MARDY M. SPROULE
California State Bar No. 207048
LAW OFFICES OF MARDY M. SPROULE
15141 Whittier Blvd, Suite 250
Tel (323)726-0999
Fax (323)726-0990
Email: Mardy.Sproule@att.net

Attorney for Petitioner, *Douglas Ernesto Ramirez*

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Douglas Ernesto RAMIREZ, Petitioner, v. Kristi NOEM, et al., Respondents.	Case No. '25CV3076 BAS AHG PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE

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 Douglas Ernesto Ramirez entered the United States on or about May 8, 2004, and has resided continuously in Southern California since that date. On June 14, 2025, he was arrested as part of a largescale immigration enforcement action targeting carwashes in Los Angeles County. Specifically, Petitioner was arrested without a warrant at [redacted] located in Artesia, California. Petitioner is now detained at the Otay Mesa Detention Center, where he has remained for almost five months.

On July 15, 2025, Petitioner filed a motion for bond reconsideration pursuant to 8 CFR §1236, arguing that he could not be subject to mandatory detention under section 235(b) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b), because he was arrested in the interior of the United States and is therefore properly subject to 8 U.S.C. § 1226(a), which allows for his release on conditional parole or bond.

After full consideration of all the evidence presented, on July 25, 2025, the Immigration Judge ordered that Petitioner's request for change in custody status be granted and that he be released from custody under a bond of $4500.00. On July 25, 2025, the Department of Homeland Security ("DHS") filed a Notice of ICE

Intent to Appeal Custody Redetermination to automatically stay the Immigration Judges custody redetermination decision pursuant to 8 C.F.R. §1003.19(i)(2), pending a decision of the appeal by the Board of Immigration Appeals ("BIA"). During the pendency of the appeal, the BIA issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that Immigration Judges lack authority to hear bond requests or to grant bond to aliens…who are present in the United States without admission under 8 U.S.C. § 1225(b)(2)(A). On October 7, 2025, the BIA sustained the appeal and vacated the bond order. The BIA found that the Immigration Judge did not have the authority to consider the Petitioner's request for custody redeterminations citing *Matter of Yajure Hurtado*, 29 I&N Dec. at 225.

The refusal to allow a bond redetermination in this matter violates both the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Petitioner now seeks a temporary restraining order ("TRO") requiring that the Immigration Court be allowed to 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 the Petition for Writ of Habeas Corpus and exhibits in support thereof

As described in the declaration of counsel below, I am providing advance notice of this filing to Respondents' counsel.

Dated: November 10, 2025

/s/ Mardy M. Sproule

Mardy M. Sproule, *Attorney for Petitioner Dougles Ernesto Ramirez*

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I. INTRODUCTION

Petitioner Douglas Ernesto Ramirez seeks a Temporary Restraining Order (hereinafter "TRO") that requires Respondents to release him from custody or to provide him 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 his immigration arrest, at his bond hearing DHS argued that the court lacked jurisdiction to redetermine his custody because Petitioner is "present without status" subjecting him to a new DHS policy issued on July 8, 2025, titled *Interim Guidance Regarding Detention Authority for Applicants for Admission*",[1] which 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 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. The new DHS policy was issued "in coordination with the Department of Justice (DOJ)." *Id.* Petitioner is detained at the Otay Mesa Detention Center and has been denied a bond hearing by the BIA based on this new policy.

The denial of bond to the Petitioner and his ongoing detention on the basis of the new DHS policy violates the plain language of the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq. See Lazaro Maldonado Bautista et*

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

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, 2025 WL 1869299, at *9 (D. Mass. July 7, 2025).

Despite the new DHS policy's assertions to the contrary, 8 U.S.C. § 1225(b)(2)(A) does not apply to individuals like Petitioner who cannot be subject to mandatory detention under section 235(b) of the INA, 8 U.S.C. § 1225(b), because he was arrested in the interior of the United States, 21 years after his entry, and not at or near the border while seeking admission to the country.

Respondents' new legal interpretation set forth in the policy is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner. 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 him unless Petitioner is provided an individualized bond hearing before an Immigration Judge 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 Southern District pending final resolution of this litigation.

II. STATEMENT OF FACTS

Petitioner Douglas Ernesto Ramirez has resided in the United States since approximately May 8, 2004. On June 14, 2025, he was arrested by immigration authorities as part of a largescale immigration enforcement operation targeting carwashes in Los Angeles County. During this action, Petitioner was detained without probable cause and subjected to questionable enforcement measures. Ex. A.

Petitioner is now detained at the Otay Mesa Detention Center in Otay Mesa, California, and has been placed in removal proceedings. DHS has charged him with being present in the United States without admission, in violation of 8 U.S.C. § 1182(a)(6)(A)(i); and not being in possession of a valid entry documentation, in violation of 8 U.S.C. §1182(a)(7)(A)(i). Petitioner subsequently requested a bond hearing before an Immigration Judge pursuant to 8 C.F.R. § 1236. His bond redetermination request was granted on July 25, 2025 in the amount of $4500.00. Ex. B. DHS appealed the bond order to the BIA. Ex. C. On October 7, 2025, BIA sustained the appeal and vacated the order finding that the Immigration Judge did not have the authority to consider the Petitioner's request for custody redetermination essentially concluding that like *Matter of*

Yajure Hurtado, he is "applicants for admission" under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and thus subject to mandatory detention, therefore ineligible for custody redetermination. *Matter of Yajure Hurtado,* 29 I&N Dec. 216, 225. Ex. D.

Petitioner has now been detained in immigration custody without a right to bond for almost five months, despite his documented health issues, and over two decades of residence in the United States. Ex. A.

III. ARGUMENT

The requirements for granting a Temporary Restraining Order are "substantially identical" to those for granting a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

Petitioner must demonstrate that (1) he is likely to succeed on the merits of his claims; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). A sliding scale test may be applied and an injunction should be issued when there is a stronger showing on the balance of hardships, even if there are "serious questions on the merits … so long as the plaintiff also shows a likelihood of irreparable harm and that the injunction is in the public interest." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011); *see also Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024).

Petitioner satisfies the criteria and a TRO should be granted.

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

Petitioner is likely to succeed on his claim that his ongoing detention by Respondents under 8 U.S.C. § 1225(b)(2), and the denial of bond hearing before an Immigration Judge is unlawful.

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

1. Petitioner Is Not Subject To Mandatory Detention.

The plain text of § 1226 demonstrates that subsection (a) applies to Petitioner. 8 U.S.C. § § 1225(b)(2) should not be read to apply to everyone who is in the United States "who has not been admitted." 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) in § 1225 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.

Paragraph (b)(2) in § 1225 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 decades ago and is now residing continuously in the United States without interruption for said decades. An individual submits an "application for admission" only at "the moment in time when the immigrant actually applies for admission into the United States." *Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (en banc). Indeed, in *Torres*, the *en banc* Court of Appeals rejected the idea that § 1225(a)(1) means that anyone who is presently in the United States without admission or parole is someone "deemed to have made an actual application for admission." *Id.* (*emphasis omitted*). That holding is instructive here too, as only those who take affirmative acts, like submitting an

"application for admission," are those who can be said to be "seeking admission" within § 1225(b)(2)(A). Otherwise, that language would serve no purpose, violating a key rule of statutory construction. *See Shulman*, 58 F.4th at 410–11.

Here, Petitioner was classified as an applicant for admission despite his arrest in the interior of the United States after having resided here for over twenty-one years. The new DHS and EOIR policy and the BIA decision denying the Immigration Judge jurisdiction to redetermine bond to Petitioner on this basis ignores all this and instead focuses on the definition of "applicant for admission" at § 1225(a)(1) (*see* "Interim Guidance Regarding Detention Authority for Applicants for Admission", ICE, July 8, 2025), 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).

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. The new policy and the IJs' implementation ignore the statutory language in § 1226 that expressly encompasses persons who have entered the United States and are present without admission. Thus, Petitioner will prevail regardless of the scope of § 1225(a)(1)'s definition of "applicant for admission."

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

In the absence of a TRO, Petitioner will continue to be unlawfully detained by Respondents pursuant to § 1225(b)(2) and denied bond reconsideration before an Immigration Judge. Petitioner has now been in ICE detention for almost 5 months, with chronic and serious health issues impacting a vital organ, his liver, secondary to gastric ulcer rupture, gastritis, high blood pressure and vitamin D deficiency. Ex.A. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention constitutes "a loss of liberty that is . . . irreparable." *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff'd in part, vacated in part on other grounds, remanded sub nom. Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir. 2022). It "is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (citation modified); *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005). *See also Hernandez v. Sessions*, 872 F.3d 976, 994–95 (9th Cir. 2017) ("Thus, it follows inexorably from our conclusion that the government's current policies [which fail to consider financial ability to pay immigration bonds] are likely unconstitutional—and thus that members of the plaintiff class will likely be deprived of their physical liberty unconstitutionally in the absence of the injunction—that Plaintiffs have also carried their burden as to irreparable

harm."); *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 9 ("[T]he Court finds that the potential for Petitioners' continued detention without an initial bond hearing would cause immediate and irreparable injury, as this violates statutory rights afforded under §1226(a).").

C. THE BALANCE OF EQUTITES TIPS IN PETITITIONER'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). Petitioners have established that the public interest factor weighs in their favor because their claims assert that the new policy has violated federal laws. *See Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013). Because the policy preventing Petitioners from obtaining bond "is inconsistent with federal law, . . . the balance of hardships and public interest factors weigh in favor of a preliminary injunction." *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (*Moreno I*); *see also Moreno Galvez*, 52 F.4th 821, 832 (9th Cir. 2022) (affirming in part permanent injunction issued in *Moreno II* and quoting approvingly district judge's declaration that "it is clear that neither equity nor the public's interest are furthered by allowing violations of federal law to continue"). This is because "it would not be equitable or in the public's interest to allow the [government] . . . to violate the requirements of federal law, especially when there are no adequate remedies available." *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir.

2013) (second alteration in original) (citation omitted). Indeed, Respondent "cannot suffer harm from an injunction that merely ends an unlawful practice." *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013).

D. PRUDENTIAL EXHAUSATION IS NOT REQUIRED.

Although it is our contention that exhaustion has been met in this case, prudential exhaustion does not require Petitioner to be forced to endure the very harm he 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. In this case, the Immigration Judge ordered his release and DHS appealed the decision. "[T]here are a number of exceptions to the general rule requiring exhaustion, covering situations such as where administrative remedies are inadequate or not efficacious, . . . [or] irreparable injury will result . . ." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation omitted). In addition, a court may waive an 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 Department of Homeland Security (DHS) policy issued on July 8, 2025, instructing all ICE officers to treat any person arrested within the United States and charged under 8 U.S.C. § 1182(a)(6)(A)(i) as an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. This policy was issued "in coordination with the Department of Justice (DOJ)," according to the agency's memorandum titled Interim Guidance Regarding Detention Authority for Applicants for Admission (ICE, July 8, 2025).

Because Immigration Judges operate within the Executive Office for Immigration Review (EOIR)—a component of the Department of Justice—the new DHS policy has effectively bound all immigration courts. Petitioner has been denied a bond hearing by an Immigration Judge pursuant to this policy, which has been uniformly applied nationwide to individuals charged under § 1182(a)(6)(A)(i), even when, as here, the arrest occurred deep within the interior of the United States decades after his entry.

On July 25, 2025, DHS filed a Notice of ICE Intent to Appeal Custody Redetermination, automatically staying the Immigration Judge's decision pending a decision by the BIA. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025),

explicitly holding that individuals who entered the United States without inspection are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and that Immigration Judges lack jurisdiction to conduct bond redetermination hearings in such cases. Consequently, on October 7, 2025, the BIA determined that the Immigration Judge did not have the authority to consider Petitioner's request for custody redetermination.

The BIA foreclosed relief through a binding precedential decision consistent with the DHS policy issued in coordination with the DOJ. Petitioner therefore has no further available administrative remedy and properly invokes this Court's habeas jurisdiction to challenge him unlawful detention and the categorical denial of a bond hearing.

2. Irreparable Injury

Irreparable injury is an exception to any prudential exhaustion requirement. Because Petitioner was denied bond by the BIA and ordered mandatorily detained, each day he remains in detention is one in which his statutory and constitutional rights have been violated. Similarly situated district courts have repeatedly recognized this fact. As one court has explained, "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). Indeed, "if Petitioner is correct on the merits

of his 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 him 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). Other district courts have echoed these points.[2]

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.* As indicated above, Petitioner is not in good health. He sustained imjuries to his shoulder when he was tackled, pinned and detained by two officers. In addition,

[2] *See, e.g., 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).

he suffers from chronic medical conditions involving his liver secondary to gastric ulcer rupture, gastritis, high blood pressure and vitamin D deficiency. Ex. A. The deportation officer even noted that on the day he was detained that he had problems with his liver, a vital organ; high blood pressure and gastritis. He has not received anywhere close to adequate medical care for well over five months since he was taken into custody. Petitioner's skin has noticeably changed on his hands, wrists and face due to a vitamin D deficiency and a medical disorder concerning his liver. Ex. E. Although he has put in multiple requests to see a doctor while in custody, the response have been grossly inadequate and negligible. Petitioner's health and wellbeing are at stake. Ex. A.

3. Agency Delay

Third, the BIA's delays in adjudicating bond appeals would warrant excusing any exhaustion requirement. A court's ability to waive exhaustion based on delay is especially broad here given the interests at stake. As the Ninth Circuit has explained, 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.'" *Klein v. Sullivan*, 978 F.2d 520, 523 (9th Cir. 1992) (alteration in original) (quoting *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, on average 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. In the BIA did not issue a decision until October 7, 2025.

District courts facing situations like 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 Petitioner does 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: him '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). Petitioners' challenge to their 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 Petitioners' challenge to their detention.

IV. CONCLUSION

For the foregoing reasons, the Court should grant Petitioner's Application for a Temporary Restraining Order and Order to Show Cause.

Dated: November 10, 2025

Respectfully Submitted,
S/ Mardy M. Sproule .

Attorney for Douglas E. Ramirez
Email: Mardy.Sproule@att.net

EXHIBIT INDEX

EXHIBIT A

Declaration of Douglas Ernesto Ramirez

TRANSLATION OF DECLARATION OF DOUGLAS ERNESTO RAMIREZ

//I, **Douglas Ernesto Ramirez,** being over the age of eighteen and of sound mind, hereby declare under penalty of perjury, pursuant to the laws of the state of California, that the following is true and correct to the best of my knowledge and belief:

1. I was working at [redacted] Car Wash in Artesia, California on June 14, 2025, when approximately 10 marked and unmarked ICE/ERO vehicles pulled into our worksite.
2. My car was parked by the McDonald's adjacent to the carwash.
3. I acted casual and walked towards my car to look for something when a customer started shouting "RUN! RUN!" because he saw that I was walking casually, instead of running.
4. When I turned to look back, I saw that I was surrounded by several Border Patrol agents.
5. As I attempted to move, a white truck cut in front of me and nearly hitting me. I stopped, then tried to move and it lunged toward me blocking my path. At least ten agents surrounded me from multiple directions.
6. I was physically grabbed from the back of the shirt neck by a masked agent, he pulled me backwards and tackled to the ground. I could hear my shoulder pop. Another agent assisted him in pinning me down although I was not resisting them, I was only pleading with them, "please, my shoulder, my shoulder". He told me, "Shut up!" and they continued to twist my arms behind me. I immediately felt severe pain, as though my shoulder had been dislocated. They ignored my pleas for help that my shoulder hurt.
7. I could not stand up from the pain. My shoes fell off and I begged them to allow me to put my shoes back on. Instead, they dragged me across the pavement to a white truck positioned inside the carwash with my arms restrained.
8. A female employee at the carwash tried to intervene and said, "Let him go!" She attempted to block the truck door so they would not force me inside. One of the agents struck her on her shoulder and pulled out a taser threatening her with it and yelled at her, "Don't touch my car!"
9. The agents continued forcing me into the vehicle.
10. The agents did not ask me my name, legal status, or any identifying information before detaining me.
11. They never showed me their identification or badges.

12. I was placed into a vehicle and driven a long distance on the freeway. I was in extreme pain from my shoulder.
13. The agents transported me to an abandoned industrial area near the marina in Long Beach, close to railroad tracks and shipping containers.
14. When we arrived, additional Border Patrol agents appeared. In total, I estimate approximately ten to fifteen male agents were present.
15. The agents stopped the vehicles and made me get down. They removed my handcuffs from the front, placed them behind my back, and also cuffed my ankles. They then began taking photographs and videos with me as if posing with a trophy. One used a professional Canon camera, and another recorded me with a tablet.
16. The agents laughed, high-fived each other, and continued recording. This conduct humiliated and terrified me.
17. After taking selfies with me, they placed me in another vehicle and transported me away from the location.
18. We were heading to Los Angeles when I heard the female officer who was driving say that Los Angeles was full and that they would take me to Santa Ana. I was taken to a detention facility in Santa Ana and remained there for the afternoon.
19. In Santa Ana, I told them that my shoulder hurt, that they had just injured me and it felt dislocated. She said, "We can't do anything for you here, you will need to wait for a doctor". They kept me there the entire day until they move me to downtown San Diego at night. Whenever I needed to sign anything, I physically needed to support my arm because of the pain.
20. After I was transported to a holding facility in downtown San Diego. I again requested medical treatment for my shoulder. I was denied any medical care.
21. In San Diego, I was taken to the "Icebox". I asked if I could be given something for the pain and they told me no that I would have to wait to see a doctor. They held me there for two days until I was transferred to Otay Mesa.
22. For the entire time from the arrest until being brought to San Diego, no officer asked about my immigration status, citizenship, or provided any legal information to me.

23. Only after arriving in San Diego did an officer say that because this was my first time detained by immigration, I had a right to a court hearing. I was never informed of the basis for my arrest.
24. No agent informed me of my rights.
25. At Otay Mesa, I informed staff that I was suffering severe shoulder pain. I repeatedly informed the officers that my shoulder was injured and I needed medical attention. I asked for pain medication, but they refused. I was told I had to wait for a doctor. No doctor saw me. I submitted multiple written medical requests asking for treatment. I was ignored for approximately three months.
26. I also requested X-rays and a medical examination many times for my shoulder because the pain is impeding my ability to sleep. Eventually, blood was drawn, and an X-ray was taken. However, I was never shown the X-ray images or given a proper medical evaluation. Instead, I was prescribed Naproxen for pain.
27. I have underlying medical conditions that I informed them of. Due to my underlying medical conditions, I cannot safely take naproxen or ibuprofen. Despite this, medical staff gave me naproxen multiple times, causing stomach bleeding and burning. I had blood in my stool from it. I informed them that this medication harms me, but they continued to deny safer treatment.
28. I have a liver disorder secondary to a gastric ulcer rupture, gastritis, and high blood pressure. My primary care physician has prescribed me [redacted] twice a day, [redacted] The nurse told me, "We can't do anything for you here. If you need that medicine, you have to buy it, but if the commissary doesn't sell it, we can't give it to you".
29. Medical staff later told me my Vitamin D level was extremely low (11), normal levels for a male my age are between 40-60. I was told that I would have to buy the Vitamin D. My fiancé was able to deposit money into my commissary to purchase it but they only allowed me to buy 10 days' worth. They refused to allow me to buy more once it ran out.
30. During this time, my liver condition has worsened. When I do not receive Vitamin D, I experience skin discoloration and white skin patches form. When my liver is in distress, my skin and eyes also start to turn yellow. My stomach becomes inflamed, and the acid rises into my throat and nose while I sleep, causing me to choke. I am currently

experiencing all of those symptoms. I have not treatment for my conditions since June 14, 2025.

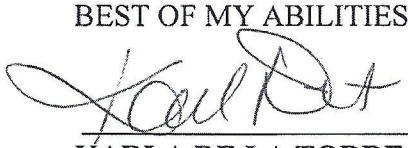
31. On two occasions they gave me chewable Tums for the stomach acid in detention.
32. The food provided in detention food causes my stomach to swell painfully. I must maintain a special diet due to my medical condition. I can only eat rice, tuna, oatmeal, milk, and vegetables. I cannot digest the regular facility meals. The facility is aware of my medical dietary needs, but I have not been provided an appropriate diet. The alternative halal meals are not within my strict dietary restrictions.
33. I often wake up choking on stomach acid that rises into my nose and throat while I sleep. I have repeatedly requested medical evaluation and medication for this, but my requests continue to be ignored or delayed.
34. I continue to experience shoulder pain, limited range of motion, acid reflux, stomach inflammation, and symptoms of liver complications, including skin discoloration, yellowing of the skin and white patches.
35. I am afraid that without proper medical treatment, my condition will worsen and may become life-threatening.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/Signature/

Douglas Ernesto Ramirez//

I CERTIFY THAT THE ABOVE IS A COMPLETE AND ACCURATE TRANSLATION OF THE ATTACHED DOCUMENT. I FURTHER CERTIFY THAT I AM A TRANSLATOR CONVERSANT IN BOTH ENGLISH AND SPANISH, COMPETENT TO TRANSLATE THE ATTACHED DOCUMENT AND THE TRANSLATION IS TRUE AND CORRECT TO THE BEST OF MY ABILITIES.



11/10/2025

KARLA DE LA TORRE
TRANSLATOR

DATE

EXHIBIT B

Bond Order of the Immigration Judge

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT

Respondent Name:
RAMIREZ, DOUGLAS ERNESTO

To:
Hernandez, Maria De La Luz
7401 Wiles Road Suite 313
Coral Springs, FL 33067

A-Number:
[redacted]

Riders:
In Custody Redetermination Proceedings

Date:
07/25/2025

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

☑ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
- ☑ released from custody under bond of $ 4,500.00
- ☑ other:
  and ATD at the discretion of DHS.

☐ Other:

Immigration Judge: SAMEIT, MARK 07/25/2025

Appeal: Department of Homeland Security: ☐ waived ☑ reserved
Respondent: ☑ waived ☐ reserved
Appeal Due: 08/25/2025

Certificate of Service

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To: [ ] Noncitizen | [ ] Noncitizen c/o custodial officer | [E] Noncitizen's atty/rep. | [E] DHS
Respondent Name : RAMIREZ, DOUGLAS ERNESTO | A-Number : [redacted]
Riders:
Date: 07/25/2025 By: Rosa Rodriguez, Court Staff

EXHIBIT C

Notice of ICE Intent to Appeal Custody Redetermination

U.S. Department of Justice
Executive Office for Immigration Review

Notice of ICE Intent to Appeal Custody Redetermination

Date: July 25, 2025

Alien Number [redacted]

Alien Name: RAMIREZ, DOUGLAS ERNESTO

1. Immigration and Customs Enforcement (ICE) has:

   ☒ a. Held the respondent without bond.

   ☐ b. Set the respondent's bond at $ _____ .

2. The Immigration Judge on 07/25/2025 (Date)

   ☐ a. Authorized the respondent's release.

   ☒ b. Redetermined the ICE bond to $ No $4,500.00 .

3. Filing this form on 7/25/2025 (Date) automatically stays the Immigration Judge's custody redetermination decision. See 8 C.F.R. §1003.19(i)(2).

4. The stay shall lapse if ICE does not file a notice of appeal along with appropriate certification within ten business days of the issuance of the order of the Immigration Judge, or upon ICE's withdrawal of this notice, or as set forth in 8 C.F.R. §1003.6(c)(4) and (5).
   See 8 C.F.R. §1003.6(c)(1).

Min Young Chan
ICE Counsel

I, Min Young Chan (Name), served the Notice of ICE Intent to Appeal Custody Redetermination on Maria De La Luz Hernandez, via ECAS (Respondent or Respondent's Representative), on 7/25/2025 (Date).

MIN YOUNG CHAN Digitally signed by MIN YOUNG CHAN Date: 2025.07.25 15:55:03 -07'00'
Signature

EOIR – 1 of 1

Form EOIR-43
Rev. Oct. 2006

EXHIBIT D

Board of Immigration Appeals Decision dated 10/7/2025

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

Hernandez, Maria De La Luz
Law Offices of Maria De La Luz Hernand
7401 Wiles Road Suite 313
Coral Springs FL 33067

DHS/ICE Office of Chief Counsel - OTM
P.O.Box 438150
San Diego CA 92143

Name: RAMIREZ, DOUGLAS ERNESTO [redacted]

Date of this Notice: 10/7/2025

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

John Seiler
Acting Chief Clerk

Enclosure

Userteam: Docket

U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals
Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

RAMIREZ, DOUGLAS ERNESTO
[redacted]
San Diego CA 92154

DHS/ICE Office of Chief Counsel - OTM
P.O.Box 438150
San Diego CA 92143

Name: RAMIREZ, DOUGLAS ERNESTO [redacted]

Date of this Notice: 10/7/2025

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

John Seiler
Acting Chief Clerk

Enclosure

Userteam: Docket

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

Douglas Ernesto RAMIREZ, [redacted]

Respondent

FILED
Oct 07, 2025

ON BEHALF OF RESPONDENT: Maria D. Hernandez, Esquire

ON BEHALF OF DHS: Rhana Ishimoto, Assistant Chief Counsel

IN BOND PROCEEDINGS
On Appeal from a Decision of the Immigration Court, Otay Mesa, CA

Before: McCloskey, Temporary Appellate Immigration Judge[1]

MCCLOSKEY, Temporary Appellate Immigration Judge

The Department of Homeland Security ("DHS") appeals the Immigration Judge's bond order dated July 25, 2025, granting the respondent's release on a bond payment of $4,500 pursuant to section 236(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1226(a).[2] The Immigration Judge issued a bond memorandum setting forth the reasons for the decision on August 14, 2025. The respondent opposes the appeal. The appeal will be sustained, and the Immigration Judge's July 25, 2025, order will be vacated.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

DHS argues that the Immigration Judge lacked jurisdiction to grant bond in this case under section 235 of the INA, 8 U.S.C. § 1225, because the respondent is present without admission and is consequently an applicant for admission (DHS' Br. at 3-5, 7-17). The Immigration Judge determined that the respondent is not an applicant for admission subject to detention under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A) (IJ at 1-2).

[1] Temporary Appellate Immigration Judges sit pursuant to appointment by the Attorney General. *See generally* 8 C.F.R. § 1003.1(a)(1), (4).

[2] On July 25, 2025, the government filed a Notice of ICE Intent to Appeal Custody Redetermination (FORM EOIR-43), automatically staying the decision of the Immigration Judge which remains in abeyance pending a decision of the appeal by this Board. 8 C.F.R. § 1003.19(i)(2).

During the pendency of this appeal, the Board issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 225 (BIA 2025), which held that "Immigration Judges lack authority to hear bond requests or to grant bond to aliens . . . who are present in the United States without admission." *See also* INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A). The respondent does not contest that he is an alien who is present in the United States without having been admitted, and the administrative records of this agency indicate that an Immigration Judge sustained the respondent's charges of removability under sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(6)(A)(i), (a)(7)(A)(i)(I), in the respondent's removal proceedings on June 26, 2026 (Bond Exhs. 1, 3). Consequently, the Immigration Judge did not have authority to consider the respondent's request for custody redetermination. *Matter of Yajure Hurtado*, 29 I&N Dec. at 225.

In light of this determination, we find it unnecessary to reach the remaining arguments on appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule court and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.").

Accordingly, the following orders will be entered.

ORDER: DHS' appeal is sustained.

FURTHER ORDER: The Immigration Judge's July 25, 2025, bond order is vacated.

EXHIBIT F

Bond Memorandum of the Immigration Judge

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OTAY MESA IMMIGRATION COURT
7488 Calzada de la Fuente
San Diego, California 92154

File No.: [redacted]	)	
	)	
In the Matter of	)	
	)	**IN BOND PROCEEDINGS**
Douglas Ernesto RAMIREZ.	)	
	)	
Respondent.	)	

ON BEHALF OF RESPONDENT:	**ON BEHALF OF THE DEPARTMENT OF HOMELAND SECURITY:**
Maria De La Luz Hernandez, Esquire	Antonio Estrada, Assistant Chief Counsel
7401 Wiles Road, Suite 313	P.O. Box 438150
Coral Springs, Florida 33067	San Diego, California 92143

BOND MEMORANDUM OF THE IMMIGRATION JUDGE

On July 15, 2025, Respondent filed a bond redetermination request with this Court. On July 25, 2025, the Court conducted a custody redetermination hearing. After determining the Court had jurisdiction, it found that Respondent had met his burden to show that he does not pose a danger to the community, but found that he did present a risk of flight which could be mitigated with bond and Alternatives to Detention. The Court granted Respondent's release with a $4,500 bond. *See* Order of the Immigration Judge, July 25, 2025. On July 25, 2025, the Department filed form EOIR-43, indicating its intent to appeal the Court's custody order. The Board of Immigration Appeals notified the Court of the Department's appeal on August 13, 2025. The Court provides this memorandum to facilitate review of the Department's appeal. *See* 8 C.F.R. § 1003.6(c)(2); EOIR Policy Man., Part II, Ch. 9.3(e)(7).

At the outset of the hearing, the Department argued that the Court lacked jurisdiction to redetermine Respondent's custody because the Respondent is "present without status" and charged under section 212(a)(6)(a)(i)(I) and is subject to detention under section 235 of the Immigration and Nationality Act ("INA").[1] While the Department contended that the Respondent is subject to mandatory custody, it did not present a legal argument for such position. *See Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980) (holding that statements made by counsel are not evidence). Additionally, the Department did not identify under which subsection of section 235 the Respondent was allegedly detained.

Furthermore, as explained in *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), INA sections 235 and 236 each cover distinct, non-overlapping classes of aliens. *Matter of M-S-*, 27 I&N Dec.

[1] The Department did not argue that the Respondent is subject to detention pursuant to *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) or *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019).

at 516. Section 235(b)(2)(A) provides that "applicants for admission" who are determined not to be clearly and beyond a doubt entitled to be admitted shall be detained for INA section 240 proceedings. The phrase "applicant for admission" is a term of art denoting a particular legal status. *Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020). However, the Ninth Circuit has rejected the theory that any applicant for admission should be "treated as having made a continuing application for admission that does not terminate 'until it [is] considered by an immigration officer.'" *Torres*, F.3d at 922 (*overruling Minto v. Sessions*, 854 F.3d 619, 624 (9th Cir. 2017)). Thus, there is some temporal limitation to such classification. *See United States v. Gambino-Ruiz*, 91 F.4th 981, 989 (9th Cir. 2024) (distinguishing *Torres*, who was placed in removal proceedings 13 years after entry, with *Gambino-Ruiz*, who was detained near the border shortly after crossing it, and stating that "*Torres* merely rejected the view that an alien remains in a perpetual state of applying for admission."). As such, the Court declines to consider someone like Respondent, who has been physically present in the United States for approximately 21 years, as an applicant for admission. To be sure, an alien "detained near the border shortly after he crossed it" is considered an applicant for admission. *Gambino-Ruiz*, 91 F.4th at 990. However, this did not occur in Respondent's case. Respondent was not detained near the border and has been present in the United States since 2004. Therefore, the Respondent is not an "applicant for admission" who would be subject to detention under section 235(b)(2)(A). Additionally, based on his length of time in the United States, the Respondent is not an arriving alien who would be subject to expedited removal. 8 C.F.R. § 235.3(b)(1)(ii) (2025). Furthermore, the Court found that the Respondent was not detained "while arriving in the United States" pursuant to a warrantless arrest and released with parole, as envisioned in *Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025). Based on the foregoing, the Court determined that the Respondent is detained pursuant to section 236(a) of the INA and that the Court did have jurisdiction to consider his custody status.

A respondent in a custody redetermination hearing under INA section 236(a) must establish to the satisfaction of the Immigration Judge that he does not present a danger to persons or property, is not a threat to national security, and does not pose a risk of flight. *See Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999). In determining whether a respondent merits release from custody, the Immigration Judge may consider various factors, as well as the amount of bond that is appropriate, and may consider any evidence that is probative and specific. *Matter of Guerra*, 24 I&N Dec. 37, 40-41 (BIA 2006).

The Immigration Judge has broad discretion in deciding which factors to consider in custody redeterminations and may choose to give greater weight to one factor over others, as long as the decision is reasonable. *Guerra*, 24 I&N Dec. 40 at 40-41. These factors may include any or all of the following: (1) whether the respondent has a fixed address in the United States; (2) length of residence in the United States; (3) family ties in the United States, and whether they may entitle the respondent to reside permanently in the United States in the future; (4) employment history; (5) record of appearance in court; (6) criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) history of immigration violations; (8) any attempts to flee prosecution or otherwise escape from authorities; and (9) the manner of entry to the United States. *Id.* (citations omitted); *see also Singh v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011) (noting that the recency and severity of criminal offenses must be considered, because criminal history alone is not always grounds for denial of bond). A respondent who is likely to abscond is a poor bail risk and does not merit release on bond. *Guerra*, 24 I&N

[redacted]

August 14, 2025

Dec. at 40. Dangerous respondents are properly held without bond; the Immigration Judge should only determine a bond amount upon which the respondent may be released if he is not a danger to the community. *Id.* at 38; *see also Matter of Urena*, 25 I&N Dec. 140, 141 (BIA 2009).

First, the Court found that Respondent does not pose a danger to the community. The Respondent has two convictions: petty theft in 2013 and failure the appear in 2015. Both these offenses are minor misdemeanors that occurred over 10 years ago. The Respondent has had no further arrests since that time, and therefore, the Court finds he has been rehabilitated. The Court determined that the Respondent presents some risk of flight because of his limited relief and manner of entry in violation of immigration laws. However, the Respondent possesses various positive factors which mitigate his risk of flight. Namely, he has strong ties to the community, including a long-term partner and her five children whom the Respondent has raised as his own. He has been in his community for over 20 years and worked at the same job for over 15 years. He also has a sponsor who financially supports the Respondent and will ensure he appears in court. As such, the Court determined that a bond of $4,500 would mitigate any risk of flight and ensure his appearance at future hearings.

In making its determination, the Court considered all the information, evidence, and arguments presented by the parties. *See Matter of Guerra*, 24 I&N Dec. at 40. The Court found that Respondent does not pose a danger to the community, but that he presents a risk of flight. *See id.* Accordingly, the Court granted his request for a change in his custody status and imposed a $4,500 bond with Alternatives to Detention at the Department's discretion.

Dated: 8/14/25

Mark Sameit
Immigration Judge

EOIR - 3 of 3

[redacted]

CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2025, I electronically filed the foregoing Petitioners' *Ex Parte* Application for Temporary Restraining Order and Order to Show Cause Re: Preliminary Injunction with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to those attorneys of record registered on the CM/ECF system. All other parties shall be served in accordance with the Federal Rules of Civil Procedure.

Dated: November 10, 2025

Respectfully Submitted,
S/ Mardy M. Sproule .

Attorney for Douglas E. Ramirez
Email: Mardy.Sproule@att.net