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Attorneys for Petitioner

**Application for Pro Hac Vice Pending*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JASPREET S. [REDACTED]

Alien #: [REDACTED]

Petitioner,

v.

Warden, MESA VERDE DETENTION CENTER;
Orestes Cruz, IMMIGRATION and CUSTOMS
ENFORCEMENT AND REMOVAL
OPERATIONS SAN FRANCISCO FIELD OFFICE)
DIRECTOR; Todd M. Lyons, ACTING
DIRECTOR, IMMIGRATION and CUSTOMS
ENFORCEMENT; Kristi Noem,
SECRETARY OF THE DEPARTMENT OF
HOMELAND SECURITY; Pam Bondi,
ATTORNEY GENERAL OF THE UNITED
STATES

Respondents.

Case No. 1:25-cv-01940-TLN-EFB

**PETITIONER'S EX PARTE
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE**

Pursuant to Rule 65(b)(1) of the Federal Rules of Civil Procedure, Petitioner hereby moves the Court for emergency relief in the form of a temporary restraining order directing Respondents to release Petitioner from their custody or to set a bond amount pursuant to the

individualized bond hearing he previously had on October 23, 2025, before an immigration judge pursuant to 8 U.S.C. § 1226(a) within seven days of issuance of an Order.

Petitioner also seeks a temporary restraining order enjoining the Respondents from relocating him outside the jurisdiction of this court pending final resolution of this case. Petitioner further moves for the issuance of an order to show cause as to why a preliminary injunction should not issue.

This application is supported by a Memorandum of Points and Authorities and Petition for Writ of Habeas Corpus previously filed with supporting exhibits as is supported by the Declaration of Counsel below, and Respondents have been provided with advance notice of this filing.

Dated: December 22, 2025

Respectfully submitted,

By: s/ Saadia Siddique
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**Application for Pro Hac Vice Filed*

DECLARATION OF COUNSEL

Pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure and CivLR 23, I hereby certify that on December 22, 2025, at approximately 7:30 a.m., I emailed the U.S. Attorney's Office at the e-mail address provided by the Court, advising them I would be filing this ex parte application for TRO on Monday, December 22, 2025. As of the time and date of filing this application, I have not received a response from them.

I have provided a copy of this Application as well as the Petition for Writ of Habeas Corpus by email at approximately 4:00 PM on December 22, 2025.

Dated: December 22, 2025

Respectfully submitted,

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Alien #: [REDACTED])
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Petitioner,)
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Warden, MESA VERDE DETENTION CENTER;)
Orestes Cruz, IMMIGRATION and CUSTOMS)
ENFORCEMENT AND REMOVAL)
OPERATIONS SAN FRANCISCO FIELD OFFICE))
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SECRETARY OF THE DEPARTMENT OF)
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MEMORANDUM OF POINTS AND AUTHORITIES

A. Statutory and Regulatory Authority Confirms Bond Eligibility.

Congress expressly authorized release of noncitizens on bond during removal proceedings. Specifically, INA § 236(a), 8 U.S.C. § 1226(a), provides:

“On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) [mandatory detention] and pending such decision, the Attorney General—(1) may continue to detain the arrested alien; and (2) may release the alien on—(A) bond ... or (B) conditional parole ”

The implementing regulation is equally clear: “Custody and bond determinations made by the [Department of Homeland Security] ... may be reviewed by an Immigration Judge pursuant to 8 CFR part 1236.” 8 C.F.R. § 1003.19(a). *See also* 8 C.F.R. § 236.1(d)(1) (permitting requests for IJ bond redetermination).

Thus, as a matter of plain statutory and regulatory text, individuals detained in pending § 240 removal proceedings under § 1226(a) are bond-eligible before an immigration judge.

B. The Supreme Court Recognizes § 1226(a) as the Discretionary Bond Scheme.

The Supreme Court has squarely acknowledged that § 1226(a) creates a discretionary detention framework with bond authority, unlike the mandatory detention provisions of § 1226(c) or § 1225(b). In *Jennings v. Rodriguez*, 583 U.S. 281, 289–90 (2018), the Court explained that under § 1226(a), “the Attorney General may release the alien on bond” and that custody is therefore subject to individualized bond determinations. The BIA’s decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which reclassified long-term EWI respondents as § 1225(b) “applicants for admission” and thereby stripped IJs of bond jurisdiction, cannot be reconciled with the statutory structure recognized in *Jennings*. This Court is not bound to defer to an administrative interpretation that conflicts with the statute’s text and with Supreme Court precedent.

C. Intra-Circuit Precedent Affirms Jurisdiction to Review Bond Determinations.

District courts within the Ninth Circuit have consistently recognized that individuals detained under § 1226(a) are bond-eligible. In *Tanasache v. Noem*, No. 5:25-cv-3159, 2025 WL 3641173 (C.D. Cal. Dec. 16, 2025), the court granted a TRO ordering an individualized bond hearing under § 1226(a) where DHS had improperly asserted mandatory detention under § 1225(b)(2). The court rejected the government’s position as inconsistent with the statutory framework and the detainee’s constitutional rights.

Likewise, in *Orejuela Gutierrez v. Chestnut*, 2025 WL 3514495 (E.D. Cal. Dec. 8, 2025), the court carefully distinguished between detainees held under § 1225(b), who must rely solely on discretionary parole, and those detained under § 1226(a), who are entitled to seek bond before an IJ. Earlier, in *Guerrero Lepe v. Andrews*, the court explained that “the government’s argument that section 1225(b)(2)(A) applies to all noncitizens in the United States without admission is unpersuasive. The government’s proposed interpretation of the statute (1) disregards the plain meaning of section 1225(b)(2)(A); (2) disregards the relationship between section 1225 and 1226; (3) would render a recent amendment to section 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice.” *Guerrero Lepe v. Andrews*, 2025 WL 2716910 *6 (E.D. Cal. Sept. 23, 2025); *See also Ortiz Donis v. Chestnut*, 2025 WL 2879514 (E.D. Cal. Oct. 9, 2025).

In *Prieto-Romero v. Clark*, 534 F.3d 1053, 1068 (9th Cir. 2008), the Ninth Circuit concluded that the petitioner had not been denied due process precisely because he received a bond hearing under § 1226(a). The court explained that such a hearing afforded him an individualized determination of the government’s interest in his continued detention by a neutral decisionmaker. Similarly, in *Rodriguez v. Robbins* (“*Rodriguez II*”), 804 F.3d 1060, 1078–82 (9th Cir. 2015), the Ninth Circuit held that detention under § 1225(b) cannot continue indefinitely; at six months, “the government’s authority to detain the alien shifts to § 1226(a), which is discretionary and . . . requires a bond hearing.” The court noted that relying solely on discretionary parole was inadequate, as it left detainees vulnerable to errors and deprived them of neutral review.

More recently, multiple federal district courts, and in other circuits, have echoed this reasoning. *See Fuentes v. Lyons*, No. 5:25-cv-00153, at *10 (S.D. Tex. Oct. 16, 2025). Indeed, as almost every district court that has taken up this issue has concluded, including courts in this district, “the statutory text, the statute’s history, Congressional intent, and § 1226(a)’s application for the past three decades” clearly support the finding that §1226 is the applicable statute, not §1225. *See Buenrostro-Mendez v. Bondi*, 2025 WL 2886346, at *5 (S.D. Tex. Oct. 7, 2025) (quoting *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *4 (E.D. Mich. Sept. 9, 2025) and citing *Lopez-Arevalo v. Ripa*, 2025 WL 2691828, at *7 (W.D. Tex. Sept. 22, 2025)); *Belsai D.S. v. Bondi*, 2025 WL 2802947, at *6 (D. Minn. Oct. 1, 2025)). “In recent weeks, courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect.” *Lopez-Arevalo*, 2025 WL 2691828, at *7.

Thus, the Court may grant habeas relief where the government has attempted to circumvent that process. *See Espinoza Andres v. Noem*, 2025 WL 3458893 (S.D. Tex. Dec. 2, 2025); *Lopez-Arevalo v. Ripa*, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Singh v. Lewis*, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Jimenez v. FCI Berlin, Warden*, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Chogillo Chafila v. Scott*, 2025 WL 2688541 (D. Me. Sept. 2, 2025); *Ayala Casun v. Hyde*, 2025 WL 280679 (D.R.I. Oct. 2, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Beltran Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *B.D.V.S. v. Forestal*, 2025 WL 2855743 (S.D. Ind. Oct. 8, 2025); and *Zaragoza Mosqueda et al. v. Noem*, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025).

D. Persuasive Authorities from Other Circuits.

Courts across the country have long recognized that detention under § 1226(a) is distinct from mandatory detention under § 1225(b), and that the former scheme guarantees access to individualized bond determinations before an immigration judge. These decisions underscore the error in extending § 1225(b)'s no-bond regime to individuals like Mr. Singh.

Circuit courts outside the Ninth Circuit, including the United States Court of Appeals for the Sixth Circuit in *Rosales-Garcia v. Holland*, 322 F.3d 386, 412 (6th Cir. 2003), have also held that the indefinite detention of inadmissible aliens raised the same constitutional concerns as did the indefinite detention of the removable resident aliens in *Zadvydas*. Essentially, *Rosales* supports the conclusion that the immigration judges have authority to consider bond requests under § 1226(a) where an inadmissible noncitizen, such as an arriving alien at the port of entry who is otherwise ineligible for bond, has reached the point of becoming seemingly indefinite.

Other circuits have reached similar conclusions. The Third Circuit in *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 235 (3d Cir. 2011), held that Congress did not intend to authorize “prolonged, unreasonable detention” without the safeguard of a bond hearing, emphasizing that due process requires an opportunity to test the necessity of continued custody. District courts around the country have also intervened in comparable cases. In *Cuello v. Adduci*, No. 10-13641, 2010 WL 4226688, at *16 (E.D. Mich. Oct. 21, 2010), the court granted habeas relief to a § 1226(a) detainee who had never received a bond hearing, holding that “his continued detention and lack of meaningful custody review [did] not comport with due process.”

Taken together, these decisions reinforce two key points: first, that § 1226(a) detention is fundamentally tied to the availability of bond review before an immigration judge; and

second, that the absence of such review has consistently been viewed by courts as constitutionally suspect. When considered alongside the plain text of § 1226(a) and the Supreme Court’s recognition in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), that § 1226(a) represents a discretionary bond framework, this body of case law demonstrates why the IJ’s reliance on *Matter of Yajure Hurtado* to deny jurisdiction was misplaced.

Application to Petitioner Reveals Statutory Eligibility for Release or Release on Bond.

Mr. S [REDACTED] has lived in the United States for approximately five years after he was initially released on an Order of Supervision. After he was detained following an appointment for his credible fear interview, DHS decided to place Mr. S [REDACTED] into § 240 removal proceedings (*i.e.*, removal proceedings before the immigration court pursuant to 8 U.S.C. § 1229a and charged in relevant part, as removable under INA § 212(a)(7)(A)(i)(1) [8 U.S.C. § 1182(a)(7)(A)(i)] and INA § 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)] as not in possession of valid entry documents and as an alien present in the United States without being admitted or paroled, or who has arrived in the United States at any place or time other than designated respectively.

By the plain language of the Immigration and Nationality Act, Mr. S [REDACTED] detention falls within 8 U.S.C. § 1226(a)—not § 1225(b). Following his release on an Order of Supervision and then subsequent detention in San Francisco, California, Mr. S [REDACTED] is a noncitizen who entered the United States without inspection in September 2021, and he has since lived continuously in the United States. Mr. S [REDACTED] removal proceedings are presently scheduled for an individual calendar hearing at the Bakersfield Immigration Court on April 6, 2026, at 1:00 p.m., before Immigration Judge William David Neumeister.

As such, he is not properly classified as an “arriving alien.” For decades, Board of Immigration Appeals precedent has confirmed that similarly situated individuals—those

charged as inadmissible for entry without inspection—remain eligible for release on bond while in § 240 proceedings. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). Accordingly, Mr. S  is statutorily entitled to seek bond before an immigration judge, and his ongoing detention under § 1225(b) constitutes an unlawful and arbitrary misapplication of the statute.

Accordingly, Respondents' blanket policy prohibiting immigration judges from exercising jurisdiction over bond requests, based on the BIA's recent decisions in *Matter of Q. Li* and *Matter of Yajure Hurtado*, is legally erroneous and contrary to the statutory scheme, the regulations, and both binding and persuasive judicial precedent.

The standards for issuing a temporary restraining order and a preliminary injunction are “substantially similar”. See *Stuhlbarg Int’l Sales Co. v. John D. Bush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). In seeking a preliminary junction, the Petitioner must establish that he is like to succeed on the merits, that he is likely to suffer irreparable harm in the absence of relief, and the balance of equities weigh in his favor, and that an injunction is in the public interest. *Amoco Prod. Co. v. Vill. Of Gambell, AK*, 480 U.S. 531, 542 (1987).

Petitioner has a likelihood of success on the merits. The Immigration Judge erred in denying him bond on October 23, 2025, by erroneously misclassifying him being subject to the detention provisions of 8 U.S.C. § 1225, which does not allow for release on bond. 8 U.S.C. § 1225(b)(2)(A) indicates that an individual may be released only if he is paroled “for urgent humanitarian reasons or significant public benefit” pursuant to 8 U.S.C. 1182 (d)(5)(A). Detention under of 8 U.S.C. § 1225 is mandatory until removal proceedings are completed, in this case scheduled for April 6, 2026. Thus, he is suffering irreparable harm in not being permitted release on bond.

CONCLUSION & PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully prays that the Court enter an order setting a hearing on Petitioner's Application for a TRO and Preliminary Injunction at the earliest practicable time, and after such hearing grant Petitioner's requested TRO and Preliminary Injunction and granting such other relief as the Court deems just and proper.

DATE: December 22, 2025.

Respectfully Submitted,
JASPREET S 

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Attorneys for Petitioner
**Application for Pro Hac Vice Filed*

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PROOF OF SERVICE

I hereby certify that on **December 22, 2025**, I served a copy of the attached
**PETITIONER'S EX PARTE APPLICATION FOR TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW CAUSE**, by EMAIL DELIVERY to:

U.S. Attorney's Office

<mailto:usacac.ecf2241-imm@usdoj.gov>

I declare under penalty of perjury that the foregoing is true and correct.

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