UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SORIANO ALTAMIRANO,

Petitioner,

v.

LYONS et al.,

Respondents.

Case No. 5:26-cv-00607-XR

PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

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INTRODUCTION

With Petitioner Hermelinda Soriano Altamirano's individual merits hearing in her removal proceedings **currently scheduled for Monday, February 23, 2026**, an Emergency Temporary Restraining Order and Preliminary Injunction is necessary to preserve the status quo and prevent the irreparable harm of an unconstitutional removal process before this Court can adjudicate the legality of her ongoing mandatory detention. An emergency order restraining the government from conducting the individual merits hearing is necessary to preserve the status quo while the Court adjudicates Ms. Soriano Altamirano's Petition for Writ of Habeas Corpus, which challenges the legality of her ongoing mandatory detention.

Ms. Soriano Altamirano is a long-term resident of the United States who has lived in the country for over two decades and has two teenage United States-citizen children. Despite her deep community ties, the government has subjected her to mandatory detention under a recently implemented policy that erroneously classifies her as an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A). This policy has already been vacated nationwide by a federal court. *See Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025).

Forcing Ms. Soriano Altamirano to proceed with a merits hearing while she is unlawfully detained—and while she remains a member of a certified class entitled to bond eligibility—inflicts a "here-and-now" injury that violates her Fifth Amendment right to due process. *See Space Expl. Techs. Corp. v. Nat'l Lab. Rels. Bd.*, 151 F.4th 761, 780 (5th Cir. 2025). Absent a stay of the administrative proceedings, Ms. Soriano Altamirano faces the irreparable harm of an unconstitutional process and the imminent threat of removal before this Court can determine whether her underlying detention is authorized by law.

STATEMENT OF ISSUES

I. Has Ms. Soriano Altamirano demonstrated a substantial likelihood of success on the merits regarding the statutory interpretation of the governing detention mandate, the effect of her membership in the *Maldonado Bautista* Bond Eligible Class, and the constitutionality of her detention?

II. Does the ongoing deprivation of a constitutional liberty interest constitute a "here-and-now" injury sufficient to establish irreparable harm for the purposes of emergency injunctive relief?

III. Does the balance of equities and the public interest favor the issuance of a stay to preserve the court's jurisdiction over the underlying petition?

IV. Does this Court have the authority to enjoin the government from conducting an individual merits hearing in Ms. Soriano Altamirano's removal proceedings until the Court has had an opportunity to consider her habeas petition?

FACTS AND PROCEDURAL HISTORY

Petitioner Ms. Soriano Altamirano is a 51-year-old native and citizen of Mexico. *See* ECF Dkt. 1-2 (children's birth certificates). Ms. Soriano Altamirano entered the United States without inspection in or around 2004 and has resided in Florida for over 20 years, now with her two teenage U.S.-citizen children. *See* ECF Dkt. 1 at 11 (Pet. 43). Ms. Soriano Altamirano did not have any contact with immigration authorities until November 2025 when ICE detained her and placed her in removal proceedings. *See id.* (Pet. 44); ECF Dkt. 7 at 2.

Ms. Soriano Altamirano, through counsel Ernesto Varas, requested bond and custody redetermination by an immigration judge ("IJ"), but the IJ ruled on January 12, 2026, that she did not have bond jurisdiction, prompting Ms. Soriano Altamirano to file a petition for writ of habeas corpus with this Court on January 31, 2026. *See* ECF Dkt. 1-1 at 4. In her petition, Ms.

Soriano Altamirano requested this Court order her release or, alternatively, a custody hearing before a neutral arbiter to determine whether her continued detention is justified. *See* ECF Dkt. 1 at 16.

On February 17, 2026, the government filed a response to Ms. Soriano Altamirano's petition and mentioned that her individual merits hearing had been scheduled for this upcoming Monday, February 23, 2026. *See* ECF Dkt. 7 at 2. Undersigned counsel learned of this Monday hearing date upon reviewing the response on February 19, 2026.

STANDARD OF REVIEW

To obtain temporary and preliminary injunctive relief, Ms. Soriano Altamirano must demonstrate that (1) she is likely to succeed on the merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in her favor, and (4) an injunction is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). When the government is a party, the balance of equities and public interest merge. *See Nken v. Holder*, 556 U.S. 418, 435 (2009); *Tex. Tribune v. Caldwell Cnty*, 121 F.4th 520, 525 (5th Cir. 2024).

The Fifth Circuit applies a "sliding scale" test that takes each *Winter* factor into consideration and allows an injunction where the movant raises serious questions as to the merits, the balance of hardships tips sharply in the movant's favor, and other *Winter* factors are satisfied. *See, e.g.*, *Mock v. Garland*, 75 F.4th 563, 587 (5th Cir. 2023) ("For preliminary injunctions, 'none of the . . . prerequisites has a fixed quantitative value. Rather, a sliding scale is utilized, which takes into account the intensity of each in a given calculus.' *Texas v. Seatrain Int'l, S.A.*, 518 F.2d 175, 180 (5th Cir. 1975).").

A prohibitory injunction that is either temporary or preliminary in nature generally serves to maintain the status quo. *See Heckler v. Lopez*, 463 U.S. 1328, 1333 (1983) (prohibitory injunction "freezes the positions of the parties until the court can hear the case on the merits"). A mandatory injunction is one that requires a party to take affirmative action. *See Meghrig v. KFC W., Inc.*, 516 U.S. 479, 484 (1996). In the Fifth Circuit, a mandatory injunction requires a higher standard of proof than a prohibitory injunction. *See, e.g., TitleMax of Tex. Inc. v. City of Dallas*, 142 F.4th 322, 328–29 (5th Cir. 2025).

Under the circumstances presented herein, no security bond is required under Federal Rule of Civil Procedure 65(c). *See, e.g., Urbain v. Knapp Brothers Mfg.*, 217 F.2d 810, 816 (6th Cir. 1954).

ARGUMENT

I. Ms. Soriano Altamirano is likely to succeed on the merits.

A. The plain language of the Immigration and Nationality Act mandates that Ms. Soriano Altamirano's detention be governed by 8 U.S.C. § 1226(a).

Ms. Soriano Altamirano is likely to succeed on her claim that the government lacks the authority to subject her to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See* ECF Dkt. 1 at 6–11, 14–15. Section 1225(b)(2)(A) applies specifically to "applicants for admission" who are "seeking admission," a category that textually and historically applies to noncitizens arriving at a port of entry. In contrast, Ms. Soriano Altamirano has resided in the United States for over two decades, having last entered the country in approximately 2004. Because Ms. Soriano Altamirano was already present in the interior and has been for many years, her detention is properly governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and the right to a bond hearing.

The government argues that the recent Fifth Circuit decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026), requires this Court to deny the petition because all individuals who entered without inspection remain "applicants for admission" subject to mandatory detention until their proceedings conclude. Ms. Soriano Altamirano maintains that this interpretation is contrary to the plain text of the statutory framework and decades of agency practice and that she is a member of the *Maldonado Bautista* "Bond Eligible Class." *See Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025), *amended and superseded on reconsideration*, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025). The distinction between noncitizens arriving at the border and those who have entered and established residences in the United States is a fundamental principle of immigration law that the government's new policy erroneously attempts to erase.

B. The *Maldonado Bautista* class action order governs this case and takes precedence over the *Buenrostro-Mendez* decision.

1. Ms. Soriano Altamirano is a member of the nationwide class certified in *Maldonado Bautista*.

Ms. Soriano Altamirano meets the definition of the nationwide "Bond Eligible Class" established by the Central District of California. *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025), *amended and superseded on reconsideration*, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025) (granting petitioners' motion for partial summary judgment, vacating the DHS policy as contrary to law, and granting the petitioners' motion for class certification). The class consists of "[a]ll noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection, (2) were not or will not be apprehended upon arrival, and (3) are not or will not be subject to [other mandatory detention statutes]." *Id.* Ms. Soriano

Altamirano has lived in the United States since 2004 and was apprehended in the interior of the country, not at the border as an arriving alien. *See* ECF Dkt. 1 at 1–2. Therefore, she is a class member entitled to the benefits of the class-wide judgment. *See Maldonado Bautista*, 2025 WL 3288403, at *9.

The petitioners in *Buenrostro-Mendez* filed their habeas petitions in July and August 2025 and were granted release in October, so *Buenrostro-Mendez* did not involve a member of a certified class with a pre-existing nationwide vacatur order like Ms. Soriano Altamirano and the *Maldonado Bautista* Bond Eligible Class. Further, *Buenrostro-Mendez* is silent as to the preclusive effect of a prior nationwide class judgment on the government.

2. The nationwide vacatur of the Department of Homeland Security policy under the Administrative Procedure Act renders the government's detention authority void.

The final judgment in *Maldonado Bautista* vacated the July 8, 2025 DHS Interim Guidance nationwide under the Administrative Procedure Act ("APA"). *See Maldonado Bautista v. Santacruz*, No. 25-cv-01873, 2025 WL 3713981, at *32 (C.D. Cal. Dec. 18, 2025). Vacatur under the APA "sets aside" the agency action, effectively erasing the policy from the legal landscape. *See id.* Although the Fifth Circuit subsequently interpreted the underlying statute in *Buenrostro-Mendez v. Bondi*, that decision does not revive a policy that was already judicially nullified. *See Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

Because the policy the government relies upon to detain Ms. Soriano Altamirano under 8 U.S.C. § 1225(b)(2) no longer exists, her detention lacks a valid administrative basis. *See Maldonado Bautista*, 2025 WL 3713981, at *32. Moreover, the government, as a party to *Maldonado Bautista*, is bound by that court's order on December 18, 2025, vacating its 2025

policy regarding the application of 8 U.S.C. § 1225(b)(2)(A), until that order is stayed or vacated.

3. The government is precluded from relitigating the lawfulness of the mandatory detention policy against class members.

The federal government is bound by the *Maldonado Bautista* final judgment through the doctrines of collateral estoppel and res judicata. *See Maldonado Bautista*, 2025 WL 3713981, at *32. The court entered a final judgment on the bond-eligibility issue under Federal Rule of Civil Procedure 54(b), making it a final, appealable ruling that is binding unless overturned by a higher court. *See id.* Because the government was a party to the *Maldonado Bautista* litigation, it cannot circumvent the nationwide class-wide relief by seeking a different result in a different circuit. *See id.* The *Maldonado Bautista* order thus takes precedence as a final judicial determination of the rights of the class to which Ms. Soriano Altamirano belongs. *See id.*

Accordingly, this Court is bound by the *Maldonado Bautista* final judgment regarding Ms. Soriano Altamirano until that specific order is stayed or overturned, regardless of the general statutory interpretation in *Buenrostro-Mendez*.

C. The Fifth Amendment prohibits the mandatory detention of a long-term resident without an individualized bond hearing.

1. The Fifth Circuit's decision in *Buenrostro-Mendez* was limited to statutory interpretation and did not reach the constitutional claims.

The majority in *Buenrostro-Mendez v. Bondi* focused solely on whether 8 U.S.C. § 1225(b)(2)(A) mandates the detention of noncitizens who entered the United States without inspection. *See* No. 25-20496, 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026). The court held that the statutory text, structure, and history support the government's interpretation that such individuals are "applicants for admission" subject to mandatory detention. *See id.* at *10. However, the court did not consider whether this mandatory detention, particularly when applied

to long-term residents, violates the procedural due process protections of the Fifth Amendment. *See id.* at *3 (limiting discussion of the Fifth Amendment to noting that the two petitioners before the court "alleged violations of the INA, Fifth Amendment, and APA.") Consequently, the *Buenrostro-Mendez* decision does not foreclose constitutional challenges to continued detention.

2. Procedural due process requires an individualized assessment of liberty interests for long-term residents.

Thus, even if the court determines that the statute authorizes mandatory detention, Ms. Soriano Altamirano is likely to succeed on her claim that such detention violates the Due Process Clause. Noncitizens within the United States are entitled to the protections of the Fifth Amendment, which includes freedom from arbitrary and prolonged detention. Ms. Soriano Altamirano's status as a resident of more than twenty years entitles her to significant procedural protections that cannot be reconciled with a policy of categorical, mandatory detention. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). As the United States Supreme Court has noted, "[t]he distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Id.*

A policy that denies a long-term resident any opportunity to request a bond hearing while her removal proceedings are pending fails to satisfy the basic requirements of due process. The government's assertion that *Buenrostro-Mendez* has foreclosed this constitutional challenge overlooks the specific liberty interests at stake for individuals with deep family and community ties. Because the government's interpretation would subject Ms. Soriano Altamirano to an unconstitutional deprivation of liberty, she has demonstrated a substantial likelihood of success on the merits of her habeas petition.

II. Ms. Soriano Altamirano will suffer irreparable harm absent emergency injunctive relief.

Parties seeking preliminary injunctive relief must also show they are "likely to suffer irreparable harm in the absence of preliminary relief." *Winter*, 555 U.S. at 20. Irreparable harm is harm for which there is "no adequate legal remedy, such as an award of damages." *Ariz. Dream Act. Coal. v. Brewer* (*Ariz. I*), 757 F.3d 1053, 1068 (9th Cir. 2014); *see also Daniels Health Scis., L.L.C. v. Vascular Health Scis.*, L.L.C., 710 F.3d 579, 585 (5th Cir. 2013).

A. The "here-and-now" injury of being subjected to an unconstitutional proceeding constitutes irreparable harm.

In addition to the harm of her unlawful detention, Ms. Soriano Altamirano will suffer irreparable harm if the government is allowed to conduct her individual merits hearing before this Court has an opportunity to consider her habeas petition. The government has violated her right to freedom from detention. Now, as a result, they seek to benefit from the short notice of, and lack of ability to properly prepare for, a detained individual merits case.

The U.S. Supreme Court has affirmed that "being subjected" to an unconstitutional proceedings is irreparable harm:

> The harm Axon and Cochran allege is "being subjected" to "unconstitutional agency authority"—a "proceeding by an unaccountable ALJ." Brief for Axon 36; *see* Brief for Cochran 37 (contending she suffers harm from "having to appear in proceedings" before an unconstitutionally insulated ALJ). That harm may sound a bit abstract; but this Court has made clear that it is "a here-and-now injury." *Seila Law LLC* v. *Consumer Financial Protection Bureau*, 140 S. Ct. 2183, 2196 (2020) (internal quotation marks omitted).

Axon Enter., Inc. v. Fed. Trade Comm'n, 598 U.S. 175, 191 (2023)

The Fifth Circuit also recently reaffirmed that being forced to endure a legal proceeding before a constitutionally suspect tribunal—or while a constitutional violation is ongoing—inflicts a "here-and-now" injury as contemplated in *Axon*:

> [The] reasoning [in *Axon Enter., Inc. v. Fed. Trade Comm'n*, 598 U.S. 175, 191 (2023)] fits irreparable harm hand-in-glove: once an unconstitutional proceeding begins, the damage is done. That is the essence of irreparability. No further showing—such as how the outcome might differ under a valid structure—is required. Waiting until the end would be no remedy at all.

Space Expl. Techs. Corp. v. Nat'l Lab. Rels. Bd., 151 F.4th 761, 780 (5th Cir. 2025) (citing *Collins v. Yellen*, 594 U.S. 220, 263–64 (2021) (Thomas, J., concurring), for the proposition that there is no requirement to show how the outcome may differ) (footnote omitted).

In the context of a habeas petition, Ms. Soriano Altamirano's continued detention is the very violation she seeks to remedy. Forcing Ms. Soriano Altamirano to participate in a merits hearing while in the coercive environment that she alleges is unlawful constitutes a procedural injury that is "inflicted the instant the proceeding begins." *Id.* at 780 n.114. That coercive environment impairs Ms. Soriano Altamirano's ability to present a full defense, such as the inability to meet with witnesses or gather physical evidence, which cannot be remedied after the individual merits hearing is conducted. Once the hearing occurs, Ms. Soriano Altamirano will be deprived of the right to be heard from a position of lawful liberty, "and the Constitution does not force litigants to endure that injury just to keep alive the right to contest the tribunal's legitimacy after the damage is done." *Id.*

B. The deprivation of Fifth Amendment liberty interests is irreparable because it cannot be compensated by legal remedies.

It is well settled in this circuit that the violation of constitutional rights, particularly the right to due process and freedom from unlawful restraint, constitutes irreparable harm. *See Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("It is clear therefore that First Amendment interests were either threatened or in fact being impaired at the time relief was sought. The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."); *see also Sambrano v. United Airlines, Inc.*, No. 21-11159, 2022 WL 486610, at *8 (5th

Cir. Feb. 17, 2022) (same). Because Ms. Soriano Altamirano is detained, her ability to gather evidence, consult with counsel, and prepare for a merits hearing is severely curtailed.

A meaningful opportunity to be heard is a core requirement of the Fifth Amendment. *See Trump v. J. G. G.*, 604 U. S. 670, 673 (2025) (per curiam) ("[T]he Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings." (internal quotation marks omitted)). If the merits hearing proceeds before the court adjudicates the habeas petition, Ms. Soriano Altamirano faces the risk of an erroneous removal order based on a record tainted by the limitations of her unlawful detention.

C. The conduct of an individual merits hearing in Ms. Soriano Altamirano's removal proceedings may render the habeas petition functionally moot, divesting the court of its jurisdiction to provide meaningful relief.

The U.S. Supreme Court in *A.A.R.P. v. Trump*, 605 U.S. 91 (2025), recognized that harm is irreparable when it threatens to evade the jurisdiction of the federal courts. *See id.* at 94 (vacating Fifth Circuit dismissal for lack of jurisdiction in a removal context). If the government issues a final order of removal at the merits hearing, Ms. Soriano Altamirano may be subject to immediate deportation and a change in her detention status under 8 U.S.C. § 1231, which may strip the district court of its ability to order her release under 8 U.S.C. § 1226. *See Nken v. Holder*, 556 U.S. 418, 435 (2009) ("removal is a serious burden for many [noncitizens]"). The potential for the government to race to a final order of removal before this Court can address the legality of the underlying detention satisfies the "substantial threat" of irreparable injury required for a TRO.

III. The balance of hardships and public interest tip sharply in Ms. Soriano Altamirano's favor.

The final two factors for injunctive relief—the balance of hardships and public interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009); *Tex. Tribune v. Caldwell Cnty*, 121 F.4th 520, 525 (5th Cir. 2024). Here, Ms. Soriano Altamirano faces weighty hardships, namely the deprivation of her constitutional right to due process, deprivation of her liberty, separation from her family consisting of her two U.S.-citizen children, loss of income, and inability to assist her attorney in gathering evidence and preparing witnesses in support of her relief application(s) in immigration court.

The government, by contrast, faces no hardship. There are no administrative costs associated with release, and the administrative costs associated with providing procedural due process are minimal if this Court grants this injunction. "[T]he balance of hardships tips decidedly in [petitioner's] favor" when "[f]aced with such a conflict between financial concerns and preventable human suffering." *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (quoting *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)). Further, conducting a merits hearing that may later be found to have occurred during an unconstitutional detention is a waste of administrative and judicial resources. The public interest is better served by ensuring the underlying jurisdictional and constitutional questions are resolved first.

Moreover, the government "cannot suffer harm from an injunction that merely ends an unlawful practice." *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). The public interest is served by the faithful execution of the immigration laws, and that interest includes respect for protections Congress has enacted and to which the United States has committed itself by treaty. *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005) (recognizing "the public interest in having the immigration laws applied correctly and evenhandedly"); *Leiva-Perez v.*

Holder, 640 F.3d 962, 971 (9th Cir. 2011) (noting "the public's interest in ensuring that we do not deliver [noncitizens] into the hands of their persecutors"); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992) (discussing "the public interest in Government observance of the Constitution and laws").

There is a public interest in preventing unlawful deportations—and no public interest in continuing unlawful actions by the government. *See, e.g.*, *Tesfamichael v. Gonzales*, 411 F.3d 169, 178 (5th Cir. 2005) (recognizing "the public interest in having the immigration laws applied correctly and evenhandedly"); *see also Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992) (discussing "the public interest in Government observance of the Constitution and laws").

IV. This Court has the authority to enjoin the government from conducting Ms. Soriano Altamirano's individual merits hearing until this Court has had the opportunity to consider her habeas petition.

A. The United States Supreme Court has strictly limited the scope of 8 U.S.C. § 1252(g) to three specific discretionary actions.

Section 1252(g) provides that no court shall have jurisdiction to hear any claim arising from the "decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien." The Supreme Court held in *Reno v. American-Arab Anti-Discrimination Committee* (*AADC*), 525 U.S. 471 (1999), that this provision is not a "general exhaustion requirement" or a "zipper clause" that bars all judicial review of removal-related claims. *See id.* at 482. Instead, it applies only to the three discrete actions listed in the statute. *See id.* The Court emphasized that § 1252(g) was designed to prevent noncitizens from using the courts to obstruct the government's discretionary decisions to initiate or proceed with removal. It does not strip federal courts of jurisdiction to hear legal or constitutional challenges to other aspects of the immigration process, such as the conditions or

legality of a noncitizen's physical detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018).

B. A challenge to the legality of detention is distinct from a challenge to the decision to "adjudicate" a case.

In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court explicitly clarified that § 1252(g) does not bar jurisdiction over claims challenging the legality of detention. *See id.* at 294. The Court reasoned that a claim seeking a bond hearing or challenging the authority for mandatory detention is not a challenge to the "decision to commence proceedings" or the "decision to adjudicate" the underlying removal case. *See id.*

When a petitioner seeks a TRO to stay a merits hearing while she is detained, she is *not* arguing that the government lacks the ultimate authority to adjudicate her case. Rather, she is arguing that the government cannot constitutionally proceed with that adjudication while she is subjected to a state of unlawful detention that violates her Fifth Amendment due process rights. Because the injury—unlawful detention—is independent of the eventual outcome of the adjudication, § 1252(g) does not apply. *See also Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (noting that § 1252(g) did not bar jurisdiction over a habeas petition challenging the length of detention).

C. Staying a hearing to preserve the status quo of a habeas petition is an exercise of this Court's inherent power.

The request for a TRO is a request for the court to maintain the status quo and protect its own jurisdiction to decide the habeas petition. If the government were permitted to proceed to a final order of removal before the court determines if Ms. Soriano Altamirano's detention is lawful, the court's ability to grant meaningful relief could be frustrated. *See Nken v. Holder*, 556 U.S. 418, 433 (2009).

The United States Supreme Court has recognized that district courts retain jurisdiction under 28 U.S.C. § 2241 to hear constitutional challenges to detention even when removal proceedings are ongoing. *See, e.g., Demore v. Kim*, 538 U.S. 510, 517 (2003) (rejecting a similar jurisdictional bar in § 1226(e)). Therefore, enjoining a hearing to ensure that a petitioner is not forced to defend herself while in a constitutionally deficient status (unlawful mandatory detention) is a procedural safeguard, not a challenge to the Attorney General's discretionary decision-making process covered by § 1252(g).

CONCLUSION

For the foregoing reasons, Ms. Soriano Altamirano respectfully requests that the Court enjoin the government from conducting her individual merits hearing until after this Court has had the opportunity to consider her petition for writ of habeas corpus and any other relief this Court deems just and proper.

Dated: February 20, 2026

Respectfully submitted,

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PROOF OF SERVICE
All parties were served through the Court's ECF system. Dated 02/20/2026

/s/ Jennifer Scarborough /s/
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