UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

MAMDOUH ABUGHALI,

Petitioner,

v.

Case No.: 3:25-cv-1086-WWB-SJH

RONNIE WOODALL, Warden of the North Florida Detention Cener, in his official capacity; U.S. DEPARTMENT OF HOMELAND SECURITY; KRISTI NOEM, in her official capacity as Secretary of Department of Homeland Security; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement,

Respondents.
_____/

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

Respondents, Kristi Noem, in her official capacity as Secretary of the Department of Homeland Security, the United States Department of Homeland Security (DHS), United States Immigration and Customs Enforcement (ICE), and Todd M. Lyons, in his official capacity as Acting Director of ICE ("Federal Respondents"), respond to Petitioner Mamdouh Abughali's Emergency Motion for Temporary Restraining Order and Preliminary Injunction (Doc. 10) and request that the instant Motion be denied. Abughali has not met his burden of making a clear showing that his detention is unlawful necessitating the extraordinary remedy of a temporary restraining order (TRO) or a preliminary injunction (PI).

MEMORANDUM

I. Legal Standard.

"A TRO or preliminary injunction is appropriate where the movant demonstrates that: (a) there is a substantial likelihood of success on the merits; (b) the TRO or preliminary injunction is necessary to prevent irreparable injury; (c) the threatened injury outweighs the harm that the TRO or preliminary injunction would cause to the non-movant; and (d) the TRO or preliminary injunction would not be averse to the public interest. *Parker v. State Bd. of Pardons & Paroles*, 275 F.3d 1032, 1034–35 (11th Cir. 2001). "The preliminary injunction is an extraordinary and drastic remedy not to be granted unless the movant 'clearly carries the burden of persuasion' as to the four prerequisites." *United States v. Jefferson Cnty.*, 720 F.2d 1511, 1519 (11th Cir. 1983). The burden to prove entitlement to a TRO is on the petitioner, and respondent bears no burden to prove that petitioner is not entitled to a TRO. *See Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 443 (1974).

II. Argument.

A. Abughali is not likely to succeed on the merits.

First, the Court lacks jurisdiction to review "any cause or claim . . . arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g). Because this jurisdictional issue was already addressed in the response to the Petition, Respondents will not address it again here. *See* Doc 7.

Second, Abughali makes several arguments, but none of them carry the day in demonstrating that his continued detention is unlawful.

i. *Abughali is an applicant for admission and detention is mandatory.*

Abughali asserts that he was "inspected and paroled into the United States at San Ysidro Port of Entry on September 9, 2022." Doc. 10, p 2. Because Abughali did not qualify for admission to the United States upon arrival on September 9, 2022, he was granted parole pursuant to 8 C.F.R. § 212.5. Once Abughali's one year parole terminated on September 8, 2023, he resumed his previous status as "an applicant for admission." *Id.* Thus, the facts and circumstances concerning Abughali's status demonstrate he is an applicant for admission. *See* 8 U.S.C. § 1225(b)(2).

The statutory scheme in § 1225(a) provides: "An alien present in the United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a); *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020). Applicants for admission under this section fall into one of two categories. First, those initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation fall under § 1225(b)(1). Second, everyone else not encompassed by § 1225(b)(1) fall under the § 1225(b)(2) catchall. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (suggesting that INA § 235(b) applies to all applicants for admission, noting the broad application of INA § 235(b)(2) as a "a catchall provision" representing DHS's detention authority over applicants for admission not subject to INA § 235(b)(1)(A)(i). *See* 8 U.S.C. § 1225(b)(2)(A), (B). See also *Matter of M-S*, 27 I&N Dec. 509 (A.G. 2019) (Attorney General holding that aliens who are present in the United States without admission or parole (PWAP) and placed into expedited removal

(ER) proceedings are detained under INA § 235 even if later placed into removal proceedings); *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) (BIA holding that an alien PWAP and apprehended without a warrant while arriving is detained under INA § 235(b).

Under § 1225(b)(1), aliens are detained for the purpose of expedited removal. Under § 1225(b)(2), the "alien shall be detained for a proceeding under section 1229a"—*i.e.*, full removal proceedings—after "the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Read plainly, these subsections "mandate detention of applicants for admission until certain proceedings have concluded." *Jennings*, 583 U.S. at 297.

Given its statutory obligation, DHS detained Abughali under § 1225(b)(2).

ii. *Abughali's detention is lawful.*

Abughali's detention pending his removal proceedings is not unlawful; rather, it is statutorily required. 8 U.S.C. § 1225(b)(2)(A); *see Chaviano v. Bondi*, 2025 WL 1744349, at *6-8 (S.D. Fla. June 23, 2025).

Abughali argues that DHS "only re-characterized [him] as 'an applicant for admission' after [it] chose to cancel his ongoing removal case." Doc. 10, p 5. To the contrary, Abughali resumed his status as an "applicant for admission" when his parole ended in September 2023. *See* 8 C.F.R. § 212.5.

Further, DHS terminated Abughali's removal proceedings pursuant to § 240 of the Immigration and Nationality Act ("INA"), as amended 8 U.S.C. § 1229a, after he was taken into custody on June 9, 2025, with the intent to initiate expedited removal

proceedings pursuant to § 235 of the INA, as amended 8 U.S.C. § 1225. However, because Petitioner's motion to reopen and remand his proceedings remains pending before the Board of Immigration Appeals (BIA), the order terminating his removal proceedings is not final. Thus, DHS cannot proceed with removal proceedings under § 240 of the INA, *i.e.*, 1229a, or expedited removal proceedings under § 235 of the INA, *i.e.*, § 1225. Once Petitioner's pending motion to reopen and remand is decided by the BIA, making the order final, DHS can either continue removal proceedings or initiate expedited removal proceedings.

Next, Petitioner argues that his indefinite detention without an order of removal and without an individualized hearing violates *Zadvydas v. Davis,* 533 U.S. 678 (2001), and *Jennings. Zadvydas* applies to post-removal-order detention and, here, there is no order of removal.

Also, Petitioner is an applicant for admission and, pursuant to § 1225(b)(2), detention pending removal is mandatory because as "alien shall be detained for a proceeding under section 1229a"—*i.e.*, full removal proceedings—after "the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). Thus, these subsections "mandate detention of applicants for admission until certain proceedings have concluded." *Jennings*, 583 U.S. at 297.

Further to the extent Petitioner asserts that the final judgment entered in *Maldonado Bautista v. Noem*, Case No. 5:25-cv-1873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec 18, 2025)[1] should apply, it does not. In *Maldonado Bautista v. Noem*,

[1] Petitioner cites to *Maldonado Bautista v. Garland*, No. 5:21-cv-1004 (C.D. Cal. Sep 30,

the class sought a declaratory judgment that members were unlawfully detained under 8 U.S.C. § 1225(b)(2), rather than § 1226(a). The court defined the certified class as follows:

> **Bond Eligible Class**. All 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 detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista v. Santacruz, Case No. 5:25-cv-1873-SSS-BFM, 2025 WL 3288403, at *10 (C.D. Cal. Nov 25, 2025).

First, Petitioner does not fit within the defined class. Abughali asserts that he was "inspected and paroled into the United States at the San Ysidro Port of Entry on September 9, 2022." Doc. 10, p 2. Thus, Petitioner was inspected at a port of entry and apprehended upon arrival at the port of entry; hence, he does not meet elements one or two of the defined class. Second, Abughali resumed his status as an applicant for admission once his parole terminated. *See* 8 C.F.R. § 212.5(e). Third, because a notice of appeal was filed on December 18, 2025 (Doc. 95), this Court should not give preclusive effect to the declaratory final judgment entered in *Maldonado Bautista v. Noem* on December 18, 2025 (Doc. 94). Last, under principles of habeas jurisdiction, the declaratory judgment has no preclusive effect outside of the Central District of California and over custodians who are located outside of that District. See *Calderon*

2025). However, the case of *Rahman Rashad Rushing v. California Rehab. Center et al.*, is assigned to Case No. 5:21-cv-1004 (C.D. Cal.), which was closed in 2022. Further, the undersigned found no order entered on September 30, 2025, by the court in *Maldonado Bautista v. Noem*, Case No. 5:25-cv-1873-SSS-BFM.

v. Ashmus, 523 U.S. 740, 747 (1998). *See also Burnham v. Superior Court of Cali.*, 495 U.S. 604, 608 (1990). Hence, the Court should not apply the declaratory final judgment entered in *Maldonado Bautista v. Noem* to this case.[2]

For the reasons set out above, Abughali is unlikely to succeed on the merits.

B. Abughali has not shown irreparable harm.

Abughali has not demonstrated that he will suffer irreparable harm absent the injunctive relief he seeks. "A showing of irreparable harm is 'the *sine qua non* of injunctive relief.'" *NE Fla. Chapter of Ass'n of Gen. Contractors of Am. v. City of Jacksonville, Fla.*, 896 F.2d 1283, 1285 (11th Cir. 1990). Merely showing a "possibility" of irreparable harm is insufficient. *See Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 22 (2008). "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter*, 555 U.S. at 22. "Although removal is a serious burden for many aliens, it is not categorically irreparable." *Nken v. Holder*, 556 U.S. 418, 435 (2009). Abughali has not made such a showing here. "[A] noncitizen must show that there is a reason specific to his or her case, as opposed to a reason that would apply equally well to all aliens and all cases, that removal would inflict irreparable harm . . ." *Leiva-Perez v. Holder*, 640 F.3d 962, 969 (9th Cir. 2011).

Here, Petitioner has not demonstrated that he will suffer irreparable harm.

---

[2] Also, the *Maldonado* court did vacate the decision of the BIA in *Matter of Yajure Hurtado*, 29 I&N Dec. 616 (BIA 2025) and, thus, it remains binding on DHS. 8 U.S.C. § 1103(a)(1) ("determination and ruling by the Attorney General to all questions of law shall be controlling"). Thus, the judgment entered in the *Maldonado* court does not entitle Petitioner to an individualized hearing.

C. The balance of the equities and public interests favor the Government.

Finally, the balance of equities and the public interest weigh decisively against Abughali's request for a TRO or preliminary injunctive relief. It is well settled that the public interest in enforcement of United States' immigration laws is significant. *See, e.g.*, *United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (stating "[t]he Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.") (citing cases).

D. Prohibition against transfer out of the Middle District of Florida should be denied.

To the extent Petitioner seeks to enjoin Respondents from transferring him outside this District because it will impede his removal proceedings, such relief is not warranted. *See* Doc. 10, p 4. "Claims regarding prison transfers are generally not cognizable under § 2241." *Rathod v. Barr*, No. 1:20-CV-161-P, 2020 WL 1492790, at *2 (W.D. La. Mar. 5, 2020) (denying immigration detainee's request to enjoin ICE from transferring him to another facility), *report and recommendation adopted*, No. 1:20-CV-161-P, 2020 WL 1501891 (W.D. La. Mar. 25, 2020); *see also Greenhill v. Menifee*, 202 F. App'x 799, 800 (5th Cir. 2006) (affirming denial of claim as not cognizable under § 2241 "because prisoners lack a constitutionally protected interest in where they are incarcerated"); *Zapata v. United States*, 264 F. App'x 242, 243-44 (3d Cir. 2008) (district court lacked jurisdiction over a § 2241 petition that challenged a transfer).

Further, determining where aliens will be detained is the task of the Attorney General. *See* 8 U.S.C. §1231(g)(1) (stating "[t]he Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on

removal."). Petitioner "does not have a right to be housed in any particular facility, nor does this court have the authority to order the ICE to house [him] in any particular facility." *Rathod*, 2020 WL 1492790, at *2; *see also Woldegiorgise v. ICE*, 1:12-CV-02778, 2013 WL 664160, at *2 (W.D. La. Jan. 23, 2013) (denying request to enjoin ICE from transferring detainee because a detainee "does not have a right to be housed in any particular facility, nor does this court have the authority to order the ICE to house [the detainee] in any particular facility"), *report and recommendation adopted*, 2013 WL 672388 (W.D. La. Feb. 22, 2013); *Sasso v. Milhollan*, 735 F. Supp. 1045, 1047 (S.D. Fla. 1990) (denying motion for preliminary injunction to enjoin ICE from transferring the petitioner). Finally, there is no indication that Petitioner's transfer will hinder his removal proceedings or his ability to participate in his removal proceedings or this litigation.

CONCLUSION

Based on the foregoing arguments and citations of authority, Respondents submit that Abughali has not met his high burden of establishing entitlement to injunctive relief. Thus, Petitioner's Motion should be denied.

Dated: December 23, 2025

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

/s/ Ronnie S. Carter
RONNIE S. CARTER
Assistant United States Attorney
Florida Bar No. 0948667
300 North Hogan Street, Suite 700
Jacksonville, FL 32202-4270
Telephone No. (904) 301-6322/6300
Facsimile No. (904) 301-6240
Email: Ronnie.Carter@usdoj.gov
Attorneys for Federal Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 23, 2025, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, which will send notice of filing and a downloadable copy of the filed document to the following CM/ECF participant listed below:

Mohammad Shair, Esquire
Mohammed Zohdi Shair
Attorney and Counselor, P.A.
5619 Oakland Dr.
Tampa, FL 33617
Email: MZShair@gmail.com
Counsel for Petitioner

/s/ Ronnie S. Carter
RONNIE S. CARTER
Assistant United States Attorney