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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

11 Jose GONZALEZ GIRON; Manuel NAVA;
12 Elias VASQUEZ JUAREZ; Alfredo
13 MUNGUIA YOGUEZ; Aide OCHOA
14 MALDONADO; Cesar HERNANDEZ
15 ORTIZ; Jeronimo VARGAS BERSABE;
16 Ezequias POPUL AJQUIY; Ponciano NAVA
17 MOJICA;

18 Petitioners,

19 v.

20 Kristi NOEM, Secretary, Department of
21 Homeland Security; Todd LYONS, in his
22 official capacity as Acting Director of U.S.
23 Immigration and Customs Enforcement; Pam
24 BONDI, Attorney General of the United
25 States; Jaime RIOS, Director, Los Angeles ICE
26 Field Office; and Fereti SEMAIA, Warden,
27 Adelanto ICE Processing Center.

28 Respondents.

No. 5:25-cv-03395-SSS-BFM

PETITIONERS' REPLY TO *EX*
PARTE APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO
SHOW CAUSE RE:
PRELIMINARY INJUNCTION

Hon. Sunshine Suzanne Sykes
United States District Judge

Petitioners hereby reply to Respondents' December 16, 2025 Opposition to their *Ex Parte* Application for Temporary Restraining Order and Order to Show Cause Re: Preliminary Injunction. Dkt # 9. For the reasons set forth below and in Petitioners' Application for Temporary Restraining Order, the Court should grant the Application and order that Petitioners be provided a bond hearing before an immigration judge under 8 U.S.C. § 1226(a) within seven days.¹

I. ARGUMENT

A. *MALDONADO BAUTISTA* IS CONTROLLING

Respondents state to this Court, which issued *Maldonado Bautista v. Santacruz*, 5:25-CV-01873-SSS-BFM (C.D. Cal.), that the "issue is not yet resolved" yet. Dkt # 9 at 1. Respondents state that this action should be stayed or dismissed because class certification was issued in *Bautista*, while at the same time argue that there is no final judgment that is binding for purposes of declaratory relief. Dkt # 9 at 1. Respondents cannot have it both ways- they cannot claim that there is no authority for Petitioners to file this action because of the class certification while at the same argue that the order on partial summary judgment has no biding effect because final judgment has not been entered. This Court should either find that *Maldonado Bautista* is controlling after class certification and the entry of partial summary judgment, or independently find that a bond hearing before an immigration judge is required within seven days, just as it did in the merits of the

¹ Respondents appear to concede that such an order is required under *Maldonado Bautista*. Dkt # 9 at 2. Notably, that is all the relief that Petitioners requested. They have not requested an order of direct release from the Court. *See also Beltran Orduno, et. al. v. Noem, et. al.*, No. 5:25-cv-03332-SSS-BFM (C.D. Cal.), Dkt. #13 at N. 2 ("The Court notes that given Petitioners' membership in the Nationwide Class certified in *Maldonado Bautista*, each of the Petitioners is entitled to the corresponding declaratory relief as detailed in that matter.").

1 *Maldonado Bautista* litigation.

2 B. CASELAW IS CLEAR THAT THIS COURT HAS JURISDICTION
3 TO CONSIDER PETITIONERS' CHALLENGE

4 Respondents argue that the Court lacks jurisdiction to consider *the Ex Parte*
5 Application for Temporary Restraining Order. Dkt # 9 at 5-8.

6 As asserted in Petitioner's initial application, 8 U.S.C. § 1252(g) does not
7 apply to legal claims or custody claims. The bar to review at 8 U.S.C. § 1252(g)
8 strips all courts of jurisdiction to hear "any cause or claim by or on behalf of any
9 alien arising from the decision or action by the Attorney General to commence
10 proceedings, adjudicate cases, or execute removal orders against any alien under
11 this chapter." The Supreme Court previously characterized § 1252(g) as a narrow
12 provision, applying "only to three discrete actions that the Attorney General may
13 take: her 'decision or action' to 'commence proceedings, *adjudicate* cases, or
14 *execute* removal orders.'" *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S.
15 471, 482 (1999) (emphasis in original). In doing so, the Supreme Court found it
16 "implausible that the mention of *three discrete events* along the road to deportation
17 was a shorthand way to referring to *all claims arising from* deportation
18 proceedings." *Id.* (emphasis added). It is clear that § 1252(g) does not apply to a
19 legal custody challenge. *See Ibarra-Perez v. United States*, 154 F.4th 989, 997 (9th
20 Cir. 2025) ("we have been clear that § 1252(g) does not prohibit challenges to
21 unlawful practices merely because they are in some fashion connected to removal
22 orders."); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL
23 2591530, at *3 (C.D. Cal. Sept. 8, 2025) ("Petitioners' challenge to their detention
24 does not fall within these discrete actions. Since petitioners' bond denial claims do
25 not challenge any decision to commence proceedings, adjudicate cases, or execute
26 removal orders, the Court finds that section 1252(g) does not present a jurisdictional
27 bar to judicial review."); *Vasquez Garcia v. Noem*, No. 25-CV-02180-DMS-MMP,
28 2025 WL 2549431, at *4 (S.D. Cal. Sept. 3, 2025) ("Petitioners are enforcing their

1 constitutional rights to due process in the context of the removal proceedings—not
2 the legitimacy of the removal proceedings or any removal order. Therefore, §
3 1252(g) does not limit the Court's jurisdiction in the present case.”); *Jose J.O.E. v.*
4 *Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670, at *7 (D. Minn. Aug. 27,
5 2025) (“§ 1252(g) does not deprive the Court of jurisdiction to consider the narrow
6 legal question of whether a non-citizen detained under authority of § 1226 is
7 entitled to a bond hearing under § 1226’s discretionary detention framework.”).
8 Respondents conspicuously fail to address the uniform law that § 1252(g) does not
9 apply to custody challenges at all, and expressly not those that are purely legal in
10 nature. See *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) (“We did not interpret
11 [section 1252(g)] to sweep in any claim that can technically be said to ‘arise from’
12 the three listed actions of the Attorney General. Instead, we read the language to
13 refer to just those three specific actions themselves.”).

14 Similarly, it is clear that 8 U.S.C. § 1252(b)(9) does not preclude review, as
15 Petitioners do not challenge their removal proceedings before this Court. Once
16 again, Respondents ignore the other cases addressing the same issue and finding
17 that § 1252(b)(9) does not apply which, in turn, rely on Supreme Court precedent.
18 In *Jennings*, the Supreme Court determined that the “arising from” language
19 of section 1252(b)(9) did not apply to challenges to the lawfulness of custody
20 during a removal proceeding. *Jennings*, 583 U.S. at 292-95. See also *Gonzalez v.*
21 *U.S. Immigr. & Customs Enf’t*, 975 F.3d 788, 810 (9th Cir. 2020) “[C]laims
22 challenging the legality of detention pursuant to an immigration detainer are
23 independent of the removal process.”); *Vasquez Garcia v. Noem*, No. 25-CV-
24 02180-DMS-MMP, 2025 WL 2549431, at *4 (S.D. Cal. Sept. 3, 2025) (“Their
25 detention pursuant to § 1225(b)(2) may be during—but is nonetheless independent
26 of—the removal proceedings. Accordingly, § 1252(b)(9) does not strip this Court of
27 jurisdiction.”).

C. PETITIONERS ARE LIKELY TO SUCCEED ON THE MERITS

Respondents' arguments that Petitioners are not likely to succeed on the merits of their claim is disingenuous, given that almost every district court to address this issue has found that individuals who entered the United States without admission are eligible for bond hearings pursuant to 8 U.S.C. § 1226(a). *Ding v. Janecka*, No. 5:25-CV-03184-DOC-JDE, 2025 WL 3453957, at *3 (C.D. Cal. Nov. 28, 2025); *Estrada v. Lyons*, No. CV 25-11002-KK-KSX, 2025 WL 3438562, at *3 (C.D. Cal. Nov. 26, 2025); *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025); *Vasquez Garcia v. Noem*, 3:25-cv-02180-DMS-MMP (SD. Cal. Sept. 3, 2025); *Benitez v. Noem*, No. 5:25-cv-02190-RGK-AS) C.D. Cal. Aug. 26, 2025); *Arrazola Gonzalez v. Noem*, 5:25-cv-01789-ODW-DFM (C.D. Cal. Aug. 15, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521, at *2 (D. Neb. Sept. 3, 2025); *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670, at *6 (D. Minn. Aug. 27, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025); *Rodriguez v. Bostock*, 2025 WL 1193850 (W.D. Wa. Apr. 24, 2025). These line of cases reach the same conclusion after the Board's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See Guerrero Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Sanchez Roman v. Nguyen*, No. 2:25-CV-01684-RFB-EJY, 2025 WL 2710211, at *6 (D. Nev. Sept. 23, 2025); *Beltran Barrera v. Tindal*, No. 3:25-CV-541-RGJ, 2025 WL 2690565, at *6 (W.D. Ky. Sept. 19, 2025); *Maldonado Vasquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at *10 (D. Nev. Sept. 17, 2025).

All of these decisions have held that 8 U.S.C. § 1225(b)(2) does not apply to individuals who have made a physical entry into the interior of the United States

1 without inspection. *Vasquez Garcia v. Noem*, 3:25-cv-02180-DMS-MMP * 6 (SD.
2 Cal. Sept. 3, 2025) (“Respondents argue that Petitioners, as inadmissible
3 noncitizens, qualify as ‘applicants for admission’ ‘seeking admission’ and,
4 therefore, are subject to mandatory under § 1225(b)(2). (*Id.* at 15–16). Not so.”);
5 *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *5
6 (C.D. Cal. Sept. 8, 2025) (“The Court finds that the conflict is avoided by
7 interpreting sections 1225(b)(2) and 1226(a) to apply to different sets of
8 noncitizens—those “seeking admission” compared to those already in the country
9 who are arrested and detained”); *Pizarro Reyes v. Noem*, No. 25-CV-12546, 2025
10 WL 2609425, at *1 (E.D. Mich. Sept. 9, 2025) (“Because Pizarro Reyes arrived
11 decades ago and has since then lived in the United States without seeking lawful
12 admission, he instead falls within § 1226(a)’s catchall provision for the removal of
13 noncitizens”).

14 Respondents argue that the Court should rely on *Florida v. United States*, 660
15 F.Supp.3d 1239 (N.D.Fla. 2023), to support the Board’s decision that § 1225(b)
16 applies. Dkt # 9 at 12. This argument has also been uniformly rejected by the
17 district courts to address the argument, as *Florida* did not address individuals that
18 were already inside the United States. *Garcia v. Noem*, No. 5:25-CV-02771-ODW
19 (PDX), 2025 WL 2986672, at *5 (C.D. Cal. Oct. 22, 2025); *Patel v. Crowley*, No.
20 25 C 11180, 2025 WL 2996787, at *6 n.6 (N.D. Ill. Oct. 24, 2025); *Rodriguez v.*
21 *Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *21 (W.D. Wash. Sept.
22 30, 2025).

23 While Respondents argue that reading § 1225(b)(2) to exclude those
24 noncitizens who came to the United States would place them in a better position
25 than the person who sought admission at the border, that reading, in fact, is
26 consistent with precedent restricting due process rights of parolees to the statutory
27 rights afforded by Congress. *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S.
28 103, 140, 140 S. Ct. 1959, 1983, 207 L. Ed. 2d 427 (2020); *Landon v. Plasencia*,

1 459 U.S. 21, 32, 103 S. Ct. 321, 329, 74 L. Ed. 2d 21 (1982). Conversely, full due
2 process rights apply to those who have entered the United States without
3 inspection. *Zadvydas v. Davis*, 533 U.S. 678, 693, 121 S.Ct. 2491, 150 L.Ed.2d 653
4 (2001) (“[A]liens who have once passed through our gates, even illegally, may be
5 expelled only after proceedings conforming to traditional standards of fairness
6 encompassed in due process of law.”); *Plyler v. Doe*, 457 U.S. 202, 210, 102 S.Ct.
7 2382, 72 L.Ed.2d 786 (1982) (rejecting argument that undocumented aliens,
8 because of their immigration status, are not covered by the Fourteenth Amendment,
9 and observing that “[w]hatever his status under the immigration laws, an alien is
10 surely a ‘person’ in any ordinary sense of the term. Aliens, even aliens whose
11 presence in this country is unlawful, have long been recognized as ‘persons’
12 guaranteed due process of law by the Fifth and Fourteenth Amendments.”).

13 As such, Petitioners establish that they are likely to succeed on the merits of
14 their claim.

15 D. AN INJUNCTION IS OTHERWISE WARRANTED.

16 Next, Respondents contest the *Winter* factors only on the ground that the
17 balance of hardships favors the government. Dkt # 9 at 14. Respondents argue that
18 the government has a compelling interest in the steady enforcement of its
19 immigration laws. Dkt # 9 at 14. However, Petitioners do not ask the Court to order
20 that the government stop enforcing immigration laws. Rather, they ask the Court to
21 enforce them as Congress intended. And, ultimately, it is the immigration judge
22 who will make a decision on Petitioners’ applications for bond, after determining
23 whether they are a danger to others or a flight risk. 8 U.S.C. § 1226(a). Petitioners
24 only ask that they be provided a bond hearing that comports with the statute and due
25 process.

26 **II. CONCLUSION**

27 For the foregoing reasons, the Court should grant Petitioners’ Application for
28 a Temporary Restraining Order and Order to Show Cause and order that they be

1 provided an individualized bond hearing before an immigration judge pursuant to 8
2 U.S.C. § 1226(a) within seven days of the TRO, with instructions that the
3 immigration judge has jurisdiction under 8 U.S.C. § 1226(a) to consider bond.

4 Dated: December 17, 2025

Respectfully Submitted,

5 S/Megan Brewer

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15 **WORD COUNT CERTIFICATION**

16 The undersigned, counsel of record for Plaintiff certifies that this Memo contains
17 1930 words, which complies with the word limit of L.R. 11-6.1.

18 s/ Megan Brewer

19 Megan Brewer

20 Counsel for Petitioners