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

Pavlo Malitskyi,

Petitioner,

vs.

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

Respondents.

No.

**Motion for a Preliminary Injunction and
for a Temporary Restraining Order**

Simultaneously with this document, Mr. Malitskyi has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241. In his petition, he asserts that because of the war between Ukraine and Russia, his removal to Ukraine is not likely in the foreseeable future, such that his continued detention by immigration officials violates the Fifth Amendment's Due Process Clause. He also asserts that his detention is illegal because he has not been afforded the periodic custody reviews required by regulation, and because he has not received notice and an opportunity to seek relief from removal to a country other than Ukraine. Because he is almost certain to prevail on at least one of these claims, 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). The standards for granting a temporary restraining order are the same as the standards for granting a preliminary injunction. See *O.M. ex rel. Moultrie v. Nat’l Women’s Soccer League, LLC*, 541 F. Supp. 3d 1171, 1177 (D. Or. 2021). Here, Mr. Malitskyi can make all four of these showings.

First, he is almost certain to succeed on the merits of his habeas petition. His continued, indefinite detention in immigration custody violates the Due Process Clause of the Fifth Amendment because there is no significant likelihood that he can be removed to Ukraine in the reasonably foreseeable future. He is not a danger to the community. He is not a flight risk; he has a sponsor who will ensure he has a place to live in the Los Angeles area. 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. Malitskyi 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. Malitskyi respectfully asks the Court to grant a preliminary injunction and order his immediate release from custody.

Respectfully submitted:

August 14, 2025.

JON M. SANDS
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s/Keith J. Hilzendeger
KEITH J. HILZENDEGER
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Attorney for Petitioner Malitskyi

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