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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Samuel Mauricio GONZALEZ POLANCO Petitioner, v. Juan Baltazar, Administrator, Aurora ICE Processing Center (GEO); Robert HAGAN, Denver Field Office Director, Enforcement and Removal Operations U.S. Immigration and Customs Enforcement (USICE) Todd M. LYONS, Acting Director, USICE; Kristi NOEM, Secretary of Homeland Security; Pamela BONDI, Attorney General of the United States Respondents.	**EMERGENCY MOTION FOR IMMEIDATE RELEASE AND REQUEST FOR TEMPORARY RESTRAINING ORDER** Case No. [redacted]

EMERGENCY MOTION FOR IMMEDIATE RELEASE AND REQUEST FOR TEMPORARY RESTRAINING ORDER

EMERGENCY MOTION FOR IMMEDIATE RELEASE AND REQUEST FOR TEMPORARY RESTRAINING ORDER

I. INTRODUCTION

1) Petitioner, Samuel Mauricio Polanco Gonzalez [redacted] respectfully moves this Court for an emergency Temporary Restraining Order ("TRO") ordering his immediate release from immigration detention.

2) This case presents an extraordinarily groundless deprivation of liberty: for six months Respondents detained Petitioner based on Respondents' publicly published allegations that Petitioner was a member of [redacted] criminal terrorist organization. See Ex. A, I-213 from September 2025.

3) After having been given five months to provide evidence in support of those allegations, Respondents failed to provide ***anything*** to support the allegations. Respondents have provided no documentary evidence, no witness testimony, quite literally nothing, to corroborate their libelous allegations.

4) As a result, that allegation—the sole basis for Petitioner's re-detention—has been expressly rejected by the Immigration Court as "wholly unsubstantiated." See Ex. E (Immigration Judge Order).

5) Yet Petitioner remains incarcerated.

6) Respondents have not produced new evidence.

7) They have not articulated a new lawful basis for detention.

8) Instead, they continue to detain Petitioner as though the discredited allegation still carries force.

9) This is not regulatory detention.

10) It is arbitrary.

11) It is punitive.

12) It is a clear violation of the Fourth Amendment right to be free of unlawful searches and seizures (including of oneself).

13) It violates the Due Process Clause of the Fifth Amendment, as Petitioner has been provided no procedures via which to challenge his unlawful detention, short of forcing Respondents to provide the evidence to substantiate their wild ass allegations before the Immigration Court—which Respondents have failed to do.

14) Immediate intervention is required.

II. FACTUAL BACKGROUND

15) Petitioner entered the United States without inspection on July 8, 2022.

16) After his entry he presented himself to U.S. Customs and Border Patrol officials for processing.

17) He was subsequently released into the United States with a temporary grant of parole under 8 U.S.C. § 1182(d)(5), valid from July 11, 2022, through September 11, 2022.

18) He was also given an appointment to present himself to the West Valley City ICE office, and to enroll in the Alternatives to Detention monitoring program.

19) He complied with appointments and program enrollment.

20) In November 2022, DHS issued a Notice to Appear.

21) Petitioner remained in the United States thereafter.

22) He filed an application for asylum with the Immigration Court.

23) He applied for Temporary Protected Status.

24) He appeared in Immigration Court, and later retained an attorney to represent him before the Immigration Court.

25) In short, the Petitioner complied with all conditions imposed upon him and sought the protection of temporary status and asylum.

26) He did not abscond.

27) He remained available to the Government at all times.

28) In October 2024 the Government granted his application for Temporary Protected Status ("TPS") pursuant to 8 U.S.C. § 1254a., through April 4, 2025.

29) That grant constituted a temporary affirmative authorization for his presence in the United States.

30) Despite this documented history of full compliance, ICE very publically re-arrested Petitioner in September 2025.

31) The sole basis for that arrest was an allegation that Petitioner was affiliated with [redacted]

[redacted]

32) That allegation was memorialized in a Form I-213. See Ex. B (I-213).

33) Respondents further disseminated this allegation publicly, portraying Petitioner as affiliated with a criminal organization. See Exhibits. C–E (public dissemination materials).

34) During immigration proceedings, Respondents were provided nearly five months to produce evidence.

35) They failed to do so.

36) They never provided any evidence to support the allegations in the I-213.

37) The *only* purported corroborating evidence ever submitted by Respondents was, in fact, about an entirely different individual; the Immigration Judge had to close the hearing due to the

Respondents' violation of the unnamed individual's privacy. That submission was ordered removed.

38) After reviewing the record, the Immigration Judge found that the allegation of gang affiliation was "wholly unsubstantiated." See Ex. A.

39) Petitioner nevertheless remains detained.

40) The Government has not presented new evidence.

41) There is no alternative legal or factual basis for Petitioner's continued detention.

III. LEGAL STANDARD

42) A Temporary Restraining Order is governed by the same standard as a preliminary injunction. *See Diné Citizens Against Ruining Our Env't v. Jewell*, 839 F.3d 1276, 1281 (10th Cir. 2016). Petitioner must demonstrate:

a. A substantial likelihood of success on the merits;

b. Irreparable harm absent relief;

c. The balance of equities favors relief; and

d. The injunction is in the public interest.

43) Where the requested relief is mandatory, a heightened showing applies. *See RoDa Drilling Co. v. Siegal*, 552 F.3d 1203, 1209 (10th Cir. 2009).

IV. ARGUMENT

A. Petitioner is likely to succeed on the merits.

44) Civil immigration detention must be reasonably related to a legitimate governmental purpose. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

45) Detention cannot be arbitrary or punitive.

46) The Government detained Petitioner based on a libelous allegation that he was a member of [redacted] criminal organization.

47) An Immigration Judge has now rejected that allegation as "wholly unsubstantiated." *See* Exhibit A.

48) Once the factual predicate collapses, continued detention is unconstitutional—especially where the incarceration is allegedly civil in nature.

1. The I-213 Cannot Sustain Detention

49) An I-213 is admissible only if reliable. *See Matter of Barcenas*, 19 I. & N. Dec. 609 (B.I.A. 1988).

50) The Immigration Judge's ruling undermines the reliability of the I-213. See Ex. A; Ex. B.

51) The Government cannot rely on a document where a core allegation has been discredited.

2. Section 1225 Does Not Apply

52) Respondents may argue that Petitioner remains an "arriving alien" solely because he was originally paroled into the United States in July 2022.

53) Courts in this District have rejected that argument:

- *Marquez-Rico v. Baltazar* 1:25-cv-03943-CNS *3 (December 16, 2025).
- *Garcia Abanil v. Baltazar*, 1:26-cv-00123-WJM *4–5 (D. Colo. Jan. 14, 2026)
- *Buitrago Murzi v. Noem*, 1:26-cv-00359-CNS *2-3 (February 12, 2026)
- *Loa Caballero v. Baltazar*, 1:25-cv-03120-NYW *6 (D. Colo. Oct. 22, 2025)
- *Hernandez v. Baltazar*, 1:25-cv-03094-CNS, 2025 *5 (D. Colo. Oct. 24, 2025)

54) Each of those cited cases explicitly held—in a variety of factual scenarios—that persons without lawful status in the U.S. are generally not subject to the mandatory detention regime of 8 U.S.C. §1225(b), but are instead subject to the detention regime of 8 U.S.C. §1226, and

therefore must be provided with a hearing to consider and review their detention status before the Immigration Court.

55) In *Garcia-Abanil v. Baltazar, supra*, the court wrote:

> "The weight of authority interpreting § 1225 has recognized that 'for section 1225(b)(2)(A) to apply, several conditions must be met—in particular, an 'examining immigration officer' must determine that the individual is: (1) an 'applicant for admission'; (2) 'seeking admission'; and (3) 'not clearly and beyond a doubt entitled to be admitted.'" *Loa Caballero v. Baltazar*, 2025 WL 2977650, at *6 (D. Colo. Oct. 22, 2025) (quoting *Martinez v. Hyde*, 2025 WL 2084238, at *2 (D. Mass. July 24, 2025) (internal citations omitted)). Further examining the disputed meaning of "seeking admission," U.S. District Judge Nina Y. Wang of this District has explained that
>
> > "[s]eeking" means "try[ing] to acquire or gain." Seeking, Merriam Webster Dictionary, https://www.merriam-webster.com/dictionary/seeking (last visited [Jan. 8, 2026]). And "admission" is defined in the INA as "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,] [t]he plain meaning of the phrase 'seeking admission' requires that the applicant must be presently and actively seeking lawful entry into the United States.
>
> *Loa Caballero*, 2025 WL 2977650, at *6; see also *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771, 781 (E.D. Mich. 2025) (concluding that the phrase "seeking admission" "implies action – something that is currently occurring, and in this instance, would most logically occur at the border upon inspection"); *Martinez,* 2025 WL 92084238, at *6 ("[T]he phrase 'seeking admission' is undefined in the statute but necessarily implies some sort of present-tense action.").
>
> At bottom, "[n]oncitizens who are just 'present' in the country . . . , who have been here for years upon years and never proceeded to obtain any form of citizenship[,] . . . are not 'seeking' admission." *Lopez-Campos*, 797 F. Supp. 3d at 781. And "[a]s § 1225(b)(2)(A) applies only to those noncitizens who are actively 'seeking admission' to the United States, it cannot, according to its ordinary meaning, apply to [persons who have] already been residing in the United States for several years." *Lopez Benitez v. Francis,* 795 F. Supp. 3d 475, 489 (S.D.N.Y. 2025). Put another way, noncitizens in Garcia Abanil's position, who entered the United States many years ago, are not "seeking admission" to the United States but are instead "seeking to remain in the United States." *Lepe v. Andrews*, -- F. Supp. 3d --, 2025 WL 2716910, at *5 (E.D. Cal. Sept. 23, 2025); see also *J.G.O. v. Francis*, 2025 WL 3040142, at *3 (S.D.N.Y. Oct. 28, 2025) ("'[S]eeking admission' requires an alien to continue to want to go into the country. The problem, as [petitioner] points out, is that he's already here; you can't go into a place where you already are." (emphasis in original)).

Garcia-Abanil v. Baltazar, *9-10.

56) Prior to his abrupt and public arrest on September 8, 2025, Petitioner had lived in the United States for over three years and had been granted TPS.

57) He was not at the border seeking admission.

58) Section 1225 is therefore inapplicable. As Judge Martinez held in *Garcia-Abanil*: "Respondents' interpretation of § 1225(b)(2)(A) is contrary to the INA's plain text. As a consequence, the Court also concludes that Garcia Abanil's detention pursuant to § 1225(b)(2)(A) violates the INA, and that he is instead properly considered to be detained under § 1226(a)." *Id.* *12.

3. Detention is Either Completely unlawful or Pursuant to §1226(a).

59) Because this Petitioner cannot lawfully be detained pursuant to §1225(b), and because he does not have a final order of removal, the only possible statutory authority for his civil detention must, by process of elimination, be §1226(a).

60) Otherwise, his detention is completely without basis in law.

61) Respondents in September 5, 2025, "adopted a consistent interpretation in *Matter of Yajure Hurtado,* therein holding that, "under a plain language reading of . . . 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, . . . who are present in the United States without admission." *Garcia-Albanil* *4. (Citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 225 (BIA 2025).

62) Petitioner has not sought a bond hearing, both because of the (now stricken) allegations in the I-213 and because of Respondents' interpretation of the governing statutes in *Yajure Hurtado, id.*

63) Due to Respondents' interpretation of the governing statutes, Petitioner has not requested a bond hearing.

64) Petitioner believes that the Immigration Court will require an order from this court affirmatively finding that the sole statutory authority for his civil detention is §1226(a) before he will be granted a bond hearing.

65) Only an order from this Court can determine whether Petitioner's detention is entirely unlawful or governed by § 1226(a).

66) Section § 1226(a) requires an individualized custody determination.

67) Continued detention based on discredited allegations cannot satisfy that standard.

B. PETITIONER IS SUFFERING IRREPARABLE HARM.

68) Petitioner's loss of liberty for over six months based on false allegations constitutes irreparable harm. *See Elrod v. Burns*, 427 U.S. 347, 373 (1976).

69) Despite the Respondents' complete inability to provide any evidence for their libelous accusations, and despite the fact that the Immigration Judge has now stricken those allegations from the factual record of removal proceedings, Petitioner remains detained.

70) Each day constitutes a continuing constitutional violation.

71) Petitioner is also suffering reputational harm.

72) The Government publicly associated him wit[redacted] *See* Exs. C–E.

73) That stigma from these accusations is severe and irreversible. *See Paul v. Davis*, 424 U.S. 693 (1976).

74) The stigma is ongoing, and the reputational injury cannot be fully undone even if Petitioner later prevails on the merits.

75) The Immigration Judge's rejection of the government's allegation does not erase the damage caused by the public dissemination of that false label. It only requires a Google search of

Petitioner's name and [redacted] to document that the label has been republicized across Latin America.

76) Petitioner is also separated from his family, unable to work, and suffering the physical and psychological burdens of detention. These are classic forms of irreparable harm in emergency detention cases.

C. THE BALANCE OF EQUITIES OVERWHELMINGLY FAVORS IMMEDIATE RELEASE.

77) The equities favor a Temporary Restraining Order granting Petitioner's immediate release because he simply seeks to be restored to the supervised liberty he was previously granted and lawfully exercised.

78) Respondents have no legitimate interest in continuing unlawful detention.

79) Petitioner complied with prior supervision. Respondents have not identified any violation of that supervision.

80) The only serious allegation they advanced to justify detention has already been discredited.

81) No equitable principle favors continued incarceration under those circumstances.

82) By contrast, the harm to Petitioner from continued detention is immediate and profound.

83) The balance of hardships and equities thus tips sharply in his favor.

D. THE PUBLIC INTEREST SUPPORTS IMMEDIATE RELIEF.

84) The public interest is served by ensuring that when the government invokes the need for civil detention, it complies with the Constitution and the law.

85) The public has no interest in allowing detention to continue after any factual justification has been proven to be non-existent and where the government claims no procedural safeguards are required or available.

86) The public interest instead favors prompt judicial intervention to prevent unlawful detention.

V. REQUEST FOR EXPEDITED CONSIDERATION

87) Because Petitioner remains in ongoing unlawful custody, he respectfully requests that the Court consider this motion on an expedited basis.

VI. REQUEST TO WAIVE SECURITY

88) Petitioner respectfully requests that the Court waive any security requirement under Federal Rule of Civil Procedure 65(c). This case challenges unlawful government detention and does not present any meaningful risk of monetary harm to Respondents.

VII. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant this Emergency Motion, issue a temporary restraining order prohibiting Respondents from continuing to detain him and ordering his immediate release from custody. Alternatively, if the Court does not order immediate release, Petitioner requests the most prompt possible hearing and such additional relief as is necessary to prevent further unlawful detention, including an order prohibiting transfer outside this District.

RESPECTFULLY SUBMITTED this 24th day of March, 2026.

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SECTION I: September 2025 Documents regarding Arrest, Re-detention, and Evidence of False Accusation of [redacted] membership

Exhibit A — I-213 from September 2025

Exhibit B — ICE Social Posts

Exhibit C — Additional Social Media Dissemination and Printout of Google Search Results

Exhibit D — Dr. Charles Katz Expert Report

Exhibit E — IJ Order Granting Motion to Strike

SECTION II: Pre-September 2025 Documents regarding border detention, release, applications and compliance with monitoring.

Exhibit A — Parole Document

Exhibit B — Alternatives to Detention Agreement

Exhibit C — November 2022 I-213

Exhibit D — Notice to Appear

Exhibit E — I-589 Stamped July 10, 2023

Exhibit F — July 10, 2024, Continued Hearing Notice for May 2025

Exhibit G — Temporary Protected Status Grant