

1 ERIC GRANT
United States Attorney
2 JAMES CONOLLY
Assistant United States Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2700
Facsimile: (916) 554-2900
5
6 Attorneys for Plaintiff
United States of America

7
8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 ARIEL SALVADOR QUIROZ-MARTINEZ,

11 Petitioner,

12 v.

13 CHRISTOPHER CHESNUT, et al.,

14 Respondents.
15

CASE NO. 1:25-CV-1697-TLN-CSK

OPPOSITION TO MOTION FOR TEMPORARY
RESTRAINING ORDER (& PRELIMINARY
INJUNCTION)

DATE: December 17, 2025

TIME: 2:30 p.m.

COURT: Hon. Chi Soo Kim

16 This Court should deny Petitioner Ariel Salvador Quiroz-Martinez' motion for a preliminary
17 injunction because his detention is lawful under a mandatory detention statute, 8 U.S.C. § 1225(b).¹
18 Petitioner entered the country illegally, on December 21, 2021, and was detained by immigration
19 officers. He was placed in removal proceedings. In the discretion afforded the Department of
20 Homeland Security under the statutory scheme, ICE released him on his own recognizance, under
21 mandatory conditions. Petitioner failed to comply with the condition that he not change his place of
22 residence without first securing written permission from the duty officer assigned to his case. He was
23 arrested on November 3, 2025.

24
25 ¹ Petitioner initially filed his motion as a motion for a temporary restraining order. ECF No. 2.
26 By minute order, the Court ordered that the parties should indicate in their briefing if they are amenable
27 to converting the TRO motion into a motion for a preliminary injunction. ECF No. 5. By
28 correspondence with the Court, the government has indicated that it is amenable to proceeding in this
way and confirms that here. Further, while the government is willing to waive a hearing on this motion,
it understands that Petitioner has not waived the hearing. The government does not object to proceeding
with a hearing.

1 Because there is no regulatory, statutory, or constitutional requirement that Petitioner be afforded
2 a bond hearing, Petitioner's claim that he must be afforded a bond hearing before an immigration
3 judge (IJ) at which the government bears the burden of proof should be denied. Because petitioner's
4 detention is lawful, the Court should also deny his temporary restraining order and the preliminary
5 injunction.

6 **I. FACTUAL BACKGROUND**

7 Petitioner is a native and citizen of Nicaragua. Gov's Exhibit (Ex.) 1 at 2-3. He entered the
8 United States on December 21, 2021. *Id.* at 2-5. On that date, a Border Patrol agent found him in the
9 Rio Gande Valley, Texas, Border Patrol Sector area of responsibility, near Hidalgo, Texas. *Id.* The
10 agent determined that he had entered the United States illegally and without proper permission from the
11 Secretary of the Department of Homeland Security. *Id.* Petitioner had also not been admitted or paroled
12 after an inspection by an immigration officer at that time. ECF No. 7-2 at 3 (Def's Ex. A (DHS Form I-
13 862)).

14 After processing, Petitioner was enrolled in the Intensive Supervision Alien Program (ISAP).
15 ICE released Petitioner on his own recognizance, on December 30, 2021, on conditions set forth on ICE
16 Form I-220A, which the Petitioner signed. Ex. 1 at 1, 5. The conditions of release advised Petitioner
17 that "[y]ou must not change your place of residence without first securing written permission from the
18 officer listed above." *Id.* at 1. Petitioner indicated to ICE that he would reside at an address within the
19 area of responsibility of the San Jose, California, ICE Enforcement and Removal Operations (ERO) sub-
20 office.² *Id.* at 1, 5. Petitioner signed the I-220A form, indicating he had been read and explained the
21 form in Spanish, and had received a copy of it. *Id.* at 1.

22 On November 3, 2025, Petitioner reported to the ICE ERO San Francisco, California, Regional
23 Field Office. *Id.* at 5. At that time, Deportation Officers determined that Petitioner had moved to
24 Fremont, California, away from the address he had on file with ICE, without permission from the Duty
25 Officer assigned to his case. *Id.* Deportation Officers took him into custody. *Id.* ICE canceled
26 Petitioner's order of release for failure to comply with the conditions of release at that time. *Id.* at 1, 5.

27
28 ² This is a sub-office of the ICE ERO San Francisco, California, Regional Field Office.

On November 25, 2025, Petitioner’s case came before an immigration judge, who denied Petitioner’s request for a custody redetermination, on the basis that the IJ did not have the authority to grant a bond determination under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Ex. 1 at 7.

II. STATUTORY BACKGROUND

A. “Applicants for Admission” Under 8 U.S.C. § 1225

The Immigration and Nationality Act (“INA”) defines an “applicant for admission” as an “alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .).” 8 U.S.C. § 1225(a)(1); *United States v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (“an alien who tries to enter the country illegally is treated as an ‘applicant for admission’”) (citing 8 U.S.C. § 1225(a)(1)); *Matter of Lemus*, 25 I & N Dec. 734, 743 (BIA 2012) (“Congress has defined the concept of an ‘applicant for admission’ in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission[.]”). However long they have been in this country, an alien who is present in the United States but has not been admitted “is treated as ‘an applicant for admission.’” *Jennings*, 583 U.S. at 287.

Under Section 212(a) of the INA, 8 U.S.C. § 1182(a), certain classes of aliens are inadmissible — and therefore ineligible to be admitted to the United States — including those “present in the United States without being admitted or paroled[.]” *Id.* § 1182(a)(6)(A)(i).

B. Detention Under 8 U.S.C. § 1225

Petitioner was arrested by immigration authorities on December 21, 2021, after illegally entering the United States. Ex. 1 at 3. When arrested, Petitioner was designated as an alien present in the United States without being admitted or paroled. *Id.*; ECF No. 7-2 at 3. Applicants for admission, including those like Petitioner who are present without being admitted or paroled, may be removed from the United States by expedited removal under § 1225(b)(1), or full removal proceedings before an immigration judge under 8 U.S.C. § 1229a, pursuant to § 1225(b)(2). All applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings*, 583 U.S. at 287 (“[R]ead most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for applicants for admission until certain proceedings have

concluded.”). Petitioner is undergoing full removal proceedings before an immigration judge under 8 U.S.C. § 1229a. He is detained pursuant to § 1225(b)(2).

C. Section 1225(b)(2)

Under Section 1225(b)(2), an alien “who is an applicant for admission” is subject to mandatory detention pending full removal proceedings “if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (requiring that such aliens “be detained for a proceeding under section 1229a of this title”); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (proceedings under section 1229a are “full removal proceedings under section 240 of the INA”); *see also id.* (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, [] 8 U.S.C. § 1225(b)(2)(A)[] mandates detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299); 8 C.F.R. § 235.3(b)(3) (an alien placed into § 1229a removal proceedings in lieu of expedited removal proceedings under § 1225(b)(1) “shall be detained” pursuant to § 1225(b)(2)). DHS has the sole discretionary authority to temporarily release on parole “any alien applying for admission to the United States” on a “case-by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A); *see also Biden v. Texas*, 597 U.S. 785, 806 (2022).

C. Detention Under 8 U.S.C. § 1226(a)

A different statutory detention authority, 8 U.S.C. § 1226, applies to aliens who have been lawfully admitted into the U.S. but are deportable and subject to removal proceedings. Specifically, § 1226(a) provides for the arrest and detention of these aliens “pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Under § 1226(a), DHS may, in its discretion, detain an alien during his removal proceedings, release him on bond, or release him on conditional parole.³ By regulation, immigration officers can release an alien if he demonstrates that he “would not pose a danger to property or persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). An alien can also request a custody redetermination (*i.e.*, a bond hearing) by an

³ Being “conditionally paroled under the authority of § 1226(a)” is distinct from being “paroled into the United States under the authority of § 1182(d)(5)(A).” *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1116 (9th Cir. 2007) (holding that because release on “conditional parole” under § 1226(a) is not a parole, the alien was not eligible for adjustment of status under § 1255(a)).

IJ at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19. At a custody redetermination, the IJ may continue detention or release the alien on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). IJs have broad discretion in deciding whether to release an alien on bond. *In re Guerra*, 24 I. & N. Dec. 37, 39–40 (BIA 2006) (listing nine factors for IJs to consider).

Until recently, the government interpreted § 1226(a) to be an available detention authority for aliens present without being admitted or paroled placed directly in full removal proceedings under § 1229a. *See, e.g., Ortega-Cervantes*, 501 F.3d at 1116. In view of legal developments, the government has determined that this interpretation was incorrect, and that § 1225 is the sole applicable immigration detention authority for *all* applicants for admission. *See Jennings*, 583 U.S. at 297 (“Read most naturally, §§ 1225(b)(1) and (b)(2) thus mandate detention of applicants for admission until certain proceedings have concluded.”).

II. MANDATORY DETENTION UNDER 8 U.S.C § 1225(B)

Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2)(A), which provides that petitioner “shall” be detained. Because Petitioner is currently detained under 8 U.S.C. § 1225(b)(2)(A), he is therefore ineligible for release under 8 U.S.C. § 1226(a). He seeks to circumvent the detention statute under which he is rightfully detained to secure a custody redetermination hearing that he is not entitled to. Petitioner argues that, contrary to the plain language of 8 U.S.C. § 1225(b)(2)(A), the authority for his detention is better understood to arise under 8 U.S.C. § 1226(a), a detention statute that allows for release on bond or conditional parole. That argument fails to square with the fact that he falls neatly and precisely within the statutory definition of aliens subject to detention pursuant to 8 U.S.C. § 1225(b)(2)(A).

Detention under this statute is thus mandatory, and the only mechanism for release is parole, which may be permitted under 8 U.S.C. § 1182(d)(5) as an exercise of the discretion of the Department of Homeland Security. DHS has exercised its discretion in keeping Petitioner detained in this case.

Petitioner was arrested by immigration authorities on December 21, 2021, after illegally entering the United States. *See* Exh. 1 at 3. On August 30, 2021, Petitioner was ordered released from custody on his own recognizance, subject to mandatory conditions. Ex. 1 at 1. On November 3, 2025, ICE

1 determined that he had violated those conditions, by moving to an address that he had not submitted in
2 advance for approval by the immigration officer assigned to his case. *Id.* 1, 5. Based on that violation
3 of the conditions of his release, ICE officers detained him. *Id.*

4 **III. THERE IS NO CONSTITUTIONAL RIGHT TO AN IMMIGRATION COURT BOND**
5 **HEARING AND PETITIONER'S RIGHT TO DUE PROCESS HAS NOT BEEN VIOLATED.**

6 “Applicants for admission,” which includes aliens present without being admitted or paroled—as
7 is the case with Petitioner, “fall into one of two categories, those covered by § 1225(b)(1) and those
8 covered by § 1225(b)(2),” both of which are subject to mandatory detention. *Jennings*, 583 U.S. at 287
9 (“[R]ead most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for applicants for admission until
10 certain proceedings have concluded.”). They are not entitled to custody redetermination hearings,
11 whether pre- or post-detention. *Jennings*, 583 U.S. at 297 (“[N]either § 1225(b)(1) nor § 1225(b)(2) says
12 anything whatsoever about bond hearings.”). The fact that petitioner is an applicant for admission
13 resolves the dispute in this case because applicants for admission must be detained and they are not
14 entitled to bond hearings.

15 Petitioner has not identified the source of his liberty interest in freedom from detention during
16 his removal proceedings. “The distinction between an alien who has effected an entry into the United
17 States and one who has never entered” is a fundamental one that “runs throughout immigration law.”
18 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Petitioner was never admitted to the United States. For
19 immigration law purposes, he is treated as being stopped at the border, even though he has been
20 physically present within the United States. *Barrera-Echavarria v. Rison*, 44 F.3d 1441, 1450 (9th Cir.
21 1995) (en banc); *Thuraissigiam*, 591 U.S. at 139.

22 Importantly, Petitioner fails to identify the source of his liberty interest in freedom from
23 detention during his removal proceedings. “The distinction between an alien who has effected an entry
24 into the United States and one who has never entered” is a fundamental one that “runs throughout
25 immigration law.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Here, the petitioner was never
26 admitted to the United States—he was intercepted after illegally entering near Hidalgo, Texas, and was
27 deemed inadmissible by border authority due to lack of documentation. Ex. 1 at 2 - 5. For immigration
28 law purposes, he is treated as being stopped at the border, even though he has been physically present

1 within the United States since March 2024. *Barrera-Echavarria v. Rison*, 44 F.3d 1441, 1450 (9th Cir.
2 1995) (en banc); *United States v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

3 This carries significant implications for the contours of his due process rights. An alien who has
4 not effected a legal entry, i.e., has not been admitted into the United States, is entitled only to
5 “[w]hatever the procedure authorized by Congress is.” *Shaughnessy v. United States ex rel. Mezei*, 345
6 U.S. 206, 212 (1953) (quoting *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950));
7 see also *Thuraissigiam*, 591 U.S. at 140 (an alien detained after unlawful entry “has only those rights
8 regarding admission that Congress has provided by statute”); *Angov v. Lynch*, 788 F.3d 893, 898 (9th
9 Cir. 2015) (for “those . . . who have never technically ‘entered’ the United States . . . procedural due
10 process is simply whatever the procedure authorized by Congress happens to be”). This makes sense,
11 since “an alien seeking initial admission to the United States requests a privilege and has no
12 constitutional rights regarding his application.” *Barrera-Echavarria*, 44 F.3d at 1449.

13 “[A]pplicants for admission have virtually no constitutional rights regarding their applications.”
14 *Valencia v. Mukasey*, 548 F.3d 1261, 1263 (9th Cir. 2008) (citing *Landon v. Plasencia*, 459 U.S. 21, 33-
15 34 (1982)). “Whatever the procedure authorized by Congress is, it is due process as far as an alien
16 denied entry is concerned.” *Shaughnessy*, 338 U.S. at 544. Thus, when it “involve[s] an asylum
17 applicant who had not ‘technically entered the United States,’ [the Court] examine[s] only whether the
18 government violated the statutory rights that Congress afforded such applicants.” *Grigoryan v. Barr*,
19 959 F.3d 1233, 1241 (9th Cir. 2020) (citation omitted).

20 The government violated no statutory rights here. In detaining the petitioner, DHS followed the
21 plain language of § 1225(b)(2)(A), which mandates detention during removal proceedings. *Jennings*,
22 583 U.S. at 297. Petitioner’s removal proceedings are still ongoing. Further, the government has not
23 violated Petitioner’s statutory rights by refusing to release him. Section 1225(b) detention does not
24 permit—let alone compel—release based on a lack of dangerousness or flight risk. Rather, it only
25 permits parole in the Attorney General’s sole discretion “for urgent humanitarian reasons or significant
26 public benefit.” 8 U.S.C. § 1225(d)(5)(A); *Jennings*, 583 U.S. at 299-300.

27 Immigration laws have long authorized immigration officials to charge aliens as removable from
28 the country, to arrest aliens subject to removal, and to detain aliens for removal proceedings. *Demore v.*

1 *Kim*, 538 U.S. 510, 523–26 (2003); *Abel v. United States*, 362 U.S. 217, 232–37 (1960) (discussing
2 longstanding administrative arrest procedures in deportation cases). In the Immigration and Nationality
3 Act, Congress enacted a multi-layered statutory scheme for the civil detention of aliens pending a
4 decision on removal, during the administrative and judicial review of removal orders, and in preparation
5 for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. “Detention during removal proceedings is a
6 constitutionally valid aspect of the deportation process.” *Velasco Lopez v. Decker*, 978 F.3d 842, 848
7 (2d Cir. 2020) (citing *Demore*, 538 U.S. at 523 n.7) (“prior to 1907 there was no provision permitting
8 bail for any aliens during the pendency of their deportation proceedings”); *Carlson v. Landon*, 342 U.S.
9 524, 538 (1952) (“Detention is necessarily a part of [the] deportation procedure.”); *Reno v. Flores*, 507
10 U.S. 292, 306 (1993) (“Congress eliminated any presumption of release pending deportation,
11 committing that determination to the discretion of the Attorney General.”).

12 The government’s interest in protecting the public and preventing deportable non-citizens from
13 fleeing is strong and compelling. *See e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir.
14 2022) (government’s interests in “protecting the public from dangerous criminal aliens” and
15 “increas[ing] the chance that, if ordered removed, the aliens will be successfully removed” are “interests
16 of the highest order that only increase with the passage of time”).

17 The courts have recognized that “there is little question that the civil detention of [noncitizens]
18 during removal proceedings can serve a legitimate government purpose, which is ‘preventing deportable
19 ... [noncitizens] from fleeing prior to or during their removal proceedings, thus increasing the chance
20 that, if ordered removed, the [noncitizens] will be successfully removed.’” *Prieto-Romero v. Clark*, 534
21 F.3d 1053, 1065 (9th Cir. 2008) (citing *Demore v. Kim*, 538 U.S. 510, 528 (2003)).

22 The mandatory detention statute does not provide for bond hearings as demanded in the petition.
23 Congress in the INA did provide for the possibility of parole in the discretion of the agency. 8 U.S.C.
24 § 1182(d)(5). Due process requires no further relief than that already provided in the parole process
25 authorized by Congress.

26 ///

27 ///

28 ///

IV. CONCLUSION

For the foregoing reasons, it is respectfully requested that the Court deny Petitioners motion for a preliminary injunction.

Dated: December 5, 2025

ERIC GRANT
United States Attorney

By: /s/ JAMES CONOLLY
JAMES CONOLLY
Assistant United States Attorney