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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

D.J.R.G.,

Petitioner,

v.

CHRISTOPHER CHESNUT, ET AL.,[1]

Respondents.

CASE NO. 1:25-CV-01747-DC-EFB

OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER

D.J.R.G. ("Petitioner") has filed a petition for a writ of habeas corpus and a motion for temporary restraining order. ECF Nos. 1, 5. The Court should deny the temporary restraining order as Petitioner's detention is lawful as he is being detained pursuant to the mandatory detention statute, 8 U.S.C. § 1225(b)(1). Petitioner's argument for a TRO falls short of demonstrating a likelihood of success on the merits or entitlement to his relief requested.

On December 9, 2025, the Court ordered Respondents to "address whether any provision of law

[1] Respondents move to strike and to dismiss all unlawfully named officials under § 2241. A petitioner seeking habeas corpus relief must name the officer having custody of him as the respondent to the petition. 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004). The proper respondent in habeas cases "is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Padilla*, 542 U.S. at 435; *see also Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024) (holding that the warden of the private detention facility at which a non-citizen alien was held was the proper § 2241 respondent). At the time of filing, Petitioner's custodian is the facility administrator at the California City Detention Facility in California City, California.

or fact in this case would distinguish it from this court's decision in *Labrador-Prato v. Noem et al.*, 1:25-cv-01598-DC-SCR, 2025 WL 3458802 (E.D. Cal. Dec. 2, 2025)." ECF No. 7. There is no provision of law or any fact here which substantively distinguishes this case from *Labrador-Prato*.

The government does not oppose treating the motion for a temporary restraining order as a motion for preliminary injunction. The government also does not request a hearing.

I. FACTUAL AND PROCEDURAL BACKGROUND[2]

Petitioner is an alien from Venezuela. This is undisputed. *See* ECF No. 1 at 2. On or about September 23, 2022, immigration authorities encountered Petitioner as he attempted to unlawfully enter the United States. ECF No. 1 at 2. The following day Petitioner was released from custody and placed on parole. ECF No. 1 at 1. Petitioner's parole expired on or about November 23, 2023. Petitioner was also granted Temporary Protected Status ("TPS"), but that protection has since been terminated. ECF No. 1 at 6.

United States immigration authorities took Petitioner into custody on or about December 3, 2025. ECF No. 1 at 3. Subsequently, Petitioner was transferred to the California City Detention Facility. ECF No. 1 at 3. Petitioner currently has an application for asylum pending before the United States Citizenship and Immigration Service. ECF No. 1 at 2. Immigration authorities determined that Petitioner was subject to enforcement action and is presently detained pursuant to 8 U.S.C. § 1225(b)(1).

On December 5, 2025, Petitioner filed a Petition for Writ of Habeas Corpus alleging substantive and procedural due process violations under the Fifth Amendment. ECF No. 1 ¶¶ 43-52. The habeas petition seeks relief including Petitioner's immediate release from custody and an order prohibiting his re-arrest without a hearing to contest that re-arrest before a neutral arbiter. ECF No. 1 at 14. On December 6, 2025, Petitioner also filed his motion for a TRO reiterating his claims and seeking the same relief on an emergent basis. ECF No. 5 at 1. On December 8, 2025, the Court directed Respondents to file a response to Petitioner's motion for a TRO by December 10, 2025. ECF No. 6.

[2] The operative facts are undisputed and appear in the existing record. Accordingly, no separate declaration is submitted.

II. LEGAL BACKGROUND

A. Statutory Framework

1. Applicants for Admission

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); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that "an alien who tries to enter the country illegally is treated as an 'applicant for admission'" (citing INA § 235(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"). Under Section 212(a) of the INA, 8 U.S.C. § 1182(a), certain classes of noncitizens are inadmissible, and therefore ineligible to be admitted to the United States, including those "present in the United States without being admitted or paroled[.]" 8 U.S.C. § 1182(a)(6)(A)(i). However long one has been in this country, a noncitizen who is present in the United States but has not been admitted "is treated as 'an applicant for admission.'" *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

2. Detention Under 8 U.S.C. § 1225

Section 1225 applies to "applicants for admission" to the United States, who are defined as "alien[s] present in the United States who [have] not been admitted" or noncitizens "who arrive[ ] in the United States," whether or not at a designated port of arrival. 8 U.S.C. § 1225(a)(1). Applicants for admission, including those present without being admitted or paroled ("PWAP") may be removed from the United States by, *inter alia*, expedited removal under 8 U.S.C. § 1225(b)(1) or removal proceedings before an Immigration Judge under 8 U.S.C. § 1229a. These noncitizens "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.")

a. Section 1225(b)(1)

Congress established the expedited removal process in 8 U.S.C. § 1225 to ensure that the

Executive could "expedite removal of aliens lacking a legal basis to remain in the United States." *Kucana v. Holder*, 558 U.S. 233, 249 (2010); *see also Thuraissigiam*, 591 U.S. at 106 ("[Congress] crafted a system for weeding out patently meritless claims and expeditiously removing the aliens making such claims from the country."). This provision authorizes immigration officers to order certain inadmissible noncitizens "removed from the United States without further hearing or review." Section 1225(b)(1) applies to "arriving aliens" and "certain other" noncitizens "initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Id.*; 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii). Section 1225(b)(1) allows for the expedited removal of any noncitizen "described in" § 1225(b)(1)(A)(iii)(II), as designated by the Attorney General or Secretary of Homeland Security—that is, any noncitizen not "admitted or paroled into the United States" and "physically present" fewer than two years—who is inadmissible under § 1182(a)(7) at the time of "inspection." *See* 8 U.S.C. § 1182(a)(7) (categorizing as inadmissible noncitizens without valid entry documents). Whether that happens at a port of entry or after illegal entry is not relevant; what matters is whether, when an officer inspects a noncitizen for admission under § 1225(a)(3), that noncitizen lacks entry documents and so is subject to § 1182(a)(7). The Attorney General's or Secretary's authority to "designate" classes of noncitizens as subject to expedited removal is subject to his or her "sole and unreviewable discretion." 8 U.S.C. § 1225(b)(1)(A)(iii); *see also American Immigration Lawyers Ass'n v. Reno*, 199 F.3d 1352 (D.C. Cir. 2000) (upholding the expedited removal statute).

The Secretary (and earlier, the Attorney General) has designated categories of noncitizens for expedited removal under § 1225(b)(1)(A)(iii) on five occasions; most recently, restoring the expedited removal scope to "the fullest extent authorized by Congress." *Designating Aliens for Expedited Removal*, 90 Fed. Reg. 8139 (Jan. 24, 2025). The notice thus enables the U.S. Department of Homeland Security ("DHS") "to exercise the full scope of its statutory authority to place in expedited removal, with limited exceptions, aliens determined to be inadmissible under [8 U.S.C. § 1182(a)(6)(C) or (a)(7)] who have not been admitted or paroled into the United States and who have not affirmatively shown, to the satisfaction of an immigration officer, that they have been physically present in the United States continuously for the two-year period immediately preceding the date of the determination of inadmissibility," who were not otherwise covered by prior designations. *Id.* at 8139–40.

Expedited removal proceedings under § 1225(b)(1) include additional procedures if a noncitizen indicates an intention to apply for asylum[3] or expresses a fear of persecution, torture, or return to the noncitizen's country. *See* 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 235.3(b)(4). In that situation, the noncitizen is given a non-adversarial interview with an asylum officer, who determines whether the noncitizen has a "credible fear of persecution" or torture. *Id.* §§ 1225(b)(1)(A)(ii), (b)(1)(B)(iii)(II), (b)(1)(B)(iv), (v); *see also* 8 C.F.R. § 208.30; *Thuraissigiam*, 591 U.S. at 109–11 (describing the credible fear process). The noncitizen may also pursue *de novo* review of that determination by an immigration judge. 8 U.S.C. § 1225(b)(1)(B)(iii)(III); 8 C.F.R. §§ 1003.42(d), 1208.30(g). During the credible fear process, a noncitizen may consult with an attorney or representative and engage an interpreter. 8 C.F.R. § 208.30(d)(4), (5). However, a noncitizen subject to these procedures "shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

If the asylum officer or immigration judge does not find a credible fear, the noncitizen is "removed from the United States without further hearing or review." 8 U.S.C. §§ 1225(b)(1)(B)(iii)(I), (b)(1)(C); 1252(a)(2)(A)(iii), (e)(2); 8 C.F.R. §§ 1003.42(f), 1208.30(g)(2)(iv)(A). If the asylum officer or immigration judge finds a credible fear, the noncitizen is generally placed in full removal proceedings under 8 U.S.C. § 1229a, but remains subject to mandatory detention. *See* 8 C.F.R. § 208.30(f); 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

Expedited removal under § 1225(b)(1) is a distinct statutory procedure from removal under § 1229a. Section 1229(a) governs full removal proceedings initiated by a notice to appear and conducted before an immigration judge, during which the noncitizen may apply for relief or protection. By contrast, expedited removal under § 1225(b)(1) applies in narrower, statutorily defined circumstances—typically to individuals apprehended at or near the border who lack valid entry documents or commit fraud upon entry—and allows for their removal without a hearing before an immigration judge, subject to limited exceptions. For these noncitizens, DHS has discretion to pursue

[3] Noncitizens must apply for asylum within one year of arriving in the United States, 8 U.S.C. § 1558(a)(2)(B), except if the noncitizen can demonstrate "extraordinary circumstances" that justify moving that deadline. *Id.* § 1558(a)(2)(D).

expedited removal under § 1225(b)(1) or § 1229a. *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 524 (BIA 2011).

b. **Section 1225(b)(2)**

Section 1225(b)(2) is "broader" and "serves as a catchall provision." *Jennings*, 583 U.S. at 287. It "applies to all applicants for admission not covered by § 1225(b)(1)." *Id.* Under § 1225(b)(2), a noncitizen "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 noncitizens "be detained for a proceeding under section 1229a of this title"); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (explaining that 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, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention 'until removal proceedings have concluded.'") (citing *Jennings*, 583 U.S. at 299). Still, 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." *Id.* § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

3. Detention Under 8 U.S.C. § 1226(a)

Section 1226(a) provides for the arrest and detention of noncitizens "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 a noncitizen during his removal proceedings, release him on bond, or release him on conditional parole.[4] By regulation, immigration officers can release a noncitizen 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). A noncitizen can also request a custody redetermination (*i.e.*, a bond hearing) by an immigration judge at any time before a final order of removal is issued. *See*

[4] 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)).

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 immigration judge may continue detention or release the noncitizen on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1). Immigration judges have broad discretion in deciding whether to release a noncitizen on bond. *In re Guerra*, 24 I. & N. Dec. 37, 39–40 (BIA 2006) (listing nine factors for immigration judges to consider).

Until recently, the government interpreted Section 1226(a) to be an available detention authority for noncitizens PWAP placed directly in full removal proceedings under Section 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 Section 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.").

III. ANALYSIS AND ARGUMENT

A. Petitioner Cannot Meet the High Bar for Injunctive Relief

1. Under the Plain Text of 8 U.S.C. § 1225, Petitioner Must Be Detained Pending the Outcome of His Removal Proceedings

Petitioner is a noncitizen subject to expedited removal, as he entered the country unlawfully on or about September 23, 2022. *See* 8 U.S.C. § 1225(b)(1)(A)(i). As noncitizen PWAPs, subject to the mandatory detention framework of Section 1225(b), petitioners, like D.J.R.G., are not entitled to custody redetermination hearings by immigration judges or pre-deprivation hearings before re-detention. *Jennings*, 583 U.S. at 297 ("neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings"). Petitioner argues that he should have been afforded another hearing when he was re-detained on December 3, 2025, but he was not entitled it. ECF No. 1 at 13; ECF No. 5-1 at 11-15.

Just as Petitioner is not entitled to a custody redetermination by statute, his release is not otherwise authorized by statute. *Jennings*, 583 U.S. at 297 ("[R]ead most naturally, §§ 1225(b)(1) and (b)(2) mandate detention for applicants for admission until certain proceedings have concluded."); *see also Matter of Q. Li,* 29 I & N. Dec. at 69 ("[A]n applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently

placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a)."). The fact that he was previously released when first apprehended in September 2022 does not change any of this. As discussed above, it was within ICE's discretion to detain or release him. The fact that ICE chose at that time to release him did not convey a right to release at all other times in his immigration proceedings, nor even a hearing on the matter.

Petitioner presently has an application for immigration relief pending before the Immigration Court and has asserted that he has a credible fear of persecution if returned to Venezuela. If the Immigration Court denies his asylum application, Petitioner will be subject to removal, as he has been since his TPS ended. While protected by TPS, he could not be removed[5]; thereafter, ICE exercised its discretion not to detain him. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) ("Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed."). Even if the Immigration Court finds ultimately that he has a credible fear of persecution, detention until that time remains mandatory. 8 U.S.C. § 1225(b)(1)(B)(ii) ("If the officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum.").

Finally, Petitioner claims that there has been no change in his status before ICE took him into detention on December 3, 2025. ECF 5-1 at 12-13. He alleges that he is entitled to a hearing on detention to determine whether he presents as a flight risk or danger to the community. ECF No. 5-1 at 13, 18. But no provision of the INA entitled him to release initially, and the Act does not require proof of such a change. Further, as a noncitizen, subject to the mandatory detention framework of Section 1225(b), petitioners, like D.J.R.G., are not entitled to custody redetermination hearings by immigration

[5] Petitioner asserts that he was granted Temporary Protected Status, which has since elapsed. *See* ECF No. 1 at 6. Once a foreign country is designated for TPS, individuals from that country may apply for immigration status, and if granted, they may not be removed from the United States. *See* 8 § 1254(a)(1) ("the Attorney General, in accordance with this section…may grant the alien temporary protected status in the United States and shall not remove the alien from the United States during the period in which such status is in effect…").

judges or pre-deprivation hearings before re-detention. *Jennings*, 583 U.S. at 297 ("neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings").

2. Petitioner Overstates the Liberty Interest He Argues Has Been Harmed

Petitioner's contention that he maintains a protected liberty interest in his parole status is based on authority that does not apply to parole in the context of immigration proceedings and misreads the INA's carefully constructed detention statutes. Here, Petitioner's parole is not the same as the parole imposed by a court, as post-incarceration supervision, following conviction of a crime. *See, e.g., Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Parole in that context is a judicially imposed term, during which a parolee's liberty interests are curtailed to a lesser extent than full incarceration, allowing the parolee to live in the community while still under a sentence of judicial punishment. As used here, in contrast, parole is defined within the INA's statutory framework and ICE has the power to grant it (or revoke it).

In short, Petitioner's parole (as that term is employed under the INA) was left to the discretion of ICE, revocable at any time, and did not convey the expansive liberty interest he now argues under the common understanding of judicially imposed parole.

Concomitantly, Petitioner also claims that he was given no notice of ICE's intention to re-detain him. ECF No. 5-1 at 12-13. However, his parole had expired, and even if his parole were still in effect at the time of his arrest, ICE would have had discretionary authority to revoke his release and take him into custody. *See* 8 C.F.R. § 236.1(c)(9).

B. The *Mathews* Factors Do Not Mandate a Remedy

The Supreme Court has not used the multi-factor "balancing test" of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), in addressing due process claims raised by noncitizens held in civil immigration detention, despite multiple opportunities to do so since *Mathews* was decided in 1976. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) ("[T]he Supreme Court when confronted with constitutional challenges to immigration detention has not resolved them through express application of *Mathews*.") (citations omitted); *id.* at 1214 ("In resolving familiar immigration-detention challenges, the Supreme Court has not relied on the *Mathews* framework.") (Bumatay, J., concurring). Nor has the Ninth Circuit embraced the *Mathews* test. While leaving open the question of whether the *Mathews* test

applies to a constitutional challenge to immigration detention, *see Rodriguez Diaz*, 53 F.4th at 1207, the Ninth Circuit has emphasized that "*Mathews* remains a flexible test that can and must account for the heightened governmental interest in the immigration detention context." *Id.* at 1206.

In *Mathews*, the Supreme Court explained that "[p]rocedural 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." 424 U.S. at 332. Yet noncitizens subject to expedited removal, like Petitioner, who were not admitted into the country, lack any liberty interest in avoiding removal or to certain additional procedures. 8 U.S.C. § 1225(b)(1)(A)(iii)(II). As to such noncitizens, "[w]hatever the procedure authorized by Congress . . . is due process." *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950); *accord Thuraissigiam*, 591 U.S. at 138–139 ("This rule would be meaningless if it became inoperative as soon as an arriving alien set foot on U.S. soil."); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) ("[A]n alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative"); *Knauff*, 338 U.S. at 542 ("At the outset we wish to point out that an alien who seeks admission to this country may not do so under any claim of right.").

Thus, noncitizens amenable to expedited removal cannot assert a protected property or liberty interest in additional procedures not provided by the statute, 8 U.S.C. § 1225. *See Dave v. Ashcroft*, 363 F.3d 649, 653 (7th Cir. 2004). Instead, those noncitizens—including Petitioner—have "only those rights regarding admission that Congress has provided by statute." *Thuraissigiam*, 591 U.S. at 140. Petitioners are entitled only to the protections set forth by statute, and "the Due Process Clause provides nothing more." *Thuraissigiam*, 591 U.S. at 140.

Nevertheless, Respondent acknowledges that other cases in this district have applied the *Mathews* factors in similar situations. Prior decisions from this district have held, on multiple occasions, that immigration detention, the economic burdens imposed as a result of detention, and the potential inability to pursue a petition for review may all constitute irreparable harm under the *Mathews* factors. *See, e.g, Salazar v. Kaiser*, No. 1:25-cv-01017-JLT-SAB, 2025 WL 2456232 (E.D. Cal. Aug 26, 2025); *Castellon v. Kaiser*, No. 1:25-cv-00968-JLT-EPG, 2025 WL 2373425 (E.D. Cal. Aug. 15, 2025); *Maklad v. Murray*, NO. 1:25-CV-00946-JLT-SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025).

However, that is a harm that "is essentially inherent in detention," and therefore "the Court cannot weigh this strongly in favor of" Petitioner. *Lopez Reyes v. Bonnar*, No 18-cv-07429-SK, 2018 WL 7474861 at *10 (N.D. Cal. Dec. 24, 2018). Further, any alleged harm from the fact of detention alone is insufficient because "detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process." *Demore v. Kim*, 538 U.S. 510, 523 (2003); *see also Reno v. Flores*, 507 U.S. 292, 306 (1993); *Carlson v. Landon*, 342 U.S. 524, 538 (1952).

As to the second and third *Mathews* factors, when the government is a party, the balance of equities and public interest merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). Where a moving party only raises "serious questions going to the merits," the balance of hardships must "tip sharply" in his favor. *All. for Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011) (quoting *The Lands Council v. McNair*, 537 F.3d 981, 987 (9th Cir. 2008)).

Here, the government has a compelling interest in the steady enforcement of its immigration laws. *See, e.g.*, *Demore*, 538 U.S. at 523; *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009) (holding that the court "should give due weight to the serious consideration of the public interest" in enacted laws); *see also Ubiquity Press Inc. v. Baran*, No 8:20-cv-01809-JLS-DFM, 2020 WL 8172983, at *4 (C.D. Cal. Dec. 20, 2020) (explaining that "the public interest in the United States' enforcement of its immigration laws is high"); *United States v. Arango*, CV 09-178 TUC DCB, 2015 WL 11120855, at 2 (D. Ariz. Jan. 7, 2015) (finding that "the Government's interest in enforcing immigration laws is enormous"). Indeed, the government "suffers a form of irreparable injury" "[a]ny time [it] is enjoined by a court from effectuating statutes enacted by representatives of its people." *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (citation omitted).

Petitioner's claimed harm cannot outweigh this public interest in the application of the law, particularly since courts "should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982) (citation omitted). Recognizing the availability of a preliminary injunction under these circumstances would permit any noncitizen subject to expedited removal to obtain additional review, circumventing the comprehensive statutory scheme that Congress enacted. That statutory scheme—and judicial authority

upholding it—likewise favors the government. While it is "always in the public interest to protect constitutional rights," if, as here, a petitioner has not shown a likelihood of success on the merits of his claim, that public interest does not outweigh the competing public interest in enforcement of existing laws. *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005). The public and governmental interest in applying the established procedures for noncitizens subject to expedited removal, including their lawful, mandatory detention, *see* 8 U.S.C. § 1225(b); *Jennings*, 583 U.S. at 297, is significant.

IV. CONCLUSION

For the foregoing reasons, it is respectfully requested that the Court deny Petitioner's motion for a temporary restraining order.

Dated: December 10, 2025

ERIC GRANT
United States Attorney

By: /s/ HADDY ABOUZEID
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