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10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**
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RUSLAN MAKHMUDOV,

Petitioner,

v.

PAMELA BONDI,
U.S. Attorney General

KRISTI NOEM, Secretary
U.S. Department of Homeland Security

JOHN CANTU, Phoenix Field Office Director
ICE Enforcement and Removal Operations,

FRED FIGUEROA, Warden,
Eloy Detention Center,

Respondents.

Case No.

**MOTION FOR TEMPORARY
RESTRAINING ORDER AND/OR
PRELIMINARY INJUNCTION**

(Hearing Requested)

Pursuant to Fed. R. Civ. P. 65, Petitioner, Ruslan Makhmudov, requests that the Court grant his Motion for a Temporary Restraining Order and Preliminary Injunctive Relief. The grounds for this motion are set forth in the accompanying Memorandum of Points and Authorities, the Petition for Writ of Habeas Corpus, and exhibits in support thereof, filed concurrently with this motion. A proposed order also accompanies this motion.

MEMORANDUM OF POINTS AND AUTHORITIES

As the Supreme Court has emphasized, injunctive relief is "an extraordinary remedy never awarded as of right." *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008). The party seeking the injunction must carry the burden of persuasion to "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." *Id.* at 20. 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." *All. For The Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011).

Under this approach, the elements of the preliminary injunction test are balanced, so that a stronger showing of one element may offset a weaker showing of another. *Id.* at 1131. For example, a stronger showing of irreparable harm to plaintiff might offset a lesser showing of likelihood of success on the merits. *Id.* In all cases, at an "irreducible minimum," the party seeking an injunction "must demonstrate a fair chance of success on the merits, or questions serious enough to require litigation." *Pimentel v. Dreyfus*, 670 F.3d 1096, 1105-06 (9th Cir. 2012) (internal quotation and citation omitted). The first factor under *Winter* is the most important—likely success on the merits. *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015).

LEGAL ARGUMENT

This action challenges the government's authority to detain an individual in violation

1 of his Fifth Amendment right to life and liberty. An immigration judge granted Petitioner's
2 application for deferral of removal under the Convention Against Torture because it is more
3 likely than not, that if Petitioner returns to Russia, he will be detained by the Russian
4 authorities and due to his medical conditions and ailments, he will be subjected to life
5 threatening conditions amounting to torture. Petitioner is ineligible for release on bond and
6 all requests for release on humanitarian parole have been denied. The Department of
7 Homeland Security continues to detain Petitioner despite his life-threatening medical
8 conditions. Petitioner is legally blind, has Marfan Syndrome, and has undergone two open
9 heart surgeries while in detention.

12 Petitioner is entitled to a preliminary injunction preventing his continued detention.
13 If this motion is not granted, Petitioner will suffer irreparable injury to his constitutional
14 right to life because his continued detention is likely to cause his death. Death and
15 life-altering medical conditions are irreparable injuries. *Fraihat v. United States Immigration*
16 *& Customs Enf't*, 16 F.4th 613, 658 (9th Cir. 2021).

19 Petitioner is also likely to succeed on the merits of his claim: that the government
20 cannot detain persons, despite the lawful authority to do so, when their life and liberty is in
21 jeopardy. "The right to life is fundamental and is protected against unreasonable or unlawful
22 takings by the procedural due process safeguards of the fifth and fourteenth amendments."
23 *Landrum v. Moats*, 576 F.2d 1320, 1325 (8th Cir. 1978). Moreover, noncitizens subject to
24 civil immigration detention cannot be subjected to conditions that amounts to punishment.
25 *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004). At some point, civil detention can
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1 become punitive, resulting in a due process violation. *United States v. Torres*, 995 F.3d 695,
2 708 (9th Cir. 2021).

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4 Further, no public interest is served by the government's arbitrary, mandatory
5 detention, of an asylum seeker suffering from life-threatening medical conditions who
6 requires a caretaker and regular medical monitoring. Neither the government nor taxpayers
7 are served by providing Petitioner medical care paid by taxpayers when Petitioner has family
8 and sponsors willing and able to care for him. Moreover, Petitioner has private health
9 coverage he can utilize outside of detention to save his life. Therefore, this Court should
10 grant this motion by enjoining Respondents from further detaining him in violation of his due
11 process rights.
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14 **PRAYER FOR RELIEF**

15 Based on the foregoing, the Court should enter the following findings and orders:

- 16 A. The Petitioner is likely to succeed on the merits of his pending Petition for Writ of
17 Habeas Corpus;
18 B. The Petitioner will suffer irreparable harm in the absence of preliminary relief, that
19 the balance of equities tip in the Petitioner's favor, and that the requested injunction
20 is in the public interest;
21 C. The Respondents are enjoined from detaining the Petitioner;
22 D. The Petitioners are entitled to an award of attorney's fees incurred as a result of
23 bringing this action, pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.
24 E. Grant the Petitioners any other relief the Court deems necessary and proper.

25 RESPECTFULLY SUBMITTED this 5th day of June, 2025.

26 POPE & ASSOCIATES PC

27 /s/ Luciana Galarza

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Luciana Galarza, Esq.

CERTIFICATE OF SERVICE

On the 5th day of June, 2025, I, Luciana Galarza, the undersigned, served via certified U.S. Mail, return receipt requested, the foregoing, on each person/entity listed below addressed as follows:

Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Kristi Noem
Secretary, Department of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

John Cantu
Phoenix Field Office Director
ICE Enforcement and Removal Operations
2035N. Central Ave
Phoenix, AZ 85004

Fred Figueroa
Warden,
Eloy Detention Center
1705 E. Hanna Rd
Eloy, AZ 85131

Served via ECF the attached **Petition**:
Civil Clerk
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004-4408

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 5th of June, 2025, at Phoenix, Arizona.

/s/ Luciana Galarza

Attorney for Plaintiff