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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Elizabeth Huipe Ramos, Petitioner, vs. **Warden**, El Paso ICE Processing Center; **Mary De Anda-Ybarra**, Field Office Director, U.S. Immigration and Customs Enforcement; **Todd M. Lyons**, Acting Director, U.S. Immigration and Customs Enforcement; **Kristi Noem**, Secretary of United States Department of Homeland Security; **Pam Bondi**, Attorney General of the United States, in their official capacities, Respondents.	Case No.: 3:25-cv-00503 PETITIONER'S EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION

For the reasons explained in the accompanying Memorandum of Points and Authorities, Petitioner hereby makes this *Ex Parte* Application for a Temporary Restraining Order and Order to Show Cause Re: Preliminary Injunction, pursuant to Federal Rule of Civil Procedure 65 and 5 U.S.C. §705. Petitioner has resided in the United States for more than 21 years and was arrested as

a part of a largescale immigration action in Los Angeles. She was charged in removal proceedings with having entered the United States without inspection and appeared for a bond hearing at the El Paso Service Processing Center. In this case, the immigration judge found that that he lacked jurisdiction to consider bond redetermination hearing based on a new directive issued by the Department of Homeland Security and the controlling precedent from the Board of Immigration Appeals' decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). This rejection of a full and fair hearing is essentially a refusal to hold a bond hearing which violates the Immigration and Nationality Act and due process. She now seeks a temporary restraining order requiring that the immigration judge hold a bond hearing. Expedited relief is necessary to prevent irreparable injury before a hearing on a preliminary injunction may be held.

Petitioner requests that this Court issue a temporary restraining order and order to show cause re: preliminary injunction in the form of the proposed order submitted concurrently with this Application. This Application is based on her Petition for Writ of Habeas Corpus, Memorandum of Points and Authorities, and the declaration and exhibits in support thereof.

Petitioner's attorney informed the U.S. Attorney's Office of this motion. On October 29, 2025, Petitioner's Counsel, Mitchell H. Shen, sent a copy of the petition for Habeas Corpus and this motion for a TRO by electronic mail to Mary Kruger, Chief of the Civil Division of the U.S. Attorney's Office for the Western District of Texas, at mary.kruger@usdoj.gov, and to the Assistant U.S. Attorney Lacy McAndrew at lacy.mcandrew@usdoj.gov.

I. INTRODUCTION

Petitioner seeks a Temporary Restraining Order ("TRO") that requires Respondents to release her from custody or to provide her with an individualized bond hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a) within seven days of the issuance of a TRO.

Although Petitioner was present and residing in the United States for twenty-one years at the time of her immigration arrest, she was subjected to a new DHS policy issued on July 8, 2025 that instructs all ICE employees to consider anyone arrested within the United States and charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. *See* **Exhibit C**, "Interim Guidance Regarding Detention Authority for Applicants for Admission", ICE, July 8, 2025.

Petitioner sought a bond redetermination hearing before an immigration judge (IJ), but on October 28, 2025, the IJ denied bond. *See* **Exhibit B, Immigration Judge Bond Decision**. The IJ based this decision on the same legal analysis as DHS. Indeed, the DHS policy states it was issued "in coordination with the Department of Justice (DOJ)." The IJ concluded that notwithstanding Petitioner's 21 years of residing in the United States, she is nevertheless an "applicant for admission" who is "seeking admission" and subject to mandatory detention under § 1225(b)(2)(A).

Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

The denial of a bond hearing to Petitioner and her ongoing detention on the basis of the

new DHS policy violates the plain language of the INA, 8 U.S.C. § 1101 *et seq*. *See* Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al., 5:25-cv-01873-SSS-BFM, Dkt # 14 (C.D. Ca. Jul. 28, 2025); Rodriguez v. Bostock, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at 16 (W.D. Wash. Apr. 24, 2025); Gomes v. Hyde, No. 1:25-CV-11571-JEK, 202 WL 1869299, at *9 (D. Mass. July 7, 2025).

Despite DHS policy's assertions to the contrary, 8 U.S.C. §1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered the United States and have been continuously residing in the country since. Respondents' new policy and the resulting ongoing detention of Petitioner without a bond hearing is depriving Petitioner of statutory and constitutional rights and unquestionably constitutes irreparable injury. Petitioner therefore seeks a Temporary Restraining Order enjoining Respondents from continuing to detain her unless Petitioner is provided an individualized bond hearing before an immigration judge where DHS bears the burden of proof as to why continued detention is necessary, pursuant to 8 U.S.C. § 1226(a), within seven days of the TRO. Petitioner also seeks an Order prohibiting Respondents from relocating Petitioner outside of the Western District of Texas pending final resolution of this litigation.

II. STATEMENT OF FACTS

Petitioner, Elizabeth Huipe Ramos, is a citizen of Mexico who first entered the United States on or about February of 2004. She has since resided in the United States, for over twenty-one years. On July 10, 2025, she was arrested by immigration authorities at her place of employment. Petitioner is now detained at the El Paso Service Processing Center in El Paso, Texas and has been placed into removal proceedings. She was charged with having arrived in the United States at a time or place other than as designated by the Attorney General and lacking possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by

the INA. 8 U.S.C. § 1182(a)(6)(A)(i) – (7)(a)(1). Exh. A. Petitioner requested a bond hearing before an immigration judge, but the immigration judge denied this request, finding that under Matter of Yajure Hurtado the immigration court lacked jurisdiction to consider that request. Petitioner has now been detained in immigration custody without a right to bond for over 100 days.

III. ARGUMENT

In the Fifth Circuit, the requirements for granting a Temporary Restraining Order and for granting a preliminary injunction are the same. Fed. Home Loan Mortg. Corp v. Am. Home Mortg. Corp., 2007 U.S. Dist. LEXIS 56646, at *7 (N.D. Tex. Aug. 3, 2007). Such relief will only issue "where (1) there is a substantial likelihood that the movant will prevail on the merits; (2) there is a substantial threat that irreparable harm will result if the injunction is not granted; (3) the threatened injury outweighs the threatened harm to the defendant; and (4) the granting of the preliminary injunction will not disserve the public interest." Clark v. Prichard, 812 F.2d 991, 993 (5th Cir. 1987). The Fifth Circuit applies a sliding scale to the factors, balancing the hardships associated with the issuance or denial of a preliminary injunction with the degree of likelihood of success on the merits. Monumental Task Comm., Inc. v. Foxx, 157 F. Supp. 3d 573, 585 (E.D. La. 2016). Thus, when the other factors weigh strongly in favor of an injunction, a showing of some likelihood of success on the merits will justify temporary injunctive relief. *Id.*

The purpose of a TRO or a preliminary injunction is to "preserve the *status quo* and prevent irreparable injury until the court renders a decision on the merits." Sambrano v. United Airlines, Inc., 2022 U.S. App. LEXIS 4347, at *8 (5th Cir. Feb. 17, 2022). Petitioner satisfies the criteria, and – in order to return her to the status quo prior to her unlawful detention – a TRO should be granted.

A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS OF HER CLAIM

The Fifth Circuit requires a finding of "substantial likelihood" of success on the merits in order to justify temporary injunctive relief. Monumental Task Comm., Inc., at *585. Thus, to show a likelihood of success, Petitioner "must at least present a prima facie case, but need not prove that [she is] entitled to summary judgment." *Id.* "When the other factors weigh strongly in favor of an injunction, a showing of some likelihood of success on the merits will justify temporary injunctive relief." For this reason, "a sliding scale can be employed, balancing the hardships associated with the issuance or denial of a preliminary injunction with the degree of likelihood of success on the merits." Productos Carnic, S.A. v. Cent. Am. Beef & Seafood Trading Co., 621 F.2d 683, 686 (5th Cir. 1980).

Petitioner is likely to succeed on her claim that her ongoing detention by Respondents under 8 U.S.C. § 1225(b)(2) is unlawful. Indeed, sister Courts to this Court, have already found that a similarly situated petitioner would "likely succeed on the merits that the determination that her detention is mandatory under Section 1225 was erroneous and that she is entitled to a bond hearing under Section 1226(a)." Kostak v. Trump, 2025 U.S. Dist. LEXIS 167280, at *8 (W.D. La. Aug. 27, 2025). In that same opinion, this Court also found that the petitioner was "likewise likely to succeed on the merits of her claim that her continued detention, without the required bond hearing, violates her rights guaranteed by the Fifth Amendment." *Id.*

Further, the text, context, and legislative and statutory history of the Immigration and Nationality Act all demonstrate that 8 U.S.C. § 1226(a) governs her detention.

1. The Text Of § 1226(a) and § 1225(b)(2) Demonstrate That Petitioner Is Not Subject To Mandatory Detention.

First, the plain text of § 1226 demonstrates that subsection (a) applies to Petitioner. By its own terms, § 1226(a) applies to anyone who is detained "pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a). Section 1226 explicitly confirms that this authority includes not just noncitizens who are deportable pursuant to 8 U.S.C. § 1227(a), but also noncitizens, such as Petitioner, who are inadmissible pursuant to 8 U.S.C. § 1182(a). While § 1226(a) provides the right to seek release, § 1226(c) carves out specific categories of noncitizens from being released— including certain categories of inadmissible noncitizens—and subjects them instead to mandatory detention. See, e.g., § 1226(c)(1)(A), (C). In the case at hand, a Notice to Appear ("NTA") placing Petitioner in removal proceedings was issued on July 15, 2025. **Exhibit A, Notice to Appear.** The NTA indicates that Petitioner is detained pending removal proceedings to determine if she is to be removed or not. Additionally, DHS has charged her with section 212(a)(6)(A)(i) (which 8 U.S.C. § 1226(a) refers to as 8 U.S.C. § 1182), which categorizes her as "an alien present in the United States who has not been admitted or paroled."

If it is Respondents' position that § 1226(a) did not apply to inadmissible noncitizens such as Petitioner who is present without admission in the United States was correct, there would be no reason to specify that § 1226(c) governs certain persons who are inadmissible; instead, the statute would only have needed to address people who are deportable for certain offenses. Notably, recent amendments to § 1226 dramatically reinforce that this section covers people like Petitioner who DHS alleges to be present without admission. The Laken Riley Act (LRA) added language to § 1226 that directly references people who are inadmissible because they are present without admission. *See* LRA, Pub. L. No. 119-1, 139 Stat. 3 (2025). Specifically, pursuant to the LRA

amendments, people charged as inadmissible pursuant to § 1182(a)(6) (the inadmissibility ground for presence without admission) or § 1182(a)(7) (the inadmissibility ground for lacking valid documentation to enter the United States) *and* who have been arrested, charged with, or convicted of certain crimes are subject to § 1226(c)'s mandatory detention provisions. *See* 8 U.S.C. § 1226(c)(1)(E).

By including such individuals under § 1226(c), Congress further clarified that § 1226(a) covers persons charged under §1182(a)(6) or (a)(7). In other words, if someone is *only* charged as inadmissible under § 1182(a)(6) or (a)(7) and the additional crime-related provisions of §1226(c)(1)(E) do not apply, then § 1226(a) governs that person's detention. *See* Rodriguez Vazquez v. Bostock, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at*14 (W.D. Wash. June 6, 2025) (explaining these amendments explicitly provide that § 1226(a) covers people like Petitioner because the "'specific exceptions' [in the LRA] for inadmissible noncitizens who are arrested, charged with, or convicted of the enumerated crimes logically leaves those inadmissible noncitizens not criminally implicated under Section 1226(a)'s default rule for discretionary detention."); Diaz Martinez v. Hyde, 2025 WL 2084238, at *7 (D. Mass. July 24, 2025) ("if, as the Government argue[s], . . . a non-citizen's inadmissibility were alone already sufficient to mandate detention under section 1225(b)(2)(A), then the 2025 amendment would have no effect." 2025 WL 2084238, at *7; Gomes v. Hyde, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025) (similar). *See also* Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393, 400 (2010) (observing that a statutory exception would be unnecessary if the statute at issue did not otherwise cover the excepted conduct).

Despite the clear statutory language, DHS issued a new policy on July 8, 2025, instructing

all ICE employees to consider anyone inadmissible under § 1182(a)(6)(A)(i) - i.e., those who are present without admission - to be an "applicant for admission" and therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A). *See* **Exhibit C**, "Interim Guidance Regarding Detention Authority for Applicants for Admission", ICE, July 8, 2025. The new policy was implemented "in coordination with" DOJ. *Id.* And on September 5, 2025, in a decision from the Board of Immigration Appeals (BIA) (an agency within the DOJ that is binding on Immigration Judges), adopted this same position. Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). Petitioner has been denied a bond hearing before an IJ pursuant to this new policy.

The new policy is also inconsistent with the canon against superfluities, which "instructs courts to interpret a statute to effectuate all its provisions, so that no part is rendered superfluous." Robledo v. Yardi Sys., Inc., 741 F. Supp. 3d 617, 623 (W.D. Tex. 2024) (quoting Hibbs v. Winn, 542 U.S. 88, 101 (2004)). But by concluding that the mandatory detention provision of §1225(b)(2) applies to Petitioner, DHS and EOIR violate this rule. The Western District of Louisiana has recently held that DHS and EOIR's "interpretation of § 1225 would render § 1226 unnecessary." Santos v. Noem, 2025 U.S. Dist. LEXIS 183412, at *11 (W.D. La. Sep. 11, 2025).

In sum § 1226's plain text demonstrates that § 1225(b)(2) should not be read to apply to everyone who is in the United States "who has not been admitted." *See* Santos, at *5-6 ("as all-encompassing as its provisions may seem, [§ 1225] has its limitations" and "does not cover the universe of deportation claims"). Section 1226(a) covers those who are present within and residing within the United States and who are not at the border seeking admission. The text of § 1225 reinforces this interpretation. As the Supreme Court recognized, § 1225 is concerned "primarily [with those] seeking entry," Jennings v. Rodriguez, 583 U.S. 281, 297 (2018), i.e., cases "at the

Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible," *id.* at 287. Paragraphs (b)(1) and (b)(2) in § 1225 reflect this understanding. To begin, paragraph (b)(1)—which concerns "expedited removal of inadmissible arriving [noncitizens]"—encompasses only the "inspection" of certain "arriving" noncitizens and other recent entrants the Attorney General designates, and only those who are "inadmissible under section 1182(a)(6)(C) or § 1182(a)(7)." 8 U.S.C. § 1225(b)(1)(A)(i). These grounds of inadmissibility are for those who misrepresent information to an examining immigration officer or do not have adequate documents to enter the United States. Thus, subsection (b)(1)'s text demonstrates that it is focused only on people arriving at a port of entry or who have recently entered the United States and not those already residing here. Section 1225(b)(1)(A)(iii)(II) clarifies that "[a]n alien described in this clause is an alien who is not described in subparagraph (F), who has not...been physically present in the United States continuously for the 2-year period." 8 U.S.C. § 1225(b)(1)(A)(iii)(II). Because the government's own records make clear that Petitioner entered the United States more than twenty-one years ago, 8 U.S.C. § 1225(b)(1) does not apply to her.

Paragraph (b)(2) is similarly limited to people applying for admission when they arrive in the United States. The title explains that this paragraph addresses the "[i]nspection of other [noncitizens]," i.e., those noncitizens who are "seeking admission," but who (b)(1) does not address. *Id.* § 1225(b)(2), (b)(2)(A). By limiting (b)(2) to those "seeking admission," Congress confirmed that it did not intend to sweep into this section individuals like Petitioner, who has already entered and is now residing in the United States. Indeed, the Fifth Circuit has previously held that the "[t]he terms 'admission' and 'admitted' mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." Martinez v. Mukasey, 519 F.3d 532, 544 (5th Cir. 2008). This would exclude Petitioner, who entered without

inspection and had been living in the United States for over twenty-one years at the time she was detained by ICE, and who is not seeking admission to the country because she is already present in the United States.

Furthermore, subparagraph (b)(2)(C) addresses the "[t]reatment of noncitizens] *arriving* from contiguous territory," i.e. those who are "*arriving* on land." 8 U.S.C. § 1225(b)(2)(C) (emphasis added). This language further underscores Congress's focus in § 1225 on those who are arriving into the United States—not those already residing here. Similarly, the title of § 1225 refers to the "inspection" of "inadmissible *arriving*" noncitizens. *See* Dubin v. United States, 599 U.S. 110, 120–21 (2023) (emphasis added) (relying on section title to help construe statute).

Finally, the entire statute is premised on the idea that an inspection occurs near the border and shortly after arrival, as the statute repeatedly refers to "examining immigration officer[s]," 8 U.S.C. § 1225(b)(2)(A), (b)(4), or officer conducting "inspection[s]" of people "arriving in the United States," *id.* §1225(a)(3), (b)(1), (b)(2), (d); *see also* King v. Burwell, 576 U.S. 473, 492 (2015) (looking to an Act's "broader structure . . . to determine [the statute's] meaning").

The new DHS and EOIR policy and the IJ orders denying bond to Petitioner on this basis ignore all this and instead focus on the definition of "applicant for admission" at § 1225(a)(1), which defines an "applicant for admission" as a person who is "present in the United States who has not been admitted or who arrives in the United States," 8 U.S.C. § 1225(a)(1). But as the Fifth Circuit has explained, "[i]n determining whether Congress has specifically addressed the question at issue, a reviewing court should not confine itself to examining a particular statutory provision in isolation. The meaning — or ambiguity — of certain words or phrases may only become evident when placed in context." Marques v. Lynch, 834 F.3d 549, 558 (5th Cir. 2016) (quoting FDA v. Brown & Williamson

Tobacco Corp., 529 U.S. 120, 132 (2000)). Here, that context underscores that the definition in (a)(1) is limited by other aspects of the statute to those who undergo an initial inspection at or near a port of entry shortly after arrival—and that it does not apply to those who are arrested in the interior of the United States, months or years or decades later.

Significantly, in deeming that all noncitizens who entered without inspection are necessarily encompassed by the mandatory detention provision at § 1225(b)(2), the DHS and EOIR policy ignores that the provision does not simply address applicants for admission. Instead, the language "applicant for admission" in (b)(2)(A) is further qualified by clarifying the subparagraph applies only to those "seeking admission"—in other words, those who have applied to be admitted or paroled. The new policy and the IJ's implementation of the policy ignores this text, just as it ignores the statutory language in § 1226 that expressly encompasses persons who have entered the United States and are present without admission. Thus, Petitioner prevails regardless of the scope of § 1225(a)(1)'s definition of "applicant for admission." This is because classification as an "applicant for admission," is not sufficient to render someone subject to mandatory detention under § 1225(b)(2). The "applicant for admission" must *also* be "seeking admission," and that is clearly not the case for Petitioners.

2. The Legislative History Further Supports the Application of § 1226(a) to Petitioner's Detention

The legislative history of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104–208, Div. C, §§ 302–03 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585, also supports a limited construction of § 1225 and the conclusion that § 1226(a) applies to Petitioners. In passing the Act, Congress was focused on the perceived problem of recent arrivals to the United States who did not have documents to remain. *See* H.R. Rep. No. 104-469, pt.

1, at 157–58, 228–29; H.R. Rep. No. 104-828, at 209. Notably, Congress did not say anything about subjecting all people present in the United States after an unlawful entry to mandatory detention if arrested. This is important, as prior to the IIRIRA, people like Petitioner were not subject to mandatory detention. *See* 8 U.S.C. § 1252(a)(1) (1994) (authorizing the Attorney General to arrest noncitizens for deportation proceedings, which applied to all persons physically present within the United States). Had Congress intended to make such a monumental shift in immigration law (potentially subjecting millions of people to mandatory detention), it would have explained so or spoken more clearly. *See* Whitman v. Am. Trucking Ass'ns, 531 U.S. 457, 468–69 (2001). But to the extent it addressed the matter, Congress explained precisely the opposite, noting that the new § 1226(a) merely "restates the current provisions in [INA] section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond a[] [noncitizen] *who is not lawfully in the United States*." H.R. Rep. No. 104-469, pt. 1, at 229 (emphasis added); *see also* H.R. Rep. No. 104-828, at 210 (same).

3. The Record and Longstanding Agency Practice Reflect that § 1226 Governs Petitioner's Detention

DHS's long practice of considering people like the Petitioner as detained under §1226(a) further supports this reading of the statute. Typically, in cases like Petitioner's, DHS issues a Form I-286, Notice of Custody Determination, or Form I-200 stating that the person is detained under § 1226(a) or has been arrested under that statute. This decision to invoke § 1226(a) is consistent with longstanding practice. For decades, and across administrations, DHS has acknowledged that § 1226(a) applies to individuals who are present without admission after entering the United States unlawfully, but who were later apprehended within the United States long after their entry. Such a longstanding and consistent interpretation "is powerful evidence that interpreting the Act in [this]

way is natural and reasonable." Abramski v. United States, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting); *see also* Bankamerica Corp. v. United States, 462 U.S. 122, 130 (1983) (relying in part on "over 60 years" of government interpretation and practice to reject government's new proposed interpretation of the law at issue). Indeed, agency regulations have long recognized that people like Petitioner are subject to detention under § 1226(a). Nothing in 8 C.F.R. § 1003.19(h)—the regulatory basis for the immigration court's jurisdiction—provides otherwise. In fact, EOIR confirmed that § 1226(a) applies to Petitioner when it promulgated the regulations governing immigration courts and implementing § 1226 decades ago. Specifically, EOIR explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323.3

In sum, § 1226 governs this case. Section 1225 and its mandatory detention provision apply only to individuals arriving in the United States as specified in the statute, while § 1226 applies to those who have previously entered without admission and are now present and residing in the United States.

B. PETITIONER WILL SUFFER IRREPARABLE HARM IN THE ABSENCE OF A TRO.

Petitioner asserts that she possesses a protected liberty interest under the Due Process Clause, which prohibits the federal government from depriving any individual of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. This protection extends to noncitizens facing detention since "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." United States v. Salerno, 481 U.S. 739, 755 (1987).

The Supreme Court has long recognized that the deportation of noncitizens already in the United States without a hearing before a neutral arbiter violates due process. Yamataya v. Fisher, 189 U.S 86, 101 (1903) (reasoning that, to "bring them in harmony with the constitution," the immigration statutory regime requires there be a hearing before a noncitizen is deported); Wong Yang Sung v. McGrath, 339 U.S. 33, 49, modified, 339 U.S. 908 (1950) (finding that "without such a hearing, there would be no constitutional authority for deportation"); Zadvydas v. Davis, 533 U.S. 678, 693 (2001) (ruling that the Due Process Clause protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary or permanent." Immigration detentions do not meet the standards of due process when they do not further the government's legitimate goals of ensuring the noncitizen's appearance at removal proceedings and preventing harm to the community. *Id.* Nothing in Petitioner's record indicates that she is a flight risk or a danger to the community. Because Petitioner was not even afforded the opportunity to prove she is not a flight risk nor a danger to society, her continued confinement violates her due process rights.

In the absence of a TRO, Petitioner will continue to be unlawfully detained by Respondents pursuant to § 1225(b)(2), in violation of her Due Process rights. Petitioner has now been without an individualized bond hearing for over 100 days. In the Fifth Circuit, it is well established that "irreparable harm occurs whenever a constitutional right is deprived, even for a short period of time." Def. Distributed v. United States Dep't of State, 865 F.3d 211, 214 (5th Cir. 2017). Further, similar Courts have held that "the unconstitutional deprivation of liberty, even on a temporary basis, constitutes irreparable harm." Kostak v. Trump, at *8.

C. THE BALANCE OF EQUITIES TIPS IN PETITIONER'S FAVOR, AND A TRO IS IN THE PUBLIC INTEREST

Because the government is a party, these two factors are considered together. Nken v. Holder, 556 U.S. 418, 435 (2009); Kostak v. Trump, at *8-9 (same). Petitioner has established that the public interest factor weighs in her favor because her claims assert that the new policy has violated federal laws. *See* Kostak v. Trump, at *8-9 (holding that a similarly situated petitioner's "threatened injury, her continued detention without a bond hearing in violation of her Fifth Amendment rights, far outweighs the burden to Respondents of conducting a bond hearing" and that "granting Petitioner injunctive relief serves the public interest, as it will require the Government to ensure compliance with its own laws."

D. PRUDENTIAL EXHAUSTION IS NOT REQUIRED

Prudential exhaustion does not require Petitioner to be forced to endure the very harm she is seeking to avoid by appealing the IJ bond orders to the Board of Immigration Appeals and waiting many months for a decision from the BIA; a federal District Court is "the proper forum" in which to bring Petitioner's constitutional claims. *Id.* In addition, a court may waive the exhaustion requirement when "requiring resort to the administrative remedy may occasion undue prejudice to subsequent assertion of a court action." McCarthy v. Madigan, 503 U.S. 140, 146–47 (1992), *superseded by statute on other grounds as stated in* Booth v. Churner, 532 U.S. 731, 739–41 (2001). "Such prejudice may result . . . from an unreasonable or indefinite time frame for administrative action." *Id.* at 147 (citing cases). Here, the exceptions regarding irreparable injury and agency delay apply and warrant waiving any prudential exhaustion requirement.

1. Futility

Futility is an exception to the prudential exhaustion requirement. Petitioner has been

subjected to the new DHS policy issued on July 8, 2025 instructing all ICE employees to consider anyone arrested within the United States and charged with being inadmissible under § 1182(a)(6)(A)(i) to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. The DHS policy states it was issued "in coordination with the Department of Justice (DOJ)." *See* **Exhibit B**. The Immigration Judges (IJs) function within the Executive Office for Immigration Review which is a component of the Department of Justice. Petitioner has been denied a bond hearing by an IJ based on this new policy.

Further, a September 5, 2025 BIA decision on this issue held that persons like Petitioner are subject to mandatory detention as applicants for admission. Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). This decision is binding on Immigration Judges and the same agency that issues Matter of Yajure Hurtado would address any appeal from the IJ. Finally, in the Rodriguez Vazquez litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioner are applicants for admission and subject to detention under §1225(b)(2)(A). *See* Mot. to Dismiss, Rodriguez Vazquez v. Bostock, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31. Under these facts, appeals to the BIA would be futile. *See also* Kostak v. Trump, at *7-8 (in a case with identical facts and legal arguments, the Court stated it was not persuaded by DOJ and DHS's argument that "the failure to exhaust would deprive the Court of agency expertise in its statutory analysis [and]…encourage other detainees to bypass the BIA").

2. Irreparable injury

Irreparable injury is an exception to any prudential exhaustion requirement. Because Petitioner was denied bond and ordered mandatorily detained, each day she remains in detention is one in which her statutory and constitutional rights have been violated. This Court has held that "if

detention becomes unreasonable, a hearing is required" and that in determining reasonableness, courts should apply a non-exhaustive four-factor balancing test weighing (1) the duration of detention, (2) the likelihood of continued detention, (3) the reasons for the delay, and (4) whether the conditions of confinement differ meaningfully from criminal punishment. Alves v. United States DOJ, 2025 U.S. Dist. LEXIS 180676, at *11 (W.D. Tex. Sep. 12, 2025).

Similarly, another district court has explained that "because of delays inherent in the administrative process, BIA review would result in the very harm that the bond hearing was designed to prevent: prolonged detention without due process." Hechavarria v. Whitaker, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) (internal quotation marks omitted). Similarly, another district court has held that, "if Petitioner is correct on the merits of [her] habeas petition, then Petitioner has *already* been unlawfully deprived of a [lawful] bond hearing[,] [and] . . . each additional day that Petitioner is detained without a [lawful] bond hearing would cause [her] harm that cannot be repaired." Villalta v. Sessions, No. 17-CV-05390-LHK, 2017 WL 4355182, at *3 (N.D. Cal. Oct. 2, 2017) (internal quotation marks and brackets omitted); *see also* Cortez v. Sessions, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018) (similar). Further district courts have echoed these points.[1]

---

[1] *See, e.g.*, Hernandez Lopez v. Hardin, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025); Sanchez Roman v. Noem, 2025 WL 2710211 (D. Nev. Sept. 23, 2025); Maldonado Vazquez v. Feeley, 2025 WL 2549431 (D. Nev. Sept. 17, 2025); Echevarria v. Bondi, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); Rosado v. Figueroa, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); Perez v. Wolf, 445 F. Supp. 3d 275, 286 (N.D. Cal. 2020); Blandon v. Barr, 434 F.Supp. 3d 30, 37 (W.D.N.Y. 2020); Marroquin Ambriz v. Barr, 420 F. Supp. 3d 953, 961 (N.D. Cal. 2019); Ortega-Rangel v. Sessions, 313 F. Supp. 3d 993, 1003–04 (N.D. Cal. 2018); Montoya Echeverria v. Barr, No. 20-CV-02917- JSC, 2020 WL 2759731, at *6 (N.D. Cal. May 27, 2020); Rodriguez Diaz v. Barr, No. 4:20-CV-01806-YGR, 2020 WL 1984301, at *5 (N.D. Cal. Apr. 27, 2020); Birru v. Barr, No. 20-CV-01285-LHK, 2020 WL 1905581, at *4 (N.D. Cal. Apr. 17, 2020); Lopez Reyes v. Bonnar, No. 18-CV-07429-SK, 2018 WL 7474861 at *7 (N.D. Cal. Dec. 24, 2018).

Petitioner asserts both statutory and constitutional claims and has a "fundamental" interest in a bond hearing, as "freedom from imprisonment is at the 'core of the liberty protected by the Due Process Clause.'" Hernandez, 872 F.3d at 993 (quoting Foucha v. Louisiana, 504 U.S. 71, 80 (1992)). Moreover, the irreparable injury Petitioner faces extends beyond a chance at physical liberty. There are several "irreparable harms imposed on anyone subject to immigration detention[.]" Hernandez, 872 F.3d at 995. These include "subpar medical and psychiatric care in ICE detention facilities." *Id. See also* Morrissey v. Brewer, 408 U.S. 471, 482 (1972) (identifying the ability to live at home, work, and "be with family and friends and to form the other enduring attachments of normal life" as fundamental privileges denied to individuals held in detention).

3. Agency Delay

The BIA's delays in adjudicating bond appeals warrant excusing any exhaustion requirement. A court's ability to waive exhaustion based on delay is especially broad here given the interests at stake. Supreme Court precedent "permits a court under certain prescribed circumstances to excuse exhaustion where 'a claimant's interest in having a particular issue resolved promptly is so great that deference to the agency's judgment [of a lack of finality] is inappropriate.'" Mathews v. Eldridge, 424 U.S. 319, 330 (1976)). Of course, as noted above, Petitioner's interest here in physical liberty is a "fundamental" one. Hernandez, 872 F.3d at 993. Moreover, the Supreme Court has explained that "[r]elief [when seeking review of detention] must be speedy if it is to be effective." Stack v. Boyle, 342 U.S. 1, 4 (1951).

Despite this fundamental interest and the Supreme Court's admonition that only speedy relief is meaningful, the BIA takes over half a year in most cases to adjudicate an appeal of a decision denying bond. In these cases, noncitizens in removal proceedings often remain locked up in a detention facility with conditions "similar . . . to those in many prisons and jails" and separated

from family. Rodriguez, 583 U.S. at 329 (Breyer, J., dissenting); *see also, e.g.*, Hernandez, 872 F.3d at 996.

District courts facing situations similar to the one at issue here acknowledged that the BIA's months-long review is unreasonable and results in ongoing injury to the detained individual. *See, e.g.*, Perez, 445 F. Supp. 3d at 286. Indeed, as one district judge observed, "the vast majority of . . . cases . . . have 'waived exhaustion . . . where several additional months may pass before the BIA renders a decision on a pending appeal [of a custody order]." Montoya Echeverria, 2020 WL 2759731, at *6 (quoting Rodriguez Diaz, 2020 WL 1984301, at *5); *see also* Hechavarria, 358 F. Supp. 3d at 237–38 (citing McCarthy and BIA delays as reason to waive prudential exhaustion requirement).

Additionally, the issues presented in this petition are questions of statutory interpretation which are "unlikely to require agency consideration to generate a proper record to reach a proper decision." Maldonado Bautista et al. v. Santacruz, et al., No. 5:25-cv-01873-SSS-BFM (C.D. Calif. July 28, 2025), Order Granting Temporary Restraining Order, Dkt. 14 at 11.

E. THERE IS NO JURISDICTIONAL HURDLE BARRING RELIEF

Finally, nothing in the Immigration and Nationality Act precludes this Court from granting the TRO. The "zipper clause" at 8 U.S.C. § 1252(b)(9), which channels "[j]udicial review of all questions of law . . . including interpretation and application of constitutional and statutory provisions, arising from any action taken . . . to remove an alien from the United States" to the appropriate federal court of appeals, does not apply because that section applies only to review of removal orders, and Petitioners do not seek review of orders of removal but of custody. Maldonado Bautista et al. v. Santacruz, et al., No. 5:25-cv-01873-SSS-BFM (C.D. Calif. July 28, 2025), Order Granting Temporary Restraining Order, Dkt. 14 at 4-5.

The bar to review at 8 U.S.C. § 1252(g) strips all courts of jurisdiction to hear "any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." The Supreme Court previously characterized § 1252(g) as a narrow provision, applying "only to three discrete actions that the Attorney General may take: her 'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.'" Reno v. Am.-Arab Anti-Discrimination Comm., 525 U.S. 471, 482 (1999) (emphasis in original). In doing so, the Supreme Court found it "implausible that the mention of *three discrete events* along the road to deportation was a shorthand way to referring to *all claims arising from* deportation proceedings." *Id.* (emphasis added). Petitioner's challenge to her detention does not fall within these discrete actions. Maldonado Bautista et al. v. Santacruz, et al., No. 5:25-cv-01873-SSS-BFM (C.D. Calif. July 28, 2025), Order Granting Temporary Restraining Order, Dkt. 14 at 5.

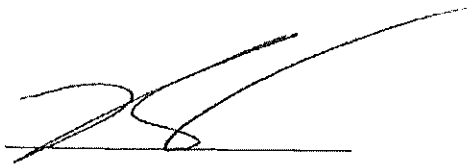
Finally, 8 U.S.C. § 1252(a), titled "Judicial Review of Orders of Removal," Section 1252(a)(2) contains four subsections, which outlines categories of claims that are not subject to judicial review. § 1252(a)(2)(A)–(D). None of these subsections precluding judicial review apply to this matter, as the specified statutory provisions do not cite to § 1225(b)(2)(A) or § 1226(a), which are the two provisions Petitioner challenges. Thus, no part of § 1252 deprives this Court of jurisdiction. Maldonado Bautista et al. v. Santacruz, et al., No. 5:25-cv-01873-SSS-BFM (C.D. Calif. July 28, 2025), Order Granting Temporary Restraining Order, Dkt. 14 at 6. As such, the Court has jurisdiction over Petitioner's challenge to her detention.

IV. CONCLUSION

For the foregoing reasons, the Court should grand Petitioner's application for a Temporary

Restraining Order and Order to Show Cause.

Dated: 10/29/2025



Mitchell H. Shen, Esq.
Attorney for Petitioner

WORD COUNT CERTIFICATION

The undersigned, counsel of record for Petitioner, certifies that this Memo contains 6246 words, which complies with the word limit of L.R. 11-6.1.

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Attorney for Petitioner

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Elizabeth Huipe Ramos, Petitioner, vs. **Warden**, El Paso ICE Processing Center; **Mary De Anda-Ybarra**, Field Office Director, U.S. Immigration and Customs Enforcement; **Todd M. Lyons**, Acting Director, U.S. Immigration and Customs Enforcement; **Kristi Noem**, Secretary of United States Department of Homeland Security; **Pam Bondi**, Attorney General of the United States, in their official capacities, Respondents.	Case No.: DECLARATION OF MITCHELL H. SHEN IN SUPPORT OF PETITIONER'S EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION

I, Mitchell H. Shen, hereby declare and state the following:

1. My business address is Law Office of Mitchell H. Shen & Associates, 617 S. Olive St., Ste. 810, Los Angeles, CA 90014.

2. I have personal knowledge of the events described below.

3. On October 29, 2025, I emailed the Mary Kruger and Lacy McAndrew, counsel for Respondents. I informed them of the Petitioners' intent to file an ex parte motion to seek their release from custody and sent a copy of the complaint to their offices. At the time of filing, I did not receive a response back.

4. Attached as Exhibit A is the Notice to Appear that the Department of Homeland Security issued to Petitioner, Elizabeth Huipe Ramos.

5. Attached as Exhibit B is the Immigration Judge's decision in Petitioner, Elizabeth Huipe Ramos's bond hearing, denying for lack of jurisdiction, dated October 28, 2025.

6. Attached as Exhibit C is ICE's Interim Guidance Regarding Detention Authority for Applicants for Admission

7. Pursuant to 28 C.F.R. § 24.201(f), I hereby verify that the information provided in the application and all accompanying material is true and correct to the best of my information and belief. Executed this 29th day of October 2025 at Los Angeles, CA.

Mitchell H. Shen, Esq.

Ex Parte Application for Temporary Restraining Order
Elizabeth Huipe Ramos

EXHIBIT A

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

DOB: [redacted]

Event No [redacted]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted] FINS: [redacted] File No: [redacted]

In the Matter of:

Respondent: ELIZABETH HUIPE RAMOS currently residing at:

8915 Montana Ave El Paso, TEXAS 79925

(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You entered the United States at or near unknown place, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

El Paso Service Processing Center 8915 Montana Ave. El Paso, Tx 79925.

(Complete Address of Immigration Court, including Room Number, if any)

on August 14, 2025 *(Date)* at 8:30 am *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

J [redacted] ORTEZ - SDDO

(Signature and Title of Issuing Officer)

Date: July 15, 2025

El Paso, TX

(City and State)

This Notice to Appear Supersedes the Notice to Appear issued on July 11, 2025

EOIR - 1 of 3

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/I-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: _____

(Signature of Respondent)

_____ Date: _____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on July 15, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ In person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail

☐ Attached is a credible fear worksheet.

☐ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

_____ _____

(Signature of Respondent if Personally Served) *(Signature and Title of officer)*

[illegible] PEREZ - Deportation Officer

EOIR – 2 of 3

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

EOIR – 3 of 3

Ex Parte Application for Temporary Restraining Order
Elizabeth Huipe Ramos

EXHIBIT B

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
EL PASO SPC IMMIGRATION COURT

Respondent Name:
HUIPE RAMOS, ELIZABETH

To:
Wannamaker, Constance Russell
4171 N. Mesa Bldg D Ste 500
El Paso, TX 79902

A-Number:
[redacted]

Riders:
In Custody Redetermination Proceedings

Date:
10/28/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☑ Denied, because
No jurisdiction. See Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).

☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
- ☐ released from custody under bond of $
- ☐ other:

☐ Other:

Immigration Judge: Dean S. Tuckman 10/28/2025

Appeal: Department of Homeland Security: ☑ waived ☐ reserved
Respondent: ☐ waived ☑ reserved
Appeal Due: 11/28/2025

Certificate of Service

This document was served:
Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable
To: [ ] Alien | [ ] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS
Respondent Name : HUIPE RAMOS, ELIZABETH | A-Number : [redacted]
Riders:
Date: 10/28/2025 By: Antunez, Danny, Court Staff

Ex Parte Application for Temporary Restraining Order
Elizabeth Huipe Ramos

EXHIBIT C

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Elizabeth Huipe Ramos, Petitioner, vs. **Warden**, El Paso ICE Processing Center; **Mary De Anda-Ybarra**, Field Office Director, U.S. Immigration and Customs Enforcement; **Todd M. Lyons**, Acting Director, U.S. Immigration and Customs Enforcement; **Kristi Noem**, Secretary of United States Department of Homeland Security; **Pam Bondi**, Attorney General of the United States, in their official capacities, Respondents.	Case: [PROPOSED] ORDER GRANTING PETITIONERS' *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION

This matter has come before this Court on Petitioner's *Ex Parte* Application for Temporary Restraining Order and Order to Show Cause Re: Preliminary Injunction. The Court has carefully considered all the filings, the arguments of counsel, and the record in this case.

Petitioners are entitled to a temporary restraining order if they establish that they are "likely to succeed on the merits, . . . likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [their] favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.* 555 U.S. 7, 20 (2008); *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). Absent a showing of likelihood of success on the merits, the Court may still grant a temporary restraining order if Plaintiff raises "serious questions" as to the merits of their claims, the balance of hardships tips "sharply" in their favor, and the remaining equitable factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d

1127 (9th Cir. 2011). Further, under the Administrative Procedure Act, to prevent irreparable injury, the Court may issue "all necessary and appropriate process . . . to preserve status or rights pending" these proceedings. 5 U.S.C. § 705.

Upon consideration of Petitioners' Application for Temporary Restraining Order, and finding sufficient cause, the application is **GRANTED**, and **IT IS FURTHER ORDERED** that:

1. Respondents are ordered to provide a bond redetermination hearing before an immigration judge withing seven days of this Order.

2. This Order shall be in effect for a period of_____ days from entry hereof, after which it shall expire absent further order of the Court.

3. As this Order should not result in any financial damage to Respondents, Petitioner shall not be required to give security. Fed. R. Civ. P. 65(c).

4. Respondents are hereby ORDERED TO SHOW CAUSE why a preliminary injunction should not issue. Respondents shall file any response to the Order to Show Cause on or before _, and Petitioner shall file any reply on or before ____. The Court will hear argument on whether a preliminary injunction should issue at _on, ___ 2025.

IT IS SO ORDERED

DATE:_____,2025.

_____

United States District Court