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13 **UNITED STATES DISTRICT COURT**
14 **EASTERN DISTRICT OF CALIFORNIA**

15 **ANGEL DIAZ MORENO,** 

16  Petitioner,

17 v.

18 Kristi NOEM, in her official capacity as
19 Secretary of the Department of
20 Homeland Security; Pamela BONDI, in
21 her official capacity as Attorney General;
22 Christopher CHESTNUT, in his official
23 capacity as Warden of California City
24 Detention Facility; Sergio ALBARRAN,
25 in his official capacity as ICE Field
26 Office Director; U.S. DEPARTMENT
27 OF HOMELAND SECURITY; U.S.
28 DEPARTMENT OF JUSTICE,

Respondents.

Case No. 1:25-cv-01806-KES-EPG

**REPLY IN SUPPORT OF EX
PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

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INTRODUCTION

Petitioner Angel Diaz seeks a Temporary Restraining Order (TRO) that requires Respondents to release him from custody or to provide him with an individualized bond hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) within seven days of the issuance of a TRO. Petitioner – a medically fragile kidney transplant patient with complex and specialized medical needs – was arrested at his adjustment of status interview at the USCIS office in Fresno, California. Respondents oppose the motion, arguing that Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and that Petitioner’s arrest at his adjustment of status interview was not arbitrary or capricious.¹ See ECF 11. Respondents further argue that Petitioner’s requested relief would undermine the statutory framework. *Id.*

Respondents do not oppose converting this motion for a TRO into one for a

¹ Respondents do not address Petitioner’s arguments that he should be released from custody because they are violating his right to counsel or because they are violating section 504 of the Rehabilitation Act by failing to provide him with necessary medical care. Although Respondents address Petitioner’s “conditions of confinement” as they relate to irreparable harm, it is unclear whether Respondents are referring to the Rehabilitation Act claim, the right to counsel claim, or something else altogether, as Respondents do not define what they mean by a “condition of detention” claim. See ECF 11, p. 8. Thus, any opposition from Respondents to Petitioner’s request for release on these grounds should be deemed waived. See *e.g., Specialty Medical Equipment, Inc. v. UnitedHealth Group, Inc.*, 2023 WL 143940 (E.D. Mich. Jan. 10, 2023) (unpub) (noting that a petitioner waived any argument regarding likelihood of success on the merits of two counts in its complaint that it failed to address in its motion for a TRO or its reply brief).

1 preliminary injunction. *See* ECF 11, p. 1. Petitioner also has no opposition to this
2 conversion. Petitioner defers to the Court as to whether a hearing is necessary on
3 this matter.
4

5 ARGUMENT

6 I. Petitioner Is not Detained Pursuant to 8 U.S.C. § 1225

7 Although Respondents maintain that Petitioner is detained under 8 U.S.C.
8 § 1225, they also concede – as noted in this Court’s December 13, 2025 order – that
9 this Court disagreed with their position in *Lepe v. Andrews*, --- F.Supp.3d ----, 2025
10 WL 2716910 (E.D. Ca. Sept. 23, 2025).² *See* ECF 7; ECF 11, p. 2. Respondents
11 attempt to distinguish *Lepe* by pointing to three in-district decisions, all issued by
12 the Honorable Senior District Judge William Shubb – that have adopted their
13 position. *See* ECF 11, p. 2 (citing *Mo v. Chestnut*, 2025 WL 3539063 (E.D. Ca.
14 Dec. 10, 2025) (unpub); *Oliveria v. Albarran*, 2025 WL 3525923 (E.D. Ca. Dec. 9,
15 2025) (unpub); and *Alonzo v. Noem*, --- F.Supp.3d ----, 2025 WL 3208284 (E.D.
16 Ca. Nov. 17, 2025)).
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21 Respondents’ position is unavailing. Though it is true that Senior District
22 Judge Shubb has adopted Respondents’ position, he has also acknowledged that his
23 position is the minority interpretation. *See Alonzo*, 2025 WL 3208284 at *3 (citing
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27 ² The Court’s order also references the decision in *J.A.C.P. v. Wofford*, 2025 WL
28 2716910 (E.D. Ca. Oct. 27, 2025) (unpub), which similarly rejected Respondents’
position.

1 *Martinez v. Noem*, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (unpub) for the
2 proposition that adoption of Respondents' position is a minority view). Indeed,
3 since Petitioner filed his motion for a TRO on December 13, 2025, at least 19
4 decisions have rejected Respondents' position. *See Guerrero Orellana v. Moniz*,
5 1:25-cv-12664-PBS (D. Mass. Dec. 19, 2025) (unpub) (granting district-wide
6 relief); *Flores Marin v. Baltazar*, 2025 WL 3677019 (D. Colo. Dec. 18, 2025)
7 (unpub); *Y-C- v. Genalo*, 2025 WL 3653496 (E.D.N.Y. Dec. 17, 2025) (unpub);
8 *Yao v. Almodovar*, 2025 WL 3653433 (S.D.N.Y. Dec. 17, 2025) (unpub); *Fuentes*
9 *Velasquez v. Noem*, 2025 WL 3653657 (D.N.J. Dec. 17, 2025) (unpub); *Portillo*
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14 *Wesling*, 2025 WL 363712 (D. Mass. Dec. 16, 2025) (unpub); *Mejia Diaz v. Noem*,
15 2025 WL 3640419 (N.D. Ind. Dec. 16, 2025) (unpub); *Diaz Colin v. Holt*, 2025
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2 2025 WL 3632769 (D.N.M. Dec. 15, 2025) (unpub).

3
4 In addition, as noted in Petitioner's initial moving papers, on November 20,
5 2025, U.S. District Judge Sunshine Sykes granted summary judgment in
6 *Maldonado Bautista, et al v. Ernesto Santacruz Jr., et al*, 5:25-cv-01873-SSS-BFM
7 (C.D. Cal. Nov. 20, 2025) (unpub), explicitly rejecting the application of
8 1225(b)(2)(A) detention without bond to all persons who entered without
9 inspection. As a result of Respondents' nationwide refusal to follow the November
10 20, 2025 order, District Judge Sykes issued another order on December 18, 2025,
11 noting that "the core holding of *Yajure Hurtado* cannot be squared with the MSJ
12 order." *See Maldonado Bautista*, 5:25-cv-01873-SSS-BFM, Dkt. 92, p. 6.³
13
14 "Although the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA,
15 *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the
16 decision is no longer tenable." *Id.* Thus, the order in *Maldonado Bautista* further
17 underscores the incorrectness of Respondents' position.

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21 Finally, it is noteworthy that Respondents themselves seem to concede that
22 Petitioner is detained pursuant to 8 U.S.C. § 1226(a) and not 8 U.S.C. § 1225. The
23 declaration of Deportation Officer Patrick J. Cruz, Sr. states that Respondents
24 "placed Petitioner in custody pursuant to INA § 236(a) [8 U.S.C. § 1226(a)]." *See*
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28 ³ This decision was issued on the same day that Respondents filed their opposition
to Petitioner's motion for a TRO and is not mentioned in the opposition.

1 ECF 11-1, p. 3, ¶ 13. The Warrant for Arrest of Alien references authority under
2 sections 236 and 287 of the INA, but it makes no mention of section 235 of the
3 INA. *Id.* at p. 16. And despite Respondents' assertion that Petitioner is detained
4 under 8 U.S.C. § 1225(b), which "largely precludes discretionary relief from
5 removal," (ECF 11 at p. 9), there is no dispute that Respondents placed Petitioner in
6 removal proceedings under 8 U.S.C. § 1229a, in which he can apply for any relief
7 from removal for which he is eligible, including the renewal of his adjustment of
8 status application. *See* ECF 11-1, p. 20 (Notice to Appear placing Petitioner "in
9 removal proceedings under section 240 of the Immigration and Nationality Act [8
10 U.S.C. § 1229a]; 8 U.S.C. § 1229a(c)(4) (permitting non-citizens in removal
11 proceedings to apply for relief or protection from removal); 8 C.F.R. § 1245.2(a)(i)
12 (immigration judge has exclusive jurisdiction to adjudicate an application for
13 adjustment of status filed by non-citizen in removal proceedings).

14 **II. Petitioner Will Suffer Irreparable Harm in the Absence of a** 15 **TRO**

16 Respondents argue that they have compelling interests in Petitioner's
17 continued detention because Petitioner's requested relief would undermine the
18 immigration statutory framework. *See* ECF 11 at pp. 8-9. But given the decisions of
19 federal courts that have rejected Respondents' interpretation of the statutory
20 framework, this argument holds little weight. Indeed, the interest in a uniform
21 interpretation of the statutory framework is better served by this Court's uniform
22 interpretation. *Id.* at p. 8. It is unclear what Respondent means by "conditions of detention," but
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1 presumably, they are referring to their failure to provide the medical care that
2 Petitioner requires as a diabetic organ transplant patient. Instead, Respondents
3 suggest that such claims cannot be brought through a habeas proceeding.
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5 Respondents conflate whether Petitioner has established a likelihood of
6 success on his Rehabilitation Act claim with whether he is suffering irreparable
7 harm. The harm inquiry is distinct from the question of success on the merits.
8 Indeed, the Ninth Circuit has determined that irreparable harm “factors include
9 separation from family members, medical needs, and potential economic hardship.”
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11 DATED: December 21, 2025 Respectfully submitted,
12 *Leiva-Perez v. Holder*, 640 F.3d 962, 969-70 (9th Cir. 2011). Thus, Respondents’
13 suggestion that this Court should disregard Petitioner’s serious medical conditions
14 when evaluating whether his current detention is causing irreparable harm is
15 meritless.
16
17 Attorneys for Petitioner

18 **III. The Balance of Equities Tips in Petitioner’s Favor**

19 Respondents argue that they have compelling interests in Petitioner’s
20 continued detention because Petitioner’s requested relief would undermine the
21 immigration statutory framework. *See* ECF 11 at pp. 8-9. But given the dozens of
22 federal courts that have rejected Respondents’ interpretation of the statutory
23 framework, this argument holds little weight. Indeed, the interest in a uniform
24 interpretation of the statutory framework is better served by this Court again joining
25 the majority analysis, including the class-wide declaratory relief in *Maldonado*
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1 *Bautista*, and holding that Petitioner is not subject to mandatory detention under 8
2 U.S.C. § 1225(b).

3
4 **CONCLUSION**

5 For the foregoing reasons, as well as those articulated in the initial moving
6 papers, the Court should grant Petitioner's Application for a Temporary Restraining
7 Order and order Respondents to either release Petitioner immediately or to provide
8 him with a bond hearing within seven days under 8 U.S.C. §1226(a).
9

10
11 DATED: December 21, 2025

Respectfully submitted,

By: /s/ Sabrina Damast

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