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8 **UNITED STATES DISTRICT COURT**
9
10 **FOR THE DISTRICT OF COLORADO**

11 **SERGIO RUIZ-BAMACA**

12 A# 

13 Plaintiff,

14 vs.

15 **ROBERT GUADIAN**, Denver Field Office Director,
16 Immigration and Customs
17 Enforcement and Removal Operations
18 (“ICE/ERO”);

19 **TODD LYONS**, Acting Director of Immigration
20 Customs Enforcement (“ICE”);

21 **U.S. IMMIGRATION AND CUSTOMS**
22 **ENFORCEMENT;**

23 **KRISTI NOEM**, Secretary of the Department of
24 Homeland Security (“DHS”);

25 **U.S. DEPARTMENT OF HOMELAND**
26 **SECURITY (“DHS”);**

27 **PAMELA BONDI**, ATTORNEY GENERAL OF
28 THE UNITED STATES; AND

EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW,

Defendants

Case No.: _____

APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION

APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

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1 **I. INTRODUCTION**

2
3 Petitioner is a native and citizen of Guatemala who Respondents have
4 detained at the Denver Contract Facility, 3130 North Oakland Street, in
5 Aurora, Colorado 80010 – far from his usual abode with his father and siblings in
6 Orlando, Florida. He is held without bond pursuant to a Notice to Appear charging
7 him with removability under 8 U.S.C. § 1182(a)(6)(A)(i)[present without admission
8 or parole] [and/or 8 U.S.C. § 1182(a)(7)(i)(I)]. On available information, he has no
9
10 criminal record.
11

12 Petitioner contends he is being unlawfully detained because the Department
13 of Homeland Security (DHS) and the Executive Office for Immigration Review
14 (EOIR) of the Department of Justice (DOJ) have erroneously concluded he is subject
15 to mandatory detention, and not eligible for bond.
16
17

18 On July 8, 2025, DHS issued a directive instructing all Immigration and
19 Customs Enforcement (ICE) employees to consider anyone inadmissible under 8
20 U.S.C. § 1182(a)(6)(A)(i)—i.e., those, like Petitioner, who entered the United States
21 without inspection— to be an “applicant for admission” under 8 U.S.C. §
22 1225(b)(2)(A) and therefore subject to mandatory detention. Consistent with this
23
24 policy, DHS and EOIR have denied Petitioner release from immigration custody.
25

26 The Executive Office for Immigration Review (EOIR) of the Department of
27 Justice (DOJ) has recently affirmed that view. In a published decision, dated
28

1 September 5, 2025, the Board of Immigration Appeals held that “Immigration
2 Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are
3 present in the United States without admission.” *Matter of Yajure Hurtado*, 29 I&N
4 Dec. 216, 229 (BIA 2025).
5

6
7 For the following reasons, Petitioner asks this court to provide immediate
8 relief, 1) enjoining Respondents from removing him, and 2) ordering that Petitioner
9 be immediately released pending consideration of his Writ of Habeas Corpus, or that
10 he be afforded a reasonable bond.
11

12 **II. LEGAL AND FACTUAL BACKGROUND**

13
14 Petitioner Sergio Ruiz-Bamaca [A ] is a 21 year-old native and
15 citizen of Guatemala who was detained while driving his car in Orlando, Florida
16 [where he resides with his family] on November 11, 2025. He is now held in
17 Colorado at the Denver Contract Detention Facility at 3130 North Oakland Street
18 Aurora, Colorado 80010. Upon information and belief, he has no criminal record,
19 and was not committing any traffic violations at the time he was detained. The
20 Notice to Appear [charging document] was filed with the Immigration Court on
21 December 11, 2025, and he is held detained pursuant to a charge of removability
22 under 8 U.S.C. § 1182(a)(6)(A)(i)(present without admission or parole) and/or 8
23 U.S.C. § 1182(a)(7)(A)(i)(I)(not in possession of valid entry documents). Based on
24 the charge(s), he hasn’t been afforded bond consideration of any kind.
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III. ARGUMENT

A temporary restraining order is an "extraordinary remedy," and a motion requesting one is assessed under the same rubric as a motion for a preliminary injunction. *Winter v. Natural Res. Def Council, Inc.*, 555 U.S. 7, 22 (2008).

To obtain temporary and preliminary injunctive relief, Petitioner, must show that 1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

When the government is a party, the balance of equities and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Under the circumstances presented herein, no security bond is required under Federal Rule of Civil Procedure 65(c).

A. Petitioner has a High Likelihood of Success on the Merits

The Board of Immigration Appeals has held that individuals, like Petitioner, found to be removable under 8 U.S.C. §1182(a)(6)(A)(i) [present in the United States *without being admitted or paroled...*] are subject to mandatory detention. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

However, there is a mixed range of District Court decisions, some favoring Respondent's position [agreeing with *Yajure Hurtado*], and others siding with

1 Petitioner’s view that, although he might be removable under 8 U.S.C.
2 §1182(a)(6)(A)(i) (*present without being admitted or paroled*), this is not the same
3 as someone “seeking admission” within the meaning of the mandatory detention
4 provision at 8 U.S.C. § 1225(b)(2), because “seeking” is a term that cannot
5 reasonably apply to someone who has been placed into removal proceedings well
6 after their entry to the United States. *See* Petitioner’s Writ for Habeas.
7

8
9 However, Petitioner’s arguments for bond eligibility find support in the fact
10 that in 2025, Congress passed the Laken Riley Act, which added additional
11 categories of Section 1226(a) carve outs that are now subject to mandatory detention
12 under Section 1226(c). Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8
13 U.S.C. § 1226(c)(1)(E). It mandates the detention of noncitizens who are
14 inadmissible under §§ 1182(a)(6)(A) (noncitizens “present in the United States
15 without being admitted or paroled”), 1182(a)(6)(C) (misrepresentation), or
16 1182(a)(7) (lacking valid documentation) and who have been arrested for, charged
17 with, or convicted of certain crimes. *Id.* If Section 1225(b)(2) were already meant
18 to subject these groups of inadmissible noncitizens to mandatory detention, it would
19 render this portion of the Laken Riley Act redundant. *See Beltran Barrera v. Tindall*,
20 *No. 3:25-CV-541-RGJ, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025); Lopez-*
21 *Campos v. Raycraft, No. 2:25-CV-12486, 2025 WL 2496379, at *8 (E.D. Mich. Aug.*
22 *29, 2025).*
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1 Further, it is notable here to state that Central District of California certified
2 a class of aliens who, like Petitioner, are deemed applicants for admission, detained
3 by Respondents under 8 U.S.C. § 1225(b)(2), and providing that such class members
4 be afforded a bond hearing. *See Maldonado Bautista et al. v. Ernesto Santacruz Jr.*
5 *et al.*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025).
6
7

8 Petitioner is not aware of any policy directed by the Respondents to afford
9 anyone in the *Maldonado Bautisa* class a bond hearing.
10

11 Respondent's actions in detaining the Petitioner are causing irreparable harm
12 in the form of deprivation of his liberty pending resolution of his removal
13 proceedings. He is further disadvantaged by his detention so far from his Orlando,
14 Florida home. Absent injunctive relief, Respondents will continue to hold Petitioner
15 in indefinite custody.
16
17

18 For these reasons, where there are genuine issues as to whether Petitioner is
19 reasonably considered "seeking an admission" and subject to Mandatory Detention,
20 and where there has a been a class action certified that favors his view, Petitioner
21 has demonstrated irreparable harm.
22

23 **B. Petitioner Will Suffer Irreparable Harm Absent Emergency**

24 **Injunctive Relief**

25 Parties seeking preliminary injunctive relief must also show they are "*likely*
26 to suffer irreparable harm in the absence of preliminary relief." *Winter*, 555 U.S. at
27
28

1 20. Irreparable harm is harm for which there is “no adequate legal remedy, such as
2 an award of damages.” *Ariz. Dream Act. Coal. v. Brewer (Ariz. I)*, 757 F.3d 1053,
3 1068 (9th Cir. 2014).
4

5 Respondent’s actions in detaining the Petitioner are causing irreparable harm
6 in the form of deprivation of his liberty. Furthermore, his detention so far from home
7 has impeded his ability to assist in the preparation of defensive applications for relief
8 from removal. Petitioner has resided in the United States in Orlando, Florida with
9 his father, and has established a genuine issue as to whether he can continue to be
10 held subject to Mandatory Detention.
11
12

13 Absent injunctive relief, Respondents will continue to hold Petitioner in
14 indefinite custody.
15

16 For these reasons, Petitioner has demonstrated irreparable harm.
17

18 **C. The Balance of Hardships and Public Interest Weigh Heavily in**
19 **Petitioner’s Favor and Injunction is in the public interest**
20

21 The final two factors for injunctive relief—the balance of hardships and
22 public interest—“merge when the government is the opposing party. *Nken v. Holder*,
23 556 U.S. 418, 435 (2009).
24

25 Here, Petitioner faces weighty hardships in that he is detained pending his
26 removal proceedings and in another state far from his Florida home. By contrast,
27 Respondents face no hardship. In fact, Petitioner is detained at government
28 expense.

1 Therefore, the balance of hardships tips decidedly in plaintiffs’ favor” when “[f]aced
2 with such a conflict between financial concerns and preventable human suffering.”
3
4 *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) quoting *Lopez v. Heckler*,
5 713 F.2d 1432, 1437 (9th Cir. 1983).

6
7 Moreover, Respondents “cannot suffer harm from an injunction that merely
8 ends an unlawful practice” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir.
9 2013). The public interest is served by the faithful execution of the immigration laws,
10 and that interest includes respect for protections Congress has enacted and to which
11 the United States has committed itself by treaty. *Tesfamichael v. Gonzales*, 411 F.3d
12 169, 178 (5th Cir. 2005) (recognizing “the public interest in having the immigration
13 laws applied correctly and evenhandedly”); *Leiva-Perez v. Holder*, 640 F.3d 962,
14 971 (9th Cir. 2011) (noting “the public’s interest in ensuring that we do not deliver
15 [noncitizens] into the hands of their persecutors”); *Lujan v. Defs. of Wildlife*, 504
16 U.S. 555, 576 (1992) (discussing “the public interest in Government observance of
17 the Constitution and laws”).

18 IV. CONCLUSION

19 For the foregoing reasons, Petitioner requests that the court grant preliminary
20 injunctive relief, enjoining Respondents from removing him, and enjoining
21 Respondents from continuing to hold Petitioner detained, and ordering Respondents
22 to afford him a reasonable bond hearing, pending further proceedings respecting

1 whether he may be removed.

2 December 19, 2025

Respectfully submitted,

3
4 */s/ Vital D'Carpio*

5 _____
6 Vital D'Carpio
7 Counsel for Petitioner

8
9 **DECLARATION AND CERTIFICATION**

10 Pursuant to F.R.Civ.P. 65(b)(1)(A) and (B), I declare under penalty of perjury
11 that the facts set forth in the foregoing Application for Temporary Restraining Order
12 and Preliminary Injunction, are true and correct based on information available at
13 the time of this filing.
14

15
16 December 19, 2025

/s/ Vital D'Carpio

17 _____
18 Vital D'Carpio
19 Counsel for Petitioner

CERTIFICATE OF SERVICE

RUIZ-BAMACA V. GUADIAN, ET AL.

I certify under penalty of perjury, that I have served a copy of Petitioner's
Application for Temporary Restraining Order and Preliminary Injunction, and
Proposed Order, to all parties to this case via electronic filing on:

December 19, 2025

/s/ Vital D'Carpio

Vital D'Carpio
Counsel for Petitioner