

**UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

ALEXANDER ROMERO CARRETO,
Petitioner,

v.

**JACKSON PARISH CORRECTIONAL
CENTER WARDEN,** in their official
capacity;

SCOTT LADWIG, in his official capacity as
Acting Field Office Director of the New
Orleans Field Office of U.S. Immigration and
Customs Enforcement, Enforcement and
Removal Operations;

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security; and

PAMELA BONDI, in her official capacity as
Attorney General of the United States;

Respondents.

Civil Action No. 3:25-cv-01809

Hon Jerry Edwards, Jr

Hon Kayla D McClusky

HEARING REQUESTED

**PETITIONER’S EMERGENCY MOTION
FOR TEMPORARY RESTRAINING ORDER**

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Petitioner Alexander Romero Carreto (“Petitioner”), by and through his undersigned counsel, respectfully requests that this Court issue an order requiring Respondents to immediately release Petitioner from detention. Petitioner’s Motion for Temporary Restraining Order (the “Motion”) is supported by the accompanying Memorandum in Support of Motion for Temporary Restraining Order.

UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PRELIMINARY STATEMENT	1
EXHAUSTION OF REMEDIES	5
ALEXANDER ROMERO CARRETO, <i>Petitioner,</i>	6
ARGUMENT	9
v.	
JACKSON PARISH CORRECTIONAL CENTER WARDEN, in their official capacity;	10
SCOTT LADWIG, in his official capacity as Acting Field Office Director of the New Orleans Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations;	12
KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; and	13
PAMELA BONDI, in her official capacity as Attorney General of the United States;	16
<i>Respondents.</i>	18
CONCLUSION	19

Civil Action No. 3:25-cv-01809

Hon Jerry Edwards, Jr

Hon Kayla D McClusky

HEARING REQUESTED

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

TABLE OF CONTENTS

PRELIMINARY STATEMENT 1

EXHAUSTION OF REMEDIES 5

STATEMENT OF REVELANT FACTS AND PROCEDURAL HISTORY 6

ARGUMENT 9

I. ALEXANDER IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIM THAT HIS ARREST AND DETENTION VIOLATE DUE PROCESS 10

 A. ICE’s Decision to Detain Alexander Under Section 1225(b), and Not Section 1226(a), is Unlawful 10

 B. Because ICE Detained Alexander Without Considering His Flight Risk or Danger to the Community, His Detention Is in Violation of His Procedural Due Process Rights 12

 C. Alexander’s Detention Further Violates His Substantive Due Process Rights Because He Is Neither a Flight Risk Nor a Danger to the Community 15

II. ALEXANDER AND HIS FAMILY SUFFER IRREPARABLE HARM EVERY DAY HE REMAINS IN DETENTION 16

III. PROTECTING ALEXANDER’S CONSTITUTIONAL RIGHTS OUTWEIGHS ANY POTENTIAL HARDSHIP TO RESPONDENTS AND ENTRY OF PRELIMINARY RELIEFF IS IN THE PUBLIC INTEREST 18

CONCLUSION 19

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>A.C.L.U. v. Ashcroft</i> , 322 F.3d 240 (3d Cir. 2003).....	19
<i>Alvarez Martinez v. Noem</i> , No. 25-CV-01007, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025).....	13, 16, 17
<i>Amalgamated Transit Union Loc. 85 v. Port Auth. of Allegheny Cnty.</i> , 39 F.4th 95 (3d Cir. 2022)	18
<i>Armstrong v. Manzo</i> , 380 U.S. 545 (1965).....	4
<i>Belsai D.S. v. Bondi</i> , No. 25-cv-3682, 2025 WL 2802947 (D. Minn. Oct. 1, 2025).....	12
<i>Buenrostro-Mendez v. Bondi</i> , No. H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025).....	2, 5, 11, 12
<i>Contreras Maldonado v. Cebezas</i> , No. 25-13004, 2025 WL 2985256 (D.N.J. Oct. 23, 2025)	3, 4
<i>Covarrubias v. Vergara</i> , No. 25-CV-0112, 2025 WL 2950097 (S.D. Tex. Oct. 8, 2025)	6, 15
<i>Daniels Health Scis., LLC v. Vascular Health Scis., LLC</i> , 710 F.3d 579 (5th Cir. 2013)	17
<i>DSC Commc'ns Corp. v. DGI Techs., Inc.</i> , 81 F.3d 597 (5th Cir. 1996)	16
<i>Faure v. Decker</i> , No. 15-CV-5128, 2015 WL 6143801 (S.D.N.Y. Oct. 19, 2015).....	16
<i>Foucha v. Louisiana</i> , 504 U.S. 71 (1992).....	15
<i>Gambino v. Morris</i> , 134 F.3d 156 (3d Cir. 1998).....	5
<i>Garcia Domingo v. Castro</i> , No. 25-cv-00979, 2025 WL 2941217 (D.N.M. Oct. 15, 2025)	18

Gonzalez Martinez v. Noem,
 No. 25-EP-CV-430, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025)..... *passim*

Hernandez v. Sessions,
 872 F.3d 976 (9th Cir. 2017) 17

Jackson v. Indiana,
 406 U.S. 715 (1972)..... 16

Jennings v. Rodriguez,
 583 U.S. 281 (2018)..... 1, 10, 11

Kostak v. Trump,
 No. 25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025)..... *passim*

Lopez Benitez v. Francis,
 25 Civ. 5937, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) 3

Lopez Santos v. Noem,
 No. 25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025)..... 2, 11, 12, 15

Lopez-Arevelo v. Ripa,
 No. EP-25-CV-337, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025)..... *passim*

Mathews v. Eldridge,
 424 U.S. 319 (1976)..... 4, 13

McCarthy v. Madigan,
 503 U.S. 140 (1992)..... 6

Mercado v. Noem,
 No. 25-cv-6568, 2025 WL 2658779 (S.D.N.Y. Sep. 17, 2025) 17

Montano v. Texas,
 867 F.3d 540 (5th Cir. 2017) 5

Monumental Task Comm., Inc. v. Fogg,
 157 F. Supp. 3d 573 (E.D. La. 2016)..... 16

Nken v. Holder,
 556 U.S. 418 (2009)..... 18

Pineda Parada v. Rice,
 No. 25-CV-1660, 2025 WL 3146250 (W.D. La. Nov. 4, 2025)..... *passim*

Reno v. Am.-Arab Anti-Discrimination Comm.,
 525 U.S. 471 (1999)..... 15

PRELIMINARY STATEMENT

Reno v. Flores,
507 U.S. 292 (1993).....13, 15

Rodriguez Vazquez v. Bostok,
No. 25-cv-5240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025)2, 12

Salcedo Aceros v. Kaiser,
No. 25-CV-06924, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025)18

Santiago v. Noem,
No. EP-25-CV-361, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025).....2, 12, 14

Schall v. Martin,
467 U.S. 253 (1984).....15

Trump v. J.G.G.,
604 U.S. 670 (2025).....13, 14

Velesaca v. Decker,
458 F.Supp.3d 224 (S.D.N.Y. 2020).....3

Ventura Martinez v. Trump,
No. 25-1445 SEC P, 2025 WL 3124847 (W.D. La. Oct. 22, 2025) *passim*

Matter of Yajure Hurtado,
29 I&N Dec. 216 (B.I.A. 2025)5

Zadvydas v. Davis,
533 U.S. 678 (2001)..... *passim*

Statutes

8 U.S.C. § 1225.....1, 11

8 U.S.C. § 1226.....3, 10

28 U.S.C. § 2241.....5

Other Authorities

8 C.F.R. § 236.1(d)(1).....11

8 C.F.R. § 1003.19.....11

8 C.F.R. § 1236.1(c)(8).....3

8 C.F.R. § 1236.1(d)(1).....11

U.S. Const. amend. V.....13

PRELIMINARY STATEMENT¹

This case is about the unconstitutional arrest and detention of Alexander Romero Carreto, a 33-year-old father of three young children. Until he was unlawfully arrested and detained by U.S. Immigration and Customs Enforcement (“ICE”) on September 10, 2025, Alexander had been residing for more than fourteen years in Maryland, where he is raising his family, is gainfully employed in construction, and is active in his local church community.

On the day of his arrest, Alexander was randomly stopped by federal immigration agents while on the way home from his construction job. The agents told him that they knew he was in the United States illegally and then removed him from his car, threw him to the ground, took away his cell phone, handcuffed him, and arrested him. ICE then placed Alexander into removal proceedings and alleges that he is a Guatemalan national who entered without inspection. See ECF No. 1-1 (Notice to Appear).

Alexander is currently detained at the Jackson Parish Correctional Center (“Jackson Parish”) in Jonesboro, Louisiana—more than 1,000 miles away from his home, his wife, his children, his job, and his community in Maryland. Alexander comes before this Court seeking immediate release because he has a substantial likelihood of succeeding on the merits of his claim that his detention violated his statutory and constitutional rights in numerous ways.

First, ICE violated Alexander’s statutory rights by improperly detaining him under Section 1225(b)(2) of Title 8 of the U.S. Code (“Section 1225”), the mandatory detention statute. This provision has historically applied to people “seeking admission” to the United States, such as those “at the Nation’s borders and ports of entry.” 8 U.S.C. § 1225(b)(2)(A); *Jennings v. Rodriguez*, 583

¹ Unless otherwise noted, all alterations are added and internal citations and quotation marks are omitted.

U.S. 281, 287 (2018). Despite this long-standing precedent, the Department of Homeland Security (“DHS”) recently—and erroneously—reinterpreted Section 1225(b)(2) earlier this year to mandate detention of individuals, like Alexander, who are already within the United States and who are alleged to have entered without inspection years ago. See ECF No. 1-1 (Notice to Appear). But Courts within the Fifth Circuit, and around the country, have repeatedly rejected DHS’s wrongful reinterpretation of this statute. See, e.g., *Lopez Santos v. Noem*, No. 25-CV-01193, 2025 WL 2642278, at *3–5 (W.D. La. Sept. 11, 2025); *Pineda Parada v. Rice*, No. 25-CV-1660, 2025 WL 3146250, at *2–3 (W.D. La. Nov. 4, 2025); *Kostak v. Trump*, No. 25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025); *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *7 (W.D. Tex. Oct. 2, 2025); *Gonzalez Martinez v. Noem*, No. 25-EP-CV-430, 2025 WL 2965859, at *2 (W.D. Tex. Oct. 21, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337, 2025 WL 2691828, at *7 (W.D. Tex. Sept. 22, 2025); *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025); *Rodriguez Vazquez v. Bostok*, No. 25-cv-5240, 2025 WL 2782499, at *1 & n.3 (W.D. Wash. Sept. 30, 2025) (collecting cases).

As numerous federal courts have held—including courts within this district—the proper statute governing the detention of someone who is already within the United States when arrested by federal immigration authorities, like Alexander, is Section 1226, the discretionary detention regime. See, e.g., *Lopez Santos*, 2025 WL 2642278, at *3–5; *Pineda Parada*, 2025 WL 3146250, at *2–3; *Kostak*, 2025 WL 2472136, at *3. Applying mandatory detention to Alexander—who has lived in the United States for more than fourteen years and was arrested on his way home from work in the interior of the United States—is therefore unconstitutional. Accordingly, Alexander asks this Court to free him by holding that the mandatory detention statute (Section 1225) does not apply to him and that he can only be detained under the discretionary detention framework (Section

1226), which, for the reasons discussed below, does not permit his mandatory detention and instead warrants his immediate release.

Second, Respondents violated Alexander’s procedural due process rights under the Fifth Amendment. Both the statutory and regulatory framework of Section 1226 and the Due Process Clause require an individualized assessment of an individual’s flight risk and danger to the community *prior* to ICE’s decision to detain that individual. *See Velesaca v. Decker*, 458 F.Supp.3d 224, 241 (S.D.N.Y. 2020) (The government does “not dispute, that 8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination.”); 8 C.F.R. § 1236.1(c)(8) (providing ICE can release someone where “release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.”); *Lopez Benitez v. Francis*, 25 Civ. 5937, 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025) (“The determination of what procedures are required under the Fifth Amendment requires consideration of: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the Government’s interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail.”); *Contreras Maldonado v. Cebezas*, No. 25-13004, 2025 WL 2985256, at *5 (D.N.J. Oct. 23, 2025) (finding petitioner’s “due process rights were violated when she was detained without an individualized determination under § 1226(a) and its implementing regulations”). Alexander is likely to succeed on the merits of his claim that ICE failed to provide him any individualized assessment prior to his detention, and that the only appropriate remedy for this Due Process violation is immediate release. *Lopez Benitez*, 2025 WL 2371588, at *14 (detainment without an individualized assessment “is a violation of [petitioner’s] due process rights”);

Contreras Maldonado, 2025 WL 2985256, at *7 (releasing petitioner from detention immediately because of her detention's due process violations).

Alexander's procedural due process rights were also violated because he was detained without a bond hearing and deprived of any opportunity to challenge Respondents' erroneous determination that he was subject to mandatory detention. *See Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) ("Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment."); *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) (The touchstone of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner.").

Third, because he is neither a flight risk nor a danger to his community, Alexander's detention also violates his right to substantive due process. Neither of the two very limited regulatory purposes of civil immigration detention—preventing an individual from fleeing and protecting the community from a dangerous individual—are relevant in Alexander's case, it is unconstitutional for ICE to continue to detain him. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001).

Because his ongoing detention violates his constitutional rights, Alexander has established irreparable harm warranting his immediate relief from ICE custody. *See, e.g., Pineda Parada*, 2025 WL 3146250, at *3; *Ventura Martinez v. Trump*, No. 25-1445 SEC P, 2025 WL 3124847, at *3 (W.D. La. Oct. 22, 2025); *Kostak*, 2025 WL 2472136, at *3. Moreover, both Alexander and his family will face irreparable harm to their health and wellbeing as a result of Alexander's continued unconstitutional detention.

Moreover, in consideration of the balance of equities, the deprivation of Alexander's constitutional rights, and the detrimental impact that detention has and will continue to have on him and his family far outweigh any purported injury to Respondents if Alexander is released. *Pineda Parada*, 2025 WL 3146250, at *3. Ultimately, there is no legitimate governmental or public interest in detaining individuals, like Alexander, in violation of their constitutional rights. *See id.*

For the reasons set forth above and in detail below, this court should grant Alexander's motion for a temporary restraining order ("TRO") to enjoin Respondents from unlawfully continuing his detention in violation of his constitutional rights.

EXHAUSTION OF REMEDIES

There is no statutory exhaustion requirement for a petition challenging immigration detention under 28 U.S.C. § 2241. *See, e.g., Montano v. Texas*, 867 F.3d 540, 542 (5th Cir. 2017) ("Unlike 28 U.S.C. § 2254, Section 2241's text does not require exhaustion."); *Buenrostro-Mendez*, 2025 WL 2886346, at *3 ("[E]xhaustion does not bar this court's review because it is not a statutory requirement in these circumstances.").

Indeed, administrative exhaustion should be excused as futile in light of recent caselaw that is binding on immigration judges. *See Gambino v. Morris*, 134 F.3d 156, 171 (3d Cir. 1998) (Roth, J., concurring) (exhaustion not required where futile) (citing *Rose v. Lundy*, 455 U.S. 509, 516 n.7 (1982)). Specifically, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), the Board of Immigration Appeals held that individuals like Alexander are properly detained pursuant to Section 1225(b)(2)(A), and "must be detained for the duration of their removal proceedings." *Yajure Hurtado*, 29 I&N Dec. at 220. As such, it would be futile for Alexander to request a bond hearing where an immigration judge does not have jurisdiction over his custody.

Further, exhaustion is not a jurisdictional prerequisite because Alexander asserts (and will establish) that his continued detention is a violation of his rights under the Due Process Clause. *See, e.g., Lopez-Arevelo*, 2025 WL 2691828, at *6 (exhaustion not required where petitioner “challenge[d] his ongoing detention as a violation of due process”); *Kostak*, 2025 WL 2472136, at *3 (exhaustion not required because “this Court is the proper forum in which Petitioner can bring her constitutional claims”); *Covarrubias v. Vergara*, No. 25-CV-0112, 2025 WL 2950097, at *5 (S.D. Tex. Oct. 8, 2025). In any event, requiring Alexander to exhaust administrative remedies prior to seeking relief from the Court will only increase the time he spends in detention in violation of his constitutional rights, which will result in irreparable harm. *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992) (holding that exhaustion is not appropriate where petitioner “may suffer irreparable harm if unable to secure immediate judicial consideration of his claim”).

STATEMENT OF REVELANT FACTS AND PROCEDURAL HISTORY²

Alexander’s Background

Respondents allege that Alexander is a Guatemalan national who entered without inspection. ECF No. 1 ¶¶ 8, 26; ECF No. 1-1. Alexander has lived in the Maryland area for more than fourteen years and has remained gainfully employed in that time, primarily as a construction worker specializing in flooring installation. *Id.* ¶ 27.

Since living in Maryland, Alexander has built a family. In 2017, he met and fell in love with his wife. *Id.* ¶ 27. Together, Alexander and his wife are raising three children as a family. *Id.* Alexander and his wife have had one son together, a six-year-old boy born in Maryland in

² A more complete recitation of relevant facts can be found in Alexander’s Verified Petition for Writ of Habeas Corpus, ECF No. 1, filed November 18, 2025.

2019. Alexander has also become a stepfather to two older children—a boy who is 14 years old and a girl who is 10 years old—from his wife’s prior relationship, taking those two children in as his own. *Id.*

Two of Alexander’s children suffer from developmental disabilities and are receiving essential treatment. ECF No. 1 ¶¶ 29–30. Alexander’s stepdaughter has a severe developmental disability impacting both her physical and mental capabilities. *Id.* ¶ 29. In particular, she is partially paralyzed due to a brain development disorder that impacts both her physical and mental abilities. *Id.* Doctors have warned Alexander and his wife that their daughter may not have long to live, but she is currently receiving essential physical therapy from her school that can help improve her condition. *Id.* Alexander helps his daughter with any therapy that can be done at home and makes sure she has the resources she needs, including specialized shoes. *Id.*

Alexander’s son also has a speech impediment and struggles to communicate both in English and Spanish. *Id.* ¶ 30. He currently depends on speech therapy at school to improve his communication.

Alexander has built a close, tight-knit family in the United States. ECF No. 1 ¶ 31. They love to spend time together and have dinner as a family every night. ECF No. 1 ¶ 31. When Alexander gets off of work, he loves to take his children to a nearby park where they can play, ride bikes, or roller skate. *Id.*

Alexander is also an active and engaged member in his Maryland community. *Id.* ¶ 32. Prior to his unlawful arrest by federal immigration authorities, Alexander and his family went to their local church together twice a week. *Id.* In fact, Alexander played in the church’s worship band and is seeking certification to be a formal leader in the church. *Id.*

Prior to his arrest by ICE two months ago, Alexander had no known criminal record aside from minor traffic violations. ECF No. 1 ¶ 33.

Alexander Was Arrested and Detained at a Supposedly Random Traffic Stop on September 10, 2025 and was Deprived of Due Process

On September 10, 2025, Alexander was arrested and detained by federal immigration authorities. ECF No. 1 ¶ 34. That morning, Alexander was returning home from work when he was allegedly randomly stopped by immigration officers on the Baltimore-Washington parkway at the border of Virginia and Maryland. *Id.* The officers told Alexander that they knew he was in the United States illegally and threatened to arrest him and break the windows of his van. *Id.* ¶ 35. The officers then took away Alexander's phone, handcuffed him, threw him to the ground, and placed him under arrest. *Id.* ¶ 36.

After being cycled through various detention centers and jails in Virginia, Alexander was transferred to Jackson Parish on or about October 3, 2025. ECF No. 1 ¶¶ 37–40. Jackson Parish is more than 1,000 miles away from his wife, his three young children, his church, and his community in Maryland. Alexander remains detained at Jackson Parish as of the filing of this TRO. *Id.* ¶ 40.

The conditions at Jackson Parish have been poor. There are approximately 130 people detained in a single shared space without any separation. *Id.* ¶ 43. The eating areas, bathrooms, and showers are all in the same room. *Id.* There are often fights among the detainees and between the detainees detention center officials, which have damaged much of the facility's equipment. *Id.*

On one occasion, the detention center officials threw a tear gas can in a room full of detainees to stop a fight. *Id.* Even though Alexander was not involved in the fight or even close by, the pepper spray from the can was so strong and that it burned his throat. *Id.* Further, when Alexander was

recently sick with a high fever, the detention center failed to provide him with timely medical assistance. *Id.* ¶ 44.

Since being detained more than two months ago, Alexander has not had a bond hearing. In fact, until two days ago, he was given no opportunity to appear before an immigration judge. ECF No. 1 ¶ 42. All of Alexander's scheduled hearings had been canceled without any explanation. *Id.* ¶ 39.

Since Alexander was detained by ICE, his wife has struggled with the financial burden of supporting their family by herself. *Id.* ¶ 65. While she brings in some income from her job as a housekeeper, the loss of Alexander's income has been devastating and it has been very difficult for her to pay for basic necessities like rent and food, and as a result the family is at risk of being evicted from their home. *Id.* Alexander's family is also suffering emotionally without him at home. Predictably, all three children have had difficulty processing and understanding their father's absence from the home, with no clear end in sight. *Id.* Alexander's children are struggling in school, and his youngest son has been experiencing a significant mental health crisis due to the uncertainty and disruption caused by Alexander's detention. *Id.*

On November 18, 2025, Alexander filed a Verified Petition for a Writ of Habeas Corpus with this Court, challenging the constitutionality of his detention under the Due Process Clause of the Fifth Amendment. *See* ECF No. 1.

ARGUMENT

To obtain a temporary restraining order, the movant must demonstrate: "(1) a substantial likelihood that they will prevail on the merits, (2) a substantial threat that they will suffer irreparable injury if the injunction is not granted, (3) [that] their substantial injury outweighs the threatened harm to the party whom they seek to enjoin, and (4) [that] granting the preliminary

injunction will not disserve the public interest.” *Ventura Martinez*, 2025 WL 3124847, at *2 (citing *City of El Cenizo v. Texas*, 890 F.3d 164, 176 (5th Cir. 2018)). In cases against the government, the third and fourth factors merge. *Pineda Parada*, 2025 WL 3146250, at *3. These elements are satisfied here.

I. ALEXANDER IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIM THAT HIS ARREST AND DETENTION VIOLATE DUE PROCESS

As set forth below, Alexander is likely to succeed on his claim that his detention violates his procedural and substantive due process rights. “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*, 533 U.S. at 690.

A. ICE’s Decision to Detain Alexander Under Section 1225(b), and Not Section 1226(a), is Unlawful

The two primary provisions of the United States Code that govern the detention of noncitizens prior to an order of removal are 8 U.S.C. § 1226(a) and 8 U.S.C. § 1225(b). Section 1226(a) governs the detention of most noncitizens, like Alexander, who are already in the United States and subject to formal removal proceedings before an immigration court under 8 U.S.C. § 1229a—as Alexander is alleged to be. *See* ECF No. 1-1 (Notice to Appear); 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 289 (“[United States immigration law] authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).”). “Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an alien ‘pending a decision on whether the alien is to be removed from the United States.’” *Jennings*, 583 U.S. at 287–89.

Detention under Section 1226(a) is discretionary, not mandatory; the government “may release the [noncitizen] on—(A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole.” 8 U.S.C. §

1226(a)(2)(A)–(B). If, after an individualized consideration, ICE detains a noncitizen pursuant to Section 1226(a) pending removal proceedings, the individual may ask for a bond redetermination hearing before an immigration judge. 8 C.F.R. § 1003.19. In other words, “[f]ederal regulations provide that [noncitizens] detained under § 1226(a) receive bond hearings at the outset of detention.” *Kostak*, 2025 WL 2472136, at *3 (quoting *Jennings*, 583 U.S. at 306); *see also* 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1).

In contrast with Section 1226, which applies to “certain aliens *already in the country*,” *Jennings*, 583 U.S. at 289, Section 1225(b) governs the detention of noncitizens *seeking entry* into the United States (*i.e.*, “applicants for admission”). Section 1225(b)(2)(A) provides that, “if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). The statute’s framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has recognized that this mandatory detention scheme applies “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.

Until recently, DHS’s “‘longstanding interpretation’ had been that Section 1226, not Section 1225, applies to” individuals like Alexander, who the government is alleging is a noncitizen “who [is] already present in the country.” *Buenrostro-Mendez*, 2025 WL 2886346, at *2; *Lopez Santos*, 2025 WL 2642278, at *4 (finding that, consistent with the Supreme Court’s decision in *Jennings*, petitioner was not subject to mandatory detention under Section 1225 because he had physical presence in the United States for twenty years).

Numerous federal courts in the Fifth Circuit and beyond have concluded that “the statutory text, the statute’s history, Congressional intent, and § 1226(a)’s application for the past three decades’ support the finding that § 1226 applies” to circumstances involving noncitizens who have lived in the United States for long periods of time. *Buenrostro-Mendez*, 2025 WL 2886346, at *3; *see also, e.g., Kostak*, 2025 WL 2472136, at *3; *Lopez Santos*, 2025 WL 2642278, at *5; *Ventura Martinez*, 2025 WL 3124847, at *2–3 (finding a strong argument that an alien already present in the United States is already admitted); *Pineda Parada*, 2025 WL 3146250, at *2–3 (similar); *Santiago*, 2025 WL 2792588, at *7 (“[T]his new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect.”); *Gonzalez Martinez*, 2025 WL 2965859, at *2 (same); *Lopez-Arevelo*, 2025 WL 2691828, at *7 (same); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947, at *5–6 (D. Minn. Oct. 1, 2025) (collecting cases and joining the “chorus” of courts that refuse to expand the interpretation of mandatory detention); *Rodriguez Vazquez*, 2025 WL 2782499, at *1 & n.3 (collecting cases and noting that “[e]very district court to address this question has concluded that the government’s position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice”). As the aforementioned cases establish, ICE’s decision to detain Alexander under Section 1225(b)(2), without giving him a bond hearing or making an individualized determination as to his flight risk or danger to the community, is contrary to the plain meaning of the statute.

B. Because ICE Detained Alexander Without Considering His Flight Risk or Danger to the Community, His Detention Is in Violation of His Procedural Due Process Rights

Alexander is likely to succeed on his claim that his detention violates his procedural due process rights because he was detained without an individualized determination of his flight risk and danger to the community.

When a petitioner challenges detention on due process grounds, instead of the statutory interpretation of Section 1225 or Section 1226, the relevant inquiry is “whether those policies have been applied to [petitioner] in an unconstitutional manner.” *Lopez Arevalo*, 2025 WL 2691828, at *7. The Due Process Clause of the Fifth Amendment entitles noncitizens to due process of law. *Reno v. Flores*, 507 U.S. 292, 306 (1993). The Due Process Clause prevents the government from depriving any person of “life, liberty, or property, without due process of law[.]” U.S. Const. amend. V.

The Due Process Clause’s protections extend to noncitizens, including those in removal proceedings. *Zadvydas*, 533 U.S. at 693 (Due Process extends to all “‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.”); *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (“‘It is well established that the Fifth Amendment entitles [noncitizens] to due process of law’ in the context of removal proceedings.”).

The Fifth Circuit applies the three-factor balancing test set forth in *Mathews v. Eldridge*, “[t]o determine whether a civil detention violates a detainee’s due process rights.” *Alvarez* (“Because he spent nearly three years at liberty in the United States, [petitioner] possess[es] a cognizable interest in his freedom from detention.”). *Martinez v. Noem*, No. 25-CV-01007, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025) (citing *Mathews*, 424 U.S. at 335). These three factors are: “(1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedures and safeguards; and (3) the Government’s interest, including the function involved and fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Id.* (quoting *Mathews*, 424 U.S. at 335).

First, Alexander’s private interests are undoubtedly affected by official action because he is currently detained. *See Gonzalez Martinez*, 2025 WL 2965859, at *3 (finding “one’s physical freedom is a paramount liberty interest, secured not just by statute but by the Constitution”).

Second, Alexander has already been erroneously deprived of his liberty interest. Although he has been living in Maryland for more than fourteen years, Alexander’s detention was unaccompanied by any pre-detention assessment that he was a danger to society or flight risk. *Santiago*, 2025 WL 2792588, at *11 (“Because she spent roughly twenty years at liberty in the United States . . . [petitioner] possesses a cognizable interest in her continued freedom from detention.”); *Gonzalez Martinez*, 2025 WL 2965859, at *4 (where “petitioners established a life” in the United States, “they possessed a strong liberty interest in their freedom from detention”). The lack of any individual consideration in Alexander’s case creates the highest risk of erroneous deprivation of liberty. *Santiago*, 2025 WL 2792588, at *7, *11, *13 (finding that, absent a change in circumstances, the decision to incarcerate petitioner after twenty years at liberty raises concerns that petitioner is being detained without a valid reason); *Lopez-Arevalo*, 2025 WL 2691828, at *11 (“Because he spent nearly three years at liberty in the United States, [petitioner] possess[ed] a cognizable interest in his freedom from detention.”).

Third, the government’s interest does not outweigh the high risk of erroneously depriving Alexander of his liberty, particularly because Alexander is merely seeking the constitutional protections guaranteed by the Fifth Amendment. *See Gonzalez Martinez*, 2025 WL 2965859, at *3 (“[P]hysical freedom is a paramount liberty interest, secured not just by statute, but by the Constitution.”); *Trump*, 604 U.S. at 673 (“It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings.”).

For these reasons, Alexander is likely to succeed on his claim that his detention absent any individualized determination of his flight risk or danger to the community violated his procedural due process rights.

C. Alexander's Detention Further Violates His Substantive Due Process Rights Because He Is Neither a Flight Risk Nor a Danger to the Community

Alexander is also likely to succeed on his claim that his detention violates his substantive due process rights. Because “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the government may imprison people as a preventative measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *U.S. v. Salerno*, 481 U.S. 739, 755 (1987)). Immigration detention is civil and must “bear[] [a] reasonable relation to the purpose for which the individual [is] [detained]” so that it remains “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (cleaned up); see also *Schall v. Martin*, 467 U.S. 253, 263–64 (1984) (detention must be a proportional—not excessive—response to a legitimate state objective).

As with procedural rights, the substantive protections of the Due Process Clause extend to noncitizens within the territorial boundaries of the United States regardless of their legal status. *Zadvydas*, 533 U.S. at 693. The substantive component of the Due Process Clause protects against the deprivation of certain fundamental rights implicit in liberty regardless of the process afforded by the government. *Flores*, 507 U.S. at 301–02. The government must otherwise demonstrate that the “infringement is narrowly tailored to serve a compelling state interest.” *Id.* at 302.

In the immigration context, detention is nonpunitive and therefore held to different standards than criminal detention. See *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 491 (1999). Specifically, courts have recognized only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. See *Zadvydas*, 533 U.S. at 690; *Lopez Santos*, 2025 WL 2642278, at *5; *Covarrubias*, 2025 WL

2950097, at *5; *Faure v. Decker*, No. 15-CV-5128, 2015 WL 6143801, at *3 (S.D.N.Y. Oct. 19, 2015). Detention nevertheless implicates “the most elemental of liberty interests,” *i.e.*, “[t]he interest in being free from physical detention.” *Gonzalez Martinez*, 2025 WL 2965859, at *3 (quoting *Alvarez Martinez*, 2025 WL 2598379, at *2). These conditions are not satisfied here.

Alexander’s children and his wife are in Maryland. His church community, which he hopes to be a leader in and currently plays in the worship band for, is in Maryland. His friend group, built over the last fourteen years, is in Maryland. Alexander’s entire life is in Maryland. He has no criminal record outside of two minor traffic violations.

For these reasons, Alexander is neither a flight risk nor a danger to the community. *See Zadvydas*, 533 U.S. at 690–91 (the goal of immigration detention is to ensure a detainee’s appearance at immigration proceedings and protect the community from dangerous individuals). Because Alexander’s detention bears no “reasonable relation” to the government’s interests in preventing flight and danger, *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), his detention is devoid of any reasoned justification.

For the foregoing reasons, Alexander is likely to succeed on his claim that his continued detention violates his substantive due process rights.

II. ALEXANDER AND HIS FAMILY SUFFER IRREPARABLE HARM EVERY DAY HE REMAINS IN DETENTION

Irreparable harm is “the single most important prerequisite for the issuance of a preliminary injunction.” *Monumental Task Comm., Inc. v. Foxx*, 157 F. Supp. 3d 573, 582–83 (E.D. La. 2016), *aff’d sub nom., Monumental Task Comm., Inc. v. Chao*, 678 F. App’x 250 (5th Cir. 2017). To demonstrate irreparable harm, the Fifth Circuit requires only that the petitioner show a “substantial threat of irreparable injury.” *DSC Commc’ns Corp. v. DGI Techs., Inc.*, 81 F.3d 597, 600 (5th Cir. 2000).

1996). Irreparable injury is defined as “harm for which there is no adequate remedy at law.” *Daniels Health Scis., LLC v. Vascular Health Scis., LLC*, 710 F.3d 579, 585 (5th Cir. 2013).

Temporary unconstitutional deprivations of liberty unquestionably establish irreparable harm. *Pineda Parada*, 2025 WL 3146250, at *3 (“[U]nconstitutional deprivation of liberty, even on a temporary basis constitutes irreparable harm.”); *Ventura Martinez*, 2025 WL 3124847, at *3 (same); *Kostak*, 2025 WL 2472136, at *3 (same). As such, Alexander is irreparably harmed by his continued detention in violation of his due process rights.

Irreparable harm also exists where a petitioner demonstrates that they “face imminent risk to their health, safety, and lives.” *Mercado v. Noem*, No. 25-cv-6568, 2025 WL 2658779, at *24 (S.D.N.Y. Sep. 17, 2025) (quoting *Coronel v. Decker*, 449 F. Supp. 3d 274, 281 (S.D.N.Y. 2020)). That is the case here. Both Alexander and his family face irreparable harm to their health and wellbeing as a result of his unconstitutional detention. Alexander is currently detained in an extremely overcrowded detention center with poor sanitary conditions and lack of access to essential medical care. His wife is not able to support their family financially without Alexander’s income and the family is at risk of losing their home. *Alvarez Martinez*, 2025 WL 2598379, at *5 (considering petitioner’s inability to provide financial support to his family during detention in evaluating irreparable harm). Alexander’s children are also suffering as a result of Alexander’s detention. In particular, his youngest son is suffering from a significant mental health crisis. See *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017) (recognizing the “subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained” in finding irreparable harm). The immense and irreparable harm Alexander continues to suffer weighs in favor of granting emergency relief.

III. PROTECTING ALEXANDER'S CONSTITUTIONAL RIGHTS OUTWEIGHS ANY POTENTIAL HARDSHIP TO RESPONDENTS AND ENTRY OF PRELIMINARY RELIEF IS IN THE PUBLIC INTEREST

When the government is the opposing party, the balance of equities and the public's interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, both factors favor granting immediate relief, especially because, as set forth above, Alexander has established a likelihood of success on the merits and irreparable injury as a result of his ongoing detention. *See, e.g., Amalgamated Transit Union Loc. 85 v. Port Auth. of Allegheny Cnty.*, 39 F.4th 95, 109 (3d Cir. 2022) (“[I]f a plaintiff demonstrates both a likelihood of success on the merits and irreparable injury, it almost always will be the case that the public interest will favor the plaintiff.”).

The equities weigh entirely in Alexander's favor because his continued detention deprives him of liberty and thus far outweighs any potential burden on Respondents. *See Pineda Parada*, 2025 WL 3146250, at *3 (citing *Kostak*, 2025 WL 2472136, at *4); *Salcedo Aceros v. Kaiser*, No. 25-CV-06924, 2025 WL 2637503, at *14 (N.D. Cal. Sept. 12, 2025) (“The only potential injury the government faces is a short delay in detaining [petitioner] if it ultimately demonstrates to a neutral decisionmaker by the preponderance of the evidence that her detention is necessary to prevent danger to the community or flight.”). Whatever minimal burden Alexander's release would have on the government is similarly far outweighed by the substantial burden his continued detention will have on his family, who is struggling to make ends meet without his financial support. *See, e.g., Garcia Domingo v. Castro*, No. 25-cv-00979, 2025 WL 2941217, at *4 (D.N.M. Oct. 15, 2025) (finding that “[a]ny burden on Respondents to release [p]etitioner from custody and provide a pre-deprivation hearing is minimal compared to the harm that [p]etitioner and his family are suffering due to his continued detention”).

It is also undisputed black letter law that “there is a public interest in ensuring people’s constitutional rights are upheld.” *Pineda Parada*, 2025 WL 3146250, at *3; *Kostak*, 2025 WL 2472136, at *4 (citing *Doe v. Noem*, 778 F. Supp. 3d 1151, 1166 (W.D. Wash. 2025)).

As set forth above, Alexander’s detention undoubtedly violates his procedural and substantive due process rights and every day he spends in unlawful detention further exacerbates the ongoing violation of his constitutional rights. *Kostak*, 2025 WL 2472136, at *4 (finding relief should be granted where “the Petitioner’s threatened injury, her continued detention without a bond hearing in violation of her Fifth Amendment rights, far outweigh[ed] the burden of Respondents of conducting a bond hearing”). To the contrary, neither the government nor the public has an interest in incarcerating people without justification, particularly where the purpose of detention is solely to mitigate flight risks and prevent danger to the community, but, like here, the government conducted no pre-detention assessment of such factors. *See, e.g., Ventura Martinez*, 2025 WL 3124847, at *3; *Zadvydas*, 533 U.S. at 690; *A.C.L.U. v. Ashcroft*, 322 F.3d 240, 251 n.11 (3d Cir. 2003), *aff’d and remanded*, 542 U.S. 656 (2004) (“Neither the Government nor the public generally can claim an interest in the enforcement of an unconstitutional law.”). Accordingly, the balance of equities and the public interest both weigh heavily in favor of Alexander’s immediate release.

CONCLUSION

For the foregoing reasons, Alexander respectfully requests that this Court grant his motion for a temporary restraining order and immediately release him from detention.

Dated: November 19, 2025

Respectfully submitted,

Michael P. Sternheim*

Shira Sandler*

Jacqueline Pearce*

Fried, Frank, Harris, Shriver & Jacobson LLP

One New York Plaza

New York, NY 10004

Tel.: (212) 859-8000

michael.sternheim@friedfrank.com

shira.sandler@friedfrank.com

jackie.pearce@friedfrank.com

/s/ Kenneth A. Mayeaux

Kenneth A. Mayeaux

LA Bar No. 17674

Mayeaux & Associates L.C.

6554 Florida Blvd #200

Baton Rouge, LA 70806

Tel.: (225) 754-4477

ken@mayeauxlaw.com

/s/ Kenneth A. Mayeaux
Kenneth A. Mayeaux

Melinda K. Johnson*

Fried, Frank, Harris, Shriver & Jacobson LLP

801 17th St NW #600

Washington, DC 20006

Tel.: (212) 859-8000

mindy.johnson@friedfrank.com

Attorneys for Petitioner

** Pro hac vice applications pending*

CERTIFICATE OF SERVICE

I, Kenneth A. Mayeaux, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent by mail to those indicated as non-registered participants on November 19, 2025.

/s/ Kenneth A. Mayeaux

Kenneth A. Mayeaux

As explained in the accompanying Memorandum in Support of Motion for Temporary Restraining Order, Petitioner is likely to succeed on his claims that Respondents are violating his rights under the Fifth Amendment to the United States Constitution by detaining him without legal basis or an opportunity to be heard. Petitioner suffers irreparable harm as a result of his continued detention, and the balance of equities and public interest heavily weigh in favor of the requested relief.

For the reasons stated above and in the accompanying documents, Petitioner respectfully requests that this Court grant Petitioner's Motion.

CERTIFICATION IN SUPPORT OF MOTION

Pursuant to Local Rule Civil 65.1 and Rule 65(b) of the Federal Rules of Civil Procedure, Petitioner's counsel certifies that:

- 1) Upon filing Petitioner's Motion, counsel provided actual notice of Petitioner's filings to the adverse parties' counsel via email to Shannon Smitherman, shannon.smitherman@usdoj.gov (Assistant United States Attorney, Department of Justice);
- 2) Notwithstanding the exigencies identified in Petitioner's filings, Petitioner's Motion is not an *ex parte* application.

Dated: November 19, 2025

Michael P. Sternheim*
Shira Sandler*
Jacqueline Pearce*
Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, NY 10004
Tel.: (212) 859-8000
michael.sternheim@friedfrank.com
shira.sandler@friedfrank.com

Respectfully submitted,

/s/ Kenneth A. Mayeaux
Kenneth A. Mayeaux
LA Bar No. 17674
Mayeaux & Associates L.C.
6554 Florida Blvd #200
Baton Rouge, LA 70806
Tel.: (225) 754-4477
ken@mayeauxlaw.com

jackie.pearce@friedfrank.com CERTIFICATE OF SERVICE

Melinda K. Johnson*
Fried, Frank, Harris, Shriver & Jacobson LLP
801 17th St NW #600
Washington, D.C. 20006
Tel.: (202) 639-7000
mindy.johnson@friedfrank.com

Attorneys for Petitioner
/s/ K. A. Mays * *Pro hac vice applications pending*

Kenneth A. Mays

CERTIFICATE OF SERVICE

I, Kenneth A. Mayeaux, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent by mail to those indicated as non-registered participants on November 19, 2025.

/s/ Kenneth A. Mayeaux

Kenneth A. Mayeaux