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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SUKHCHAIN S.,

Petitioner,

v.

WARDEN OF THE GOLDEN STATE
ANNEX, ET AL.,

Respondents.

CASE NO. 1:25-CV-01863-TLN-DMC

**MOTION TO DISMISS PETITION FOR WRIT
OF HABEAS CORPUS UNDER 28 U.S.C. § 2254
AND RULE 4; RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS; OPPOSITION TO
PRELIMINARY INJUNCTION; OPPOSITION
TO TEMPORARY RESTRAINING ORDER**

Petitioner is a citizen and national of India who was apprehended entering the United States from Mexico illegally on June 5, 2023. Removal proceedings were initiated and he was placed in the Intensive Supervision Appearance Program (ISAP). While on ISAP, Petitioner was arrested for domestic violence in Batavia County, Ohio, and convicted of Disorderly Conduct with a sentence of 26 days' incarceration. While on ISAP, Petitioner had multiple missed home visits. On September 9, 2025, Petitioner reported for a scheduled office visit at ISAP and requested permission to move to a different state. ERO denied his request and increased his supervision from home visits every 8 weeks to home

1 visits every 2 weeks. Petitioner became agitated towards ISAP employees, who contacted ERO at which
2 point Petitioner was detained in their discretion under 8 CFR 236.1(c)(9).¹

3 Because of Petitioner's unlawful entry on June 5, 2023, he is an "applicant for admission" who is
4 subject to mandatory detention by ICE under 8 U.S.C. § 1225(b)(2)(A). *See generally Cortes Alonzo v.*
5 *Noem et al.*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025).

6 Petitioner's prior release in the discretion of DHS does not have the effect of having converted
7 petitioner's presence in the United States into an "admission." "[A]n alien who 'arrives in the United
8 States,' or 'is present' in this country but 'has not been admitted,' is treated as 'an applicant for
9 admission.'" *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

10 As an applicant for admission, petitioner is subject to mandatory detention and thus ineligible for
11 a bond hearing. Therefore, the Petitioner's petition for writ of habeas corpus and motion for a temporary
12 restraining order should be denied.

13 This case is in the same procedural posture as the pending Ninth Circuit appeal in *Rodriguez v.*
14 *Bostock*, 779 F.Supp.3d 1239 (W.D. Wash. 2025), Ninth Circuit docket no. 25-6842. Because the issues
15 in *Rodriguez* are likely to be dispositive of the issues in this case, Respondents ask that any further
16 briefing deadlines be held abeyance until the resolution of the *Rodriguez* case.

17 Dated: December 19, 2025

ERIC GRANT
United States Attorney

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20 By: /s/ ROBERT L. VENEMAN-HUGHES
ROBERT L. VENEMAN-HUGHES
21 Assistant United States Attorney

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25 ¹ This summary of facts is based on a preliminary briefing from the Department of Homeland
26 Security, but due to the short turn-around time the Government is not yet in possession of supporting
27 documents connected to this summary. Petitioner attaches no declaration and makes no assertion of his
28 nationality or date of entry. Petitioner also did not serve the Government. While these deficiencies might
give rise to good cause for an extension of time, the Government believes as discussed herein that the
Rodriguez case presently pending before the Ninth Circuit will be dispositive of the issues in this case.
Therefore, the Government seeks to reserve the right to supplement this motion and opposition once
Rodriguez is decided.