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

Betsasar Belzay ESTRADA URALIYU	§	
	§	
Petitioner,	§	
	§	
v.	§	
	§	
KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE U.S. DEPARTMENT OF HOMELAND SECURITY,	§	**Case No. 5:26-cv-595**
	§	
PAMELA BONDI, IN HER OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL,	§	
	§	
TODD LYONS, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT,	§	
	§	
MIGUEL VERGARA, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE ICE SAN ANTONIO FIELD OFFICE, AND	§	
	§	
JOSE RODRIGUEZ JR, IN HIS OFFICIAL CAPACITY AS WARDEN OF THE DILLEY IMMIGRATION PROCESSING CENTER	§	
	§	
Respondents.	§	

PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65, Petitioner moves this Court for a Temporary Restraining Order and Preliminary Injunction enjoining Respondents from violating her rights under Fifth Amendment, and ordering her immediate release. In support of this motion, Petitioner states the following:

I. RELEVANT FACTUAL BACKGROUND

1. Petitioner is a 21-year-old native and citizen of Venezuela. On or about September 3, 2023, she entered the United States without inspection and was apprehended by the Department of Homeland Security ("DHS") near the border.
2. Upon entry, Petitioner underwent a credible fear interview and was found to have a credible fear of persecution. She was subsequently served with a Notice to Appear dated September 17, 2023, charging her as removable under 8 U.S.C. § 1182(a)(6)(A)(i) and placing her in full removal proceedings pursuant to 8 U.S.C. § 1229a.
3. On September 18, 2023, Petitioner was released into the United States on her own recognizance pending removal proceedings and was required to comply with multiple conditions of supervision imposed by DHS.
4. Petitioner has no criminal convictions that would render her ineligible for relief. She timely filed an I-589 Application for Asylum and Withholding of Removal, which remains pending.
5. On or about December 1, 2025, Petitioner was arrested by Immigration and Customs Enforcement ("ICE") while appearing for a scheduled appointment and fully complying with her ICE reporting obligations. At the time of her re-arrest, Petitioner's removal proceedings remained pending. ICE provided no notice, justification, or individualized explanation for Petitioner's re-detention, and identified no violation of conditions on release that would warrant revocation of her ROR. Petitioner was taken into custody despite full compliance with DHS's order of supervision and without articulated cause. This arbitrary re-detention violates Petitioner's right to due process under the Fifth Amendment.

6. Respondents are now detaining Petitioner without a bond hearing at the Dilley Immigration Processing Center in Dilley, Texas. Respondents claim that Petitioner is an "applicant for admission" who is subject to mandatory detention under 8 U.S.C. § 1252(b)(2)(A). For the last thirty years, the Immigration Courts have held that individuals, who entered without inspection, like Petitioner, qualified for bond pursuant to § 1226(a). However, the Department of Justice (DOJ) and the Department of Homeland Security (DHS) have decided to completely reject this well-established understanding of the statutory framework and reversed decades of practice by adopting a policy which holds that Immigration Courts no longer have the authority to hear bond applications or grant bond requests to noncitizens who entered the United States without inspection.
7. As a result of Respondents' unlawful actions, Petitioner cannot request a bond hearing because the Immigration Judge does not have jurisdiction. Petitioner is now subject to ongoing detention in violation of her Constitutional rights. Petitioner suffers irreparable harm by being detained without the opportunity to request release before a neutral arbiter, due to the deprivation of liberty without due process and the emotional harm the petitioner currently suffers while detained. Petitioner therefore brings this motion for a preliminary injunction and temporary restraining order preventing further detention without a bond hearing.
8. On November 25, 2025, the court in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.,* Case No. 5:25-cv-01873, (C.D. Cal.), granted the Plaintiffs' motion for class certification, creating a nationwide bond eligible class of noncitizens who entered without inspection, were later detained, and are now subject to mandatory detention statutes. The Court found that all class members are entitled to bond hearings under 8 U.S.C. § 1226(a)

rather than being treated as mandatory detainees under 8 U.S.C. § 1225(b)(2)(A). ***See Exhibit A.***

II. PETITIONER SATISFIES THE STANDARD FOR A TEMPORARY RESTRAINING ORDER

9. Petitioner is entitled to a preliminary injunction preventing continued detention. If Petitioner's motion is not granted, she is certain to suffer irreparable harm both to her constitutional rights and to her health. She is also substantially likely to succeed on the merits of her claim: that the government may not detain her without a bond hearing before a neutral arbiter, as required by law. Further, no public interest is served by the government's indefinite, mandatory detention of an individual who entered the United States three years ago, was released on her own recognizance and there is no evidence of violations of conditions of release, has a timely filed asylum application pending with the immigration agency, and no disqualifying criminal history. Accordingly, this Court should grant the Petitioner's motion and enjoin the government from further detaining her.

10. To obtain a temporary restraining order, Petitioner must demonstrate: (1) a substantial likelihood of success on the merits; (2) irreparable harm absent immediate relief; (3) that the balance of hardships tips in Petitioner's favor; and (4) that the injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

A. LIKELIHOOD OF SUCCESS ON THE MERITS

11. Petitioner has a substantial likelihood of success on the habeas petition on multiple independent grounds.

12. First, Petitioner's prolonged detention without an individualized hearing violates procedural due process under the Fifth Amendment. *Mathews v. Eldridge*, 424 U. S. 319

(1976), requires balancing Petitioner's fundamental liberty interest against the government's interest, and that balance tips decisively in favor of a bond hearing.

13. Second, because the Petitioner has no disqualifying criminal convictions, she possesses a constitutionally protected liberty interest that may not be infringed absent due process of law.

B. IRREPERABLE HARM

14. Petitioner suffers irreparable harm from continued unlawful detention. The deprivation of liberty itself constitutes irreparable injury that cannot be remedied by monetary damages.

C. BALANCE OF HARDSHIP AND PUBLIC INTEREST

15. The balance of hardships tips sharply in Petitioner's favor. Petitioner's fundamental liberty interest and the concrete harms from detention far outweigh any government interest in continued detention.

16. The government has presented no evidence that Petitioner poses a flight risk or danger to the community.

17. The public interest favors protecting constitutional rights and preventing unlawful detention.

III. CONCLUSION AND RELIEF REQUESTED

18. For the foregoing reasons and those set forth in the accompanying Memorandum of Points and Authorities, Petitioner respectfully requests that this Court issue a temporary restraining order requiring Respondents to release Petitioner from immigration detention immediately, subject to reasonable conditions including:

    a. Appearing for all scheduled immigration court hearings;

    b. Maintaining current address information; and

c. Any other condition this Court deems appropriate.

Dated this 30th of January 2026,

Respectfully submitted,

/s/ Karina Roque
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CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2026, I electronically filed the foregoing on the Court's CM/ECF system, that all participants in the case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/s/ Karina Roque
Karina Roque
Attorney for Petitioner