UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Hector Enrique Quinapanta Guangasig, Petitioner, v. Kristi Noem, et al. Respondents.	Case No. Judge: Magistrate Judge: No request for jury trial **MEMORANDUM OF POINTS AND AUTHORITIESIN SUPPORT OF PETITIONERS' MOTIONFOR A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION** **ORAL ARGUMENT REQUESTED**

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MEMORANDUM OF POINTS AND AUTHORITIES

IN SUPPORT OF PETITIONER'S MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65, Hector Enrique Quinapanta-Guangasig, ("Petitioner") by and through undersigned counsel, respectfully requests this Court to enter an Order preliminarily enjoining the Respondents from removing him from the United States until further order of this court pending the adjudication of his habeas petition. The grounds for this Motion are set forth below and in the Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief ("Petition") and exhibits thereto.

FACTUAL BACKGROUND

Petitioner, Mr. Hector Enrique Quinapanta Guangasig, is a forty-one year old male, residing in Brooklyn, New York for eighteen years prior to being detained by the government. Petitioner is currently in removal proceedings before the Eloy Immigration Court. A Notice to Appear initiating these proceedings was issued on October 19, 2025(*see* **Exhibit "A"**) charging the Petitioner with inadmissibility to NA § 212(a)(6)(A)(i), alleging that he is an alien present in the United States without being admitted or paroled, or who arrived at a time or place other than as designated by the Attorney General. Petitioner is represented by counsel, Andrea C. Soto, who has entered a notice of appearance before this Honorable Court *pro hac vice*.

The inadmissibility charge in the NTA reflects DHS's determination that Petitioner entered without inspection and is subject to removal proceedings under INA § 240. The NTA does not classify him as an "arriving alien," and instead identifies him as an individual present in the United States without lawful admission, thereby placing him within the jurisdiction of the Immigration Court for full removal proceedings.

Mr. Hector Quinapanta is a native and citizen of Ecuador and filed an Application for Asylum and Withholding of Removal pursuant to sections 208 and 241(b)(3) of the Immigration and Nationality Act, respectively. Petitioner is also prima facie eligible for T Nonimmigrant Status based on his experience as a victim of human trafficking during his journey to the United States. He was subjected to deception, financial coercion, and physical violence by organized smugglers, including extortion, armed assault, and repeated transfers between traffickers. These circumstances reflect key indicators of trafficking under federal law—such as fraud, coercion, restricted movement, and exposure to life-threatening conditions—and support his eligibility for protection under the T visa program, which assists victims present in the United States due to such victimization.

Counsel filed a Motion for Bond and Custody Redetermination before the Immigration Judge, which was summarily denied on December 5, 2025. The Immigration cited the Immigration Board of Appeals' precedential ruling in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that Immigration Courts lack jurisdiction to consider bond proceedings for individuals present in the United States without admission (*see* **Exhibit "B").**

The Form I-213, Record of Deportable/Inadmissible Alien, confirms that Petitioner has no criminal history (*see* **Exhibit "C"**). This record supports his eligibility for discretionary relief and underscores his consistent compliance with lawful behavior.

Petitioner remains in ICE custody at the Eloy Federal Contract Facility despite presenting a viable claim for asylum and compelling humanitarian equities that strongly support his release. His continued detention without access to a bond hearing violates his constitutional rights and imposes significant hardship, particularly given the physical and psychological trauma he

continues to endure as a result of past victimization and the credible fear of persecution he faces if returned to Ecuador.

ARGUMENT

Petitioner has not been issued a removal order in this instance. He continues to await adjudication of his pending application for asylum and withholding of removal, which seeks humanitarian protection based on past persecution and fear of future harm in Ecuador. Petitioner is challenging the constitutionality of the statutory framework by which the Respondents are detaining him without access to a bond hearing.

I. Motion for Temporary Restraining Order and Preliminary Injunctive Relief

To obtain a temporary restraining order, a petitioner-plaintiff "must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Piedmont Heights Civic Club, Inc. v. Moreland,* 637 F.2d 430 (5th Cir. 1981)). Under disturbingly similar circumstances, courts within this Circuit have granted petitions for a writ of habeas corpus pursuant 28 U.S.C. § 2241 where, as here, the petitioner has been present in the United States for more than two years, was unlawfully detained in the interior by the Department of Homeland Security under §§ 1225(a)(1), (b)(2) and sought immediate release.

The Ninth Circuit applies the traditional Winter standard but recognizes a sliding-scale approach where strong irreparable harm can compensate for a lesser showing on the merits. *Leiva-Perez v. Holder*, 640 F.3d 962, 968 (9th Cir. 2011). Courts in this Circuit routinely issue TROs to halt imminent removal or unlawful detention. See *Aracely, R. v. Nielsen*, 319 F. Supp.

3d 1108, 1128 (D. Ariz. 2018).

In a similar case where the Petitioner had been present in the United States for a lengthy period of time, this Court found that detaining her under 8 U.S.C. § 1225(b)(2) was unlawful and inapplicable holding that § 1225(b)(2) did not authorize her interior arrest and detention. *See Rivera Zumba v. Bondi*, Civ. No. 25-cv-14626 (KSH), D.N.J. (Sept. 26, 2025) (Hayden, U.S.D.J.). Another recent decision by this Court held that detention under 1225(b)(2)(A) amounts to detention in violation of the laws of the U.S. *Mugliza Castillo v. Lyons*, No. 2:25-cv-16219 (D.N.J. filed Oct. 3, 2025) (Farbiarz, J.). The elements are easily satisfied here. Petitioner's detention is unlawful and a textbook violation of his Due Process rights.

A. Petitioner will likely succeed on the merits.

Petitioner seeks his immediate release because he is unlawfully and unconstitutionally deemed ineligible for bond based on an erroneous finding that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Ninth Circuit law confirms that individuals arrested in the interior are detained under § 1226(a), not § 1225(b). In *Casas-Castrillon v. DHS*, 535 F.3d 942, 947 (9th Cir. 2008), the court held that noncitizens arrested inside the United States must receive bond hearings under § 1226(a). The Ninth Circuit differentiates sharply between those "seeking admission" and those already present in the country, and DHS may not recast an interior arrest as a port-of-entry detention. See *Alcaraz-Enriquez v. Garland*, 59 F.4th 1097, 1106 (9th Cir. 2023).

In examining the relevant provisions of §§ 1225 and 1226, the Court considers "whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). The Court's "job is to

interpret the words consistent with their 'ordinary meaning . . . at the time Congress enacted the statute.' *Wis. Cent. Ltd v. U.S.*, 585 U.S. 274, 277 (2018) (quoting *Perrin v. U.S.*, 444 U.S. 37, 42 (1979)); *see also New Prime Inc. v. Oliveira*, 586 U.S. 105, 113 (2019) (If courts could "freely invest old statutory terms with new meanings, we would risk amending legislation" and "upsetting reliance interests in the settled meaning of a statute") (internal quotations and citations omitted). Of course, the words of a statute "cannot be construed in a vacuum. It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *Roberts v. Sea-Land Services, Inc.*, 566 U.S. 93, 101 (2012) (*quoting Davis v. Mich. Dep't of Treasury*, 489 U.S. 803, 809 (1989)).

In *Jennings v. Rodriguez,* the Supreme Court analyzed the interplay between Section 1225 and Section 1226. 583 U.S. 281 (2018). The Supreme Court noted that Section 1225(b) applies primarily to "aliens seeking entry into the United States." *See* quoting *Jennings,* 583 U.S. at 297. The statute itself contemplates "arriving," "seeking," the present tense of someone at the port of entry, where the Government must determine whether an alien seeking to enter the country is admissible. *Kostak v. Trump*, No. 3:25-cv-01093, slip op. at 6 (W.D. La. Aug. 27, 2025) (Edwards, J.) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018)).

For non-citizens already present inside the United States, "Section 1226(a) creates a default rule for those aliens by permitting the Attorney General to release them on bond, 'except as provided in subsection (c) of this section." *See Jennings*, 583 U.S. at 303. A line must be drawn between how §§ 1225 and 1226 function when it comes to detention of noncitizens, and it is straightforward: detention authority under §1225 is exercised at or near the port of entry for those seeking admission, and detention authority under §1226 must be used when a non-citizen

is arrested in the interior of the United States. *See Martinez v. Hyde*, – F.Supp.3d –, 2025 WL 2084238 at *4 (D. Mass. July 24, 2025)(The line historically drawn between these two sections, making sense of their text and overall statutory scheme, is that section 1225 governs detention of non-citizens "seeking admission into the country," whereas action 1226 governs detention of non-citizens "already in the country."); *see also Lopez-Campos v. Raycraft,* 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025)("There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for over seventeen years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border."); *Rodriguez v. Bostock,* 779 F. Supp. 3d 1239, 1261 (W.D. Wash. 2025) (holding that § 1226(a), not §1225(b)(2), governs detention of a noncitizen who had resided in the United States for 15 years).

The Ninth Circuit has repeatedly held that prolonged or categorically mandatory detention without individualized review raises grave constitutional concerns. *Rodriguez v. Robbins*, 715 F.3d 1127, 1138–39 (9th Cir. 2013), held that prolonged detention under §§ 1225(b) or 1226 without a bond hearing violates due process. Similarly, in *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017), the Ninth Circuit held that when liberty is at stake, the government bears the burden of justifying detention.

At Petitioner's arrest on October 19, 2025, he was not apprehended while seeking admission at a port of entry. Instead, he was encountered and arrested in Brooklyn, New York, during a multi-agency surveillance operation targeting another individual. ICE officers, along with agents from the FBI and IRS, were conducting surveillance near Nicholast Avenue and when they approached Petitioner who matched the general description of their intended target. The officers initiated contact and identified themselves as immigration officers pursuant to 8

C.F.R. § 287.8(c)(2)(iii). Petitioner was not given adequate opportunity to challenge his detention at the time of arrest. He was indeed, arrested in violated of the Fourth and Fifth Amendments. Therefore, he should not have been detained under § 1225(b)(2), which applies to individuals seeking admission at a port of entry, not to individuals arrested within the interior of the United States.

B. Petitioner will Suffer Irreparable Harm

The harms that flow from the violation of Petitioner's constitutional rights are unquestionably irreparable. *See K.A. ex rel. Ayers v. Pocono Mountain Sch. Dist.*, 710 F.3d 99, 113 (3d Cir. 2013). The deprivation of an alien's liberty is, in and of itself, irreparable harm. *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Irreparable harm is virtually presumed in cases like this one where an individual is detained without due process. *Torres-Jurado v. Biden*, No. 19 CIV. 3595 (AT), 2023 WL 7130898, at *4 (S.D.N.Y. Oct. 29, 2023). ("[B]efore the Government unilaterally takes away that which is sacred, it must provide a meaningful process.").

The Ninth Circuit recognizes that prolonged detention itself constitutes irreparable constitutional injury. *Diouf v. Napolitano (Diouf II)*, 634 F.3d 1081, 1086–87 (9th Cir. 2011) ("Prolonged detention without adequate procedural safeguards presents a serious constitutional problem."). Likewise, the Ninth Circuit in *Padilla v. ICE*, 953 F.3d 1134, 1151 (9th Cir. 2020), condemned DHS detention practices that deny meaningful access to procedural protections.

C. Balance of the Equities and Public Interest

The "public interest is best served by ensuring the constitutional rights of persons within

the United States are upheld." *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). As discussed above, the abrupt detention without bond of Petitioner likely violated federal law and his due process. "There is generally no public interest in the perpetuation of unlawful agency action," and "there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations." *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (cleaned up).

Here, Petitioner's continued detention without a bond hearing is in violation of his Fifth Amendment rights and far outweighs any burden the Respondents would suffer.

II. The Court Has Authority to Grant Petitioner's Immediate Release Pending the Adjudication of His Habeas Petition

As a general matter, writs of habeas corpus are used to request release from custody. *Wilkinson v. Dotson*, 544 U.S. 74, 78 (2005). A habeas court has "the power to order the conditional release of an individual unlawfully detained—though release need not be the exclusive remedy and is not the appropriate one in every case in which the writ is granted." *Boumediene v. Bush,* 553 U.S. 723, 779 (2008) (noting that at "common-law habeas corpus was, above all, an adaptable remedy").

Release in this case is appropriate. Petitioner was not apprehended while seeking admission at a port of entry. He was arrested on October 19, 2025, well within the interior of the United States and was not given adequate opportunity to challenge his detention. Therefore, Petitioner should not have been detained under §1225(b)(2).

Federal courts in the Ninth Circuit routinely order release where detention is

unauthorized or unconstitutional. *Rodriguez v. Robbins*, 715 F.3d 1127, 1139–40 (9th Cir. 2013) (affirming district court's authority to order release where detention violates statutory and constitutional requirements). See also *Casas-Castrillon*, 535 F.3d at 949 (district courts may order release pending resolution of habeas claims when detention is unlawful).

CONCLUSION

For the foregoing reasons, the Court should grant the instant writ and order his immediate release from ICE custody.

Dated: December 15, 2025

Respectfully submitted,

By: _____

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