UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

EULALIO MONTERROZA BONILLA	§	
	§	
Petitioner,	§	
	§	
VS.	§	**5:26-CV-00517-OLG**
	§	
PAMELA JO BONDI,	§	
United States Attorney General,	§	
KRISTI LYNN NOEM,	§	
Secretary of the United States	§	
Department of Homeland Security	§	
TODD M. LYONS	§	
Acting Director of United States	§	
Immigration and Customs Enforcement	§	
SYLVESTER M. ORTEGA,	§	
Field Office Director for	§	
U.S. Immigration and Customs Enforcement	§	
BOBBY THOMPSON, Warden,	§	
South Texas Detention Complex;	§	
UNITED STATES DEPARTMENT	§	
OF HOMELAND SECURITY;	§	
	§	
Respondents.	§	

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Designation as EMERGENCY is warranted in the government's detention of EULALIO DE JESUS MONTERROZA BONILLA ("Petitioner"). Each day of custody inflicts irreparable harm: Petitioner's physical liberty is restrained, and he is denied any access to the process Congress attached to the statute that governs his custody. No adequate remedy exists absent immediate intervention.

Petitioner moves under Fed. R. Civ. P. 65 for a temporary restraining order and preliminary injunction preventing Respondents from transferring Petitioner outside this District. Petitioner also

seeks the least intrusive relief that cures the legal violation and preserves status quo: immediate release (or, alternatively, a prompt court-held custody hearing; and only as a last option, a court-ordered immigration-court bond hearing with enforceable safeguards).

This is not a request for the Court to manage removal proceedings. It is a request to stop an unlawful custody practice from rendering this Court's jurisdiction meaningless through transfer and continued detention maintained solely by an asserted statutory label.

FACTUAL BACKGROUND

1. Petitioner incorporates by reference all factual allegations set forth in his Petition for Writ of Habeas Corpus filed contemporaneously herewith.

LEGAL STANDARD

2. A preliminary injunction or temporary restraining order is appropriate when: (1) the movant has shown a substantial likelihood of success on the merits; (2) there is a substantial threat that the movant will suffer irreparable harm if the injunction is denied; (3) the threatened injury to the movant outweighs the threatened harm to the opposing party; and (4) granting the injunction will not disserve the public interest. *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008); *Tex. Med. Providers Performing Abortion Servs. v. Lakey*, 667 F.3d 570, 574 (5th Cir. 2012); *Clark v. Prichard*, 812 F.2d 991, 993 (5th Cir. 1987).
3. When the government is the opposing party, the third and fourth factors merge because "the Government's interest in enforcing its laws is always substantial." *Nken v. Holder*, 556 U.S. 418, 435 (2009).
4. All four elements must be demonstrated to obtain injunctive relief: *Lakey*, 667 F.3d at 574.

ARGUMENT

Likelihood of Success on the Merits

5. Petitioner has demonstrated a substantial—indeed compelling—likelihood of success on multiple independent grounds.

6. Argument One: Section 1225(b)(2)(A) is a border-inspection detention provision; Section 1226(a) is the interior detention statute for individuals placed in ordinary removal proceedings under 8 U.S.C. § 1229a. The Supreme Court has described that architecture in those terms: § 1225 governs detention of noncitizens "seeking admission," while § 1226 generally governs detention of noncitizens "already in the country" pending removal. *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Petitioner is not "seeking admission."

7. Petitioner is a long-term interior resident, who last entered in 1998, was arrested in Texas in 2025 after a traffic stop, and then placed in § 1229a proceedings. Respondents' position relies on *Matter of Yajure Hurtado* 29 I&N Dec. 216 (BIA 2025), which adopted an agency-favorable reading of § 1225(b)(2)(A) to deny bond jurisdiction to immigration judges for individuals present without inspection. But after *Loper Bright Enters. v. Raimondo*, courts do not defer to agency interpretations merely because a statute is ambiguous; the Court must apply its own independent judgment to the best reading of the statute. 603 U.S. 369 (2024). Indeed, the Government's detention policy detains Petitioner under a border statute while denying him the custody-review framework Congress attached to interior detention.

8. Argument Two: Petitioner is also likely to succeed on his due process claims. The Due Process Clause "imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" it protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). When the

government deprives someone of liberty, it must apply the correct legal standard and provide procedures adequate to guard against erroneous deprivation.

9. Under *Mathews*, the Court weighs the private interest, the risk of erroneous deprivation and value of additional safeguards, and the government's interests. 424 U.S. at 335. Civil immigration detention is the core liberty loss. The risk of error is acute when the agency moves a person from one statutory regime to another and simultaneously disables the neutral adjudicator who would check that move. The additional safeguard Petitioner seeks is simply the ordinary bond process Congress already attached to § 1226(a). Courts considering similar post-*Matter of Yajure Hurtado* schemes have held that prolonged mandatory detention of long-time residents under § 1225(b)(2), with no individualized bond determination, violates due process and have ordered bond hearings with appropriate safeguards. *See, e.g.*, *Vieira v. Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 410786 (W.D. Tex. 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 467042 (W.D. Tex. 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 493117 (W.D. Tex. 2025). For the reasons set forth in his Complaint, Respondents' actions violate both substantive and procedural due process.

10. Additionally, as applied here, Respondents' custody determination violates substantive due process. Substantive due process protects against arbitrary and unjustified deprivations of liberty, and in the immigration context detention must rest on a valid statutory foundation and bear a reasonable relationship to the statute's regulatory purpose. *See Zadvydas v. Davis*, 533 U.S. at 690. The only recognized purposes for civil immigration detention are to ensure appearance at future proceedings and to protect the community from danger; to remain regulatory, detention must be reasonably related to those aims rather than driven by administrative relabeling. *Id.* Petitioner's continued no-bond detention turns entirely on the

manner of his entry decades ago, a fact that bears no necessary relationship to any present danger or flight risk and ignores his long-term residence and ties. Detaining Petitioner mandatorily and without any meaningful opportunity to seek release, notwithstanding the individualized equities and the availability of calibrated detention mechanisms elsewhere in the INA (including § 1226), is arbitrary in the constitutional sense and punitive in effect. Respondents' actions therefore violate Petitioner's substantive due process rights.

11. Argument Three: Next, Petitioner is likely to find success on his claims under the Administrative Procedure Act ("APA"). For decades after IIRIRA, DHS and EOIR treated interior noncitizens who entered without inspection and were placed in § 1229a proceedings—like Petitioner—as § 1226(a) detainees with access to bond and custody redetermination, absent criminal-history-based mandatory detention. ICE's own 2013 custody documents in this case reflect that settled practice.

12. Through the July 8, 2025 ICE Guidance and *Matter of Yajure Hurtado*, the government has adopted what is, in substance, a new legislative rule: it switches the operative detention provision, strips an existing entitlement to seek bond, and replaces a decades-old framework with a new, harsher one. Under *Landgraf v. USI Film Prods.*, a measure operates retroactively when it "attaches new legal consequences to events completed before its enactment." 511 U.S. 244, 270 (1994). Under *Bowen v. Georgetown Univ. Hosp.*, agencies lack authority to promulgate retroactive rules without express congressional authorization. 488 U.S. 204, 208 (1988).

13. The Fifth Circuit applied those principles in *Monteon-Camargo v. Barr*, 918 F.3d 423 (5th Cir. 2019), holding that the BIA could not broaden the definition of a theft-type CIMT and then retroactively apply that expansion to an older conviction, because it upset "fair notice,

reasonable reliance, and settled expectations." *Id.* at 432–34. The same is true here. *Yajure Hurtado* and the July 2025 guidance seek to treat Petitioner's long-ago entry and decade-old § 1226(a) custody as if they had always fallen under § 1225(b)(2), and to impose mandatory, no-bond detention where only discretionary, bond-eligible custody previously applied. There is no clear statement from Congress authorizing that retroactive shift. For the reasons set out in Counts Three and Four of the Petition, the new detention regime is arbitrary, capricious, "not in accordance with law," and impermissibly retroactive under 5 U.S.C. § 706(2).

14. Argument Four: To the extent Petitioner invokes the nationwide class judgment in *Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), that judgment declares that Bond Eligible Class members are detained under § 1226(a), not § 1225(b)(2), and are entitled to bond consideration and custody redetermination under existing regulations. Whether or not Respondents contend that judgment is stayed, appealed, or otherwise limited, it at minimum underscores the substantial likelihood of success and the need for prompt judicial intervention to prevent ongoing unlawful detention.

Petitioner Will Suffer Irreparable Harm Absent Injunctive Relief

15. The loss of physical liberty—"from government custody, detention, or other forms of physical restraint"—is irreparable harm per se. *Zadvydas v. Davis*, 533 U.S. at 690. Each additional day Petitioner spends confined in an immigration detention facility, with no avenue to seek bond, is a day of unconstitutional injury that no later award of damages can cure.

16. Petitioner has lived in the United States for years. It has replaced a stable, supervised life with indefinite confinement under a statutory regime that, properly read, does not apply to him. That injury is ongoing. It worsens every day.

17. The irreparable harm is magnified by the nature of the error. Petitioner is not simply contesting the conditions of confinement or asking the Court to second-guess a bond denial. He is being denied access to any bond process at all, solely because of a legal reclassification that contradicts the governing statute and the agency's own record. That is a structural due-process violation, and structural violations are paradigmatic examples of irreparable harm.

The Balance of Equities Tips Decisively in Petitioner's Favor

18. On one side of the scale lies Petitioner's interest in freedom from unlawful confinement and in restoration of the bond process Congress provided. Deprivation of liberty is "a grievous loss," *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), and the Supreme Court has repeatedly treated continued detention in violation of law as a weighty, irreparable harm. On the other side lies the government's interest in administering the immigration laws—an interest the Court fully recognizes, but one that does not extend to detention forbidden by statute.

19. Granting relief here does not bar the government from enforcing the immigration laws or from pursuing Petitioner's removal in the ordinary course. It simply requires Respondents to do what the statute already commands: treat Petitioner as a § 1226(a) detainee, rather than as a § 1225(b)(2)(A) "applicant for admission," and afford him the bond eligibility that status entails. The government has no legitimate interest in maintaining detention on a legal basis that Congress did not authorize. Requiring a prompt bond hearing—or release under appropriate conditions—imposes at most a modest administrative burden, particularly for a noncitizen who has long resided in the district and complied with supervision.

20. The equities are therefore lopsided. Petitioner faces ongoing incarceration under an unlawful classification, with all the attendant harms to his family, livelihood, and constitutional interests.

Respondents face only the obligation to follow the statute as written. The balance tips sharply in Petitioner's favor.

Granting the Injunction Serves the Public Interest

21. The public has a profound interest in ensuring that government agencies comply with constitutional requirements and respect fundamental rights. Allowing the Government to detain individuals without following mandatory procedural requirements undermines the rule of law.

22. Moreover, granting injunctive relief here advances, rather than impedes, the public interest. It enforces the limits Congress placed on civil immigration detention; it vindicates the due-process requirement that liberty not be withdrawn under the wrong statute; and it preserves the separation of powers by preventing the executive from rewriting § 1225 and § 1226 by administrative decision. It also promotes confidence in the fairness of the immigration system by assuring that long-time residents are not swept into a border-detention regime that does not fit their circumstances.

23. By contrast, denying relief would signal that agencies may reclassify individuals midstream and, on the strength of that label alone, erase statutory safeguards Congress considered essential. That is not the rule of law; it is the rule of discretion. The public interest lies on the other side.

PROPOSED INJUNCTIVE RELIEF

For the foregoing reasons, Petitioner respectfully requests that the Court grant his Emergency Motion for Temporary Restraining Order and Preliminary Injunction and enter an order providing the following relief:

1) Temporarily restrain and preliminarily enjoin Respondents from continuing to classify Petitioner Eulalio de Jesus Monterroza Bonilla as a mandatory detainee under 8 U.S.C. § 1225(b)(2)(A) based solely on an alleged 1998 entry without being admitted or paroled after inspection, and from denying bond jurisdiction and custody review on that basis;
2) Declare that Petitioner's present detention is governed by 8 U.S.C. § 1226(a) and that he is eligible for consideration for release on bond or conditional parole under that provision and its implementing regulations;
3) Order Respondents to release Petitioner immediately under appropriate supervision and conditions consistent with § 1226(a);
4) Declare that Petitioner is a member of the *Maldonado Bautista* Bond Eligible Class and enforce the *Maldonado Bautista* final judgment under Federal Rule of Civil Procedure 71 by ordering Respondents to treat Petitioner as bond-eligible under 8 U.S.C. § 1226(a) and to cease reliance on 8 U.S.C. § 1225(b)(2) as a basis to deny immigration-court bond jurisdiction;
5) Enjoin Respondents from transferring Petitioner out of the Western District of Texas or otherwise beyond the reach of this Court during the pendency of this action, and require at least forty-eight (48) hours' advance written notice to counsel before any planned transfer or removal;
6) Set this matter for an expedited hearing at the Court's earliest availability; and
7) Under Federal Rule of Civil Procedure 65(c), waive security or set nominal security in light of the constitutional and statutory nature of Petitioner's claims and his inability to post a meaningful injunction bond while detained.

Respectfully submitted, this 2 February 2026,

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ATTORNEYS FOR PETITIONER

VERIFICATION OF COUNSEL

I, Juan Carlos Rodríguez, hereby certify that I am familiar with the case of the named Petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

February 2, 2026

/s/Juan Carlos Rodríguez
State Bar of Texas No: 24033007

CERTIFICATE OF SERVICE

I certify, in accordance with the rules of this Court, I filed the foregoing via the Court's CM/ECF system, which will send notice to all registered counsel of record.

February 2, 2026

/s/Juan Carlos Rodríguez
State Bar of Texas No: 24033007

CERTIFICATE REGARDING CONFERENCE (IMPRACTICABILITY STATEMENT)
CERTIFICATE REGARDING CONFERENCE (L.R. CV-7(I))

Undersigned counsel states that a conference under Local Rule CV-7(i) is **impracticable.** This motion seeks **emergency relief** concerning Petitioner's ongoing detention and potential removal; immediate filing is necessary to prevent irreparable harm. At the time of filing, no Assistant United States Attorney had appeared for Respondents, and detention/transfer logistics make delay untenable. Upon appearance by Government counsel, Petitioner will promptly confer and advise the Court of the Government's position.

February 2, 2026

/s/Juan Carlos Rodriguez
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