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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

ALEJANDRO SANDOVAL-GARCIA,

Petitioner,

v.

PAM BONDI, Attorney General of the United States, in her official capacity; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; PATRICK DIVVER, ICE Field Office Director for San Diego County, in his official capacity; WARDEN OF IMPERIAL REGION DETENTION FACILITY.

Respondents.

Case No. '25CV3738 LL MSB

EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION

I
INTRODUCTION

Petitioner seeks a Temporary Restraining Order to halt his continued civil immigration detention and to preserve this Court's ability to adjudicate his pending habeas and APA claims.

Petitioner is a long-term California resident who was apprehended in the interior of the United States and placed in removal proceedings under INA § 240. He is detained solely because Respondents have adopted and enforced a categorical policy treating all individuals who entered without inspection—regardless of length of residence or place of arrest—as subject to mandatory detention under INA § 235(b)(2), without bond.

That policy—first announced in DHS's July 2025 internal guidance and later adopted by the Board of Immigration Appeals in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025)—strips Immigration Judges of bond jurisdiction that Congress expressly conferred under INA § 236(a). As applied here, it operates to mandate Petitioner's detention without any individualized assessment of danger or flight risk.

Petitioner does not challenge the merits of removability or any final order of removal; no removal order has been entered in his case. He challenges only the lawfulness of his continued detention and the legality of the categorical detention policy being applied to him.

Under the INA's text, structure, implementing regulations, and longstanding administrative practice, Petitioner's detention is governed by § 236(a), which authorizes discretionary release on bond and a custody redetermination hearing before an Immigration Judge. The agency's contrary interpretation conflicts with

the statute, exceeds its statutory authority, and results in prolonged civil detention without individualized custody review—rendering habeas relief appropriate and giving rise to additional claims under the Administrative Procedure Act and the Fifth Amendment.

Absent immediate relief, Petitioner faces continued civil detention without any individualized custody review before an Immigration Judge. While an individualized custody review determines whether release is appropriate, the gravamen of Petitioner's habeas claim is the categorical denial of any such review and the resulting imposition of mandatory civil detention without process—despite Petitioner's deep family ties, more than two decades of residence, and active pursuit of lawful status. Injunctive relief is necessary to prevent ongoing irreparable harm and to preserve the status quo pending resolution of this action.

II.
STATEMENT OF FACTS

A. Petitioner's Background and Immigration History

Petitioner Alejandro Sandoval-Garcia is a 54-year-old native and citizen of Mexico who has resided continuously in California since approximately 2001. His last entry into the United States was without inspection on or about December 25, 2001. He has lived in the community for more than twenty years and has deep family and community ties in the United States. (Ex. B, Bond Motion & Exs. A–H, pp 7-36)

On October 6, 2017, Petitioner married his U.S.-citizen spouse, Carmen Julia Atencio. On December 13, 2017, Ms. Atencio filed a Form I-130 Petition for Alien Relative on Petitioner's behalf. That petition was approved by USCIS on March 14, 2019. The approved I-130 remains valid and forms a basis for

Petitioner's pursuit of lawful permanent residence. (Ex. B, Exs. B–D, pp 16-22).

Following approval of the I-130 petition, Petitioner began pursuing the statutory process toward lawful permanent residence, including filing a Form I-601A provisional unlawful-presence waiver, a prerequisite step in the consular processing framework established by Congress and implemented by regulation. USCIS had not completed adjudication of that application when Petitioner was taken into ICE custody. (Ex. B, pp 7-36).

B. Arrest, Detention, and Removal Proceedings

On October 22, 2025, Petitioner was arrested by ICE in the interior of the United States, near a Home Depot location in California. He was not apprehended at a port of entry, nor was he subjected to expedited removal or border inspection procedures. DHS served Petitioner with a Notice to Appear placing him in removal proceedings under INA § 240. (Ex. A, Notice to Appear, pp 2-5).

Petitioner is currently detained pursuant to these removal proceedings. According to ICE's public detainee locator, he is detained at the Imperial Regional Detention Facility.

C. Bond Proceedings and Denial of Jurisdiction

Petitioner timely sought a custody redetermination hearing before the Immigration Court pursuant to INA § 236(a). In his bond motion, Petitioner submitted extensive documentary evidence demonstrating his long-term residence, marriage to a U.S. citizen, approved immigrant visa petition, financial stability, medical considerations, and strong community support. That evidence included the approved I-130 petition and supporting documentation submitted to the Immigration Judge. (Exs A. B, pp 2-5, 7-36).

The Immigration Judge, sitting in the Imperial Immigration Court, declined to exercise bond jurisdiction—not based on any individualized finding of danger or flight risk—but solely on the ground that *Matter of Yajure-Hurtado* purportedly eliminated bond jurisdiction for all individuals who entered without inspection. As a result, Petitioner was denied any individualized custody redetermination hearing and remains detained pursuant to a categorical mandatory-detention policy that displaces the statutory custody-redetermination framework Congress enacted. (Ex. C, pp 39-40).

D. Current Procedural Posture

Because *Matter of Yajure-Hurtado* is binding on Immigration Judges and forecloses bond jurisdiction categorically, Petitioner has no meaningful administrative avenue to obtain custody review or release. His continued detention is therefore solely the product of a binding agency rule implemented without congressional authorization, not an individualized assessment of danger or flight risk. (Ex. C, pp 39-40).

Petitioner is at an early stage of removal proceedings. He intends to seek administrative closure or comparable procedural relief to permit adjudication of his pending provisional waiver and pursuit of lawful permanent residence through the statutory framework Congress established.

Alternatively, Petitioner is developing a record to seek cancellation of removal. None of these avenues can be meaningfully pursued while Petitioner remains subject to mandatory civil detention without individualized custody review. (Exs. A-C. pp1-40).

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III.
ARGUMENT

The requirements for granting a Temporary Restraining Order are "substantially identical" to those for granting a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

Petitioners must demonstrate that (1) they are likely to succeed on the merits of their claims; (2) they are likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in their favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008).

A sliding scale test may be applied and an injunction should be issued when there is a stronger showing on the balance of hardships, even if there are "serious questions on the merits … so long as the plaintiff also shows a likelihood of irreparable harm and that the injunction is in the public interest." *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011); *see also Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024).

Petitioner satisfies the criteria and a TRO should be granted.

A. PETITIONER IS LIKELY TO SUCCEED

Petitioner is likely to succeed on his claims that his ongoing detention purportedly under under 8 U.S.C. § 1225(b)(2)—as imposed through Respondents' July 8, 2025 policy and the BIA's decision in *Matter of Yajure Hurtado*—is unlawful because it subjects long-term residents arrested in the interior of the United States to categorical mandatory detention and forecloses any individualized custody review before an Immigration Judge.

The text, structure, and history of the Immigration and Nationality Act

(INA) all demonstrate that 8 U.S.C. § 1226(a) governs Petitioner's detention. Congress established § 236(a) to allow immigration judges to conduct individualized custody redeterminations and to authorize release on bond or conditions.

By contrast, INA § 235(b)(2) applies to arriving aliens at the border and vests custody authority exclusively in DHS, leaving Immigration Judges without statutory authority to conduct individualized custody redeterminations. For decades, EOIR and DHS consistently recognized that long-settled residents apprehended in the interior fall under § 236(a), not § 235(b)(2)..

1. The Text Of § 1226(a) and § 1225(b)(2) Demonstrate That Petitioner is Not Subject To Mandatory Detention.

Section 1226(a) governs the detention of any noncitizen "pending a decision on whether the [noncitizen] is to be removed from the United States," plainly encompassing individuals like Petitioner who were arrested in the interior and placed in § 240 removal proceedings. See 8 U.S.C. § 1226(a).

This provision applies to both deportable (§ 1227(a)) and inadmissible (§ 1182(a)) noncitizens, and its scope is not limited by manner or timing of entry. DHS's attempt to classify Petitioner under § 235(b)(2)—based solely on his decades-old entry without inspection—rests on an overbroad interpretation that Congress did not adopt.

Congress confirmed that scope by enacting § 1226(c), which carves out narrow criminal categories—including certain inadmissible persons—for mandatory detention. If Respondents were correct that inadmissibility alone placed Petitioner under § 1225(b)(2), there would have been no need for Congress to specify inadmissible carve-outs in § 1226(c).

The Laken Riley Act of 2025 reinforces this structure. Congress amended § 1226(c) to add mandatory detention for inadmissible persons charged under §§ 1182(a)(6) or (a)(7) only when criminally implicated. Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E). By leaving such individuals under § 1226(a), Congress reaffirmed that long-time residents like Petitioner remain entitled to individualized custody determinations.

Multiple courts have adopted this reading in enjoining DHS's July 8 policy. See *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *14 (W.D. Wash. Apr. 24, 2025) (LRA amendments confirm § 1226(a) is the default for inadmissible noncitizens not criminally implicated).

Similarly, in *Diaz Martinez v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 2084238, at *7 (D. Mass. July 24, 2025), the court held that "if, as the Government argue[s], . . . a non-citizen's inadmissibility were alone already sufficient to mandate detention under § 1225(b)(2)(A), then the 2025 amendment would have no effect." See also *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025) (reaching the same conclusion).

Courts within this Circuit—and in this District—have likewise rejected DHS's categorical application of § 1225(b)(2) to long-term interior residents. In *Arias Torres v. Bondi*, No. 25-cv-02457-BAS-MSB (S.D. Cal. Nov. 18, 2025), the court granted habeas relief and ordered a bond hearing under § 1226(a), holding that DHS's reliance on § 1225(b)(2) for a long-term resident arrested in the interior was inconsistent with the INA's text and structure.

Similarly, in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873 (C.D. Cal.), the court granted habeas relief through a

temporary restraining order on July 28, 2025, ordered individualized bond hearings, and subsequently entered partial summary judgment holding that DHS's categorical application of § 1225(b)(2) to long-term interior residents is unlawful under the INA and the Administrative Procedure Act. The court later certified a Rule 23(b)(2) class, with final classwide injunctive relief pending.

By contrast, § 1225(b)(2) applies to inspections of applicants for admission at the border. Petitioner was not arriving at a port of entry but instead was apprehended in the interior of the United States after more than twenty years of continuous residence in California.

Subparagraph (b)(2)(C) refers to persons arriving from contiguous territory, underscoring the border-focused scope. The Supreme Court has confirmed that § 1225 addresses those seeking entry at ports of entry. *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018).

The Ninth Circuit likewise held that § 1225(a)(1)'s 'applicant for admission' clause cannot be read to convert anyone present without admission into an applicant for admission for purposes of § 1225(b)(2). *Torres v. Barr*, 976 F.3d 918, 927 (9th Cir. 2020) (*en banc*).

Interpreting it otherwise renders the seeking admission language superfluous, contrary to the canon against surplusage. See *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *Shulman v. Kaplan*, 58 F.4th 404, 410–11 (9th Cir. 2023).

Nevertheless, on July 8, 2025, DHS issued an Interim Guidance instructing officers to treat anyone inadmissible under § 1182(a)(6)(A)(i) as an "applicant for admission" subject to mandatory detention under § 1225(b)(2) (Exh. L. The BIA

entrenched that position in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (Ex. M).

These measures categorically reclassify long-time residents and strip Immigration Judges of statutory custody-redetermination jurisdiction, imposing mandatory detention and reversing decades of settled practice without statutory authority or notice-and-comment rulemaking.

In short, § 1225 is structurally concerned with border inspections and initial entry—not long-time residents like Petitioner who are already residing in the United States. To read § 1225(b)(2) as mandating detention for all noncitizens present in the country—regardless of duration, distance from the border, or deep-rooted ties—is to disregard both statutory structure and expressed congressional intent. The statute's text, structure, and precedent confirm that § 1226(a) governs his detention, not § 1225(b)(2).

2. The Legislative History Further Supports The Application of 8 U.S.C. § 1226(a) To Petitioner.

The legislative history of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585, confirms that Congress intended § 1226—not § 1225(b)(2)—to govern the detention of long-settled noncitizens apprehended in the interior.

In enacting IIRIRA, Congress was principally concerned with the perceived problem of recent arrivals at ports of entry who lacked valid documents. See H.R. Rep. No. 104-469, pt. 1, at 157–58, 228–29; H.R. Rep. No. 104-828, at 209.

Nothing in the legislative history suggests that Congress sought to sweep all

individuals present in the United States after an unlawful entry into mandatory detention whenever arrested—let alone those who had lived here for years or decades.

This silence is telling. Before IIRIRA, persons like Petitioner were not subject to mandatory detention; instead, the Attorney General was expressly authorized to arrest and release on bond any alien in the United States pending deportation proceedings. See 8 U.S.C. § 1252(a)(1) (1994).

Had Congress intended to upend that settled framework and subject millions of noncitizens present without admission to a no-bond regime under § 1225(b)(2), it would have said so unmistakably. See *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468–69 (2001) (Congress "does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions").

To the contrary, Congress explained that the new § 1226(a) "restates the current provisions in [INA] section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond a[] [noncitizen] who is not lawfully in the United States." H.R. Rep. No. 104-469, pt. 1, at 229 (emphasis added); see also H.R. Rep. No. 104-828, at 210 (same).

As the Supreme Court has emphasized, when Congress intends to alter existing statutory meaning, it does so clearly and explicitly. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 432 n.12 (1987).

That understanding—carried forward into § 1226—confirms that individuals like Petitioner, long-time residents apprehended in the interior, remain subject to discretionary custody under § 1226(a), not the mandatory no-bond regime of § 1225(b)(2).

Congress reaffirmed this framework most recently in the Laken Riley Act of 2025, which expressly incorporated inadmissible individuals under §§ 1182(a)(6) and (a)(7) into § 1226, but limited mandatory custody to those with certain criminal arrests or convictions.

In doing so, Congress preserved § 1226(a)'s discretionary regime for long-settled residents lacking such predicates, consistent with its creation of relief mechanisms—such as cancellation of removal (§ 240A(b)) and adjustment of status (§ 245(i))—tailored to long-term equities.

That design harmonizes with Congress's deliberate creation of relief mechanisms—such as cancellation of removal, INA § 240A(b), and adjustment of status under INA § 245(i)—that are available only to long-term residents, many of whom first entered without inspection.

Congress thus recognized both the equities of long-settled residents and the hardship their detention and removal would inflict on U.S.-citizen family members, and ensured that such individuals would retain access to individualized custody redetermination and discretionary release while pursuing statutory relief.

Congress's reports and subsequent enactments confirm that INA § 1226(a) was always intended to govern the detention of long-settled residents apprehended in the interior, preserving individualized custody determinations by an Immigration Judge.

By contrast, § 1225(b)(2) was designed to govern arriving aliens at the border—those seeking initial admission—not residents with deep ties and pending avenues of relief.

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3. The Record and Longstanding Agency Practice Reflect That § 1226 Governs Petitioner's Detention

For decades, DHS and EOIR consistently applied § 1226(a) to individuals like Petitioner—long-settled residents apprehended in the interior after entering without inspection. DHS routinely issued custody notices citing § 1226(a), and Immigration Judges exercised bond jurisdiction under that provision.

Indeed, Petitioner's own custody record reflects the abrupt departure from longstanding practice challenged here. DHS placed Petitioner in removal proceedings under INA § 240, not in expedited or border processing.

Nevertheless, relying solely on *Matter of Yajure-Hurtado*, the Immigration Judge declined to exercise bond jurisdiction, concluding that § 236(a) did not apply and that the court lacked authority to conduct any individualized custody redetermination.

This was not an anomaly. When EOIR promulgated its 1997 regulations implementing IIRIRA, it explained that, "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997). For decades thereafter, DHS and EOIR consistently applied § 236(a) to long-settled residents apprehended in the interior.

This longstanding, consistent application of § 1226(a) is powerful evidence of the statute's proper scope. As the Supreme Court has recognized, agency practice that is contemporaneous with and consistently applied after enactment "is powerful evidence that interpreting the Act in [this] way is natural and reasonable."

Abramski v. United States, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting); see also *Bankamerica Corp. v. United States*, 462 U.S. 122, 130 (1983) (relying on over 60 years of practice to reject the government's newly minted interpretation).

The government's July 8, 2025 policy memorandum abruptly reversed this framework. For the first time, ICE directed officers to treat all individuals who had ever entered without inspection as "applicants for admission" subject to mandatory detention under § 1225(b)(2).

Two months later, the BIA entrenched that position in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Neither action was authorized by Congress, grounded in the statute, nor adopted through notice-and-comment rulemaking. Both conflict with decades of consistent practice recognizing that long-settled residents apprehended in the interior are detained under § 1226(a), with the right to seek individualized custody redetermination before an Immigration Judge.

Such a wholesale reversal of agency practice, carried out through an internal memorandum and followed in a precedential decision, is also unlawful under the Administrative Procedure Act. A sudden departure from decades of settled policy requires congressional authorization or, at minimum, compliance with APA notice-and-comment procedures. Neither occurred here. The July 8 memorandum and *Yajure Hurtado* are therefore arbitrary, capricious, and contrary to law.

In sum, the record of DHS and EOIR practice confirms what the statutory text, structure, and history already demonstrate: § 1226(a) governs Petitioner's detention. The July 8 memorandum and *Yajure Hurtado* are radical departures that this Court should not endorse.

Taken together, the statutory text, legislative history, and longstanding agency practice all converge on the same conclusion: § 1226(a) governs.

Respondents' abrupt reversal of this framework—without statutory authority or compliance with the Administrative Procedure Act—cannot lawfully justify Petitioner's continued civil detention, which is imposed solely by operation of a binding agency rule that categorically forecloses individualized custody review before an Immigration Judge.

B. PETITIONERS WILL SUFFER IRREPARABLE HARM

Petitioner faces immediate and irreparable harm because he is being held in mandatory civil detention without any individualized custody review by an Immigration Judge, solely by operation of an unlawful binding agency policy.

The Supreme Court has long recognized that "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Where detention is allegedly unauthorized by statute, each day of confinement constitutes a separate and irreparable injury that cannot be remedied after the fact.

Here, Respondents' application of *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), categorically forecloses Immigration Judge jurisdiction and eliminates the individualized custody determination Congress mandated under 8 U.S.C. § 1226(a).

The injury is not the possibility that release might be denied; it is the complete denial of the statutory process itself. Courts consistently hold that

ongoing detention imposed without lawful procedural safeguards constitutes irreparable harm warranting injunctive relief, because no later ruling can restore liberty lost during an unlawful period of civil confinement.

The deprivation of constitutional rights likewise constitutes irreparable injury. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012); *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005). That principle applies with full force where, as here, a binding agency rule deprives a noncitizen of liberty without the individualized process Congress and the Constitution require.

As the court recently held in Lazaro Maldonado Bautista et al. v. Santacruz, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025), Dkt. 14, "[t]he potential for Petitioners' continued detention without an initial bond hearing would cause immediate and irreparable injury, as this violates statutory rights afforded under § 1226(a)." The same principle applies here, where Petitioner remains subject to mandatory civil detention without any individualized custody review.

Petitioner's continued detention also inflicts concrete and ongoing harm on his U.S.-citizen spouse and family, including prolonged separation, emotional distress, and economic instability.

The Ninth Circuit has recognized that family separation and interference with the ability to pursue immigration relief constitute irreparable injury in the injunction and stay context. *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011).

Petitioner is at an early stage of removal proceedings and is preparing to pursue statutorily authorized avenues of relief—including administrative closure to permit adjudication of a provisional waiver or, alternatively, cancellation of

removal.

None of these forms of relief can be meaningfully developed or pursued while Petitioner remains subject to categorical mandatory detention without individualized custody review.

Because Petitioner seeks protection from continuing unlawful detention—not monetary damages—no adequate remedy at law exists. Absent immediate judicial intervention, Petitioner will remain confined day by day, solely by operation of a binding agency rule that deprives him of liberty without the process Congress and the Constitution require.

C. THE BALANCE OF EQUITIES TIPS IN PETITIONER'S FAVOR AND A TRO IS IN THE PUBLIC INTEREST.

Because Respondents are the government, the balance of equities and the public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Both strongly favor Petitioner. The public interest is always served when the government is required to comply with the limits Congress imposed and to respect individual liberty protected by statute and the Constitution.

The equities here weigh decisively in Petitioner's favor. Petitioner is subjected to mandatory civil detention without any individualized custody review, not because of a case-specific determination of danger or flight risk, but solely by operation of an unlawful binding agency policy.

Respondents identify no individualized justification for continued detention; instead, they rely entirely on a categorical rule that eliminates Immigration Judge jurisdiction across the board.

On one side of the balance lies Petitioner's physical liberty, his family's

integrity, and the stability of a long-settled household. On the other side lies the government's interest in enforcing a recently adopted policy that departs from the statutory framework Congress enacted and long-standing administrative practice. Where detention is imposed without statutory authorization or procedural safeguards, the equities necessarily favor immediate relief.

The Board of Immigration Appeals has entrenched DHS's categorical approach in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), ensuring that Petitioner remains detained without access to any individualized custody determination before an Immigration Judge. Absent judicial intervention, that deprivation will persist indefinitely.

Courts have long recognized that equitable relief is particularly appropriate where government action rests on unlawful policies that inflict ongoing constitutional and statutory injury. Continued detention here serves no legitimate governmental interest beyond preserving a policy that is likely unlawful. Equity does not permit the government to impose irreparable harm on an individual and his family merely to maintain an ultra vires detention regime.

Accordingly, the balance of equities and the public interest are not close. Both overwhelmingly favor granting a temporary restraining order to halt continued detention imposed without lawful authority or individualized review.

D. PRUDENTIAL EXHAUSTION IS NOT REQUIRED

Prudential exhaustion does not bar this Court's review. Although courts sometimes require noncitizens to exhaust available administrative remedies before seeking habeas relief, exhaustion is not jurisdictional and may be excused where administrative remedies are unavailable, futile, or inadequate to prevent irreparable

harm. See *McCarthy v. Madigan*, 503 U.S. 140, 146–49 (1992); *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011).

Those circumstances are present here. *Matter of Yajure-Hurtado* is binding on Immigration Judges and categorically forecloses custody-redetermination jurisdiction for individuals like Petitioner. As a result, no administrative forum exists in which Petitioner can obtain individualized custody review or release. Further administrative proceedings would therefore be futile.

Moreover, Petitioner challenges an ongoing deprivation of liberty imposed by operation of an unlawful binding agency policy. Where detention is alleged to be unauthorized by statute and results in continuing irreparable harm, courts routinely excuse exhaustion and entertain habeas petitions in the first instance. See *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017); *Leonardo v. Crawford*, 646 F.3d 1157, 1160–61 (9th Cir. 2011).

Petitioner has no meaningful administrative avenue to obtain custody review or release, and because continued detention inflicts irreparable harm, prudential exhaustion is not required.

E. THE COURT HAS JURISDICTION OVER CUSTODY ISSUES

This action challenges only the legality of Petitioner's ongoing detention, not the merits of removability or any removal order. Habeas jurisdiction therefore lies under 28 U.S.C. § 2241. *Demore v. Kim*, 538 U.S. 510, 517 (2003).

The INA's jurisdiction-channeling provisions do not bar review of detention claims. The Supreme Court has squarely held that 8 U.S.C. § 1252(b)(9) does not extend to challenges to "detention itself." *Jennings v. Rodriguez*, 583 U.S. 281, 290 (2018).

Section 1252(g) is "narrowly drawn" and applies only to decisions to commence, adjudicate, or execute removal—not to custody determinations. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999).

Nor does § 1252(f)(1) bar relief here. That provision limits classwide injunctive relief but does not restrict individual habeas actions challenging detention. *Hernandez v. Sessions*, 872 F.3d 976, 988 n.9 (9th Cir. 2017).

Courts therefore routinely exercise *habeas* jurisdiction to review detention under 8 U.S.C. §§ 1225 and 1226. Jurisdiction is proper here.

IV.
RELIEF REQUESTED

For the foregoing reasons, Petitioner respectfully requests that this Court grant his application for a Temporary Restraining Order and issue an Order to Show Cause why a preliminary injunction should not issue.

Specifically, Petitioner requests that the Court:

1. Enjoin Respondents, as applied to Petitioner, from detaining him under 8 U.S.C. § 1225(b)(2) and from enforcing any unlawful, binding agency policy—including Matter of Yajure-Hurtado—that categorically forecloses Immigration Judge custody jurisdiction in his case;
2. Order Respondents, as applied to Petitioner, to restore Immigration Judge custody jurisdiction under 8 U.S.C. § 1226(a) and to provide Petitioner with an immediate individualized custody-redetermination hearing before an Immigration Judge, free from reliance on Matter of Yajure-Hurtado or any related agency policy; or, in the alternative, order Petitioner's release from custody pending further proceedings;

3. Enjoin Respondents from transferring Petitioner outside the Southern District of California during the pendency of this action, so as to preserve this Court's jurisdiction and Petitioner's ability to obtain effective relief; and
4. Grant such other and further relief as the Court deems just and proper, limited to what is necessary to remedy the unlawful detention challenged in this action.

Dated: December 22,, 2025

Respectfully submitted,

s/Ray Estolano -
Attorney for Petitioner,
Alejandro Sandoval-Garcia