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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

C-G-S-

Case No. 3:26-cv-00087-IM

Petitioner,

v.

**RESPONDENTS' OPPOSITION TO
THE MOTION FOR A TEMPORARY
RESTRAINING ORDER**

LAURA HERMOSILLO, Seattle Field
Office Director, U.S. Immigration and
Customs Enforcement and Removal
Operation, **KRISTI NOEM**, Secretary
of Homeland Security, **PAMELA
BONDI**, Attorney General, **TODD
LYONS**, Acting Director of
Immigration and Customs
Enforcement,

Respondents.

The government opposes Petitioner's Motion for a Temporary
Restraining Order.

A. Factual & Legal Background

Petitioner is a citizen of Guatemala who entered the United States without inspection or parole on an unknown date. *See* Declaration of Ian Bloom (“Bloom Decl.”), filed in this case, at ¶ 4.

She was found in Portland, Oregon by immigration authorities on January 15, 2026, while riding in a vehicle driven by someone who was the target of an immigration enforcement operation. *Id.* at ¶ 5. Petitioner admitted to officers that she was in the United States unlawfully. *Id.* at ¶ 6.

Petitioner told officers that she is the custodial parent of two minor children. *Id.* at ¶ 8. She completed a form, in Spanish, designating a family member as the custodian of her children. *Id.* The government has produced that signed form to counsel for Petitioner.

Petitioner was transferred to the Northwest ICE Processing Center in Tacoma Washington on January 15, 2026. *Id.* at ¶ 9. She has been served with an I-862 Notice to Appear in an immigration proceeding.

The basis for Petitioner’s detention is Title 8 of the United States Code, Section 1225(b)(2)(A). Bloom Decl. at ¶ 11.

Under Section 1225(b)(2), a noncitizen “who is an applicant for admission” is subject to mandatory detention pending full removal proceedings “if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.”

8 U.S.C. § 1225(b)(2)(A) (requiring that such noncitizens “be detained for a proceeding under section 1229a of this title”); *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) (“[F]or aliens arriving in and seeking admission into the United States 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.’”) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018)).

B. This Court should deny Petitioner’s TRO motion.

1. Legal standard for granting a TRO.

The standards for a TRO and a preliminary injunction are “substantially identical.” *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A preliminary injunction is an “extraordinary and drastic remedy.” *Munaf v. Geren*, 553 U.S. 674, 689 (2008). “To obtain a preliminary injunction, a plaintiff must establish (1) a likelihood of success on the merits, (2) a likelihood of irreparable harm in the absence of preliminary relief, (3) that the balance of equities favors the plaintiff, and (4) that an injunction is in the public interest.” *Geo Group, Inc. v. Newsom*, 50 F.4th 745, 753 (9th Cir. 2022) (en banc) (citing *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008)).

To carry its burden of persuasion, the moving party must make a “clear showing” on each of these four required elements. *Lopez v. Brewer*, 680 F.3d

1068, 1072 (9th Cir. 2012) (quoting *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997)).

Because Petitioner here seeks a mandatory injunction, her burden is “doubly demanding.” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). To succeed, she “must establish that the law and facts *clearly favor*” his position, “not simply that [h]e is likely to succeed.” *Id.* (emphasis in original). Further, a mandatory injunction “is particularly disfavored” and may not be granted “unless extreme or very serious damage will result.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 879 (9th Cir. 2009) (cleaned up).

2. Petitioner makes no showing of irreparable harm.

This Court should deny Petitioner’s motion because she fails to establish a likelihood of irreparable harm. To obtain a TRO, a party “must establish” that he is “likely to suffer irreparable harm in the absence of preliminary relief.” *Winter*, 555 U.S. at 20. To do so, the party must make a “showing on the facts” of the case and cannot rely on unsubstantiated argument and presumption. *Flexible Lifeline Sys., Inc. v. Precision Lift, Inc.*, 654 F.3d 989, 998 (9th Cir. 2011); *see also Ovitsky v. Oregon*, No. 3:12-cv-02250-AA, 2013 WL 5253162, at *3 (D. Or. Sept. 16, 2013) (denying relief where plaintiff did not provide evidence of irreparable harm).

Petitioner makes no showing of a likelihood of irreparable harm. She speculates that her transfer from the District of Oregon could be done to “undermine” the Court’s jurisdiction. Mot. at 3. That has not happened. The Petition was filed before she departed our district. The government does not contest venue.

She also notes that her two minor children may be left without a guardian while she is detained. *Id.* Government counsel acknowledges the mental and emotional burden that Petitioner’s separation from her young children will have on her and the children. However, Petitioner has arranged for a family member to be custodian of her children in her absence. Bloom Decl. at ¶ 8.

Petitioner fails to establish entitlement to a TRO. Indeed, showing a “possibility” of irreparable harm is insufficient for such relief. *See Winter*, 555 U.S. at 22. Petitioner may believe that she will be irreparably harmed by her detention, but this does not satisfy the inquiry for mandatory injunctive relief. It only “begs the constitutional questions presented in [his] petition by assuming that [P]etitioner has suffered a constitutional injury.” *Cortez v. Nielsen*, No. 19-754-PJH, 2019 WL 1508458, at *3 (N.D. Cal. Apr. 5, 2019). Petitioner’s “loss of liberty” is “common to all [noncitizens] seeking review of their custody or bond determinations.” *Resendiz v. Holder*, No. 12-4850-WHA, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). “[A] noncitizen must

arrest or commitment.” 263 U.S. 149, 158 (1923) (citation omitted). “Release is therefore not the appropriate remedy for these alleged violations.” *L-J-P-L-*, 2025 WL 2430268, at *6 n.3.

Second, the Court cannot properly consider Petitioner’s habeas claim because Title 8 of the United States Code, Section 1252(b)(9) provides that judicial review of “all questions of law and fact . . . arising from any action taken or proceeding brought to remove an alien from the United States . . . shall be available only in judicial review of a final order [of removal].” That statute deprives the Court of subject-matter jurisdiction over Petitioner’s claims. *See Khalil v. President of the United States*, Nos. 25-2162 & 25-2357, 2026 WL 111933, at *1 (3d Cir. Jan. 15, 2026) (barring district court habeas jurisdiction where alien can meaningfully raise same claims, including contesting detention, in immigration removal proceeding).

The Notice to Appear that Petitioner received (Bloom Decl. at ¶ 10) will initiate immigration proceedings, where Petitioner can properly direct her claims for release. The government expects that before the scheduled January 20, 2026, hearing on this case, the immigration proceeding will have officially begun. Under *Khalil*, that will strip the Court of jurisdiction to consider Petitioner’s habeas claim. That virtually inevitable prospect is another reason why Petitioner cannot show a likelihood of success on the merits.

The government respectfully asks the Court to deny Petitioner's Motion for a Temporary Restraining Order.

DATED this 16th day of January 2026.

Respectfully Submitted,

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