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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SAMUEL ESAU HERNANDEZ,

Petitioner,

v.

WARDEN, MESA VERDE, *et al.*,

Respondents.

No. 1:25-CV-1676 KES CDB

**MOTION TO DISMISS PETITION FOR WRIT
OF HABEAS CORPUS UNDER 28 U.S.C.
§ 2241 AND RULE 4; RESPONSE TO
PETITION FOR WRIT OF HABEAS
CORPUS; OPPOSITION TO PRELIMINARY
INJUNCTION; OPPOSITION TO
TEMPORARY RESTRAINING ORDER**

Petitioner entered the United States illegally. Petitioner is then an “applicant for admission” who is subject to mandatory detention by ICE under 8 U.S.C. § 1225(b)(2). *See generally Cortes Alonzo v. Noem et al.*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025).¹

¹ There are several Ninth Circuit appeals currently pending on the issue presented in this case, with *Rodriguez v. Bostock*, Ninth Circuit docket no. 25-6842, most likely to be heard first. Two district courts within the Ninth Circuit have recently vacated or stayed the Department of Homeland Security’s July 8, 2025 “Interim Guidance Regarding Detention Authority for Applicants for Admission” -- which takes the position that all applicants for admission within the meaning of 8 U.S.C. 1225(a) are subject to mandatory detention under 8 U.S.C. 1225(b) -- as contrary to law under the Administrative Procedures Act. *Maldonado Bautista v. Noem*, No. 5:25-cv-01873, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025) (vacating the guidance); *Garro Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 3691938 (N.D. Cal. Dec. 19, 2025) (staying the guidance within ICE’s San Francisco area of responsibility, an area that includes the Eastern District of California, pending final resolution of the APA claim). The government has appealed the *Maldonado Bautista* judgment to the Ninth Circuit. Ninth Circuit docket No. 25-7958, but neither the district court nor the Ninth Circuit has issued a stay of the district court’s order.

1 Petitioner's prior release in the discretion of DHS does not have the effect of having converted
2 petitioner's presence in the United States into an "admission." "[A]n alien who 'arrives in the United
3 States,' or 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for
4 admission.'" *Jennings v. Rodriguez*, 583 U.S. 281, 279 (2018). As an applicant for admission, petitioner
5 is subject to mandatory detention and thus ineligible for a bond hearing. Petitioner does not possess a
6 right to freedom from immigration detention in any form other than the form provided by Congress.
7 *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212, 73 S. Ct. 625, 629, 97 L. Ed. 956 (1953).
8 Therefore, the Petitioner's petition for writ of habeas corpus, motion for a preliminary injunction, and
9 motion for a temporary restraining order should be denied.

10 The Court should deny the petition for writ of habeas corpus because there is no such liberty
11 interest, and petitioner's detention is mandated by statute.

12 Dated: January 15, 2026

Respectfully submitted,

13 ERIC GRANT
14 United States Attorney

15 By: /s/ Audrey B. Hemesath
16 AUDREY B. HEMESATH
17 Assistant United States Attorney

18 Attorneys for Respondents
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