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IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TATIANA ANDREA AREVALO ALZATE,  
  
Petitioner,  
  
v.  
  
CHRISTOPHER CHESTNUT, et al.,<sup>1</sup>  
  
Respondents.

CASE NO. 1:25-CV-01848-JLT-SAB

**MOTION TO DISMISS PETITION FOR WRIT  
OF HABEAS CORPUS UNDER 28 U.S.C. § 2254  
AND RULE 4; RESPONSE TO PETITION FOR  
WRIT OF HABEAS CORPUS; OPPOSITION TO  
PRELIMINARY INJUNCTION; OPPOSITION  
TO TEMPORARY RESTRAINING ORDER**

**I. INTRODUCTION**

Petitioner Tatiana Andrea Arevalo Alzate (“Petitioner”) is a citizen and national of Columbia who has been deemed inadmissible for lacking the required documentation and is has not legally entered the United States. As such, she is an “applicant for admission” who is subject to mandatory detention by ICE under 8 U.S.C. § 1225(b)(2)(A). *See generally Cortes Alonzo v. Noem et al.*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025). The Court should therefore deny Petitioner’s petition for writ of habeas corpus and deny the motion for a temporary restraining order.

On December 16, 2025, after a preliminary review of the record, the Court issued a Minute

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<sup>1</sup> Respondent moves to strike and to dismiss all unlawfully named officials under § 2241. A petitioner seeking habeas corpus relief is limited to name only the officer having custody of him as the respondent to the petition. 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024) (holding, that the warden of the private detention facility at which a non-citizen alien was held was the proper § 2241 respondent).

1 Order. ECF 4. In the Order, the Court identified that it is inclined to grant the temporary restraining  
2 order as Petitioner is likely to succeed on the merits. ECF 4. Accordingly, Respondents file this  
3 streamlined opposition and waive oral argument. Respondents also do not oppose the Court resolving  
4 the motion for temporary restraining order and the underlying habeas petition all at once based on the  
5 parties' briefings on this motion.

## 6 **II. FACTUAL AND PROCEDURAL BACKGROUND**

7 The essential facts in this matter are undisputed.<sup>2</sup> Petitioner is a native and citizen of Colombia  
8 who applied for admission in Honolulu on July 2, 2023. Declaration of Deportation Officer Patrick J.  
9 Cruz ("Cruz Decl."), ¶ 6. While Petitioner presented herself has a B-2 visitor, it was determined that she  
10 did not have a valid immigrant visa or entry document, due to concerns about her prior travel history and  
11 her admission to working in the United States without authorization. *See id.* ¶ 6. Petitioner was found  
12 to be inadmissible to the United States under Section 212(a)(7)(A)(i)(I) of the INA. *Id.* ¶ 9. Petitioner  
13 was initially detained by immigration authorities but as released on supervision after posting bond on  
14 July 28, 2023. *Id.* ¶ 11. Petitioner violated her conditions of release several times from December 2024  
15 through October 2025 by failing to complete self-reported check-ins. *Id.* ¶ 14. Petitioner was arrested  
16 by immigration authorities on December 10, 2025, and is subject to mandatory detention pursuant to 8  
17 U.S.C. § 1225(b)(2). *Id.* ¶¶ 14-16.

18 Petitioner filed her § 2241 petition on December 15, 2025. ECF 1. In that petition, Petitioner  
19 challenges her detention as a violation of Due Process and as a violation of the Administrative  
20 Procedures Act. *See generally* ECF 1. Both claims rest on the argument that she should not have been  
21 re-detained because there is no changed circumstances showing she poses a flight risk or danger. *See*  
22 *generally* ECF 1. Also on December 15, Petitioner filed a motion for a temporary restraining order  
23 ("TRO") requesting she be immediately released from custody. ECF 3, at 20.

24 On December 16, 2025, the Court issued a Minute Order stating that after a review of the record,  
25 it appears Petitioner is likely to succeed on the merits of her due process claim. ECF 4. The Court

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26 <sup>2</sup> Because the essential facts in this matter are undisputed, and because the question of whether  
27 Petitioner is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) is a question of law  
28 and statutory interpretation, Respondents respectfully posit further factual development of the record is unnecessary.

ordered Respondents to show cause why the Court should not grant Petitioner's motion. ECF 4.

### III. LEGAL STANDARDS

"[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, 287 (2018) (quoting 8 U.S.C. § 1225(a)(1)). 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).

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

### IV. ARGUMENT

The Court should deny Petitioner's motion for TRO as well as the underlying § 2241 petition. As an applicant for admission, petitioner is subject to mandatory detention and thus ineligible for a bond hearing.

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." As discussed above, "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.’” *Id.* at 87. Accordingly, Petitioner is subject to mandatory detention under statutory immigration law. 8 U.S.C. § 1225(b)(2)(A); *but see generally Dominguez v. Noem*, No. 1:25-CV-1577-JDP, 2025 WL 3268507 (E.D. Cal. Nov. 24, 2025) (finding § 1226 to be applicable statutory section in case of petitioners detained pending removal proceedings); *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).

The Court requested Respondents address any changes in circumstances “material to the question of whether Petitioner is a danger to public safety or a flight risk.” ECF 4. Respondents respectfully note that because Petitioner is subject to mandatory detention under § 1225(b)(2)(A), the question of danger and flight risk are irrelevant. That said, after being released on bond, Petitioner violated her conditions of release on several occasions by failing to complete self-reported check-ins. Cruz Decl. ¶ 14.

Counsel for the government notes that the 8 U.S.C. §§ 1225 and 1226 issue is arising in many immigration cases, including *Rodriguez Vazquez v. Bostock*, 779 F.Supp.3d 1239 (W.D. Wash. 2025), which is on an expedited appeal to the Ninth Circuit and appears to be set for argument on the February 2026 calendar (Ninth Circuit Docket No. 25-6842). Because the issues in *Rodriguez* are likely to be dispositive of the issues in this case, Respondents ask that any further briefing deadlines be held abeyance until the resolution of the *Rodriguez* case.

## V. CONCLUSION

For the foregoing reasons, Petitioner’s motion for TRO and the underlying Habeas Corpus Petition should be denied.

Dated: December 23, 2025

ERIC GRANT  
United States Attorney

By: /s/ SHEA J. KENNY  
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