

**UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

ABRAHAM ENEMIAS ALFARO-RAMIREZ,

Petitioner,

v.

PAMELA JO BONDI, United States Attorney
General;

KRISTI LYNN NOEM, Secretary of Homeland
Security;

SYLVESTER M. ORTEGA, San Antonio Acting
Field Office Director for Detention and Removal,
U.S. Immigration and Customs Enforcement;
and

CHARLOTTE COLLINS, Warden, T Don Hutto
Detention Center;

In their official capacities;

Respondents.

Civil Action No.: 1:25-cv-01595

PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

Petitioner Abraham Enemias Alfaro-Ramirez (Plaintiff or Mr. Alfaro-Ramirez) files this motion requesting the Court enter a preliminary injunction requiring enforcement of the immigration judge's August 23, 2025 bond order.

Mr. Alfaro-Ramirez is a Guatemalan national presently detained by Respondents in the T. Don Hutto Detention Center in Taylor, Texas. Respondents Noem, Ortega, and Collins detained Mr. Alfaro-Ramirez on June 28, 2025. He subsequently requested and was granted bond by an immigration judge. The Department of Homeland Security (DHS) appealed. On September 22, 2025, the Board of Immigration Appeals (BIA) ruled that the immigration judge lacked authority to hear bond requests or grant bond to noncitizens, like Mr. Alfaro-Ramirez, who are present in the United States without admission. The BIA vacated the immigration judge's order granting bond and ordered Mr. Alfaro-Ramirez's detention. Mr. Alfaro-Ramirez remains detained by Respondent Collins under orders of Respondents Bondi, Noem, and Ortega.

Mr. Alfaro-Ramirez's detention is unlawful for at least three reasons. First, Mr. Alfaro-Ramirez's initial arrest by the DHS was premised on § 1226(a). The documentation concerning his arrest and release leaves no doubt that the DHS elected to exercise its authority under § 1226(a) to arrest and release Petitioner. There is no provision in the Immigration and Nationality Act (INA) that permits Respondents to change that historical and legal fact, particularly where such change prejudices Petitioner and disrupts his reliance interests.

Second, Respondents' new reading of § 1225(b) and § 1226(a) stems from the BIA's recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In *Q. Li*, the BIA held that the arrest, detention and release by the DHS of any noncitizen who enters without inspection or admission is effectuated under § 1225(b). Respondents take the position that such interpretation of the law applies now and in the past. But retroactivity in the law is deeply disfavored. *Landgraf v. USI Film Prods.*, 511 U.S. 244, 265 (1994). And it is especially disapproved in administrative law. If application of a new rule is significant and changes the legal landscape by updating an agency's earlier position, then

retroactive application of the new rule alters basic presumptions of this administrative system. *Monteon-Camargo v. Barr*, 918 F.3d 423, 431 (5th Cir. 2019) at 431. “A ‘presumption of prospectivity attaches to Congress’s own work,’ and it should generally attach when an agency ‘exercises delegated legislative....authority.’” *Id.* (internal citation omitted). Respondents’ application of *Matter of Q. Li* is unfair, unreasonable, and unlawful.

Lastly, the adjudicatory decision-making process of the Executive Office for Immigration Review, a subagency that is directed and supervised by Respondent Bondi, is arbitrary and capricious. Immigration courts are supposed to function like other courts and apply well-known principles for deciding cases. However, unlike federal or state district courts, immigration courts are not required to apply the rule of orderliness when deciding which BIA panel decision applies in a given case. More than two years before it decided *Matter of Q. Li*, the BIA decided *Matter of Cabrera-Fernandez*, 28 I&N Dec. 747 (BIA 2023) where it concluded that if the facts demonstrate that DHS exercised its authority to detain and release a noncitizen under § 1226(a), then that election controls and the noncitizen is eligible for bond under that provision. Immigration courts now are disregarding that precedent for *Matter of Q. Li* which came later and tacks radically differently. Such disregard for well-established decision-making principles is arbitrary and capricious, and violative of Mr. Alfaro-Ramirez’s rights.

Piggybacking off of the BIA’s wrongful decision in *Matter of Q. Li*, the BIA issued another precedential decision in *Matter of Yajure Hurtado*, stripping immigration judges of authority to hear or grant bonds to noncitizens who are present in the United States without admission. 29 I&N Dec. 216 (BIA 2025).

Respondents decision to deny bond to Mr. Alfaro-Ramirez is unlawful and violates his rights under the Administrative Procedure Act and the Due Process Clause. Petitioner requests this

Court's assistance to ensure that Respondents comply with federal law and ensure that Mr. Alfaro-Ramirez is heard on his right to be released on bond.

I. FACTUAL BACKGROUND

In 2005, Mr. Alfaro-Ramirez, a citizen of Guatemala, arrived in the United States without being admitted or paroled. Exh. A (Notice to Appear). He did not have an encounter with immigration officers at that time. *Compl. and Pet. For Writ of Habeas Corpus (Compl. and Pet.)* at ¶ 10. Mr. Alfaro-Ramirez began residing and working in Texas. *Id.* at ¶ 11. He married, and he and his wife now have two children born in the United States – [REDACTED] who is 9-years-old and [REDACTED] who is 4 months old. *Id.*; Exh. F (Decl. of Petitioner Alfaro-Ramirez).

On or about June 26, 2025, the Williamson County Sheriff's Office arrested Mr. Alfaro-Ramirez for driving with a fictitious license plate, a misdemeanor offense in Texas. Exh. B (I-213 Record of Deportable Alien). Shortly thereafter, the Immigration and Customs Enforcement (ICE) discovered Mr. Alfaro-Ramirez in the Williamson County Jail. *Compl. and Pet.* at ¶ 13. ICE determined that he was in the United States without status, prepared an arrest warrant, and issued him a Notice to Appear. Exhs. A and B. On June 28, 2025, ICE took custody of Mr. Alfaro-Ramirez and transferred him to the T. Don Hutto Detention Center to be detained pending his removal proceedings. *Compl and Pet.* at ¶ 14.

While in immigration detention, Mr. Alfaro-Ramirez retained immigration counsel to assist him with his removal proceedings. *Id.* at ¶ 15. Mr. Alfaro-Ramirez's immigration lawyer requested a bond hearing before an immigration judge. *Id.* at ¶ 16.

On July 30, 2025, the immigration judge held a bond hearing in Mr. Alfaro-Ramirez's case. Exh. C (Bond Memorandum). After reviewing the evidence and counsel's arguments, the immigration judge concluded that he had jurisdiction to review Mr. Alfaro-Ramirez's bond

request notwithstanding the DHS's argument that the immigration court lacked jurisdiction. *Id.* at ¶ 17.

The DHS appealed to the BIA and on September 22, 2025, the BIA reversed. The Board concluded that *Matter of Yajure Hurtado* controlled and thus, the immigration court was without jurisdiction or authority to grant bonds to persons like Petitioner who entered without inspection. Exh. D.

Mr. Alfaro-Ramirez remains detained and separated from his wife and children. Exh. F. He was the sole breadwinner of the household and now the family is subsisting on loans from friends and family. *Id.* Every day that passes, his family is without his financial and emotional support. Further, an Immigration judge already determined that Mr. Alfaro-Ramirez is neither a flight risk nor a danger to the public.

Mr. Alfaro-Ramirez maintains that the BIA erred in concluding that 8 U.S.C. § 1225(b)(2) applies to him and that he is barred from being released on bond. Mr. Alfaro-Ramirez has no other remedy at law but to seek emergency relief from this Court so that she can be reunited with her children.

II. ARGUMENT

Respondents are detaining Mr. Alfaro-Ramirez based on an unfair, unreasonable and unlawful interpretation of the Immigration and Nationality Act. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2). Detention under § 1226(a) permits the arrest and release of noncitizens in removal proceedings. The DHS can release the noncitizens, or the noncitizens can request a bond hearing before an immigration judge. Persons arrested and detained under § 1225(b)(2) are subject to mandatory detention. Their only hope for release is based on a parole for humanitarian reasons.

For almost 30 years, Respondents have interpreted § 1226(a) to apply to noncitizens who entered the United States without inspect or admission. But this changed after the Board of Immigration Appeals' (BIA or the Board) decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There, these decisions hold that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are subject to mandatory detention without a right to a bond hearing before an immigration judge. This interpretation however is factually and legally incorrect as it concerns Mr. Alfaro-Ramirez. Further, the application of *Matter of Yajure Hurtado* is impermissibly retroactive and arbitrary as it violates the rule of orderliness.

Petitioner remains separated from his wife and minor children. He is their sole source of financial support. Every day he remains in a detention cell, he is deprived of the love and comfort of his family. His continued detention is causing him irreparable harm. Respondents will suffer no harm since an order from this Court will simply instruct them to comply with federal law. Lastly, granting a TRO or preliminary injunction is in the public interest because it upholds the important principle that removal proceedings must be fundamentally fair. Accordingly, this Court should enter an order instructing Respondents to comply with the Immigration judge's August 23, 2025 bond order and release Mr. Alfaro-Ramirez upon payment of the bond.

A. The Legal Standard for a Preliminary Injunction

To obtain a preliminary injunction, a plaintiff must show (1) a substantial likelihood of prevailing on the merits; (2) a substantial likelihood of irreparable injury if the injunction is not granted; (3) the threatened injury outweighs any harm that will result to the nonmovant if the injunction is not granted; and (4) the injunction will not disserve the public interest. *Winter v. Natural Resources Defense Council, Inc.*, 129 S.Ct. 365, 374 (2008). The first two factors,

substantial likelihood of prevailing on the merits and of irreparable harm, are the most critical. *Nken v. Holder*, 556 U.S. 418, 434 (2009). In this circuit, the first factor, likelihood of success on the merits, is the most important. *Tesfamichael v. Gonzales*, 411 F.3d 169, 176 (5th Cir. 2005). Further, “where there is a serious legal question involved and the balance of the equities heavily favors [an injunction]...the movant only needs to present a substantial case on the merits.” *Lake Eugenie Land & Dev., Inc. v. BP Exploration & Prod. (In re Deepwater Horizon)*, 732 F.3d 326, 345 (5th Cir. 2013) (quoting *Weingarten Realty Investors v. Miller*, 661 F.3d 904, 910 (5th Cir. 2011)).

B. Petitioner is entitled to a Preliminary Injunction Because Respondents’ actions violate federal law

The main issue before this Court is a legal one: whether Respondents are authorized to detain Mr. Alfaro-Ramirez without bond. It is clear that if this Court finds that Mr. Alfaro-Ramirez is subject to § 1226(a) and not § 1225(b)(2), then Respondents must comply with the Immigration judge’s August 23, 2025 bond order. At the same time, if the Court finds that the application of *Matter of Yajure Hurtado* to Mr. Alfaro-Ramirez is unfair, unreasonable, arbitrary and impermissibly retroactive, then he is entitled to be released based on August 23, 2025 bond order.

Based on the evidence and arguments presented in support of the motion and other evidence that will be developed at a hearing on this motion, Mr. Alfaro-Ramirez is likely to succeed in showing that Respondents’ actions violate federal law. The record will show that that Respondents cannot lawfully continue to detain Mr. Alfaro-Ramirez and that an order from this Court is needed to require Respondents’ compliance with federal law and the immigration judge’s August 23, 2025 bond order.

1. Mr. Alfaro-Ramirez is Substantially Likely to Succeed on the Merits That She is Not Subject to Mandatory Detention Under § 1225(b)(2) and that *Matter of Yajure Hurtado* Should Not Apply to Him

The factual record demonstrates that the DHS detained and released Mr. Alfaro-Ramirez under 8 U.S.C. § 1226(a). The immigration judge's Auguste 23, 2025 bond order highlights this point. Exh. C at n. 2 ("In fact, DHS filed evidence indicating that respondent was served with a warrant of arrest and a NTA after his recent apprehension in Williamson County, Texas (near Austin, Texas). Respondents' efforts to re-write history should be rejected.

Legally, Defendants-Respondents cannot apply § 1225(b)(2) to Mr. Alfaro-Ramirez. First, almost 30 years ago, the Department of Justice explained that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

In the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond or their own recognizance. They also received bond hearings before an IJ, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see*

also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

At the time of detention, DHS elects whether to exercise its arrest authority under § 1226(a) or § 1225(b). This procedural election constrains the noncitizen’s subsequent relief options and creates binding legal consequences. When DHS chooses to detain and release someone under § 1226(a), the agency must follow that statute’s detention and release procedures.

The procedural safeguards for persons detained under § 1225(b)(2) are much more limited. The person is subject to mandatory detention and can only be released under the DHS’s parole authority in 8 U.S.C. § 1182(d)(5)(A). The limited procedural safeguards for persons detained under § 1225(b)(2) are found in 8 C.F.R. § 235.3. Violations of these safeguards invalidate expedited removal determinations and preclude application of mandatory detention provisions.

Factually and as a matter of policy and practice, the detention and release (pursuant to the August 23, 2025 bond order) was pursuant to § 1226(a). He is therefore entitled to post bond and be released.

Second, the new interpretation of §§ 1226(a) and 1225(b)(2) based on *Matter of Yajure Hurtado* is impermissibly retroactive. As argued above and in her Complaint and Petition, prior to *Matter of Q. Li* and *Matter of Yajure Hurtado*, people who entered without inspection or admission were subject to § 1226(a). On May 22, 2025, the BIA issued a published decision holding that all noncitizens who entered the United States without admission or parole are considered applicants for admission, and are therefore ineligible for a bond hearing before an immigration judge under 8 U.S.C. § 1225(b)(2)(A). See *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).

On July 8, 2025, ICE, “in coordination with the Department of Justice (DOJ),” announced a corresponding policy that rejected the well-established understanding of the statutory and

regulatory framework and reversed decades of practice. *See* Exh. E (Interim Guidance Regarding Detention Authority for Applicants for Admission”). The new policy claims that all persons who entered the United States without inspection shall now be deemed subject to mandatory detention under § 1225(b)(2)(A). *Id.*

The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades. Further, the policy applies even to those noncitizens to whom DHS elected to arrest under § 1226(a) and released them pursuant to that provision.

But as recently as 2023, the BIA interpreted the INA to empower the DHS to choose whether to detain and release persons who entered without inspection either under § 1226(a) or § 1226(b)(2). *Matter of Cabrera-Fernandez*, 28 I&N Dec. 747, 748 (BIA 2023). There, the noncitizens entered without inspection or admission and were detained shortly after entering the United States. The DHS detained and released them under § 1226(a). The noncitizens argued that their release constituted a parole because their detention (and release) could only have been accomplished through § 1225(b). The BIA firmly rejected that reading of the statute.

“For applicants for admission charged as inadmissible, DHS has authority to determine whether to initiate expedited removal proceedings under...8 U.S.C. § 1225(b)(1)(A)(i), or removal proceedings under section 240 of the INA, 8 U.S.C. § 1229a.”). The BIA explained:

This authority is illustrated in the Attorney General’s decision in *Matter of D-J-*, 23 I&N Dec. 572, 572–76 (A.G. 2003), which involved a similar fact pattern. In that case, DHS apprehended a respondent shortly after he entered the United States without admission or parole and charged him with the same ground of inadmissibility at issue here [having entered without inspection or admission]. The Attorney General reviewed his eligibility for release from custody under section 236(a) of the INA, 8 U.S.C. § 1226(a). *Cf. Matter of M-S-*, 27 I&N Dec. 509, 510–13 (A.G. 2019) (addressing the detention and release of respondents whom DHS initially elects to place in expedited removal proceedings, but who are

later transferred to section 240 removal proceedings after establishing a credible fear of persecution or torture).

Id. at 748-49.

And the BIA reiterated this reading of the INA's detention and release statutory scheme again in *Matter of Roque-Izada*, 29 I&N Dec. 106 (BIA 2025). There, the noncitizen entered without inspection or admission and then was released. He argued that he had been paroled because DHS could only detain him under § 1225(b). The BIA rejected the argument concluding that DHS detained him under § 1226(a) and released him conditionally under § 1226(a)(2)(B). The BIA concluded that the noncitizen had "not meaningfully distinguished his release from DHS' custody from the conditional parole at issue in *Matter of Cabrera-Fernandez*, 28 I&N Dec. at 747, 750."

Matter of Roque-Izada, 29 I&N Dec. at 109.

Mr. Alfaro-Ramirez was detained (and ordered released by the immigration judge) under § 1226(a). This is confirmed factually and legally by evidence presented by the DHS to the immigration judge on August 23, 2025 and the state law of the law in effect at that time. Exh. C at n. 2 ("In fact, DHS filed evidence indicating that respondent was served with a warrant of arrest and a NTA after his recent apprehension in Williamson County, Texas (near Austin, Texas).

Matter of Yajure Hurtado, as interpreted by the BIA and Respondents, is a sea change in immigration law. Retroactive application of this new interpretation of the law to Petitioner's case however is unfair and unlawful.

Retroactivity is greatly disfavored in the law. *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988). The Supreme Court has been emphatic that this aversion to retroactive rulemaking

is deeply rooted in our jurisprudence, and embodies a legal doctrine centuries older than our Republic. Elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly; settled expectations should

not be lightly disrupted. For that reason, the principle that the legal effect of conduct should ordinarily be assessed under the law that existed when the conduct took place has timeless and universal human appeal.

Landgraf v. USI Film Prods., 511 U.S. 244, 265 (1994) (internal quotation and citations omitted).

The Fifth Circuit too has instructed the BIA and immigration courts that it is patently unfair to subject noncitizens to new interpretations of immigration laws. This is a matter of due process and fair notice. The Court explained:

“The leading case on administrative retroactivity’ instructs that any disadvantages from the ‘retroactive effects’ of deciding a ‘case of first impression . . . must be balanced against the mischief of producing a result which is contrary to a statutory design or to legal and equitable principles.’ To apply that instruction, this court ‘balances the ills of retroactivity against the disadvantages of prospectivity.’ If that mischief of prospectivity is greater than the ill effect of the retroactive application of a new standard, it is not the type of retroactivity which is condemned by law.’

Monteon-Camargo v. Barr, 918 F.3d 423, 430 (5th Cir. 2019) (internal citations omitted).

Thus, if application of the new rule is significant and changes the legal landscape by updating an agency’s earlier position, then retroactive application of the new rule alters basic presumptions of this administrative system. *Id.* at 431. “A ‘presumption of prospectivity attaches to Congress’s own work,’ and it should generally attach when an agency ‘exercises delegated legislative....authority.’” *Id.* (internal citation omitted).

The change here is significant. Mr. Alfaro-Ramirez’s right to be free from detention is eliminated and he is now subject to mandatory detention. Thus, the retroactive application of *Matter of Yajure Hurtado* is unfair, unreasonable and unlawful.

Lastly, Petitioner is likely to succeed in her argument that Respondent Bondi acted arbitrarily and capriciously in allowing immigration judges to disregard the rule of orderliness to resolve conflicts between BIA precedent.

The parties expect the BIA and the immigration courts to apply faithfully Supreme Court, circuit court, and BIA precedent as well as decision-making principles that ensure consistency and predictability in deciding cases. The rule of orderliness is one such principle that circuit courts and district courts apply. Under the rule of orderliness, “one panel of [the circuit] court may not overturn another panel’s decision, absent an intervening change in law, such as by a statutory amendment, or the Supreme Court, or [the] en banc court.” *Mercado v. Lynch*, 823 F.3d 276, 279 (5th Cir. 2016). This rule is also applied by the district courts. *See Silo Rest. Inc. v. Allied Prop. & Cas. Ins. Co.*, 420 F. Supp. 3d 562, 575-76 (W.D. Tex. 2019).

The EOIR has acknowledged that it does not abide by the rule of orderliness. The EOIR calls it the “prior-panel-precedent” rule. *See EOIR Policy Memoranda (PM) 25-34 (July 3, 2025)* found at <https://www.justice.gov/eoir/media/1406956/dl?inline>. The EOIR acknowledges that the functional equivalent of the rule of orderliness exists in its regulations and in narrow circumstances, one panel can overrule an earlier panel if a majority of the permanent Board members vote to reject the earlier decision. 8 C.F.R. § 1003.1(g)(3). Nevertheless, there is no rule or guidance for immigration courts for resolving conflicts between prior BIA precedents or which BIA precedent to follow. EOIR PM 25-34 at 2.

Instead, EOIR instructs immigration judges to essentially “try their best.” *Id.* at 4. “Until the Board or the Attorney General resolves any conflicts in Board precedent... or adopts a clear rule regarding which precedent should control when there is a conflict, Immigration judges will have to apply their best judgment and traditional legal tools or methods of analysis in order to adjudicate cases before them where Board precedent is in conflict.” *Id.* The rule of orderliness thus does not control.

Prior BIA precedent requires application of *Matter of Cabrera-Fernandez*, 28 I&N Dec. 747 (BIA 2023). If the facts demonstrate that DHS exercised its authority to detain and release a noncitizen under § 1226(a), then that election controls and the noncitizen is eligible for bond under that provision.

Under these circumstances, it is plain that Respondents cannot continue to disregard the immigration judge's bond order instructing Petitioner's release upon posting of a bond.

2. Petitioner will suffer irreparable harm if Respondents are allowed to detained him and keep him separated from his family

Freedom from unreasonable detention is one of the most basic constitutional rights. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment -- from government custody, detention, or other forms of physical restraint -- lies at the heart of the liberty [the Due Process] Clause protects."). The Supreme Court has also recognized a person's right to live with his family. *See Moore v. City of E. Cleveland*, 431 U.S. 484 (1977) (plurality). For the reasons stated above, Respondents are wrongfully detaining Mr. Alfaro-Ramirez and preventing him from being reunited with his family.

He will suffer irreparable harm if he continues to be detained. Every day he remains behind bars, he is not able to be with his wife and children and provide for them. "In general, a harm is irreparable where there is no adequate remedy at law, such as monetary damages." *Janvey v. Alguire*, 647 F.3d 585, 600 (5th Cir. 2000). No amount of money restores the time Mr. Alfaro-Ramirez is separated from his children. If denied preliminary relief, Petitioner will suffer irreparable harm, namely his continued detention, the ability to live with his family, and the opportunity to work in this country.

3. The Balance of Equities Tips Heavily in Favor of Petitioner and an Injunction is in the Public Interest

The threatened injury to Petitioner far outweighs any harm that will result to Respondents if the Court issues an injunction. Further, the issuance of an injunction does not disserve the public interest but rather promotes it because it affirms the constitutional requirement of fundamental fairness in removal proceedings.

The resulting harms to Respondents are nonexistent or at most minimal. They are simply held to the rule of law.

In addition, granting the injunction does not disserve the public interest but rather promotes it. It is in the public interest for government officials to comply with federal law. *MCR Oil Tools, L.L.C v. United States DOT*, 2024 U.S. App. LEXIS 14297 at *19 (5th Cir. June 12, 2024) (“There is a ‘substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.’”) (quoting *Texas v. United States*, 40 F.4th 205, 229 (5th Cir. 2022)). And in this case, the law is clear that Respondents cannot apply *Matter of Yajure Hurtado* retroactively to Mr. Alfaro-Ramirez or the historical facts. Granting the injunction promotes the rule of law.

Petitioner therefore satisfies all of the prongs of the *Winter* test.

III. CONCLUSION

For the foregoing reasons, this Court should issue a preliminary injunction and instruct Respondents to comply with the immigration judge’s August 23, 2025 bond order allowing for Petitioner’s release upon the posting of a \$6000 bond.

Dated: November 11, 2025

Respectfully submitted,

/s/ Javier N. Maldonado

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ATTORNEYS FOR PLAINTIFF-PETITIONER

CERTIFICATE OF CONFERENCE

On November 5, 2025, Petitioner's attorney, Javier N. Maldonado, emailed Assistant U.S. Attorney Mary Kruger and Cody Paschal, counsel for Respondent Collins, regarding the filing of this motion. Ms. Kruger stated that she would not be entering an appearance on the case even though her name appears on ECF.

CERTIFICATE OF SERVICE

On November 11, 2025, undersigned counsel filed this document and its exhibits with the Court through its ECF system and all counsel of record will receive copies of this pleading and exhibits.

Respectfully submitted,

/s/ Javier N. Maldonado

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ATTORNEY FOR PLAINTIFF

UNITED STATES DISTRICT COURT FOR
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ORDER

Pending before the Court is Petitioner's Motion for a Preliminary Injunction. After having reviewed the motion and the evidence in support of the motion, the parties' arguments and the applicable law, the Court is of the opinion that the motion should be GRANTED.

The Court concludes that Petitioner has satisfied the factors necessary for issuance of a preliminary injunction. She is likely to succeed on the merits of her claim and she is likely to suffer irreparable harm. Further, the balance of equities tilts in her favor and an injunction promotes the public interest by requiring federal officers to comply federal law.

It is ORDERED that Respondents shall comply with the immigration judge's August 23, 2025 bond order and release Petitioner upon posting of the bond.

Signed this ____ day of November, 2025.

UNITED STATES DISTRICT JUDGE