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8 *Attorney for Petitioner-Plaintiff*

9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA

11 Juan PEREZ SANTILLAN,

12 Petitioner-Plaintiff,

13 v.

14 Kristi NOEM, in her Official Capacity, Secretary,
15 U.S. Department of Homeland Security;

16 Pam BONDI, in her Official Capacity, Attorney
17 General of the United States;

18 Todd M. LYONS, Acting Director, Immigration and
19 Customs Enforcement, U.S. Department of Homeland
20 Security;

21 Jason KNIGHT, Salt Lake City Field Office Director
22 for Detention and Removal, U.S. Immigration and
23 Customs Enforcement, Department of Homeland
24 Security; and

25 Darin BALAAM, Sherriff, Washoe County Detention
26 Center.

27 Respondents-Defendants.
28

Case 3:25-cv-00633-ART-CSD

Agency No.



**PETITIONER'S REPLY IN
SUPPORT OF MOTION FOR
TEMPORARY
RESTRAINING ORDER**

1 **I. INTRODUCTION**

2 Petitioner, through undersigned counsel, hereby submits this Reply to the Federal
3 Respondent's Opposition to Petitioner's Motion for Temporary Restraining Order.

4 The government's Opposition rests entirely on two incorrect propositions:

5 (1) that Petitioner is an "applicant for admission" subject to mandatory detention under §
6 1225(b)(2), and (2) that he must remain detained under § 1226(c)(1)(E) based on the Laken Riley
7 Act due to dismissed criminal charges. Although, the government's Opposition provides no
8 argument whatsoever to support the proposition that Petitioner falls within the mandatory-
9 detention categories created by the Laken Riley Act.
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11 Regardless, both positions are foreclosed by the plain text of the INA, its definitional
12 structure, and the most recent federal court decision examining these exact statutory questions. In
13 a comprehensive ruling involving the same DHS policy and identical statutory arguments, a
14 federal district court held that individuals arrested inside the United States on § 1182(a)(6)(A)(i)
15 charges are not "applicants for admission," because that term applies only when an immigration
16 officer conducts an admissibility inspection — a process that never occurred in Petitioner's case.
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18 That same decision also rejected the government's attempt to impose mandatory
19 detention where the statutory prerequisites are not met, emphasizing that the Laken Riley Act
20 requires a noncitizen to currently fall within one of the enumerated categories. Petitioner does
21 not, because his state criminal charges were dismissed, and he has no conviction, no ongoing
22 charge, and no admission of wrongdoing.
23

24 Because Petitioner is detained under the wrong statute, denied access to the bond
25 procedures Congress provided under § 1226(a), and suffering immediate and irreparable harm as
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1 a result, he has satisfied every element of the TRO standard. The government’s arguments fail as
2 a matter of law.

3 **II. ARGUMENT**

4 The government argues that Petitioner cannot obtain injunctive relief because he “fails to
5 demonstrate entitlement.” This argument collapses immediately when analyzed under the correct
6 governing statute.

7
8 Federal courts repeatedly hold that injunctive relief is appropriate where DHS detains an
9 individual under the wrong statutory provision. The recent decision issued by the U.S. District
10 Court for the Central District of California in *Maldonado Bautista v. Santacruz* reviewing DHS’s
11 July 2025 detention policy confirms that individuals arrested in the interior and placed in § 240
12 proceedings are not governed by § 1225(b)(2). When DHS incorrectly treats such individuals as
13 § 1225 detainees, it violates both the INA and due process.

14
15 Because DHS here is applying a statute that does not apply to him, he is unlawfully denied
16 the bond procedures mandated under § 1226(a). This unlawful detention constitutes a textbook
17 basis for emergency injunctive relief.

18
19 **A. Petitioner is Likely to Succeed on the Merits**

20 a. Petitioner is not an “applicant for admission,” because no inspection occurred

21 The Petitioner is overwhelmingly likely to succeed on the merits because DHS is
22 detaining him under a statute that does not apply. The government’s position—that Petitioner is
23 an “applicant for admission” subject to mandatory detention under § 1225(b)(2)—cannot be
24 reconciled with the statutory definitions, the structure of the INA, or the way courts have
25 recently interpreted the phrase “applicant for admission.” The INA expressly defines
26 “admission” as lawful entry after inspection and authorization, and defines “application for
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1 admission” as the process by which a person seeks lawful entry. Individuals apprehended inside
2 the United States years after their entry are not engaged in an admission process and are not
3 undergoing inspection by an examining immigration officer. The recent decision in *Maldonado*
4 involving the same DHS policy confirms that the term “applicant for admission” is not a catch-
5 all category that DHS may use to reclassify interior residents as though they were arriving
6 noncitizens at a port of entry. Instead, the term applies only where an officer is performing the
7 statutory inspection function described in § 1225(a) and (b)—a function that indisputably did not
8 occur here.

10 DHS initiated standard removal proceedings against Petitioner under § 240, not expedited
11 removal or port-of-entry inspection. He was not encountered at a border, was not interviewed by
12 an immigration officer for admissibility purposes, and was not screened under the statutory
13 processes governing “arriving” noncitizens. Nothing about his arrest or processing resembles the
14 statutory scheme under § 1225(b). Rather, Petitioner fits squarely within the class of individuals
15 addressed by § 1226—those who are already “in the United States” and whose detention is
16 discretionary unless they fall within specifically enumerated mandatory categories. The court
17 addressing the DHS policy recognized that accepting the government’s broad reading of
18 “applicant for admission” would render § 1226 largely meaningless, collapse Congress’s
19 carefully drawn structural division between interior and border arrests, and contradict multiple
20 textual clues showing that § 1225 addresses inspection, screening, and admission—not post-
21 entry apprehension.
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25 b. Petitioner is not subject to mandatory detention under § 1226(c)(1)(E) (Laken
26 Riley Act)

27 Additionally, the government failed to address the Laken Riley Act and the mandatory-
28 detention categories in § 1226(c)(1)(E). Mandatory detention under the Laken Riley Act applies

1 only when a noncitizen is charged, is arrested for, is convicted of, or admits a qualifying offense.
2 Petitioner falls into none of those categories. His charges were dismissed outright. Congress's
3 deliberate use of the present tense forecloses any theory that DHS may hold an individual as
4 though he still "is charged" after the charges no longer exist.

5 Because Petitioner is not an applicant for admission and does not fall within mandatory
6 detention under § 1226(c), the statute that governs him is § 1226(a). Under that statute, he is
7 legally entitled to a bond hearing before a neutral decisionmaker. His current detention—without
8 statutory authority and without the bond process Congress provides—violates the INA and the
9 Due Process Clause. This provides a strong and independent basis for finding that Petitioner is
10 more than likely to succeed on the merits of his claims.
11

12 **B. Petitioner Has Demonstrated Irreparable Harm**

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14 The Petitioner has also established irreparable harm, and the government's argument to
15 the contrary is legally and factually incorrect. Unlawful detention itself constitutes irreparable
16 harm because it represents a deprivation of liberty that cannot be remedied after the fact. Courts
17 have consistently recognized that when the government detains an individual under the wrong
18 statute, denies access to the statutory bond process, or disregards procedural protections
19 guaranteed by Congress, the resulting injury is immediate and ongoing. It is not speculative or
20 theoretical; it is the daily loss of freedom based on an unlawful detention regime.
21

22 Beyond the fundamental liberty interest at stake, Petitioner faces severe personal harm
23 that far exceeds the ordinary burdens of detention. He has a single kidney and requires ongoing
24 medical monitoring, a need that cannot be reliably met in detention. His wife is permanently
25 blind in one eye, unable to drive, and dependent on him for essential daily tasks—including
26 transportation to medical appointments, assistance with reading documents, medication
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1 management, and financial stability. Their young U.S.-citizen child is experiencing substantial
2 emotional and behavioral distress because of his father's prolonged absence, and this harm is
3 immediate, documented, and worsening with every additional day of unlawful detention. The
4 family's financial stability has deteriorated rapidly, as Petitioner was the primary income
5 provider and caregiver. These harms are concrete, individualized, and incapable of repair
6 through monetary compensation or later judicial review.
7

8 The government's claim that Petitioner's suffering is "inherent to detention" ignores the
9 essential distinction between lawful detention and unlawful detention. The statutory and
10 constitutional violations here intensify every aspect of Petitioner's harm. Courts reviewing
11 similar challenges recognized that individuals held under the wrong statutory authority face
12 heightened due process injuries because the detention is not simply restrictive—it is
13 unauthorized. Petitioner's physical, emotional, medical, and familial harms meet every aspect of
14 the irreparable-harm standard.
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16 **C. The Equities and Public Interest Favor Petitioner**

17 Finally, the balance of equities and public interest weigh heavily in Petitioner's favor. The
18 government has not identified any specific harm that would result from applying the correct
19 statute or providing the bond hearing Congress requires under § 1226(a). Instead, it relies on
20 abstract statements about immigration enforcement that do not apply to the facts of this case.
21 Petitioner is a long-term resident of Nevada with deep community ties, a family that depends on
22 him, and no criminal conviction. The dismissal of his charges earlier this year removes any basis
23 for claiming ongoing danger or flight risk sufficient to justify mandatory detention. Providing
24 him with the legally required bond hearing—where the government must carry its burden—does
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1 not impede immigration enforcement or removal proceedings; it simply ensures compliance with
2 the INA.

3 The public interest is always served by ensuring that federal agencies operate within the
4 bounds of statutory authority, that detention decisions are grounded in the correct legal
5 framework, and that individuals are not deprived of liberty without the procedures Congress
6 mandated. The recent district court decision addressing DHS's detention policy reaffirmed this
7 principle, emphasizing that the public interest is not advanced when the government disregards
8 statutory limits or expands detention authority beyond what Congress intended. Ensuring correct
9 statutory application protects not only Petitioner but also the integrity of the immigration system
10 as a whole.
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12 In contrast, the harm to Petitioner and his family is specific, severe, and irreparable. His
13 continued detention under the wrong statute separates him from a disabled spouse and young
14 child who depend on him for survival, exacerbates his medical vulnerabilities, and prolongs a
15 deprivation of liberty that the governing statute does not authorize. Against this backdrop, any
16 claimed governmental interest pales in comparison to the concrete personal and constitutional
17 harms at stake. Because the equities and public interest strongly favor halting unlawful detention
18 and requiring DHS to follow the statutory scheme Congress enacted, injunctive relief is
19 warranted.
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22 **III. CONCLUSION**

23 For all the reasons set forth above, Petitioner has demonstrated a clear entitlement to
24 temporary injunctive relief. The government is detaining him under a statutory provision that
25 does not apply, denying him the individualized bond process that Congress expressly provided,
26 and ignoring the explicit requirements of the Laken Riley Act. Petitioner is not an applicant for
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1 admission, is not subject to mandatory detention, and is suffering ongoing irreparable harm while
2 his statutory and constitutional rights are violated each day. The balance of equities and the
3 public interest strongly favor ensuring that federal detention authority is exercised within the
4 limits Congress enacted and that individuals are not deprived of liberty without the procedures
5 guaranteed by law.
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7 Petitioner therefore respectfully requests that this Court grant his Motion for a Temporary
8 Restraining Order, direct Respondents to cease detaining him under § 1225, and either order his
9 immediate release or, at minimum, require DHS to provide a bond hearing under § 1226(a)
10 before a neutral decisionmaker within seven days, with the government bearing the burden of
11 proving necessity for continued detention. Such relief is both legally required and essential to
12 prevent further irreparable harm.
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14 Executed this 26th day of November 2025.

15 /s/ Karen S. Monrreal
16 Karen S. Monrreal, Esq.
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