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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROGER ARMANDO URBINA ZAPATA,
Petitioner,
v.
CHRISTOPHER CHESTNUT, et al.,¹
Defendants.

CASE NO. 1:25-CV-01922-WBS-CKD

OPPOSITION TO PETITIONER'S HABEAS
CORPUS PETITION AND MOTION FOR
TEMPORARY RESTRAINING ORDER

I. INTRODUCTION

Petitioner Roger Armando Urbina Zapata ("Petitioner") is a citizen of Nicaragua who entered the United States illegally. He is thus an "applicant for admission" who is subject to mandatory detention by ICE under 8 U.S.C. § 1225(b)(1). *See generally Cortes Alonzo v. Noem et al.*, 1:25-cv-01519-WBS-SCR at Dkt. 14 (E.D. Cal. Nov. 17, 2025).² The Court should deny the request for habeas corpus and motion for a temporary restraining order because the Petitioner is neither entitled to a pre-deprivation

¹ Respondent moves to strike and to dismiss all unlawfully named officials under § 2241. A petitioner seeking habeas corpus relief is limited to name only the officer having custody of him as the respondent to the petition. 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *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).

² The government recognizes that other courts have recently rejected similar arguments in cases involving other aliens detained under § 1225(b). *See Guzman v. Andrews*, No. 1:25-CV-01015-KES-SKO, 2025 U.S. Dist. LEXIS 176145 (E.D. Cal. Sep. 9, 2025); *Hernandez v. Wofford*, No. 1:25-CV-00986-KES-CDB, 2025 U.S. Dist. LEXIS 162801 (E.D. Cal. Aug. 21, 2025); *Castellon v. Kaiser et. al.*, No. 1:25-CV-00968-JLT-EPG, 2025 U.S. Dist. LEXIS 157841 (E.D. Cal. Aug. 14, 2025); *Maklad v. Murray*, No. 1:25-CV-00946-JLT-SAB, 2025 U.S. Dist. LEXIS 153675 (E.D. Cal. Aug. 8, 2025); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 U.S. Dist. LEXIS 37929 (E.D. Cal. Mar. 3, 2025).

1 hearing nor release during the pendency of his immigration proceedings.

2 **II. FACTUAL AND PROCEDURAL BACKGROUND**

3 Petitioner filed his § 2241 habeas corpus petition on December 18, 2025. ECF 1. In that
4 petition, Petitioner challenges his detention as violative of his due process rights because he is “hundreds
5 of miles from his retained counsel” and is also detained a lengthy distance “away from any supporting
6 evidence he may have for his asylum claim.” ECF 1, ¶ 37. Petitioner also argues that his detention
7 violates the Administrative Procedure Act. ECF 1, ¶¶ 43-47.

8 Petitioner filed his Motion for a Temporary Restraining Order on December 18, 2025, seeking
9 release from detention. ECF 2. In his motion, Petitioner admits that he is a Nicaraguan citizen who
10 entered the United States in 2022 without inspection. ECF 2 at 1, 9.

11 On December 18, 2025, the Court ordered Respondents to file their response to Petitioner’s
12 Motion for Temporary Restraining Order by 10:30 a.m. on December 19, 2025. ECF 6. Accordingly,
13 the Respondents file this response to the Court’s Order.

14 Attorneys for U.S. Immigration and Customs Enforcement have confirmed that Petitioner is
15 currently subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(1). They also indicated that
16 Petitioner was re-detained in November 2025 because he was placed into expedited removal
17 proceedings at that time. *See* attachment A. Recently, the Immigration Judge vacated USCIS’s negative
18 credible fear determination, Petitioner will now be served with a notice to appear, placing him into
19 removal proceedings, however the detention authority remains 18 U.S.C. § 1225(b)(1) because
20 Petitioner was a non-citizen placed in expedited removal.

21 **III. LEGAL STANDARDS**

22 **A. The Standard for Temporary Restraining Orders.**

23 The standard for issuing of a temporary restraining order is “substantially identical” to the
24 standard for issuing a preliminary injunction. *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240
25 F.3d 832, 839 n.7 (9th Cir. 2001). Preliminary injunctions are extraordinary remedies “never awarded
26 as of right.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). “[P]laintiffs seeking a
27 preliminary injunction face a difficult task in proving that they are entitled to this extraordinary
28 remedy.” *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010) (internal quotation omitted).

Petitioner’s burden is aptly described as “heavy.” *Id.* A preliminary injunction requires “substantial proof” and a “clear showing.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997).

“A plaintiff seeking a preliminary injunction must show that: (1) she is likely to succeed on the merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in her favor, and (4) an injunction is in the public interest.” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). Alternatively, a plaintiff can show “serious questions going to the merits and the balance of hardships tips sharply towards [plaintiff], as long as the second and third ... factors are satisfied.” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017)

B. Statutory Framework

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’” under 8 U.S.C. § 1225(a)(1)); *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (“an alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not been admitted,’ is treated as ‘an applicant for admission.’”) (citing 8 U.S.C. § 1225(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 1225, applicants for admission 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.”).

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IV. ARGUMENT

The Petitioner is lawfully detained pending adjudication of his asylum application and removal proceedings. As an applicant for admission, Petitioner is subject to mandatory detention and thus ineligible for a bond hearing. Therefore, there is no basis for habeas relief or a temporary restraining order.

The basic facts in this case are undisputed. The Petitioner is an alien who is present in the United States and has not been admitted to the United States. Accordingly, the Petitioner is an applicant for admission. Any alien who “is present” in the United States but “has not been admitted” to the United States is “an applicant for admission.” 8 U.S.C. § 1225(a)(1); *see also Jennings*, 583 U.S. at 287. Accordingly, Petitioner is subject to mandatory detention under statutory immigration law. 8 U.S.C. § 1225(b)(2)(A); *see generally Dominguez v. Noem*, No. 1:25-CV-1577-JDP, 2025 WL 3268507 (E.D. Cal. Nov. 24, 2025).

The Petitioner argues he is entitled to continued release and a pre-deprivation hearing under the Due Process Clause of the Constitution. At bottom, the Petitioner’s claim is that DHS previously treated aliens like the Petitioner as subject to § 1226(a) and not § 1225(b)(1), so therefore the Petitioner (and all other similarly situated aliens) must always be subject to § 1226(a). This argument fails because the fact that Executive Branch exercised discretion in one way in the past does not transform that discretionary act into an entitlement. Instead, the “procedural due process” owed to the Petitioner “is simply ‘[w]hatever the procedure authorized by Congress’ happens to be.” *Angov v. Lynch*, 788 F.3d 893, 898 (9th Cir. 2015) (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)). Here, § 1225 provides that process “[a]nd neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings.” *Jennings*, 583 U.S. at 297. Accordingly, the Court should deny the request for a temporary restraining order because the Petitioner cannot show a likelihood of success on the merits where he must be detained under the operative statute, and he has no right to a pre-deprivation hearing. *See Garcia v. County of Alameda*, 150 F.4th 1224, 1230 (9th Cir. 2025) (noting that the likelihood of success on the merits is the most important factor in determining whether a preliminary injunction is warranted).

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V. CONCLUSION

For the foregoing reasons, Petitioner's Habeas Corpus Petition and request for a Temporary Restraining Order should be denied.

Dated: December 19, 2025

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By: /s/ Veronica Alegría
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