



This request is supported by the concurrently filed Memorandum of Points and Authorities in Support of Request for Temporary Restraining Order.

**I. FACTUAL BACKGROUND**

1. Petitioner is in the physical custody of Respondents at the Bluebonnet Detention Facility in Anson, Texas. He now faces unlawful detention because Respondents have concluded Petitioner is subject to mandatory detention.

2. Petitioner is a national of Venezuela who entered the United States without inspection in or around 2021. He was taken into custody by U.S. Customs and Border Protection (“CBP”). Petitioner was placed in removal proceedings and subsequently released on his own recognizance.

3. On or about October 2025, Petitioner was detained by Immigration and Customs Enforcement (“ICE”) and transported to the Bluebonnet Detention Facility in Anson, Texas.

4. Respondents are now detaining Petitioner without a bond hearing. Respondents claim that Petitioner is an “applicant for admission” who is subject to mandatory detention under 8 U.S.C. § 1252(b)(2)(A).

5. On November 25, 2025, the court in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, Case No. 5:25-cv-01873, (C.D. Cal.), granted the Plaintiffs’ motion for class certification, creating a nationwide bond eligible class of noncitizens who entered without inspection, were later detained, and are now subject to mandatory detention statutes. The Court found that all class members are entitled to bond hearings under 8 U.S.C. § 1226(a) rather than being treated as mandatory detainees under 8 U.S.C. § 1225(b)(2)(A). *See* Ex. A.

**II. PETITIONER SATISFIES THE STANDARD FOR A TEMPORARY RESTRAINING ORDER**

6. To obtain a temporary restraining order, Petitioner must demonstrate: (1) a substantial likelihood of success on the merits; (2) irreparable harm absent immediate relief; (3) that the balance of hardships tips in Petitioner's favor; and (4) that the injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

7. Petitioner meets all four requirements, as set forth in detail in the accompanying Memorandum of Points and Authorities.

**A. LIKELIHOOD OF SUCCESS ON THE MERITS**

8. Petitioner has a substantial likelihood of success on the habeas petition on multiple independent grounds.

9. First, Petitioner's detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A). The BIA's interpretation in *Matter of Yajure Hurtado* conflicts with the statutory text and with nearly 100 federal district court decisions that have rejected it.

10. Second, Petitioner's prolonged detention without an individualized hearing violates procedural due process under the Fifth Amendment. *Mathews v. Eldridge*, 424 U. S. 319 (1976), requires balancing Petitioner's fundamental liberty interest against the government's interest, and that balance tips decisively in favor of a bond hearing.

11. Third, Petitioner's prior release and compliance created a constitutionally protected liberty interest that cannot be revoked without due process.

**B. IRREPERABLE HARM**

12. Petitioner suffers irreparable harm from continued unlawful detention. The deprivation of liberty itself constitutes irreparable injury that cannot be remedied by monetary

damages.

### **C. BALANCE OF HARDSHIP AND PUBLIC INTEREST**

13. The balance of hardships tips sharply in Petitioner's favor. Petitioner's fundamental liberty interest and the concrete harms from detention far outweigh any government interest in continued detention.

14. The government has presented no evidence that Petitioner poses a flight risk or danger to the community.

15. The public interest favors protecting constitutional rights and preventing unlawful detention.

### **III. CONCLUSION AND RELIEF REQUESTED**

16. For the foregoing reasons and those set forth in the accompanying Memorandum of Points and Authorities, Petitioner respectfully requests that this Court issue a temporary restraining order requiring Respondents to release Petitioner from immigration detention immediately, subject to reasonable conditions including:

- a. Appearing for all scheduled immigration court hearings;
- b. Maintaining current address information; and
- c. Any other condition this Court deems appropriate.

Dated this 18<sup>th</sup> of December 2025,

Respectfully submitted,

/s/ Miguel A. Taboada

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