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12 THE UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14
15

16 MODESTA ARAUJO-CONTRERAS

17 Plaintiff and Petitioner,
18
19

5:25-cv-03442-KK-MBK

20 vs.
21

Hon: Kenly Kiya Kato

22 JAMES JANECKA, Warden of the Adelanto
23 Detention Center; et al.
24

25 Defendants-Respondents
26
27
28

**EMERGENCY EX PARTE
REQUEST AND APPLICATION
FOR TEMPORARY
RESTRAINING ORDER
AND/OR
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION**

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EMERGENCY EX PARTE REQUEST AND APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND/OR ORDER TO SHOW CAUSE RE: PRELIMINARY
INJUNCTION - 1

I. INTRODUCTION

This case challenges the continuing unlawful and punitive detention of Petitioner, who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at the Adelanto Detention Center, Adelanto, California. Petitioner Modesta Araujo-Contreras, a section 245(i) ‘grandfathered alien’ has resided in the United States for over 29 years after re-entering the United States without inspection in 1996. She is neither a flight risk nor a danger to the community. Because of Respondents’ recent uniform policy and practice Respondents arrested Petitioner without a probable cause, without notice or opportunity to be heard on the issue of flight risk and in violation of agency rules and published regulations, and now refuse to permit Petitioner to make a request for bond before an immigration judge and be released under the scheme promulgated by Congress for non-citizens present in the US without having been admitted or paroled. Instead, Respondents are preparing to deport Petitioner – without a reinstated order of removal – and despite being fully aware that Petitioner is a class member and covered by *Duran-Gonzalez, et al. v. Department Homeland Security. et al.* settlement. Unless the Court orders Petitioner’s immediate release, *or in the alternative* order that Respondents accord Petitioner a constitutionally valid bond hearing before an Immigration Judge, Petitioner will continue to be subjected to unlawful and punitive detention. Petitioner Respectfully requests that the Court issue an order prohibiting Respondents to remove petitioner outside of the jurisdictional district of the Court to preserve the Court’s jurisdiction.

Plaintiff-Petitioner is not challenging or seeking judicial review of the initiation of removal proceedings, the way his removal proceedings were or are conducted, or the

1 denial of immigration relief by the EOIR or USCIS. Petitioner is **not** subject to final
2 reinstated order of removal.
3

4 **II. FACTS AND PROCEDURAL HISTORY**

5
6 Petitioner first entered the United States back in 1983 when she was barely 20
7 years old. (ECF # 1 [Verified Petition] at ¶22). Petitioner's United States children
8 were born on [REDACTED] and [REDACTED], respectively. Id. About a month after
9 her child was born Petitioner and her husband were placed in deportation
10 proceedings with the issuance of an order to show cause. (ECF # 1 [Verified Petition]
11 at ¶23)
12

13
14 In 1996 Petitioner left the United States on a brief trip to visit her sick father with
15 the intent to return to her unrelinquished residence and deportation proceedings.
16 (ECF # 1 [Verified Petition] at ¶24). She attempted to enter using an I-94 and an I-
17 551 stamp which the legacy INS deemed to be fraudulent. (ECF # 1 [Verified
18 Petition] at ¶25). Rather than continue with the pending deportation proceedings,
19 Respondents placed her in exclusion proceedings and in September 1996 Petitioner
20 accepted an exclusion without understanding the consequences. Id. She was
21 physically removed on or about 17 September 1996 and reentered the next day. Both
22 the exclusion order and the illegal re-entry occurred prior to the effective date of
23 IIRIRA. (ECF # 1 [Verified Petition] at ¶26)
24

25
26 In March 2001 Petitioner's United States citizen brother filed a form I-130
27 Petitioner (Family Relative Petition) which accorded Petitioner the status of a
28 'grandfathered alien' for purposes of section 245(i) adjustment. (ECF # 1 [Verified
Petition] at ¶27). When her daughter turned 21 in 2005, Christina filed a second I-
130 Petition and Petitioner filed a concurrent I-485 application for adjustment of
status. The second set of I-130/I-485 filings render Petitioner a class member and

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1 subject to the term of the settlement agreement in *Duran Gonzalez v. DHS*, No. CV
2 06- 1411-MJP (W.D. Wash., settlement approved Jul. 21, 2014)(provided remedies
3 against reinstatement for class members who like Petitioner filed adjustment of
4 status and I-212 waiver applications within the jurisdiction of the Ninth Circuit on
5 or after August 13, 2004 and on or before November 30, 2007). (ECF # 1 [Verified
6 Petition] at ¶28)

7
8 USCIS denied Petitioner's applications for adjustment of status in 2008 based
9 on denial of her 601 waiver finding that the hardship to Petitioner's LPR mother was
10 not sufficiently great. (ECF # 1 [Verified Petition] at ¶29).

11
12 In September 2025 Petitioner filed a new I-485 and I-212/601 waiver based
13 on changed circumstances, to wit, extreme hardship to Petitioner's 83 years old LPR
14 mother who is bed ridden and reliant entirely on Petitioner for care with daily
15 function. (ECF # 1 [Verified Petition] at ¶30)

16
17 For over 24 years Petitioner raised her children, worked, took care of her
18 husband and her mother while Respondents adjudicated her applications for relief.
19 medical, daily, survival and ambulatory needs. (ECF # 1 [Verified Petition] at ¶31).
20 Respondent has tried several times to file an affirmative application for adjustment
21 of status with the necessary waiver applications. The USCIS will not adjudicate them
22 as long as the exclusion and deportation order remains on her record, even though
23 there is no executable order of removal in effect against Petitioner because the 1996
24 order was already executed. (ECF # 1 [Verified Petition] at ¶33)

25
26 Respondents have not reinstated the 1996 removal order. (ECF # 1 [Verified
27 Petition] at ¶34).

28 III. STANDARD FOR TEMPORARY RESTRAINING ORDER ADJUDICATION

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Both Temporary Restraining Orders [TRO] and Preliminary Injunctions are governed by Rule 65. *See Credit Bureau Connection, Inc. v. Pardini*, __ F. Supp. 2d __, 2010 WL 2737128, at *5 (E.D. Cal. July 12, 2010). The purpose of such temporary injunctive relief is to preserve the rights and relative positions of the parties, i.e., the status quo, until a final judgment issues. *See Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981). 28 U.S.C. §1651(a), in turn, provides that "[A]ll courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

A party seeking a TRO or a preliminary injunction "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *See Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Petitioner readily satisfies these requirements.

IV. RESPONDENTS' NEW MANDATORY DETENTION POLICIES AND PROCEDURES.

On or about 8 July 2025 DHS issued a directive to the field and instructed ICE employees to consider anyone arrested within the United States and charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A). Pursuant to section 1225(b)(2)(A), "applicants for admission" who are "seeking admission" are subject to mandatory detention. The Board of Immigration Appeals ("BIA"), a component of DOJ, addressed the subject of the Policy in a published decision on 5 September 2025 in

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1 *Matter of Yajure Hurtado*, 29 I&N Dec. 216(BIA 2025), which is binding on all
2
3 immigration judges. The BIA, consistent with the July 2025 DHS policy, held that
4
5 immigration judges lack authority to hear bond requests or to grant bond to non-
6
7 citizens who are present in the United States without admission, because such
8
9 individuals are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(a) and are
10
11 thus ineligible to be released on bond.

12
13 The BIA's opinion is not binding on this Court nor is the agencies' respective
14
15 interpretation of the statute entitled to deference, *Loper Bright v. Raimondo*, 603 U.S.
16
17 369 (2024), as it conflicts with the statute, regulations, and precedent.

18
19 Petitioner is in custody solely because of these challenged policies.

20
21 **V. § 2241 PETITION FOR WRIT OF HABEAS CORPUS**

22
23 The Constitution guarantees that the writ of habeas corpus is “available to
24
25 every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S.
26
27 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). “Its province, shaped to
28
guarantee the most fundamental of all rights, is to provide an effective and speedy
instrument by which judicial inquiry may be had into the legality of the detention
of a person.” *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968). “The essence of
habeas corpus is an attack by a person in custody upon the legality of that custody,
and ... the traditional function of the writ is to secure release from illegal
custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). A writ of habeas corpus
may be granted to a petitioner who demonstrates that he is in custody in violation
of the Constitution or federal law. 28 U.S.C. § 2241(c)(3). Historically, “the writ of

1 habeas corpus has served as a means of reviewing the legality of Executive
2 detention, and it is in that context that its protections have been strongest.” *I.N.S. v.*
3 *St. Cyr*, 533 U.S. 289, 301 (2001). Accordingly, a district court's habeas
4
5 jurisdiction includes challenges to immigration-related detention. *Zadvydas v.*
6
7 *Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S. 510, 517
8
9 (2003); *Trump v. J. G. G.*, 604 U.S. 670, 672 (2025) (describing immigration
10
11 detainees’ challenge to their confinement and removal as falling “within the ‘core’
12
13 of the writ of habeas corpus.”) (*per curiam*) (citations omitted). “The application
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15 for the writ usurps the attention and displaces the calendar of the judge or justice
16
17 who entertains it and receives prompt action from him within the four corners of
18
19 the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation
20
21 omitted). Here, Petitioner is in custody and challenges solely the legality of his
22
23 detention. No jurisdictional bars are implicated.
24
25

26 VI. NOTICE TO RESPONDENTS

27 On 18 December 2025 at 7:16 A.M. Counsel for Petitioner sent an email to
28 Chief of Civil and Complex Litigation, United States Attorneys Office for the Central District of California at his official email address labeled “URGENT” detailing the need and nature of the Rule 65 request. See Exhibit A. The email was also sent to the two monitored email address accounts usacac.habeas@usdoj.gov and usacac.civil@usdoj.gov. Id. On 18 December 2025 at 8:47AM I received a read receipt from the usacac.civil@usdoj.gov account.

VII. NEED FOR EMERGENCY RELIEF

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1 Petitioner immigration counsel advised the undersigned that despite service of
2 the Habeas Petition to ICE and Petitioner's deportation officer and despite
3 Respondents being aware that no order of removal has been reinstated nor could be
4 reinstated prior to at least affording Petitioner a non-refoulement screening after she
5 expressed unequivocally to both ICE and USCIS that she fears return to Mexico, ICE
6 told Petitioner's immigration counsel that Petitioner is being prepared for removal
7 imminently.
8
9

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13 **VIII. PETITIONER IS LIKELY TO SUCCEED ON HER CLAIMS**

14 **First**, Respondents did not reinstate the 1996 order of removal nor could
15 they do so. It is undisputed that Ms. Contreras was ordered excluded in 1996 and
16 the order was executed by his physical removal. *Id.* However, upon her re-entry
17 and after she filed multiple application for adjustment of status and waivers
18 Respondents exercised their prosecutorial discretion and did not reinstate the 1996
19 order of removal. *See Morales de Soto v. Lynch*, 824 F.3d 822, 825 (9th Cir. 2016)
20 (explaining that DHS is not required to reinstate a removal order and that officers
21 may exercise prosecutorial discretion and place someone in removal proceedings
22 under INA § 240 in lieu of issuing a reinstatement order under INA § 241(a)(5));
23 *Villa-Anguiano v. Holder*, 727 F.3d 873, 878 (9th Cir. 2013) (reinstatement
24 of removal under the INA is neither "automatic" nor "obligatory" and citing
25 to *Alcala v. Holder*, 563 F.3d 1009, 1013 (9th Cir. 2009)). Here, Respondents
26 exercised the discretion afforded them under the Act when they allowed Petitioner
27 to remain released under section 236(a).
28

1 **Second**, section 212(a)(9)(A)(ii) of the Act provides that any noncitizen,
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3 other than an "arriving alien" described in section 212(a)(9)(A)(i), who has been
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5 ordered removed, excluded, or departed the United States while an order of
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7 removal was outstanding, and who seeks admission within 10 years of the date of
8
9 such departure or removal (or within 20 years of such date in the case of a second
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11 or subsequent removal or at any time in the case of a noncitizen convicted of an
12
13 aggravated felony) is inadmissible. Noncitizens found inadmissible under section
14
15 212(a)(9)(A) of the Act may seek permission to reapply for admission under
16
17 section 212(a)(9)(A)(iii). Section 212(a)(9)(C)(i)(II) of the Act provides that any
18
19 noncitizen who has been ordered removed, and who enters or attempts to reenter
20
21 the United States without being admitted, is inadmissible. Noncitizens found
22
23 inadmissible under section 212(a)(9)(C) of the Act may seek permission to
24
25 reapply for admission under section 212(a)(9)(C)(ii), which provides that
26
27 inadmissibility shall not apply to a noncitizen seeking admission more than ten
28
years after the date of last departure from the United States if, prior to the
reembarkation at a place outside the United States or attempt to be readmitted from
a foreign contiguous territory, the Secretary of Homeland Security has consented
to the noncitizen's reapplying for admission. In these proceedings, the Applicant
bears the burden of proof to establish eligibility for the requested benefit by a
preponderance of the evidence. Matter of Chawathe, 25 T&N Dec. 369, 375 (AAO
2010).

1 On August 13, 2004, the Ninth Circuit held that a foreign national could
2
3 apply for adjustment of status under section 245(i) of the Act by filing a Form I-
4
5 212 to overcome inadmissibility under section 212(a)(9)(C)(i)(II) of the Act
6
7 without remaining outside the United States for 10 years. *Perez Gonzalez v.*
8
9 *Ashcroft*, 379 F.3d 783 (9th Cir. 2004). In *Matter of Torres-Garcia*, 23 T&N Dec.
10
11 866 (BIA 2006), the Board of immigration Appeals (Board) rejected the Ninth
12
13 Circuit's rationale in *Perez-Gonzalez* and held that individuals inadmissible under
14
15 section 212(a)(9)(C)(i)(II) of the Act could not be granted permission to reapply
16
17 until they remained outside the United States for 10 years after the date of the latest
18
19 departure. On November 30, 2007, the Ninth Circuit in *Duran-Gonzales*, deferred
20
21 to the Board's interpretation in *Torres-Garcia* and overturned *Perez-Gonzalez*.
22
23 Pursuant to the *Duran-Gonzalez* Settlement Agreement, however, certain
24
25 individuals who reside within the jurisdiction of the Ninth Circuit may be afforded
26
27 an opportunity to establish that *Matter of Torres Garcia* should not apply to them
28
and to apply for adjustment of status and permission to reapply for admission
despite not having remained outside the United States for 10 years. Class members
are divided into three subclasses. Subclass A members are applicants who (i) have
remained physically present in the United States since the filing of the Form I-485,
Form I-485 Supplement A, and Form I-212, and (ii) against whom removal
proceedings under INA § 240 were not initiated with the filing of a Notice to
Appear subsequent to the filing of the Form I-485 and Form I-212. Petitioner is a
member of Subclass A. The subclass members are further divided into two groups

1 based on when they filed their Forms I-212, I-485, and I-485A. Applicants who
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3 filed all three applications between August 13, 2004, and January 26, 2006, are
4
5 members of the first group, and applicants who filed all three applications between
6
7 January 27, 2006, and November 30, 2007, are members of the second group.
8
9 According to the Settlement Agreement individuals in the first group are presumed
10
11 to have reasonably relied on Perez-Gonzalez, and their Form I-212 applications
12
13 may be adjudicated on the merits regardless of whether they spent 10 years outside
14
15 the United States after their last departure. The Settlement Agreement further states
16
17 that applicants in the second group must establish that their reliance on Perez-
18
19 Gonzalez was reasonable and that *Matter of Torres-Garcia* should not apply to
20
21 them. *See Garfias-Rodriguez v. Holder*, 702 F.3d 504 (9th Cir. 2012) (applying
22
23 retroactivity test set forth in *Montgomery Ward & Co. v. FTC*, 691 F.2d 1322,
24
25 1333 (9th Cir. 1982)). If a class member fails to show reasonable reliance on
26
27 *Perez-Gonzalez*, USCIS must still consider whether the burden of denial would be
28
greater than the ordinary consequences of removal. Petitioner's I-485 application
remains pending and she was denied the opportunity to meet her burden and the
presumption applicable to her based on the settlement agreement. Because,
Respondents cannot re-instate the 1996 order until the adjudication is completed,
the arrest and detention are unlawful.

Third, because Petitioner expressed a fear of return, the reinstatement of the
exclusion order cannot proceed until the fear claim is decided. As such Petitioner is
not subject to detention under section 1231. The merits of Petitioner's statutory claims

1 thus implicate the construction of two statutory provisions. The first -- 8 U.S.C. §
2 1225(b)(2)(A) -- provides that, absent exceptions that are inapplicable here, “in the
3 case of an alien who is an applicant for admission, if the examining immigration
4 officer determines that an alien seeking admission is not clearly and beyond a doubt
5 entitled to be admitted, the alien shall be detained for a [removal] proceeding.”
6
7
8
9

10 The second relevant provision is 8 U.S.C. § 1226(a), which provides in
11 pertinent part that “an alien may be arrested and detained pending a decision on
12 whether the alien is to be removed from the United States. Except as provided in
13 subsection (c) and pending such decision, the Attorney General . . . may continue to
14 detain the arrested alien; and . . . may release the alien on . . . bond of at least \$1,500
15 with security approved by, and containing conditions prescribed by, the Attorney
16 General; or . . . conditional parole.” *Id.* In other words, § 1226(a) contemplates that a
17 noncitizen who is arrested and detained pending a removal decision is “generally”
18 entitled to a bond hearing. *Nielsen v. Preap* is 586 U.S. 392, 395-98 (2019) (“Aliens
19 who are arrested because they are believed to be deportable may generally apply for
20 release on bond or parole while the question of their removal is being decided. These
21 aliens may secure their release by proving to the satisfaction of a Department of
22 Homeland Security officer or an immigration judge that they would not endanger
23 others and would not flee if released from custody. . . . 8 U.S.C. § 1226(a) generally
24 permits an alien to seek release in this way . . .”). This is the “default rule.” *Jennings*
25 *v. Rodriguez*, 583 U.S. 281, 288 (2018) (“Section 1226 generally governs the process
26 of arresting and detaining that group of aliens pending their removal. . . . Section
27 1226(a) sets out the default rule . . .”); *Rodriguez Diaz v. Garland*, 53 F.4th 1189,
28 1196-97 (9th Cir. 2022) (“The provision at issue in this case, 8 U.S.C. § 1226,
provides the general process for arresting and detaining aliens who are present in the

1 United States and eligible for removal. . . . Under § 1226(a) and its implementing
2 regulations, a detainee may request a bond hearing before an IJ at any time before a
3 removal order becomes final. . . . Additional provisions supplement § 1226's
4 detention scheme. Section 1225(b) applies to an 'applicant for admission'")
5 (citations omitted). Thus, while Section 1225(b) "authorizes the Government to detain
6 certain aliens seeking admission into the country," section 1226 "authorizes the
7 Government to detain certain aliens already in the country pending the outcome of
8 removal proceedings." *Jennings* at 289.

9
10 Section 1225(b)(2)(A) does not apply to noncitizens in Petitioner's situation.
11
12 *Cf. Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022) (observing that §
13 1226(a) and its implementing regulations "provide extensive procedural protections
14 that are unavailable under other detention provisions"). Section 1225(b)(2)
15 specifically applies only to those "seeking admission," and the implementing
16 regulations at 8 C.F.R. § 1.2 address noncitizens who are "coming or attempting to
17 come into the United States." The use of the present progressive tense would exclude
18 noncitizens like Petitioner who are apprehended in the interior decades after they
19 entered, as they are no longer "seeking admission" or "coming [...] into the United
20 States." *See Martinez v. Hyde*, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025)
21 (citing the use of present and present progressive tense to support conclusion that INA
22 § 1225(b)(2) does not apply to individuals apprehended in the interior); *see also Al*
23 *Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing "is
24 arriving" in INA § 235(b)(1)(A)(i) and observing that "[t]he use of the present
25 progressive, like use of the present participle, denotes an ongoing process").
26 Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply
27 to Petitioner, who had entered the U.S. approximately 32 years ago.
28

1 The vast majority of the courts -- both in this district¹ and across the country --
2
3 to have addressed the issue have rejected Respondents' legal position and their efforts
4
5 to shield their actions from judicial review under section 1252. *See Zaragoza*
6
7 *Mosqueda v. Noem*, No. 5:25-CV-02304-CAS-BFM, 2025 WL 2591530 (C.D. Cal.
8
9 Sept. 8, 2025) ("[T]he Court concludes that petitioners are likely to succeed on
10
11 the merits of their claims because section 1226(a), not section 1225(b)(2), likely
12
13 governs their detention."); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1261 (W.D.
14
15 Wash. 2025) ("Rodriguez has shown that the text of Section 1226, canons of
16
17

18 ¹ To Counsel's knowledge the following courts within this district have addressed
19
20 the issue and have found Respondents' legal position meritless: *Xiaoman Ding v.*
21
22 *James Janecka et al.*, No. 5:25-CV-03184-DOC-JDE, 2025 WL 3453957 (C.D.
23
24 Cal. Nov. 28, 2025); *Estrada v. Todd Lyons et al.*, No. CV 25-11002-KK-KSX,
25
26 2025 WL 3438562 (C.D. Cal. Nov. 26, 2025); *Padilla v. Bowen*, No. 2:25-CV-
27
28 10780-CAS-SK, 2025 WL 325136810 (C.D. Cal. Nov. 21, 2025); *Miguel Portillo,*
et al. v. Kristi Noem, et al., 5:25-cv-02892-JFW-PVC (C.D. Cal. Oct. 31, 2025);
Suy-Tol v. Noem, et al., No. 5:25-CV02806-JFW (AS) (C.D. Cal. Oct. 29, 2025);
Helal v. Janecka, No. 5:25-CV-02650-HDV-JC, 2025 WL 3190132 (C.D. Cal.
Oct. 24, 2025); *Zecua v. Lyons*, No. 2:25-CV-09794-CV-PDX, 2025 WL 3150680
(C.D. Cal. Oct. 17, 2025); *Sandoval Hernandez v. Noem*, No. 5:25-CV-02563-
FMO (AGR) (C.D. Cal. Oct. 9, 2025); *Pop v. Noem*, No. 5:25-CV-02589-SSS-
SSC, 2025 WL 3050095 (C.D. Cal. Oct. 3, 2025); *Arreola Armenta v. Noem*, No.
5:25-CV-2416-JFW (SP) (C.D. Cal. Sept. 16, 2025); *Zaragoza Mosqueda v. Noem*,
No. 5:25-CV-02304-CAS-BFM, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025);
Benitez v. Noem, 5:25-CV-2190-RGK (AS) (C.D. Cal. Aug. 26, 2025); *Arrazola-*
Gonzalez v. Noem, No. 5:25-CV-01789-ODW-DFM, 2025 WL 2379285 (C.D.
Cal. Aug. 15, 2025); *Ceja Gonzalez v. Noem*, 5:25-CV-2054-ODW (BFM) (C.D.
Cal. Aug. 13, 2025); and *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-
SSS (BFM) (C.D. Cal. July 28, 2025). Hon Judge Wilson agreed with
Respondents' position in *Altamirano Ramos v. Lyons*, No. 2:25-CV-09785-SVW-
AJR, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025). No Court of Appeals have
opined on the issue yet.

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1 interpretation, legislative history, and longstanding agency practice indicate that he is
2 governed under Section 1226(a)'s 'default' rule for discretionary detention. The Court
3 is persuaded that Rodriguez is likely to succeed on the merits that he is unlawfully
4 detained under Section 1225(b)(2)'s mandatory detention provision."); *Quispe*
5 *v. Crawford*, No. 1:25-cv-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D. Va.
6 Sept. 29, 2025) ("Petitioner's detention is governed by § 1226(a)'s discretionary
7 framework, not § 1225(b)'s mandatory detention procedures, as at least thirty
8 federal district courts around the country, including two in this Circuit, have
9 concluded when faced with habeas petitions from comparably situated
10 petitioners."); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, *7 (E.D. Mich. 2025)
11 ("The BIA's decision to pivot from three decades of consistent statutory interpretation
12 and call for Pizarro Reyes' detention under § 1225(b)(2)(A) is at odds with every
13 District Court that has been confronted with the same question of statutory
14 interpretation. At least a dozen federal courts concur generally with this Court's
15 interpretation of the statutory language as applied in this context."); *Hasan v.*
16 *Crawford*, No. 1:25-CV-1408, 2025 WL 2682255, at *12 (E.D. Va. Sept. 19, 2025)
17 (same). As *Pizzaro Reyes* persuasively explains: "[T]he overall context of § 1225
18 limits the scope of the terms 'applicant for admission' and 'seeking admission' in §
19 1225(b)(2)(A). . . . The use of "arriving" to describe noncitizens strongly indicates
20 that the statute governs the entrance of noncitizens to the United States. This reading
21 is bolstered by the fact that § 1225 clearly establishes an inspection scheme for when
22 to let noncitizens into the country. In fact, the subheading for § 1225(b)(2)(A) reads
23 "Inspection of Other Aliens," reinforcing the idea that the subsection applies to those
24 coming in, not already present. . . . *Pizarro Reyes*, 2025 WL 2609425 at *5 (cleaned
25 up); *see also Garcia v. Noem*, No. 25-cv-02180- DMS-MMP, 2025 WL 2549431, at

1 *6 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-124862025 WL
2 2496379, at *8 (E.D. Mich. Aug. 29, 2025); *Benitez v. Noem*, No. 5:25-cv-02190-
3 RGK-AS, Doc. 11 at 5 (C.D. Cal. Aug. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-
4 cv-02428- JRR, 2025 WL 2430025, at *10 (D. Md. Aug. 24, 2025); *Romero v. Hyde*,
5 No. 25-11631-BEM, 2025 WL 2403827, at *13 (D. Mass. Aug. 19, 2025); *Arrazola-*
6 *Gonzalez v. Noem*, No. 5:25-cv- 01789-ODW, 2025 WL 2379285, at *2 (C.D. Cal.
7 Aug. 15, 2025).

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13 Moreover, the recent amendment to § 1226 further bolsters the conclusion that
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15 Petitioner’s detention is not governed by § 1225(b)(2)(A). As *Pizarro Reyes*
16 explained, the Laken Riley Act added subsection § 1226(c)(1)(E), which mandates
17 detention for noncitizens who are inadmissible under §§ 1182(a)(6)(A) (noncitizens
18 present in the United States without being admitted or paroled, like Petitioner),
19 1182(a)(6)(C) (misrepresentation), or 1182(a)(7) (lacking valid documentation) and
20 have been arrested for, charged with, or convicted of certain crimes. § 1226(c)(1)(E)
21 (i)–(ii). Considering that § 1182(a)(6)(A)(i) specifically refers to noncitizens “present
22 in the United States without being admitted or paroled,” and that § 1226(c)(1)(E)
23 requires detention without bond of these individuals if they have also committed a
24 felony, the recently created statutory exception would be superfluous if § 1225(b)(2)
25 authorized their detention from the get go. *Pizarro Reyes*, 2025 WL 2609425 at *5;
26 *Rodriguez*, 779 F. Supp. 3d at 1258 (noting that the government’s interpretation
27 “would render significant portions of Section 1226(c) meaningless,” which is an
28 outcome that would violate “one of the most basic interpretive canons,” i.e., that a
“statute should be construed so that effect is given to all its provisions, so that no part
will be inoperative or superfluous, void or insignificant”) (cleaned up); *Barajas v.*
Noem, 2025 WL 2717650, *4 (S.D. Iowa 2025) (“[T]he Federal Defendants’

1 interpretation of § 1225 would render substantial portions of § 1226 superfluous by
2 making detention mandatory for nearly every noncitizen who has entered the United
3 States illegally. If this is what Congress intended, it does not make sense that it would
4 have passed a separate statute as part of the same overall scheme that specifically
5 contemplated bond hearings except in enumerated situations. Indeed, it is especially
6 difficult to square the Federal Defendants' interpretation of § 1225 with Congress's
7 decision earlier this year to pass the Laken Riley Act, which expanded the scope of
8 mandatory detention under § 1226(a). Under the Federal Defendants' interpretation of
9 the interplay between §§ 1225 and 1226, the Laken Riley Act is meaningless. This is
10 not how statutes are to be interpreted.") (cleaned up); *Maldonado*, 2025 WL 2374411,
11 at *12 ("The Court will not find that Congress passed the Laken Riley Act to 'perform
12 the same work' that was already covered by § 1225(b)(2)."). Because Petitioner here
13 has resided in the US for years and was not seeking admission at the time he was
14 detained, Petitioner is likely to succeed on his statutory claim that he is entitled to a
15 bond hearing and release.

16
17 **Third**, "The Due Process Clause applies to all persons within the United States,
18 including aliens, whether their presence here is lawful, unlawful, temporary, or
19 permanent." *Zadvydas v. Davis*, 533 U.S. at 693 (citation modified). "Freedom from
20 imprisonment—from government custody, detention, or other forms of physical
21 restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690 (2001). The
22 Supreme Court has only recognized two legitimate objectives of immigration
23 detention: *preventing danger to the community or preventing flight prior to removal*.
24 See *Zadvydas*, 533 U.S. at 690-92 (discussing constitutional limitations on civil
25 detention).

1 The governmental interest in the continued detention of these least-dangerous
2 individuals like Petitioner does not and cannot outweigh the liberty interest at stake.

3 Even when a noncitizen is detained pursuant to 8 U.S.C. § 1231(a)(6) –which is
4 not the case in this matter-- based on an intent to remove the person to another
5 country, that detention is authorized only if there is a “significant likelihood of
6 removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. This is
7 because, among other concerns, “[a] statute permitting indefinite detention of an alien
8 would raise a serious constitutional problem.” *Id.* at 690.

9 **Fourth**, “[p]rocedural due process imposes constraints on governmental
10 decisions which deprive individuals of liberty,” like the decision to revoke a non-
11 citizen’s order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976)
12 (citation modified). “The fundamental requirement of [procedural] due process is the
13 opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* at 333
14 (citation modified). Petitioner was not provided notice and no opportunity to rebut and
15 be heard prior to deprivation of liberty.

16 Recently, as ICE and CBP have detained many similarly-situated noncitizens,
17 several courts have ordered the immediate release of noncitizens who had been re-
18 detained by DHS without a pre-deprivation hearing. *See, e.g., E.A. T.-B. v. Wamsley*,
19 No. C25-1192-KKE, — F. Supp.3d —, — n.4, 2025 WL 2402130, (W.D.
20 Wash. Aug. 19, 2025)(ordering immediate release due to lack of pre-deprivation
21 hearing); *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y.
22 June 18, 2025) (same); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, --- F. Supp. 3d ---,
23 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-
24 CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v.*
25 *Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21,

26 EMERGENCY EX PARTE REQUEST AND APPLICATION FOR TEMPORARY
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1 2025) (similar). As the *E.A. T.-B.* court explained, the three-factor test established in
2
3 *Mathews v. Eldridge*, 424 U.S. 319 (1976) is the controlling framework for
4
5 determining what process Petitioner is due. *Mathews* requires the Court to evaluate (1)
6
7 “the private interest that will be affected by the official action”; (2) “the risk of an
8
9 erroneous deprivation of such interest through the procedures used, and the probable
10
11 value, if any, of additional or substitute procedural safeguard” and (3) “the
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13 Government’s interest, including the function involved and the fiscal and
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15 administrative burdens that the additional or substitute procedural requirement would
16
17 entail.” 424 U.S. at 335; see also *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055
18
19 (N.D. Cal. 2021) (applying *Mathews* factors to assess right to pre-deprivation
20
21 hearing); *Morrissey v. Brewer*, 408 U.S. 471, 482–84 (1972) (assessing parolee’s
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23 liberty interests and the state’s interests to assess what process is due a parolee). Here,
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25 those factors strongly favor Petitioner. Petitioner has an exceptionally strong interest
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27 in freedom from physical confinement and in a hearing prior to any revocation of his
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liberty. Indeed, Petitioner’s “interest in not being detained is ‘the most elemental of
liberty interests[.]’” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). “Freedom from
imprisonment . . . lies at the heart of the liberty that [the Due Process] Clause
protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Similarly, the Ninth Circuit
has held that “[i]n the context of immigration detention, it is well-settled that ‘due
process requires adequate procedural protections to ensure that the government’s
asserted justification for physical confinement outweighs the individual’s
constitutionally protected interest in avoiding physical restraint.’” *Hernandez v.*
Sessions, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Singh v. Holder*, 638 F.3d 1196,
1203 (9th Cir. 2011)). The Supreme Court has long underscored this point. See, e.g.,
Foucha v. Louisiana, 504 U.S. 71, 80 (1992) (“It is clear that commitment for any

1 purpose constitutes a significant deprivation of liberty that requires due process
2 protection.” (citation omitted)). “The Supreme Court has repeatedly held that in at
3 least some circumstances, a person who is in fact free of physical confinement—even
4 if that freedom is lawfully revocable—has a liberty interest that entitles him to
5 constitutional due process before he is reincarcerated.” *Hurd v. District of Columbia*,
6 864 F.3d 671, 683 (D.C. Cir. 2017). Next, “the risk of erroneous deprivation of
7 [Petitioner’s] liberty interest in the absence of a pre-detention hearing is high.” *E.A.*
8 *T.-B.*, 2025 WL 2402130, at *4. “That the Government may believe it has a valid
9 reason to detain Petitioner does not eliminate its obligation to effectuate the detention
10 in a manner that comports with due process.” *Id.* Petitioner’s detention – to be legal--
11 must “bear[] [a] reasonable relation” to a valid government purpose—here, preventing
12 flight or protecting the community against dangerous individuals. *Zadvydas*, 533 U.S.
13 at 690 (second alteration in the original) (quoting *Jackson v. Indiana*, 406 U.S. 715,
14 738 (1972)). Only a hearing before a neutral decisionmaker—where ICE must prove
15 that detention is justified and that Petitioner poses a flight risk or danger—can ensure
16 that this “reasonable relation” to a valid government purpose exists. But to date, only
17 the “government enforcement agent” has made any decision about the propriety of
18 detention, *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971), a far cry from the
19 hearing before a neutral decisionmaker that due process requires, *see, e.g., Shadwick*
20 *v. City of Tampa*, 407 U.S. 345, 350 (1972) (“Whatever else neutrality and detachment
21 might entail, it is clear that they require severance and disengagement from activities
22 of law enforcement.”). In fact, Petitioner here did not even receive an opportunity to
23 respond to any allegations purporting to justify detention without bond, rebut such a
24 purported showing, or a hearing before a neutral decisionmaker. Finally, “the
25 government’s interest in detaining Petitioner or re-detaining [him] without a hearing is
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EMERGENCY EX PARTE REQUEST AND APPLICATION FOR TEMPORARY
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1 slight.” *Maklad*, 2025 WL 2299376, at *8; Ortega, 415 F. Supp. 3d at 970 (“If the
2 government wishes to re-arrest Ortega at any point, it has the power to take steps
3 toward doing so; but its interest in doing so without a hearing is low.”). “[A]lthough [a
4 pre-deprivation hearing] would have required the expenditure of finite resources
5 (money and time) to provide Petitioner notice and hearing on [parole/bond/OSUP]
6 violations before arresting and re-detaining him, those costs are far outweighed by the
7 risk of erroneous deprivation of the liberty interest at issue.” *E.A. T.-B.*, 2025 WL
8 2402130, at *5. Notably, since his entry in 1992 into the US, Petitioner has
9 continuously demonstrated that he poses neither a flight risk nor a danger to the
10 community: Petitioner is section 245(i) ‘grandfathered alien’ and is prima facie
11 eligible for adjustment of status, she retained immigration counsel to navigate the
12 complex process, took care of his families and child, engaged in lawful employment,
13 and established himself as respected and productive member of their communities.
14 See Exhibits D-G.

15
16 **Fifth**, “Congress, by virtue of the Immigration and Nationality Act (INA), has
17 authorized the Department of Homeland Security, through Immigration and Customs
18 Enforcement, to carry out federal immigration law,” which “includes [the] authority to
19 interview, arrest, and detain removable aliens.” *Lopez-Lopez v. Cnty. of Allegan*, 321
20 F.Supp.3d 794, 796 (W.D.Mich. 2018). However, it is not a crime for a removable
21 foreign national to remain present in the United States. *Reynaga Hernandez v.*
22 *Skinner*, 969 F.3d 930, 938 (9th Cir. 2020)(explaining that “[a] migrant who is
23 illegally present in the United States may have committed a civil violation—by
24 overstaying a visa, changing her student status, or acquiring prohibited employment—
25 or a criminal violation, by entering the country illegally.”); *Arizona v. United States*,
26 567 U.S. 387, 407 (2012). If no federal warrant has been issued, ICE officers “have

1 more limited authority” to arrest persons whom they believe to be foreign nationals.
2
3 *Arizona*, 567 U.S. at 408. In particular, the governing statute (8 U.S.C. §1357(a)(2))
4 and corresponding regulation (8 C.F.R. §287.8(c)(2)(ii)) allow ICE agents to make
5 warrantless arrests only where they have a reasonable belief that the alien “is likely to
6 escape before a warrant can be obtained.” *Arizona*, 567 U.S. at 408.
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10 Here, Respondents had no facts or basis that would provide probable cause that
11 Petitioner was likely to escape before a warrant could be obtained for his arrest. *See*
12 *Moreno v. Napolitano*, 213 F.Supp.3d 999, 1007 (N.D.Ill. 2016) (“Nor can it be the
13 case that, simply by being potentially removable, an alien must be deemed to be likely
14 to evade detention by ICE. Such a reading would render the limitations on warrantless
15 arrest created by 8 U.S.C. §§1226(a) and 1357(a)(2) meaningless.”); *United States v.*
16 *Pacheco-Alvarez*, 227 F.Supp.3d 863, 872, 889–90 (S.D.Ohio 2016) (holding that ICE
17 lacked reason to believe that defendant posed a risk to escape notwithstanding his
18 admission that he “was born in Mexico and did not have any documentation that
19 would allow him to reside in the United States.”).
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VI. THE REMAINING FACTORS WEIGHT HEAVILY IN FAVOR OF GRANTING A TEMPORARY RESTRAINING ORDER

Unlawful detention constitutes “a loss of liberty that is . . . irreparable.”
Moreno Galvez v. Cuccinelli, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020, *aff’d*
in part, vacated in part on other grounds, remanded sub nom. *Moreno Galvez v.*
Jaddou, 52 F.4th 821 (9th Cir. 2022); cf. *Rodriguez v. Robbins*, 715 F.3d 1127,
1145 (9th Cir. 2013) (irreparable harm is met where “preliminary injunction is
necessary to ensure that individuals . . . are not needlessly detained” because they
are neither a danger nor a flight risk). This is particularly true here, where

1 Petitioner's continued detention also violates the Constitution. "Civil immigration
2 detention violates due process outside of certain special and narrow nonpunitive
3 circumstances." *Rodriguez v. Marin*, 909 F.3d 252, 257 (9th Cir. 2018) (citation
4 modified). As detailed above, Petitioner's detention is outside of those "special and
5 narrow nonpunitive circumstances," as the Due Process Clause forbids his
6 detention without a predeprivation hearing. These constitutional concerns also
7 counsel in favor of finding demonstrated irreparable harm. *See Baird v. Bonta*, 81
8 F.4th 1036, 1048 (9th Cir. 2023) (declaring that "in cases involving a constitutional
9 claim, a likelihood of success on the merits usually establishes irreparable harm").
10 Absent a TRO, Petitioner has no hope of being reunited with children, husband and
11 elderly mother, all of whom are US citizens or green-card holders. Such
12 "separation from family members" is an important irreparable harm factor. *Leiva-*
13 *Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011) (per curiam) (citation
14 omitted). Moreover, "a postdeprivation hearing cannot serve as an adequate
15 procedural safeguard because it is after the fact and cannot prevent an erroneous
16 deprivation of liberty." *E.A. T.-B.*, 2025 WL 2402130, at *6. In other words,
17 Petitioner's unlawful detention without a pre-deprivation hearing is already
18 occurring, and only immediate release remedies that issue.

19 Respondents may argue that the Government has a compelling interest in
20 "the enforcement of its immigration laws" but this interest cannot disturb the status
21 quo that existed prior to Petitioner's unlawful arrests and detention. Moreover, a
22 TRO would serve the public interest as the claims here assert that the new policy in
23 the DHS Guidance Notice and roving at large arrests violate federal laws:
24 Permitting continued violations of federal law would serve "neither equity nor the
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1 public interest.” *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022). Thus, the
2 public interest weighs in favor of the Petitioner because continued detention
3 without the legal protections afforded under § 1226(a) potentially violates the
4 Petitioner’s due process and statutory rights. *See Xuyue Zhang v. Barr*, 612
5 F.Supp.3d 1005, 1017 (C.D. Cal. 2019) (“Generally, public interest concerns are
6 implicated when a constitutional right has been violated, because all citizens have a
7 stake in upholding the Constitution.”).
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10 **IX. REQUEST FOR RELIEF**

11 The Court should grant this TRO and order Petitioner’s release pending
12 adjudication on the merits of the habeas corpus petition to maintain the status quo
13 as it existed prior to the controversy (i.e. prior to the arrest) or *in the alternative*,
14 order Respondents to afford Petitioner a bond hearing before an immigration judge
15 and prohibit Respondents from removing her from this district .
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25 Respectfully Submitted by

26 _____ s/ Nicolette Glazer Esq. _____
27 Nicolette Glazer Esq.
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LOCAL RULE 11-6.2 CERTIFICATE OF COMPLIANCE

EMERGENCY EX PARTE REQUEST AND APPLICATION FOR TEMPORARY
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1 The undersigned, counsel of record certifies that this brief contains 6522 words,
2 which complies with the word limit of L.R. 11-6.1.
3

4
5 s/ Nicolette Glazer Esq.

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EMERGENCY EX PARTE REQUEST AND APPLICATION FOR TEMPORARY
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Facility Page

Detention Information For:

MODESTA ARAUJO DE ECHEVERRIA

Country of Birth: Mexico

A-Number: 

Current Detention Facility:

Call ICE For Details

ERO Office Information

Family members and legal representatives may be able to obtain additional information about this individual's case by contacting this ERO office:

LOS ANGELES, CA, DOCKET CONTROL OFFICE

Phone Number: (213) 830-4925

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Thursday, December 18, 2025 at 10:38:10 Pacific Standard Time

Subject: URGENT 2:25-cv-11945 MODESTA ARAUJO-CONTRERAS et al v. Bondi Petition for Writ of Habeas Corpus
Date: Thursday, December 18, 2025 at 7:16:36 AM Pacific Standard Time
From: Nicolette Glazer
To: Beck, Daniel (USACAC), USACAC-Habeas, USACAC-Civil
Priority: High
Attachments: image001.png

Dear Mr. Beck:

This correspondence will serve as the required LR and Rule 65 notice that Petitioner is the above identified case, Ms. Modesta Araujo-Contreras will seek a TRO seeking her immediate release from ICE custody. She was apprehended yesterday at her USCIS sec 245(i) adjustment of status interview and her attorney was told that she will be charged with re-entry (that occurred in 1996) and will be deported based on a 1996 exclusion order that was already executed by legacy INS.

Neither she nor her attorney were presented with a notice of intent to reinstate nor could one be done s she is a member of the Duran-Gonzalez, et al. v. Department Homeland Security. et al, Civil Action No. C06-141 I-MJP in the United States District Court for the Western District of Washington, class and covered by the terms of said settlement.

My client is still showing detained at B-18 but her immigration attorney advises that she was transferred to Adelanto.

Since the matter is of extreme urgency, please provide your position as to whether you and your client will agree to not attempt to execute a non-existent reinstated order or deport her on an already executed order. If you are not agreeable to such a maintenance of the status quo, please advise whether you will oppose the TRO so that I can state your position.

I will provide oral notice to your office at 9:00AM.

Please do not hesitate to contact me at 310-735-3478 if you would like to discuss this matter further.

Nicolette Glazer Esq.
Certified Specialist In Immigration and Nationality Law
State Bar of California, Board of Legal Specialization
Direct Line: (310) 735-3478



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**** Note NEW Main Office:** 2121 Avenue of the Stars, 8th Floor, Century City, CA 90067.

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From: cacd_ecfmail@cacd.uscourts.gov <cacd_ecfmail@cacd.uscourts.gov>

Date: Wednesday, December 17, 2025 at 6:56 PM

To: ecfnef@cacd.uscourts.gov <ecfnef@cacd.uscourts.gov>

Subject: Activity in Case 2:25-cv-11945 MODESTA ARAUJO-CONTRERAS et al v. Bondi
Petition for Writ of Habeas Corpus

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered by Glazer, Nicolette on 12/17/2025 at 6:55 PM PST and filed on 12/17/2025

Case Name: MODESTA ARAUJO-CONTRERAS et al v. Bondi
Case Number: 2:25-cv-11945
Filer: MODESTA ARAUJO-CONTRERAS
Document Number: 1

Docket Text:

PETITION for Writ of Habeas Corpus by a Person in Federal Custody (28 USC 2241), Receipt No. ACACDC-41123656 for \$5 filing fee, filed by Petitioner MODESTA ARAUJO-CONTRERAS. (Attorney Nicolette Glazer added to party MODESTA ARAUJO-CONTRERAS(pty:pet))(Glazer, Nicolette)

2:25-cv-11945 Notice has been electronically mailed to:

Nicolette Glazer nicolette@glazerandglazer.com, larry@glazerandglazer.com,
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[STAMP cacdStamp_ID=1020290914 [Date=12/17/2025] [FileNumber=41560791-0] [783f9a9a4491281c10795dfd8890d45bddfd4330bbbe4675ca53822415c8a00ae3d2298cb914e90b6df2fb8f0116df0e3e3e77e69b1afea188446d7cbdd4dd82]]

Thursday, December 18, 2025 at 10:14:44 Pacific Standard Time

Subject: Read: URGENT 2:25-cv-11945 MODESTA ARAUJO-CONTRERAS et al v. Bondi Petition for Writ of Habeas Corpus

Date: Thursday, December 18, 2025 at 8:47:59 AM Pacific Standard Time

From: USACAC-Civil

To: Nicolette Glazer

Priority: High

Your message

To: USACAC-Civil

Subject: [EXTERNAL] URGENT 2:25-cv-11945 MODESTA ARAUJO-CONTRERAS et al v. Bondi Petition for Writ of Habeas Corpus

Sent: Thursday, December 18, 2025 7:16:35 AM (UTC-08:00) Pacific Time (US & Canada)

was read on Thursday, December 18, 2025 8:47:23 AM (UTC-08:00) Pacific Time (US & Canada).

I, John Lucas Charles Frye, hereby declare as follows:

1. I was born on  in Onslow County, North Carolina, United States of America.
2. I am an attorney licensed in the State of California; my bar number is 341676
3. On December 17, 2025 I accompanied Modesta Araujo Contreras to her adjustment of status interview as her attorney; Ms Contreras Araujo has retained the Law Offices of Rosana Kit Wai Cheung and I am employed there as an associate attorney.
4. During the interview, she was asked standard I-485 questions. At the end of the interview, she was ordered by the USCIS officer, Officer Quintanilla, to sign a sworn statement that she had reentered the United States without inspection in 1996 after being removed twice. This was of no surprise to her Counsel or Ms Araujo Contreras as this had been clearly stated in her waiver applications.
5. After she signed, an older, Caucasian USCIS employee and four ICE agents entered the office and one, a tall, Caucasian possibly Latino ICE officer informed her she was being federally charged with illegal reentry and deported to Mexico.
6. The officer did not serve me with any new notice to appear or re instatement notice.
7. I informed the officers of her pending motion to reopen with the San Diego court and pending waivers with USCIS; I showed a short, younger Latina ICE officer evidence of what had been filed but it did not show a stamp as these documents were filed as recently as Monday.
8. I tried to inform one officer that this would be a fruitless endeavor as she would be asserting her Habeas rights and that my client was a low value target for a litany of reasons. She called her supervisor and said I "claimed" we had filed this motion, implying I was lying.
9. The female Latina ICE officer said that "attorneys threaten her all the time" to which I put my hands up and said no one was threatening her, as this was shocking to me as no one with any basic comprehension of the English language would recognize such a statement as a threat.
10. My client was then led away to B-18 and I exited the facility with my client's daughter and petitioner
11. This interaction was overheard by speaker phone by my employer Rosana Kit Wai Cheung and my office manager Oscar Amaya. They could attest to these events if called as witnesses.

I swear under penalty of perjury, as an Officer of the Court and under the Laws of the State of California and the United States that the above is true to the best of my memory and knowledge.

JOHN LUCAS C FRYE, ESQ.
Attorney at Law

JLF

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
DEFENSE PROSECUTIONS OFFICE
720 EAST SAN YSIDRO BLVD.
SAN YSIDRO, CALIFORNIA 92173-9018

TO: ARAUJO de Echeverria, Modesta
DD&P - San Diego District
880 Front Street, Room B-250
San Diego, California 92101

A NUMBER: 

LAST NAME: ARAUJO de Echeverria
COUNTRY OF BIRTH: Mexico

FIRST NAME: Modesta

DOB: 

It is understood that you will be residing or able to receive mail at the above stated address. The Law requires that you notify the Immigration Judge and this office in writing of any changes in your address. Be sure to include your full name, address, A number (file number) in your written communication.

**** YOUR HEARING WILL BE HELD AT THE FOLLOWING LOCATION ****

EXECUTIVE OFFICE OF IMMIGRATION REVIEW
TO BE SET AT A LATER DATE, TIME
AND LOCATION.

IF YOU DO NOT APPEAR FOR YOUR SCHEDULED HEARING, YOU
WILL BE ORDERED EXCLUDED AND DEPORTED IN YOUR ABSENCE

IMPORTANT: PLEASE DIRECT ALL MAIL TO THE IMMIGRATION JUDGE
AT THE FOLLOWING ADDRESS

EXECUTIVE OFFICE OF IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
401 WEST "A" STREET, SUITE 800
SAN DIEGO, CALIFORNIA 92101-7904

FOR INFORMATION REGARDING YOUR CASE, PLEASE CALL THE NUMBERS BELOW

BUS: (619) 662-7112
FAX: (619) 662-7154

I certify that I can receive mail at the above stated address and that I have received a copy of this notice. I understand that if I am coming from Mexico, I must report to the Port of Entry, at least 2 hours before my scheduled hearing.

Yo certifico que yo puedo recibir correo en la dirección arriba y que he recibido una copia de este aviso. Yo entiendo que si yo vengo de Mexico, yo necesito reportarme a la garita, 2 horas antes del horario de mi audiencia.

Modesta ARAUJO .C
SIGNATURE - FIRMA

08/14/96
DATE - FECHA

CHANGE DATE FOR INTERVIEW PROOF - ATTY. ROSANA KIT WAI CHEUNG

From: rosana cheung (lawofficesrosanacheung@yahoo.com)

To: 

Date: Monday, November 17, 2025 at 02:54 PM PST

Dear Ms. Modesta,

As per your request, attached please find your notification at the bottom of this email.

**Sincerely,
Vanessa**

Law Offices of Rosana Kit Wai Cheung
617 S. Olive St. Ste. 710
Los Angeles, CA 90014
Tel. (213) 891-1314
Fax (213) 891-1318



MODESTA ARAUJO..pdf
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