

1 TIMOTHY COURCHAIINE
 2 United States Attorney
 District of Arizona
 3 NEIL SINGH
 4 Assistant United States Attorney
 Arizona State Bar No. 021327
 5 Two Renaissance Square
 6 40 North Central Avenue, Suite 1800
 Phoenix, Arizona 85004-4449
 7 Telephone: (602) 514-7500
 8 neil.singh@usdoj.gov
 Attorneys for Respondents Figueroa,
 9 Cantu, and Noem

10 **IN THE UNITED STATES DISTRICT COURT**
 11 **FOR THE DISTRICT OF ARIZONA**

12
 13 Wenjuan Wang,
 Petitioner,
 14 v.
 15 Fred Figueroa, et al.,
 16 Respondents.
 17

No. 2:25-cv-03301-MTL

**GOVERNMENT’S ANSWER TO
 HABEAS PETITION AND
 RESPONSE TO MOTION FOR
 INJUNCTIVE RELIEF**

18 Petitioner entered the United States unlawfully and presently lacks any legal status.
 19 Under the Supreme Court’s holding in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the
 20 government has clear statutory authority to detain her. As such, the government did so pending
 21 her removal, pursuant to 8 U.S.C. § 1225(b)(2)(A). Petitioner’s motion (Doc. 2) argues that
 22 the government lacks statutory authority to detain a noncitizen in this scenario, because
 23 Petitioner has recently applied for legal residence based on a marriage three months ago to a
 24 U.S. citizen, and the application will likely be approved, allegedly. Section 1225 and *Jennings*
 25 foreclose that argument. The government’s authority to detain Petitioner is valid and the
 26 motion for an injunction should be denied.
 27
 28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. Factual Background.**

3 Petitioner is a 39-year-old citizen of China. On February 2, 2023, Petitioner entered the
4 United States in Los Angeles, California without legal status, and was paroled in. Exhibit 1,
5 Affidavit of Deportation Officer Terrel Peck, ¶ 4. Prior to that date, Petitioner had applied in
6 2020 for an Adjustment of Status based on marriage to a United States citizen. Exhibit 1, ¶ 5.
7 Petitioner’s own exhibits reflect that this marriage was terminated in dissolution, on March 7,
8 2025. Doc. 1 at 25, line 16B. On February 25 and 26, 2025, the government denied Petitioner’s
9 Form I-130 and Form I-485 that had sought Adjustment of Status based on marriage. Exhibit
10 1, ¶¶ 6, 7. Petitioner alleges that she then married another U.S. citizen, Michael Constantine,
11 on June 14, 2025. Doc. 1 at 25. On July 2, 2025, agents from the United States Department of
12 Homeland Security arrested Petitioner. Exhibit 1, ¶ 8. Immigration and Customs Enforcement
13 (ICE) transported her to the Eloy Detention Center in Arizona. Exhibit 1, ¶ 9.

14 On July 24, 2025, ICE charged Petitioner with inadmissibility as an arriving alien for
15 entering the United States without a valid visa, reentry permit, border crossing card, or any
16 valid entry document. Exhibit 1, ¶ 10. On July 29, 2025, Petitioner filed a new Form I-130
17 Petition for Alien Relative, based on a second, new marriage to Michael Constantine. Exhibit
18 1, ¶ 11. On the same date she filed a new Form I-485, Application to Register Permanent
19 Residence or Adjust Status. Exhibit 1, ¶ 12. On August 7, 2025, Petitioner moved the
20 Immigration Court to terminate removal proceedings against her. Exhibit 1, ¶ 13. The
21 Immigration Judge (IJ) granted this motion, reasoning that it lacked jurisdiction over the
22 proceedings in light of the United States Citizenship and Immigration Services (USCIS)
23 having jurisdiction over the I-130 and I-485 forms. Doc. 1 at 47. In so ruling, the IJ noted that
24 the Department of Homeland Security “may refile an NTA” in the event that USCIS denied
25 the marriage-based petition. Doc. 1 at 47. The government has informed Petitioner through
26 her counsel that it intends to file an appeal of the IJ’s ruling, the brief for which is due on
27 September 22, 2025. Exhibit 1, ¶ 15. Petitioner remains in custody and the government has
28 declined to release her until the appeal is resolved.

1 **II. Standard of Review.**

2 Petitioner seeks both a temporary restraining order (TRO) and a preliminary
3 injunction in her motion. Doc. 2. A “preliminary injunction is an extraordinary and drastic
4 remedy.” *Munaf v. Geren*, 553 U.S. 674, 689-90 (2008). A district court should enter a
5 preliminary injunction only “upon a clear showing that the [movant] is entitled to such relief.”
6 *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 22 (2008). To obtain relief,
7 the moving party must demonstrate (1) that she is likely to succeed on the merits of its claims;
8 (2) that she is likely to suffer an irreparable injury in the absence of injunctive relief; (3) that
9 the balance of equities tips in her favor; and (4) that the proposed injunction is in the public
10 interest. *Id.* at 20. These factors are mandatory. As the Supreme Court has articulated, “[a] stay
11 is not a matter of right, even if irreparable injury might otherwise result” but is instead an
12 exercise of judicial discretion that depends on the particular circumstances of the case. *Nken*
13 *v. Holder*, 556 U.S. 418, 433 (2009) (quoting *Virginian R. Co. v. United States*, 272 U.S. 658,
14 672 (1926)).

15 Further, when the government is a party, the balance of equities and public interest
16 factors merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014).
17 Weighing the public interest “primarily addresses impact on non-parties rather than parties.”
18 *Pacito v. Trump*, 768 F. Supp. 3d 1199, 1237 (W.D. Wash. 2025) (quoting *CTIA – The*
19 *Wireless Ass’n v. City of Berkeley, Cal.*, 928 F.3d 832, 852 (9th Cir. 2019)).

20 The standard for analyzing a motion for a TRO is the same as for a preliminary
21 injunction. *Babaria v. Blinken*, 87 F.4th 963, 976 (9th Cir. 2023) (describing the two standards
22 as “substantially identical”).

23 **III. Law and Argument.**

24 **A. Petitioner is not likely to succeed on the merits of her claims.**

25 Addressing the first *Winter* factor, Petitioner cannot show that she is likely to succeed
26 on the merits. Petitioner’s injunctive motion presents a narrow argument to the Court on why
27 the government cannot detain a noncitizen in her circumstances, citing only a single federal
28 regulation: 8 C.F.R. § 1003.6. Doc. 2 at 4. Section 1003.6(a), the specific subsection Petitioner

1 cites, states only that a decision by an IJ that has been appealed “shall not be executed” while
2 the appeal is pending. This has no applicability to the government’s authority to detain
3 Petitioner. That authority lies in 8 U.S.C. § 1225(b)(2)(A), which provides for mandatory
4 detention of a noncitizen who is an applicant for admission, “if the examining immigration
5 officer determines that [she] is not clearly and beyond a doubt entitled to be admitted...” While
6 it is true that an IJ has terminated the government’s current removal proceedings, on
7 jurisdictional grounds, the government is appealing that termination and continues to believe
8 that Petitioner is indeed removable. 8 C.F.R. § 1003.6 contains no language depriving the
9 government of its ability to continue detaining Petitioner while that appeal is resolved, merely
10 because Petitioner believes that her marriage-based application will likely be approved.
11 Petitioner cites no other regulations, statutes, or caselaw in her motion.

12 Petitioner states that the government “may not indefinitely detain an individual” who
13 has been found not removable. Doc. 2 at 4. This appears to be an implied reference to the
14 prohibition against indefinite detention that is governed by the Supreme Court’s ruling in
15 *Zadvydas v. Davis*, 533 U.S. 678 (2001), even though Petitioner does not explicitly cite
16 *Zadvydas*. But nor *could* Petitioner cite *Zadvydas*, because the statutory framework into which
17 Petitioner fits is governed by *Jennings*, 582 U.S. at 297. *Zadvydas* only governs detention
18 situations where the noncitizen is in a post-removal period after a final order has been issued.
19 *Zadvydas*, 533 U.S. at 688. Petitioner here is not in that category: she is instead subject to a
20 pre-final order of mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A). As such, it is the
21 Supreme Court’s holding in *Jennings* that governs the legality and constitutionality of her
22 detention. As *Jennings* held, § 1225(b)(2) “mandate[s] detention of aliens throughout the
23 completion of applicable proceedings and not just until the moment those proceedings begin.”
24 582 U.S. at 302.

25 To be clear, the government is not detaining Petitioner indefinitely in the first
26 instance. Petitioner here has been in detention since July 2, 2025. As of this filing, her detention
27 has endured for 78 days. Even if Petitioner fell into the category of noncitizens governed by
28 *Zadvydas*, she would not qualify for *Zadvydas* relief, which only applies to persons who are in

1 the post-removal detention period for longer than six months, and who have made a showing
2 that their detention has a serious risk of being indefinite. 533 U.S. at 688-90. But Petitioner
3 simply is not in that category because she is subject to mandatory detention under § 1225(b)(2).

4 **B. Petitioner has not shown irreparable injury in the absence of injunctive relief.**

5 Because the government is affording Petitioner due process before the immigration
6 court on her arguments, she cannot show irreparable injury here. As to her argument that her
7 medical condition constitutes irreparable injury, the medical records she provides do not
8 sustain that claim. Federal courts may recognize irreparable injury as supporting extraordinary
9 relief if a petitioner is suffering from “severe illness” or some heightened, “high-risk” medical
10 condition, such as conditions that threatened high-risk individuals during COVID-19. *See, e.g.,*
11 *Habibi v. Barr*, 445 F. Supp. 3d 990, 999-1000 (S.D. Cal. 2020). But as the *Habibi* court held
12 in that case, a 23-year-old noncitizen with no preexisting or high-risk medical conditions did
13 not warrant a finding of irreparable injury. *Id.*

14
15
16 ///

17
18
19
20
21 ///

22
23
24
25 ///

1 Petitioner, who is 39 years old, alleges that her medical conditions include
2 hypothyroidism¹, anemia², hyperlipidemia³, and xerosis cutis⁴. Doc. 2 at 5. The standard for
3 the irreparable injury factor in *Winter* requires a showing of some severe medical condition
4 that actually threatens Petitioner’s safety while in custody at the Eloy Detention Center.
5 *Habibi*, 445 F. Supp. 3d at 999-1000. None of these four conditions rise to that level.

6 **C. The balance of equities and public interest weigh in the government’s favor.**

7 The Court here must balance the public’s interest in enforcing the United States’
8 immigration laws on one hand, compared to what Petitioner views as the public interest.

9
10 ¹ “Hypothyroidism happens when the thyroid gland doesn't make enough thyroid
11 hormone. This condition also is called underactive thyroid. Hypothyroidism may not
12 cause noticeable symptoms in its early stages. Over time, hypothyroidism that isn't
13 treated can lead to other health problems, such as high cholesterol and heart problems.”
Mayo Clinic, “Hypothyroidism,” <https://www.mayoclinic.org/diseases-conditions/hypothyroidism/symptoms-causes/syc-20350284> (accessed Sept. 19, 2025).

14 ² “Anemia is a problem of not having enough healthy red blood cells or
15 hemoglobin to carry oxygen to the body's tissues. Hemoglobin is a protein found in red
16 cells that carries oxygen from the lungs to all other organs in the body. Having anemia
17 can cause tiredness, weakness and shortness of breath. There are many forms of anemia.
18 Each has its own cause. Anemia can be short term or long term. It can range from mild to
19 severe. Anemia can be a warning sign of serious illness.” *Mayo Clinic*, “Anemia,”
<https://www.mayoclinic.org/diseases-conditions/anemia/symptoms-causes/syc-20351360>
(accessed Sept. 19, 2025).

20 ³ “Hyperlipidemia (high cholesterol) is an excess of lipids or fats in your blood.
21 This can increase your risk of heart attack and stroke because blood can’t flow through
22 your arteries easily. Adding exercise and healthy foods can lower your cholesterol. Some
23 people need medication as well. Managing your cholesterol is a long-term effort.”
Cleveland Clinic, “Hyperlipidemia,” <https://my.clevelandclinic.org/health/diseases/21656-hyperlipidemia> (accessed Sept. 19, 2025).

24 ⁴ “Dry skin makes the skin look and feel rough, itchy, flaky or scaly. The location
25 where these dry patches form vary from person to person. It’s a common condition that
26 affects people of all ages. Dry skin, also known as xerosis or xeroderma, has many
27 causes, including cold or dry weather, sun damage, harsh soaps, and overbathing.” *Mayo*
28 *Clinic*, “Dry skin,” <https://www.mayoclinic.org/diseases-conditions/dry-skin/symptoms-causes/syc-20353885> (accessed Sept. 19, 2025).

1 Petitioner primarily argues that the public interest is served by the government acting lawfully
2 and constitutionally, a premise that assumes a legal conclusion without actually proving it. The
3 government has acted within its legal authority as established in this brief and supported by
4 *Jennings*, 582 U.S. at 297, and Petitioner has not explained what constitutional violation exists
5 here, other than her implied reference to a *Zadvydas* violation. The Executive, too, represents
6 the public interest through its ability to enforce the nation's immigration laws. *Zadvydas*, 533
7 U.S. at 699.

8 **CONCLUSION**

9 For the reasons stated, the government urges the Court to deny the motion for
10 injunctive relief.

11 Respectfully submitted on September 19, 2025.

12 TIMOTHY COURCHINE
13 United States Attorney
14 District of Arizona

15 s/Neil Singh
16 NEIL SINGH
17 Assistant United States Attorney
18 *Attorneys for Respondents Figueroa,*
19 *Cantu, and Noem*