IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

SABRINA AYLEN CARMONA SANCHEZ **PETITIONER**

VERSUS **CIVIL ACTION NO. 5:26-cv-00046-DCB-BWR**

RAFAEL VERGARA,
Warden of Adams County Correctional Center, et al. **RESPONDENTS**

RESPONSE IN OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER, MEMORANDUM OF LAW IN SUPPORT OF PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER, AND SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPOT OF PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER

Rafael Vergara, Warden of Adams County Correctional Center, in his official capacity, and Brian Acuna, Acting Director of U.S. Immigration and Customs Enforcement New Orleans Field Office, in his official capacity ("Respondents"), by and through the United States Attorney for the Southern District of Mississippi and the undersigned Assistant United States Attorney, submits this Response in Opposition to the Motion for Temporary Restraining Order [ECF No. 6], Memorandum of Law in Support of Petitioner's Motion for Temporary Restraining Order [ECF No. 7], and Supplemental Memorandum of Law in Support of Petitioner's Motion for Temporary Restraining Order [ECF No. 11] filed by Sabrina Aylen Carmona Sanchez ("Petitioner").

I. Relevant Facts

Petitioner is a native and citizen of Ecuador, who illegally entered the United States at or near Tecate, California on or about November 15, 2023. *See* Exhibit A, *Declaration of William M. Saunders*, ¶ 4), *see also* ECF No. 7, *Memorandum in Support of Motion for Temporary Restraining Order*, p. 2. Though he was detained by immigration officials the same day, he was released on his own recognizance and served a Notice to Appear ("NTA") for removal proceedings based on

violations of Sections 212(a)(6)(A)(i)[1] of the INA. *Id*. at p. 2-3. On January 5, 2026, the Petitioner was arrested in New York [redacted]. *See* Exhibit A, *Declaration of William M. Saunders*, ¶ 5). Subsequently, he was transferred into the custody of Immigration Customs and Enforcement ("ICE"). *Id*. At the time, he represented to officials that he was female. *Id*. [redacted]. *Id*. at ¶ 6. He was then transported to Mississippi and is currently housed at the Adams County Correctional Center, a medium security prison and immigration detention center for men, in Natchez, Mississippi. *See* ECF No. 7, *Memorandum in Support of Motion for Temporary Restraining Order*, p. 3-4. Thereafter, the U.S. Department of Homeland Security ("DHS") moved, and the immigration judge ("IJ") granted DHS's request to pretermit the Petitioner's application for asylum and withholding of removal. *See* Exhibit B, *Order of the Immigration Judge*.

Now, the Petitioner files the subject motion and memoranda in support seeking a temporary restraining order to enjoin the Respondents from detaining him pursuant to 8 U.S.C. § 1225(b)(2) and request immediate release, or alternatively, a bond hearing before an IJ. *See* ECF No. 6, *Motion for Temporary Restraining Order*. In addition, the Petitioner files the subject supplemental memorandum, asserting the Fifth Circuit's recent decision in *Buenrostro-Mendez v. Bondi*[2] has no bearing on his due process claim. *See* ECF No. 11, *Supplemental Memorandum in Support of Motion or Temporary Restraining Order*.

For the reasons that follow, the Petitioner's motion and supporting memoranda should be denied.

[1] An alien without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General.

[2] No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

II. Argument

"A preliminary injunction is an extraordinary remedy." *Guzman v. Noem*, No. 3:25-CV-2932-E (BT), 2026 WL 472459 *1 (N.D. Tex. Feb. 19, 2026) (internal quotations omitted). To prevail, "a movant must establish (1) a substantial likelihood that the movant will prevail on the merits; (2) a substantial threat that irreparable harm will result if the injunction is not granted; (3) that the threatened injury outweighs the threatened harm to the defendant; and (4) that granting the preliminary injunction will not disserve the public interest. *Id*. The burden of persuasion is on the party seeking preliminary injunctive relief. *Id*.

A. No substantial likelihood Petitioner will prevail on the merits.

The Petitioner professes that "[d]ozens of courts throughout the country. . . have issued temporary restraining orders . . . in cases with claims" like the Petitioner. However, his cited cases predate Fifth Circuit precedent[3]. *See* ECF No. 7, *Memorandum in Support of Motion for Temporary Restraining Order*, p. 6.

In *Buenrostro-Mendez*[4], the Fifth Circuit held "that aliens like [the] Petitioner . . . present within the United States who have not been admitted by lawful means are deemed to be applicants for admission, and unless they show themselves to be clearly and beyond a doubt entitled to be admitted, they shall be detained pending their removal proceeding under [section] 1225(b)(2)(A)." *Yang v. Bergami*, No. 3:25-CV-02877-B (BT), 2026 WL 457257*1 (N.D. Tex. Feb. 18, 2026) (internal quotations omitted) (internal citations omitted). The Court explained that "Section 1225(b)(2) operates as a catchall provision that applies to all applicants for admission not covered by subsection (b)(1)." *Buenrostro-Mendez*, 166 F.4th at 499, *citing Jennings v. Rodriguez*, 583

[3] *Kostak v. Trump*, No. 3:25-cv-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Ortega-Aguirre v. Noem*, No. 4:25-cv-04332, 2025 WL 3684697 (S.D. Tex. Oct. 10, 2025).

[4] No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026).

U.S. 281, 287 (2018) (internal quotations omitted). Section 1225(b)(2) "unambiguously provides for mandatory detention." *Buenrostro-Mendez*, 166 F.4th at 502, *see* 8 U.S.C. § 1225(b)(2)(A) (providing that aliens "shall be detained") (emphasis added); *see also Jennings*, 583 U.S. at 302, 138 S. Ct. at 845 ("§§ 1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings and not just until the moment those proceedings begin.") (emphasis added). Moreover, "neither § 1225(b)(1) nor § 1225(b)(2) says anything whatsoever about bond hearings." *Buenrostro-Mendez*, 166 F.4th at 502.

Clearly, the Petitioner is an "applicant for admission". He cannot "clearly and beyond a doubt" show that he is entitled to be admitted. His "arguments regarding sections 1225 and 1226 and their implementing regulations are foreclosed" by precedential authority. *See Elias Moises Lopez Diaz v. Grant Dickey*, 4:26-cv-00723, 2026 WL 539339 (S.D. Tex. Feb. 26, 2026). Thus, the Petitioner cannot "establish a substantial likelihood that [he] will prevail on the merits of his claim that he is wrongly detained under [section] 1225(b)(2), or that he is entitled to a bond hearing under [section] 1226." *Id*.

B. No substantial threat of irreparable harm.

In his memorandum in support of his motion for a temporary restraining order and habeas petition [ECF No. 1], the Petitioner contends he is experiencing irreparable harm due to his detention, denial of medical care, and unreasonably high risk of being raped due to his detention with men. *See* ECF No. 7, *Memorandum in Support of Motion for Temporary Restraining Order*, p. 18-21.

For the issuance of a preliminary injunction, one of the most important prerequisites is the "demonstration that, if it is not granted, the applicant is likely to suffer irreparable harm before a decision on the merits can be rendered." *Meade v. Spaulding*, No. 3:16-cv-2212*1 (M.D. Pa. Aug.

9, 2017). Notably, "[s]peculative injury does not constitute a showing of irreparable harm." *Id*. at *2.

1. Deprivation of Liberty

The Petitioner contends he is experiencing irreparable harm due to his detention which, according to him, is a deprivation of his liberty. As previously stated, the Petitioner is an "applicant for admission" subject to the provisions of 8 U.S.C. § 1225(b). According to 1225(b)(1), the immigration officer shall "order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum . . . or a fear of persecution." § 1225(b)(1)(A)(i). In that event, the alien "shall be detained pending a final determination of credible fear or persecution and, if found not to have such fear, until removed." 8 U.S.C. § 1225(b)(1)(B)(iii)(IV); *see also* 8 C.F.R. § 235.5(b)(4)(ii).

Therefore, there is no irreparable harm due to his detention, as a period of detention for the purpose of removal proceedings or to effectuate removal does not violate the constitution. *See Kum v. Ross*, et al., 2025 WL 3113636 *2 (W.D. La. Oct. 22, 2025.

2. Conditions of Confinement

In his memorandum in support of his motion for a temporary restraining order and habeas petition [ECF No. 1], the Petitioner alleges he is being denied medical care, specifically hormone replacement therapy and post-operative care for facial surgery; and living in "unsafe housing conditions" creating an "unreasonably high risk of rape such that injury is imminent." *See* ECF No. 7, *Memorandum in Support of Motion for Temporary Restraining Order*, p. 20-21, see also ECF No. 1, *Petition*, p. 10. He further argues that the Respondents refused to house him safely with other women though he was with other women before ICE learned of his transgender status.

See ECF No. 7, *Memorandum in Support of Motion for Temporary Restraining Order*, p. 21. All of which are conditions of confinement arguments.

Conditions of confinement challenges, like this one, including disputes about placement and medical care, must be brought utilizing the appropriate vehicle. There are "two distinct avenues to relief, . . . the petition for writ of habeas corpus and the civil-rights action for equitable or monetary relief." *Nogales v. Dep't of Homeland Sec.*, 524 F. Supp. 3d 538, 543 (N.D. Tex. 2021), *aff'd*, No. 21-10236 (5th Cir. Mar. 22, 2022). A petition for habeas corpus "is reserved for challenges to the validity of any confinement or to particulars affecting its duration, while civil-rights actions are typically used to attack conditions of confinement." *Id.* (internal quotations omitted). When determining which avenue is appropriate, the question is "whether the prisoner challenges the 'fact or duration' of his confinement or merely the rules, customs, and procedures affecting 'conditions' of confinement." *Id*. Here, the Petitioner challenges the latter. Despite demanding immediate release, his challenge "does not convert [from] a conditions-of-confinement claim into a proper habeas request." *Id*.

In this case, the Petitioner was initially placed with women because he represented himself as female in his initial encounter with ICE personnel. *See* Exhibit A, *Declaration of William M. Saunders*, ¶ 6). Later, ICE medical personnel learned that Petitioner [redacted]s. *Id*. ICE policy requires housing of males in male facilities. *Id*. Upon arrival at Adams County Correctional Center, the Petitioner was placed in protective custody until he could be assessed for housing arrangements. *See* Exhibit A, *Declaration of William M. Saunders*, ¶ 8). On January 7, 2026, an assessment was conducted and determined the Petitioner should be placed in general population. *Id*. During the assessment, the Petitioner expressed no concern about his placement. *Id*.

Now, in his recently filed Supplemental Memorandum, the Petitioner contends he "does not challenge the conditions of [his] confinement directly in this habeas action, nor is [he] requesting transfer to a women's detention facility. *See* ECF No. 11, *Supplemental Memorandum in Support of Motion or Temporary Restraining Order*. He argues in his Supplemental Memorandum that there is no other detention center where he can be safely housed. *Id*. at n.5. The Petitioner essentially asks this Court to disregard precedent and blanketly release him or, alternatively, order a bond hearing.

The Fifth Circuit has declared that Section 1225(b)(2) explicitly provides for mandatory detention. *See Buenrostro-Mendez*, 166 F.4th at 502, *see* 8 U.S.C. § 1225(b)(2)(A). The Fifth Circuit also pronounced that conditions of confinement claims, like this one, "even conditions that create a risk of serious physical injury, illness, or death[,] do not warrant release." *Nogales*, 524 F. Supp. at 543. "Even allegations of mistreatment that amount to cruel and unusual punishment do not nullify an otherwise lawful incarceration or detention." *Id*.

Furthermore, the requested relief is wholly inappropriate. *See Garcia-Aleman v. Thompson*, No. SA-25-cv-00886-OLG-HJB (W.D. Tex. Oct. 30, 2025), *citing* s*ee, e.g., Stines v. Superintendent*, No. 9:24-CV-456 (LEK), 2025 WL 1448358, at *2 (N.D.N.Y. May 20, 2025) ("Where a motion for a preliminary injunction mirrors a petitioner's allegations in support of habeas relief, and where the preliminary injunction seeks the same relief—immediate release, the motion for preliminary injunction may be denied."); *Jimenez v. Decker*, No. 21-cv-880 (VSB), 2021 WL 826752, at *11 (S.D.N.Y. Mar. 3, 2021) (granting habeas petition and mooting motion for "virtually identical" preliminary injunctive relief); *Meade v. Spaulding*, No. 3:16-cv-2212, 2017 WL 3425181, at *2 (M.D. Pa. Aug. 9, 2017) ("Because the injunctive relief sought by [the petitioner] directly relates to the merits of the ultimate issues in this lawsuit, the Court will refrain

from granting injunctive relief, and instead will issue a decision addressing the merits of the habeas petition."); *Chambliss v. Ashcroft*, No. 3:04-cv-298-D, 2004 WL 718998, at *2 (N.D. Tex. Apr. 1, 2004) (recommending preliminary injunction be denied and habeas briefing be expedited because the preliminary relief was "the same as the relief sought through the habeas petition").

Consequently, the Petitioner's motion and memoranda should be denied.

III. Conclusion

For the reasons explained herein, the subject motion and supporting memoranda should be denied.

Date: March 6, 2026

Respectfully submitted,

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