

**UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

VENTURA MARTINEZ,

Petitioner,

v.

TRUMP, *et al.*,

Respondents.

Civil Action No. 3:25–CV–1445

Judge Terry A. Doughty

Magistrate Judge Kayla D. McClusky

**MEMORANDUM IN SUPPORT OF
MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

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INTRODUCTION

Petitioner Carlos Rios Ventura Martinez (“Petitioner” or “Carlos”), who has lived in the United States for more than a decade absent any criminal record, is being subjected to unlawful mandatory detention at Jackson Parish Correctional Center (“JPCC”). Despite an individualized hearing by an immigration judge (“IJ”) that found him to be neither a danger, nor a flight risk, and thus granted him a bond in the amount of \$12,000, Respondents claim that his bond was issued in error. They argue that binding Board of Immigration Appeals (“BIA”) precedent, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), strips IJs of the ability to grant bond to anyone in the country who entered without inspection (“EWI”)—no matter how long they have lived here. Not so. Nor is the BIA’s precedent binding on this court. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024) (standing for the proposition that is the judiciary’s role to interpret statutory language at issue to ascertain the rights of the parties).

Binding precedent on this court, in fact, holds the opposite. *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (holding that Section 1225’s mandatory detention scheme applies not in cases like Petitioner’s (in short to those who EWI), but instead “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible”); *Kostak v. Trump et al.*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025) (“Respondents’ position that Section 1225 applies ‘because Petitioner is present in the United States without being admitted’ is contrary to the Supreme Court’s analysis of the application of 1225 to arriving aliens. Further, Respondents’ interpretation of Section 1225 would render Section 1226 unnecessary.”); *Lopez Santos v. Noem*, 2025 WL 2642278 at *5 (W.D. La. Sep. 11, 2025) (similar).¹

¹ See also, e.g., *Rodriguez-Vazquez v. Bostock*, 779 F.Supp.3d 1239 (W.D. Wash. 2025) (granting preliminary relief); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, *8 (D. Mass. July 7, 2025) (granting

In a nutshell, the plain text of 8 U.S.C. § 1225(b)(2)(A) applies strictly to those subject to expedited removal. *Id.* Because Carlos is not in expedited removal proceedings, he is not subject to mandatory detention. Instead, as he is in regular removal proceedings under 8 U.S.C. § 1226(a), he is bond eligible. *Id.* His detention, which results from the vacatur of his bond grant, violates the plain text of the statute and, in doing so, violates his right to procedural due process. His detention also violates substantive due process because his detention bears no reasonable relationship to the two very limited purposes that civil immigration detention serves: protecting the public from danger and ensuring individuals show up to their immigration court hearings. *Zadvydas v. Davis*, 533 U.S. 678, 690-91 (2001).

Carlos filed a petition for a writ of habeas corpus with this Court challenging his detention by Respondents on September 29, 2025. ECF No. 1. He now moves this Court for a Temporary Restraining Order (“TRO”) to enjoin Respondents from continuing to detain him and to secure his release.

STATEMENT OF REVELANT FACTS AND PROCEDURAL HISTORY

Carlos is a longtime Maryland resident who left his birth country of El Salvador in 2013 during the height of uncontrolled violence and gang warfare. ECF No. 1 at ¶ 22. Throughout his

individual *habeas* relief); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp.3d ---, 2025 WL 2084238, *9 (D. Mass. July 24, 2025) (denying reconsideration of individual *habeas* relief); *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01874-SSS-BFM, *13 (C.D. Cal. July 28, 2025) (granting preliminary relief); *Escalante v. Bondi*, No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025) (report and recommendation to grant preliminary relief, adopted *sub nom* *O.E. v. Bondi*, 2025 WL 2235056 (D. Minn. Aug. 4, 2025)); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D. N.Y. Aug. 8, 2025) (granting individual *habeas* relief); *de Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (report and recommendation to grant *habeas* relief, adopted without objection at 2025 WL 2349133 (D. Ariz. Aug. 13, 2025)); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (granting *habeas* relief); *Aguilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (same); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug 15, 2025) (same); *Romero v. Hyde*, --- F.Supp.3d ---, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (same); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428- JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025) (same); *Benitez v. Noem*, No. 5:25-cv-02190, Doc. 11 (C.D. Cal. Aug. 26, 2025) (granting preliminary relief); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, Doc. 14 (E.D. Mich. Aug. 29, 2025) (granting *habeas* relief).

12 years living in Maryland, he has served as a pillar of his community and has been an unwavering support to his family—caretaking, providing emotional support, and contributing financially where needed.² Prior to his sudden detention and collateral arrest on June 17, 2025, Carlos worked long hours as a painter, paid his taxes, and returned home every day to raise his three sons. He has no criminal record. *Id.* at ¶ 23; ECF No. 1-3 (“Shmueli Decl.”) at ¶ 5.

The Department of Homeland Security (“DHS”) claims they arrested and detained Carlos under Section 1225(b)(2)(A) and that, as such, he was bond ineligible. Shmueli Decl. at ¶ 9. Nevertheless, Carlos requested a bond redetermination hearing in front of an IJ, which was granted. *Id.* On July 23, 2025, at his redetermination hearing, he was granted bond in the amount of \$12,000; DHS never once argued that Carlos was a flight risk or danger to the community and thus should not be released on that basis. *Id.* at ¶ 11. On September 26, 2025, the BIA vacated that decision based on the dictates of *Hurtado*, 29 I&N Dec. 216. ECF No. 1 at ¶ 3. Carlos’ habeas petition followed as quickly as possible on the heels of that determination.

LEGAL STANDARD

A court will grant preliminary injunctive relief, including a TRO, where the moving party can demonstrate: “(1) a substantial likelihood his cause will succeed on the merits, (2) a substantial threat of irreparable injury if the injunction is not granted, (3) the threatened injury outweighs the threatened harm the injunction may do to the opposing party, and (4) granting the injunction will not disserve the public interest.” *Misquitta v. Warden Pine Prairie ICE Processing Ctr.*, 353 F. Supp. 3d 518, 521 (W.D. La. 2018) (citing *Piedmont Heights Civic Club, Inc. v. Moreland*, 637 F.2d 430 (5th Cir. 1981)). In cases against the government, the third and fourth factors merge.

² Eric Flack, *Immigration attorneys face uphill battle as families are separated under Trump's enforcement crackdown*, WUSA (Aug. 20, 2025), <https://www.wusa9.com/article/news/investigations/immigration-crackdown-ice-enforcement-attorney-carlos-ventura-martinez-mark-shmueli-president-donald-trump-vernon-leggins>.

Texas v. United States, 809 F.3d 134, 187 (5th Cir. 2015) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)).

ARGUMENT

I. Carlos is Likely to Succeed on the Merits of His Statutory and Due Process Claims.

A person may petition for habeas relief under 28 U.S.C. § 2241(c)(3) when their detention is “in violation of the Constitution or laws or treaties of the United States.” In this case, Carlos is being denied his bodily freedom because the immigration courts are discarding statutory text in following *Hurtado*—which is itself a fruit of the poisonous DOJ Policy issued on July 8, 2025—to which the federal courts owe no deference. *See Loper Bright Enters.*, 603 U.S. at 385 (holding that the judiciary’s role is to interpret statutory language and ascertain the rights of the parties).

A. Carlos’ Due Process Rights Were Violated Because His Detention Flies in the Face of the Plain Meaning of the Statute.

The government’s infringement on Carlos’ liberty interest triggers a right to meaningful process to contest that infringement—for example, to a hearing before that right is deprived. *See Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569-70 (1972) (holding that when “protected interests are implicated, the right to some kind of prior hearing is paramount”). “The determination of what procedures are required under the Fifth Amendment requires consideration of: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest through the procedures used; and (3) the Government’s interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail.” *Mathews*, 424 U.S. at 335. The irony here is that Carlos was afforded due process—initially. *See supra* at 3. But it was then swiftly revoked absent any process, by virtue of the BIA’s vacatur of his bond grant premised on *Hurtado*. *Id.* That summary order, which negated the due

process afforded to him, shows that, to date, Carlos has received no adequate process justifying his continued detention. He easily satisfies each of the three *Mathews* factors.

First, Carlos' liberty interest is affected by Respondents' determination that he is subject to mandatory detention. That liberty interest is paramount. Indeed, "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). "The Supreme Court has been unambiguous that executive detention orders, which occur without the procedural protections required in courts of law, call for the most searching review." *Boumediene v. Bush*, 553 U.S. 723, 781-83 (2008). Where the "sum total of the protections" afforded to a habeas petitioner are "far less" than those provided to those sent to "prison following convictions for violent felonies or other serious crimes," this review is the more necessary. *Id.* at 783; *see also Kostak*, 2025 WL 2472136, at *3 (finding liberty interest affected satisfied first *Mathews* factor).

Second, Carlos is being erroneously deprived of his liberty interest by virtue of the summary order issued by the BIA in his case, vacating his bond grant. That deprivation is wrong because it contradicts binding Supreme Court precedent. *See Jennings*, 583 U.S. at 287; *Kostak v. Trump et al.*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025) (holding same); *Lopez Santos v. Noem*, 2025 WL 2642278 at *5 (W.D. La. Sep. 11, 2025) (same). In the end, the only "evidence" Respondents have in their corner is their own self-imposed edict: one issued on September 5, 2025, which states that Section 1225(b)(2) now applies to EWIs regardless of entry date, criminal record, or placement in expedited removal proceedings. But, as numerous courts have found, this blanket policy determination is contrary to scores of case law holding the opposite. *See supra* at 1 & n.1. At bottom, the lack of individualized consideration justifying Carlos' detention creates the highest risk of an erroneous deprivation of liberty that the due process clause was designed to protect

against. *Mathews*, 424 U.S. at 335.

Third, Respondents have no legitimate interest in continuing to detain Carlos, who they, significantly, did not even bother to argue was a danger or a flight risk. *See supra* at 2. This matters because immigration detention is limited in its purpose; it can be used to ensure court appearances and to prevent danger to the community. *See Zadvydas*, 533 U.S. at 690-91. Where neither interest exists, as Respondents conceded at Carlos's bond hearing, detention is improper. *Id.* And this Court owes no deference to a BIA opinion that says otherwise. *See Loper Bright*, 603 U.S. at 385. Nor is Carlos somehow subject to expedited removal, which Respondents conceded when they calendared his cancellation of removal to take place in October—rendering their desires to subject him to expedited removal laws nothing less than arbitrary and capricious. *See* 5 U.S.C. § 706 (2)(A),(B),(C) (courts have jurisdiction to adjudicate unlawful agency action); *Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)

Three independent grounds demonstrate that Carlos is likely to succeed on the merits of his procedural due process claim:

- A straight textual analysis of Sections 1225(b)(2)(A) and 1226(a), *see* Pet. ¶¶ 41-53;
- The lack of procedural due process afforded to Carlos by the summary vacatur of his bond grant, premised on nothing more than a BIA decision that contradicts binding Supreme Court precedent, *see* Pet. ¶¶ 45-47; and
- The arbitrary and capricious nature of declaring that individuals subject to regular removal proceedings are now somehow subject to mandatory detention, *see* Pet. ¶¶ 51-53.

Whether taken together, or separately, each of these arguments show that Carlos's right to

procedural due process is being violated each day that he is subjected to unlawful mandatory detention.

B. Carlos' Substantive Due Process Rights Are Violated Each Day He Sits Behind Bars Because He Is Neither a Danger to the Community Nor a Flight Risk.

Carlos' detention violates his right to substantive due process because his liberty is being restricted without proper justification. *See Hensley v. Mun. Ct., San Jose Milpitas Jud. Dist., Santa Clara Cnty., California*, 411 U.S. 345, 351 (2003) (standing for habeas corpus as the extraordinary remedy for severe restraints on individual liberty); 28 U.S.C. § 2241(c)(3) (extending writ of habeas corpus to persons in custody in violation of federal law). The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690. In the civil immigration context, the only permissible purposes for detention are preventing danger to the public and mitigating flight risk. *Id.* at 690-91.

Here, Carlos' detention serves neither purpose. As already adjudicated by the IJ in his case, Carlos does not pose any danger or flight risk whatsoever. ECF No. 1 at ¶ 30. Moreover, the government has not put forward any justification to suggest that he might be such—relying instead on *Hurtado* to justify vacatur of his bond grant. Because these factors are not met, his continued detention is unlawful. *See Zadvydas*, 533 U.S. at 690; *see also Ozturk v. Trump*, No. 2:25-CV-374, 2025 WL 1420540, at *7 (D. Vt. May 16, 2025) (explaining that "[d]etention is primarily permitted for two purposes: preventing danger to the community and ensuring an individual in proceedings does not abscond"); *Mahdawi v. Trump*, No. 2:25-CV-389, 2025 WL 1243135, at *14 (D. Vt. Apr. 30, 2025) (detention does "not benefit the public in any way" when a petitioner "appears not to be either a flight risk or a danger to the community"). Carlos is likely to succeed on his claim that his

detention violates his right to substantive due process because there appears to be no legitimate justification for his detention at law.

II. Carlos' Continued Detention Will Cause Petitioner Irreparable Harm.

Turning to the second factor for injunctive relief, Carlos will suffer irreparable harm in the absence of a TRO. “Perhaps the single most important prerequisite for the issuance of a preliminary injunction is a demonstration that if it is not granted the applicant is likely to suffer irreparable harm before a decision on the merits can be rendered.” Here, “the unconstitutional deprivation of liberty, even on a temporary basis, constitutes irreparable harm.” *See Kostak*, 2025 WL 2472136, at *3; *Booth v. Galveston Cty.*, 2019 U.S. Dist. LEXIS 133937 at *56 (S.D. Tex. 2019) (holding that “even temporary unconstitutional deprivations of liberty suffice to establish irreparable harm”). Courts have granted TROs based on this irreparable injury. *Kostak* at *3. Thus, Carlos satisfies the second TRO factor.

III. The Balance of Equities and the Public Interest Tilt Sharply in Carlos' Favor.

Both the third and fourth TRO factors lean sharply in Carlos' favor, whose liberty interest goes to the core rights the Constitution is designed to protect. Where, as here, the government is a party to the case, the third and fourth injunction factors merge: the balance of the equities and the public interest. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *El Paso Cty., Texas v. Trump*, 407 F. Supp. 3d 655, 665 (W.D. Tex. 2019). Here, the equities weigh in Carlos' favor. His detention deprives him of his liberty, and poses incredible risks to his physical and mental well-being. *See supra* n. 2. Indeed, it separates him from his wife and three children. *Id.* It is also indisputable that “the public has a vested interest in a federal government that follows its own regulations.” *Doe*, 2025 U.S. Dist. LEXIS 73660 at *24. In this case, “granting Petitioner injunctive relief serves the

public interest, as it will require the Government to ensure compliance with its own laws.” *Kostak*, 2025 WL 2472136, at *4.

The public has no interest in incarcerating people who have no basis to be detained, particularly where by law, the purpose of detention is solely to ensure individuals participate in their proceedings and do not threaten public safety. As neither of these concerns exists here, the balance of the equities and the public interest point to the immediate need for Carlos’ release.

IV. The Court Should Not Require Security Prior to the Issuing a TRO.

Federal Rule of Civil Procedure 65(c) provides that “the court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” Moreover, it is within the Court's authority “to require no security at all.” *Kostak*, 2025 WL 2472136, at *4. In this case, Respondents will not incur any costs or damages if the requested relief is granted in this case. Therefore, Carlos requests that the Court not require him to post security.

CONCLUSION

Petitioner respectfully asks this Court for a TRO and preliminary injunction enjoining the United States government from continuing to detain him in civil immigration detention.

Dated: October 1, 2025

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** Pro hac vice application pending*