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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 YANELA GHILARY HUAMAN
VILLANUEVA,
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Petitioner,
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v.
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15 RON MURRAY, ET AL.,
16 Respondents.

CASE NO. 1:25-CV-01218-KES
RESPONDENTS' OPPOSITION TO MOTION
FOR TEMPORARY RESTRAINING ORDER
DATE:
TIME:
COURT: Hon. Kirk E. Sherriff

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18 **OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER**

19 On September 16, 2025, Petitioner Yanela Ghilary Huaman Villanueva (“the
20 petitioner”) filed an *ex parte* motion for temporary restraining order and preliminary
21 injunction. ECF 4 (“Mot.”). The Court should deny the motion for three reasons. First,
22 the petitioner is not entitled to a bond hearing under 8 U.S.C. § 1226(a). Second, even if
23 the Court were to find that the petitioner was entitled to such a hearing, she was
24 afforded such a hearing on August 18, 2025. And third, even if the Court found that the
25 August 18, 2025 hearing did not provide the full process of a bond hearing, the
26 appropriate remedy is not a TRO, it is an appeal to the Board of Immigration Appeals.
27 Therefore, the Court should deny the TRO motion.

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1 **A. BACKGROUND**

2 Immigration and Customs Enforcement (“ICE”) detained the petitioner after she
3 unlawfully entered the United States. ECF 1 at 11. According to ICE, on December 16,
4 2022, U.S Border Patrol (USBP) encountered the petitioner in the Yuma, Arizona Border
5 Patrol Sector and determined she had unlawfully entered the United States from Mexico
6 on December 16, 2022, at a time and place other than as designated by the Secretary of
7 the Department of Homeland Security of the United States.

8 ICE enrolled the petitioner in the Intensive Supervision Appearance Program
9 (ISAP) in Bakersfield, CA. Then, on July 2, 2025, ICE officers arrested the petitioner at
10 the Bakersfield ICE office.

11 According to ICE, on August 12, 2025, the petitioner, through counsel, filed a
12 motion for bond redetermination. On August 18, 2025, the Immigration Judge held a
13 hearing and bond was denied as the Court found the petitioner to be subject to
14 mandatory detention under INA 235(b)(2)(A). On September 16, 2025, the petitioner
15 filed an appeal of the bond decision and that appeal remains pending.

16 **B. STANDARD OF REVIEW**

17 Temporary restraining orders are governed by the same standard applicable to
18 preliminary injunctions. *See Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*,
19 181 F. Supp. 2d 1111, 1126 (E.D. Cal. 2001). Preliminary injunctions are “extraordinary
20 remedies.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). Therefore, movants
21 “seeking a preliminary injunction face a difficult task in proving that they are entitled to
22 this extraordinary remedy.” *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010).

23 “A plaintiff seeking a preliminary injunction must show that: (1) he is likely to
24 succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of
25 preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the
26 public interest.” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). Alternatively, a
27 plaintiff can show “serious questions going to the merits and the balance of hardships tips
28 sharply towards [plaintiff].” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th

1 Cir. 2017).

2 The purpose of a TRO is to preserve the status quo and to prevent irreparable harm
3 “just so long as is necessary to hold a hearing, and no longer.” *Granny Goose Foods, Inc. v.*
4 *Bhd. of Teamsters*, 415 U.S. 423, 439 (1974). As the purpose of preliminary injunctive relief
5 is to preserve the status quo pending final adjudication on the merits, there is “heightened
6 scrutiny” for mandatory preliminary injunctions that require affirmative conduct, which is
7 what the petitioner seeks here. *Dahl v. HEM Pharms. Corp.* 7 F.3d 1399, 1403 (9th Cir.
8 1993).

9 **C. ARGUMENT**

10 **1. The petitioner is not entitled to a bond hearing under 8 U.S.C.**
11 **§ 1226(a), because she is subject to detention under 8 U.S.C.**
12 **§ 1225(b)(2)(A).**

13 Petitioner Huaman Villanueva is an alien who is present in the United States.
14 This is undisputed. Similarly, it is undisputed that Huaman Villanueva has not been
15 admitted to the United States. Accordingly, Huaman Villanueva is an applicant for
16 admission. Any alien who “is present” in the United States but “has not been admitted”
17 to the United States is “an applicant for admission.” 8 U.S.C. § 1225(a)(1); *see also*
18 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (“an alien who ‘arrives in the United
19 States,’ or ‘is present’ in this country but ‘has not been admitted,’ is treated as ‘an
20 applicant for admission.’ § 1225(a)(1).”).

21 The fact that Huaman Villanueva is an applicant for admission resolves the
22 dispute in this case because applicants for admission must be detained and they are not
23 entitled to bond hearings. “Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate
24 detention of applicants for admission until certain proceedings have concluded.”
25 *Jennings*, 583 U.S. at 297. “And neither § 1225(b)(1) nor § 1225(b)(2) says anything
26 whatsoever about bond hearings.” *Jennings*, 583 U.S. at 297. Therefore, because
27 Huaman Villanueva is an applicant for admission, she is subject to detention under 8
28 U.S.C. § 1225(b)(2)(A), and she is not entitled to a bond hearing.

1 **2. In the alternative, the petitioner was afforded all of the procedural**
2 **protections of a bond hearing at the August 18, 2025 hearing in**
3 **front of the Immigration Judge.**

4 The petitioner asks the Court to afford her a bond hearing under § 1226(a). As
5 discussed above, the petitioner is not entitled to such a bond hearing. Even if the Court
6 agreed with the petitioner and found that the petitioner must be afforded a bond hearing
7 under § 1226, the Court should still deny the TRO because the petitioner has been given
8 all of the procedural protections of a § 1226(a) bond hearing.

9 Release on bond under 8 U.S.C. § 1226(a) is discretionary. Under the statute, the
10 Attorney General “may continue to detain the arrested alien” or “may release the alien.”
11 There is no right to release, and the release determination is subject to the discretion of the
12 Executive Branch. Here, the petitioner asked for a bond hearing and she was afforded a
13 hearing. The petitioner’s disagreement with the Immigration Judge’s determination does
14 not change the fact that a hearing was held and the petitioner made arguments in favor of
15 release. That is all that is required under § 1226(a). Thus, to the extent that the petitioner
16 is requesting a hearing that has already happened, the TRO is moot because the petitioner
17 got a hearing.

18 **3. In the alternative, even if the August 18, 2025 hearing was deficient,**
19 **the appropriate remedy is an appeal to the BIA, not a TRO.**

20 Assuming arguendo that the petitioner was required to be afforded a bond hearing
21 under § 1226(a), that bond hearing happened on August 18. To the extent that the
22 petitioner disagrees with the detention determination of the Immigration Judge, the
23 challenge to that detention determination is properly handled through an appeal, not a
24 TRO.

25 According to ICE, on August 18, 2025, the Immigration Judge held a hearing and
26 bond was denied as the Court found Huaman Villanueva to be subject to mandatory
27 detention under INA 235(b)(2)(A). On September 16, 2025, Huaman Villanueva filed an
28 appeal of the bond decision and that appeal remains pending. Huaman Villanueva’s

1 immigration court hearing was held on July 28, 2025, wherein she conceded the charge of
2 inadmissibility under the amended charge of INA 212(a)(7)(A)(i)(I) and the next hearing is
3 scheduled for September 24, 2025, at 8:30 a.m.

4 Thus, after the immigration judge rejected the petitioner's arguments for release, the
5 petitioner appealed the determination up to the Board of Immigration Appeals. The appeal
6 is still pending. The petitioner is next scheduled for a hearing before an immigration judge
7 on September 24, 2025. A TRO in conjunction with a habeas petition is not appropriate
8 avenue to circumvent this process.

9 **D. CONCLUSION**

10 For the above-stated reasons, the Court should deny the motion for a temporary
11 restraining order.

12 Dated: September 23, 2025

ERIC GRANT
United States Attorney

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14 By: /s/ ALEX CARDENAS
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