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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MENDEZ QUINTANA,

Petitioner,

v.

DIVVER, et al.,

Respondents.

Case No. 3:26-cv-03470-LL-JLB

Honorable Linda Lopez United States
District Court Judge

**PETITIONER'S EMERGENCY
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

INTRODUCTION

Petitioner Regino Mendez Quintana respectfully moves for a Temporary Restraining Order (TRO) and Preliminary Injunction pursuant to Fed. R. Civ. P. 65.

Petitioner is detained by Immigration and Customs Enforcement (ICE) since May 11, 2026. He entered the United States in November of 1986 and lived continuously in this country for nearly forty years before his arrest. Despite his decades-long presence in the United States, Respondents contend that he remains an “applicant for admission” subject to mandatory detention under 8 U.S.C. § 1225(b). Based on that position, on June 8, 2026, the Immigration Judge concluded that bond jurisdiction did not exist and denied Petitioner any opportunity to obtain release through an individualized custody determination.

Petitioner has filed a Petition for Writ of Habeas Corpus challenging the legal basis for his detention. Unless this Court intervenes, Petitioner will remain incarcerated without any meaningful opportunity to demonstrate that he poses neither a danger nor a flight risk. Because Petitioner is likely to succeed on the merits, is suffering irreparable injury through ongoing unlawful detention, and because the balance of equities and public interest strongly favor relief, the Court should issue a TRO requiring Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge within 7 days, or alternatively release him pending adjudication of the habeas petition.

FACTUAL ALLEGATIONS

Petitioner is a native and citizen of Mexico. Petitioner entered the United States without inspection admission or parole in November of 1986. Petitioner was not apprehended upon arrival. He has never departed. For nearly forty years he resided openly within the United States,

1 established substantial family and community ties, and pursued lawful immigration status
2 through a pending adjustment application based upon an approved family petition.

3 On May 11, 2026, ICE arrested Petitioner and initiated removal proceedings. Petitioner
4 requested a custody redetermination hearing. The Immigration Judge concluded that bond
5 jurisdiction did not exist because Petitioner allegedly remained subject to detention under 8
6 U.S.C. § 1225(b), relying on *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). As a
7 result, Petitioner remains detained without any individualized assessment of danger, flight risk,
8 or alternatives to detention.

9 LEGAL STANDARD

10 Temporary restraining order and preliminary injunction are governed by the same
11 standards. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008). A plaintiff
12 seeking preliminary relief must demonstrate:

- 13
- 14 a. A likelihood of success on the merits
 - 15 b. A likelihood of suffering irreparable harm absent relief;
 - 16 c. That the balance of equities tips in his favor; and
 - 17 d. That an injunction is in the public interest.

18 The Ninth Circuit also applies a sliding-scale approach under which serious questions going to
19 the merits and a balance of hardships sharply favoring the plaintiff may support injunctive relief
20 where irreparable harm and public interest are shown.

21 ARGUMENT

22 A. *Petitioner Is Likely to Succeed on the Merits*

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1 The habeas petition raises a substantial question regarding Respondents' authority to
2 detain Petitioner under § 1225(b). Section 1226(a) governs the detention of noncitizens pending
3 a decision on removability. Historically, noncitizens who entered without inspection and were
4 apprehended years after entry were detained under § 1226(a), which provides access to bond
5 proceedings. Respondents instead contend that Petitioner remains subject to § 1225(b) despite
6 nearly four decades of continuous presence in the United States. That interpretation effectively
7 renders any noncitizen who entered without inspection perpetually subject to mandatory
8 detention regardless of the passage of time. Petitioner therefore has at least a substantial
9 likelihood of demonstrating that his detention is governed by § 1226(a) and that he is entitled to
10 an individualized bond hearing.

11 *B. Continued Detention Constitutes Irreparable Harm*

12 The loss of physical liberty, even for minimal periods of time, constitutes irreparable
13 injury. Every day that Petitioner remains incarcerated without a legally required bond hearing is
14 a day of irreparable constitutional and statutory injury. Monetary damages cannot remedy the
15 loss of liberty resulting from unlawful detention. Absent emergency relief, Petitioner will
16 continue to suffer ongoing incarceration without any individualized assessment of whether
17 detention is necessary.

18 *C. The Balance of Equities Favors Petitioner*

19 The hardship to Petitioner is severe. He remains separated from his family and
20 community and deprived of his liberty. Respondents, by contrast, face little burden from
21 conducting a bond hearing. The requested relief would merely require the government to provide
22 the process to which Petitioner contends he is already entitled. Furthermore if Petitioner were
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24

1 released Respondents continue to face little burden because the Petitioner can see an
2 Immigration Judge out of detention and be placed on reporting requirements.

3 *D. The Public Interest Supports Relief*

4 The public has a strong interest in ensuring that executive detention complies with federal
5 law and constitutional due process requirements. The public interest is served when government
6 agencies act within the limits established by Congress and the Constitution.
7

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 10 a. Issue a Temporary Restraining Order requiring Respondents to provide Petitioner with an
11 individualized bond hearing before an Immigration Judge under 8 U.S.C. § 1226(a)
12 within 7 days;
- 13 b. Alternatively, order Respondents to release Petitioner pending adjudication of the
14 Petition for Writ of Habeas Corpus;
- 15 c. Set an expedited briefing schedule on Petitioner's request for a preliminary injunction;
- 16 d. Grant such other and further relief as the Court deems just and proper.

17 DATED this 11th day of June, 2026.

18 /s/ Jennifer Rozdzielski

19 *Attorney for Petitioner*