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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MONICA LILIANA ROBLES RODRIGUEZ,

Petitioner,

v.

TODD M. LYONS, ET AL.,

Respondents.¹

CASE NO. 1:25-CV-02001-KES-BAM

RESPONDENTS' OPPOSITION TO
PETITIONER'S MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY
INJUNCTION, AND ANSWER TO PETITION FOR
WRIT OF HABEAS CORPUS

I. INTRODUCTION

Petitioner is not entitled to the extraordinary remedy of a temporary restraining order ("TRO"). She has a final expedited removal order and is mandatorily detained as an "applicant for admission" pending removal following an immigration judge's final determination that she does not have a credible fear of persecution. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). As such, Petitioner is ineligible for the custody redetermination hearing she requests. Petitioner would have been removed on November 28, 2025, but Petitioner filed a motion with the immigration court that stayed her removal. That motion has now been denied. Because Petitioner fails to meet the burden of proof required for injunctive relief and because Petitioner is mandatorily detained pending her removal, her motion for a TRO should be denied.

¹ The Court should dismiss all respondents other than the Warden of the California City Detention Facility, because the only proper respondent to a habeas petition is the custodian having immediate custody of the petitioner. *See* 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024).

1 Respondents acknowledge the minute order requirement that Respondents provide all relevant
2 documents from Petitioner's A-file; however, in this particular case, Respondents respectfully request
3 submission on the existing record, where Petitioner has already attached the relevant A-file documents,
4 the authenticity of which are not disputed, and where Respondents have supplemented the record with
5 the declaration and exhibits attached hereto. Respondents request that if, after review of the pleadings,
6 the Court still finds the submission of additional A-file documents to be necessary, that Respondents be
7 given three additional court days to comply with the document production order.

8 Respondents also acknowledge the Court's order directing the parties to indicate whether the
9 motion for a TRO should be converted into a motion for a preliminary injunction. ECF 5. While
10 Respondents object to the issuance of a preliminary injunction for the same reasons as discussed herein,
11 Respondents request that the Court receive this filing as Respondents' opposition to both the motion for
12 a TRO and preliminary injunction, as well as the petition for a writ of habeas corpus, which is largely
13 duplicative of the motion for a TRO, without further briefing.

14 Additionally, in its minute order, the Court directed the parties to state whether they are
15 requesting a hearing on the Petitioner's motion for a TRO. ECF 5. After review of Petitioner's motion
16 and supporting documents, the government believes there is no substantial dispute in facts and the legal
17 issues presented in this case can be decided on the parties' filings.

18 **II. BACKGROUND**

19 Petitioner is a native and citizen of Columbia. Declaration of Deportation Officer Guzman
20 ("Guzman Decl.") ¶ 6. Petitioner entered the United States without inspection, admission, or parole on
21 or about September 21, 2022. ¶ 6. That same day, U.S. Customs and Border Protection ("CBP")
22 officers apprehended Petitioner. ¶ 6. The following day, on September 22, 2022, CBP processed
23 Petitioner for expedited removal pursuant to Immigration and Nationality Act ("INA") § 235(b)(1), 8
24 U.S.C. § 1225(b)(1). ¶ 7; ECF 1-2, at 2-3.

25 On or about September 28, 2022, ICE released Petitioner by paroling her pursuant to INA §
26 212(d)(5)(A). ¶ 8; ECF 1-2, at 4-5. ICE also scheduled her for a credible fear interview before an
27 asylum officer with U.S. Citizenship and Immigration Services ("USCIS"). ¶ 68

28 On or about November 10, 2022, USCIS conducted a credible fear interview with Petitioner. ¶

1 9. USCIS determined Petitioner did not establish a credible fear of persecution or credible fear of
2 torture if returned to her country. ¶ 9. USCIS then referred Petitioner's case to an immigration judge
3 for review of USCIS' decision. ¶ 9.

4 On or about November 23, 2022, Petitioner failed to appear for her scheduled credible fear
5 review hearing before an immigration judge. ¶ 10. However, the immigration judge conducted a review
6 of the asylum officer's interview notes and other documentation and ultimately affirmed USCIS'
7 determination. ¶ 10. The immigration judge then returned Petitioner's case to DHS for removal of
8 Petitioner. ¶ 10.

9 On or about August 24, 2023, Petitioner filed a Form I-589, Application for Asylum and for
10 Withholding of Removal with USCIS. ¶ 11. On June 6, 2025, USCIS dismissed Petitioner's application
11 for asylum as Petitioner has a final expedited removal order. ¶ 12.

12 On or about October 30, 2025, ICE arrested Petitioner to execute her final removal order. ¶ 13.
13 Accordingly, Petitioner is detained pursuant to INA § 235(b)(1)(B)(iii)(IV), 8 U.S.C. §
14 1225(b)(1)(B)(iii)(IV). ¶ 13.

15 On November 8, 2025, ICE transferred Petitioner from the California City Processing Center in
16 California City, California to the Alexandra Staging Facility in Alexandria, Louisiana to prepare her for
17 removal. ¶ 14. ICE scheduled Petitioner to be removed on November 28, 2025. ¶ 14.

18 On November 26, 2025, Petitioner filed a "Motion to Rescind In Absentia Removal Order And
19 Reopen Credible Fear Review Proceedings" with the immigration court, which automatically stayed
20 Petitioner's scheduled removal. ¶ 15. On December 3, 2025, an immigration judge denied Petitioner's
21 motion, finding that there was no in absentia removal order issued in Petitioner's case, and that there
22 was no basis or mechanism to reopen the prior proceedings. ¶ 16.

23 On December 3, 2025, Petitioner filed a petition for writ of habeas corpus in the United States
24 District Court for the Western District of Louisiana. ¶ 17. A few days later, on December 8, 2025,
25 Petitioner filed a motion for a TRO and motion for preliminary injunction. ¶ 18. That same day, on
26 December 8, 2025, the District Court for the Western District of Louisiana denied Petitioner's motions.
27 ¶ 18.

28 On or about December 15, 2025, ICE transferred Petitioner from the Alexandria Staging Facility

1 in Alexandria, Louisiana to the California City Processing Center in California City, California. ¶ 19.

2 On December 22, 2025, Petitioner filed a Notice of Voluntary Dismissal of her petition for writ
3 of habeas corpus in the District Court for the Western District of Louisiana. ¶ 20. Two days later, on
4 December 24, 2025, Petitioner filed a Petition for Writ of Habeas Corpus and Complaint for Declaratory
5 and Injunctive Relief before this Court. ECF 1. The Petition sought Petitioner’s immediate release from
6 custody, an injunction prohibiting re-detention of Petitioner “without notice and a pre-deprivation
7 hearing before a neutral decisionmaker . . .,” among other relief sought. ECF 1, at 31. The same day,
8 Petitioner filed a Ex Parte Motion for Temporary Restraining Order largely reiterating her claims and
9 seeking the same relief on an emergent basis. ECF 2.

10 **III. ARGUMENT**

11 **A. The Standard for Preliminary Injunctions**

12 Temporary restraining orders (“TROs”) are governed by the same standard applicable to
13 preliminary injunctions. *See Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*, 181 F.
14 Supp. 2d 1111, 1126 (E.D. Cal. 2001). Preliminary injunctions are “never awarded as of right.” *Winter*
15 *v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (citation omitted). A party seeking a preliminary
16 injunction faces a “difficult task” in showing that they are entitled to such an “extraordinary remedy.”
17 *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010) (internal quotation omitted).

18 “A plaintiff seeking a preliminary injunction must show that: (1) she is likely to succeed on the
19 merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of
20 equities tips in her favor, and (4) an injunction is in the public interest.” *Garcia v. Google, Inc.*, 786
21 F.3d 733, 740 (9th Cir. 2015) (internal quotation omitted). Alternatively, a plaintiff can show “serious
22 questions going to the merits and the balance of hardships tips sharply towards [plaintiffs], as long as the
23 second and third . . . factors are satisfied.” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th
24 Cir. 2017).

25 The purpose of a preliminary injunction “is to preserve the status quo and the rights of the parties
26 until a final judgment issues in the cause.” *U.S. Philips Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1094
27 (9th Cir. 2010). A preliminary injunction may not be used to obtain “a preliminary adjudication on the
28 merits,” but only to preserve the status quo pending final judgment. *Sierra On-Line, Inc. v. Phoenix*

Software, Inc., 739 F.2d 1415, 1422 (9th Cir. 1984).

B. Petitioner is Unlikely to Succeed on the Merits

1. Petitioner’s Detention is Mandated by Statute and Supreme Court Precedent

The Supreme Court has upheld the Constitutionality of mandatory detention for certain noncitizens. Petitioner is a noncitizen, “applicant for admission” mandatorily detained pursuant to INA § 235(b)(1)(B)(iii)(IV), 8 U.S.C. § 1225(b)(1)(B)(iii)(IV), because she is pending removal after an immigration judge made the final determination that she does not have a credible fear of persecution. Petitioner’s detention is both mandatory and constitutionally sound.

The INA defines an “applicant for admission” as an “alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . .).” 8 U.S.C. § 1225(a)(1); *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that “an alien who tries to enter the country illegally is treated as an ‘applicant for admission’” under 8 U.S.C. § 1225(a)(1)); *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (“an alien who ‘arrives in the United States,’ or ‘is present’ in this country but ‘has not been admitted,’ is treated as ‘an applicant for admission.’”) (citing 8 U.S.C. § 1225(a)(1)); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) (“Congress has defined the concept of an ‘applicant for admission’ in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission”).

Section 1225 applies to “applicants for admission,” as defined above. Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Section 1225(b)(1) applies to arriving aliens and “certain other” aliens “initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.*; 8 U.S.C. § 1225(b)(1)(A)(i), (iii). These aliens generally are subject to expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(i). But if the alien “indicates an intention to apply for asylum . . . or a fear of persecution,” immigration officers will refer the alien for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii). An alien “with a credible fear of persecution” is “detained for further consideration of the application for asylum.” 8 U.S.C. § 1225(b)(1)(B)(ii). If the alien does not indicate an intent to apply for asylum, express a fear of persecution, or is “found not to have such a

1 fear,” he is detained until removed. 8 U.S.C. §§ 1225(b)(1)(A)(i), (B)(iii)(IV).

2 Section 1225(b)(2) is “broader” and “serves as a catchall provision.” *Jennings*, 583 U.S. at 287.
3 It “applies to all applicants for admission not covered by § 1225(b)(1).” *Id.* Under § 1225(b)(2), an alien
4 “who is an applicant for admission” shall be detained for a removal proceeding “if the examining
5 immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt
6 entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A); *see Pena v. Hyde*, 2025 WL 2108913, at *1 (D.
7 Mass. July 28, 2025) (“[§ 1225] authorizes the detention of any alien who 1) is ‘an applicant for
8 admission’ to the country and 2) is ‘not clearly and beyond doubt entitled to be admitted.’” (citing 8
9 U.S.C. § 1225(b)(2)(A)); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (“[F]or aliens arriving in
10 and seeking admission into the United States who are placed directly in full removal proceedings,
11 section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal
12 proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299). Still, the Department of Homeland
13 Security (“DHS”) has the sole discretionary authority to temporarily release “any alien applying for
14 admission to the United States” on a “case-by-case basis for urgent humanitarian reasons or significant
15 public benefit.” 8 U.S.C. § 1182(d)(5)(A); *see Biden v. Texas*, 597 U.S. 785, 806 (2022).

16 Courts have recognized that “there is little question that the civil detention of
17 [noncitizens] during removal proceedings can serve a legitimate government purpose, which is
18 ‘preventing deportable ... [noncitizens] from fleeing prior to or during their removal
19 proceedings, thus increasing the chance that, if ordered removed, the [noncitizens] will be
20 successfully removed.’” *Prieto–Romero v. Clark*, 534 F.3d 1053, 1065 (9th Cir. 2008) (citing
21 *Demore v. Kim*, 538 U.S. 510, 528 (2003)). Generally, detention during immigration
22 proceedings is “a constitutionally valid aspect of the deportation process.” *Demore v. Kim*, 538
23 U.S. 510, 523 (2003). The Supreme Court has long recognized that Congress exercises “plenary
24 power to make rules for the admission of foreign nationals. . .” *Kleindienst v. Mandel*, 408 U.S.
25 753, 766 (1972). Pursuant to that longstanding doctrine, “an alien seeking initial admission to
26 the United States requests a privilege and has no constitutional rights regarding his application,
27 for the power to admit or exclude aliens is a sovereign prerogative.” *Landon v. Plasencia*, 459
28 U.S. 21, 32 (1982); *see also Kleindienst*, 408 U.S. at 767.

1 Thus, “applicants for admission” lack any constitutional due process rights with respect to
2 admission aside from the rights provided by statute: “[w]hatever the procedure authorized by Congress
3 is, it is due process as far as an alien denied entry is concerned,” *Shaughnessy v. United States ex rel.*
4 *Mezei*, 345 U.S. 206, 212 (1953), and “it is not within the province of any court, unless expressly
5 authorized by law, to review [that] determination,” *United States ex rel. Knauff v. Shaughnessy*, 338
6 U.S. 537, 543 (1950). In 2020, the Supreme Court reaffirmed “[its] century-old rule regarding the due
7 process rights of an alien seeking initial entry” explaining that an individual who illegally crosses the
8 border is an applicant for admission and “has only those rights regarding admission that Congress has
9 provided by statute.” *DHS v. Thuraissigiam*, 591 U.S. 103, 139-40 (2020). Accordingly, Petitioner’s
10 due process rights are limited to whatever statutory rights Congress provides. *Zadvydas v. Davis*, 533
11 U.S. 678, 693 (2001) (“certain constitutional protections available to persons inside the United States are
12 unavailable to aliens outside of our geographical borders.”); *Rodriguez Diaz v. Garland*, 53 F.4th 1189,
13 1206 (9th Cir. 2022) (same).

14 Here, Petitioner is detained as an “applicant for admission” mandatorily detained pursuant to
15 INA § 235(b)(1)(B)(iii)(IV), 8 U.S.C. § 1225(b)(1)(B)(iii)(IV), because she is pending removal
16 following an Immigration Judge’s final determination that she does not have a credible fear of
17 persecution. Petitioner conceded in her motion that she “entered the United States without inspection on
18 September 21, 2022.” ECF 2-1, at 8. Petitioner is accordingly an “alien present in the United States
19 who has not been admitted or who arrives in the United States,” and considered an “applicant for
20 admission.” 8 U.S.C. § 1225(a)(1). Because Petitioner then met with an asylum officer, the asylum
21 officer determined Petitioner did not establish she had a credible fear of persecution or torture if returned
22 to Columbia, and an immigration judge affirmed the officer’s findings, Petitioner is an applicant for
23 admission found not to have a credible fear of persecution. 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). Guzman
24 Decl. ¶¶ 8-10. Petitioner’s posture is further supported by the fact that USCIS dismissed Petitioner’s
25 application for asylum in June 2025. ¶ 12. Accordingly, Petitioner is subject to mandatory detention:
26 “Any alien subject to the procedures under this clause shall be detained pending a final determination of
27 credible fear of persecution and, if found not to have such a fear, until removed.” 8 U.S.C. §
28 1225(b)(1)(B)(iii)(IV).

DHS's initial exercise of its discretion to parole Petitioner, does not preclude DHS from re-detaining Petitioner. A grant of parole does not transition Petitioner into an admitted alien. *See* 8 U.S.C. § 1182(d)(5); *Oliveria v. Albarran*, 2025 U.S. Dist. LEXIS 254870 (E.D. Cal. Dec. 9, 2025) (“[t]he grant of parole has no impact on the mandatory nature of detention under § 1225”). In fact, 8 U.S.C. § 1182(d)(5) provides the following:

The Secretary of Homeland Security may, except as provided in subparagraph (B) or in section 1184(f) of this title, in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

See also *Gevorg v. Warden of the Golden State Annex Det. Facility*, 2025 U.S. Dist. LEXIS 251666 (E.D. Cal. Dec. 5, 2025). Because Petitioner is subject to mandatory detention under INA § 235(b)(1)(B)(iii)(IV), 8 U.S.C. § 1225(b)(1)(B)(iii)(IV), she is unlikely to succeed on the merits. Petitioner's motion and petition for a writ of habeas corpus should be denied.

2. Petitioner is Not Entitled to a Pre-Detention Hearing.

Petitioner's release from DHS custody on parole did not change her status as an applicant for admission within the meaning of 8 U.S.C. § 1225(b), nor does the Due Process Clause entitle her to a pre-detention hearing. Under the doctrine of “entry fiction,” aliens seeking admission to the United States, even if “allowed within its borders pending a determination of admissibility... are legally considered to be detained at the border and hence as never having effected entry into” the United States. *Barrera-Echavarria v. Rison*, 44 F.3d 1441, 1450 (9th Cir. 1995) (en banc).² Thus, even if an alien seeking admission is physically present on United States soil and has been “paroled elsewhere in the country for years pending removal,” he still is “treated . . . as if stopped at the border.” *Dept. Homeland*

² The scope of *Barrera-Echavarria*'s holding has been complicated by statutory amendments in the Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. No. 104-208, 110 Stat. 3009 (1996). But those amendments “do[] not undermine *Barrera-Echavarria*'s reasoning as it relates to aliens in the 1225(b) subclass to whom the entry fiction clearly applies,” such as in this case. *Rodriguez v. Robbins*, 715 F.3d 1127, 1140-41 (9th Cir. 2013).

1 *Security v. Thurassigiam*, 591 U.S. 103, 139 (2020); *see also United States v. Balde*, 943 F.3d 73, 84 (2d
 2 Cir. 2019) (“Parole does not change parolees’ immigration status: they remain ‘at the border’ for the
 3 purposes of immigration law and are treated as applicants for admission into the country.”). “The
 4 distinction between an alien who has effected an entry into the United States and one who has never
 5 entered” is a fundamental one that “runs throughout immigration law.” *Zadvydas v. Davis*, 533 U.S.
 6 678, 693 (2001).

7 Here, Petitioner entered the United States at or near Eagle Pass, Texas or about September 21,
 8 2022, and was not at that time inspected, admitted, or paroled. Guzman Decl. ¶ 6. For immigration law
 9 purposes, she is treated as being stopped at the border, even though she has been physically present
 10 within the United States since at least September 2022. *Barrera-Echavarria*, 44 F.3d at 1450. This
 11 carries significant implications for the contours of Petitioner’s due process rights. An alien who has not
 12 effected a legal entry, *i.e.*, has not been admitted into the United States, Petitioner is only entitled to
 13 “[w]hatever the procedure authorized by Congress is.” *Shaughnessy v. United States ex rel. Mezei*, 345
 14 U.S. 206, 212 (1953) (quoting *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950));
 15 *see also Thuraissigiam*, 591 U.S. at 140 (an alien detained after unlawful entry “has only those rights
 16 regarding admission that Congress has provided by statute”); *Angov v. Lynch*, 788 F.3d 893, 898 (9th
 17 Cir. 2015) (for “those . . . who have never technically ‘entered’ the United States . . . procedural due
 18 process is simply whatever the procedure authorized by Congress happens to be”) (cleaned up). This
 19 makes sense, since “an alien seeking initial admission to the United States requests a privilege and has
 20 no constitutional rights regarding his application.” *Barrera-Echavarria*, 44 F.3d at 1449.

21 “[A]pplicants for admission have virtually no constitutional rights regarding their applications.”
 22 *Valencia v. Mukasey*, 548 F.3d 1261, 1263 (9th Cir. 2008) (citing *Landon v. Plasencia*, 459 U.S. 21, 33-
 23 34 (1982)). “Whatever the procedure authorized by Congress is, it is due process as far as an alien
 24 denied entry is concerned.” *Shaughnessy*, 338 U.S. at 544. Thus, where the petitioner has “not
 25 ‘technically entered the United States,’ [the Court] examine[s] only whether the government violated the
 26 statutory rights that Congress afforded such applicants.” *Grigoryan v. Barr*, 959 F.3d 1233, 1241 (9th
 27 Cir. 2020) (citation omitted). Accordingly, Petitioner is subject to mandatory detention. *See Matter of*
 28 *Yajure Hurtado*, 29 I & N Dec. 216, 220 (BIA 2025) (holding that the Immigration and Nationality Act

1 makes all applicants for admission subject to mandatory detention for the duration of their immigration
 2 proceedings—even those who have entered without admission or inspection and have been residing in
 3 the United States for years without lawful status).

4 3. **The *Mathews* Factors Do Not Mandate a Remedy.**

5 Petitioner wrongly argues that the multi-factor balancing test of *Mathews v. Eldridge*, 424 U.S.
 6 319 (1976) entitles her to release under due process. ECF 2-1 at 19. *Mathews* does not, however,
 7 appear to govern due process claims raised by detained aliens. Indeed, the Supreme Court has not
 8 adjudicated due process challenges to detainment through the *Mathews* factors despite several
 9 opportunities. *See Rodriguez Diaz v. Garland*, 53 F.4th at 1189, 1206, 1214 (9th Cir. 2022) (Bumatay,
 10 J., concurring) (“In resolving similar immigration-detention challenges, the Supreme Court has not
 11 relied on the *Mathews* framework.”) (citing *Demore*, 538 U.S. at 521-31; *Reno v. Flores*, 507 U.S. 292,
 12 299–315 (1993)).

13 Regardless, the *Mathews* factors do not create the free-standing liberty interest that Petitioner
 14 seeks. *Mathews* considers three factors: (1) the private interest that will be affected; (2) the risk of an
 15 erroneous deprivation of such interest through the procedures used and the value, if any, of additional or
 16 substitute safeguards; and (3) the government’s interest. *Id.* at 1207. In applying these factors, the
 17 Court “can and must account for the heightened governmental interest in the immigration detention
 18 context.” *Id.* at 1206.

19 None of the factors support habeas relief for Petitioner here. The first factor does not weigh
 20 strongly in his favor because “detention during deportation proceedings [is] a constitutionally valid
 21 aspect of the deportation process.” *Demore*, 538 U.S. at 523; *see also Reno*, 507 U.S. at 306; *Carlson v.*
 22 *Landon*, 342 U.S. 524, 538 (1952). In this case, § 1225(b) makes detention mandatory. Further,
 23 Petitioner has not been detained for a long period of time, nor is her detention indefinite—by law, it ends
 24 once her removal proceedings are completed. 8 U.S.C. § 1125(b)(2); *Jennings*, 583 U.S. at 299 (§
 25 1225(b) “provide[s] for detention for a specified period of time”); *compare Zadvydas*, 533 U.S. at 690-
 26 91, 698 (concerned with “indefinite, perhaps permanent, detention” and establishing a presumptively
 27 reasonable six-month detention period to effectuate removal). In fact, Petitioner was nearly on the eve
 28 of being removed, when she filed a motion in immigration court that automatically stayed her removal

1 scheduled for two days later. Guzman Decl. ¶ 15. ICE is again preparing her for removal. ¶ 13.

2 The second factor likewise does not assist Petitioner. As discussed above, aliens who have not
 3 legally entered the country are only entitled to the due process that Congress has statutorily created.
 4 *Mezei*, 345 U.S. at 212; *Angov*, 788 F.3d at 898; *Barrera-Echavarria*, 44 F.3d at 1449; *Shaughnessy*,
 5 338 U.S. at 544. “[A]n alien at the threshold of initial entry cannot claim any greater rights under the
 6 Due Process Clause.” *Thuraissigiam*, 591 U.S. at 107. Because detention is mandatory, and
 7 § 1225(b) only allows release through parole under narrow circumstances, any additional hearings could
 8 not provide relief to Petitioner. *See Poonjani v. Shanahan*, 319 F. Supp. 3d 644, 649 (S.D.N.Y. 2018)
 9 (holding that “for aliens on the ‘threshold of initial entry,’ due process is whatever procedure has been
 10 ‘authorized by Congress,’” and “because the immigration statutes at issue here do not authorize a bond
 11 hearing, *Mezei* dictates that due process does not require one here”); *compare Gonzalez-Fuentes v.*
 12 *Molina*, 607 F.3d 864, 894 (1st Cir. 2010) (the law “provide[d] a valid, independent basis for the
 13 deprivation of liberty” and thus any procedural due process violation could not vindicate petitioner’s
 14 liberty interest or justify habeas relief).

15 Finally, the Government has a significant interest in Petitioner’s detention. Even if Petitioner
 16 specifically does not appear to be a danger or flight risk, the Government has a strong interest in
 17 effectuating the “system Congress devised.” *Thuraissigiam*, 591 U.S. at 106. “The government’s
 18 interest in efficient administration of the immigration laws” is “weighty,” and “it must weigh heavily in
 19 the balance that control over matters of immigration is a sovereign prerogative, largely within the
 20 control of the executive and the legislature.” *Landon*, 459 U.S. at 34. The system Congress devised
 21 requires detention until Petitioner’s removal proceedings are completed.

22 **C. Petitioner Is Not Likely to Suffer Irreparable Harm.**

23 While the Ninth Circuit has recognized that “[a]n alleged constitutional infringement will often
 24 alone constitute irreparable harm,” *Goldie’s Bookstore, Inc. v. Superior Court*, 739 F.2d 466, 472 (9th
 25 Cir. 1984), the Court should not apply the presumption where, as here, a plaintiff fails to demonstrate “a
 26 sufficient likelihood of success on the merits of its constitutional claims to warrant the grant of a
 27 preliminary injunction.” *Assoc’d Gen. Contractors of Cal., Inc. v. Coal for Econ. Equity*, 950 F.2d
 28 1401, 1412 (9th Cir.1991)). Here, as demonstrated above and as in *Goldie’s Bookstore*, Petitioner’s

1 purported constitutional claim is “too tenuous” to support an injunction. *Goldie’s Bookstore*, 739 F.2d
2 at 472.

3 Further, Petitioner has not technically entered the United States and is only entitled to the
4 minimal rights and processes that Congress has given him. Petitioner has received those. Immigration
5 laws have long authorized immigration officials to charge aliens as removable from the country, to arrest
6 aliens subject to removal, and to detain aliens pending removal. *Demore*, 538 U.S. at 523-26. Through
7 the INA, Congress created a multi-layered statutory scheme for aliens’ detention during removal,
8 including mandatory detention for aliens in Petitioner’s position. *See* 8 U.S.C. § 1225(b). “Detention is
9 necessarily a part of [the] deportation procedure.” *Carlson*, 342 U.S. at 538.

10 **D. The Balance of Equities and the Public Interest Do Not Favor Petitioner.³**

11 The balance of the equities and public interest do not automatically tip toward Petitioner simply
12 because she has alleged a due process violation. Even where constitutional rights are implicated, where
13 a petitioner has not shown a likelihood of success on the merits of a claim, a court should not grant a
14 preliminary injunction. *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005). The Executive
15 also has an important interest in exercising its enforcement authority. “The government has a strong
16 interest in enforcing immigration laws.” *Abdul-Samed v. Warden*, 2025 WL 2099343, at *8 (E.D. Cal.
17 July 25, 2025) (concluding, however, that the government interest in detention “without a bond hearing”
18 was outweighed by petitioner’s liberty interest). Further, the government’s interest in protecting the
19 public and preventing deportable aliens from fleeing are strong and compelling. *See e.g., Rodriguez*
20 *Diaz*, 53 F.4th at 1208 (government’s interests in “protecting the public from dangerous criminal aliens”
21 and “increas[ing] the chance that, if ordered removed, the aliens will be successfully removed” are
22 “interests of the highest order that only increase with the passage of time”).

23 Those interests are compelling here. Congress determined that aliens who were stopped at the
24 border should be detained during expedited removal proceedings or pending resolution of their standard
25 removal proceedings. 8 U.S.C. § 1225(b). It not only made such detention mandatory, but severely
26 curtailed ICE’s ability to release § 1225(b) aliens. *Jennings*, 583 U.S. at 299, 311; *Thuraissigiam*, 591

27 ³ When the government is a party, the third and fourth preliminary injunction factors merge.
28 *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014).

1 U.S. at 111. The government seeks to vindicate those interests here, whereas Petitioner seeks to exempt
2 herself from the governing statutes. Petitioner's requested relief, meanwhile, would undermine the
3 immigration statutory framework. Section 1225(b) largely precludes discretionary relief from removal,
4 but Petitioner demands creation of an entirely new arrest standard under it. Application of § 1225(b)
5 involves a subject matter entrusted to Congress and the Executive Branch.

6 **IV. CONCLUSION**

7 Section 1225(b) mandates Petitioner's detention and the facts of this case present no due process
8 concern. Respondents respectfully request that the Court deny Petitioner's request for a TRO,
9 preliminary injunction, and habeas petition.

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11 Dated: January 5, 2026

ERIC GRANT
United States Attorney

12
13 By: /s/ BRITTANY M. GUNTER
14 BRITTANY M. GUNTER
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