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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILSON OMAR PAZ AGUILERA,

Petitioner,

v.

SERGIO ALBARRAN, et al.,

Respondents.

CASE NO. 1:25-CV-01619-JLT-SAB

UNITED STATES' OPPOSITION TO
EMERGENCY EX PARTE MOTION FOR
TEMPORARY RESTRAINING ORDER

The Court should deny petitioner Wilsom Omar Paz Aguilera's motion for a temporary restraining order. Paz Aguilera is unlikely to succeed on the merits of his underlying petition for habeas corpus because he is subject to mandatory immigration detention under 8 U.S.C. § 1225(b)(2) and never lawfully gained admission to the United States. Furthermore, the balance of equities and public interest weigh against Paz Aguilera's request for temporary restraining order because the Executive Branch retains a strong interest in executing the country's immigration laws as passed by Congress.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. Paz Aguilera is an alien who failed to comply with terms of supervision.

Paz Aguilera is a native and citizen of Honduras. Decl. of Deportation Officer Patrick Cruz ¶ 5, Dkt. No. 11-1. In 2013, Paz Aguilera attempted to enter the United States without permission. *Id.* ¶ 6. Paz Aguilera claimed no fear of returning to Honduras, so immigration authorities removed him on an expedited basis a matter of days after he arrived. *Id.* ¶¶ 6-7.

On April 20, 2019, Paz Aguilera again attempted to enter the country without permission and without claiming any fear of returning to Honduras. *Id.* ¶ 8. Immigration authorities served Paz Aguilera with a notice to appear for removal proceedings and released him into the United States on his own recognizance. *Id.* Authorities later enrolled Paz Aguilera in a program of supervision known as the Intensive Supervision Appearance Program. *Id.* ¶ 9. Under this program, Paz Aguilera remained on his own recognizance in the United States so long as he complied with minimally invasive biometric check-in requirements and reported to immigration authorities when requested. *See id.*

Paz Aguilera violated the terms of his supervision by failing to complete a biometric check-in on June 6, 2025. *Id.* ¶ 14. Accordingly, immigration authorities detained Paz Aguilera when he next contacted them on November 17, 2025. *Id.* Immigration authorities did so pursuant to a provision of the Immigration and Nationality Act that mandates detention for arriving aliens who fail to establish their admissibility. *Id.* ¶ 15 (citing section 235(b)(2)(A) of Immigration and Nationality Act).

B. Paz Aguilera requested release from detention as well as prospective relief.

On November 21, 2025, Paz Aguilera filed a petition for writ of habeas corpus and motion for a temporary restraining order seeking his immediate release from the mandatory detention to which he is subject under federal law. Pet. Writ of Habeas Corpus & Compl. Declaratory & Injunctive Relief, Dkt. No. 1; Pet'r's Notice of Mot. & Emergency Ex Parte Mot. for TRO 2, Dkt. No. 2. Paz Aguilera's motion also seeks to forestall any further detention until a bond hearing occurs before an immigration judge, at which immigration authorities would be required to prove he is a danger to the community or a flight risk. Pet'r's Mot. for TRO 14–15.

On November 21, 2025, the Court issued a minute order requiring the government to respond to Paz Aguilera's request for a temporary restraining order. Mins., Dkt. No. 8. The Court also directed the government to (i) indicate whether it opposes converting Paz Aguilera's request for a temporary restraining order into a request for a preliminary injunction, (ii) state whether it is requesting a hearing, and (ii) "provide the Court with copies of all referenced/relevant portions of Petitioner's A-File and other supporting documents." *Id.*¹

¹ The government does not oppose converting Paz Aguilera's request for a temporary restraining order into a request for a preliminary injunction. The government is not requesting a hearing. Finally, the government attaches Deportation Officer Patrick Cruz's sworn declaration to substantiate the various

II. LEGAL STANDARDS

A. Standards for Temporary Relief

Temporary restraining orders and preliminary injunctions are governed by the same standard, which requires a plaintiff to demonstrate “(1) she is likely to succeed on the merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in her favor, and (4) an injunction is in the public interest.” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (quoting *Farris v. Seabrook*, 677 F.3d 858, 864 (9th Cir. 2012)). The first of these four factors is the most important—where a plaintiff fails to establish likely success on the merits, a district court need not consider the remaining three elements of the analysis. *Id.*

Furthermore, where a petitioner seeks a mandatory injunction requiring the government to do something, “she must establish that the law and facts *clearly favor* her position, not simply that she is likely to succeed.” *Id.* (emphasis in original). Such requested mandatory relief “goes well beyond simply maintaining the status quo *pendente lite* [and] is particularly disfavored.” *Id.* (emphasis and alteration in original) (quoting *Stanley v. Univ. S. Cal.*, 13 F.3d 1313, 1320 (9th Cir. 1994)).

B. Relevant Immigration, Detention, and Due Process Standards

An alien who “arrives in the United States” or is “present in the United States [and] has not been admitted” is an “applicant for admission.” 8 U.S.C. § 1225(a)(1); *see also In re Lemus-Losa*, 25 I. & N. Dec. 734, 743 (B.I.A. 2012) (stating that “Congress has defined the concept of an ‘applicant for admission’ in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission”). This definition applies to “all immigrants who have not been lawfully admitted, regardless of their physical presence in the country.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020). Additionally, every applicant for admission “must ‘be inspected by immigration officers’ to ensure that they may be admitted into the country consistent with U.S. immigration law.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (citing 8 U.S.C. § 1225(a)(3)).

facts and procedural history on which the government relies in its opposition. This declaration is based on a review of information about Paz Aguilera’s immigration history and performance on supervision that is maintained by immigration authorities in various government electronic databases.

1 If an “examining immigration officer determines that an alien seeking admission is not clearly
2 and beyond a doubt entitled to be admitted, the alien shall be detained for a [removal] proceeding.” 8
3 U.S.C. § 1225(b)(2)(A). Section 1225(b)(2)(A) “applies to an alien who is physically present in the
4 United States but not lawfully admitted, regardless of how long they have been physically present here.”
5 *Altamirano Ramos v. Lyons*, No. 2:25-CV-09785-SVW-AJR, 2025 WL 3199872, at *8 (C.D. Cal. Nov.
6 12, 2025) (collecting cases). Pursuant to this statutory scheme, detention pending removal proceedings is
7 mandatory. *See Jennings*, 583 U.S. at 299 (holding that “§ 1225(b)(2) requires detention ‘for a [removal]
8 proceeding’” (alteration in original)); *In re Li*, 29 I. & N. Dec. 66, 68 (B.I.A. 2025) (noting that for
9 applicants for admission “who are placed directly in full removal proceedings, section 235(b)(2)(A) of
10 the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded’”
11 (quoting *Jennings*, 583 U.S. at 299)). The only relevant statutory exception to such mandatory detention
12 is that “the Attorney General may ‘for urgent humanitarian reasons or significant public benefit’
13 temporarily parole aliens detained under §§ 1225(b)(1) and (b)(2).” *Jennings*, 583 U.S. at 300.

14 Consistent with this statutory scheme, “aliens who arrive at ports of entry—even those paroled
15 elsewhere in the country for years pending removal—are ‘treated’ for due process purposes ‘as if
16 stopped at the border.’” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020) (quoting
17 *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 215 (1953)). This means that applicants for
18 admission do not enjoy the same set of procedural and substantive due process protections afforded to
19 individuals lawfully in the United States; indeed, “applicants for admission have virtually no
20 constitutional rights regarding their applications.” *Valencia v. Mukasey*, 548 F.3d 1261, 1263 (9th Cir.
21 2008) (quoting *Landon v. Plasencia*, 459 U.S. 21, 33–34 (1982)). In other words, the only inquiry when
22 an applicant for admission raises a due process claim is “whether the government violated the statutory
23 rights that Congress afforded such applicants.” *Grigoryan v. Barr*, 959 F.3d 1233, 1241 (9th Cir. 2020)
24 (citing *Angov v. Lynch*, 788 F.3d 893, 898–99 (9th Cir. 2015)); *see also Alonzo v. Noem*, No. 1:25-CV-
25 01519-WBS-SCR, 2025 WL 3208284, at *5 (E.D. Cal. Nov. 17, 2025) (reasoning that “‘the procedure
26 authorized by Congress’ in 8 U.S.C. § 1225 constitutes procedural ‘due process’ as far as petitioner is
27 concerned” (quoting *Shaughnessy*, 345 U.S. at 212)).

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III. ARGUMENT

The Court should deny Paz Aguilera's request for a temporary restraining order and preliminary injunction because he is an applicant for admission required by immigration law to be detained pending his removal proceedings. Accordingly, he is unlikely to prevail on any of the claims in his underlying habeas petition, and none of the other preliminary injunction factors weigh in Paz Aguilera's favor.

A. Paz Aguilera is unlikely to prevail on his underlying habeas corpus petition.

Paz Aguilera fails to carry his heavy burden to demonstrate "that the law and facts *clearly favor* h[is] position" because he is subject to mandatory immigration detention. *Garcia*, 786 F.3d at 740.

1. Federal immigration statutes require Paz Aguilera's detention.

Paz Aguilera is an applicant for admission to the United States because he has yet to receive authorization from immigration authorities to be here. 8 U.S.C. § 1225(a)(1); *Torres*, 976 F.3d at 928 (defining as applicants for admission "all immigrants who have not been lawfully admitted, regardless of their physical presence in the country"). Paz Aguilera admits that he "entered the United States without inspection on April 27, 2019 . . . [and] was detained upon entering the United States." Pet'r's Mot. for TRO 3. Besides his bald assertion that he "is not an applicant for admission to the United States," Paz Aguilera provides no evidence that he established to any United States immigration officer that he is clearly and beyond a doubt entitled to be admitted. *Id.*; *see also* 8 U.S.C. § 1225(b)(2)(A).

Accordingly, federal immigration law requires that Paz Aguilera be detained while his removal proceedings move forward. *See Jennings*, 583 U.S. at 299 (holding that "§ 1225(b)(2) requires detention 'for a [removal] proceeding'" (alteration in original)); *but see, e.g., Ortiz Donis v. Chestnut*, No. 1:25-CV-01228-JLT-SAB, 2025 WL 2879514, at *6-*11 (E.D. Cal. Oct. 9, 2025) (holding § 1225(b)(2)(A) inapplicable to aliens living in United States for years).

2. Due process principles do not mandate Paz Aguilera's immediate release.

Paz Aguilera is also unlikely to prevail on his due process-based argument for immediate release. *See* Pet'r's Mot. for TRO 7-14.

The due process protections afforded Paz Aguilera as an applicant for admission to this country closely track his statutory rights. *See Grigoryan*, 959 F.3d at 1241 (articulating relevant inquiry as "whether the government violated the statutory rights that Congress afforded such applicants" for

admission to United States). And as set forth above, a close reading of the relevant immigration statutes reveals that they do not entitle applicants for admission like Paz Aguilera to anything besides mandatory detention. *See Valencia*, 548 F.3d at 1263 (noting that “applicants for admission have virtually no constitutional rights regarding their applications”); *Thuraissigiam*, 591 U.S. at 140 (reasoning that an applicant for admission “in respondent’s position has only those rights regarding admission that Congress has provided by statute”); *but see, e.g., Doe v. Becerra*, 787 F. Supp. 3d 1083, 1091 (E.D. Cal. 2025) (highlighting that “the Ninth Circuit has raised significant questions about the constitutionality of section 1225(b)” when viewed through due process lens). This is particularly true where, as here, Paz Aguilera himself is responsible for violating the terms of his previously granted release. *See Cruz Decl.* ¶ 14. For where an alien such as Paz Aguilera fails to abide by reasonable conditions of release pending his application for admission, it is highly unlikely that “urgent humanitarian reasons or significant public benefit” weigh in favor of continuing that release as he requests. *Jennings*, 583 U.S. at 300.

Hence, because Paz Aguilera cannot establish a statutory right to the relief he seeks, the failure to provide such relief cannot constitute a violation of due process. *See Thuraissigiam*, 591 U.S. at 138–40; *Altamirano Ramos*, 2025 WL 3199872, at *8 (“Finally, because Petitioner cannot establish a statutory right to a bond hearing, the failure to provide a bond hearing does not constitute a violation of due process.”); *Alonzo*, 2025 WL 3208284, at *5 (reasoning that procedures set forth in § 1225(b) satisfy requirements of due process for aliens seeking admission).

B. Paz Aguilera will not suffer irreparable harm in the absence of his requested relief.

It is true that “[a]n alleged constitutional infringement will often alone constitute irreparable harm” for a requested preliminary injunction. *Goldie’s Bookstore, Inc. v. Superior Ct.*, 739 F.2d 466, 472 (9th Cir. 1984). However, a court should not apply this presumption where a plaintiff fails to demonstrate “a sufficient likelihood of success on the merits of its constitutional claims to warrant the grant of a preliminary injunction.” *Assoc’d Gen. Contractors of Cal., Inc. v. Coal. for Econ. Equity*, 950 F.2d 1401, 1412 (9th Cir.1991); *see also Garcia*, 786 F.3d at 740 (holding that where plaintiff fails to show likely success, court need not consider remaining elements of preliminary injunction analysis).

Here, Paz Aguilera fails to articulate irreparable harm that can only be remedied with immediate injunctive relief because the fact that he is subject to mandatory immigration detention is not

1 extraordinary. Instead, it is a statutorily authorized part of the process by which our country's
2 immigration laws are enforced. *Jennings*, 583 U.S. at 299 (holding that “§ 1225(b)(2) requires detention
3 ‘for a [removal] proceeding’” (alteration in original)); *Carlson v. Landon*, 342 U.S. 524, 538 (1952)
4 (“Detention is necessarily a part of th[e] deportation procedure.”). Indeed, deportation proceedings
5 “would be vain if those accused could not be held in custody pending the inquiry into their true
6 character.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Wong Wing v. United States*, 163 U.S.
7 228, 235 (1896)); see also *Reno v. Flores*, 507 U.S. 292, 306 (1993) (“Congress eliminated any
8 presumption of release pending deportation, committing that determination to the discretion of the Attorney
9 General.”). This is particularly true where, as here, the petitioner in question violated the terms of the
10 release extended to him in the exercise of immigration authorities’ discretion. See Cruz Decl. ¶ 14.

11 Paz Aguilera’s detention is mandated by statutes duly passed by Congress and upheld by the
12 Supreme Court. See, e.g., 8 U.S.C. § 1225(b)(2)(A); *Jennings*, 583 U.S. at 299 (holding that “§ 1225(b)(2)
13 requires detention ‘for a [removal] proceeding’” (alteration in original)). The standalone fact that Paz
14 Aguilera is detained after violating conditions of his release—despite the humanitarian reasons that
15 arguably counsel in favor of release so that he may continue to earn a living and pursue his asylum claim—
16 does not itself satisfy his burden of proving a likelihood of irreparable injury in the absence of his requested
17 relief. See *Carlson*, 342 U.S. at 538.

18 **C. The balance of equities and public interest weigh against Paz Aguilera’s requests.**

19 Even where constitutional rights are implicated, a court should nonetheless proceed cautiously
20 before granting a preliminary injunction where the petitioner fails to show a likelihood of success on the
21 merits. See *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005); *Garcia*, 786 F.3d at 740 (holding
22 that where plaintiff fails to establish likely success, district court need not consider remaining three
23 elements of preliminary injunction analysis).

24 The balance of equities and public interest do not automatically weigh in Paz Aguilera’s favor
25 simply because he alleges a violation of due process. Indeed, Congress itself weighed the public interest
26 against the various equities involved by enacting a comprehensive scheme of immigration statutes
27 requiring applicants for admission like Paz Aguilera to be detained pending removal proceedings. See 8
28 U.S.C. § 1225(b)(2)(A). And the Executive Branch has a critically important interest in executing the

1 immigration laws passed by Congress. *See Abdul-Samed v. Warden of Golden State Annex Det. Facility*,
2 No. 1:25-CV-00098-SAB-HC, 2025 WL 2099343, at *8 (E.D. Cal. July 25, 2025) (stating that
3 government “has a strong interest in enforcing immigration laws” but concluding that government
4 interest in detention without bond hearing outweighed by petitioner’s liberty interest).

5 This is particularly true where, as here, Paz Aguilera is detained not because of some arbitrary
6 government decision but because he violated simple conditions of his release on recognizance. Cruz
7 Decl. ¶ 14.

8 **IV. CONCLUSION**

9 The Court should deny petitioner Wilson Omar Paz Aguilera’s request for a temporary
10 restraining order and preliminary injunction. Paz Aguilera is an applicant for admission to this country
11 who, as a result, is subject to detention made mandatory by congressionally authorized statute. That the
12 Executive Branch is now executing that statute in Paz Aguilera’s case—after he himself violated
13 conditions of his release—does not entitle him to the extraordinary relief he seeks.

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16 Dated: November 25, 2025

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