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CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

EDIXON AUGUSTO PUCHE-SANCHEZ
A# [redacted]
11320 Menchaca Rd , 9207, Austin, Texas 78748

Case No. SA26CA0295 OG

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Petitioner,

v.

KRISTI NOEM
SECRETARY OF THE U.S. DEPARTMENT
OF HOMELAND SECURITY;

TODD M. LYONS
DIRECTOR, U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

MIGUEL VERGARA
FIELD OFFICE DIRECTOR, ICE ENFORCEMENT
AND REMOVAL OPERATIONS
SAN ANTONIO FIELD OFFICE);

WARDEN/ADMINISTRATOR,KARNES, COUNTY
IMMIGRATION PROCESSING CENTER;

Respondents.

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE (INDIVIDUAL HABEAS CORPUS / 28 U.S.C. § 2241)

Petitioner, by pro se, moves for an Emergency Temporary Restraining Order and Order to Show Cause restraining Respondents from detaining him under 8 U.S.C. § 1225(b)(2)(A), from removing or transferring him while this action is pending, and ordering his release under 8 U.S.C. § 1226(a) or, in the alternative, a prompt custody redetermination hearing under § 1226(a) before an Immigration Judge. In support, Petitioner states as follows:

INTRODUCTION

1. Petitioner Edixon Augusto Puche-Sanchez ("Petitioner"), A# [redacted] is a citizen and national of Venezuela who entered the United States without inspection near San Luis, Arizona, on or about December, 8th, 2021. He was placed in removal proceedings under 8 U.S.C. § 1229a, released on his own recognizance, and has since resided in the interior of the United States at 11320 Menchaca Rd , 9207, Austin, Texas 78748. Petitioner was taken into custody by Immigration and Customs Enforcement (ICE) during a mandatory check-in appointment, and is now detained at the Karnes County Immigration Processing Center, Karnes City, Texas, within this District.

2. On July 8, 2025, the Department of Homeland Security ("DHS") issued an "Interim Guidance Regarding Detention Authority for Applicants for Admission" (the "DHS Policy"), directing ICE to treat certain individuals, including those like Petitioner who entered without inspection but were arrested in the interior, as "applicants for admission" under 8 U.S.C. § 1225(b)(2)(A) and to subject them to mandatory detention without a bond hearing.

3. In Maldonado Bautista v. Noem, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.) ("Maldonado Bautista"), the United States District Court for the Central District of California has: (a) granted a temporary restraining order for the named plaintiffs; (b) on November 20, 2025, granted plaintiffs' Motion for Partial Summary Judgment, declaring the July 8, 2025 DHS Policy unlawful; (c) on November 25, 2025, certified a nationwide "Bond Eligible Class" of similarly situated noncitizens; and (d) on December 18, 2025, clarified that the partial summary judgment order encompassed plaintiffs' Administrative Procedure Act ("APA") claim and granted classwide vacatur of the DHS Policy and entered final judgment as to those claims. The Maldonado Bautista court further explained that the core holding of Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), is inconsistent with its determination that such class members are not "applicants for admission" subject to mandatory detention under § 1225(b).

4. Petitioner is similarly situated to the Maldonado-Bautista plaintiffs and certified class members: he entered without inspection, was arrested in the interior, is charged solely as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), and is detained under the now-vacated DHS Policy without access to a bond hearing. ICE continues to classify and detain Petitioner under § 1225(b)(2)(A) and denies his custody redetermination under § 1226(a). His detention is ultra vires, contrary to the Immigration and Nationality Act ("INA"), and violates due process and the APA.

5. Petitioner respectfully requests a narrowly tailored, individualized TRO that: (a) enjoins Respondents from detaining him under § 1225(b)(2)(A); (b) prohibits his removal or transfer during the pendency of this action absent further order; And (c) requires his release under § 1226(a) or, at minimum, an expedited custody redetermination hearing under § 1226(a) before an Immigration Judge, or an order to show cause why his continued custody is lawful.

6. The specific relief requested is as follows:
- An order restraining Respondents from detaining Petitioner under 8 U.S.C. § 1225(b)(2)(A) and requiring either his release under § 1226(a) or a prompt § 1226(a) custody redetermination hearing before an Immigration Judge;
- An order restraining Respondents from removing Petitioner from the United States or transferring him outside this District while this TRO is in effect;
- An order requiring Respondents to provide notice prior to any attempt to remove Petitioner after expiration of this TRO;
- An order directing Respondents to show cause why Petitioner's continued custody is lawful; and
- Waiver of security under Fed. R. Civ. P. 65(c).

PARTIES

7. Petitioner is a citizen and national of Venezuela, born on October 10th, 1980. He entered the United States without inspection near San Luis, Arizona, on or about December 8th, 2021.

8. Petitioner is part of the National TPS Alliance. He has participated in meetings and has been accepted as a part of the Alliance since June 2025.

9. Petitioner was released from DHS custody on his own recognizance and has resided in the interior of the United States, most recently at [redacted] Austin, Texas [redacted].

10. Respondents are: (i) the Secretary of the U.S. Department of Homeland Security; (ii) the Director of U.S. Immigration and Customs Enforcement; (iii) the Field Office Director, ICE

Enforcement and Removal Operations, San Antonio Field Office; and (iv) the Warden/Administrator of the Karnes County Immigration Processing Center, as Petitioner's immediate custodian. Respondents are sued in their official capacities only.

JURISDICTION AND VENUE

11. This Court has jurisdiction under 28 U.S.C. § 2241 to review the legality of Petitioner's immigration detention and to grant habeas corpus relief, and under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, including the INA and the APA.

12. Petitioner challenges only pre-final-order detention and the application of an unlawful detention policy. He does not seek review of any final order of removal, and his claims do not arise from, nor are they inextricably linked to, any removal order. Accordingly, 8 U.S.C. § 1252(a)(2) and § 1252(b)(9) do not strip this Court of jurisdiction over his claims.

13. Venue is proper in this District and Division under 28 U.S.C. § 1391(e) and § 2241 because Petitioner is detained at the Karnes County Immigration Processing Center in Karnes City, Texas, within the Western District of Texas, San Antonio Division, and a substantial part of the events and omissions giving rise to this action occurred in this District.

STATEMENT OF FACTS

14. Petitioner entered the United States without inspection near San Luis, Arizona, on or about December 8th, 2021.

15. Petitioner was released from custody on his own recognizance and resided at [redacted]

16. Petitioner has no criminal history and has never been charged with or convicted of any offense in the United States or Venezuela. His only basis for immigration enforcement is his manner of entry and immigration status.

17. Petitioner has consistently complied with all immigration requirements. His next Master Calendar Hearing is scheduled for January 27, 2026, at 08:30 AM., before the Pearsall Immigration Court, Pearsall, Texas.

18. If released, Petitioner has stable housing and support in Texas. He can reside with his cousin and sponsor, Liriangel Rodriguez, at [redacted] Liriangel

Rodriguez is a U.S. citizen sponsor, who has provided an affidavit of support and financial documentation.

19. Petitioner is a member of the National TPS Alliance and seeks protection under the Declaratory Judgment issued on December 31, 2025, in National TPS Alliance et al. v. Noem et al., Case No. 3:25-cv-05687-TLT (N.D. Cal.).

20. The petitioner was taken into custody by Immigration and Customs Enforcement (ICE) during a mandatory check-in appointment. He is currently detained at the Karnes County Immigration Processing Center, Karnes City, Texas, within the Western District of Texas. ICE custody and classification records reflecting his detention under 8 U.S.C. § 1225(b)(2)(A).

21. On July 8, 2025, DHS implemented the "Interim Guidance Regarding Detention Authority for Applicants for Admission," instructing ICE to treat certain noncitizens—including those like Petitioner who entered without inspection and were arrested in the interior—as "applicants for admission" under 8 U.S.C. § 1225(b)(2)(A), and to subject them to mandatory detention without bond hearings.

22. Pursuant to this DHS Policy, ICE has classified Petitioner as detained under § 1225(b)(2)(A), refused to consider his release under 8 U.S.C. § 1226(a), and denied his access to an individualized custody redetermination hearing before an Immigration Judge.

23. In Maldonado-Bautista, the district court: (a) granted a temporary restraining order for the named plaintiffs; (b) on November 20, 2025, granted plaintiffs' Motion for Partial Summary Judgment, holding that the DHS Policy is contrary to the plain text of the INA and that individuals who, like Petitioner, entered without inspection and were arrested in the interior are properly detained under 8 U.S.C. § 1226(a), not § 1225(b)(2)(A); (c) on November 25, 2025, certified a nationwide Bond Eligible Class of similarly situated noncitizens; and (d) on December 18, 2025, clarified that its order declared the DHS Policy unlawful under the APA, granted classwide vacatur of that policy, and entered final judgment as to the relevant counts of the Amended Class Complaint. The court further explained that the core legal conclusion of Matter of Yajure Hurtado cannot be reconciled with its ruling. Copies of the Maldonado Bautista TRO, summary judgment order, class certification order, and clarification order are attached as **Exhibits A, B, C and D.**

24. Despite the Maldonado-Bautista judgment and classwide vacatur of the DHS Policy, ICE continues to rely on § 1225(b)(2)(A) and the vacated policy as the basis for Petitioner's detention and most likely the denial of a bond hearing.

25. Without this Court's intervention, Petitioner faces ongoing, potentially prolonged detention without any bond hearing and the risk of transfer or removal under an unlawful and vacated policy.

LEGAL STANDARD

26. A temporary restraining order is an extraordinary remedy issued to preserve the status quo and prevent irreparable harm before a full adjudication on the merits. Courts consider: (1) likelihood of success on the merits; (2) threat of irreparable harm; (3) balance of equities; and (4) the public interest. See Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 20 (2008); Janvey v. Alguire, 647 F.3d 585, 595 (5th Cir. 2011). The same standard applies to preliminary injunctions. The Supreme Court applies similar factors in evaluating stays of removal. See Nken v. Holder, 556 U.S. 418 (2009).

ARGUMENT

I. Petitioner Is Likely to Succeed on the Merits

A. The INA Requires Use of 8 U.S.C. § 1226(a), Not § 1225(b)(2)(A), for Interior Arrests Like Petitioner's

27. The INA establishes distinct detention authorities. Section 1225(b) governs certain "applicants for admission," generally those who are "arriving" or encountered at or near the border. By contrast, 8 U.S.C. § 1226(a) authorizes the arrest and detention of noncitizens already present in the United States pending a decision on removability and expressly provides for discretionary release on bond or conditional parole.

28. DHS's July 8, 2025 Policy collapses this statutory distinction by directing ICE to treat noncitizens who entered without inspection and are arrested in the interior as "applicants for admission" subject to mandatory detention under § 1225(b)(2)(A), solely because they are charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), thereby eliminating bond hearings.

29. In Maldonado-Bautista, after analyzing the statutory text and structure, the district court held that the INA unambiguously requires that interior arrests of noncitizens who entered without inspection be governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), and concluded that the DHS Policy is unlawful.

The court granted partial summary judgment to the plaintiffs, certified a nationwide Bond Eligible Class of similarly situated noncitizens, and granted classwide vacatur of the DHS Policy under the APA.

30. Petitioner falls within the same category as the Maldonado-Bautista plaintiffs and the certified class: he entered without inspection, has no prior removal order, was arrested in the interior, and is detained solely under 8 U.S.C. § 1182(a)(6)(A)(i) pursuant to the DHS Policy, without access to a bond hearing. Because the INA's text and Maldonado-Bautista's reasoning confirm that § 1226(a) governs Petitioner's custody, and because the DHS Policy has been vacated, Petitioner is likely to succeed on his claim that his detention under § 1225(b)(2)(A) is ultra vires and unlawful.

31. Petitioner has a substantial likelihood of success on the merits because the December 31, 2025, Declaratory Judgment in National TPS Alliance v. Noem, Case No. 3:25-cv-05687-TLT (N.D. Cal.), held that the Secretary's vacatur and termination of Venezuela's TPS were "arbitrary, capricious, and in excess of statutory authority" under the Administrative Procedure Act (APA). the Petitioner's TPS protections remain legally in effect as a matter of law, rendering any current attempt at removal or detention by Respondents a direct violation of a valid judicial mandate.

B. The DHS Policy and Petitioner's Detention Violate Due Process and the APA

32. By denying Petitioner any individualized custody determination or bond hearing, DHS has deprived him of a meaningful opportunity to seek release, contrary to the statutory scheme and due process. Under § 1226(a), noncitizens like Petitioner are entitled to an initial custody determination and the opportunity to seek bond before an Immigration Judge.

33. The DHS Policy is arbitrary, capricious, and not in accordance with law, and in excess of statutory authority, in violation of 5 U.S.C. § 706(2)(A) and (C). It contradicts the plain text and structure of the INA and departs from long-standing practice treating interior arrests after entry without inspection as governed by § 1226(a), without a reasoned explanation. The Maldonado-Bautista court has already held the Policy unlawful under the APA and has vacated it on a classwide basis.

34. Petitioner's detention pursuant to a vacated policy and under the wrong statutory provision, without access to a bond hearing, violates the INA, due process, and the APA. At a minimum, he

has raised serious questions going to the merits and, in fact, demonstrates a strong likelihood of success.

II. Petitioner Will Suffer Irreparable Harm Absent a TRO

35. Prolonged immigration detention without lawful authority and without a bond hearing constitutes irreparable harm. Petitioner's continued confinement represents an ongoing deprivation of liberty that cannot be remedied by monetary damages. The separation from his broader family and his son and the impact of confinement on his physical, emotional, and psychological well-being are irreparable.

36. If Respondents remove or transfer Petitioner under an unlawful detention authority before this Court can rule, his habeas corpus claims could become moot or significantly more difficult to litigate, causing further irreparable harm. A TRO preserving the status quo is necessary to prevent this harm.

III. The Balance of Equities Favors Granting Relief

37. The balance of equities strongly favors Petitioner. A short-term TRO requiring either his release under § 1226(a), a prompt custody redetermination hearing under § 1226(a), or a sworn justification for continued detention imposes minimal burden on the government. ICE routinely conducts custody reviews and appears before Immigration Judges for bond hearings.

38. By contrast, denial of relief leaves Petitioner in unlawful detention without any individualized custody review under a policy that another federal court has declared unlawful and vacated on a classwide basis. The equities therefore weigh decisively in favor of temporary relief.

IV. The Public Interest Supports the Requested TRO

39. The public interest is served when the government adheres to statutes enacted by Congress, complies with final judgments of federal courts, and respects constitutional limits. A TRO ensuring that Petitioner is detained, if at all, under the proper statutory authority and with access to the procedural protections Congress provided advances these interests.

40. Ensuring that detention authority is exercised lawfully, and that individuals are not held under a vacated and unlawful policy, is consistent with the public's interest in fairness, regularity, and the rule of law.

SPECIFIC ACTS TO BE RESTRAINED

41. Petitioner seeks an order temporarily restraining Respondents, their officers, agents, employees, and all persons acting in concert with them from:

a. Detaining Petitioner under 8 U.S.C. § 1225(b)(2)(A) or treating him as an "applicant for admission" for purposes of mandatory detention based solely on his charge under 8 U.S.C. § 1182(a)(6)(A)(i);

b. Removing Petitioner from the United States while this TRO is in effect;

c. Transferring Petitioner from the Karnes County Immigration Processing Center to any other detention facility outside the Western District of Texas, San Antonio Division, while this TRO is in effect, absent further order of this Court; and

d. Taking any steps to effectuate his removal from the United States without first providing the notice required by the Court's order.

REQUESTED RELIEF

42. Petitioner respectfully requests that the Court enter an individualized Temporary Restraining Order and Order to Show Cause providing the following relief:

a. Detention Authority / Bond Hearing. Temporarily restrain Respondents from detaining Petitioner under 8 U.S.C. § 1225(b)(2)(A). Require Respondents either (i) to release Petitioner under reasonable conditions of supervision pursuant to 8 U.S.C. § 1226(a); or (ii) to provide Petitioner with an individualized custody redetermination hearing under § 1226(a) before an Immigration Judge within seven (7) days of the Court's order.

b. No Removal or Transfer. Temporarily restrain Respondents, and all those acting in concert with them, from removing Petitioner from the United States or transferring him outside this District during the pendency of this TRO, absent further order of the Court.

c. Notice of Removal. Require Respondents to provide at least seventy-two (72) hours' written notice to the Court and to Petitioner's before any attempt to remove Petitioner after expiration of this TRO.

d. Show Cause. In the alternative to immediate release, order Respondents to show cause within seventy-two (72) hours of the Court's order why Petitioner's continued custody is lawful, by filing a sworn return identifying the statutory basis for detention and explaining how that basis is consistent with the INA and with the judgment and vacatur entered in Maldonado-Bautista v. Noem.

e. Security. Waive security under Federal Rule of Civil Procedure 65(c) in light of Petitioner's indigence and the fact that Respondents are the United States and its officers.

f. Hearing. Set an expedited hearing on whether this TRO should be converted into a preliminary injunction.

CERTIFICATION REGARDING NOTICE
(Fed. R. Civ. P. 65(b)(1)(B))

43. Petitioner certifies that immediate and irreparable injury will occur before Respondents can be heard in opposition. Petitioner is presently detained under an unlawful and vacated detention policy without access to a bond hearing and faces ongoing deprivation of liberty, as well as the risk of transfer or removal that could frustrate this Court's jurisdiction.

44. Petitioner has provided or will promptly provide notice of this filing to the United States Attorney's Office for the Western District of Texas and to agency counsel for Todd M. Lyons (ICE) 500 12th Street, SW Washington, DC 20536; MIGUEL VERGARA (FIELD DIRECTOR OFFICE) 1777 NE Loop 410, Suite 1500, San Antonio, TX 78217; Karnes County Immigration Processing Center (WARDEN) 409 FM 1144 Karnes City, TX 78118. Through U.S certified mail.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant this Emergency Motion for Temporary Restraining Order and Order to Show Cause and enter the accompanying proposed order.

Dated: 01-13-2026, 2026

Respectfully submitted,

EDIXON AUGUSTO PUCHE-SANCHEZ (**PRO SE**)

[redacted]