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

Victor Alfonso Aguilar Olarte,
Petitioner,

vs.

David R. Rivas, Warden, San Luis Regional
Detention Center, et al.,

Respondents.

No. 2:25-cv-1662-PHX-JAT (ESW)

Motion for a Preliminary Injunction

Simultaneously with this document, Mr. Aguilar has filed an amended petition for a writ of habeas corpus under 28 U.S.C. § 2241. In his petition, he asserts that he has been detained for more than six months by immigration officials, who have not yet succeeded in removing him to Colombia (his native country, because an immigration judge has forbidden it), or to any other third country (because no immigration judge has ordered removal to a third country and he has not had an opportunity to seek relief from removal to such a country). Accordingly, he contends, his continued detention by immigration officials violates the Fifth Amendment's Due Process Clause. Because he is almost certain to prevail on this claim, he respectfully asks the Court to order his immediate release from custody while this case is litigated.

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Planned Parenthood Great Northwest v. Labrador*, 122 F.4th 825, 843–44 (9th Cir. 2024) (quoting *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011)). "Alternatively, a preliminary

1 injunction may issue where serious questions going to the merits were raised and the balance of
2 hardships tips sharply in plaintiff's favor if the plaintiff also shows that there is a likelihood of
3 irreparable injury and that the injunction is in the public interest." *Id.* at 844 (quoting *Alliance for*
4 *the Wild Rockies*, 632 F.3d at 1135). Here, Mr. Aguilar can make all four of these showings.

5 First, he is almost certain to succeed on the merits of his habeas petition. His continued,
6 indefinite detention in immigration custody violates the Due Process Clause of the Fifth
7 Amendment because there is no significant likelihood that he can be removed to Colombia in the
8 reasonably foreseeable future and he has not had adequate notice and an opportunity to contest
9 his removal to any third country. He is not a danger to the community. He is not a flight risk; his
10 girlfriend lives in the San Diego area, where before he was detained by the respondents he had a
11 stable job and living situation. Second, illegal confinement is quintessentially irreparable harm,
12 because "the deprivation of constitutional rights unquestionably constitutes irreparable injury."
13 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Third, and finally, when the government
14 is a party, as it is here, "the balance of equities and public interest factors merge." *Pimentel-*
15 *Estrada v. Barr*, 464 F. Supp. 3d 1225, 1237 (W.D. Wash. 2020) (citing *Drakes Bay Oyster Co. v.*
16 *Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)). The risk of harm to Mr. Aguilar far outweighs the
17 government's interest in illegally detaining him, for it is "always in the public interest to prevent
18 the violation of a party's constitutional rights." *Melendres*, 695 F.3d at 1002.

19 For the foregoing reasons, Mr. Aguilar respectfully asks the Court to grant a preliminary
20 injunction and order his immediate release from custody.

21 Respectfully submitted:

June 28, 2025.

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