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15 UNITED STATES DISTRICT COURT  
16 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
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18 IBRAHIM MOHAMMED HELAL  
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20 Plaintiff and Petitioner,  
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23 vs.  
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25 JAMES JANECKA, Warden of the Adelanto  
26 Detention Center; DANIEL T TOVAR,  
27 Director of the Los Angeles Field Office,  
28 United States Immigration and Customs  
Enforcement; PAM BONDI, Attorney  
General, United States Department of Justice;  
KRISTI NOEM, Secretary, United States  
Department of Homeland Security; TODD  
LYONS, Acting Director of United States  
Immigration and Customs Enforcement; and  
DOES 1-5

Defendants-Respondents

//

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REPLY IN SUPPORT OF REQUEST FOR TEMPORARY RESTRAINING ORDER AND  
PETITION FOR A WRIT OF HABEAS CORPUSHRG: 22 OCTOBER 2025TIME: 10:00  
AMCOURTROOM: 5B - 1

Case No.: 5:25-cv-02650-HDV-JC

Hon. Judge Hernán D. Vera

**REPLY IN SUPPORT OF  
REQUEST FOR TEMPORARY  
RESTRAINING ORDER AND  
PETITION FOR A WRIT OF  
HABEAS CORPUS**

**HRG: 22 OCTOBER 2025  
TIME: 10:00 AM  
COURTROOM: 5B**

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3 For decades, ICE and the EOIR have considered noncitizens  
4 apprehended in the interior of the United States to be subject to 8 U.S.C. §  
5 1226. This year, however, DHS decided to change course and announced  
6 that all such individuals are subject to mandatory detention under 8  
7 U.S.C. § 1225 which had traditionally been used for noncitizens seeking  
8 admission into the United States who are detained at the border or near  
9 the border shortly after entry into the United States. Under 8 U.S.C. §  
10 1225, detention is required during the pendency of a noncitizen's  
11 immigration removal proceedings whereas under 8 U.S.C. § 1226,  
12 noncitizens are entitled to a bond hearing and release pending their  
13 immigration removal proceedings. This change in policy resulted in  
14 Petitioner Ibrahim Helal's unjustified arrest, revocation of his Order on  
15 Recognizance, and current detention without an opportunity to be heard  
16 and qualify for bond. Respondents do not dispute any factual allegation  
17 contained in the Petition for a Writ of Habeas Corpus but attempt to  
18 justify the legality of Petitioner's detention on the ground that the Court  
19 lacks jurisdiction to decide this habeas petition pursuant to 8 U.S.C. §  
20 1252(a)(5), 8 U.S.C. § 1252(b)(9), and 8 U.S.C. § 1252(g) and that the Board  
21 of Immigration Appeals has adopted and ratified Respondents' legal  
22 arguments in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 216 (BIA  
23 2025).

24 This Court should join the chorus of federal courts to have considered  
25 this issue, and hold that 8 U.S.C. § 1226 rather than 8 U.S.C. § 1225

1 applies to Mr. Hael's custodial status, and order his immediate release.

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3 1. The Court has Jurisdiction over this Petition.

4 Respondents first argue that Petitioner's detention "*arises from the*  
5 *decision to commence [removal] proceedings against*" him and as such  
6 judicial review is barred by section 1252(g). *See ECF # 7 at 12.* As  
7 interpreted by the Supreme Court, 1252(g) applies "only to three discrete  
8 actions that the Attorney General may take: her 'decision or action' to  
9 'commence proceedings, adjudicate cases, or execute removal orders.'" *Reno*  
10 *v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999)  
11 (emphasis in original). Thus, contrary to Respondents' argument, §1252(g)  
12 does not apply to "all claims arising from deportation proceedings." *Id.*  
13 Instead, "[t]he Supreme Court has given a 'narrow reading' to § 1252(g)."  
14 *Ibarra-Perez v. United States*, \_\_ F.4th \_\_, Bi, 24-631, 2025 WL 2461663 at  
15 \*6 (9th Cir. Aug. 27, 2025). Moreover, the Ninth Circuit has indicated that  
16 where a noncitizen challenges the Attorney General's arguably  
17 discretionary decision on a purely legal basis as a "violation [of] the  
18 Constitution" or "INA," courts have jurisdiction to review such decisions as  
19 "premised on a lack of legal authority." *Id.* at \*8. Because Petitioner  
20 challenges the lawfulness of his detention during the *pendency* of his  
21 removal proceedings, this is not a challenge to one of the "three discrete  
22 events along the road to deportation" that § 1252(g) applies to. *See Reno*,  
23 525 U.S. at 482.

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Courts have, thus, rejected Respondents' exact arguments. *See*  
*Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at

1 \*3 (C.D. Cal. Sept. 8, 2025); *Grigorian v. Bondi*, No. 25-CV-22914-RAR,  
2 2025 WL 2604573, at \*3 (S.D. Fla. Sept. 9, 2025)). Section 1252(g) has no  
3 relevance to the narrow legal question of whether Mr. Helal's detention  
4 under 8 U.S.C. § 1225 violates the INA and/or the Constitution and  
5 whether he is entitled to a bond hearing under § 1226's discretionary  
6 detention framework. These "purely legal" questions fit the exception to §  
7 1252(g)'s jurisdiction-stripping provision, as they can be decided by  
8 application of law to an undisputed factual record and do not challenge the  
9 Attorney General's discretionary authority in any way. *See id.*

10 Respondents next argue that "Petitioner challenges the government's  
11 decision and action to detain them, which arises from DHS's decision to  
12 commence removal proceedings, and is thus an "action taken . . . to remove  
13 [them] from the United States," citing to 8 U.S.C. § 1252(b)(9) and  
14 *Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018). *See ECF No. 7 at 14.*  
15 *Jennings* forecloses Respondents' arguments. As in *Jennings*, Petitioner's  
16 claims are not encompassed within § 1252(b)(9) because Mr. Helal is "not  
17 asking for review of an order of removal; they are not challenging the  
18 decision to detain them in the first place or to seek removal; and they are  
19 not even challenging any part of the process by which their removability  
20 will be determined." *Id.*, 583 U.S. at 294–95. Therefore, "[u]nder these  
21 circumstances, § 1252(b)(9) does not present a jurisdictional bar." *Id.* at  
22 294–95. Courts to have addressed these exact arguments have rejected  
23 Respondents' 8 U.S.C. § 1252(a)(5) and (b)(9) arguments because  
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25 Petitioner's claims "are legal in nature and challenge specific conduct  
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1 unrelated to removal proceedings.” *Garcia Cortes v. Noem*, No. 1:25-CV-  
2 02677-CNS, 2025 WL 2652880, at \*2 (D. Colo. Sept. 16, 2025) (citing  
3 *Mukantagara v. U.S. Dep’t of Homeland Sec.*, 67 F.4th 1113, 1116 (10th  
4 *Cir.* 2023) (“Congress did not intend the zipper clause ‘to cut off claims that  
5 have a tangential relationship with pending removal proceedings.’ . . . A  
6 claim only arises from a removal proceeding when the parties in fact are  
7 challenging removal proceedings.”)); *Jose J.O.E. v. Bondi*, No. 25-CV-3051  
8 (ECT/DJF), 2025 WL 2466670, at \*7 (D. Minn. Aug. 27, 2025) Petitioner  
9 readily admit that district court lack jurisdiction to review orders of  
10 removal. *See* 8 U.S.C. § 1252(a)(5) (“[A] petition for review filed with an  
11 appropriate court of appeals in accordance with this section shall be the  
12 sole and exclusive means for judicial review of an order of removal . . .”).  
13 And that judicial review on a petition for review includes “all questions of  
14 law and fact, including interpretation and application of constitutional  
15 and statutory provisions” related to that order of removal. 8 U.S.C. §  
16 1252(b)(9). But these settled legal principles are irrelevant for the issue at  
17 bar. In this case Petitioner seeks review of the legality his detention, not a  
18 removal order. In fact, no order of removal has issued yet. 8 U.S.C. § 1252(b)(9)  
19 channels “[j]udicial review of all questions of law . . . including  
20 interpretation of constitutional and statutory provisions, arising from any  
21 action taken . . . to remove an alien from the United States” to the  
22 appropriate federal court of appeals—here the Ninth Circuit. However, the  
23 Supreme Court has indicated that were a Petitioner is not “asking for  
24 review of an order of removal,” “challenging the decision to detain them in  
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1 the first place or seek removal;" or "challenging any part of the process by  
2 which their removability will be determined," § 1252(b)(9) is not a  
3 jurisdictional bar. *Nielsen v. Preap*, 586 U.S. 392, 402 (2019).

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7 Petitioner's challenge to his continued detention as unlawful under  
8 the INA and U.S. Constitution does not fall into any of those categories.  
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10 *See Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S.  
11 1, 19 (2020) ("§ 1252(b)(9) does not present a jurisdictional bar where those  
12 bringing suit are not asking for review of an order of removal, the decision  
13 to seek removal, or the process by which removability will be  
14 determined."); *Gonzalez v. U.S. Immig. and Cust. Enft.*, 975 F.3d 788, 810  
15 (9th Cir. 2020) ("Section 1252(b)(9) is also not a bar to jurisdiction . . .  
16 because claims challenging the legality of detention pursuant to an  
17 immigration detainer are independent of the removal process.").

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25 2. Petitioner has met his burden for Rule 65 Relief.

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28 **b. Likelihood of Success on the Merits**

Respondents readily admit that other courts within this district and  
that have considered this same or similar issue have concluded that non-  
citizens who enter without inspection and then reside in the United States  
fall within the scope of Section 1226(a) rather than Section 1225(b)(2)(A)  
and are entitled to a bond. See ECF # 7 at 1; *see also Bautista v. Noem*,  
No. 5:25-cv-01873-SSS-BFM, ECF No. 14 at \* 7-8 (C.D. Cal. July 28, 2025)  
(holding respondents failed to articulate any valid justification, legal or  
otherwise, for the application of § 1225 rather than § 1226 to the  
petitioners); *Ceja Gonzalez v. Noem*, No 5:25-cv-02054-ODW (C.D. Cal.

1 Aug. 13, 2025) (rejecting the respondents' interpretation of § 1225(b) based  
2 on the statutory text); *see also Rosado v. Figueroa*, No. CV 25-02157 PHX  
3 DLR (CDB), 2025 WL 2337099, at \*8 (D. Ariz. Aug. 11, 2025), report and  
4 recommendation adopted sub nom. *Rocha Rosado v. Figueroa*, No. CV-25-  
5 02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025);  
6 *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1256-61 (W.D. Wash. 2025)  
7 (on a motion for preliminary injunction, finding a similarly situated  
8 plaintiff to Petitioner likely to succeed on the merits based on analysis of  
9 the two statutes' plain text, their relationship to one another, legislative  
10 history, and longstanding DHS practice); *Salazar v. Dedos*, No. 1:25-CV-  
11 00835-DHU-JMR, 2025 WL 2676729, at \*6 (D.N.M. Sept. 17, 2025)  
12 (determining petitioner's detention "should have been governed by § 1226  
13 [rather than § 1225] and that the denial of a meaningful bond review and  
14 his resultant continued detention violates his due process rights").  
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27 The only authority Respondents identify supporting their position is  
28 the BIA's recent decision in *Yajure Hurtado*, finding that noncitizens such  
as Petitioner are subject to section 1225(b)(2)(A). 29 I. & N. Dec. at 216.

But the task of resolving the legal issue raised by this petition belongs  
to the independent judgment of the courts without any deference to the BIA.  
*Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024) ("When the  
meaning of a statute [is] at issue, the judicial role [is] to interpret the act of  
Congress, in order to ascertain the rights of the parties.") (internal quotation  
marks and citation omitted); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425,  
\*7 (E.D. Mich. 2025) ("The BIA's decision to pivot from three decades of

1 consistent statutory interpretation and call for Pizarro Reyes' detention  
2 under § 1225(b)(2)(A) is at odds with every District Court that has been  
3 confronted with the same question of statutory interpretation. At least a  
4 dozen federal courts concur generally with this Court's interpretation of the  
5 statutory language as applied in this context."); *Hasan v. Crawford*, No.  
6 1:25-CV-1408, 2025 WL 2682255, at \*12 (E.D. Va. Sept. 19, 2025) (same).  
7 As *Pizzaro Reyes* persuasively explains: "[T]he overall context of § 1225  
8 limits the scope of the terms 'applicant for admission' and 'seeking  
9 admission' in § 1225(b)(2)(A). . . . The use of "arriving" to describe  
10 noncitizens strongly indicates that the statute governs the entrance of  
11 noncitizens to the United States. This reading is bolstered by the fact that  
12 § 1225 clearly establishes an inspection scheme for when to let noncitizens  
13 into the country. In fact, the subheading for § 1225(b)(2)(A) reads  
14 "Inspection of Other Aliens," reinforcing the idea that the subsection applies  
15 to those coming in, not already present. ... *Pizarro Reyes*, 2025 WL 2609425  
16 at \*5 (cleaned up); *see also Garcia v. Noem*, No. 25-cv-02180- DMS-MMP,  
17 2025 WL 2549431, at \*6 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*,  
18 No. 2:25-cv-124862025 WL 2496379, at \*8 (E.D. Mich. Aug. 29,  
19 2025); *Benitez v. Noem*, No. 5:25-cv-02190- RGK-AS, Doc. 11 at 5 (C.D. Cal.  
20 Aug. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428- JRR, 2025 WL  
21 2430025, at \*10 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, No. 25-11631-  
22 BEM, 2025 WL 2403827, at \*13 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez*  
23 *v. Noem*, No. 5:25-cv- 01789-ODW, 2025 WL 2379285, at \*2 (C.D. Cal. Aug.  
24 15, 2025).

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REPLY IN SUPPORT OF REQUEST FOR TEMPORARY RESTRAINING ORDER AND  
PETITION FOR A WRIT OF HABEAS CORPUSHRG: 22 OCTOBER 2025TIME: 10:00  
AMCOURTROOM: 5B - 11

1 Moreover, the recent amendment to §1226 further bolsters the  
2 conclusion that Petitioner's detention is not governed by § 1225(b)(2)(A).  
3 As *Pizarro Reyes* explained, the Laken Riley Act added subsection §  
4 1226(c)(1)(E), which mandates detention for noncitizens who are  
5 inadmissible under §§ 1182(a)(6)(A) (noncitizens present in the United  
6 States without being admitted or paroled, like Petitioner), 1182(a)(6)(C)  
7 (misrepresentation), or 1182(a)(7) (lacking valid documentation) and have  
8 been arrested for, charged with, or convicted of certain crimes. §  
9 1226(c)(1)(E) (i)–(ii). Considering that § 1182(a)(6)(A)(i) specifically refers  
10 to noncitizens “present in the United States without being admitted or  
11 paroled,” and that § 1226(c)(1)(E) requires detention without bond of these  
12 individuals if they have also committed a felony, the recently created  
13 statutory exception would be superfluous if § 1225(b)(2) authorized their  
14 detention from the get go. *Pizarro Reyes*, 2025 WL 2609425 at \*5;  
15 *Rodriguez*, 779 F. Supp. 3d at 1258 (noting that the government's  
16 interpretation “would render significant portions of Section 1226(c)  
17 meaningless,” which is an outcome that would violate “one of the most  
18 basic interpretive canons,” i.e., that a “statute should be construed so that  
19 effect is given to all its provisions, so that no part will be inoperative or  
20 superfluous, void or insignificant”) (cleaned up); *Barajas v. Noem*, 2025  
21 WL 2717650, \*4 (S.D. Iowa 2025) (“[T]he Federal Defendants’  
22 interpretation of § 1225 would render substantial portions of § 1226  
23 superfluous by making detention mandatory for nearly every noncitizen  
24 who has entered the United States illegally. If this is what Congress

1 intended, it does not make sense that it would have passed a separate  
2 statute as part of the same overall scheme that specifically contemplated  
3 bond hearings except in enumerated situations. Indeed, it is especially  
4 difficult to square the Federal Defendants' interpretation of § 1225 with  
5 Congress's decision earlier this year to pass the Laken Riley Act, which  
6 expanded the scope of mandatory detention under § 1226(a). Under the  
7 Federal Defendants' interpretation of the interplay between §§ 1225 and  
8 1226, the Laken Riley Act is meaningless. This is not how statutes are to  
9 be interpreted.") (cleaned up); *Maldonado*, 2025 WL 2374411, at \*12 ("The  
10 Court will not find that Congress passed the Laken Riley Act to 'perform  
11 the same work' that was already covered by § 1225(b)(2).").  
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21 **i. The Remaining Factors Weight Heavily in Favor of**  
22 **Granting a Temporary Restraining Order**  
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24 Petitioner here is being unlawfully detained without bond. Federal  
25 courts have long recognized that the infringement of a constitutional right  
26 is an irreparable injury. *See Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("The  
27 loss of First Amendment freedoms, even for minimal periods of time,  
28 unquestionably constitutes irreparable injury."); *Free the Nipple—Fort Collins*, 916 F.3d at 805 ("Most courts consider the infringement of a constitutional right enough and require no further showing of irreparable injury."); *Awad v. Ziriox*, 670 F.3d 1111, 1131 (10th Cir. 2012) ("When an alleged constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." (citation omitted)). Here, Mr. Helal has made a strong showing on the merits of his claim that his

1 detention without a bond hearing violates the INA and his procedural due  
2 process rights.  
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5 Respondents argue that the Government has a compelling interest in  
6 "the enforcement of its immigration laws" but this interest cannot disturb  
7 the *status quo* that existed prior to Petitioner's arrest. Moreover, a TRO  
8 would serve the public interest as his claims assert that the new policy in  
9 the DHS Guidance Notice violates federal laws: Permitting continued  
10 violations of federal law would serve "neither equity nor the public interest."  
11 *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022). Thus, the public interest  
12 weighs in favor of the Petitioner because continued detention without the  
13 legal protections afforded under § 1226(a) potentially violates the  
14 Petitioner's due process and statutory rights. *See Xuyue Zhang v. Barr*, 612  
15 F.Supp.3d 1005, 1017 (C.D. Cal. 2019) ("Generally, public interest concerns  
16 are implicated when a constitutional right has been violated, because all  
17 citizens have a stake in upholding the Constitution.")  
18  
19

20 Under 28 U.S.C. § 2243, a court shall forthwith issue a writ or order the  
21 Respondent to show cause why a writ should not issue, "unless it appears  
22 from the application that the applicant or person detained is not entitled"  
23 to a writ of habeas corpus  
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27  
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Respectfully Submitted by

s/ Nicolette Glazer Esq.

Nicolette Glazer Esq.

LAW OFFICES OF LARRY R GLAZER

1875 Century Park East #700

REPLY IN SUPPORT OF REQUEST FOR TEMPORARY RESTRAINING ORDER AND  
PETITION FOR A WRIT OF HABEAS CORPUSHRG: 22 OCTOBER 2025TIME: 10:00  
AMCOURTROOM: 5B - 14

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ATTORNEY FOR PETITIONER

REPLY IN SUPPORT OF REQUEST FOR TEMPORARY RESTRAINING ORDER AND  
PETITION FOR A WRIT OF HABEAS CORPUSHRG: 22 OCTOBER 2025TIME: 10:00  
AMCOURTROOM: 5B - 15