

1 ERIC GRANT
United States Attorney
2 JEFFREY A. SPIVAK
Assistant United States Attorney
3 2500 Tulare Street, Suite 4401
Fresno, CA 93721
4 Telephone: (559) 497-4000
Facsimile: (559) 497-4099
5 Attorneys for Respondents
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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 ELMER JOEL MENDEZ CARRILLO,
12 Petitioner,
13 v.

CASE NO. 1:25-CV-01622-KES-CDB

RESPONDENTS'S OPPOSITION TO MOTION
FOR TEMPORARY RESTRAINING ORDER

14 MINGA WOFFORD, in official capacity,
Facility Administrator of Mesa Verde ICE
15 Processing Center; SERGIO ALBARRAN, in
official capacity, Acting Field Office Director
16 of ICE's San Francisco Field Office; TODD M.
LYONS, in official capacity, Acting Director of
17 ICE, KRISTI NOEM, in official capacity,
Secretary of the U.S. Department of Homeland
18 Security; PAM BONDI, in official capacity,
Attorney General of the United States,
19

DATE: TBD
TIME: TBD
COURT: Hon. Kirk E. Sherriff

20 Respondents.
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23 **OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER**

24 On November 21, 2025, Petitioner Elmer Joel Mendez Carrillo ("the petitioner") filed an *ex*
25 *parte* motion for temporary restraining order and preliminary injunction. ECF 2 ("Mot."). The Court
26 should deny the motion for a TRO because the petitioner is not entitled to a bond hearing under 8
27 U.S.C. § 1226(a). The United States waives oral argument.
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ARGUMENT

Petitioner is an alien who is present in the United States. This is undisputed. Mot. at 7. Similarly, it is undisputed that the petitioner has not been admitted to the United States. *See id.* Accordingly, the petitioner is an applicant for admission.

Any alien who “is present” in the United States but “has not been admitted” to the United States is “an applicant for admission.” 8 U.S.C. § 1225(a)(1); *see also Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (“an alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not been admitted,’ is treated as ‘an applicant for admission.’ § 1225(a)(1).”).

The fact that the petitioner is an applicant for admission resolves the dispute in this case because applicants for admission must be detained and they are not entitled to bond hearings. “Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297. “And neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings.” *Jennings*, 583 U.S. at 297. Therefore, because the petitioner is an applicant for admission, petitioner is subject to detention under 8 U.S.C. § 1225(b)(2)(A), and petitioner is not entitled to a bond hearing. The prior exercise of discretion under § 1226 does not entitle the petitioner to force the Executive Branch’s deployment of discretion. The defendant is covered by § 1225 and therefore detention is mandatory and petitioner is not entitled to a bond hearing. *See Oliverio Cortes Alonzo v. Noem et al.*, No. 1:25-cv-01519-WBS-SCR (E.D.Cal. November 17, 2025)¹.

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¹ The United States acknowledges that this Court has rejected similar arguments in other cases involving aliens detained under § 1225(b)(1). *See, e.g., Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025); *M.V. v. Wofford, et al.*, No. 1:25-cv-01381-KES-SAB (E.D. Cal. Nov. 4, 2025); *Sabi Polo v. Chestnut et al.*, 1:25-cv-01342-JLT-HBK (E.D.Cal. Oct 17, 2025).

CONCLUSION

For the above-stated reasons, the Court should deny the motion for a temporary restraining order.

Dated: December 3, 2025

ERIC GRANT
United States Attorney

By: /s/ JEFFREY A. SPIVAK
JEFFREY A. SPIVAK
Assistant United States Attorney