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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 NORMA LUCINA SALDANA

12 GUZMAN,

13 Plaintiff,

14 v.

15 KRISTI NOEM, *et al.*,

16 Defendants.
17

} Case No. CV 25-9687-DMG (AGR)

} **ORDER RE MOTION FOR**
} **PRELIMINARY INJUNCTION**
}

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19 On October 9, 2025, Petitioner Norma Lucina Saldana Guzman, a noncitizen who
20 has been detained in Immigration and Customs Enforcement (“ICE”) custody since on or
21 about September 25, 2025 pending removal proceedings, filed a section 2241 habeas
22 petition challenging her continued detention without a bond redetermination hearing
23 pursuant to 8 U.S.C. § 1226(a). [Doc. # 1.] Guzman simultaneously filed an application
24 for temporary restraining order [Doc. # 2], which the Court converted to a preliminary
25 injunction motion (“MPI”). [Doc. # 6.] The Court held a hearing on the MPI on October
26 31, 2025.
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I.

BACKGROUND

Saldana Guzman has resided in the United States since in or about 2006 and lives in California. Petition at 10.¹ She is a beneficiary of Deferred Action for Childhood Arrivals (“DACA”) and has a DACA renewal application pending with Citizenship and Immigration Services. *Id.* at 11; *see also* Doc. # 5-1.

On or about September 25, 2025, she was arrested during an immigration enforcement action, placed in removal proceedings, and charged with having entered the United States without inspection and being present without valid immigration documents, in violation of 8 U.S.C. §§ 1182(a)(6)(A)(i) (presence without admission) and (a)(7)(A)(i) (presence without valid documentation). Saldana Guzman requested release, which ICE denied, and a bond redetermination hearing before an immigration judge. Petition at 10. She is currently detained at the Adelanto ICE Processing Center in Adelanto, California. *Id.* at 2.

Relevant to Saldana Guzman’s claims in her petition, on July 8, 2025, the Department of Homeland Security (“DHS”) issued a policy that instructs ICE employees to consider anyone arrested in the United States and charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) (presence without admission) to be subject to mandatory detention under Immigration and Nationality Act (“INA”) section 235(b), *codified at* 8 U.S.C. § 1225(b)(2)(a). On October 21, 2025, an immigration judge denied Saldana Guzman’s request for a change in custody status on the basis of INA section 235(b). [Doc. # 8.]²

¹ The Court cites to allegations of the Petition for background facts that are not in dispute. Citations to the record are to the CM/ECF pagination.

² Saldana Guzman improperly attempted to file supplemental evidence in support of her Petition by filing the Immigration Judge’s Order on the docket, titled “*ex parte* application,” without any supporting declaration or application. In doing so, she failed to comply with Local Rules 7-19 and 5-4.4 with regard to the filing of *ex parte* applications (“EPAs”) and proposed orders. [*See* Doc. # 8.] The Court **CONSTRUES** the EPA as a request to file a supplement to her petition and **GRANTS** the request.

II.
DISCUSSION

A. Legal Standard

Pursuant to Federal Rule of Civil Procedure 65(b), a court may grant a preliminary injunction to prevent “immediate and irreparable injury.” A preliminary injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the [petitioner] is entitled to such relief.” *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008).

To obtain such relief, a petitioner must establish four elements: (1) a likelihood of success on the merits, (2) the petitioner will likely suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in her favor, and (4) the public interest favors an injunction. *Winter*, 555 U.S. at 20.

Resolution of this motion requires the Court to construe the meaning of portions of the INA, 8 U.S.C. § 1101 et seq. When the Court interprets a statute, its “job is to interpret the words consistent with their ‘ordinary meaning . . . at the time Congress enacted the statute.’” *Wis. Ctr. Ltd. v. United States*, 585 U.S. 274, 277 (2018) (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979)). The Court’s “analysis begins with the plain language of the statute[,]” and where that language is “plain, [the court] must enforce it according to its terms.” *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009). “[O]ne of the most basic interpretive canons” is that “a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]” *Corley v. United States*, 556 U.S. 303, 314 (2009) (internal citations and quotation marks omitted).

The Order at Docket No. 8 will be considered as a supplement to her Petition. In the future, failure to comply with the Court’s local rules may result in such applications being stricken from the record without consideration.

B. Jurisdiction

Under 28 U.S.C. § 2241, the Court generally has jurisdiction over a petition for writ of habeas corpus in which the petitioner asserts she is being held in custody “in violation of the Constitution or laws or treaties of the United States.” In opposition to the MPI, the Government argues that the Court lacks jurisdiction over the petition under sections of the INA that limit judicial review, specifically, 8 U.S.C. §§ 1252(b)(9) and (g). Opp. at 11 [Doc. # 7]. The Court disagrees.

Section 1252(b)(9) bars review of questions of law and fact “arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter” in this Court. That statute has been narrowly interpreted by the Supreme Court. *See Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020) (“Section 1252(b)(9) bars review of claims arising from ‘action[s]’ or ‘proceeding[s] brought to remove an alien.’ . . . Section 1252(g) is similarly narrow.”).

Section 1252(g) deprives the Court of jurisdiction over “any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien[.]” The Supreme Court has narrowly interpreted this provision as well. *See Regents of the Univ. of Cal.*, 591 U.S. at 19; *see also Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (“The provision applies only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, adjudicate cases, or execute removal orders.’ . . . There are of course many other decisions or actions that may be part of the deportation process[.]”). Following *Reno*, the Ninth Circuit held “[t]he district court may consider a purely legal question that does not challenge the Attorney General’s discretionary authority, even if the answer to that legal question—a description of the relevant law—forms the backdrop against which the Attorney General later will exercise discretionary authority.” *United States v. Hovsepien*, 359 F.3d 1144, 1155 (9th Cir. 2004).

1 Neither subsection of 1252 precludes jurisdiction over this action. Saldana Guzman
2 does not challenge the commencement or validity of removal proceedings against her.
3 Rather, she argues that the BIA should be ordered to provide her a bond hearing or release
4 her on bond during the pendency of her removal proceedings. *See* Petition at 14.

5 The Government relies on non-binding cases that are unpersuasive or involve
6 different issues. Notably, in 2018, the Supreme Court analyzed an issue related to bond
7 hearings under sections 1225 and 1226 of the INA, holding that section 1252(b)(9) did not
8 deprive it of jurisdiction. The Court rejected an “expansive interpretation” of this
9 jurisdictional statute that “would lead to staggering results” and make claims of prolonged
10 detention “effectively unreviewable.” *Jennings v. Rodriguez*, 583 U.S. 281, 293 (2018);
11 *see also Jennings*, 583 U.S. at 294 (“[R]espondents are not asking for review of an order
12 of removal; they are not challenging the decision to detain them in the first place or to seek
13 removal; and they are not even challenging any part of the process by which their
14 removability will be determined. Under these circumstances, § 1252(b)(9) does not
15 present a jurisdictional bar.”). To the extent the Government cites pre-*Jennings* authority
16 to the contrary, its arguments are unpersuasive.

17 Nor is the Court bound by the Government’s selective (and misleading) citation to
18 the Ninth Circuit’s language that section 1252(b)(9) bars the Court’s review of “any
19 issue—whether legal or factual—arising from *any* removal-related activity.” *J.E.F.M. v.*
20 *Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016). On the very next page of that opinion, the
21 Ninth Circuit continues, “the statute excludes from the [petition for review] process any
22 claim that does not arise from removal proceedings. *Accordingly, claims that are*
23 *independent of or collateral to the removal process do not fall within the scope of §*
24 *1252(b)(9).*” *Id.* at 1032 (emphasis added); *see also Flores-Miramontes v. I.N.S.*, 212 F.3d
25 1133, 1140 (9th Cir. 2000) (holding section “1252(b)(9) does not apply to actions brought
26 in habeas corpus, and certainly does not serve to repeal in whole or in part the general
27 habeas statute.”).

1 Multiple courts in this Circuit have now addressed and rejected the Government's
2 argument with respect to sections 1252(b)(9) and (g). *See, e.g., Lopez v. Warden*, No. 25-
3 CV-2527-RSH-SBC, [2025 WL 3005346](#), at *2 (S.D. Cal. Oct. 27, 2025); *Garcia, et al., v.*
4 *Noem, et al.*, No. 5:25-CV-02771-ODW (PDX), [2025 WL 2986672](#), at *3 (C.D. Cal. Oct.
5 22, 2025); *E.C. v. Noem, et al.*, No. 2:25-CV-01789-RFB-BNW, [2025 WL 2916264](#), at *7
6 (D. Nev. Oct. 14, 2025). The Court joins this chorus of opinions, finding that neither
7 section 1252(b)(9) nor 1252(g) preclude it from exercising jurisdiction over Saldana
8 Guzman's petition.

9 **C. Likelihood of Success on the Merits**

10 Saldana Guzman argues that as applied to her, the new DHS policy violates the
11 INA's plain language because she resides in the United States and is not "seeking
12 admission." Therefore, she argues, she is subject to permissive detention under [8 U.S.C.](#)
13 [§ 1226\(a\)](#), not mandatory detention under § 1225(b)(2)(a). MPI at 7. She is correct, as
14 explained below.

15 Section 1225 governs inspection procedures for those who are "applicant[s] for
16 admission." That phrase is a term of art in section 1225, broadly defined as one who is
17 "present in the United States" but "has not been admitted" or one who "arrives in the United
18 States." [8 U.S.C. § 1225\(a\)\(1\)](#).

19 Subsection (b) of section 1225 sets forth procedures for two categories of applicants
20 for admission: (b)(1) "applies to aliens initially determined to be inadmissible due to fraud,
21 misrepresentation, or lack of valid documentation[.]"³ *Jennings*, [583 U.S. at 287](#).
22 Subsection (b)(2) "serves as a catchall provision" in section 1225 for applicants for
23 admission not covered by subsection (b)(1). *Id.*

24 Those detained pursuant to (b)(1) are subject to an expedited removal process unless
25 they claim asylum or a fear of persecution. *See id.* Those detained pursuant to (b)(2) "shall
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27 ³ Section 1225(b)(1) also applies to certain other noncitizens designated by the Attorney General
28 in her discretion. *See* § 1225(b)(1)(A)(iii).

1 be detained” for removal proceedings under section 1229a, “if the examining immigration
2 officer determines that [the] alien seeking admission is not clearly and beyond a doubt
3 entitled to be admitted.” *Id.* at 288. Thus, subsection 1225(b)(2) incorporates several
4 conditions before a noncitizen is subject to mandatory detention: the noncitizen must be
5 an “applicant for admission” as defined in subsection (a)(1), she must be “seeking
6 admission,” an immigration officer must have determined that she is not clearly and beyond
7 a doubt entitled to be admitted, and the exceptions in subsection (b)(2)(B) must not apply.

8 In contrast to section 1225, which generally concerns those seeking admission into
9 the country, section 1226 generally governs the detention of those already present in the
10 country. *Id.* at 289. Section 1226(a) supplies the “default rule” for proceedings under this
11 statute: noncitizens are arrested and detained pending a decision on their removal but may
12 be released on bond or conditional parole unless they fall within 1226(c). *Id.* This process
13 includes the right to a bond hearing before an immigration judge. 8 C.F.R. § 1236.1(d).
14 Subsection 1226(c) carves out a statutory category of noncitizens who may not be released
15 under 1226(a), unless certain other narrow conditions are satisfied. *Jennings*, 583 U.S. at
16 289. Section 1226(c) relates to noncitizens who pose a safety or security risk and is not
17 applicable here.

18 The Government fixates on the broad definition of one who is an “applicant for
19 admission” in section 1225(a) to claim that Saldana Guzman is an applicant for admission
20 and thus subject to section 1225(b)(2), mandating her detention. *Opp.* at 16. But as noted
21 above, section 1225(b)(2) does not necessarily apply to all “applicants for admission” who
22 fall outside subsection (b)(1). It applies to those who meet the conditions set forth in
23 section (b)(2) (that one is “seeking admission,” an immigration officer must have
24 determined that the person is not clearly and beyond a doubt entitled to be admitted, and
25 the exceptions in subsection (b)(2)(B) do not apply). There is no indication that Guzman
26 meets any of those conditions other than that she meets the definition of “applicant for
27 admission” in 1225(a)(1).

1 Importantly, Saldana Guzman is not “seeking admission,” as required for subsection
2 (b)(2) to apply to her.⁴ The word “seeking” is a present participle that indicates an ongoing
3 state. *See Al Otro Lado v. Wolf*, 952 F.3d 999, 1011 (9th Cir. 2020) (the phrase “arriving
4 in the United States” and its “use of the present progressive, like use of the present
5 participle . . . denotes an ongoing process”). The plain language of “seeking admission”
6 does not logically apply to someone like Saldana Guzman, who has resided in the United
7 States for nearly two decades. To borrow an analogy from another Court:

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9 someone who enters a movie theater without purchasing a ticket and then
10 proceeds to sit through the first few minutes of a film would not ordinarily
11 then be described as “seeking admission” to the theater. Rather, that person
12 would be described as already present there. Even if that person, after being
13 detected, offered to pay for a ticket, one would not ordinarily describe them
14 as “seeking admission” (or “seeking” “lawful entry”) at that point—one
would say that they had entered unlawfully but now seek a lawful means of
remaining there.

15 *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *7 (S.D.N.Y.
16 Aug. 13, 2025). The plain language of the statute accordingly contravenes the
17 Government’s interpretation of section 1225(b)(2) as applicable to Saldana Guzman, a
18 person who is not seeking admission to this country.

19 The BIA’s contrary interpretation in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
20 (BIA 2025), does not alter this result.⁵ This Court owes no deference to an agency
21 interpretation that conflicts with the statute’s unambiguous text. *Loper Bright Enters. v.*
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23
24 ⁴ Indeed, if the Court accepted the Government’s interpretation that all persons present but
25 unadmitted in the United States (*see* section 1225(a)(1)) are “seeking admission,” it would improperly
render “alien seeking admission” in section 1225(b)(2)(A) superfluous.

26 ⁵ The Government also relies on *Florida v. United States*, 660 F. Supp. 3d 1239 (N.D. Fla. 2023),
27 as authority that section 1225(b) mandates detention of applicants for admission throughout removal
28 proceedings. Opp. at 17. That case involved noncitizens arriving at the border, not already residing in
the country, and is not on point.

1 *Raimondo*, 603 U.S. 369, 400–01 (2024) (observing that while “agencies have no special
2 competence in resolving statutory ambiguities,” “[c]ourts do”). And if the Court *were* to
3 defer to the agency’s interpretation, it would defer to the longstanding historical practice
4 of the Government to treat noncitizens residing in the United States as subject to 1226(a).
5 *See Loper Bright*, 603 U.S. at 386 (The “longstanding practice of the government—like
6 any other interpretive aid—can inform [a court’s] determination of what the law is.”
7 (Citations omitted)). Historically, noncitizens who resided in the United States, but who
8 had previously entered without inspection, were not deemed “arriving aliens” under §
9 1225(b), but were instead subject to § 1226(a). *See Maldonado v. Olson*, No. 25-CV-3142
10 (SRN/SGE), 2025 WL 2374411, at *11 (D. Minn. Aug. 15, 2025).

11 Further, the Government’s interpretation improperly renders significant parts of the
12 INA superfluous. *See Corley*, 556 U.S. at 314. Earlier this year, Congress amended the
13 INA to add subsection 1226(c)(1)(E), which provides for the mandatory detention of non-
14 citizens who are inadmissible under, *inter alia*, 1182(a)(6)(A), (C), and (7) *and* who
15 engaged in certain criminal activity. *See* Pub. L. No. 119-1, 139 Stat. 3 (2025); *see also*
16 *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *2 (W.D. Wash.
17 Sept. 30, 2025) (“The . . . amendments require detention for noncitizens who have been
18 charged as inadmissible under sections 1182(a)(6)(A) (the inadmissibility ground for a
19 noncitizen “present in the United States without being admitted or paroled”), 1182(a)(6)(C)
20 (misrepresentation), or 1182(a)(7) (lacking valid documentation) and have been arrested
21 for, charged with, or convicted of certain crimes.”)). But if the fact that someone present
22 without admission in this country automatically made that person subject to mandatory
23 detention under section 1225(b)(2), there would be no need for such an amendment to add
24 language to section 1226 to reach the same result.

25 The Government argues in opposition that section 1225(b) contains more specific
26 mandatory provisions and therefore must govern over the general language of 1226(a).
27 Opp. at 15. The Court agrees with the well-reasoned analysis of this issue by another
28 District Court:

1 This argument is premised on a mischaracterization of . . . *Jennings*. *Jennings*
2 did not, as the government suggests, describe Section 1226 as the “default”
3 detention authority in federal immigration law writ large. *See Jennings*, 583
4 U.S. at 288–89. It instead explained that in circumstances where Section 1226
5 applies, “Section 1226(a) sets out the default rule”—that is, discretionary
6 detention—to which Section 1226(c)’s mandatory detention requirement is
7 the exception. *Id.* Thus, Section 1225(b)(2) is not “more specific” than
8 Section 1226(a); these provisions simply apply in different circumstances.
9 Section 1225(b)(2) governs the detention of applicants for admission who are
“seeking admission” to the United States, whereas Section 1226(a) governs
the detention of noncitizens who are arrested “[o]n a warrant” while present
in the United States.

10 *dos Santos v. Noem*, No. 1:25-CV-12052-JEK, 2025 WL 2370988, at *8 (D. Mass. Aug.
11 14, 2025).

12 Additionally, the Government asserts that it is not logical to read the INA to give
13 more preferential treatment to those residing in the country than those arriving at the
14 border. *Opp.* at 18. But “our immigration laws have long made a distinction between those
15 aliens who have come to our shores seeking admission . . . and those who are within the
16 United States after an entry, irrespective of its legality. In the latter instance the Court has
17 recognized additional rights and privileges not extended to those in the former category
18 who are merely on the threshold of initial entry.” *Leng May Ma v. Barber*, 357 U.S. 185,
19 187 (1958) (citation and quotation marks omitted).

20 The Court is not alone in rejecting the Government’s interpretation of sections 1225
21 and 1226, as the “overwhelming majority” of district courts across the country have found
22 DHS’s reinterpretation to be unlawful. *See, e.g., Aparicio v. Noem, et al.*, No. 2:25-CV-
23 01919-RFB-DJA, 2025 WL 2998098, at *1 (D. Nev. Oct. 23, 2025) (cataloguing cases);
24 *see also Soto v. Soto, et al.*, No. 25-CV-16200, 2025 WL 2976572, at *7 (D.N.J. Oct. 22,
25 2025) (citing 22 similar District Court orders from around the country); *Rodriguez*, 2025
26 WL 2782499. The Court finds the reasoning in these orders to be persuasive, because it is
27 consistent with a textual reading of the relevant statutory provisions. The Court therefore
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1 concludes that Saldana Guzman has an exceedingly strong likelihood of success on the
2 merits.

3 **D. Irreparable Harm**

4 Saldana Guzman clearly faces irreparable harm in the absence of judicial
5 intervention. “Deprivation of physical liberty by detention constitutes irreparable harm.”
6 *Arevalo v. Hennessy*, 882 F.3d 763, 767 (9th Cir. 2018). Indeed, the Government makes
7 no argument that she does not suffer such irreparable harm.

8 **E. Balance of the Equities and Public Interest**

9 The remaining two factors for a preliminary injunction—the balance of the equities
10 and public interest—“merge” when the government is the opposing party. *Baird v. Bonta*,
11 81 F.4th 1036, 1040 (9th Cir. 2023) (quotation marks omitted). When “the impact of an
12 injunction reaches beyond the parties, carrying with it a potential for public consequences,
13 the public interest will be relevant to whether the district court grants the preliminary
14 injunction.” *Hernandez v. Sessions*, 872 F.3d 976, 996 (2017) (quoting *Stormans, Inc. v.*
15 *Selecky*, 586 F.3d 1109, 1139 (9th Cir. 2009)). The Ninth Circuit has recognized that
16 “neither equity nor the public’s interest are furthered by allowing violations of federal law
17 to continue.” *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022) (holding that the district
18 court did not abuse its discretion in finding the balance of hardships weighed in favor of
19 plaintiffs who credibly alleged that the government was violating the INA).

20 The harm to the Government here is minimal. The Court is simply requiring the
21 Government to adhere to the law and give Saldana Guzman a routine bond hearing. As
22 another Court recently explained, “[i]t is DHS’ new reading of the INA which upends
23 decades of consistent agency practice, and subjects millions of individuals to mandatory
24 detention that is creating the significant fiscal and administrative burden on the
25 Government. However, this is a burden of its own choosing.” *Aparicio*, 2025 WL
26 2998098, at *5.

F. Bond

The security bond requirement of Federal Rule of Civil Procedure 65(c) is waived. The Court has “discretion as to the amount of security required, if any,” and it “may dispense with the filing of a bond when it concludes there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.” *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003).

III.

CONCLUSION

The MPI is **GRANTED**, and the EPA is construed as a request to supplement and **GRANTED**. Within 10 days of this Order, Respondents must provide Saldana Guzman with a meaningful bond hearing under section 1226(a) and consistent with this Order or otherwise release her. Respondents shall file a status report regarding their compliance with this Order by **November 17, 2025**. The status report shall also address whether the habeas petition is moot.

IT IS SO ORDERED.

DATED: October 31, 2025


DOLLY M. GEE
CHIEF U.S. DISTRICT JUDGE