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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Alfredo Oswaldo Mejia-Lopez

A 

Petitioner,

v.

Juan Agudelo, in his official capacity as
Field Office Director of the Miami Field
Office of U.S. Immigration and Customs
Enforcement, Enforcement and Removal
Operations;

Todd Lyons, in his official capacity as
Acting Director and Senior Official
Performing the Duties of the Director of
U.S. Immigration and Customs
Enforcement;

Kristi Noem, in her official capacity as
Secretary of the Department of
Homeland Security; and

Respondents.

Case No.: _____

**APPLICATION FOR
TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

TABLE OF CONTENTS

	Page
I. INTRODUCTION.....	1-2
II. LEGAL AND FACTUAL BACKGROUND.....	2
III. ARGUMENT	2-6
a. Likelihood of	
Success.....	3-4
b. Petitioner Will Suffer Irreparable Harm Absent	
Injunctive Relief	5
c. The Balance of Hardships and Public Interest Weigh in	
Petitioner’s favor.....	5-6
IV. CONCLUSION.....	6
CERTIFICATION.....	7
CERTIFICATE OF SERVICE.....	7

I. INTRODUCTION

Petitioner Alfredo Oswaldo Mejia-Lopez, is a 40-year-old native and citizen of Guatemala who Respondents have detained since March 23, 2026 at the Florida Soft Side South Detention Facility located at 54575 Tamiami Trail E, Ochopee, Florida 33141. He is held without bond pursuant to a Notice to Appear charging him with removability under 8 U.S.C. § 1182(a)(6)(A)(i)[present without admission or parole] [and/or 8 U.S.C. § 1182(a)(7)(i)(I)]. On available information, he has an asylum application pending before USCIS, has no criminal record that would subject him to mandatory detention, or preclude the reliefs he will seek in Immigration Court.

Petitioner contends he is being unlawfully detained because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) of the Department of Justice (DOJ) have erroneously concluded he is subject to mandatory detention, and not eligible for bond.

On July 8, 2025, DHS issued a directive instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under 8 U.S.C. §1182(a)(6)(A)(i)—i.e., those, like Petitioner, who entered the United States without inspection— to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

The Executive Office for Immigration Review (EOIR) of the Department of Justice (DOJ) has recently affirmed that view. In a published decision, dated September 5, 2025, the Board of Immigration Appeals held that “Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission.” *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 229 (BIA 2025). On January 13, 2026, the Executive Office for Immigration Review [EOIR] issued guidance to its Immigration Judges that the recent Class certification in *Maldonado Bautisa*, is not a nationwide injunction and did not vacate, stay, or enjoin the Board of Immigration Appeals’ holding in *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 229 (BIA 2025), *infra*. See *Maldonado*

1 *Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-CV-01873-SSS-BFM, 2025
2 WL 3288403 (C.D. Cal. Nov. 25, 2025).

3 For these reasons, Petitioner asks this court to provide immediate relief, 1)
4 enjoining Respondents from removing him, and 2) ordering that Petitioner be
5 immediately released pending consideration of his Writ of Habeas Corpus, or that
6 he be afforded the opportunity to apply for a reasonable bond.

7 **II. LEGAL AND FACTUAL BACKGROUND**

8 Petitioner Alfredo Oswaldo Mejia-Lopez, is a 40-year-old native and citizen
9 of Guatemala, who Respondents have detained since March 23, 2026 at the Florida
10 Soft Side South Detention Facility located at 54575 Tamiami Trail E, Ochopee,
11 Florida 33141. He entered the United States in 2018 at the age of about thirty-three
12 and has habitually resided in Florida. Despite a pending asylum application, he was
13 detained on March 23, 2026, in a peaceable manner, pursuant to a traffic stop. On
14 present information, he has no criminal history greater than traffic violations that
15 would subject him to mandatory detention on criminal grounds. He is held detained
16 without bond pursuant to a Notice to Appear asserting his removability under 8
17 U.S.C. § 1182(a)(6)(A)(i)(present without admission or parole) and/or 8 U.S.C. §
18 1182(a)(7)(A)(i)(I)(not in possession of valid entry documents). Based on the
19 charge(s) or removability, he hasn't been afforded bond consideration of any kind.

20 Based on recent precedent and directives, Respondents will not afford
21 Petitioner's bond consideration of any kind.

22 **III. ARGUMENT**

23 A temporary restraining order is an "extraordinary remedy," and a motion
24 requesting one is assessed under the same rubric as a motion for a preliminary
injunction. *Winter v. Natural Res. Def Council, Inc.*, 555 U.S. 7, 22 (2008).

25 To obtain temporary and preliminary injunctive relief, Petitioner, must show
26 that 1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm
27 in the absence of preliminary relief, (3) the balance of equities tips in his favor, and
28

1 (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555
2 U.S. 7, 20 (2008).

3 When the government is a party, the balance of equities and public interest
4 merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Under the circumstances
5 presented herein, no security bond is required under Federal Rule of Civil Procedure
6 65(c).

7 **A. Petitioner has a High Likelihood of Success on the Merits**

8 The Board of Immigration Appeals has held that individuals, like
9 Petitioner, found to be removable under 8 U.S.C. §1182(a)(6)(A)(i) [present in the
10 United States *without being admitted or paroled...*] are subject to mandatory
11 detention. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

12 However, there is a mixed range of District Court decisions, some favoring
13 Respondent's position [agreeing with *Yajure Hurtado*], and others siding with
14 Petitioner's view that, although he might be removable under 8 U.S.C.
15 §1182(a)(6)(A)(i) (*present without being admitted or paroled*), this is not the same
16 as someone "seeking admission" within the meaning of the mandatory detention
17 provision at 8 U.S.C. § 1225(b)(2), because "seeking" is a term that cannot
18 reasonably apply to someone who has been placed into removal proceedings well
19 after their entry to the United States. *See* Petitioner's Writ for Habeas.

20 However, Petitioner's arguments for bond eligibility find support in the fact
21 that in 2025, Congress passed the Laken Riley Act, which added additional
22 categories of Section 1226(a) carve outs that are now subject to mandatory detention
23 under Section 1226(c). Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8
24 U.S.C. § 1226(c)(1)(E). It mandates the detention of noncitizens who are
25 inadmissible under §§ 1182(a)(6)(A) (noncitizens "present in the United States
26 without being admitted or paroled"), 1182(a)(6)(C) (misrepresentation), or
27 1182(a)(7) (lacking valid documentation) and who have been arrested for, charged
28 with, or convicted of certain crimes. *Id.* If Section 1225(b)(2) were already meant

1 to subject these groups of inadmissible noncitizens to mandatory detention, it would
2 render this portion of the Laken Riley Act redundant. *See Beltran Barrera v. Tindall*,
3 *No. 3:25-CV-541-RGJ*, 2025 WL 2690565, at *4 (*W.D. Ky. Sept. 19, 2025*); *Lopez-*
4 *Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *8 (*E.D. Mich. Aug.*
5 *29, 2025*).

6 Further, it is notable here to state that Central District of California certified
7 a class of aliens who, like Petitioner, are deemed applicants for admission, detained
8 by Respondents under 8 U.S.C. § 1225(b)(2), and providing that such class members
9 be afforded a bond hearing. *See Maldonado Bautista et al. v. Ernesto Santacruz Jr.*
10 *et al.*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (*C.D. Cal. Nov. 25, 2025*).

11 Petitioner is not aware of any policy directed by the Respondents to afford
12 anyone in the *Maldonado Bautisa* class a bond hearing. As noted above, to the
13 contrary, Respondents EOIR have on January 13, 2026 issued a directive that
14 *Maldonado Bautisa*, is not a nationwide injunction and did not vacate, stay, or enjoin
15 the Board of Immigration Appeals' holding in *Matter of Yajure Hurtado*, 29 I&N
16 Dec. 216, 229 (*BIA 2025*).

17 Respondent's actions in detaining the Petitioner are causing irreparable harm
18 in the form of deprivation of his liberty pending resolution of his removal
19 proceedings. He is unable to work and to support his U.S. born daughter, Sonia. He
20 is further disadvantaged by his detention because, as one who has a pending I-589
21 before USCIS, his detention and placement into removal proceedings has first
22 deprived him of the opportunity to receive an affirmative hearing before USCIS,
23 and also to assist his counsel before the Immigration Court. Absent injunctive relief,
24 Respondents will continue to hold Petitioner in indefinite custody.

25 For these reasons, where there are, minimally, genuine issues as to whether
26 Petitioner is reasonably considered "seeking an admission" and subject to
27 Mandatory Detention, and where there has been a class action certified that favors
28 his view, Petitioner has demonstrated irreparable harm.

1 **B. Petitioner Will Suffer Irreparable Harm Absent Emergency**

2 **Injunctive Relief**

3 Parties seeking preliminary injunctive relief must also show they are “likely
4 to suffer irreparable harm in the absence of preliminary relief.” *Winter*, 555 U.S. at
5 20. Irreparable harm is harm for which there is “no adequate legal remedy, such as
6 an award of damages.” *Ariz. Dream Act. Coal. v. Brewer (Ariz. I)*, 757 F.3d 1053,
7 1068 (9th Cir. 2014).

8 Respondent’s actions in detaining the Petitioner are causing irreparable harm
9 in the form of deprivation of his liberty. Furthermore, his detention has impeded his
10 ability to provide for his family, and to assist counsel in the presentation of his
11 defensive applications for relief from removal. Petitioner has resided in the Florida
12 area since his entry in 2018. He received a work permit in 2019, and he has provided
13 for his family since that time. He has established a genuine issue as to whether he
14 can continue to be held subject to Mandatory Detention – without any opportunity
15 to apply for a bond.

16 Absent injunctive relief, Respondents will continue to hold Petitioner in
17 indefinite custody.

18 For these reasons, Petitioner has demonstrated irreparable harm.

19 **C. The Balance of Hardships and Public Interest Weigh Heavily in**
20 **Petitioner’s Favor and Injunction is in the public interest**

21 The final two factors for injunctive relief—the balance of hardships and
22 public interest—“merge when the government is the opposing party. *Nken v. Holder*,
23 556 U.S. 418, 435 (2009).

24 Here, Petitioner faces weighty hardships in that he is detained pending his
25 removal proceedings despite having a pending I-589 application before USCIS and
26 the fact that he is away from his family, home and employment. By contrast,
27 Respondents face no hardship. In fact, Petitioner is detained at government expense.
28 Therefore, the balance of hardships tips decidedly in plaintiffs’ favor” when
“[f]aced

1 with such a conflict between financial concerns and preventable human suffering.”
 2 *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) quoting *Lopez v. Heckler*,
 3 713 F.2d 1432, 1437 (9th Cir. 1983).

4 Moreover, Respondents “cannot suffer harm from an injunction that merely
 5 ends an unlawful practice” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir.
 6 2013). The public interest is served by the faithful execution of the immigration laws,
 7 and that interest includes respect for protections Congress has enacted and to which
 8 the United States has committed itself by treaty. *Tesfamichael v. Gonzales*, 411 F.3d
 9 169, 178 (5th Cir. 2005) (recognizing “the public interest in having the immigration
 10 laws applied correctly and evenhandedly”); *Leiva-Perez v. Holder*, 640 F.3d 962,
 11 971 (9th Cir. 2011) (noting “the public’s interest in ensuring that we do not deliver
 12 [noncitizens] into the hands of their persecutors”); *Lujan v. Defs. of Wildlife*, 504
 13 U.S. 555, 576 (1992) (discussing “the public interest in Government observance of
 14 the Constitution and laws”).

15 IV. CONCLUSION

16 For the foregoing reasons, Petitioner requests that the court grant preliminary
 17 injunctive relief, enjoining Respondents from removing him, and enjoining
 18 Respondents from continuing to hold Petitioner detained, and ordering Respondents
 19 to afford him a reasonable bond hearing, or directing his release from custody,
 20 pending further proceedings respecting whether he may be removed.

21 March 27, 2026

Respectfully submitted,

22 /s/ Vital D’Carpio

23 _____
 24 Vital D’Carpio
 25 Counsel for Petitioner

DECLARATION AND CERTIFICATION

Pursuant to F.R.Civ.P. 65(b)(1)(A) and (B), I declare under penalty of perjury that the facts set forth in the foregoing Application for Temporary Restraining Order and Preliminary Injunction, are true and correct based on information available at the time of this filing.

March 27, 2026

/s/ Vital D'Carpio

Vital D'Carpio
Counsel for Petitioner

CERTIFICATE OF SERVICE

MEJIA-LOPEZ V. AGUDELO, ET AL.

I certify under penalty of perjury, that I have served a copy of Petitioner's Application for Temporary Restraining Order and Preliminary Injunction, and Proposed Order, to all parties to this case via electronic filing on: March 27, 2026.

Paper filings will be served and proof of service filed with the court.

/s/ Vital D'Carpio

Vital D’Carpio
Counsel for Petitioner