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Pro Bono Counsel for Petitioner

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

CARLOS LOPEZ CONTRERAS,

Petitioner,

v.

TODD LYONS, in his official capacity as
Acting Director of the Immigration and
Customs Enforcement;

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security;

PAMELA BONDI, in her official capacity as
Attorney General of the United States;

TONYA ANDREWS, in her official capacity as
Warden of the Golden State Annex;

Respondents.

Case No. 25-1851

PETITIONER'S REPLY

INTRODUCTION

Before the Court is Petitioner Carlos Lopez Contreras's ("Mr. Lopez") Petition for Writ of Habeas Corpus and Motion for a Temporary Restraining Order and/or Preliminary Injunction ("Motion"). ECF Nos. 1, 2. The Court ordered Respondents to respond to the Motion by December 18, 2025, and allowed Petitioner to reply by December 19, 2025. ECF No. 13. The Court asked the parties to address "whether they are amenable to converting the motion for temporary restraining order into a motion for preliminary injunction" and "whether they request a hearing on the motion." *Id.* Petitioner is amenable to converting the motion for a temporary restraining order into a motion for preliminary injunction and does not request a hearing on the motion at this time.

ARGUMENT

Respondents' opposition is unavailing and fails to meaningfully engage with Mr. Lopez's arguments. *See* ECF No. 14. Respondents sidestep the constitutional due process violation entirely by advancing an unsupported statutory theory that has been overwhelmingly rejected by reviewing courts, to justify Mr. Lopez's continued detention. Once Respondents' threshold error is set aside, it is clear that § 1226 governs Mr. Lopez's detention, and the constitutional and equitable standards for relief are satisfied. The Court should find that Mr. Lopez's detention is unlawful and order him released so that he may rejoin his family and community in New Jersey.

I. Respondents have not convincingly rebutted that Mr. Lopez is likely to succeed on his claim that his detention violates his statutory and constitutional rights.

A. Mr. Lopez's detention violates the INA because he is properly detained under § 1226, not § 1225, and therefore not subject to mandatory detention.

Respondents' opposition rests on a single, misguided premise: that Mr. Lopez is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) because he is an "applicant for admission." *Id.* at 3. However, nothing in the statute—or in any binding precedent—supports Respondents' newly

minted interpretation of § 1225, and the record confirms that Mr. Lopez is detained pursuant to § 1226. Respondents' attempt to recast his custody as mandatory under § 1225 is both legally and factually unsupported, and it cannot shield the unlawful procedures that continue to deprive him of due process.

Respondents misread *Jennings v. Rodriguez*, arguing that noncitizens who are present but have not been admitted are subject to mandatory detention under § 1225. In fact, *Jennings* makes clear that § 1226, not § 1225, sets forth “the default rule” for detaining and removing noncitizens “already present in country.” *Jennings*, 583 U.S. at 288. Tellingly, in the years after *Jennings*, neither DHS nor EOIR interpreted § 1225 in the manner it now advances. Instead, this interpretation emerged only this year, alongside a policy shift within DHS. *See JASKARAN SINGH SINGH, Petitioner, v. TONYA ANDREWS, et al., Respondents.*, No. 1:25-CV-01438-EPG-HC, 2025 WL 3563221, at *3 (E.D. Cal. Dec. 12, 2025) (“Until this year, DHS has applied section 1226(a) and its regime of discretionary release and review of detention ‘to the vast majority of noncitizens allegedly in this country without valid documentation’—a practice codified by regulation.”).

After Mr. Lopez's case was remanded to the immigration court in 2023, his case status changed from that of a noncitizen with a final removal order released from detention under 8 U.S.C. § 1231, to that of a noncitizen in removal proceedings released under 8 U.S.C. § 1226. He was scheduled for an immigration court hearing on September 15, 2027. *See* 8 CFR 241.4(b)(1) (“Section 236 of the Act and 8 CFR 236.1 govern custody determinations for [noncitizens] who are in pending immigration proceedings before the Executive Office for Immigration Review.”). Respondents did not recast his detention as mandatory under § 1225 until it re-detained him at ICE

check-in on September 8, 2025. This recent pivot underscores that *Jennings* did not compel the interpretation of § 1225 Respondents now advance.

Since Respondents adopted their new policies, in more than 350 cases “decided by over 160 different judges sitting in about fifty different courts spread across the United States,” courts have rejected ICE and EOIR’s new interpretation of § 1225. *See Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025). This includes numerous decisions by this Court. *See, e.g., Singh* at 3 (“Here in the Eastern District of California, recent decisions have largely rejected the government’s interpretation of Section 1225(b)(2) as applicable to all ‘applicants for admission.’”).

Mr. Lopez has lived in the United States since he entered 25 years ago at the age of four. He has numerous U.S. citizen family members, deep community ties in New Jersey, and knows no other country as his home. Mr. Lopez squarely fits within § 1226 and is not subject to mandatory detention.

B. Respondents fail entirely to respond to Mr. Lopez’s argument that his re-detention violated his constitutional due process rights.

Respondents do not contest that Mr. Lopez’s re-detention at an ICE check-in without a pre-deprivation hearing violated his due process rights. They fail to address whether Mr. Lopez has a protected liberty interest or whether the procedures necessary to ensure any deprivation of that protected liberty interest accords with the constitution. *See Garcia v. Andrews*, No. 2:25-cv-01884-TLN-SCR, 2025 WL 1927596, at *2 (E.D. Cal. July 14, 2025) (citing *Kentucky Dep’t of Corrections v. Thompson*, 490 U.S. 454, 460 (1989)). In fact, there is no mention of the constitutional violations at issue in this case at all.

To the extent that Respondents implicitly argue that Mr. Lopez does not have a liberty interest because he is detained pursuant to 1225(b), this argument, as detailed above, is unavailing.

Numerous courts in this District have noted that this argument is unpersuasive. *See J.C.L.A. v. Wofford*, No. 1:25-CV-01310-KES-EPG (HC), 2025 WL 2959250, at *3 (E.D. Cal. Oct. 17, 2025); *Paz Aguilera v. Albarran*, No. 1:25-cv-01619 JLT SAB, 2025 WL 3485016, at *9 (E.D. Cal. Dec. 4, 2025); *Singh*, 2025 WL 3563221, at *3.

As several courts have found, on balance, the *Mathews* factors show that noncitizens like Mr. Lopez are entitled to a bond hearing and “[t]hat hearing should have occurred before petitioner was re-detained.” *Carmen G.C. v. Robbins*, No. 1:25-cv-01648-KES-HBK (HC), 2025 WL 3521304, at *7 (E.D. Cal. Dec. 8, 2025). The same reasons apply here, and Mr. Lopez has demonstrated a due process violation in the absence of such a pre-deprivation hearing.

II. Mr. Lopez has demonstrated he will suffer irreparable harm.

Respondents concede that there are “humanitarian realities that arguably weigh in favor of Lopez-Contreras’s release” but argue nonetheless that he is subject to mandatory detention. ECF No. 14 at 3. As discussed, Respondents’ statutory interpretation leading to this conclusion is flawed and unsupported, and Mr. Lopez has demonstrated that he has experienced irreparable harm.

Mr. Lopez is currently suffering a constitutional violation, and such violations constitute irreparable injury as a matter of law. *See* ECF No. 2, 20-21. Beyond that legal injury, he continues to endure profound and compounding harm in detention, including separation from his U.S.-citizen family members, as well as significant deterioration in his mental and physical health. *Id.* Respondents ignore these harms, relying instead on the unfounded and incorrect assertion that he is mandatorily detained. The Court should find that Mr. Lopez’s unlawful continued detention and attendant constitutional violations constitute irreparable harm.

III. The balance of equities and public interest weigh in favor of Mr. Lopez.

Respondents do not mention the balance of equities or the public interest in their opposition. Mr. Lopez has demonstrated that both weigh in his favor. Mr. Lopez's affirmative equities—including his 25-year residence in the United States since he was four years old, his U.S. citizen family members, deep community ties and the significant hardship that his detention imposes on both him and his U.S. citizen family members—all demonstrate that the balance of equities weigh in his favor. Mr. Lopez has also demonstrated a constitutional violation, and the public has an interest in ensuring the government does not unlawfully detain individuals in contravention of due process, statute and regulation. The government does not claim that Mr. Lopez is a danger or flight risk. Properly weighed, the balance of equities and the public interest strongly favor relief.

CONCLUSION

Respondents cannot rely on misguided statutory interpretation to avoid constitutional scrutiny. Because Respondents have failed to justify Mr. Lopez's continued detention, and because he has demonstrated irreparable harm and a likelihood of success on the merits, the Court should grant his preliminary injunction and order his immediate release.

Dated: December 19, 2025

Respectfully submitted,

s/ Alex Mintz

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed Petitioner's Reply using the CM/ECF system which will notify and counsel of record.

Dated: December 19, 2025

Respectfully submitted,

s/ Alex Mintz

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