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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ZOILA MARGARITA ANDRADE ALVARADO, Petitioner, v. CHRISTOPHER CHESTNUT ET AL., Respondents.	CASE NO. 1:26-CV-05230-DJC-CSK OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER

INTRODUCTION

Petitioner Zoila Margarita Andrade Alvarado seeks extraordinary relief—temporary release or court-directed transport to a civil surgeon to complete Form I-693—while detained under 8 U.S.C. § 1226(a). She already received the process the statute and regulations provide: an immigration judge conducted a custody redetermination and denied bond on danger; Petitioner did not appeal that denial to the Board of Immigration Appeals. Doc. 2-3 at 27–28.

Two settled principles decide both the TRO and habeas petition. Because Andrade Alvarado seeks a TRO, *Winter* governs. Prudential exhaustion requires § 1226(a) bond disputes to go to the BIA before habeas; courts dismiss or stay to permit agency review absent a narrow, recognized waiver. *Leonardo v. Crawford*, 646 F.3d 1157, 1160–61 (9th Cir. 2011); *Puga v. Chertoff*, 488 F.3d 812, 815–16 (9th Cir. 2007); *Laing v. Ashcroft*, 370 F.3d 994, 1000–01 (9th Cir. 2004).

Section 1226(a)'s procedures are constitutionally adequate; the Ninth Circuit has rejected burden-shifting and court-crafted second hearings, and detention determinations are reviewed for abuse of discretion on mixed law-and-fact questions—reinforcing the primacy of agency review before any habeas relief. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196–97, 1202–03 (9th Cir. 2022); *Martinez v. Clark*, 124 F.4th 775, 784–85 (9th Cir. 2024).

BACKGROUND

Andrade Alvarado is a citizen of Honduras who entered the United States on a tourist visa that expired in 2020. Doc. 2-3 at 4. Although her visa expired, she did not renew her status. *Id.* at 23.

Immigration and Customs Enforcement (ICE) detained her on October 28, 2025, and initiated removal proceedings in November 2025. Exh. A at 3, 5. Andrade Alvarado requested custody redetermination but withdrew the request on December 19, 2025. Exh. B.

She then obtained another custody redetermination hearing but was denied release based on danger. Doc. 2-3 at 27–28. The danger finding states, in relevant part: "Respondent has not established that she is not a danger to the community. Respondent has demonstrated a pattern of exhibiting dangerous behavior." *Id.* at 27. The IJ noted arrests for "crimes against a person" in 2021 and 2025 and described the 2025 arrest report: Andrade Alvarado "assault[ed] her girlfriend multiple times in the face," striking the victim's eye "with such force that [she] popped a blood vessel." *Id.* She did not appeal the bond denial. She has not requested another custody redetermination based on changed circumstances.

Adjustment of status requires an immigration medical examination and a sealed Report of Immigration Medical Examination and Vaccination Record (Form I-693) completed by a designated civil surgeon; the regulation does not create a judicial transport entitlement. 8 C.F.R. § 245.5.

ARGUMENT

I. Under *Winter*, Andrade Alvarado must show likelihood of success, irreparable harm, a favorable balance of equities, and public interest; she cannot satisfy the first prong because prudential exhaustion is dispositive and detention determinations receive deferential review.

A party seeking a TRO or preliminary injunction must establish all four Winter factors: (1) likely success on the merits, (2) likely irreparable harm absent relief, (3) the balance of equities tipping in her favor, and (4) public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

Likelihood of success is dispositive. Bond challenges under § 1226(a) must proceed to the BIA before habeas. That sequence promotes agency expertise, supplies a complete record, and avoids premature judicial intervention. *Leonardo*, 646 F.3d at 1160–61; *Puga*, 488 F.3d at 815–16. Waiver is narrow and requires inadequacy or inefficacy of the remedy, futility, irreparable injury, or void proceedings; routine disagreement with an IJ's weighing does not qualify. *Laing*, 370 F.3d at 1000–01.

Detention determinations present mixed questions of law and fact. Courts do not reweigh the IJ's bond evidence and review the application of the dangerousness and flight-risk standard for abuse of discretion—underscoring the primacy of agency adjudication. *Martinez*, 124 F.4th at 784–85. Under § 1226(a), the noncitizen bears the burden to show no danger; the Ninth Circuit rejected imposing a clear-and-convincing government burden or mandating second hearings absent constitutional error. *Rodriguez Diaz*, 53 F.4th at 1196–97, 1202–03; *Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017); *Matter of Guerra*, 24 I. & N. Dec. 37, 39–41 (BIA 2006).

Applied here, Andrade Alvarado received a custody redetermination hearing; the IJ denied bond on danger with specific factual findings. Doc. 2-3 at 27–28. She did not appeal. Under *Leonardo* and *Puga*, prudential exhaustion is dispositive; likelihood of success cannot be shown. *Leonardo*, 646 F.3d at 1160–61; *Puga*, 488 F.3d at 815–16.

Because the first *Winter* factor fails, the TRO should be denied and the petition resolved on this briefing.

II. Andrade Alvarado's request for court-ordered transport or temporary release to attend a civil-surgeon exam lies outside the core of habeas; it seeks access to collateral procedures, not a determination that would necessarily accelerate release.

The Supreme Court draws a clear boundary: habeas is the exclusive remedy for challenges to the fact or duration of custody where success would necessarily entail immediate or speedier release; § 1983 (or analogous civil-rights vehicles) remains available for procedural or access claims that do not necessarily produce release. *Skinner v. Switzer*, 562 U.S. 521, 533–36 (2011).

Andrade Alvarado's request is to be transported or temporarily released to complete a civil-surgeon exam required for adjustment. Even if granted, that order would provide access to a collateral step in a potential future application (I-693 completion); it would not determine that her custody is unlawful nor necessarily result in immediate or earlier release. Under *Skinner*, such access claims fall outside habeas because success does not "necessarily spell speedier release." *Skinner*, 562 U.S. at 533–36.

The Immigration and Nationality Act's adjustment regulation likewise does not create a judicial transport right. It requires a medical exam and Form I-693, but it does not confer court authority to order release or transport from § 1226(a) custody. 8 C.F.R. § 245.5. The regulations keep custody determinations separate from removal proceedings and provide an appellate path to the BIA; they do not authorize district courts to manage the logistics of detention. 8 C.F.R. § 1003.19(d), (e); § 1003.38.

Because the transport request seeks access to procedures rather than a ruling that would necessarily shorten detention, it is outside habeas. It therefore cannot satisfy *Winter*'s merits prong. The TRO should be denied, and the habeas petition should be dismissed without prejudice (or stayed) to permit the proper administrative route—BIA review of custody—and, if circumstances materially change, a renewed IJ bond motion.

CONCLUSION

The Court should deny the TRO and resolve the habeas petition on this briefing. Andrade Alvarado cannot show likelihood of success under *Winter*: prudential exhaustion

forecloses district-court review of her § 1226(a) bond dispute; detention determinations are reviewed for abuse of discretion and are suited to agency review; and transport is an access-to-procedure request outside the core of habeas and unsupported by the adjustment regulation.

If the Court prefers a minimal safeguard, it should limit relief to another IJ custody redetermination hearing.

Dated: July 13, 2026

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