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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

FERNANDO ANGUIANO GARCIA

PETITIONER,

VS.

TODD LYONS, ACTING DIRECTOR, IMMIGRATION
CUSTOMS AND ENFORCEMENT; AND CHRISTPHER
CHESTNUT, WARDEN, CALIFORNIA CITY
CORRECTIONAL FACILITY

RESPONDENTS.

CASE No.: 1:25-cv-01925-KES-SKO

**PETITIONER'S REPLY IN SUPPORT
OF TEMPORARY RESTRAINING
ORDER**

1 Petitioner Fernando Anguiano Garcia (“Petitioner” or “Anguiano Garcia”) submits the
2 following Reply in support of his Application for Temporary Restraining Order and in support of
3 his Habeas Petition (“Reply”).

4 Respondents’ Opposition is largely non-responsive. It fails entirely to address the key
5 arguments in Petitioner’s TRO and instead mostly discusses Petitioner’s irrelevant prior
6 immigration history. Respondents’ Opposition is also factually incorrect and misleading to the
7 Court.

8 Respondents fail to address Petitioner’s argument that individuals in the United States
9 released on bond (such as Petitioner), have a protected interest in their ongoing liberty.
10 Respondent incorrectly states that Petitioner has no right to due process or a pre-deprivation
11 hearing after being granted immigration bond. (ECF 11 at 5).

12 By only addressing 1) the likelihood of Petitioner’s success, Respondents failed to
13 address the remaining factors: 2) the likelihood of suffering irreparable harm in the absence of
14 preliminary relief; 3) the balance of equities and 4) the public interest. The balance of all of these
15 factors tip this matter in favor of Petitioner’s immediate release.
16

17 Respondents’ Opposition claims that Petitioner admitted in his motion that he “entered
18 the United States in 2016 without inspection”. ECF 11 at 3. This statement was never admitted to
19 by Petitioner as it is incorrect. DHS’ own submitted Notice to Appear as issued to Petitioner in
20 2016 correctly states that Petitioner “applied for admission to the United States at the Otay Mesa,
21 CA Port of Entry”. *See* Notice to Appear. Further, the submitted Declaration of Deportation
22 Officer Franklin Guzman (“Guzman Decl.”) paragraph 13 states correctly that “on April 14,
23 2016, Petitioner applied for admission at the Otay Mesa Port of Entry.”
24

25 In stating that Petitioner entered without inspection and is an applicant for admission,
26 Respondents would have this Court believe that Petitioner was recently arrested at the border and
27 thus has no constitutional rights or rights to due process. But, Petitioner presented at the border
28

in 2016 to seek asylum, was detained and later released on bond. He was found by an Immigration Judge not to be a danger nor a flight risk. He has a work authorization card and has been living in Northern California since his release in 2016. It is now almost ten years since Petitioner presented at the border. Petitioner absolutely has a Fifth Amendment right protecting him from his continued detention without due process.

Petitioner respectfully requests that the Court grant his Application for a Temporary Restraining Order ordering his immediate release under the same conditions he was subject to immediately prior to his detention on December 3, 2025 and enjoining Respondents from re-detaining him unless he is provided with proper notice and a pre-deprivation hearing before a neutral Judge.

I. ARGUMENT

a. Respondents Do not Address Petitioner's Case Law Cited in the TRO Regarding the Requirement for Changed Circumstances Before Re-Arrest

As noted in Petitioner's Opening Brief, case law is clear that after the granting of immigration bond, adequate notice and a hearing must be held in Immigration Court to determine whether that bond should be revoked or altered. *Ortega v. Bonnar*, 415 F.Supp.3d 963 (N.D.Cal., 2019). Respondent incorrectly states that Petitioner is claiming he must be afforded a bond hearing. What Petitioner is claiming is that he **already should have** been afforded a pre-deprivation hearing **before** being unlawfully arrested, showing a change of circumstances since his 2016 release that would make his arrest and detention lawful.

b. Regardless, 8 U.S.C. §1226(a) Governs Petitioner's Detention

Respondents argue that 8 U.S.C. § 1225 (b) applies to Petitioner's detention. But, 8 U.S.C. §1225 (b) applies to the inspection of aliens arriving in the United States and arrested without a warrant at the border or other ports of entry. The Supreme Court recognized, § 1225 is concerned "primarily [with those] seeking entry," *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018), i.e., cases "at the Nation's borders and ports of entry, where the Government must

1 determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Id.* at 287. The
2 entire statute is premised on the idea that an inspection occurs near the border and shortly after
3 arrival, as the statute repeatedly refers to “examining immigration officer[s],” 8 U.S.C. §
4 1225(b)(2)(A), (b)(4), or officers conducting “inspection[s]” of people “arriving in the United
5 States,” *id.* § 1225(a)(3), (b)(1), (b)(2), (d); *see also King v. Burwell*, 576 U.S. 473, 492 (2015)
6 (looking to an Act’s “broader structure . . . to determine [the statute’s] meaning”). But, in
7 December of 2025, Petitioner was not arrested at the border, he was arrested at the ICE office in
8 San Francisco, California, some 500 plus miles from the border.

9 Title 8 U.S.C. § 1226(a) “sets out the ‘default rule’ for [detention of] noncitizens already
10 present in the country.” *Lepe v. Andrews*, — F. Supp. 3d —, No. 1:25-cv-01163-KES-SKO
11 (HC), 2025 WL 2716910, at *3 (E.D. Cal. Sept. 23, 2025) (*quoting Jennings v. Rodriguez*, 583
12 U.S. 281, 289 (2018)).

14 **c. Respondents classification of Petitioner under 1225(b)(2) deprives him of due**
15 **process and is inconsistent with federal law**

16 On July 8, 2025, ICE, in coordination with the DOJ, announced a new policy that states
17 all applicants for admission are subject to mandatory detention under section 1225. See
18 *Martinez*, 2025 WL 2084238, at *4. The BIA adopted ICE’s interpretation in *Yajure Hurtado*,
19 disregarding the decades of contrary practice and statements in its own prior cases. 29 I&N Dec.
20 at 225 & n.6; *see Rodriguez*, 779 F. Supp. 3d at 1261 (discussing unpublished BIA decisions that
21 seem to conflict with *Yajure Hurtado*); *Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025)
22 (distinguishing, in May of this year, between “an applicant for admission who is arrested and
23 detained without a warrant while arriving in the United States” and aliens who may be detained
24 pursuant to section 1226). Respondents are relying on their belief that this Court has wrongly
25 decided recent cases on this issue instead of any issued precedential guidance or case law on
26 their position related to 8 U.S.C. §§ 1225 and 1226.
27
28

Being detained indefinitely without due process is inconsistent with federal law and
Petitioner's 5th amendment rights. Without proper due process, Respondents should be enjoined
from continuing to detain Petitioner.

d. Respondents' interpretation of 8 U.S.C. § 1225(b) is also inconsistent with the Lakin Riley Act, which went into effect January 29, 2025

As discussed above, Respondents make the argument that Petitioner is subject to
mandatory detention under their interpretation of 8 U.S.C. § 1225(b)(2) because Petitioner is an
"applicant for admission" due to his presence in the U.S. without having been either "admitted or
paroled." However, this argument ignores a recent Congressional amendment to the mandatory
detention provision. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). "This category
includes noncitizens who are (1) inadmissible under 1182(6)(A) [present without admission or
parole], (6)(C) [misrepresentation], or (7)(A) [lack of proper documentation] *and* (2) have been
charged with one of certain enumerated crimes." *Salcedo Aceros*, 2025 WL 2637503, at *10.
Under Respondents' view, however, this class of individuals was *already* subject to mandatory
detention under section 1225(b)(2)(A) because they satisfy the statutory definition of "applicants
for admission."

This Northern District recently addressed Respondents' argument, "adopting
Respondents' theory would be to presume Congress intended its amendment to have "[no] real
and substantial effect"—a presumption the Supreme Court has admonished is appropriate. *Stone*
v. I.N.S., 514 U.S. 386, 397 (1995)." *Bernal v. Albarran*, 2025 WL 3281422, at *1 (N.D.Cal.,
2025).

The Laken Riley Act was introduced to expand mandatory immigration detention and to
give "local law enforcement and ICE **more** (emphasis added) tools to fight illegal immigrants
who commit crime in the United States."¹

¹ <https://collins.house.gov/media/press-releases/laken-riley-act-passes-house-bipartisan-support>, last visited
December 17, 2025

1 If Congress wanted to prevent the release of immigrants who ought to be mandatorily
2 detained, Congress could simply have made more precise the language of 8 U.S.C. § 1225(b) to
3 show that ALL aliens present without having been admitted are subject to mandatory detention.

4 This argument was also recently discussed in *Vargas v. Bondi*, No. 1:25-cv-01699-DAE,
5 2025 WL 3251728 (W.D. Tex. Nov. 5, 2025). “A recent decision in this District found further
6 support for this interpretation given the legislative history and recent amendments to the Illegal
7 Immigration Reform and Immigrant Responsibility Act (“IIRIRA”). *See Guerrero v. Noem et al.*,
8 1:25-CV-1334-RP, at *5-7 (W.D. Tex. Oct. 27, 2025). § 1226 was amended earlier this year by
9 the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), requiring mandatory detention for
10 noncitizens charged with or convicted of certain crimes. This Court concurs with the opinion in
11 *Guerrero* that “[i]f all noncitizens charged as inadmissible due to entry without inspection were
12 already subject to mandatory detention under § 1225(b)(2), it would make no sense for Congress
13 to have amended the statute to require mandatory detention for specific subcategories of those
14 individuals.” *See Guerrero v. Noem et al.*, 1:25-CV-1334-RP, at *5-7 (W.D. Tex. Oct. 27, 2025).”
15
16 *Id.*

17 **II. PETITIONER’S NON-OPPOSITION TO RESPONDENTS’ REQUEST FOR**
18 **ABEYANCE - AFTER DECISION ON REQUESTED PRELIMINARY RELIEF**

19 Respondents request that the Court hold its ruling on the merits in this matter in abeyance
20 pending a Ninth Circuit ruling set for argument in February 2026. (ECF 11 at 6). *Rodriguez v.*
21 *Bostock*, 779 F.Supp.3d 1239 (W.D. Wash. 2025), Ninth Circuit docket no. 25-6842.
22
23 As included in Petitioner’s application for a Temporary Restraining Order, Petitioner would
24 suffer irreparable harm in the absence of preliminary relief. After a decision on the proposed
25 preliminary relief (TRO ordering Petitioner’s immediate release and PI), Petitioner does not
26 oppose that any further briefing deadlines or decisions be held in abeyance until the resolution of
27 the *Rodriguez* case.

28 **III. CONCLUSION**

For the foregoing reasons, Petitioner respectfully asks the Court to grant the Application

for a Temporary Restraining Order and order the Petitioner's immediate release.

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