UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Glenda Marisol PARRAS DEMINERO,	§	Civ 5:26-cv-00222-XR
Petitioner,	§	**EMERGENCY EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**
vs.	§	
PAMELA BONDI, UNITED STATES ATTORNEY GENERAL, *et al.*,	§	*Points and Authorities in Support of Emergency Ex Parte Motion for Temporary Restraining Order and Preliminary Injunction (Challenge to Unlawful Incarceration; Request for Declaratory and Injunctive Relief)*
Respondents.	§	

TABLE OF CONTENTS

NOTICE OF MOTION.....5
INTRODUCTION.....6
I. STATEMENT OF FACTS.....9
II. PROCEDURAL BACKGROUND.....10
III. LEGAL STANDARD.....11
IV. ARGUMENT.....12
A. Petitioner Warrants a Temporary Restraining Order.....12
(i) Petitioner Is Likely to Succeed on the Merits of His Claims.....13
(ii) Petitioner Will Suffer Irreparable Harm.....17
(iii) The Balance of Equities and the Public Interest Favor Granting the Temporary Restraining Order.....20
V. CONCLUSION.....21
CERTIFICATE OF CONFERENCE.....23
CERTIFICATE OF SERVICE.....24

TABLE OF AUTHORITIES

Cases

A.E. v. Andrews, No. ___, 2025 WL 1424382 (E.D. Cal. May 16, 2025) 14
Alliance for the Wild Rockies v. Cottrell, 632 F.3d 1127 (9th Cir. 2011) 12
Arce v. Trump, No. 8:25-CV-520, 2025 WL 2675934 (D. Neb. Sept. 18, 2025) 7
Ariz. Dream Act Coal. v. Brewer, 757 F.3d 1053 (9th Cir. 2014) 20
Barker v. Wingo, 407 U.S. 514 (1972) 17
Bluefield Water Ass'n v. City of Starkville, 577 F.3d 250 (5th Cir. 2009) 12
Byrum v. Landreth, 566 F.3d 442 (5th Cir. 2009) 11
Carlon v. Kramer, No. 4:25-CV-3178, 2025 WL 2624386 (D. Neb. Sept. 11, 2025) 7
Carmona-Lorenzo v. Trump, No. 4:25-CV-3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025) 7
Chogllo v. Scott, No. 2:25-cv-00437-SDN, 2025 WL 2688541 (D. Me. 2025) 7
Corley v. United States, 556 U.S. 303 (2009) 16
Fernandez v. Lyons, No. 8:25-CV-506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025) 7
Garcia Jimenez v. Kramer, No. 4:25-CV-3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025) ... 7
Gomes v. Hyde, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025) 7
Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty., 415 U.S. 423 (1974) 11, 12
Günaydin v. Trump, 784 F. Supp. 3d 1175 (D. Minn. 2025) 7
Vazquez v. Sessions, 872 F.3d 976 (9th Cir. 2017) 17, 18, 20
Herrera Torralba v. Knight, No. 2:25-CV-01366-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025) 7
Jacinto v. Trump, No. 4:25-CV-3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025) 7
Jordan v. Fisher, 823 F.3d 805 (5th Cir. 2016) 11
Jones v. Tex. Dep't of Criminal Justice, 880 F.3d 756 (5th Cir. 2018) (per curiam) 11
Lazaro Maldonado Bautista v. SantaVazquez, No. 5:25-cv-01873-SSS-BFM, Dkt. 14 (C.D. Cal. July 28, 2025) 7
Leal-Vazquez v. Noem, No. 1:25-CV-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025) 7
Lopez Benitez v. Francis, No. ___, 2025 WL 2371588 (S.D.N.Y. June 9, 2025) 14
Lopez v. Heckler, 713 F.2d 1432 (9th Cir. 1983) 20
Loper Bright Enters. v. Raimondo, 144 S. Ct. 2244 (2024) 14
Mathews v. Diaz, 426 U.S. 67 (1976) 13
Matter of Yajure-Hurtado, 29 I&N Dec. 216 (B.I.A. 2025) 10, 11, 13, 14
Melendres v. Arpaio, 695 F.3d 990 (9th Cir. 2022) 18
Mohammed H. v. Trump, No. CV 25-1576 (JWB/DTS), 2025 WL 1692739 (D. Minn. June 17, 2025) 7
Nat'l Ctr. for Immigrants Rights, Inc. v. I.N.S., 743 F.2d 1365 (9th Cir. 1984) 17
Palma v. Trump, No. 4:25-CV-3176, 2025 WL 2624385 (D. Neb. Sept. 11, 2025) 7
De la Torre v. Berg, No. 8:25-CV-494, 2025 WL 2531566 (D. Neb. Sept. 3, 2025) 7
De la Torre v. Kramer, No. 4:25-CV-3179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025) 7
Pizarro Vazquez v. Raycraft, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025). 15
Preminger v. Principi, 422 F.3d 815 (9th Cir. 2005) 20

Preap v. Johnson, 831 F.3d 1193 (9th Cir. 2016) 17
Pulsifer v. United States, 601 U.S. 124 (2024) 15
Ramirez Clavijo v. Kaiser, 2025 WL 2419263 (N.D. Cal. 2025) 19
Rodriguez v. Bostock, No. 3:25-CV-05240-TMC, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025) 7
Sampiao v. Hyde, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) 7
Valle del Sol Inc. v. Whiting, 732 F.3d 1006 (9th Cir. 2013) 20
Vazquez v. Feeley, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025) 7
Warsoldier v. Woodford, 418 F.3d 989 (9th Cir. 2005) 18
Yates v. United States, 574 U.S. 528 (2015) 15
Zadvydas v. Davis, 533 U.S. 678 (2001) 13
Zepeda v. I.N.S., 753 F.2d 719 (9th Cir. 1983) 19

Statutes

8 U.S.C. § 1101 et seq. 7
8 U.S.C. § 1101(a)(13)(A) 14
8 U.S.C. § 1182(a)(6)(A)(i) 6
8 U.S.C. § 1225(a)(1) 14, 15
8 U.S.C. § 1225(b)(1)(A)(i) 15
8 U.S.C. § 1225(b)(2)(A) 6, 7
8 U.S.C. § 1225(b)(2)(C) 15
8 U.S.C. § 1225(d)(1) 15
8 U.S.C. § 1225a 15
8 U.S.C. § 1226(a) 5, 7, 8, 13
8 U.S.C. § 1226(a)(1)(B) 7, 9
8 U.S.C. § 1226(c)(1)(E) 16
Fed. R. Civ. P. 65(b) 12

Regulations

8 C.F.R. § 1003.19(i) 6, 8, 9, 21

Public Law

Laken Riley Act, Pub. L. No. 119-1, sec. 236, § 2, 139 Stat. 3 (2025) 16

Other Authorities

DHS, Office of Inspector General, *Summary of Unannounced Inspections of ICE Facilities Conducted in Fiscal Years 2020–2023* (2024) 17
Kim Luciania, *ICE Arrest 100 in Tallahassee: Over 100 detained in one of Florida's largest raids. What we know,* Tallahassee Democrat (May 29, 2025) 10
Miriam Jordan & Jazmine Ulloa, *Concerns Grow Over Dire Conditions in Immigrant Detention,* N.Y. Times (July 1, 2025) 18
NPR, *The Conditions in ICE Detention Centers* (Sept. 24, 2025) 18
Alexandra Villareal, *"It's hard to know what day it is": families tell of grim ICE detention in Texas,* The Guardian (Sept. 30, 2025) 18

NOTICE OF MOTION

Petitioner Glenda Marisol Parras Deminero ("Ms. Parras" or "Petitioner") applies to this honorable Court for an emergency ex parte temporary restraining order. It is an urgent mater. She filed her petition for issuance of a writ of habeas corpus on January 16, 2026. Dkt. 1-1. The need for injunctive relief is urgent because the Pearsall immigration court will hold a removal hearing January 26, 2026, at 8:30 A.M. Dkt. 1-4. The Petitioner files this motion for an ex parte Temporary Restraining Order because she shows she has good cause, because this Court has held without exception that such detention as her is unlawful, and she will suffer irreparable harm if she is ordered removed next week before the Court renders a decision regarding her complaint of unlawful detention and due process.

Petitioner brings this emergency motion for injunctive relief now before this Court because irreparable harm may occur absent injunctive relief or decision to issue the writ, because she now has a final removal merits hearing next week set for January 26, 2026 at 8:30 A.M. Dkt. 1-4. There will be irreparable harm absent a restraining order or a grant of issuance of the writ, because her posture will change as far as detention if she is ordered removed on January 26, 2026. She would have been denied the right to avail herself proper standards for release on bond, both statutorily, and a due process matter, and conceivably could be subject to an entirely different post-order detention regime under 8 U.S.C. § 1231.

She asks this Court for an order enjoining Respondents Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), and Pamela Bondi, in her official capacity as the U.S. Attorney General, (1) from continuing to detain based on its incorrect interpretation of the Immigration and Nationality Act (INA), (2) to order her immediately release from immigration detention; (3) order Respondents not to re-arrest her until she is afforded a Civ 5:26-cv-00222-XR

hearing before a neutral decision-maker, as required by the Due Process clause of the Fifth Amendment, (4) prohibit Respondents from deporting her pending final resolution of this litigation. (5) order the Respondents to file with this Court a complete copy of her administrative file maintained by the Department of Justice and the Department of Homeland Security.

As set forth in these Points and Authorities in support of this motion, Petitioner raises that she warrants a temporary restraining order due to her weighty liberty interest under the Due Process Clause of the Fifth Amendment in remedying her unlawful detention, where that detention appears indefinite and which was imposed absent a pre-deprivation due process hearing.

INTRODUCTION

1. Although Petitioner was present and residing in the United States for a year at the time of the October 2025 immigration arrest, she was subjected to a new DHS policy—formally issued on July 8, 2025—which instructs all 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) and therefore subject to mandatory detention. Todd Lyons Memorandum, "ICE Interim Guidance Regarding Detention Authority for Applicants for Admission." [1] ICE now argues that, actually, the detention is under a new theory, namely under a different subsection, 8 U.S.C. § 1225(b)(1)(A)(iii)(II). They do not explain their error in arresting under the prior subsection. *Id.*
2. The new July 8, 2025 DHS policy was issued "in coordination with the Department of Justice (DOJ)." *See Id.* at 1.

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission

3. The Petitioner is detained at the Dilley Immigration Processing Center and is ineligible for a bond, as an Immigration Judge (IJ) confirmed in a written decision on January 6, 2026, Dkt. 1-3, based on the Respondents' new policy. *See Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025).

4. The ineligibility for a bond hearing and her ongoing detention on the basis of the new DHS policy violates the plain language of the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*. The DHS policy has been found by numerous district courts (over 900 as of this writing (briefly summarized here in footnote 1)) to be unfounded and unlawful.[2] Despite the new DHS policy interpretation to the contrary, the plain language of 8 U.S.C. § 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and is now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on bond or conditional parole. Section 1226(a) expressly applies to people who, like Petitioner, is charged as removable for having entered the United States without inspection and being present without admission. *See, e.g., Inclan-Lopez v. Thompson*, 25-CV-1533-FB, 2025 WL 3766110 (W.D. Tex 2025) (where

[2] *Chogllo v. Scott,* No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *1 (D. Me. 2025); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Arce v. Trump,* No. 8:25CV520, 2025 WL 2675934 (D. Neb. Sept. 18, 2025); *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Palma v. Trump*, No. 4:25CV3176, 2025 WL 2624385 (D. Neb. Sept. 11, 2025); *Carlon v. Kramer,* No. 4:25CV3178, 2025 WL 2624386 (D. Neb. Sept. 11, 2025); *De la Torre v. Kramer*, No. 4:25CV3179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Martinez v. Secretary of Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025); *Herrera Torralba v. Knight*, No. 2:25-CV-01366-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Carmona-Lorenzo v. Trump,* No. 4:25CV3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Fernandez v. Lyons*, No. 8:25CV506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *De la Torre v. Berg*, No. 8:25CV494, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); *Leal-Vazquez v. Noem*, No. 1:25-CV-02428- JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Jacinto v. Trump*, No. 4:25CV3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025); *Garcia Jimenez v. Kramer*, No. 4:25CV3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Anicasio v. Kramer*, No. 4:25CV3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025); *Mohammed H. v. Trump*, No. CV 25-1576 (JWB/DTS), 2025 WL 1692739, at *5–6 (D. Minn. June 17, 2025); *Günaydin v. Trump*, 784 F. Supp. 3d 1175 (D. Minn. 2025); *Lazaro Maldonado Bautista et al v. Ernesto SantaVazquez Jr et al.*, 5:25-cv-01873-SSS-BFM, Dkt # 14 (C.D. Ca. Jul. 28, 2025); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *16 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *9 (D. Mass. July 7, 2025).

Government likewise argued that 1225(b)(1)(A)(iii)(II) applied, and adopting Report and Recommendations rejecting that, and stating that "As Petitioner's case is materially indistinguishable from *Becerra Vargas*, she is entitled to the same result, and habeas relief should be granted. See *Chang v. Noem*, No. SA:25-CV-1259- FB (HJB) Report and Recommendation, (W.D. Tex. Dec. 8, 2025) (recommending that petition for writ of habeas corpus be granted after the parties, at the Court's behest, advised that there were no material differences between that case and *Becerra Vargas*)); *Reyes-Perez v. Bondi*, SA-25-CV-1302-XR, (W.D. Tex. November 25, 2025), slip op. at 10-12 (same).

5. Respondents' new legal interpretation set forth in the policy is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner who is present within the United States. Respondents' new policy and the resulting ongoing detention of Petitioner without a bond hearing is depriving her of statutory and constitutional rights and constitutes irreparable injury.

6. Petitioner therefore seeks a Temporary Restraining Order enjoining Respondents from continuing to detain her based on their new, and he maintains, incorrect interpretation of the Immigration and Nationality Act. Petitioner requests immediate release from immigration detention. Petitioner further requests that Respondents be restrained from re-arresting her unless and until they first provide a hearing before a neutral decision-maker, consistent with the Due Process Clause of the Fifth Amendment, establishing by clear and convincing evidence that any renewed detention would not be indefinite and that Petitioner is either a danger to the community or a flight risk.

7. Respondents' asserted detention authority, as now the immigration courts' policy as well per *Matter of Yajure-Hurtado*, is unlawful because it ignores the statutory scheme carefully

set out by Congress and would eviscerate the due process rights of potentially millions of immigrants like Petitioner. As noted above, Congress created a statutory scheme that clearly distinguishes between expedited removals at border and general removals which occur outside of that context. The expedited removal scheme necessarily trades some due process protections for expedited processing. Such tradeoffs are not appropriate for individuals like Petitioner who have been in the United States for several years.

I. STATEMENT OF FACTS

1. Petitioner is 41 years old. She has been in the United States for over a year. She has filed an I-589 Asylum with United States Citizenship and Immigration Services (USCIS) on June 25, 2024. Exhibit 1. She has since her entry been pursuing her asylum application and awaiting a non-detained master hearing with the Dallas Immigration Court. At the time of entry, Petitioner was detained under Section 236 of the Immigration and Nationality Act ("INA"), the respondents then released her on his own recognizance (O-rec), under 8 U.S.C. § 1226(a)(2)(B). Dkt. 1-2, Form I-220A. She has attended annual check-ins, and was awaiting her non-detained immigration court setting when ICE then abruptly re-detained her without notice or providing any reasons at her regularly scheduled ICE check-in in Dallas on October 23, 2025. She has remained now in civil detention in the custody of ICE at Dilley Immigration Processing Center in Dilley, Texas ever since. Petitioner had filed her Form I-589, application for asylum, had hired an attorney and was preparing for her non-detained master hearing date, before her re-arrest, but now with her new detention has been in front of the detained immigration judge on the Pearsall Immigration Court docket, which handles Dilley cases. Indeed, the Pearsall immigration judge has now set her case for a final hearing on January 26, 2026 at 8:30AM. Dkt. 1-4.

2. Upon her entry into the United States in 2024, the DHS released her into the country with an I-220A form *Order of Release on Recognizance*, or "OREC," which found that she was detained and released under INA 236, formally documenting that she was arrested, placed in removal proceedings, and released pursuant to INA § 236. Form I-220A Order of Release on Recognizance (OREC). The OREC expressly states that her release was conditioned on compliance with § 236 and related regulations. *Id.*
3. She was waiting for an initial master hearing (nondetained), but due to her detention in October 2025, it is now scheduled for a final hearing on January 26, 2026 at 8:30 a.m. at the Pearsall Immigration Court. Dkt. 1-4.
4. Petitioner is *ineligible for bond* with the Immigration Judge (IJ) because the IJ must follow *Matter of Yajure Hurtado, supra*. Under that decision, the Board has decreed that an IJ has no jurisdiction to re-determine a bond for someone like Petitioner, per the Board's interpretation of 8 U.S.C. §§ 1225(b) and 236, because it views her as "seeking admission" notwithstanding that she was released into the United States in 2024, and has lived here continuously since.
5. Without the intervention of this Court, if this motion for temporary restraining order is not granted, the IJ may order her removed to El Salvador on January 26, 2026 before she can access her rights to seek release on her previous own recognizance as she was before her unannounced arrest by Respondents on October 23, 2025.

6. PROCEDURAL BACKGROUND

1. Petitioner filed this Petition for Habeas Corpus with this Court on January 16, 2026. Dkt.1.
2. She seeks now in this motion for this Court to order Respondents to end its continuing detention of her.

7. LEGAL STANDARD

1. The purpose of a TRO is to "preserv[e] the status quo and prevent[ ] irreparable harm just so long as is necessary to hold a hearing, and no longer." *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974).

2. Petitioner is entitled to a temporary restraining order or preliminary injunction only if he shows: "(1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction is not issued, (3) that the threatened injury if the injunction is denied outweighs any harm that will result if the injunction is granted, and (4) that the grant of an injunction will not disserve the public interest." *Jones v. Tex. Dep't of Criminal Justice*, 880 F.3d 756, 759 (5th Cir. 2018) (per curiam) (quoting *Byrum v. Landreth*, 566 F.3d 442, 445 (5th Cir. 2009)). The party seeking injunctive relief must meet all four requirements. *Jordan v. Fisher*, 823 F.3d 805, 809 (5th Cir. 2016) (quoting *Bluefield Water Ass'n v. City of Starkville*, 577 F.3d 250, 253 (5th Cir. 2009)). Even if Petitioner here does not show a likelihood of success on the merits, the Court may still grant a temporary restraining order if she raises "serious questions" as to the merits of her claims, the balance of hardships tips "sharply" in her favor, and the remaining equitable factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). As set forth in more detail below, Petitioner overwhelmingly satisfies both standards.

8. ARGUMENT

A. Petitioner Warrants a Temporary Restraining Order

1. A temporary restraining order should be issued if "immediate and irreparable injury, loss, or irreversible damage will result" to the applicant in the absence of an order. Fed. R. Civ. P. 65(b). The purpose of a temporary restraining order is to prevent irreparable harm before a preliminary injunction hearing is held. *See Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Local No. 70 of Alameda City,* 415 U.S. 423, 439 (1974).
2. Petitioner is facing a removal hearing on 1-26-26, where she is likely to remain in unlawful custody in violation of her due process rights and is likely to be subject to an illegal removal from the United States, without intervention by this Court. Petitioner will continue to suffer irreparable injury if she continues to be detained without due process, because she will be sent far from his family, to El Salvador, without having enjoyed her right here to pursue a bond hearing, and be released to her home, where she can prepare for her immigration hearings with the help of her family, who are suffering without her support, and to prepare evidence with counsel of her timely filed asylum application with the immigration court.
3. Exhaustion before the BIA is futile in Petitioner's case. Normally, an immigrant petitioner must exhaust with the agency, that is, file an appeal a bond denial to the Board of Immigration Appeals (BIA) and wait for a decision prior to petitioning for a writ of habeas corpus. However, there is no statutory exhaustion requirement in 28 U.S.C. § 2241. The courts have routinely reviewed the detention of immigrants pursuant to different statutes in habeas proceedings. *See, e.g., Tran v. Mukasey*, 515 F.3d 478 (5th Cir. 2008). Furthermore, exhaustion is inappropriate here because appeal to the Board of Immigration Appeals is futile and inadequate. Appeal to the BIA is futile because the agency has already

issued a precedential decision holding that immigration judges unequivocally have no jurisdiction to entertain granting bond in her exact circumstances. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA described its holding in this case as: Based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. *Id.* The requirement that Petitioner must exhaust all available appeals is subject to exceptions. The Fifth Circuit has held that "[e]xceptions to the exhaustion requirement are appropriate where the available administrative remedies either are unavailable or wholly inappropriate to the relief sought, or where the attempt to exhaust such remedies would itself be a patently futile course of action." *Hinojosa v. Horn*, 896 F.3d 305, 314 (5th Cir. 2018) (citing *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994) (per curiam). As of today, the BIA has issued at least two precedential decisions stating that Petitioner's exact circumstances deprive an immigration judge of jurisdiction to consider bond. There is no reason to believe that the BIA would not apply its own recent precedent decisions to Petitioner's case. Petitioner has a clear due process interest in being released from detention. Respondents bear the burden of proving that Petitioner's detention is lawful. Moreover, the landslide of recent district court cases on this issue have found no exhaustion is required in this situation, see e.g. *Lepe v. Andrews,* —— F. Supp. 3d ——, —— (E.D. Cal. 2025) [2025 WL 2716910, at *9].

(i) Petitioner Is Likely to Succeed on the Merits of Her Claims

1. Petitioner is likely to succeed on her claim that her ongoing detention by Respondents under 8 U.S.C. § 1225(b)(2) and the denial of bond hearing before an immigration judge

is unlawful. The text, context, and legislative and statutory history of the Immigration and Nationality Act all demonstrate that 8 U.S.C. § 1226(a) governs his detention.

2. The Government's policy, confirmed by the BIA in *Matter of Yajure-Hurado*, of refusing bond hearings for persons like her who were re-apprehended in the interior of the United States violates her Fifth Amendment right to due process, violates federal law and its own administrative procedures. Dkt. 1 at 18–20. Aliens have due process rights to life, liberty and property. *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Since Petitioner is in governmental custody, his liberty interest is at stake. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, the Petitioner is not an applicant for admission, so she would be entitled to a bond hearing. Thus, if Petitioner is not an "applicant for admission," the denial of her request for a bond hearing violates her due process rights.

4. On September 5, 2025, the BIA published *Matter of Yajure-Hurtado*, holding that "aliens present in the United States without having been admitted or paroled," like this Petitioner, are "subject to mandatory detention under § 1225(b)(2) as applicants for admission." 29 I&N Dec. 216 (BIA 2025).

5. Yet, since September 5, numerous federal district courts have rejected the reasoning of *Yajure-Hurtado*, expressly finding it to be contrary to law, and ordering the release of similarly situated noncitizens.[3] Courts have thus widely rejected that reading of the statute.

[3] *See, e.g.*, *A.E. v. Andrews*, No. ___, 2025 WL 1424382, at *6–8 (E.D. Cal. May 16, 2025); *Lopez Benitez v. Francis*, No. ___, 2025 WL 2371588, at *6–7 (S.D.N.Y. June 9, 2025); *Lopez-Campos v. Raycraft*, No. ___, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025); *Cardin-Alvarez v. Rivas*, CV 25-02943 PHX GMS (CDB), 2025 WL 2898389 (D. Az. October 7, 2025); *Hypollite v. Noem,* 25-CV-4304 (NRM), 2025 WL 2829511 (E.D. NY Oct. 6, 2025).

6. This Court is not bound by the BIA's interpretation of the INA, particularly where it conflicts with the statutory text and longstanding federal case law. Moreover, under *Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244 (2024), federal courts owe no deference to agency interpretations of statutes. The overwhelming weight of authority against *Yajure-Hurtado* demonstrates that, even if Respondents were correct in raising this issue, Petitioner would still be entitled at minimum to an individualized bond hearing under the governing statutory scheme.

7. Section 1225(a)(1) states:

> An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission. 8 U.S.C. § 1225(a)(1).

The term "admitted" means "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). Thus, the Government argues that any alien who illegally entered the United States without having been inspected by an immigration officer is an applicant for admission. Under this interpretation, because Petitioner admits having entered the United States without inspection in 2024, she would be an applicant for admission.

8. On the other hand, even statutory language that is unambiguous in isolation must be read in context. *See Yates v. United States*, 574 U.S. 528, 537 (2015) (plurality); *Pulsifer v. United States*, 601 U.S. 124, 133 (2024). The context clues present here point against Petitioner' classification as an applicant for admission. As other courts have determined, *e.g.*, *Pizarro Vazquez v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025), considering § 1225 alongside its § 1226 companion demonstrates that the most

natural interpretation of § 1225 is that it applies to aliens encountered as they are attempting to enter the United States or shortly after they gained entry without inspection.[4] Section 1225 repeatedly refers to aliens entering the country. *See* 8 U.S.C. § 1225(b)(1)(A)(i) (screenings for aliens "arriving in the United States"); *id.* § 1225(b)(2)(C) (aliens "arriving on land ... from a foreign territory contiguous to the United States" may be returned to that territory pending removal proceedings); *id.* § 1225(d)(1) (immigration officers authorized to inspect "any vessel, aircraft, railway car, or other conveyance or vehicle in which they believe aliens are being brought into the United States"). The statute further explicitly addresses "crewm[e]n" and "stowaway[s]" in § 1225(b)(2), reflecting that Congress envisions applicants for admission as being arriving aliens. In addition, its sister statute, 8 U.S.C. § 1225a, focuses on the pre-inspection of aliens entering the country at foreign airports. In sum, § 1225 is set up with arriving aliens in mind.

9. Compare that to § 1226's broader language that realistically applies to any alien awaiting a removal decision. Considering § 1225 in its entirety, and in relation to § 1226, reveals that § 1225 is more limited than what that plain text of § 1225(a)(1) might indicate when construed in the abstract.

10. Moreover, courts construe statutes "so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." *Corley v. United States*, 556 U.S. 303, 314 (2009). Adopting the Government's reading would be to find recent congressional enactments superfluous. Congress passed the Laken Riley Act to amend § 1226(c) and include more classes of aliens who are ineligible for bond under § 1226(a).

[4] As noted previously, over twenty federal courts concur generally with Petitioner's interpretation of the statutory language as applied in this context. *See, e.g.*, *Pizarro-Vazquez*, 2025 WL 2609425, at *7 (citing cases).

Laken Riley Act, Pub. L. No. 119-1, sec. 236, § 2, 139 Stat. 3, 3 (2025). One of those new classes of non-bondable aliens are aliens not admitted into the United States who were charged with specific crimes. 8 U.S.C. § 1226(c)(1)(E) (citing *id.* § 1182(a)(6)(A)). Under the Government's apparent expansive interpretation of § 1225, the amendment would have no purpose. Section 1225(b)(2) would already provide for mandatory detention of every unadmitted alien, regardless of whether the alien falls within one of the new classes of non-bondable aliens established by the Laken Riley Act.

11. In short, for purposes of Petitioner's motion for entry of a temporary restraining order and preliminary injunction, the Court should find that she is likely to succeed on the merits of his habeas petition. This factor weighs in favor of a preliminary injunction.

(ii) Petitioner Will Suffer Irreparable Harm

1. Petitioner has been in the United States for over a year, without criminal history. She has two children living in the United States– one child is a 14-year-old. They both require Petitioner's presence and love to support them emotionally and financially. Before her arrest, Petitioner was gainfully employed. Her oldest child, only 21-year-old, must now support the family alone.
2. She will suffer irreparable harm were he to remain detained after being deprived of her liberty and subjected to unlawful incarceration by immigration authorities without being provided the constitutionally adequate process that this motion for a temporary restraining order seeks. Detainees in ICE custody are held in "prison-like conditions." *Preap v. Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, "[t]he time spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job; it disrupts family life; and it enforces idleness." *Barker v. Wingo*, 407 U.S.

514, 532–33 (1972); accord *Nat'l Ctr. for Immigrants Rights, Inc. v. I.N.S.*, 743 F.2d 1365, 1369 (9th Cir. 1984). Moreover, the Ninth Circuit has recognized in "concrete terms the irreparable harms imposed on anyone subject to immigration detention" including "subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained." *Vazquez*, 872 F.3d at 995. The government itself has documented alarmingly poor conditions in ICE detention centers. S*ee, e.g.*, DHS, Office of Inspector General (OIG), Summary of Unannounced Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024) (reporting violations of environmental health and safety standards; staffing shortages affecting the level of care detainees received for suicide watch, and detainees being held in administrative segregation in unauthorized restraints, without being allowed time outside their cell, and with no documentation that they were provided health care or three meals a day). *See also* "*Concerns Grow Over Dire Conditions in Immigrant Detention:* Mass immigration arrests have led to overcrowding in detention facilities, with reports of unsanitary and inhumane conditions," Miriam Jordan and Jazmine Ulloa, New York Times, July 1, 2025, available at https://www.nytimes.com/2025/06/28/us/immigrant-detention-conditions.html (visitor reported that several detainees complained that they had been given few opportunities to shower, had been limited to two bottles of drinking water per day and were unable to flush their toilets for days at a time.) *See also* National Public Radio, September 24, 2025, "The Conditions in ICE Detention Centers," available at https://www.npr.org/2025/09/24/nx-s1-5552752/the-conditions-in-ice-detention-centers; Alexandra Villareal, "It's hard to know what day it is': families tell of grim Ice detention in Texas," The Guardian, Sept. 30, 2025,

https://www.theguardian.com/us-news/2025/sep/30/immigration-detainees-ice-texas-jail.

3. Further, "[i]t is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.' " *Vazquez*, 872 F.3d at 994–95 (quoting *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2022)). "When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (cleaned up). As discussed, if Petitioner is re-detained without a pre-detention hearing before a neutral decisionmaker, the deprivation of liberty that Petitioner faces is likely unconstitutional and is an immediate and irreparable harm. *Vazquez*, 872 F.3d at 995 (holding Plaintiffs have met their burden to show irreparable harm that they "will likely be deprived of their physical liberty unconstitutionally in the absence of the injunction"). *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263, at *8 (N.D.Cal., 2025).

4. Petitioner has worked, complied with her release on his own recognizance since 2024, supported her community, and spent time with her family. Detention would irreparably harm not only Petitioner, but also irreparable harm to her family, particularly her young children.

5. As detailed supra, Petitioner contends that his current detention absent a hearing before a neutral adjudicator would violate his due process rights under the Constitution. It is clear that "the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2022) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Thus, a temporary restraining order is necessary to prevent Petitioner from suffering irreparable harm by being subject to unlawful and unjust detention.

(iii). The Balance of Equities and the Public Interest Favor Granting the Temporary Restraining Order

1. The balance of equities and the public interest undoubtedly favor granting this temporary restraining order.
2. First, the balance of hardships strongly favors Petitioner. The government cannot suffer harm from an injunction that prevents it from engaging in an unlawful practice. *See Zepeda v. I.N.S.,* 753 F.2d 719, 727 (9th Cir. 1983) ("[T]he INS cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations."). Therefore, the government cannot allege harm arising from a temporary restraining order or preliminary injunction ordering it to comply with the Constitution.
3. Further, any burden imposed by requiring the DHS to release Petitioner from unlawful custody and refrain from re-arrest is both de minimis and clearly outweighed by the substantial harm she will suffer as if she is detained. *See Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) ("Society's interest lies on the side of affording fair procedures to all persons, even though the expenditure of governmental funds is required.").
4. Finally, a temporary restraining order is in the public interest. First and most importantly, "it would not be equitable or in the public's interest to allow [a party] . . . to violate the requirements of federal law, especially when there are no adequate remedies available." *Ariz. Dream Act Coal. v. Brewer,* 757 F.3d 1053, 1069 (9th Cir. 2014) (quoting *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013)). If a temporary restraining order is not entered, the government would effectively be granted permission to detain Petitioner in violation of the requirements of Due Process. "The public interest and the balance of the equities favor 'prevent[ing] the violation of a party's constitutional rights.'" *Ariz. Dream Act Coal.*, 757 F.3d at 1069 (quoting *Melendres*, 695 F.3d at 1002); *see also Vazquez,* 872

F.3d at 996 ("The public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and held in immigration detention because of bonds established by a likely unconstitutional process."); cf. *Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) ("Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the Constitution.").

5. Therefore, the public interest overwhelmingly favors entering a temporary restraining order and preliminary injunction.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant a Temporary Restraining Order and, after hearing, a Preliminary Injunction ordering that Respondents:

(1) Be restrained from continuing to detain Petitioner based on their incorrect interpretation of the Immigration and Nationality Act;

(2) Immediately release Petitioner from immigration detention;

(3) order Respondents not to re-arrest her until she is afforded a hearing before a neutral decision-maker, as required by the Due Process clause of the Fifth Amendment;

(4) Be prohibited from deporting her from the United States while this litigation remains pending; and

(5) Be ordered to file with this Court a complete copy of Petitioner's administrative file from the Department of Justice and the Department of Homeland Security.

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CERTIFICATE OF CONFERENCE

In accordance with Federal Rule of Civil Procedure 65(b)(1)(B), Petitioner respectfully submits this motion ex parte because immediate and irreparable injury will occur before Respondents can be heard in opposition.

Respectfully submitted, January 20, 2026,

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CERTIFICATE OF SERVICE

I hereby certify that on January 20, 2026, I electronically filed the foregoing Emergency Ex Parte Motion for Temporary Restraining Order with the Clerk of Court using the CM/ECF system.

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