UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Yuvicela Martinez Llamas, Petitioner, v. BRET BRADFORD, Field Office Director of Enforcement and Removal Operations, Houston Field Office, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; MARTIN FRINK, Warden of Houston Contract Detention Facility, Respondents.	Case No. 25-5379 **PETITIONER'S EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER (TRO) AND/OR PRELIMINARY INJUNCTIVE RELIEF**

Pursuant to Fed. R. Civ. P. 65, petitioner, Yuvicela Martinez Llamas, moves this Court for a temporary restraining order and/or Preliminary Injunction enjoining Respondents from violating her Fifth Amendment right to due process by detaining her without justifying her ongoing detention, ordering her immediate release and preserving the status quo pending this Court's review of the underlying petition. In support of this motion, Ms. Martinez Llamas relies upon the attached memorandum of law. A proposed Order is attached.

DATED 2nd of December 2025.

Respectfully submitted,

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MEMORANDUM OF LAW IN SUPPORT OF EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER (TRO) AND/OR PRELIMINARY INJUNCTION RELIEF

INTRODUCTION

The Petitioner, Yuvicela Martinez Llamas (hereinafter "Petitioner"), by and through his undersigned counsel, hereby submits this memorandum of law in support of her emergency motion for temporary restraining order (TRO) and/or a preliminary injunction seeking an order from this Honorable Court enjoining Respondents from preventing Petitioner's release; releasing Petitioner from physical custody pending the outcome of the instant action on any reasonable conditions that would ensure her appearance at any future immigration hearings; and declaring that the actions of Respondents and/or decisions of Immigration Judge (IJ) were (a) in violation of the substantive and procedural guarantees of the Due Process Clause of the Fifth Amendment by determining that no conditions of bond could be set and therefore no conditions of bond could satisfy release even non-monetary; (b) in violation of the Immigration and Nationality Act (INA) as section 1225(b)(2)(A) does not apply to Petitioner who previously entered and is 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, and (c) in violation of the U.S. Department of Justice (DOJ) regulations because an IJ does have the authority to set monetary and non-monetary conditions of bond in removal proceedings. To avoid redundancy, Petitioner incorporates the factual background and the procedural history of her case as set forth in the instant motion and makes reference to the supporting exhibits attached to the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 and Complaint for Declaratory and Injunctive Relief (hereinafter "Habeas Petition").

STATEMENT OF FACTS

Petitioner has resided in the United States since the year 2000 and resides in Cleveland, Texas. *See* First Amended Habeas Petition Exhibit 4, Mrs. Martinez Llamas' Declaration.

On August 27, 2025, Petitioner was arrested after leaving a court hearing related to a pending case in which she was charged with domestic violence against her husband. In truth, Petitioner is the victim of domestic violence and has suffered ongoing abuse throughout her marriage. On the day of the incident, Petitioner was [redacted] As a result, the officers mistakenly arrested her instead of her abuser. *Id.* Petitioner is now detained at the Houston Contract Detention Facility in Houston, Texas. *See* First Amended Habeas Petition Exhibit 1, Printout from ICE Online Detainee Locator System showing Petitioner's current detention.

DHS placed Petitioner in removal proceedings before the Conroe Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection. *See* First Amended Habeas Petition Exhibit 2, Notice to Appear.

Mrs. Martinez Llamas has resided peacefully in the United States for decades. She lives with her eight (8) U.S. Citizen children. *See* First Amended Habeas Petition Exhibit 5, U.S. Birth Certificates of Petitioner's children.

At the present time, Petitioner has no disqualifying criminal conviction. On January 03, 2025, she was charged with Aggravated Assault under § 22.02(a)(2) of the Texas Penal Code and the case remains pending. *See* First Amended Habeas Petition Exhibit 6, Criminal Charge. Under the 5*th* and 14*th* Amendment of the U.S. Constitution she is presumed innocent. The U.S. Supreme Court in *Coffin v. United States*, 156 U.S. 432 (1895), explicitly recognized the presumption of

innocence as a fundamental principle in criminal law. Petitioner is neither a flight risk nor a danger to the community.

Following Petitioner's arrest and transfer to Houston Contract Detention Facility in Houston, Texas, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

Petitioner subsequently requested a bond redetermination hearing before an IJ. On November 10, 2025, The IJ denied a bond hearing, stating that he lacked jurisdiction pursuant to *Matter of Yajure Hurtado*. *See* First Amended Habeas Petition Exhibit 3, Order of the Immigration Judge.

As a result, Petitioner remains in detention. Without relief from this court, she faces the prospect of months, or even years, in immigration custody, separated from her family and community. On information and belief, Ms. Martinez Llamas is eligible for relief from removal, including Cancellation of Removal for Non-Lawful Permanent Residents under INA § 240(A)(b) codified at 8 U.S.C. §1229b(b).

ARGUMENT

I. JURISDICTION

A. Subject Matter Jurisdiction

This Court has subject-matter jurisdiction over the instant petition and action under 28 U.S.C. § 2241(c)(1) and (3), Art. I, § 9, C1. 2 of the United States Constitution ("Suspension Clause"), and 28 U.S.C. § 1331, as Petitioner is in the custody of the United States Department of Homeland Security ("DHS"), acting under the color of authority, by Respondents, agents of the United States.

Despite the provisions of INA § 236(e), codified at 8 U.S.C. § 1226(e), which bar federal courts from reviewing discretionary decisions regarding parole and bond "under this section," it is well-settled that INA § 236(e) does not serve to bar federal courts from reviewing questions of statutory construction or Constitutional claims such as mandatory detention under the statutory writ of habeas corpus, 28 U.S.C. §2241. *See Demore v. Kim*, 123 S.Ct. 1708, 1713-14 (2003) (INA §236(e) does not bar habeas jurisdiction in absence of specific provision barring habeas and because petitioner lodged a constitutional challenge to legislation); *Zadvydas v. Davis,* 533 U.S. 678, 686-89, 121 S.Ct. 2491, 2497-98 (2001) (INA 236(e), 242(a)(2)(B)(ii), 242(a)(2)(C), 242(g) did not bar habeas jurisdiction for challenge to post-removal detention); *Haitian Refugee Ctr., Inc. v. Nelson*, 872 F.2d 1555, 1560 n. 9 (11th Cir. 1989) (holding that federal courts also have jurisdiction to review allegations that agency officials have acted outside their statutory authority); *Aguilar v. Lewis*, 50 F. Supp.2d 539, 542-43 (E.D. Va. 1999) (INA §236(e) bars discretionary decisions not statutory interpretation); *Velasquez v. Reno*, 37 F. Supp.2d 663, 667-70 (D.N.J. 1999) (INA §236(e) barring review of detention decisions does not foreclose habeas challenge to application of statute). Moreover, INA §242(g) does not bar review of detention decisions; nor does INA §242(b)(9) or INA §242(a)(2)(B)(ii). *Zhislin v. Reno*, 195 F.3d 810 (6th Cir. 1999) (INA § 242(g) as interpreted by *Reno v. American- Arab Anti-Discrimination Comm.*, 119 S.Ct. 936, 943 (1999) does not bar review of challenge to indefinite detention); *Parra v. Perryman*, 172 F.3d 954 (7th Cir. 1999) (In light of American Arab INA §242(g) does not bar habeas to review detention issue); *Sillah v. Davis*, 252 F. Supp.2d 589, 593-97 (W.D. Tenn. 2003) (INA §242(a)(2)(B)(ii) does not preclude habeas jurisdiction to challenge revocation of parole); *Bouayad v. Holmes*, 74 F. Supp.2d 471, 473-74 (E.D. Pa. 1999) (Government conceded that habeas jurisdiction existed to challenge mandatory detention and the court determined that neither INA §

236(e) nor INA § 242(b)(9) preclude jurisdiction over detention); *Kiareldeen v. Reno*, 71 F. Supp.2d 402, 405-07 (D. N.J. 1999) (Neither INA § 236(e) nor § 242(g) bars habeas jurisdiction to review detention based upon secret evidence); Alikhani v. Fasano, 70 F. Supp.2d 1124, 1126-30 (S.D. Cal. 1999) (INA §§242(g), 242(b)(9) and 236(e) do not bar challenge to statutory and constitutional challenge to mandatory detention).

In *Zadvydas v. Davis*, 533 U.S. 678, 694-97, 121 S.Ct. 2491 2501-02 (2001), resident aliens who had been ordered removed brought habeas petitions challenging their detention during a period of custody beyond the 90-day removal period. In that case, the Supreme Court stated as follows regarding habeas jurisdiction: "We note at the outset that the primary federal habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases." *Id.* at 687 (citing Section 2241(c)(3), authorizing any person to claim in federal court that he or she is being held "in custody in violation of the Constitution or laws. . .of the United States"). With respect to the alien's important Constitutional claims, the Court found that

> [a] statute permitting indefinite detention of an alien would raise a serious constitutional problem. The Fifth Amendment's Due Process Clause forbids the Government to "depriv[e]" any person . . . of . . . liberty . . . without due process of law." Freedom from imprisonment--from government custody, detention, or other forms of physical restraint--lies at the heart of the liberty that Clause protects. See *Foucha v. Louisiana,* 504 U.S. 71, 80, 112 S.Ct. 1780, 118 L.Ed.2d 437 (1992). And this Court has said that government detention violates that clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, *see United States v. Salerno*, 481 U.S. 739, 746, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987), or, in certain special and "narrow" nonpunitive "circumstances," *Foucha*, supra, at 80, 112 S.Ct. 1780, where a special justification, such as harm-threatening mental illness, outweighs the "individual's constitutionally protected interest in avoiding physical restraint." *Kansas v. Hendricks*, 521 U.S. 346, 356, 117 S.Ct. 2072, 138 L.Ed.2d 501 (1997). The proceedings at issue here are civil, not criminal, and we assume that they are nonpunitive in purpose and effect. There is no sufficiently strong special justification here for indefinite civil detention--at least as administered under this statute

Id. at 690 (emphasis added).

Here, Petitioner challenges: (1) the IJ's newly legal and erroneous interpretation and application of the Immigration and Nationality Act ("INA"), Section 236(a), codified at 8 U.S.C. §1226(a), as well as implementing federal regulations, *viz.*, 8 C.F.R. §1003.19, 8 C.F.R. § 1236.1(d), which resulted in the IJ's denial of Petitioner's request for release on bond. The IJ's order denying release on bond subjected the Petitioner to detention pending her removal proceedings, based solely on the new interpretation of the INA and the statue; therefore, stating that she lacked jurisdiction to release Petitioner alleging that she is subject to INA § 235(b)(2) codified on 8 U.S.C. § 1225(b)(2)(A) and pursuant to *Matter of Yajure Hurtado*. *See* First Amended Habeas Petition Exhibit 3, Order of the Immigration Judge. Despite the fact that Petitioner is 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. Despite the fact that petitioner has no criminal convictions in the United States. Moreover, as will be discussed, Ms. Martinez Llamas is not required to exhaust her administrative remedies in this case. Therefore, this Court has subject matter jurisdiction over Petitioner's habeas claims which are now ripe for review.

B. Exhaustion of Administrative Remedies Is Not Required in This Case

"Of 'paramount importance' to any exhaustion inquiry is congressional intent. Where Congress specifically mandates, exhaustion is required. But where Congress has not clearly required exhaustion, sound judicial discretion governs." *McCarthy v. Madigan*, 503 U.S. 140, 144, 112 S.Ct. 1081 (1992); *Haitian Refugee Ctr., Inc. v. Nelson*, 872 F.2d 1555, 1561 (11th Cir. 1989) ("We note at the outset that the application of the judicial exhaustion doctrine is subject to the discretion of the trial court.") (citing *Panola Land Buyers Ass'n v. Shuman*, 762 F.2d 1550, 1556-

57 (11th Cir. 1985); *Haitian Refugee Center v. Smith*, 676 F.2d 1023, 1034 (5th Cir. 1982) ("the exhaustion requirement is not a jurisdictional prerequisite but a matter committed to the sound discretion of the trial court"). Here, Congress has not specifically mandated exhaustion before judicial review of custody determinations. Because exhaustion is not required by statute, sound judicial discretion must govern this Court's decision of whether to exercise jurisdiction absent exhaustion. *See McCarthy*, 503 U.S. at 144. Exercise of such sound judicial discretion is warranted here because there is an abundant body of law that supports this Court's jurisdiction over this case absent exhaustion.

First, exhaustion does not apply whereas here, a petition challenges only the agency action collateral to removal proceedings, such as bond. *Welch v. Reno*, 101 F.Supp.2d 347, 351 (D. Md. 2000) (Statutory exhaustion only for review of final orders of removal); *Aguilar v. Lewis*, 50 F.Supp.2d 539, 541 (E.D. Va. 1999) (No federal statute imposes an exhaustion requirement concerning bond); *Rowe v. INS*, 45 F. Supp. 2d 144, 145-46 (D. Mass. 1999) (and cases cited therein); *Pastor-Camarena v. Smith*, 977 F. Supp. 1415, 1417 (W.D. Wash. 1997) (and cases cited therein); *Montero v. Cobb*, 937 F. Supp. 88, 90-91 (D. Mass. 1976). *Alikhani v. Fasano*, 70 F.Supp.2d 1124, 1129- 30 (S.D. Cal. 1999). The instant petition only seeks review of the IJ's bond determination, and not of a final order of removal.

In addition, exhaustion is not required "where [, as here,] an agency's exercise of authority is clearly at odds with the specific language of the statute." *McClendon v. Jackson Television Inc.*, 603 F.2d 1174, 1177 (5th Cir. 1979). As discussed infra, the IJ's exercise of authority to deny Petitioner release on bond solely on the ground that the IJ has no jurisdiction or statutory authority pursuant to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) nor statutory authority to

impose conditions other than monetary conditions directly contravenes the specific language of § 236(a), which confers the IJ such authority.

Moreover, exhaustion is also not required where a review procedure exists but it is not mandated by statute or agency regulations. *Darby v. Cisneros*, 113 S.Ct. 2539 (1993) (Where regulation provided that ALJ's determination shall be final unless the Sec. of HUD, in his discretion, decides to review the decision after request of a party, such regulation does not provide for mandatory review and plaintiff could file suit without making request to Sec.). Here, although Petitioner may appeal the IJ's decision to the BIA, such appeal is not mandated by statute or agency regulations. *See* 8 C.F.R. § 1003.19(f) ("An appeal from the determination by an Immigration Judge may be taken to the Board of Immigration Appeals pursuant to § 1003.38") (emphasis added). Even if petitioner appeals, a remedy would be futile pursuant to *Matter of Yajure Hurtado.*

Finally, exhaustion of administrative remedies would be futile in this case because the BIA has no jurisdiction to adjudicate constitutional issues raised here. *See Mathews v. Eldridge*, 424 U.S. 319, 328-30 (1976) (A constitutional challenge to administrative action does not require exhaustion.); *Ramirez Osorio v. INS*, 745 F.2d 937, 939 (5th Cir. 1984) (holding that "exhaustion is not required when administrative remedies are inadequate").

C. This Court's Authority to Grant the Instant Motion

This Court has the discretion to enter a TRO and a preliminary injunction. *See Winter v. Natural Resources Defense Council*, 555 U.S. 7 (2008). *See Haitian Refugee Center v. Nelson*, 872 F.2d 1555, 1561-1562 (11th Cir. 1989). The standards for issuing a TRO and a preliminary injunction are "substantially identical." *See Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). (*Fed. R. Civ. P. 65*). In order for preliminary relief to be issue, the movant must establish the following: (1) a substantial likelihood that the movants will

ultimately prevail on the merits; (2) that he will suffer irreparable injury if the injunction is not issued; (3) that the threatened injury to the movant outweighs the potential harm to the opposing party; and (4) that the injunction, if issued, would not be adverse to the public interest. *Id.* As discussed below, all of these factors heavily weigh in the Petitioner's favor in the instant case.

II. Substantial Likelihood that the Petitioner will Prevail on the Merits of Her Claims

Petitioner is likely to succeed on the merits of her claim that she has been unlawfully detained under 8 U.S.C. § 1225 and is instead subject to 8 U.S.C § 1226. Respondents assert Petitioner has been detained pursuant to Section 1225(b)(2) and, therefore, "must be detained" and is not entitled to a bond hearing. Petitioner counters that she is not subject to Section 1225 but rather is subject to Section 1226, which entitles her to a bond hearing.

Sections 1225 and 1226 both govern the detention and removal of noncitizens from the United States. However, Section 1225 provides for mandatory detention of certain individuals, while Section 1226 establishes a discretionary detention scheme. Section 1225 provides that a noncitizen "who is an applicant for admission . . . shall be detained." 8 U.S.C. § 1225(b)(2)(A). In contrast, under Section 1226's discretionary scheme, a noncitizen "may be arrested and detained pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C § 1226(a). Pending this decision, the Attorney General may continue to detain the arrested individual or may release the individual on bond or conditional parole. 8 U.S.C § 1226(a)(2)(A)–(B). Section 1226(a) affords noncitizens a statutory right to a bond hearing before an immigration judge. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1256 (W.D. Wash. 2025) (citing 8 C.F.R. § 1236.1(d)); see also *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022) (explaining that under "§ 1226(a) and its implementing regulations, a detainee may request a bond hearing before an IJ at any time before a removal order becomes final"). ""At that hearing, the noncitizen

may present evidence of their ties to the United States, lack of criminal history, and other factors that show they are not a flight risk or danger to the community." *Bostock*, 779 F. Supp. 3d at 1256.

Though discretionary detention is the "default rule" under Section 1226, there are exceptions to Section 1226's discretionary scheme. *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). Section 1226(c) "carves out a statutory category of [noncitizens] who may not be released under § 1226(a)." *Id.* at 289. Under Section 1226(c), the "Attorney General shall take into custody any [noncitizen] who falls into one of several enumerated categories involving criminal offenses and terrorist activities." *Id.* (citing 8 U.S.C. § 1226(c)(1)) (internal quotation marks omitted).

Petitioner is subject to Section 1226(a)'s discretionary detention scheme rather than Section 1225(b)(2)'s mandatory detention scheme and, therefore, is entitled to a bond hearing.

First, this interpretation is supported by the canon against surplusage. As explained above, Section 1226(c) creates a class of exceptions to Section 1226(a)'s "default" rule of discretionary detention. *See Jennings*, 583 U.S. at 288. Under Section 1226(c), those who have committed certain offenses are subject to mandatory detention. *See* 8 U.S.C. § 1226(c). For example, Section 1226(c) requires detention of a noncitizen who is inadmissible, that is "present in the United States without being admitted or paroled," and "is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of" specified criminal offenses. *See* 8 U.S.C. § 1226(c)(1)(E); § 1182(a)(6)(A)(i). Section 1225 requires detention of "applicant[s] for admission." 8 U.S.C. § 1225(b)(2)(a). If the government is correct that the term "applicants for admission" extends to all inadmissible noncitizens there would be no reason for Section 1226 to require detention of particular classes of inadmissible noncitizens. Therefore, the government's argument would render the whole of Section 1226(c) surplusage.

Respondents' interpretation of these provisions would similarly render recent amendments to this statute surplusage. In 2025, Congress enacted the Laken Riley Act, which added additional categories of individuals to those subject to mandatory detention under Section 1226(c). It would make little sense for Congress to enact these amendments subjecting new individuals to mandatory detention if they were already subject to such detention pursuant to Section 1225. *See Garcia v. Noem*, No. 25-cv-02180-DMS-MMP, 2025 WL 2549431, at *6 (S.D. Cal. Sept. 3, 2025) (explaining that "assuming any inadmissible noncitizen is an 'applicant for admission' who is 'seeking admission' (and, therefore, subject to mandatory detention under § 1225(b)(2)), would render the Riley Laken Act (RLA) unnecessary"). At a minimum, Congress' enactment of the RLA which clearly contemplated that § 1226 applies generally to undocumented individuals who have been living in the United States, would constitute Congressional acquiescence in that longstanding interpretation of Sections 1225 and 1226. *See, e.g., United States v. Mays,* 430 F.3d 963, 967 (9th Cir. 2005).

Second, this interpretation of the statute is consistent with the Supreme Court's recent description of these provisions in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). In *Jennings*, the Supreme Court explained that "U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c)." Id. at 289. The Supreme Court described proceedings under Section 1225 as a process that "generally begins at the Nation's borders and ports of entry, where the government must determine whether a [noncitizen] seeking to enter the country is admissible." *Jennings*, 583 U.S. at 287. "Then, when discussing Section 1226, *Jennings* describes it as governing 'the process of arresting and detaining' noncitizens who are living 'inside

the United States' but 'may still be removed,' including noncitizens 'who were inadmissible at the time of entry.'" Bostock, 779 F. Supp. 3d at 1258 (quoting *Jennings*, 583 U.S. at 288).

Third, this interpretation is consistent with longstanding agency practice. Until recently, DHS consistently treated noncitizens apprehended while living in the United States as detained under Section 1226(a). *See Bostock*, 779 F. Supp. 3d at 1258, 1260–61; C.A.R.V., 2025 WL 3059549, at *5. Executive Branch regulations implementing these provisions issued just six months after their enactment provide 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 determination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). As this interpretation "was issued roughly contemporaneously with the enactment of the statute and remained consistent over time," this "longstanding practice of the government—like any other interpretive aid —can inform a court's determination of what the law is." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024) (cleaned up).

As Petitioner has been in the United States for about 25 years, she is likely to succeed on the merits of her claim that she is unlawfully detained under Section 1225(b)(2)'s mandatory detention provision. *See J.A.C.P.*, 2025 WL 3013328, at *7 (holding petitioner was likely to succeed on the merits of their claim that they were not subject to mandatory detention under section 1225(b)(2)(A) under similar circumstances); *Bostock*, 779 F. Supp. 3d at 1261 (same). Therefore, Petitioner is likely to succeed on the merits of her claim that she is subject to the procedures laid out by and entitled to the rights afforded under Section 1226(a), most notably, a bond hearing.

III. The Petitioner Will Suffer Irreparable Harm

Petitioner will suffer irreparable harm in the absence of a TRO and/or a preliminary injunction. The fact that Ms. Martinez Llamas will remain incarcerated unlawfully represents, in

and of itself, a continuing irreparable injury to Petitioner. *United States v. Montalvo-Murillo*, 495 U.S. 711 (1990) ("[I]t is well to remember the magnitude of the injury that pretrial detention inflicts and the departure that it marks from ordinary forms of constitutional governance"); *Dash v. Mitchell*, 356 F. Supp. 1292, 1309 (D. D.C. 1972) ("Pretrial detention inflicts irreparable injury on persons detained by subjecting them to incarceration without any compensation, even if the detention is subsequently held to have been wrongfully imposed"). The Fifth Circuit recognizes that the loss of personal liberty is irreparable because no later judgment can return the time spent in custody "the loss of constitutional freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279 (5th Cir. 2012); *See Deerfield Med. Ctr. v. City of Deerfield Beach*, 661 F.2d 328 (5th Cir. 1981).

Furthermore, if Petitioner is denied release on bond with reasonable conditions, she will suffer physical and mental irreparable injury in that she will be separated from her eight U.S. citizen children, six of whom are minors, extremely close to her and rely on her. Petitioner has historically served as the children's primary caregiver, responsible for meeting their educational, medical, and basic needs. Her continued detention has already caused significant disruption to the family's stability, and her absence has created severe emotional distress for the children, particularly the minors, who do not understand the reason for separation. The harm is even more severe because the children's father is abusive. Petitioner's detention has left the children at heightened risk of exposure to the father's abusive behavior. Moreover, her continued detention increases the danger of erroneous or rushed removal, which would permanently separate her from her U.S. citizen children and leave them vulnerable to an abusive parent. Therefore, it is evident that her continued detention will cause the children extreme emotional harm and break up their tight-knit and loving family. *See C.M. v. United States*, No. 5:21-cv-234 (W.D. Tex. 2021) (court

recognized the due-process-protected right to family integrity and found significant constitutional injury where DHS separated a noncitizen parent from a U.S.-citizen child). Once a family falls apart because of prolonged detention, courts cannot restore the lost relationship. Housing displacement, CPS involvement, or permanent psychological injury to the children satisfies the Fifth Circuit requirement that the injury be actual, imminent, and irreparable. *See* Habeas Petition, Exhibit 5, U.S. Birth Certificates of Petitioner's children.

IV. The Petitioner's Injuries Overwhelmingly Outweigh Any Potential Harm to the Respondents.

The injury to the Petitioner far outweighs the potential harm to the Respondents by permitting her to be released while awaiting conclusion of her removal proceedings. Here, the interests of equity and the public weigh in favor of Petitioner. Petitioner's children, all eight U.S. citizens, are harmed by her continued detention. Petitioner herself is also suffering significant harm in continued detention. A TRO also inflicts minimal harm on the government. Though Respondents have an interest in enforcing immigration laws, they have no interest in erroneously enforcing the wrong law, as they have done here. This Order instead furthers that interest through application of the correct law. On the other hand, the Respondents will suffer no harm if the Petitioner is permitted to be released on bond and remains in the United States pending her removal proceedings. She poses no risk to United States security or to her community, nor is she a flight risk. To the contrary, she is a woman of great character who has generously helped and positively influenced numerous individuals. Petitioner has no history of immigration law violations, prior to the NTA, nor has she ever failed to appear before the IJ when she has been required to do so. Because Petitioner does not pose any danger to the community or flight risk, there would be no harm to the Respondent by releasing the Petitioner.

V. The Issuance of the Injunction Is Not Adverse to the Public Interest

The issuance of the injunction in this case is not adverse to the public interest. In fact, the issuance of an injunction strongly favors the public interest here. It is clearly against public policy and the public's interest to separate members of an immediate family. Indeed, one of the purposes behind our immigration law is to preserve family unity. *See, e.g., INS v. Errico*, 385 U.S. 214 (1966).

CONCLUSION

WHEREFORE, the Petitioner respectfully seeks a TRO and/or preliminary injunctive injunction ordering her immediate release and preserving the status quo pending this Court's review of the underlying petition.

DATED 2nd of December 2025.

WORD COUNT CERTIFICATION

I certify that this memorandum contains 4,580 words, in compliance with the Local Civil Rules.

Respectfully submitted,

/s/ Xavier Vicente Chavez
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for a Temporary Restraining Order and/or Preliminary Injunctive Relief, and Memorandum of Law with accompanying documents were served on this 2nd of December 2025, with the Clerk of Court served by certified mail, return receipt requested, on the following:

U.S. Attorney's Office for the Southern District of Texas
USATXS.CivilNotice@usdoj.gov
Attn: Civil Process Clerk
1000 Louisiana St., Suite 2300,
Houston, TX 77002.

Warden, Houston Processing Center
Martin Frink
15850 Export Plaza Drive
Houston, TX 77032

Service on the United States Attorney constitutes service on all named federal Respondents in this matter, and service has also been made directly on the Warden as Petitioner's immediate custodian.

Dated this 2nd of December 2025.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Yuvicela Martinez Llamas, Petitioner, v. BRET BRADFORD, Field Office Director of Enforcement and Removal Operations, Houston Field Office, Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; MARTIN FRINK, Warden of Houston Contract Detention Facility, Respondents.	Case No. 25-5379

PROPOSED ORDER GRANTING PRELIMINARY INJUNCTION

This matter having come before the Court on Petitioner's Motion for a temporary restraining order and/or Preliminary Injunction [Dkt. #10], and this Court having reviewed the pleadings and heard arguments from counsel, the Court hereby GRANTS petitioner's Motion for a temporary restraining order and/or Preliminary Injunction.

Petitioner has satisfied the requirements for temporary restraining order and/or Preliminary Injunction. In particular, Petitioner has demonstrated that she is substantially likely to succeed in proving that prolonged detention without a bond hearing under 8 U.S.C. § 1225(b) is unconstitutional. Petitioner has also demonstrated that, without relief, she would suffer irreparable harm to her constitutional rights and physical and psychological health.

Accordingly, Respondents are ordered to immediately release petitioner from detention, or, in the alternative, provide petitioner a bond hearing before an Immigration Judge where the Department of Homeland Security bears the burden of establishing the necessity of petitioner's continued detention and considers alternatives to detention that could mitigate flight risk.

SO ORDERED, this ____ day of _____, 20__.

_____

Hon. _____, U.S.D.J.