UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EVANGELINA MORALES, Individually and on behalf of all others similarly situated, *Petitioner/Plaintiff,* *v.* **PAMELA BONDI**, ET AL., Respondents/Defendants.	CASE NO. 1:25-CV-01472 Honorable Hala Y. Jarbou **EXPEDITED CONSIDERATION REQUESTED Pursuant to Local Rule 7.1(e)**

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BRIEF IN SUPPORT OF PETITIONER/PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I. INTRODUCTION

Petitioner seeks a preliminary injunction to prevent the ongoing enforcement of a policy that inflicts immediate and irreparable harm on hundreds of long-settled noncitizens in the Western District of Michigan. Under the guise of *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), Respondents have adopted a blanket reclassification of these individuals as "arriving aliens" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), denying them any opportunity for release on bond. This reclassification is not only unlawful—it is devastating in its real-world consequences. It condemns parents, workers, and caregivers to indefinite incarceration without process, and it places them at imminent risk of deportation before this Court can decide the merits of their claims.

The equities here are stark. Every day that this policy remains in effect, families are torn apart, jobs are lost, and lives are irreparably disrupted. Individuals like Petitioner Evangelina Morales, who has lived in the United States for over two decades and is the sole caretaker for her U.S. citizen children, are being detained in remote facilities, stripped of their liberty, and denied even the chance to seek bond. In many cases, including Morales's, that detention follows warrantless arrest deep in the interior of the country, with no allegation of dangerousness and no individualized justification for confinement.

This Court and others have already rejected the government's interpretation of the statute at issue, recognizing that § 1226(a), not § 1225(b), governs detention for individuals apprehended within the United States. But Respondents continue to enforce their reclassification policy with impunity. They have not paused their practices. They have not acknowledged this Court's ruling in Mendez. And without injunctive relief, members of the proposed class face

continued unconstitutional detention and, in some cases, removal to countries they have not seen in decades—before they can obtain any hearing or judicial review.

The legal questions here are questions of law, already decided by this Court and others. But the harms are real, personal, and ongoing. Under Sixth Circuit precedent, where detention implicates constitutional rights and the loss of liberty, the balance of equities and the public interest demand immediate relief. Petitioner asks this Court to enjoin Respondents from continuing to apply an unlawful detention regime that inflicts irreparable harm on those who have already entered, lived, and lawfully remained in the United States under Congress's chosen framework.

II. FACTUAL BACKGROUND

Petitioner Evangelina Morales is a long-settled resident of the United States and the sole caregiver to four U.S. citizen children, two of whom have documented medical and developmental needs. She entered the United States without inspection in or around 2001 and has lived continuously in Michigan for over two decades. On October 28, 2025, she was arrested at her home in Grand Rapids by ICE agents—without a judicial warrant—and placed in full removal proceedings under 8 U.S.C. § 1229a. She was charged solely under 8 U.S.C. § 1182(a)(6)(A)(i), based on her original manner of entry.

Although Ms. Morales was arrested in the interior of the country and placed into regular removal proceedings, DHS unilaterally designated her an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A), relying on internal agency guidance and the BIA's recent decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). As a result, she was categorically denied the opportunity to seek release on bond under § 1226(a). Immigration and Customs

Enforcement issued a Notice of Custody Determination stating that she was subject to mandatory detention, and the Detroit Immigration Court declined jurisdiction to hear her bond motion.

Her experience is not an outlier. As explained in the underlying pleadings and supported by record declarations, the Government has implemented a systematic policy of denying bond hearings to noncitizens arrested in the interior who are charged solely under § 1182(a)(6)(A)(i). This policy is enforced through ICE's adoption of an "Interim Guidance Regarding Detention Authority for Applicants for Admission" and the agency's directive that such individuals be treated as "arriving aliens" subject to mandatory detention under § 1225(b), even if they have lived in the United States for years, established families, and were arrested far from any border. *See* ECF No. 14-2, PageID.280–281.

In case after case, Immigration Judges have stated on the record that they lack jurisdiction to conduct bond hearings for this population. The result is a categorical denial of liberty to a growing class of individuals, without individualized determinations and without any finding of danger or flight risk. Ms. Morales's case illustrates the consequences of that policy. She remains detained at the North Lake Processing Center in Louisiana, separated from her children, with no meaningful opportunity to seek release. *See* ECF No. 14-4, PageID.296–303.

The record confirms that this denial of process is not limited to Ms. Morales. Declarations from immigration attorneys, submitted as exhibits in this case, reflect a uniform refusal by IJs across jurisdictions—including Detroit, Cleveland, and Memphis—to hear bond requests from individuals in this class. *See* ECF Nos. 14 and attached exhibits. In every instance, the denial stems not from individualized findings, but from the agency's legal position that such hearings are unavailable as a matter of law. Ms. Morales thus stands as both an injured individual

and a representative of a broader group of similarly situated noncitizens who are suffering irreparable harm from a policy that flatly contradicts the statutory scheme.

This motion seeks immediate relief to preserve the rights and physical liberty of Ms. Morales and others similarly situated. Without intervention, class members may be deported before any final ruling can be obtained—effectively denying them the opportunity to vindicate rights Congress expressly provided.

The urgency of this Motion is underscored by the government's litigation tactics in other districts. As noted in Petitioner's other filings, Respondents are currently arguing that the nationwide *Bautista* order is non-binding because it lacks a final judgment. (See Exhibit. 1, Govt Response in W.D. La.). Without a direct injunctive order from *this* Court, Respondents will continue to exploit procedural loopholes to detain Petitioner and the class indefinitely.

III. LEGAL STANDARD FOR PRELIMINARY INJUNCTION

The purpose of a preliminary injunction is to preserve the status quo until a trial on the merits. *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981). Because they necessarily happen before the parties have had an opportunity to fully develop the record, the movant "is not required to prove his case in full at a preliminary injunction hearing." *Certified Restoration Dry Cleaning Network, L.L.C. v. Tenke Corp.*, 511 F.3d 535, 542 (6th Cir. 2007). However, "preliminary injunctions are extraordinary and drastic remedies. . . never awarded as of right." *Am. C.L. Union Fund of Michigan v. Livingston Cnty.*, 796 F.3d 636, 642 (6th Cir. 2015). "[T]he party seeking a preliminary injunction bears the burden of justifying such relief." Id.

When considering a motion for preliminary injunction, a district court must balance four factors: (1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would suffer irreparable injury without the injunction; (3) whether issuance of the

injunction would cause substantial harm to others; and (4) whether the public interest would be served by the issuance of the injunction. *Tumblebus Inc. v. Cranmer*, 399 F.3d 754, 760 (6th Cir. 2005). These four considerations are "factors to be balanced, not prerequisites that must be met." *Jones v. City of Monroe*, 341 F.3d 474, 476 (6th Cir.2003) (citing *In re DeLorean Motor Co.*, 755 F.2d 1223, 1228 (6th Cir.1985)). The district judge "is not required to make specific findings concerning each of the four factors used in determining a motion for preliminary injunction if fewer factors are dispositive of the issue." *Id.* However, "it is generally useful for the district court to analyze all four of the preliminary injunction factors, especially since our analysis of one of the factors may differ somewhat from the district court's." *Leary v. Daeschner*, 228 F.3d 729, 739 n. 3 (6th Cir. 2000).

IV. ARGUMENT

This case presents one of the clearest applications for preliminary injunctive relief contemplated under Sixth Circuit law. The challenged detention regime does not merely raise complex or novel questions; it flouts the plain text of the governing statute, disregards federal court rulings, and imposes irreparable harm on individuals like Ms. Morales who are confined without individualized assessment, in defiance of decades of consistent legal interpretation. The purpose of a preliminary injunction is to preserve the status quo and prevent irreparable injury pending a final decision. *See Camenisch*, 451 U.S. at 395. That purpose would be entirely defeated if individuals subjected to this unlawful regime are removed before the Court can resolve the merits.

Under binding Sixth Circuit precedent, courts weigh four interrelated factors in determining whether preliminary injunctive relief is appropriate: (1) likelihood of success on the merits, (2) irreparable harm in the absence of relief, (3) substantial harm to others, and (4) the

public interest. *Tumblebus*, 399 F.3d at 760. While a district court may grant relief based on fewer dispositive factors, Leary, 228 F.3d at 739 n.3, the record here supports all four.

Most critically, this case turns on a pure question of law: whether 8 U.S.C. § 1225(b)(2)(A) governs the detention of long-settled noncitizens arrested in the interior, or whether § 1226(a) applies. That statutory issue has been resolved uniformly across district courts within this Circuit, all of which have held that § 1226(a) governs detention for individuals situated like Ms. Morales. Because the preliminary injunction standard does not require the moving party to prove their case in full, but only to demonstrate a likelihood of success and ongoing harm, see *Certified Restoration Dry Cleaning Network, L.L.C.*, 511 F.3d at 542, the government's strained reading of the statute—unsupported by textual or structural logic—cannot overcome the equities.

Without immediate injunctive relief, Petitioners will suffer precisely the kind of irreparable injury preliminary injunctions are designed to prevent: the loss of liberty, separation from family, and the very real possibility of deportation in violation of law. And without this Court's intervention, the government will continue applying an invalid classification scheme that evades judicial review and defeats the statutory scheme enacted by Congress. The equities, taken together, compel immediate relief.

Before addressing each factor, Petitioner notes that, as the District Court in Buatista recently noted:

As one district court said recently in granting preliminary injunction in a factually similar case:

> Every court in this district to have considered these questions has granted preliminary injunctive relief to similarly situated petitioners, concluding that: (1) Section 1225(b) does not apply to the petitioners; (2) due process requires a pre-deprivation hearing; (3) the petitioners established a likelihood of success on the merits, or at least serious questions going to the merits, of their procedural due process claim; (4) in the

> absence of an injunction, the petitioners were likely to suffer irreparable harm in the form of unconstitutional deprivation of liberty; (5) the balance of equities tipped sharply in the petitioners' favor; and (6) the public interest favored an injunction.

Order Granting Preliminary Injunction, *Bautista Pico v. Noem*, (N.D. Cal. Case No. 4:25-CV-08002-JST (November 26, 2025)) (collecting cases) (Exhibit 2).

A. Likelihood of Success on the Merits

Petitioner is highly likely to succeed on the merits of their statutory claims. This case turns on a straightforward question of law: whether noncitizens who were arrested within the United States after entering without inspection, but who have long resided here, are subject to detention under 8 U.S.C. § 1226(a)—which allows for individualized bond hearings—or instead are subject to mandatory, bondless detention under 8 U.S.C. § 1225(b). Statutory text, binding Supreme Court precedent, longstanding agency interpretation, and parallel district court decisions all confirm that § 1226(a) governs.

The relevant statutory framework clearly distinguishes between individuals who are "seeking admission" to the United States and those who are already "present" and facing removal proceedings. Section 1225(b) applies to noncitizens "applicants for admission," who are detained at the border or ports of entry. In contrast, § 1226(a) governs noncitizens who are "already present in the United States" and subject to removal. *See Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). The Supreme Court in *Jennings* expressly identified § 1226(a) as the "default rule" for detention of individuals in removal proceedings already within the United States. *Id.*

For decades, the federal government consistently interpreted § 1226(a) to apply to noncitizens arrested within the interior of the country, even if they initially entered without inspection. DHS's own regulations have long recognized that "[a]liens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection)

will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Courts and agencies alike relied on that interpretation without controversy for nearly thirty years.

The government's recent reclassification of such noncitizens as 'arriving aliens' subject to § 1225(b) finds no support in the statutory text. Crucially, the mandatory detention provision of § 1225(b)(2)(A) is triggered only if an 'examining immigration officer determines' inadmissibility *during inspection*. *See Bautista*, Order Granting Partial Summary Judgment at 14. For Petitioner and the putative class, who entered without inspection years ago, no such officer ever made that determination at the time of entry. DHS cannot retroactive satisfy this statutory condition precedent decades later to justify mandatory detention. Because the factual predicate for § 1225(b) is absent, § 1226(a) governs by default.

District courts have already rejected the government's theory. *See, e.g., Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) ("There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for over twenty-six years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border."); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 1:25-cv-11613-BEM, 2025 WL 208438 (D. Mass. July 24, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa et al.*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis et al.*, No. 1:25-cv-05937-DEH, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Gonzalez et al. v. Noem et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, No.

0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde, et al.*, No. 1:25-cv-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Benitez et al. v. Noem et al.*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Aguilar Merino v. Ripa et al.*, No. 25-23845-CIV, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025); *Sanchez Alvarez v. Noem et al.*, No. 1:25-CV-1090, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025).

This Court should follow the same reasoning. Petitioner's claim rests not on disputed facts, but on statutory interpretation. The legal question is whether the government's current interpretation of § 1225(b) is consistent with the INA's structure and decades of agency and judicial interpretation. Petitioners respectfully submit that it is not. The government's position, if accepted, would collapse the careful distinction Congress drew between initial applicants for admission and settled noncitizens in the interior.

Because this case presents a purely legal issue and the government's interpretation cannot be squared with the statutory text, Petitioners have established a strong likelihood of success on the merits.

B. Irreparable Harm

The irreparable harm in this case is not speculative. It is ongoing, concrete, and legally cognizable. Evangelina Morales, a mother, caregiver, and longtime resident, is currently detained without access to a bond hearing. She has been separated from her four U.S. citizen children, including two minors with developmental and medical needs who have been uprooted from their home and are now in the care of non-parent custodians. No judicial determination has been made that she poses a danger to the community or a flight risk. Yet she remains incarcerated

indefinitely, not based on individualized evidence, but solely because the Government now classifies her as an "applicant for admission."

Courts have consistently held that the loss of liberty constitutes irreparable harm. As the Ninth Circuit noted after the Supreme Court's remand in Rodriguez, 138 S.Ct. at 84:

> *We have grave doubts that any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so.* Arbitrary civil detention is not a feature of our American government. "[L]iberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987). Civil detention violates due process outside of "certain special and narrow nonpunitive circumstances." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001) (internal quotation marks and citation omitted).

Rodriguez v. Marin, 909 F.3d 252, 256 (9th Cir. 2018) (emphasis added); *see also Elrod v. Burns*, 427 U.S. 347, 96 S.Ct. 2673, 49 L.Ed.2d 547 (1976) (noting that the loss of constitutional rights, "for even minimal periods of time, unquestionably constitutes irreparable injury"); *Ching v. Mayorkas*, 725 F.3d 1149, 1157 (9th Cir. 2013) ("The right to live with and not be separated from one's immediate family is 'a right that ranks high among the interests of the individual.'") (quoting *Landon v. Plasencia*, 459 U.S. 21, 34–35 (1982)); *Leiva–Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011) (recognizing that "important [irreparable harm] factors include separation from family members" (internal quotation marks omitted)).

In addition to the deprivation of liberty, Ms. Morales's detention has produced cascading harms to her family. She is the sole caregiver to her children, and their displacement has caused serious emotional and psychological distress, particularly given their diagnoses and educational support needs. The record contains unrebutted affidavits documenting these harms. The hardship imposed on her children cannot be redressed retroactively. Every day that passes without a hearing compounds the injury.

Moreover, because the Government continues to assert that she is not entitled to any custody redetermination, there is a serious and immediate risk that Ms. Morales may be removed from the United States before this Court can adjudicate the lawfulness of her detention. That risk renders her injury not just irreparable but jurisdictionally terminal.

The same irreparable harm threatens all individuals detained under the same policy. While class certification has not yet been adjudicated, the affidavits submitted by other practitioners show a widespread, categorical denial of process that subjects similarly situated individuals to indefinite detention without recourse. That systemic denial reinforces the need for immediate relief to prevent further irreparable injury to Ms. Morales and others identically positioned.

C. Substantial Harm to Others Will Result from Preliminary Relief

Issuance of a preliminary injunction will not cause substantial harm to the Government or to the public. The requested relief does not mandate release of any individual; it simply restores access to a statutory process, i.e. bond hearings under 8 U.S.C. § 1226(a), that has been unlawfully denied. At such hearings, Immigration Judges retain full discretion to deny release when justified by evidence of danger or flight risk. *See Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006). The Government's interest in detention is thus not extinguished, but balanced by a procedure Congress expressly provided.

Courts across the country have recognized that affording bond hearings under § 1226(a) imposes no cognizable burden on the Government. *See, e.g., Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 18–19 (C.D. Cal. Nov. 20, 2025) (noting that the Government's interest in uniform enforcement "is not undermined by restoring the statutory hearing procedures Congress enacted"). Immigration Judges conduct thousands of such hearings

annually under existing regulations. The Government's current refusal to provide such hearings is a break from settled practice, not the status quo. Restoring that practice pending final adjudication does not harm the agency; it merely prevents further unlawful detention.

Nor does the requested injunction impair the Government's ability to enforce immigration law. It does not halt removal proceedings, require release, or foreclose detention when justified. It ensures only that decisions about liberty are made through a lawful process. The balance of equities weighs heavily in favor of preserving that framework until the Court can determine whether the agency's new detention classification is lawful. Where, as here, the government's policy is systemic and the harm is identical across the proposed class, preliminary injunctive relief should extend to the entire class to prevent repetitive constitutional violations while the certification motion is pending.

V. The Public Interest Strongly Favors Injunctive Relief

The public has a compelling interest in ensuring that the Government adheres to statutory mandates and respects the limits Congress placed on executive detention authority. "[I]t is always in the public interest to prevent the violation of a party's constitutional rights." *G & V Lounge, Inc. v. Mich. Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994). That principle applies with equal force to violations of statutory rights that safeguard individual liberty. Here, the INA expressly authorizes individualized bond hearings for noncitizens apprehended in the interior and placed in § 1229a removal proceedings. The Government's decision to withhold those hearings across the board, based solely on a reclassification untethered to statutory text, undermines the rule of law and risks irreparable harm to persons who have not been adjudicated dangerous or a flight risk.

The public also has an interest in preserving family unity and preventing unnecessary suffering, particularly for U.S. citizen children. Ms. Morales's case exemplifies the human toll of indefinite detention without process. Her children have been uprooted, her medical conditions have deteriorated, and she remains in federal custody with no lawful opportunity to request release. Protecting children from the destabilizing effects of family separation, especially where no public safety interest justifies detention, is undeniably aligned with the public good.

An injunction that restores bond hearings under § 1226(a) will not obstruct legitimate immigration enforcement. It simply reinstates the procedural safeguards Congress provided. The requested relief vindicates that interest. It ensures lawful process, prevents irreparable injury, and promotes government accountability. The public interest weighs decisively in favor of granting preliminary relief.

V. BASIS FOR EXPEDITED CONSIDERATION

Pursuant to W.D. Mich. LCivR 7.1(e), good cause exists to expedite the briefing and consideration of this Motion. First, the continued mandatory detention of Petitioner and the putative class constitutes an ongoing, irreparable deprivation of liberty that this Court has already declared unconstitutional in *Mendez v. Raycraft*. Every day that passes without injunctive relief is another day that hundreds of individuals are denied the due process required by law.

Second, expedited relief is necessary to prevent the government from evading judicial review through procedural delays. As detailed in the Factual Background, the government is currently arguing in other federal courts that the nationwide *Bautista* class certification is non-binding because that court has not yet entered a "final judgment." This litigation tactic creates an urgent enforcement gap: while the government technically "lost" in California, they are using the lack of a final judgment to continue enforcing the unlawful policy in Michigan. An

immediate Preliminary Injunction from this Court is the only mechanism to close this loophole and compel compliance before class members are removed or transferred.

Finally, judicial economy demands a swift resolution. Because the government refuses to apply the *Mendez* ruling broadly, this Court faces an accelerating influx of individual habeas petitions litigating the exact same legal issue - currently at 172 cases filed in this District as of 11/30/25. Deciding this Motion on an expedited basis will resolve the controversy in a single order, preserving judicial resources and ensuring uniform justice across the District.

VI. CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, the Court should grant Petitioner's Motion for Temporary Restraining Order and Preliminary Injunction. Petitioner has demonstrated a strong likelihood of success on the merits, ongoing irreparable harm, and that the balance of equities and public interest overwhelmingly support immediate relief. Petitioner does not seek to disrupt immigration enforcement but to preserve access to the statutory bond process Congress mandated for individuals arrested within the United States and placed in full removal proceedings.

Accordingly, Petitioner respectfully requests that this Court:

1. Enter a preliminary injunction enjoining Defendants from applying 8 U.S.C. § 1225(b) to Petitioner **and all putative class members** apprehended within the interior of the United States, placed into § 1229a removal proceedings, and charged solely under 8 U.S.C. § 1182(a)(6)(A)(i);

2. Require Defendants to treat such individuals as detained under 8 U.S.C. § 1226(a), thereby restoring access to bond redetermination hearings under applicable law and regulation; and

3. Grant such other and further relief as the Court deems just and proper, including any necessary clarification or extension of the injunction to prevent irreparable injury pending final resolution of this case.

Dated: December 1, 2025

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