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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MILTON JOHN SELIS TINOCO,

Petitioner,

v.

CHRISTOPHER CHESTNUT, ET AL.,

Respondents.

CASE NO. 1:25-cv-01762 DC JDP HC

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

I. INTRODUCTION

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

This case shares both factual and legal similarities to *Labrador-Prato v. Noem*, 2025 WL 3458802 (E.D.Cal. Dec. 2, 2025). Like *Labrador-Prato*, petitioner entered the United States, was apprehended by border patrol officers the same day, and within a month was released on his own recognizance. Compare *Labrador-Prato*, 2025 WL 3458802, *1 with *Cruz Dec.*, ¶¶ 4, 5. Similarly, the legal dispute in both *Labrador-Prato* and this case hinges on the interpretation of 8 U.S.C. §§ 1225 and 1226. Compare *Labrador-Prato*, 2025 WL 3458802, *2 and *4 with ECF No. 3-2 at 10-11. Where the cases depart is the petitioner's conduct while released. While *Labrador-Prato* had "no criminal history [or] disciplinary infractions during her detention" (*Labrador-Prato v. Noem*, 2025 WL 3458802, *1), petitioner repeatedly violated terms of his release and was arrested for driving under the influence. *Cruz Dec.* ¶ 10.

II. BACKGROUND

Petitioner is a citizen of Nicaragua. Cruz Dec., ¶ 4. He entered the United States without inspection in November 2021 and was detained by border patrol officers the same day. Cruz Dec., ¶ 4. In December 2021, ICE released petitioner on his own recognizance and placed him on a program of supervision. Cruz Dec., ¶ 5. In June 2022, ICE placed petitioner in removal proceedings under 8 U.S.C. § 1182(a)(6)(A)(i) as “an alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General.” Cruz Dec., ¶ 6; 8 U.S.C. § 1182(a)(6)(A)(i).

While on release, petitioner repeatedly violated the terms of his release. On four occasions, he violated a requirement related to a check-in. Cruz Dec., ¶¶ 7, 9, 11, 12. Once he violated a condition for not being home in time. Cruz Dec., ¶ 8. In February 2024, petitioner was arrested for driving under the influence. Cruz Dec., ¶ 10.

On November 5, 2025, petitioner was arrested by ICE. Cruz Dec., ¶ 13.

Petitioner filed a petition for habeas corpus on December 5, 2025 (ECF No. 1) and a motion for a temporary restraining order on December 6, 2025 (ECF No. 3).

III. LEGAL STANDARDS

A. Legal Standard for a Temporary Restraining Order

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

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1 B. Relevant Immigration, Detention, and Due Process Standards

2 An alien who “arrives in the United States” or is “present in the United States [and] has not been
3 admitted” is an “applicant for admission.” 8 U.S.C. § 1225(a)(1); *see also In re Lemus-Losa*, 25 I. & N.
4 Dec. 734, 743 (B.I.A. 2012) (stating that “Congress has defined the concept of an ‘applicant for
5 admission’ in an unconventional sense, to include not just those who are expressly seeking permission to
6 enter, but also those who are present in this country without having formally requested or received such
7 permission”). This definition applies to “all immigrants who have not been lawfully admitted,
8 regardless of their physical presence in the country.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020).
9 Additionally, every applicant for admission “must ‘be inspected by immigration officers’ to ensure that
10 they may be admitted into the country consistent with U.S. immigration law.” *Jennings v. Rodriguez*,
11 583 U.S. 281, 287 (2018) (citing 8 U.S.C. § 1225(a)(3)).

12 If an “examining immigration officer determines that an alien seeking admission is not clearly
13 and beyond a doubt entitled to be admitted, the alien shall be detained for a [removal] proceeding.” 8
14 U.S.C. § 1225(b)(2)(A). Section 1225(b)(2)(A) “applies to an alien who is physically present in the
15 United States but not lawfully admitted, regardless of how long they have been physically present here.”
16 *Altamirano Ramos v. Lyons*, --- F.Supp.3d ---, 2025 WL 3199872 at *8 (C.D. Cal. 2025). Pursuant to
17 this statutory scheme, detention pending removal proceedings is mandatory. *See Jennings*, 583 U.S. at
18 299 (holding that “§ 1225(b)(2) requires detention ‘for a [removal] proceeding’” (alteration in original)).
19 The only relevant statutory exception to such mandatory detention is that “the Attorney General may
20 ‘for urgent humanitarian reasons or significant public benefit’ temporarily parole aliens detained under
21 §§ 1225(b)(1) and (b)(2).” *Jennings*, 583 U.S. at 300.

22 Consistent with this statutory scheme, “aliens who arrive at ports of entry—even those paroled
23 elsewhere in the country for years pending removal—are ‘treated’ for due process purposes ‘as if
24 stopped at the border.’” *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020). This
25 means that applicants for admission do not enjoy the same set of procedural and substantive due process
26 protections afforded to individuals lawfully in the United States. Indeed, “applicants for admission have
27 virtually no constitutional rights regarding their applications.” *Valencia v. Mukasey*, 548 F.3d 1261,
28 1263 (9th Cir. 2008) (citing *Landon v. Plasencia*, 459 U.S. 21, 33–34 (1982)). In other words, the only

inquiry when an applicant for admission raises a due process claim is “whether the government violated the statutory rights that Congress afforded such applicants.” *Grigoryan v. Barr*, 959 F.3d 1233, 1241 (9th Cir. 2020); *see also Alonzo v. Noem*, --- F.Supp.3d ---, 2025 WL 3208284 at *5 (E.D. Cal. 2025) (reasoning that “‘the procedure authorized by Congress’ in 8 U.S.C. § 1225 constitutes procedural ‘due process’ as far as petitioner is concerned” (quoting *Shaughnessy*, 345 U.S. at 212)).

IV. DISCUSSION

A. Petitioner is Not Likely to Succeed on the Merits

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

1. Federal immigration statutes require petitioner’s detention.

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

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

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

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

The due process protections afforded petitioner as an applicant for admission to this country closely track his statutory rights. *See Grigoryan*, 959 F.3d at 1241. And as set forth above, a close reading of the relevant immigration statutes reveals that they do not entitle applicants for admission like

petitioner to anything besides mandatory detention. *See Thuraissigiam*, 591 U.S. at 140 (reasoning that an applicant for admission “in respondent’s position has only those rights regarding admission that Congress has provided by statute”); *Valencia*, 548 F.3d at 1263; *but see, e.g., Doe v. Becerra*, 787 F.Supp.3d 1083, 1091 (E.D. Cal. 2025).

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

3. Petitioner misinterprets *Bautista v. Santacruz*

Petitioner argues that he is eligible for relief as a member of the class certified in *Bautista v. Santacruz*, --- F.R.D. ---, 2025 WL 3288403 (C.D.Cal. Nov. 25, 2025). ECF No. 3-2 at 24. Petitioner is incorrect on two grounds. First, he is not a member of the class because he was apprehended on arrival. *Id.* at *9; Cruz Dec. ¶ 4. Second, the *Bautista* court did not grant class-wide relief. Instead, it granted summary judgment for a group of petitioners, *Bautista v. Santacruz*, --- F.Supp.3d ---, 2025 WL 3289861, *11 (C.D.Cal. Nov. 20, 2025), and then later certified a class, *Bautista v. Santacruz*, --- F.R.D. ---, 2025 WL 3288403, *9 (C.D.Cal. Nov. 25, 2025).

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

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

C. The Balance of Equities and Public Interest

“The government’s interest in efficient administration of the immigration laws” is “weighty,” and “it must weigh heavily in the balance that control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature.” *Landon v. Plasencia*, 459 U.S. 21, 34 (1982). Further, the government’s interest in protecting the public and preventing deportable non-citizens from fleeing are strong and compelling. *See e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir. 2022) (the government’s interests, including the “increas[ing] the chance that, if ordered removed, the aliens will be successfully removed” are “interests of the highest order that only increase with the passage of time”). “Of course there is a public interest in preventing aliens from being wrongfully removed, particularly to countries where they are likely to face substantial harm”, but “[t]here is always a public interest in prompt execution of removal orders.” *Nken v. Holder*, 556 U.S. 418, 436 (2009).

V. CONCLUSION

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

Dated: December 10, 2025

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