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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Jorge Sanchez-Lopez,	)	No. CV 10-0152-PHX-DGC (MEA)
	)	
Petitioner,	)	<b>ORDER</b>
	)	
vs.	)	
	)	
Janet Napolitano, et al.,	)	
	)	
Respondents.	)	

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Petitioner Jorge Sanchez-Lopez (A017-285-707), who is represented by counsel, has filed a Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief (Temporary Restraining Order). (Doc. #1.) The Court will deny Petitioner’s request for a temporary restraining order and require Respondents to answer the Petition.

**I. Petition**

Petitioner is a native and citizen of Mexico, who has been a lawful permanent resident of the United States since 1966. On November 1, 1980, Petitioner was convicted of assault with intent to rape in violation of California Penal Code § 220 for which he was sentenced to four years imprisonment. On April 26, 2000, Petitioner was convicted of driving with a suspended license and failure to appear for which he was sentenced to 30 days in the Maricopa County jail.

On July 22, 2009, Petitioner was served with a Notice to Appear charging that he is removable under 8 U.S.C. § 1227(a)(2)(iii) on the grounds that his California conviction is an aggravated felony. An Immigration Judge (IJ) subsequently denied Petitioner’s request

1 for release on bond. The IJ apparently determined that he lacked jurisdiction to release  
2 Petitioner because he is subject to mandatory detention under 8 U.S.C. § 1226(c). It is  
3 unclear whether Petitioner appealed the IJ’s bond decision to the Board of Immigration  
4 Appeals.

5 Petitioner argues that his convictions do not qualify him for mandatory detention  
6 under 8 U.S.C. § 1226(c). He seeks his immediate release from detention, an order declaring  
7 that his detention is unlawful, an order directing Immigration and Customs Enforcement to  
8 release him on conditions set by an IJ, and other relief. The Court will require Respondents  
9 to answer the Petition.

10 **II. Request for a Temporary Restraining Order**

11 Petitioner also seeks an emergency temporary restraining order directing Respondents  
12 to immediately release him from detention.<sup>1</sup> But Petitioner has failed to demonstrate that  
13 “specific facts in an affidavit or a verified complaint clearly show that immediate and  
14 irreparable injury, loss or damage will result before [Respondents] can be heard in  
15 opposition.” FED. R. CIV. P. 65(b)(1)(A). Additionally, upon the record currently before the  
16 Court, it is not plain that the merits of Petitioner’s claims are so strong as to warrant either  
17 expedited adjudication or immediate relief from his current detention. See In re Roe, 257  
18 F.3d 1077, 1081 (9th Cir. 2001) (declining to resolve issue of whether a district court has the  
19 authority to release a prisoner pending resolution of a habeas case, but holding that if such  
20 authority does exist, it can only be exercised in an “extraordinary case involving special  
21 circumstances”). Accordingly, Petitioner’s request for a temporary restraining order will be  
22 denied.

23 **IT IS ORDERED:**

24 (1) Petitioner’s request for a temporary restraining order is **denied** without  
25 prejudice.

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26  
27 <sup>1</sup>Petitioner failed to file a separate written motion and memorandum in support of his  
28 request for emergency release from custody as required by Rule 7(b) of the Federal Rules of  
Civil Procedure and Rule 7.2 of the Local Rules of Civil Procedure.

