

ERIC GRANT
United States Attorney
BRENDON L.S. HANSEN
Assistant United States Attorney
501 I Street, Suite 10100
Sacramento, CA 95814
Telephone: (916) 554-2700

Attorneys for Federal Respondents

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CARLOS ALBERTO RINCON NINO,

Petitioner,

v.

WARDEN, GOLDEN STATE ANNEX
DETENTION FACILITY, *et al.*,

Respondents.

CASE NO. 1:25-CV-01714-JDP (HC)

**OPPOSITION TO MOTION FOR TEMPORARY
RESTRAINING ORDER**

I. PRELIMINARY MATTERS

Respondents do not oppose conversion of the Motion for Temporary Restraining Order to a Motion for Preliminary Injunction. In fact, Respondents respectfully suggest that if the Court is inclined to grant a preliminary injunction, judicial economy counsels that the Court should go further and enter a final judgment granting the petition for writ of habeas corpus on the merits.

On the face of the habeas petition, the petitioner does not appear to be a member of the class certified in *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal), because he is detained under 8 U.S.C. § 1225(b)(1).¹

The government does not request a hearing in this matter.

¹ In *Maldonado Bautista*, the court certified the following class: "All noncitizens in the United States without lawful status who (1) have entered the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. *Maldonado Bautista v. Noem*, No. 5:25-cv-01873, 2025 WL 3713987, at *2 (C.D. Cal. Dec. 18, 2025).

1 **II. BACKGROUND**

2 Respondents do not contest Petitioner's facts. *See* ECF No. 15-1, pp. 6, 8-9.

3 On June 27, 2025, Petitioner was arrested and processed for expedited removal under 8 U.S.C.
4 § 1225(b)(1) because he had entered the United States without inspection on or about March 18, 2022.
5 However, after an Immigration Judge concluded that the petitioner had raised a credible fear of
6 persecution if returned to Colombia, he was charged in a Notice to Appear (dated November 21, 2025)
7 with removability under 8 U.S.C. §§ 1182(a)(6)(A)(i) and (a)(7)(A)(i)(I), taken out of the expedited
8 removal process, and placed into a standard removal proceeding. ECF No. 15-3. Petitioner is being
9 detained under 8 U.S.C. § 1225(b)(1)(B)(ii).

10 **III. LEGAL STANDARD**

11 The standard for issuing a temporary restraining order is "substantially identical" to that for a
12 preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th
13 Cir. 2001). Preliminary injunctions are extraordinary remedies "never awarded as of right." *Winter v.*
14 *Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (citation omitted). "[P]laintiffs seeking a preliminary
15 injunction face a difficult task in proving that they are entitled to this extraordinary remedy." *Earth*
16 *Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010) (internal quotation marks omitted). This
17 burden is aptly described as "heavy." *Id.*

18 "A plaintiff seeking a preliminary injunction must show that: (1) she is likely to succeed on the
19 merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of
20 equities tips in her favor, and (4) an injunction is in the public interest." *Garcia v. Google, Inc.*,
21 786 F.3d 733, 740 (9th Cir. 2015). Alternatively, a plaintiff can show "serious questions going to the
22 merits and the balance of hardships tips sharply towards [plaintiff], as long as the second and third . . .
23 factors are satisfied." *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

24 **IV. DISCUSSION**

25 **A. Petitioner is Detained Under 8 U.S.C. § 1225(b)(1)**

26 Petitioner is an "applicant for admission" within the meaning of 8 U.S.C. § 1225(a) and subject
27 to mandatory detention by Immigration and Customs Enforcement under 8 U.S.C. § 1225(b) during the
28 pendency of his removal proceedings. *See, e.g., Cortes Alonzo v. Noem, et al.*, --- F.Supp.3d ---, No.

1:25-cv-01519-WBS-SCR, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025).

Several district courts within the Ninth Circuit have recently denied motions for temporary restraining orders and preliminary injunctions for individuals, like Petitioner here, who have been detained under section 1225(b)(2) following release on conditional parole. *See Altamirano Ramos v. Lyons*, No. 25-cv-09785, 2025 WL 3199872, at *4 (C.D. Cal. Nov. 12, 2025) (acknowledging that the court had previously rejected the government’s interpretation of § 1225(b)(2), but “after additional research and analysis, the court has concluded that Petitioner is subject to mandatory detention under § 1225(b)(2)(a), and that Petitioner is not eligible for a bond hearing under 8 U.S.C. § 1226(a)”; *Sixtos Chavez v. Noem*, No. 25-cv-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), *appeal docketed*, No. 25-7077 (9th Cir. Nov. 7, 2025); *Valencia v. Chestnut*, No. 25-cv-01550, 2025 WL 3205133 (E.D. Cal. Nov. 17, 2025); *Alonzo v. Noem*, No. 25-cv-01519, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025).

Respondents further rely upon *In re Matter of Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025). There, the BIA examined the plain language of § 1225, the INA’s statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub L. No. 104-208, and DHS’s prior practices. After doing so, the BIA held that “under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the respondent, who are present in the United States without admission.” 29 I & N Dec. at 225. This Court should rule the same. Petitioner’s prior release in the discretion of DHS, even if the release document cited 8 U.S.C. § 1226, does not have the effect of having converted petitioner’s presence in the United States into an “admission.” “[A]n 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.’” *Jennings v. Rodriguez*, 583 U.S. 281 (2018). As an applicant for admission, Petitioner is subject to mandatory detention and thus ineligible for a bond hearing. Therefore, the Court should decline to grant Petitioner’s habeas petition.

Nevertheless, counsel for the government acknowledges this Court’s prior determinations and there are no factual or legal issues in this case that render it distinct from the Court’s prior orders. *See Dominguez v. Noem*, No. 1:25-cv-1577-JDP, 2025 WL 3268507 (E.D. Cal. Nov. 24, 2025). Moreover,

the government alerts the Court to the fact that 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” – guidance that 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 Procedure Act. *See 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).

B. Any Substantive Due Process Claim Fails

To the extent the petitioner avers that the revocation of his release violated the substantive component of the Due Process Clause, this argument fails. It is well established that “[d]etention during removal proceedings is a constitutionally permissible part of that process.” *Demore v. Kim*, 538 U.S. 510, 531 (2003); *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (“We think it clear that detention, or temporary confinement, as part of the means necessary to give effect to the provisions for the exclusion or expulsion of aliens would be valid.”). As the Supreme Court held more than a century ago, “deportation proceedings ‘would be vain if those accused could not be held in custody pending the inquiry into their true character.’” *Id.* (quoting *Wong Wing*, 163 U.S. at 235). The substantive component of the Due Process Clause does not require individualized determinations of dangerousness or flight risk to detain a noncitizen pending removal proceedings. *See Demore*, 538 U.S. at 514, 531.

Of course, a noncitizen “could be” entitled to an individualized determination as to flight risk and dangerousness “if the continued detention became unreasonable or unjustified.” *See id.* at 532 (Kennedy, J., concurring). Here, however, there is no evidence suggesting that Petitioner’s detention pending the completion of removal proceedings is “‘indefinite’ and ‘potentially permanent.’” *See id.* at 528 (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001)); *see also, e.g., Keo v. Warden of the Mesa Verde ICE Processing Center*, No. 24-00919, 2025 WL 1029392, at *8 (E.D. Cal. Apr. 7, 2025) (holding that the mandatory detention of a lawful permanent resident for 22 months during removal proceedings was constitutional, and no bond hearing was required, because the removal proceedings had

1 a “definite termination point” and the petitioner’s detention was not indefinite (citing *Jennings v.*
 2 *Rodriguez*, 583 U.S. 281, 304 (2018); *Demore*, 538 U.S. at 527, 538)). Petitioner thus has not shown
 3 that he is likely to succeed on his substantive due process claim.

4 **C. Any Procedural Due Process Claim Fails**

5 In *Mathews v. Eldridge*, the Supreme Court held that the “identification of the specific dictates of
 6 due process generally requires consideration of three distinct factors.” 424 U.S. 319, 334–35 (1976).
 7 They are (1) “the private interest that will be affected by the official action”; (2) “the risk of an
 8 erroneous deprivation of such interest through the procedures used, and the probable value, if any, of
 9 additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the
 10 function involved and the fiscal and administrative burdens that the additional or substitute procedural
 11 requirement would entail.” *Id.* at 335.

12 Over the ensuing 50 years, however, the Supreme Court has never used this balancing test to
 13 divine the due-process requirements for immigration detention. *Diaz v. Garland*, 53 F.4th 1189, 1206
 14 (9th Cir. 2022) (“[T]he Supreme Court when confronted with constitutional challenges to immigration
 15 detention has not resolved them through express application of *Mathews*.” (citations omitted)); *id.*
 16 at 1214 (“In resolving familiar immigration-detention challenges, the Supreme Court has not relied on
 17 the *Mathews* framework.”) (Bumatay, J., concurring). This is particularly unsurprising for noncitizens
 18 in Petitioner’s situation because, under longstanding precedent, noncitizens who are not admitted into
 19 the United States have “only those rights regarding admission that Congress has provided by statute,”
 20 and “the Due Process Clause provides nothing more.” *Thuraissigiam*, 591 U.S. at 140; *United States ex*
 21 *rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950) (“Whatever the procedure authorized by Congress
 22 is, it is due process”); see *Cortes Alonzo*, 2025 WL 3208284, at *5 (holding that, if a bond hearing
 23 is not required by § 1225, then the failure to provide one to an “applicant for admission” cannot be a
 24 violation of due process); *Altamirano Ramos*, 2025 WL 3199872, at *5 (same)

25 In any event, even if the *Mathews* test applied here, Petitioner has not clearly shown that the test
 26 requires a bond hearing.

27 First, although a noncitizen’s private interest in “freedom from prolonged detention” is
 28 “unquestionably substantial,” *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011), the same cannot be

1 said for freedom from all detention itself. As noted, the Supreme Court and this Court have repeatedly
 2 upheld mandatory detention during removal proceedings against due-process challenges, even where
 3 removal proceedings are prolonged. *Demore*, 538 U.S. at 530–31; *Keo*, 2025 WL 1029392, at *8.

4 *Second*, Petitioner has not clearly shown that a hearing on his custody status would decrease the
 5 risk of him being erroneously deprived of his liberty. As noted, the record confirms that Petitioner is an
 6 “applicant for admission” who was transferred from expedited removal to full removal proceedings after
 7 establishing a credible fear of persecution or torture, and it thus appears that he is subject to mandatory
 8 detention. 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV); 8 C.F.R. § 235.3(b)(2)(iii), (b)(4)(ii); *Matter of M-S-*,
 9 27 I & N Dec. at 510.

10 *Finally*, “the government clearly has a strong interest in preventing aliens from ‘remain[ing] in
 11 the United States in violation of our law.’” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir.
 12 2022) (quoting *Demore*, 538 U.S. at 518). And, “[t]hrough detention, the government likewise seeks to
 13 ‘increas[e] the chance that, if ordered removed, the aliens will be successfully removed.’” *Id.* (quoting
 14 *Demore*, 538 U.S. at 528). In addition, “[t]he risk of a detainee absconding also inevitably escalates as
 15 the time for removal becomes more imminent.” *Id.*

16 **D. What Relief is Appropriate**

17 As discussed, Petitioner has failed to clearly show that he is entitled to release during his
 18 removal proceedings, as it appears that he is subject to mandatory detention under § 1225(b)(1). But
 19 even if the Court determines that Petitioner should receive a hearing regarding the propriety of his
 20 detention, the proper course is to order that such hearing occur—not immediate release from custody.
 21 *See Waldman Pub. Corp. v. Landoll, Inc.*, 43 F.3d 775, 785 (2d Cir. 1994) (“Injunctive relief should be
 22 narrowly tailored to fit specific legal violations.”); *see also, e.g., Javier Ceja Gonzalez v. Noem*, No. 25-
 23 02054, 2025 WL 2633187, at *6 (C.D. Cal. Aug. 13, 2025) (ordering the government to “release
 24 Petitioners or, in the alternative, provide each Petitioner with an individualized bond hearing before an
 25 immigration judge pursuant to 8 U.S.C. § 1226(a) within seven (7) days of this Order”).

26 **E. Petitioner Has Not Shown he is Likely to Suffer Irreparable Harm**

27 Although an alleged constitutional violation may alone constitute irreparable harm, that
 28 presumption does not apply where a plaintiff fails to demonstrate “a sufficient likelihood of success on

the merits of [his or her] constitutional claims to warrant the grant of a preliminary injunction.”
Associated Gen. Contractors of Cal., Inc. v. Coal. for Econ. Equity, 950 F.2d 1401, 1412 (9th Cir. 1991)
 (citing *Goldie’s Bookstore v. Superior Court*, 739 F.2d 466, 472 (9th Cir. 1984)). As detailed above,
 Petitioner fails to show that he is being detained in violation of any constitutional, statutory, or other
 requirement. As discussed, moreover, immigration laws have long authorized officials to detain
 noncitizens pending removal to “assur[e] the alien’s presence at the moment of removal.” *Zadvydas*,
 533 U.S. at 699; *see Demore*, 538 U.S. at 523 (removal is “a constitutionally valid aspect of the
 deportation process”); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) (“Detention is necessarily a part of
 [the] deportation procedure.”).

F. Balance of the Equities and Public Interest Do Not Favor Release

It is well settled that the public interest in enforcement of the United States’ immigration laws is
 significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976); *Blackie’s House*
of Beef, Inc. v. Castillo, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (“The Supreme Court has recognized that
 the public interest in enforcement of the immigration laws is significant.” (collecting cases)); *see also*
Nken v. Holder, 556 U.S. 418, 435 (2009) (“There is always a public interest in prompt execution of
 removal orders[.]”). This public interest outweighs Petitioner’s private interest here.

V. CONCLUSION

For the above reasons, Petitioner’s motion for injunctive relief should be denied and the habeas
 petition should be dismissed.

Dated: January 8, 2026

ERIC GRANT
 United States Attorney

By: /s/ Brendon L.S. Hansen
 BRENDON L.S. HANSEN
 Assistant United States Attorney

Attorneys for Federal Respondents