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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

JORGE GONZALO SAMANIEGO, Petitioner, v. MARKWAYNE MULLIN, et al, Respondents.	Case No. 5:26-cv-03709-KS **FEDERAL RESPONDENTS' OPPOSITION TO EX PARTE APPLICATION (ECF 13)** Honorable Karen Stevenson United States Magistrate Judge

On July 24, 2026, Jorge Gonzalo Samaniego ("Petitioner") filed an *ex parte* application for an "order (1) expediting ruling on the fully submitted petition pursuant to 28 U.S.C. § 2243, or, in the alternative, (2) ordering interim release pending adjudication, based on changed medical circumstances." Respondents hereby oppose the motion, as Petitioner has failed to establish that he is entitled to the relief requested.

A. Petitioner did not comply with Local Rule 7-19.1.

Petitioner's counsel sent a single email regarding the contemplated motion, but Local Rule 7-19.1(a) requires counsel to make reasonable, good faith efforts orally to

advise counsel of the date and substance of the proposed *ex parte* application. Petitioner's counsel does not attest to making any such efforts to orally advise counsel for Respondents. Accordingly, Respondents oppose relief being granted on an *ex parte* basis for failure to comply with L.R. 7-19.1(a), and the motion should be denied on that basis.

B. Factual Background

Petitioner is a native and citizen of Mexico. *See* Exhibit A at 2 (Form I-213 Record of Deportable/Inadmissible Alien).[1] On June 3, 2026, Petitioner arrived at Los Angeles International Airport (LAX) via a flight from Mexico and presented a Mexican passport and I-551 Lawful Permanent Resident Card. Petitioner obtained lawful permanent resident status on January 9, 2011. *Id.* During inspection at LAX, DHS flagged Petitioner's 2018 criminal conviction for a felony violation of California Penal Code § 245(a)(4) involving assault with force likely to cause great bodily injury with a punishment enhancement under California Penal Code § 12022.7(a) for great bodily injury. *Id.* Petitioner included a copy of the Superior Court records which confirm that his felony conviction was for a strike, and that he admitted to the enhancement for great bodily injury under Cal. Penal Code § 12022.7(a). ECF 1-4 at 8. This felony conviction was a "serious felony" and a "violent felony." ECF 1-4 at 10. Petitioner was sentenced to 2 days in jail, with 2 days credit for time served, and 36 months of probation. ECF 1-4 at 11-12.

On June 5, 2026, Petitioner was processed by DHS and they served a Notice to Appear to commence immigration proceedings to determine whether Petitioner was inadmissible to enter the United States of America as a returning Lawful Permanent Resident under Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act due to his felony criminal conviction. The issue of whether or not this is a crime of moral

[1] Exhibit A is referenced in the Response to the Petition (ECF 10) but was not attached. The undersigned counsel apologizes for her filing error. It is attached hereto for the Court's reference.

turpitude is presently before the Immigration Court to determine in Petitioner's removal proceedings. Petitioner now alleges that he has changed medical circumstances relating to his need for medical treatment and surgery on his hand. ECF 13 at 7.

C. Petitioner's seeks to challenge the conditions of his confinement, which is not a basis for release.

To the extent Petitioner contends there are deficiencies in the medical care he is being provided while being detained, such challenges to medical care are not a valid basis for relief in a petition for a writ of habeas corpus. Generally, challenges to a detainee's conditions of confinement must be brought through a civil rights action, rather than through a petition for a writ of habeas corpus. *See Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991); *Nettles v. Grounds*, 830 F.3d 922, 933 (9th Cir. 2016) (en banc) (the Ninth Circuit has "long held that prisoners may not challenge mere conditions of confinement in habeas corpus"); *Hill v. McDonough*, 547 U.S. 573, 579 (2006) (an "inmate's challenge to the circumstances of his confinement" may be brought through a civil rights action); *Preiser v. Rodriguez*, 411 U.S. 475, 499 (1973) (a civil rights action is the "proper remedy" for a prisoner "who is making a constitutional challenge to the conditions of his prison life, but not to the fact or length of his custody"). Such constitutional claims "fall outside of that core [of habeas relief]" and, instead, should be brought as a civil rights claim "in the first instance." *Nelson v. Campbell*, 541 U.S. 637, 643 (2004).

It is thus well-established that habeas claims cannot be premised on complaints about conditions of confinement. *See Pinson v. Carvajal*, 69 F.4th 1059, 1073 (9th Cir. 2023). As the Ninth Circuit held, such claims lie outside the historic core of habeas corpus, for which the only available remedy is release, and thus the district court lacked jurisdiction to hear the petition regarding conditions of confinement. *Id.* at 1075. *See also Rhodes v. Pfeiffer,* No. CV 14-7687-JGB-KK, 2020 WL 4018608, at *2 (C.D. Cal. May 6, 2020) ("Petitioner's Motion essentially presents a challenge to the conditions of his confinement, which may not be addressed in this habeas corpus action."). The *ex*

parte application largely raises challenges to the conditions of his confinement and thus falls outside of the core of habeas relief.

D. Petitioner is lawfully detained pursuant to 8 U.S.C. § 1226(a).

Further, because Petitioner is lawfully detained, he fails to establish he is entitled to interim release while the Petition is pending before the Court.

As noted in the Response to the Petition, Section 1226 provides for arrest and detention "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Section 1226(a) and its associated regulations permit detention of Petitioner. While not mandatory, it turns on the government's exercise of discretion. Under Section 1226(a), the government may detain an alien during his removal proceedings, release him on bond, or release him on conditional parole. By regulation, immigration officers can release aliens if the alien demonstrates that he "would not pose a danger to property or persons" and "is likely to appear for any future proceeding." 8 C.F.R. § 236.1(c)(8).

Petitioner's immigration removal proceedings were initiated when he was served with a Notice to Appear. The merits of the removal proceeding are not before this Court. The question of whether his defenses to removal (and whether his 2018 criminal conviction makes him inadmissible under Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act is for the Immigration Judge to decide in his removal proceedings. As to the question of whether Petitioner is lawfully detained, Petitioner concedes he is presently in removal proceedings, which is dispositive of the issue that he is lawfully detained pursuant to 8 U.S.C. § 1226(a). Accordingly, the Petition should be denied.

E. Petitioner is not entitled to release, but can request a bond hearing at any time.

While Petitioner seeks immediate release, to the extent Petitioner would be entitled to any remedy via the Petition, at most it would be a bond hearing to be held before an Immigration Judge under Section 1226(a). An immigration judge in the first instance should be permitted to determine whether Petitioner is entitled to release in a

bond hearing.

Under applicable law, if Petitioner remains detained for six months (180 days), he will then be eligible for a *Rodriguez* bond hearing at which the government bears the burden of establishing he is a flight risk or a danger to the community by clear and convincing evidence. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1207 (9th Cir. 2022).

Here, Petitioner can request a Section 1226(a) bond hearing at any time, and should he remain detained for six months—he can then request a *Rodriguez* bond hearing. Such Section 1226(a) and *Rodriguez* bond procedures sufficiently protect Petitioner's liberty interest and mitigate the risk of erroneous deprivation.

F. Petitioner's TRO Application should be denied under the General Order.

Given the sheer volume of habeas petitions in this District and the wasteful use of resources adjudicating separate petitions and TRO applications that often seek the same relief, the General Order has a general prohibition on TRO applications, unless they seek to address "imminent, irreparable harm that cannot be addressed by the standard scheduling order or by the expedited briefing schedule." ECF 5. The stated purpose for this standard was "to provide a prompt resolution to habeas petitions and reduce the contemporaneous filing of applications for a temporary restraining order." *Id.*

Judges throughout the District have quickly adopted the General Order, which in turn is leading to more uniform expeditious resolution of habeas petitions and a reduction of duplicative briefing within the same case. In one of the first decisions to apply the General Order, the Honorable Magistrate Judge McCormick explained the risk to case administration if the General Order were not applied in cases like this: "The harm Petitioner alleges is the same detention she challenges in her underlying habeas petition . . . . If the generalized harm of detention were sufficient to bypass the standard briefing schedule, nearly every immigration habeas petition filed in this District would warrant an emergency TRO." *Tang v. Warden*, 5:26-cv-01595-DFM, Dkt. 5 (C.D. Cal. Apr. 2, 2026) (denying TRO based on General Order 26-05); *see also Argueta v. Sec'y of*

Homeland Sec., 5:26-cv-01687-JLS-E, Dkt. 7 (C.D. Cal. Apr. 7, 2026) (similar); *Liu v. Mullin*, 5:26-cv-01697-SSC, Dkt. 6 (C.D. Cal. Apr. 7, 2026) (similar); *Chen v. Mullin*, 5:26-cv-01684-MCS-PVC, Dkt. 7 (C.D. Cal. Apr. 8, 2026) (similar); *Hernandez-Gomez v. Semaia*, 5:26-cv-01673-FWS-E, Dkt. 10 (C.D. Cal. Apr. 8, 2026) (similar); *Franco v. U.S. Dep't of Justice*, 2:26-cv-03678-SP, Dkt. 6 (C.D. Cal. Apr. 8, 2026) (complaints of inadequate medical treatment for bronchitis, coughing fits, and a nosebleed not sufficient to meet the standard under the General Order).

Here, the General Order requires Respondents to provide two court days' notice to Petitioner and the Court of its intent to remove him from this District. ECF 5. Accordingly, Petitioner's allegations fail to meet the standard of "imminent, irreparable harm" that cannot be addressed on the expedited briefing schedule entered in this case under the General Order. ECF 5. Now that the General Order has been entered, the TRO Application fails to establish an emergency and should be denied for failing to meet the General Order's standard. Furthermore, Petitioner has not shown why he "should be allowed to go to the head of the line in front of all other [habeas] litigants and receive special treatment." *Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995); *see also Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

Given that the General Order sets a briefing schedule that provides for expeditious adjudication of the Petition, the TRO Application should be denied.

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WHEREFORE, Petitioner was lawfully detained, the Petition should be denied, and this action dismissed.

Dated: July 24, 2026

Respectfully submitted,

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First Assistant United States Attorney
DANIEL A. BECK
Assistant United States Attorney
Acting Chief, Civil Division
ALARICE M. MEDRANO
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/s/ Nithya Senra
NITHYA SENRA
Assistant United States Attorney

Attorneys for Respondents

[redacted]

U.S. Department of Homeland Security

Record of Deportable/Inadmissible Alien

Family Name (CAPS)	First	Middle	Sex	Hair	Eyes	Complxn
SAMANIEGO, JORGE GONZALO			M	BLK	BRO	LBR

Country of Citizenship	Passport Number and Country of Issue	File Number	Height	Weight	Occupation
MEXICO	[redacted]	Case No: [redacted]	72	165	

U.S. Address: 10250 Rancho Road,Adelanto,CALIFORNIA 92301,UNITED STATES OF AMERICA

Scars and Marks: NONE INDICATED

Date, Place, Time, and Manner of Last Entry: 06/03/2026, LAX - LOS, 20:30, Air

Passenger Boarded at: Guadalajara

F.B.I. Number: [redacted] ☒ Single ☐ Divorced ☐ Married ☐ Widower ☐ Separated

Number, Street, City, Province (State) and Country of Permanent Residence:

Method of Location/Apprehension: ISP

Date of Birth	Age	Date of Action	Location Code	At/Near	Date/Hour
[redacted]	32	06/05/2026	LAX - LOS	See I-831	06/03/2026 2120

City, Province (State) and Country of Birth: [redacted], MEXICO

AR ☒ | Form : (Type and No.) Lifted ☐ Not Lifted ☒: See Narrative

By: SMITH, CAR33854

NIV Issuing Post and NIV Number	Social Security Account Name	Status at Entry	Status When Found
None	None	See Narrative	TRAVEL/SEEKING

Date Visa Issued	Social Security Number	Length of Time Illegally in U.S
None	None	At Entry

Immigration Record: NEGATIVE

Criminal Record: None Known

Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate): NONE

Number and Nationality of Minor Children: None

Father's Name, Nationality, and Address, if Known:

Mother's Present and Maiden Names, Nationality, and Address, if Known:

Monies Due/Property in U.S. Not in Immediate Possession	Fingerprinted? ☒ Yes ☐ No	Systems Checks	Charge Code Words(s)
See Narrative		See Narrative	See Narrative

Name and Address of (Last)(Current) U.S. Employer	Type of Employment	Salary	Employed from/to
NONE	NONE	0.0 USD / Hr	0/0/00 - 0/0/00

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

[redacted]

[redacted]

STATUS AT ENTRY

Lawful Permanent Resident

OTHER ALIASES KNOWN BY:

SAMANIEGO,JORGE G
...(CONTINUED ON I-831)

Alien has been advised of communication privileges 06/05/2026 (Date/Initials)

SMITH, CAR33854
CBP OFFICER
(Signature and Title of Immigration Officer)

Distribution:
A-file
AMCON

Received: (Subject and Documents) (Report of Interview)
SMITH, CAR33854 - CBP OFFICER
Officer
on: June 5, 2026 (time)
Disposition: NOTICE TO APPEAR (NTA)
Examining Officer:
MARTINEZ, CA008875 - SUPERVISORY CBP OFFICER

Form I-213 (Rev. 08/01/07)

Exhibit A, Page 1 of 3

U.S. Department of Homeland Security — Continuation Page for Form I213

Alien's Name	File Number	Date
SAMANIEGO, JORGE GONZALO	[redacted]	June 5, 2026

AR Document

I-551 Legal Permanent Resident - [redacted]

CLAIMED DOCUMENTS

Passport - [redacted]
I-551 Legal Permanent Resident - [redacted]

RECORDS CHECKED

[redacted]

SECTION CODES

Sec212(a)(2)(A)(i)(I)
8 USC 1182-ALIEN INADMISSIBILITY UNDER SEC 212(a)

At/Near

Los Angeles International Airport

Narrative:

On June 3, 2026, Mr. Jorge Gonzalo SAMANIEGO (AKA: Jorge G SAMANIEGO) [redacted] a 32-year-old citizen of Mexico, who presented himself as a returning Lawful Permanent Resident of the United States, arrived at Los Angeles International Airport on board Aeromexico Airlines flight AM 784 from Guadalajara, Mexico. Mr. SAMANIEGO presented his Mexico passport bearing number [redacted] and I-551 Lawful Permanent Resident Card [redacted]. Mr. SAMANIEGO was referred to the Admissibility Review Unit for further questioning.

During secondary inspection, system queries revealed that Mr. SAMANIEGO was accorded Lawful Permanent resident status on January 9, 2011, under the IR2 classification, unmarried children under the age of 21 of U.S. Citizens. Law enforcement records revealed that Mr. SAMANIEGO, is an exact match to [redacted]. On or about September 24, 2018, he was convicted in the Superior Court California, County of Mono, for the offense of: Assault with Force Likely to Cause Great Bodily Injury with a punishment enhancement of Great Bodily Injury (Case Number MIE18003278), in violation of section 245(a)(4) of the Penal Code (Felony) and 12022.7(a). He was sentenced to 36 months probation.

Mr. SAMANIEGO appeared to be inadmissible to enter the United States of America as a returning Lawful Permanent Resident pursuant to Section 212(a)(2)(A)(i)(I) of the Immigration and Nationality Act (INA) due to his criminal conviction.
...(CONTINUED ON NEXT PAGE)

Signature	Title
SMITH, CAR33854	CBP OFFICER

U.S. Department of Homeland Security **Continuation Page for Form** I213

Alien's Name	File Number	Date
SAMANIEGO, JORGE GONZALO	[redacted]	June 5, 2026

On May 18, 2026, Mr. Jorge Gonzalo SAMANIEGO was served an I-862, Notice to Appear at Los Angeles International Airport, and processed for 240 removal proceedings so an Immigration Judge can make a determination regarding his admissibility as a Lawful Permanent Resident.

Mr. SAMANIEGO's document passport [redacted] and I-551 [redacted] were retained for his A-file.

Subject was processed for NTA per SCBPO Martinez and Chief Huizar on June 5, 2026.

Signature	Title
SMITH, CAR33854	CBP OFFICER

3 of 3 Pages

Form I-831 Continuation Page (Rev. 08/01/07)

Exhibit A, Page 3 of 3