

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Melany Alejandra MORON RODRIGUEZ,)

Petitioner,)

v.)

Warden, South Texas Family Residential Center)
Detention Center; Miguel Vergara, Field Office)
Director of Immigration and Customs Enforcement)
San Antonio; Todd LYONS, Acting Director of)
Immigration and Customs Enforcement; Kristi)
NOEM, Secretary of the U.S. Department of)
Homeland Security; Pam BONDI, Attorney)
General of the United States)
in their official capacities,)

Respondents)

Case No. 5:25-cv-01592

PETITIONER’S MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65, Petitioner moves this Court for a Temporary Restraining Order and Preliminary Injunction enjoining Respondents from violating her rights under Fifth Amendment, the APA, and immigration laws by determining that she is subject to mandatory detention and ordering her immediate release. This request is supported by the concurrently filed Memorandum of Points and Authorities in Support of Request for Temporary Restraining Order. In support of this motion, Petitioner states the following:

I. FACTUAL BACKGROUND

1. Petitioner is in the physical custody of Respondents at the South Texas Family Residential Center Detention Center, Dilley, Texas. He now faces unlawful detention because Respondents have concluded Petitioner is subject to mandatory detention.

2. Petitioner is a national of Venezuela who entered the United States without inspection on or about July 27, 2021 and has resided in the United States since then, a period of over 4 years.

3. On October 10, 2025, Petitioner was arrested by ICE at an appointment at the Dallas Field Office of ICE while she was fulfilling her obligation to report to them. Petitioner is now detained at the South Texas Family Residential Center in Dilley, Texas. DHS has placed Petitioner in removal proceedings before the 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 (i.e. without being admitted or paroled).

4. Respondents are now detaining Petitioner without a bond hearing. Respondents claim that Petitioner is an “applicant for admission” who is subject to mandatory detention under 8 U.S.C. § 1252(b)(2)(A). For the last thirty years, the Immigration Courts have held that individuals, who entered without inspection, like Petitioner, qualified for bond pursuant to § 1226(a). However, the Department of Justice (DOJ) and the Department of Homeland Security (DHS) have decided to completely reject this well-established understanding of the statutory framework and reversed decades of practice by adopting a policy which holds that Immigration Courts no longer have the authority to hear bond applications or grant bond requests to noncitizens who entered the United States without inspection.

5. As a result of Respondents’ unlawful actions, Petitioner cannot request a bond

hearing because the Immigration Judge does not have jurisdiction. Petitioner is now subject to ongoing detention in violation of her Constitutional rights. Petitioner suffers irreparable harm by being detained without the opportunity to request release before a neutral arbiter, due to the deprivation of liberty without due process and the emotional harm the petitioner currently suffers while detained. Petitioner therefore brings this motion for a preliminary injunction and temporary restraining order preventing further detention without a bond hearing.

6. On November 25, 2025, the court in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, Case No. 5:25-cv-01873, (C.D. Cal.), granted the Plaintiffs' motion for class certification, creating a nationwide bond eligible class of noncitizens who entered without inspection, were later detained, and are now subject to mandatory detention statutes. The Court found that all class members are entitled to bond hearings under 8 U.S.C. § 1226(a) rather than being treated as mandatory detainees under 8 U.S.C. § 1225(b)(2)(A). *See Exhibit A.*

II. PETITIONER SATISFIES THE STANDARD FOR A TEMPORARY RESTRAINING ORDER

7. Petitioner is entitled to a preliminary injunction preventing continued detention. If Petitioner's motion is not granted, she is certain to suffer irreparable harm both to her constitutional rights and to her health. She is also substantially likely to succeed on the merits of her claim: that the government may not detain her without a bond hearing before a neutral arbiter, as required by law. Further, no public interest is served by the government's indefinite, mandatory detention of an individual who entered the United States four years ago, has an I-130 family petition pending filed by her U.S. citizen husband; has also an asylum application pending with the immigration agency, and no disqualifying criminal history. Accordingly, this Court should

grant the Petitioner's motion and enjoin the government from further detaining her.

8. To obtain a temporary restraining order, Petitioner must demonstrate: (1) a substantial likelihood of success on the merits; (2) irreparable harm absent immediate relief; (3) that the balance of hardships tips in Petitioner's favor; and (4) that the injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

9. Petitioner meets all four requirements, as set forth in detail in the accompanying Memorandum of Points and Authorities.

A. LIKELIHOOD OF SUCCESS ON THE MERITS

10. Petitioner has a substantial likelihood of success on the habeas petition on multiple independent grounds.

11. First, Petitioner's detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A). The BIA's interpretation in *Matter of Yajure Hurtado* conflicts with the statutory text and with nearly 100 federal district court decisions that have rejected it.

12. Second, Petitioner's prolonged detention without an individualized hearing violates procedural due process under the Fifth Amendment. *Mathews v. Eldridge*, 424 U. S. 319 (1976), requires balancing Petitioner's fundamental liberty interest against the government's interest, and that balance tips decisively in favor of a bond hearing.

13. Third, because the Petitioner has no disqualifying criminal convictions, he possesses a constitutionally protected liberty interest that may not be infringed absent due process of law.

B. IRREPERABLE HARM

14. Petitioner suffers irreparable harm from continued unlawful detention for over three months. The deprivation of liberty itself constitutes irreparable injury that cannot be

remedied by monetary damages.

C. BALANCE OF HARDSHIP AND PUBLIC INTEREST

15. The balance of hardships tips sharply in Petitioner's favor. Petitioner's fundamental liberty interest and the concrete harms from detention far outweigh any government interest in continued detention.

16. The government has presented no evidence that Petitioner poses a flight risk or danger to the community.

17. The public interest favors protecting constitutional rights and preventing unlawful detention.

III. CONCLUSION AND RELIEF REQUESTED

18. For the foregoing reasons and those set forth in the accompanying Memorandum of Points and Authorities, Petitioner respectfully requests that this Court issue a temporary restraining order requiring Respondents to release Petitioner from immigration detention immediately, subject to reasonable conditions including:

- a. Appearing for all scheduled immigration court hearings;
- b. Maintaining current address information; and
- c. Any other condition this Court deems appropriate.

Dated this 12th day of January 2026,

Respectfully submitted,

/s/ Michael M. Presti

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CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2026, I electronically filed the foregoing on the Court's CM/ECF system, that all participants in the case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/s/ Michael M. Presti

Michael M. Presti
Attorney for Petitioner