consider). But regardless of the factors
23 IJs consider, an alien “who presents a danger to persons or property should not be released
24 during the pendency of removal proceedings.” *Id.* at 38.

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27 ¹ Being “conditionally paroled under the authority of § 1226(a)” is distinct from
28 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 **IV. ARGUMENT**

2 **A. The Court Lacks Jurisdiction under 8 U.S.C. § 1252.**

3 As a threshold matter, 8 U.S.C. §§ 1252(g) and (b)(9) preclude review of
4 Petitioner's claim that she should have received a "pre-deprivation bond hearing" prior to
5 being detained. Section 1252(g) deprives courts of jurisdiction, including habeas corpus
6 jurisdiction, to review "any cause or claim by or on behalf of any alien arising from the
7 decision or action by the Attorney General to [1] *commence proceedings*, [2] *adjudicate*
8 *cases*, or [3] *execute removal orders against any alien under this chapter*." 8 U.S.C. §
9 1252(g) (emphasis added). Section 1252(g) eliminates jurisdiction "[e]xcept as provided
10 in this section and notwithstanding any other provision of law (statutory or nonstatutory),
11 including section 2241 of title 28, United States Code, or any other habeas corpus
12 provision, and sections 1361 and 1651 of such title."² Except as provided in § 1252, courts
13 "cannot entertain challenges to the enumerated executive branch decisions or actions."
14 *E.F.L. v. Prim*, 986 F.3d 959, 964–65 (7th Cir. 2021).

15 Section 1252(g) also bars district courts from hearing challenges to the *method* by
16 which the DHS Secretary chooses to commence removal proceedings, including the
17 decision to detain an alien pending removal. *See Alvarez v. ICE*, 818 F.3d 1194, 1203
18 (11th Cir. 2016) ("By its plain terms, [§ 1252(g)] bars us from questioning ICE's
19 discretionary decisions to commence removal" and to review "ICE's decision to take
20 [plaintiff] into custody and to detain him during removal proceedings").

21 Here, Petitioner challenges the government's decision and action to detain her,
22 which arises from DHS's decision to commence removal proceedings, and is thus an
23 "action taken . . . to remove [her] from the United States." *See* 8 U.S.C. § 1252(b)(9); *see*
24 *also, e.g., Jennings*, 583 U.S. at 294–95; *Velasco Lopez v. Decker*, 978 F.3d 842, 850 (2d

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27 ² Congress initially passed § 1252(g) in the IIRIRA, Pub. L. 104-208, 110 Stat.
28 3009. In 2005, Congress amended § 1252(g) by adding "(statutory or nonstatutory),
including section 2241 of title 28, United States Code, or any other habeas corpus
provision, and sections 1361 and 1651 of such title" after "notwithstanding any other
provision of law." REAL ID Act of 2005, Pub. L. 109-13, § 106(a), 119 Stat. 231, 311.

1 Cir. 2020) (finding that 8 U.S.C. § 1226(e) did not bar review in that case because the
2 petitioner did not challenge “his initial detention”); *Saadulloev v. Garland*, No. 3:23-CV-
3 00106, 2024 WL 1076106, at *3 (W.D. Pa. Mar. 12, 2024) (recognizing that there is no
4 judicial review of the threshold detention decision, which flows from the government’s
5 decision to “commence proceedings”). Moreover, Petitioner cannot show the exigency
6 required to obtain TRO relief, because Petitioner was detained over three months ago.
7 Thus, the Court should deny the TRO for lack of jurisdiction under § 1252(b)(9).

8 **B. Petitioner Is Lawfully Detained Pending the Resolution of Her Removal**
9 **Proceedings.**

10 Petitioner should not obtain an order of immediate release, because she is lawfully
11 detained pending the resolution of her removal proceedings. The Supreme Court has
12 recognized that “detention during deportation proceedings [i]s a constitutionally valid
13 aspect of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003).

14 **C. Detention Under § 1225(b)(2) and Detention Under § 1226(a)**

15 In response to Petitioner’s underlying request for a bond hearing, the government
16 reiterates here the legal position it stated in its opposition to the *ex parte* TRO application
17 filed in *Bautista v. Noem*, 5:25-cv-01873-SSS-BFM, which the government filed on July
18 24, 2025 as Docket no. 8.³ The same legal issue has also been raised in this District in
19 other cases including *Henberto Arreola Armenta, et al. v. Kristi Noem, et al.*, 5:25-cv-
20 02416-JFW-SP, *Javier Ceja Gonzalez, et al. v. Kristi Noem, et al.*, 5:25-cv-02054-ODW-
21 ADS, *Jorge Arrazola-Gonzalez, et al. v. Kristi Noem, et al.*, 5:25-cv-01789-ODW-DFM,
22 and *Ruben Benitez et al. v. Kristi Noem, et al.*, 5:25-cv-02190-RGK-AS. In each case,
23 however, Respondents acknowledge that the court ordered the United States to provide a
24 bond hearing under 8 U.S.C. § 1226(a) within seven days, which the government then
25 provided, thereby mooted the habeas petitions at issue.

26
27 ³ The District Court granted the *ex parte* TRO application in *Bautista* via order
28 issued on July 28, 2025 [Dkt. 14]. Shortly thereafter, an amended complaint asserting
putative class claims for similarly situated petitioners was filed in *Bautista* [Dkt. 15].

1 Petitioner argues (Pet. ¶ 20) that the Board of Immigration Appeals (BIA) recently
2 ruled the opposite way on this issue in its September 5, 2025 order in *Matter of Jonathan*
3 *Javier Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). After detailed analysis, the BIA
4 determined that based on the plain language of section 235(b)(2)(A) of the Immigration
5 and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority
6 to hear bond requests or to grant bond to aliens who are present in the United States without
7 admission “because aliens who are present in the United States without admission are
8 applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. §
9 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.” *Id.*

10 The Federal Respondents contend that Petitioner is properly detained pursuant to 8
11 U.S.C. § 1225(b)(2)(A), consistent with *Matter of Yajure*, and for the reasons stated
12 therein. Should the Court disagree, however, the proper remedy would then be to order a
13 prompt bond hearing pursuant to 8 U.S.C. § 1226(a), thereby mooting the Petition.

14 **D. Petitioner’s Arguments that she is Entitled to a Pre-Arrest Hearing Are**
15 **Defective**

16 Petitioner was not previously ordered released by an Immigration Judge in an
17 Immigration Court. Instead, as her Petition alleges, she was released by ICE, at its
18 discretion, on the same day she entered the country.

19 Petitioner suggests that she thereby acquired a right to prevent the government
20 from arresting and detaining her in the future unless an Immigration Court authorizes it
21 via an elaborate predecessor bond hearing. But no Immigration Court had ordered her
22 release in the first place. That was ICE’s discretion. Section 1252 insulate the decision to
23 arrest and detain Petitioner in connection with her removal proceedings. It does not
24 provide that this this right is instantly lost if the government, on the same day the
25 noncitizen is apprehended, elects not to keep them in immediate custody. Indeed, to
26 impose such a consequence would threaten to eliminate such discretion.

27 The INA governs the detention and release of noncitizens during and following
28 their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021).

1 The INA does not provide for a pre-detention hearing. Petitioner argues that there does
2 not appear to be good reason for his recent re-detention, given that she was previously
3 released on her own recognizance. But the government's authority to revoke release and
4 re-detain individuals previously released by ICE is discretionary, and it does not require
5 the type of intensive threshold evidentiary procedure that Petitioner suggests. "While the
6 regulation provides the detainee some opportunity to respond to the reasons for
7 revocation, it provides no other procedural and no meaningful substantive limit on this
8 exercise of discretion as it allows revocation "when, in the opinion of the revoking
9 official ... [t]he purposes of release have been served ... [or] [t]he conduct of the alien, or
10 *any other circumstance*, indicates that release would no longer be appropriate."
11 *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and*
12 *superseded*, 591 F.3d 1105 (9th Cir. 2010), citing §§ 241.4(l)(2)(i), (iv) (emphasis in
13 original).

14 Petitioner cites unpublished District Court decisions imposing barriers to
15 redetention, but those decisions generally (a) involve prior Immigration Court decisions
16 granting release prior to the government's decision to arrest the individual again; and (b)
17 are not supported by appellate law.

18 Other District Courts have recognized that an alleged lack of sufficient release
19 revocation and redetention process does not establish a right to habeas relief. In *Ahmad*
20 *v. Whitaker*, for example, the government revoked the petitioner's release but did not
21 provide him an informal interview. *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D.
22 Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019).
23 The petitioner argued the revocation of his release was unlawful because, he contended,
24 the federal regulations prohibited redetention without, among other things, an
25 opportunity to be heard. *Id.* In rejecting his claim, the court held that although the
26 regulations called for an informal interview, petitioner could not establish "any
27 actionable injury from this violation of the regulations" because the government had
28 procured a travel document for the petitioner, and his removable was reasonably

1 foreseeable. *Id.* Similarly, in *Doe v. Smith*, the U.S. District Court for the District of
2 Massachusetts held that even if the ICE detainee petitioner had not received a timely
3 interview following her return to custody, there was “no apparent reason why a violation
4 of the regulation ... should result in release.” *Doe v. Smith*, 2018 WL 4696748, at *9 (D.
5 Mass. Oct. 1, 2018). The court elaborated, “[I]t is difficult to see an actionable injury
6 stemming from such a violation. Doe is not challenging the underlying justification for
7 the removal order.... Nor is this a situation where a prompt interview might have led to
8 her immediate release—for example, a case of mistaken identity.” *Id.*

9 To imply into existence a non-statutory requirement for an elaborate pre-arrest
10 hearing process simply because ICE (not an Immigration Court) had previously granted
11 the noncitizen release on their own recognizance is not adequately supported by law, and
12 it would set a poor precedent at a systematic level.

13 **V. CONCLUSION**

14 For these reasons, Federal Respondents respectfully request that the Court deny
15 the TRO Application. If the Court is inclined to rule in Petitioner’s favor, however, the
16 appropriate remedy would be to order a prompt bond hearing before an Immigration
17 Judge under 8 U.S.C. § 1226(a), consistent with what other District Courts have done.

18
19 Dated: October 2, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Federal Respondents, certifies that this brief contains 3,084 words, which complies with the word limit of L.R. 11-6.1