IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

JUAN JULIO REZA AYALA,

Petitioner,

v.

SAM OLSON, Field Office Director of Enforcement and Removal Operations, Chicago Field Office, Immigration and Customs Enforcement;

KRISTI NOEM, Secretary, U.S. Department of Homeland Security;

PAMELA BONDI, U.S. Attorney General;

TODD M. LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity;

BRANDON CROWLEY, Jail Commander for the Clay County Jail, in his official capacity;

Respondents.

Case No. 1:25-cv-13317

MOTION FOR TEMPORARY RESTRAINING ORDER

INTRODUCTION

Petitioner Juan Julio Reza Ayala is in the physical custody of Respondents at the Clay County Jail in Brazil, Indiana. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) of the Department of Justice (DOJ) have erroneously concluded Petitioner is subject to mandatory detention.

Respondents have not taken a position before this Court on the statutory basis of Petitioner's detention. However, no authority in the Immigration and Nationality Act (INA) authorizes the mandatory detention of a person in Petitioner's position.

The mandatory detention provisions in 8 U.S.C. § 1226(c) do not apply because Petitioner has not been convicted of any crimes giving rise to inadmissibility and none of the security-related grounds for such detention apply.

The mandatory detention provisions in 8 U.S.C. § 1225 are likewise inapplicable. Detention under § 1225(b)(1) would be invalid because its scope is limited to noncitizens charged with enumerated grounds of inadmissibility and placed in expedited removal proceedings, neither of which apply to Petitioner. Section 1225(b)(2) applies only to recent arrivals seeking to enter the country at the border or port of entry. It does not apply to individuals, like Petitioner, who were detained in the interior of the U.S. after having lived in the U.S. for 21 years. Though the Board of Immigration Appeals (BIA) recently issued a decision addressing access to bond for people in this context, *see Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), it is based on a flawed reading of the statute.

With those provisions inapplicable, the only possible basis for Petitioner's detention is 8 U.S.C. § 1226(a), which allows for release on bond or conditional parole. However, the government is denying Petitioner a bond hearing based on their erroneous assertion that he is subject to mandatory detention under *Matter of Yajure Hurtado*. Therefore, without an individualized determination whether Petitioner is a danger to the community or a flight risk, his current detention is unlawful.

Finally, by detaining Petitioner in circumstances that are indistinguishable from criminal incarceration, his detention is unreasonable as a matter of due process.

Petitioner is entitled to a writ of habeas corpus under 28 U.S.C. § 2241 and release from custody. While it considers this amended petition, this Court should require respondents to refrain from moving Petitioner from the jurisdiction of the Seventh Circuit. The Court should also grant the preliminary relief of immediate release on just terms. Petitioner satisfies all factors warranting preliminary relief: He is likely to succeed on the merits, he will be irreparably harmed if not released, the government faces no risk of harm if he is released, and the public interest favors immediate release. In the alternative, should the Court deny Petitioner's request, at a minimum it should order Respondents to show cause why this amended habeas petition should not be granted.

FACTUAL BACKGROUND

Petitioner is a 50-year-old Mexican national who has been continuously present in the United States since his entry in 2004. Petitioner resides in Chicago, Illinois, with his wife and their two U.S. citizen daughters, a 15-year-old high school student who lives with a physical disability, and an 18-year-old student at the University of Illinois in Chicago. Petitioner has unresectable (inoperable) hepatocellular liver cancer, severe nonproliferative diabetic retinopathy in both eyes, Type 2 insulin-dependent diabetes, diabetic neuropathy, liver cirrhosis, high cholesterol, and anemia. Petitioner's conditions demand strict adherence to prescribed medications and outpatient treatment plans with specialized physicians. Any lapse in medication or treatment protocols can result in irreparable physical harm. *See* Ex. A, Comprehensive Treatment Plan and Appointments Schedule.

On October 29, 2025, Immigration and Customs Enforcement (ICE) officers arrested Petitioner without a warrant in Skokie, Illinois, while he was performing landscaping work at a job site. ICE officers took him to the ICE Processing Center in Broadview, Illinois, and then transferred him to the Clay County Jail in Brazil, Indiana.

ICE is not following Petitioner's medical treatment protocol. Specifically, he is not being administered the medications at the dosage and frequency prescribed by his physicians. Additionally, he lacks access to specialized outpatient testing and treatment while he remains in custody. On October 29, Petitioner was unable to receive a required and vital retinal injection because he was in custody. For his diabetic retinopathy, Petitioner must receive bimonthly intravitreal injections to prevent loss of vision. *See* Ex. A; Ex. B, Letter from Retina Eye Clinic. Petitioner reports increased pain and pressure in his eyes since his arrest. *See* Ex. B.

Petitioner must adhere to a specific treatment regimen to manage his Type 2 Diabetes, including receiving insulin shots twice daily and taking oral medications. *See* Ex. C, Letter from Endocrinologist. The risks of failing to adhere to his medication regimen include hospitalization for diabetic ketoacidosis, hypersmolar hyperglycemia, and other complications. *See* Ex. C. Despite the clear orders from Petitioner's NP-C, medical providers at the Clay County Jail are refusing to administer his prescribed insulin. *See* Ex. D, Communications with Supervisory Detention and Deportation Officer. Petitioner informed undersigned counsel in early November that he had not received insulin for more than two days and that his blood sugar level was dangerously high. *See* Ex. D. He is also not receiving his prescribed medication to treat his neuropathy. *See* Ex. D.

Additionally, Petitioner must be monitored closely and receive treatments for his inoperable cancerous tumor in his liver *See* Ex. E., Letter from Oncologist. To forestall the growth of his tumor and metastasis beyond his liver, Petitioner must receive regular CT scans and targeted therapy. Petitioner has an appointment for a CT scan on November 28, which he risks missing because of his ongoing detention.

Counsel has requested that DHS release Petitioner from custody to prevent further harm and deterioration of his conditions. All requests, however, must be forwarded to Washington, D.C., for approval. ICE sent such a request on November 1, 2025. To date, there has been no response. *See* Ex. F, Communications Regarding Request for Release.

LEGAL STANDARD

The court should grant both Petitioner's emergency motion for temporary relief and his underlying motion for a writ of habeas corpus. As to the request for temporary relief, a district court may grant a motion for preliminary relief while the merits are under consideration when four factors favor the grant. Those four factors are a likelihood of success on the merits, irreparable harm to the movant without relief, the risk of harm to the non-movant (the government) if this court grants relief, and the public interest. *See Winter v. Nat'l Res. Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *Mays v. Dart*, 974 F.3d 810, 822 (7th Cir. 2020). The four factors are not prerequisites that must be met but should be balanced against each other. *Nken v. Holder*, 556 U.S. 418 (2009). In the Seventh Circuit, once the moving party establishes "some likelihood of succeeding on the merits" and that irreparable harm will occur in the absence of a TRO, the court performs a sliding scale evaluation of the factors, which requires a lesser showing on the other factors if an individual demonstrates greater likelihood of success on the merits or that their irreparable harm outweighs any anticipated harm from a TRO. *Cassell v. Snyders*, 900 F.3d 539 (7th Cir. 2021). Because each of these factors strongly favors Petitioner, this court should grant the motion.

I. Petitioner is Likely to Succeed on the Merits of his Claims

The appropriate standard for likelihood of success on the merits is "some likelihood." *Mays v. Dart*, 974 F.3d 810, 822 (7th Cir. 2020); *Singer Mgmt. Consultants, Inc. v. Milgram*, 650 F.3d 223, 229 (3d Cir. 2011) (en banc) (internal quotation marks omitted) ("[L]ikelihood of success on the merits" means that a plaintiff has "a reasonable chance, or probability, of winning. A likelihood does not mean more likely than not."). Petitioner easily meets this showing and is likely to prevail on the merits of his claim that his detention is unlawful. Under 28 U.S.C. § 2241(c)(3), a petitioner is entitled to a writ of habeas corpus if the petitioner "is in custody in violation of the Constitution or laws or treaties of the United States."

While Respondent has not taken a position before this Court on the statutory basis of Petitioner's detention, no authority in the INA authorizes the mandatory detention of a person in Petitioner's position.

First, detention under § 1225(b)(1) would be invalid because its scope is limited to noncitizens charged with enumerated grounds of inadmissibility and placed in expedited removal proceedings, neither of which apply to Petitioner. The second option within § 1225 is mandatory detention under § 1225(b)(2). This provision is also inapplicable. It applies only to recent arrivals seeking to enter the country at a border or port of entry. On July 8, 2025, the government attempted to expand the reach of § 1225(b)(2) to apply to all noncitizens deemed "applicants for admission," including individuals who entered the United States without admission and were later apprehended inside the country. U.S. Immigration and Customs Enforcement, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025), https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission. On September 5, 2025, the BIA issued a published decision adopting the same position. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That position is wrong for several reasons. The text of § 1225 indicates its limited scope to noncitizens who recently arrived at a border or port of entry. This includes the statute's title, "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing" (emphasis added), and the many references to recently arrived individuals such as "crewm[e]n," "stowaway[s]," and "[noncitizens] arriving." 8 U.S.C. § 1225(b)(2)(B); § 1225(b)(2)(C). The phrase "seeking admission" also implies a present-tense action that cannot apply to noncitizens who have been present in the country for years.

In addition, the INA's entire framework is premised on § 1225 governing detention of "arriving [noncitizens]" while § 1226 acts as the "default rule" and "applies to [noncitizens] already present in the United States." *Jennings v. Rodriguez*, 583 U.S. 288, 301 (2018). Notably, § 1226(c) includes carve outs for certain categories of inadmissible noncitizens who would otherwise fall under § 1226(a) but are instead subject to mandatory detention. 8 U.S.C. § 1226(c)(1)(A), (D), (E). The inclusion of these carve-outs in § 1226(c) indicates that, contrary to Respondents' policy, there are noncitizens who have not been admitted and who are not governed by § 1225's mandatory detention scheme. Indeed, if the government's position were correct, it would render these portions of § 1226(c) superfluous since those same individuals would already be subject to mandatory detention under § 1225(b)(2). A fundamental principle of statutory construction is that courts must interpret statutes to give meaning to all provisions and avoid reading out or rendering superfluous any single provision. *See Corley v. United States*, 556 U.S. 303, 314 (2009) ("one of the most basic interpretive canons . . . [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[.]") (cleaned up). The government's reading of § 1225(b)(2) violates this principle.

Congressional intent and longstanding agency practice underscore the limited scope of § 1225(b)(2). The current system existed since the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. Pub. L. No. 104—208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585; *see also* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (explaining that people detained after entering without inspection are considered detained under § 1226(a)). In IIRIRA, Congress made clear that § 1226(a) "restates" the detention authority previously found at § 1252(a), under which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an immigration judge or other officer. *See* 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229 (1996). Because of these principles, numerous federal courts, including this court, have rejected Respondents' efforts to rely on § 1225(b)(2) to justify mandatory detention for someone like Petitioner. For example, after immigration judges in Tacoma, Washington, stopped providing bond hearings for persons who entered the United States without inspection, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See Rodriguez Vazquez v. Bostock*,779 F. Supp. 3d 1239 (W.D. Wash. Apr. 24, 2025). Other courts, including this court, have reached the same conclusion, rejecting Respondents' erroneous interpretation of the INA[1] both prior to and since ICE implemented its

[1] See, e.g., *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 250082 (D. Mass. July 7, 2025); *Martinez v. Hyde*, No. 25-11613-BEM, 2025 U.S. Dist. LEXIS 284582, at *20 (D. Mass. July 24, 2025); *Lopez-Benitez v. Francis*, 2025 U.S. Dist. LEXIS 337407, *24 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 25-cv-3142 (SRN/SGE), 2025 U.S. Dist. LEXIS

July 8, 2025, interim guidance. The BIA's decision in *Yajure Hurtado* has not slowed the steady flow of decisions contrary to Respondents' position.[2]

Section 1226 likewise provides no authority for Petitioner's detention. Section 1226(c) "carves out a statutory category" of noncitizens from § 1226(a) for whom detention is mandatory, comprised of individuals who have committed certain "enumerated … criminal offenses [or] terrorist activities." *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)). Petitioner, however, has not been convicted of any enumerated crimes and none of the security-related grounds for such detention to apply.

With the mandatory detention provisions set aside, Petitioner's detention is possible only under § 1226(a), which provides for discretionary detention of individuals detained inside the country and who may be released on bond or on their own recognizance. *See* § 1226(a)(2); 8 C.F.R. §§ 1003.19(a), 1236.1(d). By subjecting Petitioner to mandatory detention without bond, Respondents commit multiple errors.

First, to the extent that Respondents purport to detain Petitioner pursuant 8 U.S.C.

349096 (D. Minn. Aug. 15, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 315102 (E.D. Mich. Aug. 29, 2025); *Miguel v. Noem*, No. 24 C 11137, 2025 U.S. Dist. LEXIS 206990 (N.D. Ill. Oct. 21, 2025); *Diaz v. Olson*, No. 25 CV 12141, 2025 U.S. Dist. LEXIS 443541 (N.D. Ill. Oct 29, 2025); *Ponce v. Olson*, No. 25-cv-13037, 2025 U.S. Dist. LEXIS 405548 (N.D. Ill. Oct. 31, 2025); *D.E.C.T. v. Noem*, 24 C 12463, 2025 U.S. Dist. LEXIS 429302 (N.D. Ill. Nov. 3, 2025); *Arredondo v. Olson*, No. 25-cv-12882, 2025 U.S. Dist. LEXIS 219921 (N.D. Ill. Nov. 7, 2025).

[2] See, e.g., *Ochoa Ochoa*, 2025 LEXIS 443010, at *15 (disagreeing with BIA's analysis and according no deference under *Loper Bright*, 603 U.S. at 413); H.G.V.U., 2025 LEXIS 449310, at *14 (same*); Patel v. Crowley*, No. 25 C 11180, 2025 U.S. Dist. LEXIS 436418, at *16–*17 (N.D. Ill. Oct. 24, 2025) (same); *D.E.C.T.*, 2025 LEXIS 429302, at *13–*14 (same); *Flores v. Olson*, No. 25 C 12916, 2025 U.S. Dist. LEXIS 457248, at *6 (N.D. Ill. Nov. 3, 2025) (same); *Martinez v. Noem*, No. 25-cv-12029, 2025 U.S. Dist. LEXIS 221908, at *3 (N.D. Ill. Nov. 11, 2025) (reasoning that "longstanding practice" suggests that Petitioner is more appropriately detained under 1226(a) and citing Loper Bright); see also *Valencia v. Noem*, No. 25-cv-12829, 2025 U.S. Dist. LEXIS 432944, a *7 (N.D. Ill. Oct. 31, 2025) ("Like other courts in this district, this Court rejects the BIA's interpretation in *Yajure Hurtado* as incorrect as a matter of law and declines to follow it.").

§ 1225(b), such application would violate the INA. As discussed, § 1225(b)(1) is limited to noncitizens in expedited removal proceedings. Meanwhile, the mandatory detention provision at § 1225(b)(2) applies only to noncitizens arriving at the border or ports of entry who recently entered the United States. As such, neither portion of § 1225(b) applies to Petitioner. To the extent that Respondents wish to detain someone in this posture, they must do so under 8 U.S.C. § 1226(a), unless they are subject to mandatory detention under 8 U.S.C. §§ 1226(c) or 1231. Their actions here violate this provision too because he is not subject to §§ 1226(c) or 1231 and, to date, Respondents have refused to consider Petitioner for bond.

Second, the Due Process Clause prohibits the government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Once a noncitizen enters this country, whether the presence is "lawful, unlawful, temporary, or permanent," the Due Process Clause applies. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). By subjecting the Petitioner to mandatory detention, Respondents deny him due process in two ways. First, by detaining Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others, they have arbitrarily deprived him of his fundamental interest in liberty and being free from official restraint. Government decisions that are arbitrary are not compatible with due process. *See County of Sacramento v. Lewis*, 523 U.S. 833, 845 (1988). Respondents' decision to detain is arbitrary because it is not based on any justification, facts, or logic, including any individualized factors that are compatible with due process.

The second aspect of due process relevant here arises from Respondents' conditions of detention. Due process bars the government from detaining a person in unreasonable conditions. *See Kingsley v. Hendrickson*, 576 U.S. 389, 391-92 (2015); *Brawner v. Scott County*, 14 F.4th 585, 594-97 (6th Cir. 2021). Petitioner's confinement is indistinguishable from criminal incarceration. This detention prevents him from seeing his family, going to work to support them, and most critically, obtaining urgent medical treatment for his several serious conditions.

II. Petitioner Will Suffer Irreparable Harm without Injunctive Relief

Consistent with several Circuits to consider the issue, the Seventh Circuit has recognized that "[t]he existence of a continuing constitutional violation constitutes proof of an irreparable harm." *Preston v. Thompson*, 589 F.2d 300, 303 n. 3 (7th Cir. 1978); *Ezell v. City of Chicago*, 651 F.3d 684, 699 (7th Cir. 2011); *see also Bonnell v. Lorenzo*, 241 F.3d 800, 809 (6th Cir. 2001) ("[W]hen reviewing a motion for preliminary injunction, if it is found that a constitutional right is being threatened or impaired, a finding of irreparable injury is mandated."); *Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."). A temporary restraining order is the only way to prevent deprivations of Petitioner's constitutional rights.

Further, numerous courts have recognized that continued unconstitutional detention constitutes irreparable harm. *See, e.g.*, *Newman v. Metrish*, 300 Fed. App'x 342, 344 (6th Cir. 2008) (finding that "[the petitioner] suffered a continuing injury while incarcerated"); *Dovala v. Baldauf*, No. 1:16-cv-2511, 2021 U.S. Dist. LEXIS 81903, at *24–*25 (N.D. Ohio Apr. 29, 2021) ("[Petitioner's] continued detention constitutes irreparable harm"); *Matacua v. Frank*, 308 F.Supp.3d 1019, 1025 (D. Minn. 2018) (finding that a "loss of liberty" is "perhaps the best example of irreparable harm.").

Irreparable physical and mental harm is inevitable for those incarcerated. This extends to individuals in immigration detention. *See Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017) (recognizing in "concrete terms the irreparable harms imposed on anyone subject to immigration detention" including "subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on [persons in detention] and their families as a result of detention, and the collateral harms to children of [persons in detention] whose parents are detained"). Here, the harms of continued detention for Petitioner cannot be understated: he risks vision loss, diabetes-related hospitalization, and the recurrence of his liver cancer to which he is particularly susceptible. The treatment he receives at the Clay County Jail is woefully deficient: medical providers are refusing to provide Petitioner with insulin; the pressure and pain in his eyes are building because he has not received a retinal injection; and he is out of reach from the oncologist who is monitoring his liver cancer.

Immediate intervention is necessary to prevent irreversible physical harm to Petitioner. Despite counsel's repeated requests to DHS to release Petitioner from custody, relief is not forthcoming: all requests for release must be forwarded to a centralized location, which is unlikely to provide an answer in the timeline Petitioner's condition demands. *See* Ex. F. Almost two weeks have passed since a DHS officer submitted the first request, and there has been no word on how long the process will take. *See* Ex. F. Because Petitioner's urgent need for medical treatment can only be met if the Court grants this preliminary injunction, this factor weighs heavily in Petitioner's favor.

III. The Remaining Factors Favor Granting a Temporary Restraining Order

The third and fourth factors are in Petitioner's favor. Where, as here, the government is a party to a case, the final two injunction factors—i.e., the balance of equities and the public interest—merge. *See Nken*, 556 U.S. at 435. When assessing whether a TRO or preliminary injunction is warranted, the Court "must balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief." *Winter*, 129 S. Ct. at 376.

The Seventh Circuit recognizes that "the public has a strong interest in the vindication of an individual's constitutional rights." *O'Brien v. Town of Caledonia*, 748 F.2d 403, 408 (7th Cir. 1984). Further, the Court has recognized that the government cannot reasonably assert that it will be harmed when the record demonstrates a "strong likelihood" of constitutional violations. *Id.* at 409; *see also Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983) (finding that federal respondents "cannot reasonably assert that [they are] harmed in any legally cognizable sense by being enjoined from constitutional violations."); *Martin-Marietta Corp. v. Bendix Corp.*, 690 F.2d 558, 568 (6th Cir. 1982) ("[Appellee] has no right to the unconstitutional application of state law."). Thus, any burden imposed by requiring the Respondents to release Petitioner from custody is both de minimis and clearly outweighed by the substantial harm he will suffer as long as he continues to be detained.

Without a temporary restraining order, the government would effectively be granted permission to continue detaining Petitioner in violation of federal and constitutional law.

CONCLUSION

Based on the foregoing, Petitioner requests that this Court grant the motion for a temporary restraining order. In the alternative, he asks this Court to order Respondents to show cause within three days establishing why his habeas petition should not be granted.

DATED this 14 of November, 2025

Respectfully submitted,

S/Lisa Palumbo
Lisa Palumbo, IL State Bar No. 6200770
Lpalumbo@legalaidchicago.org
Amina Najib, IL State Bar No. 6291842
Legal Aid Chicago
120 S. LaSalle Street, Suite 900
Chicago, IL 60603

Attorneys for Petitioner