

1 Karen S. Monrreal
2 Law Offices of Karen S. Monrreal
3 601 S. Arlington Ave.
4 Reno, NV 89503
5 karen@monrreallaw.com
6 775.826.2380 o
7 775.826.2386 f

8 *Attorney for Petitioner-Plaintiff*

9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF NEVADA

11 Arianna MORALES-HERNANDEZ,

12 Petitioner-Plaintiff,

13 v.

14 Kristi NOEM, in her Official Capacity, Secretary,
15 U.S. Department of Homeland Security;

16 Pam BONDI, in her Official Capacity, Attorney
17 General of the United States;

18 Todd M. LYONS, Acting Director, Immigration and
19 Customs Enforcement, U.S. Department of Homeland
20 Security;

21 Jason KNIGHT, Salt Lake City Field Office Director
22 for Detention and Removal, U.S. Immigration and
23 Customs Enforcement, Department of Homeland
24 Security; and

25 Darin BALAAM, Sherriff, Washoe County Detention
26 Center.

27 Respondents-Defendants.
28

Agency No.



**MOTION FOR
TEMPORARY
RESTRAINING
ORDER**

**POINTS AND
AUTHORITIES IN
SUPPORT OF EX
PARTE MOTION FOR
TEMPORARY
RESTRAINING
ORDER AND MOTION
FOR PRELIMINARY
INJUNCTION**

Challenge to Unlawful
Incarceration; Request for
Declaratory and Injunctive Relief

1 NOTICE OF MOTION

2 Petitioner, Arianna Moralez-Hernandez, by and through undersigned counsel, respectfully
3 moves this Court for a Temporary Restraining Order (“TRO”) and Preliminary Injunction
4 pursuant to Federal Rule of Civil Procedure 65, enjoining Respondents from continuing her
5 unlawful detention and ordering her immediate release, or in the alternative, a constitutionally
6 adequate bond hearing within seven (7) days at which the government bears the burden of
7 proving, by clear and convincing evidence, that her detention is necessary. If the Court deems
8 oral argument necessary, Petitioner requests to appear by video.


9 Dated this 3rd day of February 2026

Respectfully submitted,

10 *Karen Monrreal*

11 _____
12 Karen S. Monrreal, Esq.
13 Attorney for Petitioner Ms. Morales-
14 Hernandez

1 **I. INTRODUCTION**

2 Petitioner Arianna Morales-Hernandez (“Ms. Morales-Hernandez”), Agency Number
3 , by and through her undersigned counsel, respectfully moves this Court for a
4 Temporary Restraining Order and preliminary injunctive relief to immediately halt her continued
5 and unlawful detention by the U.S. Department of Homeland Security (DHS) and U.S.
6 Immigration and Customs Enforcement (ICE).

7 Ms. Morales-Hernandez is currently detained at the Washoe County Detention Center
8 pending the outcome of her immigration proceedings, despite the government’s failure to
9 establish, by clear and convincing evidence, that she poses either a danger to the community or a
10 flight risk, as required by the Due Process Clause of the Fifth Amendment.

11 Ms. Morales-Hernandez has been in immigration custody since January 22, 2026.
12 Immigration and Customs Enforcement (“ICE”) first encountered her while she was detained at
13 the county jail following a traffic stop in which she was merely a passenger. Unbeknownst to her,
14 the driver—her cousin—was in possession of illegal contraband. Although both individuals were
15 initially taken into custody, the District Attorney declined to file charges against Ms. Morales-
16 Hernandez, and all charges against her were dismissed on January 22, 2026. Despite the complete
17 dismissal of criminal charges and her lack of any prior criminal history, ICE assumed custody of
18 Ms. Morales-Hernandez and has continued to detain her.

19 Ms. Morales-Hernandez has not received a constitutionally adequate bond hearing at
20 which the government bears the burden of justifying her continued detention. She remains
21 detained without any individualized determination that she poses a danger to the community or a
22 risk of flight.

23 Her continued detention, without meaningful procedural safeguards and without a lawful
24 basis for mandatory detention, violates the Due Process Clause of the Fifth Amendment. There is
25 no legal justification for treating Ms. Morales-Hernandez as subject to mandatory detention, yet
26 ICE has refused to release her or provide a bond hearing at which the government must meet its
27 burden of proof.

1 Ms. Morales-Hernandez respectfully requests that this Court issue a Temporary
2 Restraining Order enjoining the Department of Homeland Security and ICE from continuing to
3 detain her without due process. She seeks immediate release or, in the alternative, a prompt and
4 constitutionally compliant bond hearing before a neutral adjudicator at which the government
5 must demonstrate, by clear and convincing evidence, that her continued detention is warranted.

6 Absent emergency relief from this Court, Ms. Morales-Hernandez will continue to suffer
7 irreparable harm as a result of her unlawful and ongoing detention.

8 **II. STATEMENT OF FACTS AND CASE**

9 **Background and Personal History**

10 Ms. Morales-Hernandez is a forty-year-old native and citizen of Mexico who last entered
11 the United States on May 10, 2008. Since that time, she has continuously resided in this country
12 and has built her life, family ties, and economic stability in the United States. Prior to her
13 detention, Ms. Morales-Hernandez was residing in Oakland, California, where she lived with and
14 supported her family.

15 For the past two years, Ms. Morales-Hernandez has maintained stable employment at a
16 trucking yard. Through this employment, she has consistently provided financial support for her
17 household and her children, demonstrating reliability, responsibility, and strong community ties.
18 Her work has been her primary means of caring for her family and ensuring their basic needs are
19 met.

20 **Family Relationships and Dependents**

21 Ms. Morales-Hernandez is the mother of four children. Most notably, her youngest
22 daughter, [REDACTED], is a twelve-year-old United States citizen. [REDACTED] has always relied on her
23 mother for daily care, emotional support, stability, and guidance. Prior to Ms. Morales-
24 Hernandez's detention, she was the primary caregiver for her children.

25 Since Ms. Morales-Hernandez was taken into immigration custody, [REDACTED] has been
26 forced to reside with a family friend, an arrangement that is temporary and deeply destabilizing
27 for a minor child. This separation has caused significant emotional distress to [REDACTED], who is
28 accustomed to her mother's constant presence and care. Ms. Morales-Hernandez's detention has

1 disrupted the family unit and placed her children—particularly her U.S.-citizen daughter—into
2 an uncertain and vulnerable situation.

3 **Circumstances Leading to Detention**

4 At the time of her detention, Ms. Morales-Hernandez was visiting her cousin.
5 Unbeknownst to her, her cousin was in possession of illegal contraband. During a traffic stop, her
6 cousin was pulled over by law enforcement, and both individuals were taken into custody. Ms.
7 Morales-Hernandez had no knowledge of the contraband and was not involved in any criminal
8 conduct.

9 On January 22, 2026, the District Attorney declined to file charges against Ms. Morales-
10 Hernandez, and all charges against her were formally dismissed. The decision not to prosecute
11 confirms that Ms. Morales-Hernandez committed no crime and bears no criminal culpability
12 arising from the incident. Importantly, Ms. Morales-Hernandez has no prior criminal history of
13 any kind.

14 Despite the complete dismissal of charges, Ms. Morales-Hernandez was transferred into
15 the custody of Immigration and Customs Enforcement, where she remains detained.

16 **Immigration Proceedings and Current Custody**

17 Ms. Morales-Hernandez is currently detained under the custody and control of the
18 Department of Homeland Security. Her detention is not based on any criminal conviction, pattern
19 of misconduct, or threat to public safety, but rather solely on her immigration status. Her
20 continued detention has deprived her family—particularly her U.S.-citizen child—of their
21 primary source of care and support.

22 Ms. Morales-Hernandez's history reflects long-term residence, steady employment,
23 strong family ties, and a complete absence of criminal history. The circumstances of her detention
24 arose from a misunderstanding entirely attributable to another individual, and all criminal
25 allegations against her were conclusively dismissed.

26 **III. JURISDICTION**

27 This Court has jurisdiction to review Ms. Morales-Hernandez's TRO Application.
28 Further, jurisdiction is not stripped by 8 U.S.C. §§ 1252(b)(9) or 1252(g).

1 **A. Jurisdiction Is Not Barred by 8 U.S.C. § 1252(b)(9)**

2 Section 1252(b)(9) provides:

3
4 “Judicial review of all questions of law and fact, including interpretation and
5 application of constitutional and statutory provisions, arising from any action
6 taken or proceeding brought to remove an alien from the United States... shall be
7 available only in judicial review of a final order under this section...”

8 Ms. Morales-Hernandez’s detention is not so intertwined with the broader removal
9 process that it can only be reviewed after a final removal order is issued. The Supreme Court
10 addressed this precise issue in *Jennings v. Rodriguez*, 583 U.S. 281, 293 (2018), where it rejected
11 an overly expansive reading of the phrase “arising from” in 8 U.S.C. § 1252(b)(9). The Court
12 warned that interpreting the statute so broadly as to include constitutional challenges to
13 detention—merely because they are tangentially related to removal—would lead to “absurd
14 results” and deprive noncitizens of “any meaningful opportunity for judicial review.” *Id.*

15 Here, Ms. Morales-Hernandez is not seeking to challenge her removal proceedings, nor
16 the decision to initiate them. Rather, she challenges her prolonged civil detention without a
17 constitutionally sufficient bond hearing under 8 U.S.C. § 1226(a)—a discrete legal and
18 constitutional issue that is wholly independent of whether she is ultimately removable.
19 Moreover, as the Court in *Jennings* made clear, § 1252(b)(9) does not apply where the petitioner
20 is “not asking for review of an order of removal,” and where the claim does not “challenge the
21 decision to detain them in the first place or to seek removal.” *Id.* at 294. Ms. Morales-
22 Hernandez’s challenge arises from the denial of a bond hearing, not the initiation of removal
23 proceedings.

24 Accordingly, § 1252(b)(9) does not bar this Court from exercising jurisdiction over Ms.
25 Morales-Hernandez’s TRO Application.

26 **B. Jurisdiction Is Not Barred by 8 U.S.C. § 1252(g)**

27 8 U.S.C. § 1252(g) statute states:
28

1 “...no court shall have jurisdiction to hear any cause or claim by or on behalf of
2 any alien arising from the decision or action by the Attorney General to
3 commence proceedings, adjudicate cases, or execute removal orders...”

4 However, the Supreme Court has explicitly interpreted § 1252(g) as a narrow
5 jurisdictional limitation. In *Jennings*, the Court reiterated that § 1252(g) applies only to the three
6 specific actions listed: the commencement of proceedings, adjudication of cases, and execution
7 of removal orders. *Jennings*, 583 U.S. at 293.

8 Ms. Morales-Hernandez’s claim does not arise from any of these three enumerated
9 actions. Instead, it challenges the government’s decision to classify her as an “applicant for
10 admission” and deny her access to a bond hearing under § 1226(a)—a procedural and
11 constitutional due process violation. As *Jennings* reaffirmed, courts should not interpret the
12 phrase “arising from” so broadly as to “sweep in any claim that can technically be said to ‘arise
13 from’” removal proceedings. *Id.* Doing so would insulate virtually all governmental actions from
14 judicial review, including those that raise serious constitutional questions—a result the Court
15 expressly rejected.

16 Accordingly, because Ms. Morales-Hernandez’s TRO Application does not challenge the
17 government’s authority to commence proceedings, adjudicate removability, or execute a removal
18 order, § 1252(g) does not apply.

19 In sum, neither § 1252(b)(9) nor § 1252(g) precludes this Court from hearing Ms.
20 Morales-Hernandez’s constitutional claims. She is not challenging a final order of removal or the
21 government’s authority to initiate proceedings. Rather, she seeks urgent judicial relief from her
22 detention without a constitutionally required bond hearing. This Court therefore retains
23 jurisdiction to review her claims and grant the requested temporary restraining order.

24 **IV. LEGAL STANDARD**

25 Pursuant to Federal Rule of Civil Procedure 65, a court may grant preliminary injunctive
26 relief to prevent “immediate and irreparable injury.” Fed R. Civ. P. 65(b). A preliminary
27 injunction is “an extraordinary remedy that may only be awarded upon a clear showing that the
28 plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22, 129 S.

1 Ct. 365, 172 L. Ed. 2d 249 (2008). To obtain a preliminary injunction, a plaintiff must establish
2 four elements: "(1) a likelihood of success on the merits, (2) that the plaintiff will likely suffer
3 irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in its
4 favor, and (4) that the public interest favors an injunction." *Wells Fargo & Co. v. ABD Ins. &*
5 *Fin. Servs. Inc.*, 758 F.3d 1069, 1071 (9th Cir. 2014), as amended (Mar. 11, 2014) (*citing Winter*,
6 555 U.S. at 20).

7 In the Ninth Circuit, a preliminary injunction may also issue under the "serious
8 questions" test. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134 (9th Cir. 2011)
9 (affirming the continued viability of this doctrine post-*Winter*). According to this test, "serious
10 questions going to the merits and a balance of hardships that tips sharply towards the plaintiff
11 can support issuance of a preliminary injunction, so long as the plaintiff also shows that there is a
12 likelihood of irreparable injury, and that the injunction is in the public interest." *Id.* at 1135.
13 Courts in the Ninth Circuit evaluate "these factors on a sliding scale, such that a stronger
14 showing of one element may offset a weaker showing of another." *Recycle for Change v. City of*
15 *Oakland*, 856 F.3d 666, 669 (9th Cir. 2017).

16 **V. ARGUMENT**

17 **Ms. Morales-Hernandez warrants a Temporary Restraining Order.**

18 A temporary restraining order should be issued if "immediate and irreparable injury, loss,
19 or irreversible damage will result" to the applicant in the absence of an order. Fed. R. Civ. P.
20 65(b). The purpose of a temporary restraining order is to prevent irreparable harm before a
21 preliminary injunction hearing is held. *See Granny Goose Foods, Inc. v. Bhd. Of Teamsters &*
22 *Auto Truck Drivers Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974). Ms. Morales-
23 Hernandez is likely to remain in unlawful custody in violation of her due process rights without
24 intervention by this Court. Ms. Morales-Hernandez will continue to suffer irreparable injury if
25 she continues to be detained without due process.

26 **A. Likelihood of Success on the Merits.**

27
28

1 Under the clear terms of the statute and well-established case law, 8 U.S.C. § 1226(a)
2 governs the detention of individuals who, like Ms. Morales-Hernandez, are physically present
3 within the United States and are undergoing removal proceedings. Given that Ms. Morales-
4 Hernandez has lived in the United States for more than 15 years and was not apprehended at the
5 border or upon entry, her case is governed by § 1226(a). As such, she is entitled to a bond hearing
6 that complies with the due process protections afforded under that provision.

7 Section 1226 distinguishes between two classes of individuals in immigration detention.
8 Section 1226(a) applies to individuals within the United States pending removal proceedings and
9 allows for discretionary release on bond. In contrast, § 1226(c) applies to a narrow category of
10 so-called “criminal aliens” and imposes mandatory detention under more limited circumstances.

11 Critically, individuals detained under § 1226(a) are entitled to an initial bond hearing
12 before an immigration judge, with the opportunity to present evidence, be represented by counsel,
13 and seek subsequent bond redeterminations if circumstances materially change. See *Rodriguez*
14 *Diaz v. Garland*, 53 F.4th 1189, 1201 (9th Cir. 2022).

15 Here however, it was alleged that Ms. Morales-Hernandez is not detained under § 1226(a),
16 but rather under § 1225(b)(2), based on the claim that she qualifies as an “applicant for admission”
17 due to her entry without inspection. That provision mandates detention for arriving noncitizens
18 unless they are “clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A).
19 The government suggest that this provision applies not only to arriving aliens at ports of entry but
20 also to individuals already physically present in the country without having been formally
21 “admitted.”

22 This argument, however, misreads the statute. If Congress had intended § 1225 to apply
23 universally to all individuals who entered without inspection—even those long-settled in the
24 interior of the country—§ 1226 would serve no meaningful function, particularly with respect to
25 noncitizens charged under § 1226(c). Respondents' position improperly creates an irreconcilable
26 conflict where none exists.

27 In *Jennings v. Rodriguez*, 583 U.S. 281, 287–89 (2018), the Supreme Court clarified that
28 § 1225 applies at the Nation’s borders and ports of entry, where the government determines

1 admissibility of arriving noncitizens. In contrast, § 1226 governs individuals already inside the
2 United States, including those who may be removable but have developed significant ties to the
3 country. As the Court explained, § 1226 applies to “aliens who are already present in the United
4 States but who have not been admitted and are nonetheless subject to removal,” while § 1225
5 applies to aliens at the border seeking admission.

6 Accepting Respondents’ interpretation would render large portions of § 1226 superfluous,
7 violating the canon of statutory construction that requires giving effect to all parts of a statute.
8 See *Corely v. United States*, 556 U.S. 303, 314 (2009) (“A statute should be construed so that no
9 part will be inoperative or superfluous, void or insignificant.”).

10 Because Ms. Morales-Hernandez is a long-term resident of the United States who was not
11 apprehended at a port of entry, and because she does not fall within the limited scope of § 1226(c),
12 she is plainly detained under § 1226(a) and is entitled to a bond hearing with full due process
13 protections.

14 Accordingly, Ms. Morales-Hernandez is likely to succeed on the merits of her claim that
15 the government has wrongfully denied her a bond hearing in violation of § 1226(a) and the Fifth
16 Amendment.

17 **B. Irreparable Harm**

18 To obtain a temporary restraining order, a petitioner must show that they are likely to
19 suffer irreparable harm in the absence of preliminary relief. *Winter v. Natural Resources Defense*
20 *Council, Inc.*, 555 U.S. 7, 20 (2008).

21 Ms. Morales-Hernandez has been detained by U.S. Immigration and Customs
22 Enforcement since January 22, 2026, and has been denied a bond hearing throughout that period.
23 The Supreme Court has long recognized that “[f]reedom from imprisonment— from government
24 custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due
25 Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The ongoing deprivation
26 of this fundamental liberty, without an individualized bond determination, constitutes a clear and
27 continuing constitutional injury.

1 The Ninth Circuit has emphasized that the loss of constitutional rights “unquestionably
2 constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting
3 *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). This principle squarely applies here. Ms. Morales-
4 Hernandez remains detained without due process, in violation of her Fifth Amendment rights.

5 Moreover, Ms. Morales-Hernandez’s detention has caused substantial and continuing
6 harm not only to her, but also to her family—particularly her twelve-year-old U.S. citizen
7 daughter, [REDACTED]. Prior to her detention, Ms. Morales-Hernandez was [REDACTED]’s primary caregiver
8 and source of emotional and financial support. Since Ms. Morales-Hernandez has been taken into
9 custody, [REDACTED] has been forced to live with a family friend, a temporary and unstable
10 arrangement that has disrupted her daily life and sense of security. The prolonged separation from
11 her mother has placed [REDACTED] in a vulnerable position and has caused significant emotional
12 distress, as she has been deprived of her mother’s care, guidance, and stability. As the Ninth
13 Circuit recognized in *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017), prolonged
14 immigration detention results in not only the deprivation of liberty, but also severe emotional,
15 financial, and familial harm—all of which are present here and underscore the irreparable nature
16 of Petitioner’s injury.

17 Petitioner’s continued detention without the opportunity for a constitutionally adequate
18 bond hearing violates due process and inflicts immediate and serious harm on her and her family.
19 Accordingly, the second prong of the TRO standard—irreparable harm—is clearly satisfied.

20 **C. Balance of the Equities and Public Interest**

21 The Balance of Equities and Public Interest Strongly Favor Ms. Morales-Hernandez.
22 When the government is the opposing party, the final two TRO factors—the balance of equities
23 and the public interest—merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). In this case, both
24 weigh decisively in favor of Ms. Morales-Hernandez.

25 As demonstrated above, Petitioner’s continued detention without a bond hearing—
26 violates federal statutory and constitutional protections. Detaining a person without due process
27 offends core principles of federal law and undermines the constitutional guarantee of liberty. As
28 the Ninth Circuit has made clear, “it would not be equitable or in the public’s interest to allow the

1 state to violate the requirements of federal law.” *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006,
2 1029 (9th Cir. 2013). Accordingly, both the public interest and the balance of equities weigh in
3 favor of granting relief.

4 While the government undoubtedly has an interest in the consistent application of
5 immigration policy, this interest does not extend to the unlawful denial of liberty in contravention
6 of statutory protections. As the Ninth Circuit has recognized, “there is no public interest in the
7 perpetuation of unlawful agency action.” *League of Women Voters v. Newby*, 838 F.3d 1, 12 (D.C.
8 Cir. 2016) (internal citation omitted).

9 Moreover, the government’s refusal to provide a bond hearing relies on a novel and
10 disputed interpretation of immigration detention statutes. This approach departs from decades of
11 statutory practice under 8 U.S.C. § 1226(a), which has long required an individualized assessment
12 of flight risk and danger before depriving a person of liberty. Enforcing Petitioner’s right to a
13 bond hearing does not disturb the law; it restores it.

14 By contrast, continuing to detain Petitioner without a bond hearing inflicts ongoing and
15 irreparable harm. She has lived in the United States for over three decades, has strong family and
16 community ties, and has no history indicating danger or flight risk. The balance of equities
17 overwhelmingly favors ensuring a prompt, constitutionally required bond hearing—not allowing
18 prolonged detention based on an untested expansion of mandatory detention under *Yajure*
19 *Hurtado*.

20 Accordingly, both the balance of equities and the public interest support the issuance of a
21 temporary restraining order in Ms. Morales-Hernandez’s favor.

22 **VI. CONCLUSION**

23 For the reasons stated above, Petitioner respectfully requests that this Court issue a
24 Temporary Restraining Order prohibiting Respondents from continuing to detain her without
25 providing a bond hearing. Petitioner has shown a strong likelihood of success on the merits
26 because her detention properly falls under 8 U.S.C. § 1226(a), not § 1225, and *Matter of Yajure*
27 *Hurtado* does not authorize her continued detention without individualized review—particularly
28 where the underlying criminal charges have been dismissed. Accordingly, she is entitled to a

1 constitutionally compliant bond hearing.

2 Ms. Morales-Hernandez’s continued detention—without any individualized
3 determination of whether she poses a flight risk or danger to the community—violates the
4 governing statutory framework and the Due Process Clause of the Fifth Amendment. Every
5 additional day he remains incarcerated without due process inflicts irreparable harm, depriving
6 her of her liberty and causing profound emotional, medical, and financial hardship to her U.S.
7 citizen child and other dependent family members who rely on her for care and stability.

8 The balance of equities and the public interest overwhelmingly support injunctive relief.
9 There is no legitimate public benefit in detaining a long-term resident with deep community ties,
10 no criminal history, and no finding of dangerousness—particularly where her detention is based
11 on a misapplication of immigration statutes.

12 For these reasons, Ms. Morales-Hernandez respectfully requests that this Court grant a
13 Temporary Restraining Order and order her immediate release. In the alternative, the Court
14 should require the government to provide a prompt and constitutionally adequate bond hearing—
15 at which the government bears the burden of proving, by clear and convincing evidence, that
16 continued detention is necessary.

17 Dated this 3rd day of February 2026

Respectfully submitted,

Karen Monrreal

18 Karen S. Monrreal, Esq.
19 Attorney for Petitioner, Ms. Morales-
20 Hernandez
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