TODD BLANCHE
Deputy Attorney General of the United States
SIGAL CHATTAH
First Assistant United States Attorney
District of Nevada
Nevada Bar Number 8264

SUMMER A. JOHNSON
Assistant United States Attorney
VIRGINIA T. TOMOVA
Assistant United States Attorney
Nevada Bar No. 12504
501 Las Vegas Blvd. So., Suite 1100
Las Vegas, Nevada 89101
Phone: (702) 388-6336
Fax: (702) 388-6787
Virginia.Tomova@usdoj.gov
Attorneys for the Federal Respondents

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EMINE SAHIN,

Petitioner,

v.

REGGIE RADER, Henderson Chief of Police; MICHAEL BERNACKE, Field Director, West Valley City Office of ICE ERO; TODD LYONS, ICE Acting Director; KRISTI NOEM DHS Secretary; PAMELA BONDI, U.S. Attorney General, *et al.*,

Respondents.

Case No. 2:26-cv-00134-RFB-MDC

Federal Respondents' Response to Motion for Temporary Restraining Order, ECF No. 9

I. Introduction

Petitioner Emine Sahin seeks the extraordinary remedy of a temporary restraining order directing her immediate release from immigration detention. She asserts that her detention is unlawful under the Immigration and Nationality Act, violates the Administrative Procedure Act and ICE Directive 11032.4, and places her and her unborn child at risk. Petitioner's motion, however, is based on legal errors and does not satisfy the demanding standard for emergency injunctive relief.

/ / /

As explained below, Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) as an applicant for admission who entered the United States without inspection. Her attempt to invoke 8 U.S.C. § 1226(a) is contrary to the statutory text and controlling authority. Petitioner also cannot demonstrate a likelihood of success on her APA claim, as ICE Directive 11032.4 does not mandate release and DHS has acted within its lawful discretion. Finally, Petitioner's prenatal-care allegations concern conditions of confinement that do not sound in habeas and do not justify release. Because Petitioner cannot establish a likelihood of success, irreparable harm, or that the equities and public interest favor relief, the Court should deny the motion.

II. Factual and Procedural History

A. Petitioner's Immigration History and Current Detention

Petitioner Emine Sahin is a 33-year-old native and citizen of Turkey who entered the United States without inspection at or near Jacumba, California, on or about November 24, 2023. *See* Exhibit A. DHS subsequently issued a Notice to Appear ("NTA") charging Petitioner as removable under INA § 212(a)(6)(A)(i) for being present in the United States without being admitted or paroled. *See* Exhibit B.

Removal proceedings were initiated pursuant to INA § 240, and Petitioner applied for asylum, withholding of removal, and protection under the Convention Against Torture by filing a Form I-589 on April 24, 2024. *See* Exhibit C. Following a merits hearing on November 5, 2025, the Immigration Judge denied Petitioner's applications for asylum, withholding of removal, and CAT protection, sustained the charge of removability, and ordered removal to Turkey. *See* Exhibit D. Petitioner filed a Notice of Appeal to the Board of Immigration Appeals ("BIA") on November 17, 2025, and that appeal remains pending. *See* Exhibits E, F.

Petitioner was taken into ICE custody on September 29, 2025, following her arrest by Las Vegas Metro Police Department for misdemeanor battery. *See* ECF No. 2 at 4. Petitioner is currently housed at the Henderson Detention Center in Nevada. *See* ECF No. 9 at 2.

B. Medical Care Provided During Detention

Petitioner is currently pregnant. *See* ECF No. 9 at 2. DHS medical records indicate that Petitioner was transported to an emergency room on October 30, 2025, at which time she was diagnosed with uterine fibroids and early pregnancy. *See* Exhibit G.

Petitioner was subsequently evaluated by an obstetrician-gynecologist on December 1, 2025, and a follow-up appointment was scheduled for February 4, 2026. *Id.*

More recently, on January 18, 2026, Petitioner was seen by a nurse practitioner for symptoms related to heartburn associated with pregnancy. *Id.* Medical staff documented that Petitioner is currently receiving prescribed medications appropriate to her condition, including calcium carbonate, ferrous sulphate, Folic Acid, a multi vitamin and omega-3 Fish Oil. *Id.*

C. Petitioner's Claims in the Emergency TRO Motion

In her Emergency Motion for Temporary Restraining Order, Petitioner alleges that her continued detention violates the Fifth Amendment, the Administrative Procedure Act, and ICE Directive 11032.4 governing the detention of pregnant individuals. She asserts that she is in the 23rd week of pregnancy and contends that detention places her and her unborn child at risk. Petitioner seeks immediate release from ICE custody to reside with her husband in Las Vegas and to pursue prenatal care in the community.

III. Standard of Review

Emergency relief is "an extraordinary and drastic remedy," *Munaf v. Geren*, 553 U.S. 674, 689 (2008), that is "never awarded as of right," *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (internal quotation marks and citation omitted). Thus, this relief "should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012) (internal quotation marks and citation omitted; emphasis in original). This is a "difficult task." *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010). To prove their entitlement to such relief, the movant "must establish that [it] is likely to succeed on the merits, that [it] is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [its] favor, and

that [a TRO] is in the public interest." *Winter v. NRDC*, 555 U.S. 7, 20 (2008). Injunctive relief that "deeply intrudes into the core concerns of the executive branch"—including foreign affairs and national security—may be awarded only upon "an extraordinarily strong showing" as to each element. *Adams v. Vance*, 570 F.2d 950, 954-55 (D.C. Cir. 1978).

IV. Legal Argument

A. Petitioner is Unlikely to Succeed on the Merits of Her Claim that Her Detention is Governed by Section 1226(a)

1. Petitioner is Subject to Mandatory Detention Under Section 1225

In this case, Petitioner cannot establish that she is likely to succeed on the underlying merits of her claims for alleged statutory and constitutional violations because she is subject to mandatory detention under 8 U.S.C. § 1225. Petitioner contends that because she is a noncitizen residing in the United States who originally entered the United States without inspection or parole, and have not affirmatively sought admission, § 1225(b)(2)'s mandatory detention provision does not apply to her. ECF No. 9 at 8-9.

Petitioner's interpretation is inconsistent with the text of § 1225(b). The Court should reject Petitioner's argument that § 1226(a) governs her detention instead of § 1225. When there is "an irreconcilable conflict in two legal provisions," then "the specific governs over the general." *Karczewski v. DCH Mission Valley LLC*, 862 F.3d 1006, 1015 (9th Cir. 2017). 8 U.S.C. § 1226(a) applies to those arrested and detained pending a decision on removal. 8 U.S.C. § 1226(a); In contrast, § 1225 is narrower. *See* 8 U.S.C. § 1225. It applies only to "applicants for admission"; that is, as relevant here, aliens present in the United States who have not been admitted. *See id.*; *see also Florida v. United States,* 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023). Because Petitioner falls within that category, the specific detention authority under § 1225 governs over the general authority found at § 1226(a).

Under 8 U.S.C. § 1225(a), an "applicant for admission" is defined as an "alien present in the United States who has not been admitted or who arrives in the United States." Applicants for admission "fall into one of two categories, those covered

by §1225(b)(1) and those covered by § 1225(b)(2)." *Jennings*, 583 U.S. at 287. Section 1225(b)(2) — the provision relevant here — is the "broader" of the two. *Id.* It "serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here)." *Id.* And § 1225(b)(2) mandates detention. *Id.* at 297; *see also Matter of Yajure Hurtado*, 29 I. & N. Dec. at 218-19 (for "those aliens who are seeking admission and who an immigration officer has determined are 'not clearly and beyond a doubt entitled to be admitted' . . . the INA explicitly requires that this third 'catchall' category of applicants for admission be mandatorily detained for the duration of their immigration proceedings"); *Matter of Li*, 29 I. & N. Dec. at 69 ("[A]n applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a)."). Section 1225(b) therefore applies because Petitioner is present in the United States without being admitted.

The BIA has long recognized that "many people who are not *actually* requesting permission to enter the United States in the ordinary sense are nevertheless deemed to be 'seeking admission' under the immigration laws." *Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 743 (BIA 2012). Petitioner "provide[s] no legal authority for the proposition that after some undefined period of time residing in the interior of the United States without lawful status, the INA provides that an applicant for admission is no longer 'seeking admission,' and has somehow converted to a status that renders him or her eligible for a bond hearing under section 236(a) of the INA." *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 221 (citing *Matter of Lemus-Losa*, 25 I. & N. Dec. at 743).

Statutory language "is known by the company it keeps." *Marquez-Reyes v. Garland*, 36 F.4th 1195, 1202 (9th Cir. 2022) (quoting *McDonnell v. United States*, 579 U.S. 550, 569 (2016)). The phrase "seeking admission" in § 1225(b)(2)(A) must be read in the context of the definition of "applicant for admission" in § 1225(a)(1). Applicants for admission are

both those individuals present without admission and those who arrive in the United States. *See* 8 U.S.C. § 1225(a)(1). Both are understood to be "seeking admission" under §1225(a)(1). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. at 221; *Matter of Lemus-Losa*, 25 I. & N. Dec. at 743. Congress made that clear in § 1225(a)(3), which requires all aliens "who are applicants for admission or otherwise seeking admission" to be inspected by immigration officers. 8 U.S.C. § 1225(a)(3). The word "or" here "introduce[s] an appositive – a word or phrase that is synonymous with what precedes it ('Vienna or Wien,' 'Batman or the Caped Crusader')." *United States v. Woods*, 571 U.S. 31, 45 (2013).

Petitioner's interpretation also reads "applicant for admission" out of § 1225(b)(2)(A). One of the most basic interpretative canons instructs that a "statute should be construed so that effect is given to all its provisions." *See Corley v. United States*, 556 U.S. 303 314 (2009) (cleaned up). Petitioner's interpretation fails that test. It renders the phrase "applicant for admission" in § 1225(b)(2)(A) "inoperative or superfluous, void or insignificant." *See id.* If Congress did not want § 1225(b)(2)(A) to apply to "applicants for admission," then it would not have included the phrase "applicants for admission" in the subsection. *See* 8 U.S.C. § 1225(b)(2)(A); *see also Corley*, 556 U.S. at 314.

The district court's decision in *Florida v. United States* is instructive here. There, the court held that 8 U.S.C. § 1225(b) mandates detention of applicants for admission throughout removal proceedings, rejecting the assertion that DHS has discretion to choose to detain an applicant for admission under either section 1225(b) or 1226(a). 660 F. Supp. 3d at 1275. The court held that such discretion "would render mandatory detention under § 1225(b) meaningless. Indeed, the 1996 expansion of § 1225(b) to include illegal border crossers would make little sense if DHS retained discretion to apply § 1226(a) and release illegal border crossers whenever the agency saw fit." *Id.* The court pointed to *Demore v. Kim*, 538 U.S. 510, 518 (2003), in which the Supreme Court explained that "wholesale failure" by the federal government motivated the 1996 amendments to the INA. *Florida*, 660 F. Supp. 3d at 1275. The court also relied on, *Matter of M-S-*, 27 I. & N. Dec. at 516, in which the Attorney General explained "section [1225] (under which detention is mandatory) and

section [1226(a)] (under which detention is permissive) can be reconciled only if they apply to different classes of aliens." *Florida*, 660 F. Supp. 3d at 1275.

When the plain text of a statute is clear, "that meaning is controlling" and courts "need not examine legislative history." *Washington v. Chimei Innolux Corp.*, 659 F.3d 842, 848 (9th Cir. 2011). But to the extent legislative history is relevant here, nothing "refutes the plain language" of § 1225. *Suzlon Energy Ltd. v. Microsoft Corp.*, 671 F.3d 726, 730 (9th Cir. 2011). Congress passed IIRIRA to correct "an anomaly whereby immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully." *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc), *declined to extend by, United States v. Gambino-Ruiz*, 91 F.4th 981 (9th Cir. 2024); *see Matter of Yajure Hurtado*, 29 I. & N. Dec. at 223-34 (citing H.R. Rep. No. 104-469, pt. 1, at 225 (1996)). It "intended to replace certain aspects of the [then] current 'entry doctrine,' under which illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a port of entry." *Id.* (quoting H.R. Rep. 104-469, pt. 1, at 225). The Court should reject Petitioner's interpretation because it would put aliens who "crossed the border unlawfully" in a better position than those "who present themselves for inspection at a port of entry." *Id.* Aliens who presented at a port of entry would be subject to mandatory detention under § 1225, but those who crossed illegally would be eligible for a bond under § 1226(a). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. at 225 ("The House Judiciary Committee Report makes clear that Congress intended to eliminate the prior statutory scheme that provided aliens who entered the United States without inspection more procedural and substantive rights that those who presented themselves to authorities for inspection.").

In addition, on September 24, 2025, the Court in *Chavez v. Noem*, denied a TRO after finding that Petitioners who do not contest that they are "aliens present in the United States who have not been admitted." *Chavez*, 2025 WL 2730228. "By the plain language of § 1225(a)(1), then Petitioners are applicants for admission and thus subject to the mandatory

detention provision of applicants for admission under § 1225(b)(2)" *Id.* Such a reading of the statute comports with Congress' addition of §1225(a)(1) by IIRIRA in 1996. Prior to IIRIRA, an "anomaly" existed "whereby immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully." *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020). The addition of § 1225(a)(1) "ensure[d] that all immigrants who have not been lawfully admitted, regardless of their physical presence in the country, are placed on equal footing in removal proceedings under the INA — in the position of an 'applicant for admission.'" *Id.* As the Ninth Circuit did recently in *United States v. Gambino-Ruiz*, 91 F.4th 981, 990 (9th Cir. 2024), we thus also "refuse to interpret the INA in a way that would in effect repeal that statutory fix" intended by Congress in enacting IIRIRA. *Chavez*, at 4. Because Petitioner is properly detained under § 1225, he cannot show entitlement to relief.

2. A Growing Body of Well-Reasoned and Persuasive Authority Supports the Federal Respondents' Legal Positions

In addition, the United States also notes the following decisions that have found that, when the law is properly interpreted and applied, the law supports the Federal Respondents' positions in the case at bar: *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913 (D. Mass. July 28, 2025); *Chavez v. Noem*, No. 25-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Vargas Lopez v. Trump*, No. 25-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Barrios Sandoval v. Acuna*, No. 25-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025); *Silva Oliveira v. Patterson*, No. 25-01463, 2025 WL 3095972 (W.D. La. Nov. 4, 2025); *Mejia Olalde v. Noem*, No. 25-00168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025). As *Mejia Olalde* observes, "the overwhelming majority of district courts sometimes get the law very wrong," and the decisions cited here underscore that this Court now has a meaningful opportunity to revisit its prior interpretation with the benefit of a growing body of well-reasoned and persuasive authority.

/ / /

/ / /

B. Petitioner Is Unlikely to Succeed on the Merits of Her Claim That DHS Violated the Administrative Procedure Act

1. ICE Directive 11032.4 Does Not Mandate Release and Expressly Incorporates Governing Law

Petitioner contends that her continued detention violates the Administrative Procedure Act ("APA") because ICE allegedly failed to comply with ICE Directive 11032.4 governing the detention of pregnant individuals. According to Petitioner, the Directive categorically prohibits detention absent "exceptional circumstances," and ICE's failure to release her is therefore arbitrary, capricious, and contrary to law. This argument misreads both the Directive and the governing statutory and regulatory framework.

ICE Directive 11032.4 does not create an absolute bar on detention of pregnant individuals. Rather, the Directive provides that ICE "should not detain" pregnant individuals unless release is prohibited by law or exceptional circumstances exist. The Directive thus expressly incorporates governing law as an independent limitation on release. Where release is prohibited or constrained by statute or regulation, continued detention is fully consistent with the Directive.

Here, Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2). The implementing regulations make clear that parole of arriving aliens detained under § 1225(b) is not mandatory, but may be considered only under the discretionary parole framework set forth in 8 C.F.R. § 212.5(b). *See* 8 C.F.R. § 235.3(c)(1). Accordingly, ICE's decision not to parole Petitioner does not violate the Directive; it reflects the application of the very legal constraints the Directive itself recognizes.

2. ICE Has Not Violated the *Accardi Doctrine* Because It Has Not Departed From Any Binding Regulation or Policy

Petitioner argues that ICE's failure to release her violates the *Accardi* doctrine, which requires agencies to follow their own regulations and internal procedures. While that doctrine is well established, it applies only where an agency fails to comply with a binding rule that removes discretion. That is not the case here.

ICE Directive 11032.4 is a general policy statement that guides the exercise of enforcement discretion; it does not mandate release of all pregnant individuals, nor does it override statutory detention provisions or the discretionary parole scheme established by regulation. Indeed, the Directive explicitly contemplates continued detention where release is "prohibited by law."

Because the governing regulations permit—rather than require—parole of pregnant individuals detained under § 1225(b), ICE's decision to continue Petitioner's detention does not represent a departure from agency policy. The Accardi doctrine does not compel an agency to reach a particular discretionary outcome; it requires only that the agency act within the bounds of its own rules. ICE has done so here.

3. DHS's Decision Was Not Arbitrary or Capricious Under the APA

Petitioner invokes the APA's "arbitrary and capricious" standard, but she does not identify any factor ICE improperly considered, any relevant factor ICE ignored, or any explanation that runs counter to the evidence. *See Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983).

Instead, Petitioner's argument rests on the premise that pregnancy alone entitles her to release. That premise is incorrect. The applicable regulations require DHS to evaluate parole requests on a case-by-case basis for "urgent humanitarian reasons" or "significant public benefit," and only where the individual presents neither a security risk nor a risk of absconding. 8 C.F.R. § 212.5(b)(2). Nothing in the APA requires DHS to grant parole simply because an individual falls within a category eligible for consideration.

Absent a showing that ICE ignored its governing framework or failed to articulate a rational basis for its decision, Petitioner cannot meet the demanding standard for setting aside agency action under 5 U.S.C. § 706(2).

C. Petitioner Is Unlikely to Succeed on the Merits Because the Court Lacks Habeas Jurisdiction Over Her Prenatal-Care Conditions Claim

In *Pinson v. Carvajal*, the Ninth Circuit held that "claims that if successful would not necessarily lead to the invalidity of the custody are not at the core of habeas corpus," and

therefore do not sound in habeas at all. 69 F.4th 1059, 1071 (9th Cir. 2023). Claims falling outside the "core of habeas corpus" are instead properly brought, if at all, through civil rights actions. *Id.* In so holding, the Ninth Circuit reaffirmed the fundamental distinction between challenges to the fact or duration of confinement and challenges to the conditions under which confinement is carried out.

In *Pinson*, incarcerated individuals sought habeas relief based on alleged deficiencies in medical care and institutional responses to the COVID-19 pandemic. The Ninth Circuit rejected the argument that habeas jurisdiction existed merely because the petitioners alleged serious medical risks, explaining that relief aimed at improving medical care or institutional conditions—rather than invalidating custody—falls outside habeas. *Id.* at 1071; *see also Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir. 2024) (discussing *Pinson*). Because the relief sought would not necessarily result in release, the claims were not cognizable in habeas.

That principle applies squarely here. Ms. Sahin's claim is premised on alleged deficiencies in access to prenatal and pregnancy-related medical care during detention. Even if such allegations were credited, they would not entitle Ms. Sahin to immediate release. Rather, the appropriate remedy—if any—would be injunctive relief addressing the provision of medical services while detention continues. *See Herrera v. Mayorkas*, No. C24-1933-JNW-MLP, 2025 U.S. Dist. LEXIS 160010, at *25 (W.D. Wash. May 19, 2025) (explaining that alleged medical-care violations do not justify release where injunctive relief would suffice).

Courts routinely reject attempts to recast medical-care claims as habeas actions where release is not the necessary remedy. As one court recently explained, "[p]roviding relief on the conditions-of-confinement claims alleged here would not require [the petitioner's] release—only an order directing Respondents to improve the unconstitutional conditions." *Matom v. ICE/U.S. Immigr. & Customs Enf't,* No. 2:25-cv-648-JES-NPM, 2025 U.S. Dist. LEXIS 172961, at *7–8 (M.D. Fla. Sept. 5, 2025).

The parallel to *Pinson* is clear. There, petitioners sought release based on alleged deficiencies in medical care during a public health crisis. Here, Ms. Sahin similarly seeks

release based on alleged inadequacies in pregnancy-related medical care while detained. In both circumstances, the challenge concerns how detention is administered, not whether detention itself is lawful.

Although some district courts have suggested that the scope of habeas jurisdiction in the immigration-detention context remains unsettled, the Ninth Circuit's reasoning in *Pinson* controls. Its holding rests on longstanding habeas principles articulated by the Supreme Court, which has consistently limited habeas relief to challenges to the fact or duration of custody. *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

Finally, even assuming arguendo that this Court could entertain Ms. Sahin's habeas petition based on alleged deficiencies in prenatal care, the relief available would not include release from custody. At most, the Court could order prospective injunctive relief directing Respondents to address medical-care concerns while Ms. Sahin remains detained. Because habeas corpus is concerned with the legality of custody itself—and because any relief related to prenatal care would leave that custody intact—Ms. Sahin's claims do not properly invoke this Court's habeas jurisdiction.

D. Petitioner Has Failed to Show an Irreparable Harm.

To prevail on their request for injunctive relief, Petitioners must demonstrate "immediate threatened injury." *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (*citing Los Angeles Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely showing a "possibility" of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22. "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Id.* Here, because Petitioner's alleged harm "is essentially inherent in detention, the Court cannot weigh this strongly in favor of" Petitioner. *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at *10 (N.D. Cal. Dec. 24, 2018).

E. Factors Three and Four also Weigh against Petitioner.

When "the government is a party, [courts] consider the balance of the equities and the public interest together." *California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018). And "[i]n exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982). Here, an adverse decision would negatively impact the public interest by jeopardizing "the orderly and efficient administration of this country's immigration laws" by requiring "the Court to severely restrict the discretion of the Attorney General." *See Sasso v. Milhollan*, 735 F. Supp. 1045, 1049 (S.D. Fla. 1990); *see also Coal. for Econ. Equity v. Wilson*, 122 F.3d 718, 719 (9th Cir. 1997) ("[I]t is clear that a state suffers irreparable injury whenever an enactment of its people or their representatives is enjoined."). The public has an interest in the government's enforcement of its laws. *See, e.g., Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009) ("[T]he district court should give due weight to the serious consideration of the public interest in this case that has already been undertaken by the responsible state officials in Washington, who unanimously passed the rules that are the subject of this appeal."). As with the irreparable harm analysis, the "determination of where the public interest lies also is dependent on the determination of the likelihood of success on the merits of the [constitutional] challenge." *Phelps-Roper v. Nixon*, 545 F.3d 685, 690 (8th Cir. 2008), overruled on other grounds by *Phelps-Roper v. City of Manchester, Mo.*, 697 F.3d 685, 690 (8th Cir. 2012). While it is "always in the public interest to protect constitutional rights," *id.*, when, as here, Petitioner has not shown a likelihood of success on the merits of that claim, that presumptive public interest evaporates. *See Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005). Accordingly, Petitioner has not established that he merits an injunction, and the Court should deny this request.

V. Conclusion

Petitioner seeks an extraordinary remedy but has not come close to making the extraordinary showing required. She is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and her statutory, APA, Accardi, and constitutional challenges are unlikely to

succeed on the merits. Her prenatal-care allegations concern conditions of confinement that do not sound in habeas and, even if credited, would not justify release from custody. She has likewise failed to demonstrate irreparable harm, and the balance of equities and public interest strongly favor allowing DHS to continue enforcing the immigration laws as written by Congress. For these reasons, the Court should deny Petitioner's Emergency Motion for Temporary Restraining Order in its entirety.

Respectfully submitted this 26th day of January 2026.

TODD BLANCHE
Deputy Attorney General of the United States
SIGAL CHATTAH
First Assistant United States Attorney

/s/ Virginia T. Tomova
VIRGINIA T. TOMOVA
Assistant United States Attorney