

1 ERIC GRANT
United States Attorney
2 NICHOLAS M. FOGG
Assistant United States Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2700

5 Attorneys for Respondents

6
7 IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

8
9 KARINA ALEJANDRA GARCIA
MARIAGUA,
10
11 Petitioner,
v.
12 CHRISTOPHER CHESTNUT, ET AL.,
13 Respondents.

CASE NO. 1:25-cv-01744 DJC CKD HC

**RESPONDENTS' OPPOSITION TO
PETITIONER'S MOTION FOR A
TEMPORARY RESTRAINING ORDER**

14
15 **I. INTRODUCTION**

16 This Court should deny petitioner's motion for a temporary restraining order (TRO) because she
17 is an applicant for admission required by immigration law to be detained pending her removal
18 proceedings. Accordingly, she is unlikely to prevail on any of the claims in her underlying habeas
19 petition, and none of the other preliminary injunction factors weigh in petitioner's favor.

20 **II. BACKGROUND**

21 Petitioner is a citizen of Venezuela. ECF No. 3 at 2. She entered the United States at or near El
22 Paso, Texas on or about May 1, 2024. ECF No. 3 at 2, 7. By a May 8, 2024 order, immigration
23 authorities released petitioner on her own recognizance with various reporting requirements. ECF No. 3
24 at 12, 14. In July 2024, petitioner was served with a notice placing her in removal proceedings and
25 ordering her to appear before an immigration judge in October 2025. ECF No. 3 at 7. The notice stated
26 that she was subject to removal under 8 U.S.C. § 1182(a)(6)(A)(i) as "an alien present in the United
27 States without being admitted or paroled, or who arrives in the United States at any time or place other
28 than as designated by the Attorney General." ECF No. 3 at 7. Petitioner filed an asylum application in

1 September 2024. ECF No. 3 at 2.

2 On December 3, 2025, petitioner was arrested by ICE at an appointment at an ICE office in San
3 Francisco. ECF No. 3 at 3.

4 Petitioner filed a petition for habeas corpus and a motion for a temporary restraining order on
5 December 5, 2025. ECF No. 1 (petition), 4 (motion).

6 **III. LEGAL STANDARDS**

7 **A. Legal Standard for a Temporary Restraining Order**

8 Temporary restraining orders and preliminary injunctions are governed by the same standard.
9 *Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*, 181 F. Supp. 2d 1111, 1126 (E.D. Cal.
10 2001). A plaintiff seeking a TRO must show that: (1) she is “likely to succeed on the merits” of her
11 claims, (2) she is “likely to suffer irreparable harm in the absence of a preliminary relief injunction”, (3)
12 “the balance of equities tips in her favor”, and (4) “an injunction is in the public interest.” *Winter v. Nat.*
13 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Because the government is the opposing party, the third
14 and fourth factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). “A preliminary injunction is an
15 extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing,
16 carries the burden of persuasion.” *Hecox v. Little*, 104 F.4th 1061, 1073 (9th Cir. 2024) (internal
17 quotations and emphasis omitted).

18 **B. Relevant Immigration, Detention, and Due Process Standards**

19 An alien who “arrives in the United States” or is “present in the United States [and] has not been
20 admitted” is an “applicant for admission.” 8 U.S.C. § 1225(a)(1); *see also In re Lemus-Losa*, 25 I. & N.
21 Dec. 734, 743 (B.I.A. 2012) (stating that “Congress has defined the concept of an ‘applicant for
22 admission’ in an unconventional sense, to include not just those who are expressly seeking permission to
23 enter, but also those who are present in this country without having formally requested or received such
24 permission”). This definition applies to “all immigrants who have not been lawfully admitted,
25 regardless of their physical presence in the country.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020).
26 Additionally, every applicant for admission “must ‘be inspected by immigration officers’ to ensure that
27 they may be admitted into the country consistent with U.S. immigration law.” *Jennings v. Rodriguez*,
28 583 U.S. 281, 287 (2018) (citing 8 U.S.C. § 1225(a)(3)).

1 If an “examining immigration officer determines that an alien seeking admission is not clearly
2 and beyond a doubt entitled to be admitted, the alien shall be detained for a [removal] proceeding.” 8
3 U.S.C. § 1225(b)(2)(A). Section 1225(b)(2)(A) “applies to an alien who is physically present in the
4 United States but not lawfully admitted, regardless of how long they have been physically present here.”
5 *Altamirano Ramos v. Lyons*, --- F.Supp.3d ---, 2025 WL 3199872 at *8 (C.D. Cal. 2025). Pursuant to
6 this statutory scheme, detention pending removal proceedings is mandatory. *See Jennings*, 583 U.S. at
7 299 (holding that “§ 1225(b)(2) requires detention ‘for a [removal] proceeding’” (alteration in original)).
8 The only relevant statutory exception to such mandatory detention is that “the Attorney General may
9 ‘for urgent humanitarian reasons or significant public benefit’ temporarily parole aliens detained under
10 §§ 1225(b)(1) and (b)(2).” *Jennings*, 583 U.S. at 300.

11 Consistent with this statutory scheme, “aliens who arrive at ports of entry—even those paroled
12 elsewhere in the country for years pending removal—are ‘treated’ for due process purposes ‘as if
13 stopped at the border.’” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020). This
14 means that applicants for admission do not enjoy the same set of procedural and substantive due process
15 protections afforded to individuals lawfully in the United States. Indeed, “applicants for admission have
16 virtually no constitutional rights regarding their applications.” *Valencia v. Mukasey*, 548 F.3d 1261,
17 1263 (9th Cir. 2008) (citing *Landon v. Plasencia*, 459 U.S. 21, 33–34 (1982)). In other words, the only
18 inquiry when an applicant for admission raises a due process claim is “whether the government violated
19 the statutory rights that Congress afforded such applicants.” *Grigoryan v. Barr*, 959 F.3d 1233, 1241
20 (9th Cir. 2020); *see also Alonzo v. Noem*, --- F.Supp.3d ---, 2025 WL 3208284 at *5 (E.D. Cal. 2025)
21 (reasoning that “‘the procedure authorized by Congress’ in 8 U.S.C. § 1225 constitutes procedural ‘due
22 process’ as far as petitioner is concerned” (quoting *Shaughnessy*, 345 U.S. at 212)).

23 IV. DISCUSSION

24 A. Petitioner is Not Likely to Succeed on the Merits

25 Petitioner fails to carry her heavy burden to demonstrate “that the law and facts clearly favor her
26 position” because she is subject to mandatory immigration detention. *Garcia v. Google*, 786 F.3d 733,
27 740 (9th Cir. 2015).

1 1. Federal immigration statutes require petitioner’s detention.

2 Petitioner is an applicant for admission to the United States because she has yet to receive
3 authorization from immigration authorities to be here. 8 U.S.C. § 1225(a)(1); *Torres*, 976 F.3d at 928
4 (defining as applicants for admission “all immigrants who have not been lawfully admitted, regardless
5 of their physical presence in the country”). She entered the United States and “encountered border
6 patrol officials.” ECF No. 3 at 2. Petitioner provides no evidence that she established to any United
7 States immigration officer that she is clearly and beyond a doubt entitled to be admitted. 8 U.S.C. §
8 1225(b)(2)(A).

9 Accordingly, federal immigration law requires that Petitioner be detained while her removal
10 proceedings move forward. *See Jennings*, 583 U.S. at 299 (holding that “§ 1225(b)(2) requires detention
11 ‘for a [removal] proceeding’” (alteration in original)); *but see, e.g., Ortiz Donis v. Chestnut*, 2025 WL
12 2879514 at *6–*11 (E.D. Cal. Oct. 9, 2025).

13 2. Due process principles do not mandate Petitioner’s immediate release.

14 Petitioner is unlikely to prevail on her due process-based argument for immediate release. ECF
15 No. 4 at 8-15.

16 The due process protections afforded petitioner as an applicant for admission to this country
17 closely track her statutory rights. *See Grigoryan*, 959 F.3d at 1241. And as set forth above, a close
18 reading of the relevant immigration statutes reveals that they do not entitle applicants for admission like
19 petitioner to anything besides mandatory detention. *See Thuraissigiam*, 591 U.S. at 140 (reasoning that
20 an applicant for admission “in respondent’s position has only those rights regarding admission that
21 Congress has provided by statute”); *Valencia*, 548 F.3d at 1263; *but see, e.g., Doe v. Becerra*, 787 F.
22 Supp. 3d 1083, 1091 (E.D. Cal. 2025).

23 Hence, because petitioner cannot establish a statutory right to the relief she seeks, the failure to
24 provide such relief cannot constitute a violation of due process. *See Thuraissigiam*, 591 U.S. at 138–40;
25 *Altamirano Ramos*, 2025 WL 3199872, at *8 (“Finally, because Petitioner cannot establish a statutory
26 right to a bond hearing, the failure to provide a bond hearing does not constitute a violation of due
27 process.”); *Alonzo*, 2025 WL 3208284, at *5 (reasoning that procedures set forth in § 1225(b) satisfy
28 requirements of due process for aliens seeking admission).

1 B. Petitioner Has Not Met Her Burden to Show Likely Irreparable Harm

2 Immigration laws have long authorized immigration officials to charge aliens as removable from
3 the country, to arrest aliens subject to removal, and to detain aliens pending removal. *Demore v. Kim*,
4 538 U.S. 510, 523-26 (2003). “Detention is necessarily a part of [the] deportation procedure.” *Carlson*
5 *v. Landon*, 342 U.S. 524, 538 (1952); *see also Freno v. Flores*, 507 U.S. 292, 306 (1993) (“Congress
6 eliminated any presumption of release pending deportation, committing that determination to the
7 discretion of the Attorney General.”); *but see Rodriguez v. Bostock*, 779 F.Supp.3d 1239, 1253
8 (W.D.Wash. 2025) (“The Ninth Circuit has recognized the irreparable harms imposed on anyone subject
9 to immigration detention”) quoting *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). Petitioner
10 cannot establish irreparable harm because she is being detained en route to her removal.

11 C. The Balance of Equities and Public Interest

12 “The government’s interest in efficient administration of the immigration laws” is “weighty,”
13 and “it must weigh heavily in the balance that control over matters of immigration is a sovereign
14 prerogative, largely within the control of the executive and the legislature.” *Landon v. Plasencia*, 459
15 U.S. 21, 34 (1982). Further, the government’s interest in protecting the public and preventing
16 deportable non-citizens from fleeing are strong and compelling. *See e.g., Rodriguez Diaz v. Garland*, 53
17 F.4th 1189, 1208 (9th Cir. 2022) (the government’s interests, including the “increas[ing] the chance that,
18 if ordered removed, the aliens will be successfully removed” are “interests of the highest order that only
19 increase with the passage of time”). “Of course there is a public interest in preventing aliens from being

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1 wrongfully removed, particularly to countries where they are likely to face substantial harm”, but
2 “[t]here is always a public interest in prompt execution of removal orders.” *Nken v. Holder*, 556 U.S.
3 418, 436 (2009).

4 **V. CONCLUSION**

5 For the foregoing reasons, the Court should deny the petitioner’s motion for a TRO.

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7 Dated: December 9, 2025

ERIC GRANT
United States Attorney

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9 By: /s/ Nicholas M. Fogg
10 NICHOLAS M. FOGG
Assistant United States Attorney