JON M. SANDS
Federal Public Defender
KEITH J. HILZENDEGER #023685
Assistant Federal Public Defender
250 North 7th Avenue, Suite 600
Phoenix, Arizona 85007
(602) 382-2700 voice
keith_hilzendeger@fd.org
Attorneys for Petitioner Do

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Long Phi Do, Petitioner, vs. David R. Rivas, Warden, San Luis Regional Detention Center, et al., Respondents.	No. **Motion for a Preliminary Injunction**

Simultaneously with this document, Mr. Do has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. In his petition, he asserts that he is effectively stateless, has no passport, and has no resaonable likelihood of obtaining travel documents in the future, such that 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 injunction may issue where serious questions going to the merits were raised and the balance of hardships tips sharply in plaintiff's favor if the plaintiff also shows that there is a likelihood of

irreparable injury and that the injunction is in the public interest." *Id.* at 844 (quoting *Alliance for the Wild Rockies*, 632 F.3d at 1135). Here, Mr. Do can make all four of these showings.

First, he is almost certain to succeed on the merits of his habeas petition. He has already been released from ICE custody on supervision once before based on the same facts—that he is stateless, has no passport, no country will accept him for removal, he is not a danger or a flight risk, and thus his continued, indefinite detention in immigration custody violates the Due Process Clause of the Fifth Amendment. Second, illegal confinement is quintessentially irreparable harm, because "the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Third, and finally, when the government is a party, as it is here, "the balance of equities and public interest factors merge." *Pimentel-Estrada v. Barr*, 464 F. Supp. 3d 1225, 1237 (W.D. Wash. 2020) (citing *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)). The risk of harm to Mr. Do far outweighs the government's interest in illegally detaining him, for it is "always in the public interest to prevent the violation of a party's constitutional rights." *Melendres*, 695 F.3d at 1002.

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

Respectfully submitted:

May 31, 2025.

JON M. SANDS
Federal Public Defender

s/Keith J. Hilzendeger
KEITH J. HILZENDEGER
Assistant Federal Public Defender
Attorney for Petitioner Do