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9 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

10 Derick NAVARRO GUILLEN,
11
12 Petitioner,
v.

Case No. 2:25-cv-02447-CDS-NJK

**Federal Respondents' Response to
Petitioner's Motion for Temporary
Restraining Order, ECF No. 5.**

13 Kristi NOEM, Secretary, U.S. Department
of Homeland Security, in her official
14 capacity; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela J.
15 BONDI, U.S. Attorney General, in her
official capacity; Todd LYONS, Acting
16 Director for U.S. Immigration and Customs
Enforcement, in his official capacity; U.S.
17 IMMIGRATION AND CUSTOMS
ENFORCEMENT; Jason KNIGHT, Acting
18 Field Office Director, Salt Lake City Field
Office; EXECUTIVE OFFICE FOR
19 IMMIGRATION REVIEW; Sirce
OWEN, Acting Director for Executive
20 Office of Immigration Review, in her official
capacity; LAS VEGAS IMMIGRATION
21 COURT; John MATTOS, Warden of
Nevada Southern Detention Center, in his
22 official capacity,
23 Respondents.

24
25 **I. Introduction**

26 Petitioner is currently detained in Immigration and Customs Enforcement ("ICE")
27 custody at the California City Correctional Center in California City, California, pending
28 removal proceedings. ECF No. 5 ¶ 7. Petitioner has been detained since November 2025. Id.

¶¶ 2–3.

Petitioner filed the instant action on December 9, 2025, and a Motion for Temporary Restraining Order on December 18, 2025. ECF Nos. 1, 5.

Petitioner contends that his transfer to the California City Correctional Center was unlawful and deprived him of due process. ECF No. 5 at 5–8. He further asserts that his continued detention by the Department of Homeland Security (“DHS”) is unlawful because mandatory detention under 8 U.S.C. § 1225(b)(2)(A) purportedly does not apply to him, arguing instead that he is subject to detention under 8 U.S.C. § 1226(a), which permits release on bond or conditional parole. ECF No. 5 at 8–9.

In his motion for injunctive relief, Petitioner requests that this Court order his immediate release under reasonable conditions of supervision—including bond, recognizance, or alternatives to detention—or, in the alternative, that the Court require a prompt, individualized custody redetermination hearing under 8 U.S.C. § 1226(a). ECF No. 5 at 11. Petitioner also seeks a declaration that venue over his removal proceedings remains vested in the Las Vegas Immigration Court and an order enjoining Respondents from transferring him absent prior court approval. *Id.* at 12.

Petitioner cannot show a likelihood of success on the merits because his detention and transfer are authorized by statute and regulation and Petitioner has failed to establish any violation of due process or entitlement to the extraordinary injunctive relief he seeks.

II. Statutory Background

A. Detention Under 8 U.S.C. § 1225

Section 1225 applies to “applicants for admission,” who are defined as “alien[s] present in the United States who [have] not been admitted” or “who arrive[] in the United States.” 8 U.S.C. § 1225(a)(1). Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 218 (BIA 2025).

Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid

1 documentation.” *Jennings*, 583 U.S. at 287; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens
2 are generally subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But
3 if the alien “indicates an intention to apply for asylum . . . or a fear of persecution,”
4 immigration officers will refer the alien for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii).
5 An alien “with a credible fear of persecution” is “detained for further consideration of the
6 application for asylum.” *Id.* § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to
7 apply for asylum, express a fear of persecution, or is “found not to have such a fear,” they
8 are detained until removed from the United States. *Id.* §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

9 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583
10 U.S. at 287. It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.*
11 Under § 1225(b)(2), an alien “who is an applicant for admission” shall be detained for a
12 removal proceeding “if the examining immigration officer determines that [the] alien
13 seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. §
14 1225(b)(2)(A); *see Matter of Yajure Hurtado*, 29 I. & N. Dec. at 220 (“[A]liens who are present
15 in the United States without admission are applicants for admission as defined under section
16 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of
17 their removal proceedings.”); *Matter of Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“for aliens
18 arriving in and seeking admission into the United States who are placed directly in full
19 removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates
20 detention ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299).
21 However, the Department of Homeland Security (DHS) has the sole discretionary authority
22 to temporarily release on parole “any alien applying for admission to the United States” on
23 a “case-by-case basis for urgent humanitarian reasons or significant public benefit.” *Id.* §
24 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

25 In this case, Petitioner is an applicant for admission because he is an alien who
26 arrived in the United States without being admitted. Under 8 U.S.C. § 1225(b)(2)(A)
27 Petitioner is subject to mandatory detention until removal proceedings have concluded.

28 / / /

1 *Leiva-Perez v. Holder*, 640 F.3d 962, 967–68 (9th Cir. 2011). When “a plaintiff has failed to
2 show the likelihood of success on the merits, we need not consider the remaining three
3 [*Winter* factors].” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015).

4 The final two factors required for preliminary injunctive relief — balancing of the
5 harm to the opposing party and the public interest — merge when the Government is the
6 opposing party. See *Nken*, 556 U.S. at 435. The Supreme Court has specifically
7 acknowledged that “[f]ew interests can be more compelling than a nation’s need to ensure
8 its own security.” *Wayte v. United States*, 470 U.S. 598, 611 (1985); see also *United States v.*
9 *Brignoni-Ponce*, 422 U.S. 873, 878-79 (1975); *New Motor Vehicle Bd. of California v. Orrin W.*
10 *Fox Co.*, 434 U.S. 1345, 1351 (1977); *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211,
11 1220–21 (D.C. Cir. 1981); *Maharaj v. Ashcroft*, 295 F.3d 963, 966 (9th Cir. 2002) (movant
12 seeking injunctive relief “must show either (1) a probability of success on the merits and the
13 possibility of irreparable harm, or (2) that serious legal questions are raised and the balance
14 of hardships tips sharply in the moving party’s favor.”) (quoting *Andrieu v. Ashcroft*, 253 F.3d
15 477, 483 (9th Cir. 2001)).

16 In his motion, Petitioner has not argued that the Ninth Circuit’s more demanding
17 standard for a mandatory, rather than prohibitory, injunction applies. In the absence of such
18 argument, and considering the Ninth Circuit’s classification of an injunction seeking to
19 “prohibit[] the government from conducting new bond hearings under procedures that will
20 likely result in unconstitutional detentions” as “a classic form of prohibitory injunction,”
21 *Hernandez v. Sessions*, 872 F.3d 976, 998 (9th Cir. 2017), the Court should apply the
22 prohibitory standard here. See *Chavez v. Noem*, No. 3:25-CV-02325-CAB-SBC, 2025 WL
23 2730228 (S.D. Cal. Sept. 24, 2025). Under the Ninth Circuit’s “serious questions” test, “a
24 ‘sliding scale’ variant of the *Winter* test,” a party is “entitled to a preliminary injunction if it
25 demonstrates (1) serious questions going to the merits, (2) a likelihood of irreparable injury,
26 (3) a balance of hardships that tips sharply towards the [petitioner], and (4) the injunction is
27 in the public interest.” *Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180,
28 1190 (9th Cir. 2024) (internal quotation marks omitted). “[I]f a [petitioner] can only show

1 that there are serious questions going to the merits—a lesser showing than likelihood of
2 success on the merits—then a preliminary injunction may still issue if the balance of
3 hardships tips sharply in the [petitioner’s] favor, and the other two *Winter* factors are
4 satisfied.” *Alliance for the Wild Rockies*, 865 F.3d at 1217 (internal quotation marks omitted).

5 Petitioner cannot establish that he is likely to succeed on the underlying merits, there
6 is no showing of irreparable harm, and the equities do not weigh in his favor.

7 **1. Petitioner is not likely to succeed on the underlying merits.**

8 A preliminary injunction is an “extraordinary remedy never awarded as of right.”
9 *Winter*, 555 U.S. at 7, 24. The first *Winter* factor — likely success on the merits — is “the
10 most important” and is a threshold inquiry. *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir.
11 2015). Petitioners carry the burden of demonstrating a likelihood of success (or alternatively
12 showing “serious questions going to the merits”). See *A Woman’s Friend Pregnancy Resource*
13 *Clinic*, 901 F.3d at 1167; *Alliance for the Wild Rockies*, 865 F.3d at 1217.

14 ***i. DHS Has Plenary Power to Transfer Detainees and This Court Lacks***
15 ***Jurisdiction to Review the Decision Regarding the Location of Detention***

16 In addition to immediate release, Petitioner asks the Court to prohibit DHS from
17 subsequently transferring him his current detention center. That request fails at the
18 threshold.

19 Under 8 U.S.C. § 1231(g)(1), the Attorney General (now the Secretary of Homeland
20 Security) has authority to “arrange for appropriate places of detention for aliens detained
21 pending... a decision on removal.” Courts have long recognized that this provision confers
22 broad, discretionary authority over the location and transfer of immigration detainees. *Van*
23 *Dinh v. Reno*, 197 F.3d 427, 433 (10th Cir. 1999) (explaining that the Attorney General’s
24 power to transfer immigrant detainees arises from 8 U.S.C. § 1231(g)(1));
25 *GandarillasZambrana v. Bd. Of Immigr. Appeals*, 44 F.3d 1251, 1256 (4th Cir. 1995) (“The
26 INS necessarily has the authority to determine the location of detention of an alien in
27 deportation proceedings . . . and therefore, to transfer aliens from one detention center to
28 another.”); *Comm. of Cent. Am. Refugees v. INS*, 795 F.2d 1434, 1440 (9th Cir.), amended by

1 807 F.2d 769 (9th Cir. 1986) (“CCAR”) (recognizing “the Attorney General’s broad
2 discretion in exercising his authority to choose the place of detention for deportable
3 aliens”); *Rios-Berrios v. Immigr. & Naturalization Serv.*, 776 F.2d 859, 863 (9th Cir. 1985)
4 (stating that the Court was not opining on whether the detainee should have been
5 transferred to a different state, as that is a decision for the Attorney General); *Sasso v.*
6 *Milhollan*, 735 F. Supp. 1045, 1048 (S.D. Fla. 1990) (“Congress . . . has squarely placed the
7 responsibility of determining where aliens are to be detained within the sound discretion of
8 the Attorney General.”).

9 Congress further stripped courts of jurisdiction to review such discretionary
10 determinations. Section 1252(a)(2)(B)(ii) provides that “no court shall have jurisdiction to
11 review any . . . decision or action . . . the authority for which is specified . . . to be in the
12 discretion” of the Secretary. Transfer decisions fall squarely within that category. *Van Dinh*,
13 197 F.3d at 433–34.

14 Petitioner cannot manufacture jurisdiction by recasting a challenge to DHS’s
15 discretionary transfer authority as a due process claim. Courts have repeatedly rejected
16 attempts to “cloak an abuse of discretion argument in constitutional garb.” *Torres-Aguilar v.*
17 *INS*, 246 F.3d 1267, 1271 (9th Cir. 2001).

18 Because Petitioner’s request to enjoin transfer challenges a discretionary
19 determination committed to DHS by statute, the Court lacks jurisdiction to grant that
20 relief, and the motion for a TRO should be denied on that basis alone.

21 ***ii. Petitioner is Subject to Mandatory Detention Under sec. 1225***

22 In this case, Petitioner cannot establish that he is likely to succeed on the underlying
23 merits of his claims for alleged statutory and constitutional violations because he is subject
24 to mandatory detention under 8 U.S.C. § 1225. Petitioner contends that because he is a
25 noncitizen residing in the United States who originally entered the United States without
26 inspection or parole, and have not affirmatively sought admission, § 1225(b)(2)’s mandatory
27 detention provision does not apply to him. ECF No. 1 at 10-16. Instead, he claims that he is
28 likely to succeed on the merits based on the text of § 1225(b)(2) and its interplay with §

1 1226(a), the legislative history of the Illegal Immigration Reform and Immigrant
2 Responsibility Act of 1996 (“IIRIRA”), and the BIA’s previous longstanding agency
3 practice of granting bond redetermination for noncitizens present in the U.S. under §
4 1226(a).

5 Petitioner’s interpretation is inconsistent with the text of § 1225(b). The Court should
6 reject Petitioner’s argument that § 1226(a) governs his detention instead of § 1225. When
7 there is “an irreconcilable conflict in two legal provisions,” then “the specific governs over
8 the general.” *Karczewski v. DCH Mission Valley LLC*, 862 F.3d 1006, 1015 (9th Cir. 2017). 8
9 U.S.C. § 1226(a) applies to those arrested and detained pending a decision on removal. 8
10 U.S.C. § 1226(a); In contrast, § 1225 is narrower. *See* 8 U.S.C. § 1225. It applies only to
11 “applicants for admission”; that is, as relevant here, aliens present in the United States who
12 have not been admitted. *See id.*; *see also Florida v. United States*, 660 F. Supp. 3d 1239, 1275
13 (N.D. Fla. 2023). Because Petitioner falls within that category, the specific detention
14 authority under § 1225 governs over the general authority found at § 1226(a).

15 Under 8 U.S.C. § 1225(a), an “applicant for admission” is defined as an “alien
16 present in the United States who has not been admitted or who arrives in the United
17 States.” Applicants for admission “fall into one of two categories, those covered by
18 §1225(b)(1) and those covered by § 1225(b)(2).” *Jennings*, 583 U.S. at 287. Section 1225(b)(2)
19 — the provision relevant here — is the “broader” of the two. *Id.* It “serves as a catchall
20 provision that applies to all applicants for admission not covered by § 1225(b)(1) (with
21 specific exceptions not relevant here).” *Id.* And § 1225(b)(2) mandates detention. *Id.* at 297;
22 *see also Matter of Yajure Hurtado*, 29 I. & N. Dec. at 218-19 (for “those aliens who are seeking
23 admission and who an immigration officer has determined are ‘not clearly and beyond a
24 doubt entitled to be admitted’ . . . the INA explicitly requires that this third ‘catchall’
25 category of applicants for admission be mandatorily detained for the duration of their
26 immigration proceedings”); *Matter of Li*, 29 I. & N. Dec. at 69 (“[A]n applicant for
27 admission who is arrested and detained without a warrant while arriving in the United
28 States, whether or not at a port of entry, and subsequently placed in removal proceedings is

1 detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any
2 subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a).”). Section
3 1225(b) therefore applies because Petitioner is present in the United States without being
4 admitted.

5 The BIA has long recognized that “many people who are not *actually* requesting
6 permission to enter the United States in the ordinary sense are nevertheless deemed to be
7 ‘seeking admission’ under the immigration laws.” *Matter of Lemus-Losa*, 25 I. & N. Dec. 734,
8 743 (BIA 2012). Petitioner “provide[s] no legal authority for the proposition that after some
9 undefined period of time residing in the interior of the United States without lawful status,
10 the INA provides that an applicant for admission is no longer ‘seeking admission,’ and has
11 somehow converted to a status that renders him or her eligible for a bond hearing under
12 section 236(a) of the INA.” *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 221 (citing *Matter of*
13 *Lemus-Losa*, 25 I. & N. Dec. at 743).

14 Statutory language “is known by the company it keeps.” *Marquez-Reyes v. Garland*, 36
15 F.4th 1195, 1202 (9th Cir. 2022) (quoting *McDonnell v. United States*, 579 U.S. 550, 569
16 (2016)). The phrase “seeking admission” in § 1225(b)(2)(A) must be read in the context of
17 the definition of “applicant for admission” in § 1225(a)(1). Applicants for admission are
18 both those individuals present without admission and those who arrive in the United States.
19 See 8 U.S.C. § 1225(a)(1). Both are understood to be “seeking admission” under §1225(a)(1).
20 See *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 221; *Matter of Lemus-Losa*, 25 I. & N. Dec. at
21 743. Congress made that clear in § 1225(a)(3), which requires all aliens “who are applicants
22 for admission or otherwise seeking admission” to be inspected by immigration officers. 8
23 U.S.C. § 1225(a)(3). The word “or” here “introduce[s] an appositive – a word or phrase that
24 is synonymous with what precedes it (‘Vienna or Wien,’ ‘Batman or the Caped Crusader’).”
25 *United States v. Woods*, 571 U.S. 31, 45 (2013).

26 Petitioner’s interpretation also reads “applicant for admission” out of §
27 1225(b)(2)(A). One of the most basic interpretative canons instructs that a “statute should be
28 construed so that effect is given to all its provisions.” See *Corley v. United States*, 556 U.S. 303,

1 314 (2009) (cleaned up). Petitioner’s interpretation fails that test. It renders the phrase
2 “applicant for admission” in § 1225(b)(2)(A) “inoperative or superfluous, void or
3 insignificant.” *See id.* If Congress did not want § 1225(b)(2)(A) to apply to “applicants for
4 admission,” then it would not have included the phrase “applicants for admission” in the
5 subsection. *See* 8 U.S.C. § 1225(b)(2)(A); *see also Corley*, 556 U.S. at 314.

6 The district court’s decision in *Florida v. United States* is instructive here. There, the
7 court held that 8 U.S.C. § 1225(b) mandates detention of applicants for admission
8 throughout removal proceedings, rejecting the assertion that DHS has discretion to choose
9 to detain an applicant for admission under either section 1225(b) or 1226(a). 660 F. Supp.
10 3d at 1275. The court held that such discretion “would render mandatory detention under §
11 1225(b) meaningless. Indeed, the 1996 expansion of § 1225(b) to include illegal border
12 crossers would make little sense if DHS retained discretion to apply § 1226(a) and release
13 illegal border crossers whenever the agency saw fit.” *Id.* The court pointed to *Demore v. Kim*,
14 538 U.S. 510, 518 (2003), in which the Supreme Court explained that “wholesale failure” by
15 the federal government motivated the 1996 amendments to the INA. *Florida*, 660 F. Supp.
16 3d at 1275. The court also relied on, *Matter of M-S-*, 27 I. & N. Dec. at 516, in which the
17 Attorney General explained “section [1225] (under which detention is mandatory) and
18 section [1226(a)] (under which detention is permissive) can be reconciled only if they apply
19 to different classes of aliens.” *Florida*, 660 F. Supp. 3d at 1275.

20 When the plain text of a statute is clear, “that meaning is controlling” and courts
21 “need not examine legislative history.” *Washington v. Chimei Innolux Corp.*, 659 F.3d 842,
22 848 (9th Cir. 2011). But to the extent legislative history is relevant here, nothing “refutes the
23 plain language” of § 1225. *Suzlon Energy Ltd. v. Microsoft Corp.*, 671 F.3d 726, 730 (9th Cir.
24 2011). Congress passed IIRIRA to correct “an anomaly whereby immigrants who were
25 attempting to lawfully enter the United States were in a worse position than persons who
26 had crossed the border unlawfully.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en
27 banc), *declined to extend by*, *United States v. Gambino-Ruiz*, 91 F.4th 981 (9th Cir. 2024); *see*
28 *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 223-34 (citing H.R. Rep. No. 104-469, pt. 1, at

1 225 (1996)). It “intended to replace certain aspects of the [then] current ‘entry doctrine,’
2 under which illegal aliens who have entered the United States without inspection gain
3 equities and privileges in immigration proceedings that are not available to aliens who
4 present themselves for inspection at a port of entry.” *Id.* (quoting H.R. Rep. 104-469, pt. 1,
5 at 225). The Court should reject Petitioner’s interpretation because it would put aliens who
6 “crossed the border unlawfully” in a better position than those “who present themselves for
7 inspection at a port of entry.” *Id.* Aliens who presented at a port of entry would be subject to
8 mandatory detention under § 1225, but those who crossed illegally would be eligible for a
9 bond under § 1226(a). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. at 225 (“The House
10 Judiciary Committee Report makes clear that Congress intended to eliminate the prior
11 statutory scheme that provided aliens who entered the United States without inspection
12 more procedural and substantive rights than those who presented themselves to authorities
13 for inspection.”).

14 In addition, on September 24, 2025, the Court in *Chavez v. Noem*, denied a TRO after
15 finding that Petitioners who do not contest that they are “aliens present in the United States
16 who have not been admitted.” *Chavez*, 2025 WL 2730228. “By the plain language of §
17 1225(a)(1), then Petitioners are applicants for admission and thus subject to the mandatory
18 detention provision of applicants for admission under § 1225(b)(2)” *Id.* Such a reading of the
19 statute comports with Congress’ addition of §1225(a)(1) by IIRIRA in 1996. Prior to
20 IIRIRA, an “anomaly” existed “whereby immigrants who were attempting to lawfully enter
21 the United States were in a worse position than persons who had crossed the border
22 unlawfully.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020). The addition of § 1225(a)(1)
23 “ensure[d] that all immigrants who have not been lawfully admitted, regardless of their
24 physical presence in the country, are placed on equal footing in removal proceedings under
25 the INA — in the position of an ‘applicant for admission.’” *Id.* As the Ninth Circuit did
26 recently in *United States v. Gambino-Ruiz*, 91 F.4th 981, 990 (9th Cir. 2024), we thus also
27 “refuse to interpret the INA in a way that would in effect repeal that statutory fix” intended
28

1 by Congress in enacting IIRIRA. *Chavez*, at 4. Because Petitioner is properly detained under
2 § 1225, he cannot show entitlement to relief.

3 **2. Petitioner cannot show irreparable harm.**

4 To prevail on his request for interim injunctive relief, Petitioner must demonstrate
5 “immediate threatened injury.” *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th
6 Cir. 1988) (citing *Los Angeles Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d 1197,
7 1201 (9th Cir. 1980)). Merely showing a “possibility” of irreparable harm is insufficient. *See*
8 *Winter*, 555 U.S. at 22. And as discussed above, detention alone is not an irreparable injury.
9 *See Reyes*, 2021 WL 662659, at *3 (“[C]ivil detention after the denial of a bond hearing [does
10 not] constitute[] irreparable harm such that prudential exhaustion should be waived.”).
11 Further, “[i]ssuing a preliminary injunction based only on a possibility of irreparable harm
12 is inconsistent with [the Supreme Court’s] characterization of injunctive relief as an
13 extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is
14 entitled to such relief.” *Winter*, 555 U.S. at 22. Here, as explained above, because
15 Petitioner’s alleged harm “is essentially inherent in detention, the Court cannot weigh this
16 strongly in favor of” Petitioner. *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL
17 7474861, at *10 (N.D. Cal. Dec. 24, 2018).

18 **3. Balance of Equities does not tip in Petitioner’s favor.**

19 It is well settled that the public interest in enforcement of the United States’
20 immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 551-58
21 (1976); *Blackie’s House of Beef, Inc.*, 659 F.2d at 1221 (“The Supreme Court has recognized
22 that the public interest in enforcement of the immigration laws is significant.”) (citing cases);
23 *see also Nken*, 556 U.S. at 435 (“There is always a public interest in prompt execution of
24 removal orders: The continued presence of an alien lawfully deemed removable undermines
25 the streamlined removal proceedings IIRIRA established and permits and prolongs a
26 continuing violation of United States law.”) (internal quotation omitted). The BIA also has
27 an “institutional interest” to protect its “administrative agency authority.” *See McCarthy v.*
28 *Madigan*, 503 U.S. 140, 145, 146 (1992) *superseded by statute as recognized in Porter v. Nussle*,

1 534 U.S. 516 (2002). “Exhaustion is generally required as a matter of preventing premature
2 interference with agency processes, so that the agency may function efficiently and so that it
3 may have an opportunity to correct its own errors, to afford the parties and the courts the
4 benefit of its experience and expertise, and to compile a record which is adequate for
5 judicial review.” *Glob. Rescue Jets, LLC v. Kaiser Found. Health Plan, Inc.*, 30 F.4th 905, 913
6 (9th Cir. 2022) (quoting *Weinberger v. Salfi*, 422 U.S. 749, 765 (1975)). Indeed, “agencies, not
7 the courts, ought to have primary responsibility for the programs that Congress has charged
8 them to administer.” *McCarthy*, 503 U.S. at 145.

9 Moreover, “[u]ltimately the balance of the relative equities ‘may depend to a large
10 extent upon the determination of the [movant’s] prospects of success.’” *Tiznado-Reyna v.*
11 *Kane*, Case No. CV 12-1159-PHX-SRB (SPL), 2012 WL 12882387, at * 4 (D. Ariz. Dec. 13,
12 2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987)). Here, as explained above,
13 Petitioner cannot succeed on the merits of his claims because his detention is under
14 §1225(b)(2)(A). The balancing of equities and the public interest weigh heavily against
15 granting Petitioner equitable relief.

16 **IV. Conclusion**

17 Petitioner seeks the extraordinary remedy of injunctive relief based on a statutory
18 interpretation that is foreclosed by the plain text of the Immigration and Nationality Act and
19 controlling precedent. As set forth above, Petitioner is an applicant for admission subject to
20 mandatory detention under 8 U.S.C. § 1225(b)(2)(A), and DHS acted within its statutory
21 and regulatory authority in detaining and transferring him during the pendency of his
22 removal proceedings. Petitioner’s attempt to recharacterize DHS’s discretionary
23 determinations as due process violations does not confer jurisdiction on this Court or
24 establish entitlement to relief.

25 Petitioner has failed to demonstrate a likelihood of success on the merits—or even
26 serious questions going to the merits—has not shown irreparable harm, and cannot establish
27 that the balance of equities or the public interest favors the requested relief. For these
28

1 reasons, Respondents respectfully request that the Court deny Petitioner's Motion for
2 Temporary Restraining Order.

3 Respectfully submitted this 26th day of December 2025.

4
5 TODD BLANCHE
6 Deputy Attorney General of the United States
7 SIGAL CHATTAH
8 First Assistant United States Attorney

9
10 /s/ Summer A. Johnson
11 SUMMER A. JOHNSON
12 Assistant United States Attorney
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