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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JENIN ARIEL RODRIGUEZ RODRIGUEZ,

Petitioner,

v.

WARDEN, ET AL.,

Respondents

CASE NO. 1:26-CV-03950-KES-FJS

RESPONSE TO ORDER, OPPOSITION TO
INJUNCTIVE RELIEF AND ANSWER TO
HABEAS PETITION

Respondent is amenable to converting the motion for temporary restraining order to a motion for preliminary injunction. Respondent is further amenable to the Court ruling on the underlying petition for writ of habeas corpus (Petition). *See* ECF No. 1.

The Petitioner is an applicant for admission and detained lawfully. Furthermore, Petitioner is distinguishable from this Court's prior Orders in *Labrador-Prato v. Noem*, No. 1:25-cv-1598 DC SCR, 2025 WL 3458802 (E.D. Cal. Dec. 2, 2025), *Selis Tinoco v. Noem*, No. 1:25-cv-1762 DC JDP, 2025 WL 3567862 (E.D. Cal. Dec. 14, 2025), *Cesar Luis v. Warden*, No. 1:26-cv-1823 DC SCR, 2026 WL 700713 (E.D. Cal. March 12, 2026), *Alvarez Maciel v. Noem*, No. 1:26-cv-1318 DC CKD, 2026 WL 496948 (E.D. Cal. Feb. 23, 2026), because he is a danger to the community and flight risk. The Petitioner is an applicant for admission detained under 8 U.S.C. § 1225(b), and distinguishable from other cases because his criminal contact. If the Court determines that § 1225(b) does not apply, then his

detention falls under 8 U.S.C. § 1226(a) because Petitioner was detained after an arrest for Driving While Intoxicated. *See* Exhibit 1. Claims eligibility for a bond hearing, any further review should occur before an immigration judge, where he must demonstrate that he is neither a flight risk nor a danger to the community despite his criminal nexus, not through immediate release via a temporary restraining order (TRO). Petitioner here, also distinguishable from the other cases had a bond hearing and the day of the hearing decided to withdraw his bond request, while represented by counsel. The Court should deny his TRO request because he cannot meet the required factors due to unlikelihood of success on the merits, lack of irreparable harm, balance of equities for the government, and public interest, alternatively grant a bond hearing where it is his burden to demonstrate he is not a danger or flight risk.

I. BACKGROUND

Petitioner is a native and citizen of Honduras that entered without admission or parole on February 11, 2022. *See* Exhibit 2. P. Petitioner was provided a Notice to Appear on March 2, 2022. *Id.* On April 26, 2026, Petitioner was arrested for Driving While Intoxicated and that case is still pending. *Id.* Petitioner was convicted for trespass on February 12, 2022. *Id.*

II. LEGAL STANDARD

Under 28 U.S.C. § 2241, the Court has the authority to determine a petition for writ of habeas corpus in which the petitioner asserts he is being held in custody “in violation of the Constitution or laws or treaties of the United States.” “The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

The standard for issuing a TRO is the same as the standard for issuing a preliminary injunction. *See Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n. 7 (9th Cir. 2001) (explaining that the analysis for temporary restraining orders and preliminary injunctions is “substantially identical”). When seeking a TRO or PI, plaintiffs must establish: (1) they are “likely to succeed on the merits” of their claims, (2) they are “likely to suffer irreparable harm in the absence of a preliminary injunction,” (3) “the balance of equities tips in [their] favor” and (4) “an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The last two factors “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

1 The moving party has the burden to “make a showing on all four prongs” of the Winter test to obtain a
 2 preliminary injunction. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011).
 3 Thus, the moving party has “the burden of persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972
 4 (1997); *Hecox v. Little*, 104 F.4th 1061, 1073 (9th Cir. 2023).

5 “A preliminary injunction is an extraordinary remedy never awarded as of right.” *Winter*, 555
 6 U.S. at 24. Preliminary injunctions are intended to “merely [] preserve the relative positions of the
 7 parties until a trial on the merits can be held, and to balance the equities at the litigation moves forward.”
 8 *Lackey v. Stinnie*, 604 U.S. 192, 201 (2025) (citations omitted). The status quo refers to “the last
 9 uncontested status which preceded the pending controversy.” *Tanner Motor Livery, Ltd. v. Avis, Inc.*,
 10 316 F.2d 804, 809 (9th Cir. 1963).

11 III. ARGUMENT

12 A. Petitioner is an applicant for admission.

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 14 Petitioner is an “applicant for admission” who is subject to mandatory detention. Section
 15 1225(b)(2) provides for mandatory detention. The plain language of § 1225 is rightly applied to aliens in
 16 this category. *See Alonzo v. Noem*, 2025 WL 3208284, at *2–4 (E.D. Cal. Nov. 17, 2025) (Shubb, J.); *id.*
 17 at *3 (citing two decisions); *Altamirano Ramos v. Lyons*, 2025 WL 3199872, at *4–8 (C.D. Cal. Nov.
 18 12, 2025); *id.* at *8 (citing three more decisions); *but see Alonzo*, 2025 WL 3208284, at *2–3 (conceding
 19 that “many courts,” both in this District and elsewhere, have held to the contrary).

20 An “alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not been
 21 admitted,’ is treated as ‘an applicant for admission.’” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018)
 22 (quoting 8 U.S.C. § 1225(a)(1)). Congress by statute has provided Petitioner with the right to contest his
 23 removal. But Congress by §1225(b) has at the same time mandated that, while Petitioner exercises those
 24 rights, he must be detained. Under *DHS v. Thuraissigiam*, 591 U.S. 103, 138–40 (2020), the Due
 25 Process Clause provides nothing more.

26 Respondents acknowledge the cases to the contrary in this District. But *Thuraissigiam* explained
 27 that Congress “addressed” the problems of flight risk and the high costs of detention “by providing more
 28 expedited procedures for certain ‘applicants for admission.’” 591 U.S. at 108. Moreover, despite its

1 singular use of the phrase “regarding admission,” *Thuraissigiam* also makes broad reference to the “due
2 process rights” of aliens at the threshold of entry, without drawing forced distinctions between
3 admission and other key aspects of the immigration process — such as detention — with which
4 admission is typically intertwined. *Id.* at 139 (emphasis added); *see also Carlson v. Landon*, 342 U.S.
5 524, 538 (1952) (“Detention is necessarily a part of [the] deportation procedure.”).

6 Petitioner entered and was later detained. Petitioner was redetained after an arrest for his
7 criminal nexus to drugs. This changes the Petitioner’s risk profile and parole is properly revoked upon his
8 arrest. At the time of the he was detained under § 1225(b), or alternatively 1226(a) because the
9 Petitioner poses a danger to the community. Petitioner remains without legal status in the United States
10 with his wife and child who reside in Chile, making him also a flight risk.

11 **B. Petitioner fails to demonstrate a likelihood of success on the merits, irreparable**
12 **harm, equities in favor of Petitioner, and public interest factors warranting a grant**
13 **for a Temporary Restraining Order.**

14 Petitioner did not establish a likelihood of success on the merits, much less a clear showing that
15 he is likely to prevail on any claim warranting emergency injunctive relief. Petitioner was encountered at
16 the border and on their own recognizance, released thereafter. Upon the new arrest of Driving While
17 Intoxicated, the Petitioner was then re-detained. Petitioner also cannot show a likelihood of success on
18 the merits because the benefit Petitioner is seeking in Immigration Court is already adequate,
19 congressionally authorized remedy, and a habeas is just a faster route than the Immigration Court
20 adjudication.

21 Petitioner has not shown irreparable harm from his detention. In *Winters supra.*, the court
22 describes the harm as some type of irreparable injury, not a speculative or generalized “possibility” of
23 hardship. The remaining generalized hardships that are collateral to Petitioner’s detention do not rise to
24 the level of irreparable because he intends to depart the United States.

25 The balance of equities also favors the government, specifically in this case where DHS has a
26 legitimate interest in ensuring appearance to court hearings, enforcing the immigration law, and
27 allowing the immigration judge to decide bond hearings as part of the statutory process before federal
28 court intervention or release. Distinguishable from other cases, when Petitioner’s encounter is related to

1 drinking and driving which clearly poses a danger to the community. Even if he was paroled in, an arrest
2 of any United States law would be a violation of those conditions.

3 The public interest also favors denial. In the present case the public interest is served by
4 following the statutory custody scheme, or alternatively as this Court has done in earlier cases, requiring
5 individualized bond review before the immigration judge for certain individuals.

6 **CONCLUSION**

7 Respondents lawfully detained the Petitioner under 8 U.S.C. § 1225(b), however if the Court
8 finds Petitioner is not detained under § 1225(b), he is lawfully detained under 1226(a) and should order
9 a bond hearing where Petitioner bears the burden of proving he is not a danger or a flight risk based on
10 his criminal contacts. Petitioner was properly detained and the procedures in the statute provide
11 sufficient process to protect any rights he has developed during his time in the United States.

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13 Dated: June 23, 2026

14 Respectfully submitted,

15 ERIC GRANT
16 United States Attorney

17 By: /s/ NISREEN F. ASSAF
18 NISREEN F. ASSAF
19 Special Assistant United States Attorney
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IV. PROOF OF SERVICE

I certify that I am an employee in the Office of the United States Attorney for the Eastern District of California and a person of such age and discretion to be competent to serve papers; that on June 23, 2026, I prepared these documents for mailing and sent them to a member of the U.S. Attorney support staff to place in the United States Mail at Sacramento, California to deliver to the addressee, at the place and address stated below, which is the last known address.

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