

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

	:	
JORGE MATA MERCADO,	:	
Petitioner,	:	Case No. 26-CV-1455
v.	:	
	:	Before the Honorable _____
J.L. JAMISON, in his official capacity as Warden	:	
of the Federal Detention Center, Philadelphia;	:	
JOHN RIFE, in his official capacity as	:	
Acting Philadelphia Field Office Director,	:	
United States Immigration and Customs	:	
Enforcement; TODD LYONS, in his official	:	
capacity as Acting Director of Immigration and	:	
Customs Enforcement; U.S. IMMIGRATION AND	:	
CUSTOMS ENFORCEMENT; KRISTI NOEM,	:	
in her official capacity as Secretary of the	:	
Department of Homeland Security; THE	:	
DEPARTMENT OF HOMELAND SECURITY;	:	
PAMELA BONDI, Attorney General of the United	:	
States	:	
Respondents.	:	

MOTION FOR TEMPORARY RESTRAINING ORDER

PLEASE TAKE NOTICE that, as soon as counsel may be heard, Petitioner Jorge Mata Mercado, by and through undersigned counsel, will move this Court for a Temporary Restraining

Order (“TRO”), pursuant to Federal Rule of Civil Procedure 65 and the Court’s inherent equitable authority, including the All Writs Act, 28 U.S.C. § 1651.

Petitioner seeks a Temporary Restraining Order in the form attached hereto, and further requests that this matter be set down for a prompt hearing to determine whether the temporary restraints should be converted into a Preliminary Injunction.

In support of this Motion, Petitioner submits the accompanying Memorandum of Law in Support of a Temporary Restraining Order and the concurrently filed Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief.

Absent immediate injunctive relief, Respondents may transfer Petitioner outside the Eastern District of Pennsylvania at any time, which would risk divesting this Court of jurisdiction and irreparably frustrate meaningful habeas review. Petitioner is currently detained within this District and seeks relief from unlawful detention that falls squarely within the core of habeas corpus.

WHEREFORE, Petitioner respectfully requests that this Court grant this Motion and issue a Temporary Restraining Order:

1. Enjoining Respondents from transferring Petitioner outside the Eastern District of Pennsylvania while this action is pending;
2. Enjoining Respondents from detaining Petitioner pursuant to 8 U.S.C. § 1225(b)(2) during the pendency of this action; and

3. Ordering Petitioner's immediate release from Respondents' custody, or, in the alternative, ordering Respondents to provide Petitioner with a constitutionally and statutorily adequate bond hearing before an Immigration Judge without delay.

Dated: March 6, 2026

Respectfully submitted,

s/ Lauren V. Amjed

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States

Respondents.

**MEMORANDUM OF LAW IN SUPPORT OF PETITIONER'S MOTION FOR
TEMPORARY RESTRAINING ORDER**

I. INTRODUCTION

Petitioner Jorge Mata Mercado submits this Memorandum of Law in Support of his Motion for a Temporary Restraining Order (“TRO”). Petitioner seeks emergency relief enjoining Respondents from transferring him outside the Eastern District of Pennsylvania, enjoining his continued detention under 8 U.S.C. § 1225(b)(2), and ordering his immediate release, or, in the alternative, a prompt and constitutionally adequate bond hearing.

Petitioner is currently detained at the Federal Detention Center in Philadelphia pursuant to a newly adopted DHS policy that mandates detention without bond for noncitizens charged as present without admission, even where, as here, they have resided in the United States for numerous years. At last count, there were 289 district court decisions addressing this legal issue, of which 283 found the DHS policy, as well as Board of Immigration Appeals’ binding decision supporting the policy in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), to be incorrect and a violation of Due Process rights. See Demirel v. Federal Detention Center Philadelphia, et al., No. 25-5488, 2025 WL 3218243, at *1 (E.D. Pa. Nov. 18, 2025) (creating Appendix of district court decisions); see also Cantu-Cortes v. O’Neill, No. 25-6338, 2025 WL 317639 (E.D. Pa. Nov. 13, 2025); Bethancourt Soto v. Soto, 2025 WL 2976572 (D.N.J. Oct. 22, 2025); Sanchez Ballestros v. Noem, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025); Hernandez-Alonso v. Tindall, 2025 WL 3083920 (W.D. Ky. Nov. 4, 2025); Rodriguez Serrano v. Noem, 2025 WL 3122825 (W.D. Mich. Nov. 7, 2025); Ochoa Ochoa v. Noem, No. 25 CV 10865, 2025 WL 2938779, (N.D. Ill. Oct. 16, 2025); Rosales Ponce v. Olson, 2025 WL 3049785 (N.D. Ill. Oct. 31, 2025); Loza Valencia v. Noem, 2025 WL 3042520 (N.D. Ill. Oct. 31, 2025); Rosado v. Figueroa, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); Cuevas Guzman v. Andrews, 2025 WL 2617256

(E.D. Cal. Sept. 9, 2025); Guerrero Lepe v. Andrews, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); E.C. v. Noem, 2025 WL 2916264 (D. Nev. Oct. 14, 2025); Garcia Domingo v. Castro, 2025 WL 2941217 (D.N.M. Oct. 15, 2025); Artiga v. Genalo, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025).

Absent immediate injunctive relief, Petitioner faces continued unlawful detention and the imminent risk of transfer outside this Court’s jurisdiction, which would irreparably frustrate meaningful habeas review. Temporary relief is therefore necessary to preserve the status quo, protect this Court’s jurisdiction, and prevent ongoing violations of Petitioner’s constitutional and statutory rights.

II. FACTUAL BACKGROUND

Petitioner Jorge Mata Mercado, a native and citizen of Mexico. He last entered the United States in or around 2005 without inspection. Since that time, he has continuously resided in the state of Delaware. Mr. Mercado has been married to his wife since 2005, and the couple have three children, all of whom were born in the United States. Mr. Mata Mercado has no criminal history, except for a single conviction for Driving Under the Influence (“DUI”) in 2003 for which he was sentenced to probation. He successfully completed all probationary requirements in 2021, and his driving privileges have since been restored.

On March 2, 2026, Mr. Matas Mercado was stopped by Immigration and Customs Enforcement (“ICE”) officers without cause while driving on Route 1. ICE officers informed him that it was simply “bad luck.” Without prior notice or explanation, officers took Mr. Mata Mercado into custody, leaving his vehicle running on the roadside, and transported him to the Federal Detention Center (“FDC”) in Philadelphia, Pennsylvania, where he remains detained.

III. LEGAL FRAMEWORK

Until recently, it was understood that the Immigration and Nationality Act (“INA”), 8 U.S.C. §§1225 and 1226, divide noncitizens into two categories: those seeking admission to the United States and those already present in the country, and sets forth the rules governing processing and detention for each group. See Maldonado Bautista v. Santacruz, No. 5:25-CV-01873 (C.D. Cal. November 20, 2025) (quoting Jennings v. Rodriguez, 583 U.S. 281, 289 (2018)). Section 1225(b) governs detention of noncitizens seeking admission to the United States, authorizing the Government to detain such individual during while their admissibility is determined. Jennings, 583 U.S. at 289. Section 1226, by contrast, governs noncitizens already in the United States and authorizes the Government to apprehend and detain such individuals pending the outcome of removal proceedings. INA §236(a), 8 U.S.C. §1226(a); Jennings, 582 U.S. at 288-89. Importantly, noncitizens detained under §1226(a) are eligible for release on bond and are entitled to a custody redetermination hearing before an Immigration Judge. See 8 C.F.R. §236.1(d)(1); Jennings, 583 U.S. at 306. At such a hearing, a detainee who demonstrates that he is not a “threat to national security, a danger to the community at large, likely to abscond or otherwise a poor bail risk” merits release on bond. Matter of Guerra, 24 I&N Dec. 37, 40 (BIA 2006) (citing Matter of Patel, 15 I&N Dec 666 (BIA1976)).

On or about July 8, 2025, however, the U.S. Immigration and Customs Enforcement (“ICE”) adopted a new interpretation of the INA and issued interim guidance asserting that individuals who entered the United States without inspection are subject to mandatory detention and ineligible for release on bond, regardless of how long they have lived in the United States. The policy altered longstanding practice by which noncitizens who entered without inspection

but were later apprehended within the United States were detained under 8 U.S.C. §1226(a) and therefore eligible to seek release on bond before an immigration judge.

On September 5, 2025, the Board of Immigration Appeals issued a precedential decision, approving the Government's new interpretation. In Matter of Yajure Hurtado, 29 I&N Dec 216 (BIA 2025), the BIA held that noncitizens who entered the United States without inspection are governed by 8 U.S.C. §1225(b)(2)(A) rather than §1226(a) and therefore are not eligible for release on bond. Since that decision, numerous federal district courts considering habeas petitions have rejected Yajure Hurtado's reasoning and held that noncitizens who enter the country without inspection but were apprehended within the United States are properly detained under §1226(a) and therefore remain eligible for a bond hearing. See Demirel v. Fed. Det. Ctr. Philadelphia, No. 25-5488 at *2- 3 (E.D. Pa. Nov. 18, 2025) (Diamond, J.) (listing 282 district decisions)

In Maldonado Bautista v. Santacruz, the United States District Court for the Central District of California held on November 20, 2025, that the new ICE policy is inconsistent with the plain language of the INA and that affected noncitizens in that case were detained pursuant to §1226(a), not §1225(b)(2)(A). Maldonado Bautista v. Santacruz, No. 5:25-CV-01873, 2025 WL 3289861 (C.D. Cal. November 20, 2025). On November 25, 2025, the court certified a nationwide class and extended its ruling to all class members. See Maldonado Bautista v. Santacruz, No. 5:25-CV-01873, 2025 WL 3288403 at *9 (C.D. Cal. November 25, 2025) The Court certified the following "Bond Eligible Class": all noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. Id at *9.

On December 18, 2025, the court issued an amended order clarifying that the government's policy and practice of applying §1225(b)(2) to class members was unlawful. The Court specifically stated that "Yajure Hurtado is no longer controlling; the legal conclusion underlying the decision is no longer tenable. Matter of Yajure Hurtado No. 5:25-CV-01873, 2025 WL 3713982 at *3, 6-7 (C.D. Cal. December 18, 2025). Despite that ruling – and despite the vast majority of district courts rejecting the Government's interpretation – on January 13, 2026, Chief Immigration Judge Teresea L. Riley issued guidance instructing Immigration Judges that they remain bound by Matter of Yajure Hurtado. As a result, Immigration Judges have continued to deny bond hearings to affected detainees, forcing many individuals to seek habeas relief in federal court.

In this case, Petitioner was not arriving in the United States at the time of his arrest on March 2, 2026. Rather, he had been living in the United States for over twenty years. The Supreme Court has recognized that under §1226(a) the Government has discretionary authority to detain noncitizens "already in the country pending the outcome of removal proceedings." Jennings, 583 U.S. at 288. Nevertheless, under the Government's new policy and the BIA's decision in Matter of Yajure Hurtado, Immigration Judges are currently prevented from considering Petitioner's request for release on bond. Because the BIA's precedential decision forecloses relief before the Immigration Court, exhaustion of administrative remedies would be futile. See United States v. Dohou, 948 F.3d 621, 628 (3d Cir. 2020) (exhaustion is not required where it would be futile).

Available information indicates that DHS's new detention policy is the sole reason for Petitioner's continued detention. Yet "every district court in the Third Circuit to consider this issue has found that detainees similarly situated are not subject to the mandatory detention

provision of 8 U.S.C. §1225(b)(2)(A) and that Respondents’ interpretation of the INA is wrong.” Patel v. O’Neil No. 3:25-CV-2185 at p. 4, n. 7 (M.D. PA Dec. 8, 2025). Specifically, the Honorable Paul Diamond of the Eastern District of Pennsylvania has noted that in 282 decisions addressing this issue, the Government’s interpretation has been consistently rejected. See Demirel No. 25-5488 at p. 1 (E.D. Pa. Nov. 18, 2025). Including Demirel, multiple cases from the Eastern District have concluded that §1226, not Section §1225, governs and that the petitioners are entitled to a bond hearing. Id.

IV. STANDARD FOR TEMPORARY RESTRAINING ORDER

“A Petitioner seeking a preliminary injunction must establish that [1] he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest.” Winter v. National Res. Def. Council, Inc., 555 U.S. 7, 20 (2008); Reilly v. City of Harrisburg, 858 F.3d 173, 177 (3d Cir. 2017).

A. Petitioner Is Likely to Succeed on the Merits

Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista* because he is a noncitizen in the United States without lawful status who: (1) entered the United States without inspection; (2) was not apprehended upon arrival; and (3) is not subject to mandatory detention under 8 U.S.C. § 1226(c), expedited removal under 8 U.S.C. § 1225(b)(1), or detention under 8 U.S.C. § 1231 based on a prior removal order. As member of the Bond Eligible Class, Petitioner is entitled to the declaratory relief issued in *Maldonado Bautista*, which held that detention of similarly situated noncitizens under 8 U.S.C. § 1225(b)(2) is unlawful. Respondents are nevertheless detaining Petitioner under § 1225(b)(2) in contravention of that declaratory judgment and in violation of the Immigration and Nationality Act. Because Petitioner

does not fall within the categories subject to mandatory detention, his custody is governed by 8 U.S.C. § 1226(a), which authorizes release on bond or conditional parole following an individualized custody determination.

Section 1226(a) expressly provides that noncitizens detained under that provision may seek release on bond and are entitled to an individualized bond redetermination hearing before an Immigration Judge. At such a hearing, the government must demonstrate that continued detention is necessary because the noncitizen poses a flight risk or a danger to the community. By refusing to provide Petitioner with a bond redetermination hearing, Respondents have violated § 1226(a) of the Immigration and Nationality Act.

Petitioner's detention is also a violation of Due Process Clause of the Fifth Amendment. Noncitizens who are physically present in the United States are entitled to the protections of the Due Process Clause, regardless of their immigration status. Zadvydas v. Davis, 533 U.S. 678, 693 92001). "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty protected by the Due Process Clause." Id. at 690. Further, "government detention violates [the Due Process] Clause unless the detention is ordered in a *criminal* proceeding with adequate procedural safeguards ..., or, in ... special and 'narrow' nonpunitive 'circumstances' ... where a special justification ... outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" Id. at 690. "The Supreme Court has held repeatedly that non-punitive detention violates the constitution unless it is strictly limited ...[and] accompanied by a prompt individualized hearing before a neutral decision maker to ensure that the imprisonment serves government legitimate goals. Padilla v. ICE, No. 19-35565 at p. 16 (9th Cir. 2019) (citing United States v. Salerno, 481 U.S. 739, 750-51 (1987)).

Here, Petitioner has been detained without any individualized custody determination and without an opportunity to demonstrate that he is neither a flight risk nor a danger to the community. In Mathews v. Eldridge, the Supreme Court established the constitutional standard for determining what due process is required before the government can deprive an individual of a liberty interest. 424 U.S. 319 (1976). Under the Mathews v. Eldridge framework, the Court must consider: (1) the private interest affected; (2) the risk of erroneous deprivation under the procedures used; and (3) the Government's interest. Id at 335.

Each factor weighs in Petitioner's favor. First, Petitioner's private liberty interest – his freedom from confinement – “lies at the heart of the liberty” protected by the Due Process Clause. Zadvydas, 533 U.S. at 690. Moreover, before he was detained, Petitioner was employed, resided with his wife, was raising his children, and established ties to his community. Detention, therefore, severely disrupts his family unity, employment, and community life. Second, the risk of erroneous deprivation is not speculative – it is actual and ongoing. Petitioner has no criminal history other than a single DUI conviction more than twenty years ago, for which he completed all terms of probation. His detention is based solely on a cruel new policy approach to a category of noncitizens that has already been deemed unlawful by numerous courts. Third, the government lacks a legitimate interest in detaining an individual who is neither a flight risk nor a danger to the community. The Government's asserted interest rests solely on a detention policy applied without individualized findings and for nonpunitive purposes. Such an interest cannot outweigh Petitioner's liberty interest. See Zadvydas, 533 U.S. at 690.

Finally, Petitioner's detention also violates the Administrative Procedure Act, which prohibits agency action that is “arbitrary, capricious or an abuse of discretion.” 5 U.S.C. §706(2)(A). An agency acts arbitrarily and capriciously when it fails to “articulate a ‘rational

connection between the facts found and the decision made.” Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 59 (1983).

Here, Respondents have articulated no individualized, reasoned basis for detaining Petitioner. Instead, Respondents’ decision to detain Petitioner rests solely on a blanket DHS policy interpreting 8 U.S.C. § 1225(b)(2) to mandate detention of all noncitizens charged with entry without admission or parole. Because that policy conflicts with the governing statute and the declaratory relief issued in *Maldonado Bautista*, Respondents’ actions are unlawful.

Accordingly, Petitioner is likely to succeed on his habeas claims.

B. Petitioner Faces Irreparable Harm Absent Immediate Relief

Freedom from confinement is a liberty interest that is at the core of our constitutional rights and therefore its deprivation constitutes irreparable harm. See Padilla v. ICE, No. 19-35565 at p. 16 (9th Cir. 2019)(citing United States v. Salerno, 481 U.S. 739, 750-51 (1987)); Zadvydas v. Davis, 533 U.S. 678, 690 (2001) (“government detention violates [the Due Process Clause] unless the detention is ordered in a *criminal* proceeding with adequate procedural protections..., or, in certain special and ‘narrow’ nonpunitive ‘circumstances,’ ...where a special justification ... outweighs the ‘individual’s constitutionally protected interest in avoiding physical restraint.”) Moreover, it has been held that “[i]n the immigration context, unlawful detention is a sufficient irreparable injury.” Gudino v. Lowe, 785 F. Supp. 3d 27, 46–47 (M.D. Pa. 2025). Petitioner’s continued detention inflicts an actual harm, including freedom from restraint and unjustified separation from family, that cannot be remedied,. See id; see also E.O.H.C. v. Barr, 434 F. Supp. 3d 321, 340 (E.D. Pa. 2020), order vacated, appeal dismissed sub nom. E.O.H.C. v. Atty Gen. United States, No. 20-1163, 2020 WL 2111302 (3d Cir. Apr. 20, 2020) (“Courts have recognized that separation from family members constitutes an irreparable

injury.”). Thus, Petitioner has demonstrated irreparable harm that he has and will continue to suffer absent an immediate order for his release.

C. The Balance of Equities Favors Petitioner

The government lacks a legitimate interest in detaining an individual who is neither a flight risk nor a danger to the community. The Government’s asserted interest rests solely on a detention policy applied without individualized findings and for nonpunitive purposes. Such an interest cannot outweigh Petitioner’s liberty interest. See Zadvydas, 533 U.S. at 690.

D. The Public Interest Supports Injunctive Relief

A demonstration of likelihood of success on the merits and irreparable harm, is almost always indicative that public interest weighs in favor of Petitioner. See Am.Tel. & Tel. Co. v. Winback & Conserve Program, Inc., 42 F.3d 1421, 1427 n.8 (3d Cir. 1994). The public interest is served by ensuring that executive detention complies with statutory limits and constitutional guarantees. Protecting access to habeas corpus and preventing unlawful detention are core public interest. Preiser v. Rodriguez, 411 U.S. 475, 484 (1973) (“the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and... the traditional function of the writ is to secure release from illegal custody.”).

VI. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant his Motion for a Temporary Restraining Order, enjoin Respondents from transferring him outside the Eastern District of Pennsylvania, enjoin his detention under 8 U.S.C. § 1225(b)(2), and order his immediate release or, in the alternative, a prompt and constitutionally adequate bond hearing.

Dated: March 6, 2026

Respectfully submitted,

s/ Lauren V. Amjed

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PAMELA BONDI, Attorney General of the United :
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Respondents.

CERTIFICATE OF SERVICE

I, Lauren V. Amjed, Esquire, attorney for the Petitioner, Jorge Mata Mercado,

hereby certify that on this 6th day of March 2026, I served a true copy of the following

documents by electronic filing and USPS first class mail upon the parties named below:

Motion for Temporary Restraining Order and Memorandum in support thereof.

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Date: March 6, 2026

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