IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

HUGO CERVANTES ARREDONDO,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as warden of the Aurora Contract Detention Facility,

ROBERT GUARDIAN, in his official capacity as Field Office Director, Denver, U.S. Immigration and Customs Enforcement,

KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security;

TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement,

PAMELA BONDI, in her official capacity as Attorney General of the United States

Respondents.

Case No. 1:25-cv-03040

PETITIONER'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

INTRODUCTION

Petitioner Hugo Cervantes Arredondo ("Mr. Cervantes Arredondo") moves for a temporary restraining order against Respondents pursuant to Rule 65 and the All Writs Act. Mr. Cervantes Arredondo is detained at the Aurora ICE Processing Center, a Contract Detention Facility owned and operated by GEO Group, Inc., in Aurora, Colorado ("Aurora Facility"). Respondents denied Mr. Cervantes Arredondo release on bond under their erroneous, novel interpretation of the Immigration and Nationality Act ("INA"). Such denial is illegal. Since 1996, noncitizens who entered the country without inspection and who Respondents later detained for

removal proceedings were detained under 8 U.S.C. § 1226 and, under that statute, were bond eligible. Recently, Respondents have started claiming that those who entered without inspection are detained under § 1225, a mandatory detention statute rendering them ineligible for bond. Respondents' radical, novel interpretation goes against the plain language of both § 1226 and § 1225, principles of statutory construction, the legislative history, longstanding agency practice, and the Board of Immigration Appeals' own interpretation of the statute. Dozens of federal courts have agreed.

Because of Respondent's erroneous interpretation of the INA, Mr. Cervantes Arredondo is not only being deprived of his freedom, but he is also unable to go home to care for and support his U.S.-citizen partner, who has a brain cyst. Mr. Cervantes Arredondo will suffer irreparable harm if he is unable to receive bond and avoid intense financial and emotional hardship for both him and his partner. The Court should order Mr. Cervantes Arredondo's release, or that Respondents provide him a bond hearing within 7 days. The Court should further enjoin Respondents from transferring Mr. Cervantes Arredondo outside of the Court's jurisdiction.

FACTUAL BACKGROUND

In the late 1990s, Mr. Cervantes Arredondo, a young teen at the time, came to the United States from Mexico.[1] He entered without inspection.[2] Mr. Cervantes Arredondo grew up in an environment marked by severe family conflict and abuse, which ultimately forced him to leave Mexico in search of safety and stability in the United States.[3]

Over the course of nearly thirty years, Mr. Cervantes Arredondo has firmly settled himself in the U.S. and established a stable home and lasting community ties in Colorado, specifically.[4]

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[1] *See* Exhibit 1 - Declaration of Petitioner (attached) at p.1, ¶ 2.
[2] Exh. 1 at p.1, ¶ 2.
[3] Exh. 1 at p.1, ¶ 3.
[4] Exh. 1 at p.1, ¶ 4-6

Mr. Cervantes Arredondo initially lived in various areas around Dallas, Texas, where his brother, sister, and U.S.-citizen nieces and nephews continue to reside.[5] He has lived in Colorado since 2012, when a friend who resided here advised him of the work opportunities as a carpenter in the area.[6] He has lived in the same fixed address in Highlands Ranch, CO for the last two years.[7] He lives there with his partner, Leah McClure, and her elderly father who experiences health complications.[8]

Mr. Cervantes Arredondo is an essential source of support for both his partner and her father, both of whom struggle with serious health issues and both of whom are U.S. Citizens.[9] His partner suffers from extreme migraines related to a recently diagnosed brain cyst.[10] In addition to financially supporting the household, Mr. Cervantes Arredondo cooks, cleans, runs errands, pays for medical bills, and otherwise ensures that his partner and her father receive the care that they need.[11] Mr. Cervantes Arredondo works as an independently contracted carpenter.[12] His partner, Leah, used to work as a nurse but had to stop due to her chronic migraines.[13] She now works as a waitress at Olive Garden.[14]

Mr. Cervantes Arredondo has only minor and largely dismissed encounters with the criminal justice system, none of which involve violence of any kind.[15] Petitioner has pending low-level drug-use charges.[16] His only conviction is for simple possession, for which he served a mere

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[5] Exh. 1 at p. 1, ¶ 4-5.
[6] Exh. 1 at p. 1, ¶ 6.
[7] Exh. 1 at p. 1, ¶ 7.
[8] Exh. 1 at p. 1, ¶ 7.
[9] Exh. 1 at p. 1, ¶ 8.
[10] *See* Exh. 1 at pp. 1-2, ¶¶ 11-13; Exhibit 2 – Sworn Statement of Leah McClure (attached).
[11] Exh. 1 at p.1, ¶ 10.
[12] Exh. 1 at p.1, ¶ 8.
[13] Exh. 1 at p. 2, ¶ 12.
[14] Exh. 1 at p. 2, ¶ 12.
[15] Exh. 1 at p. 2, ¶¶ 15-16.
[16] Exh. 1 at p. 2, ¶¶ 15-16.

fourteen days in jail.[17] ICE apprehended him upon release and took him to the Aurora Detention Facility Center where he has remained since June 26, 2025.[18] Mr. Cervantes Arredondo has attended Narcotics Anonymous programing at the detention center and received four certificates from the program.[19]

On September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedential decision, holding that an immigration judge (IJ) has no authority to consider bond requests for any person who entered the United States without inspection. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) as applicants for admission and therefore ineligible to be released on bond. *Id.* at 229.

Mr. Cervantes Arredondo sought a bond redetermination hearing before an IJ, but on September 25, 2025, after a brief hearing, the IJ concluded she did not have jurisdiction to hear his request. The IJ based this decision on the Board's newly-announced precedent. The IJ concluded that notwithstanding Mr. Cervantes Arredondo's approximately 25 years of residing in the United States, he is nevertheless an "applicant for admission" who is "seeking admission" and subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

Mr. Cervantes Arredondo recently petitioned for a writ of habeas corpus requiring that his due process and statutory rights be vindicated and he be released unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days. *See* ECF No. 1, Petition. At this hearing, Respondents would carry the burden to establish by clear and convincing evidence that Mr. Cervantes Arredondo is a flight risk or a danger to the community. *See id.*

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[17] Exh. 1 at p. 2, ¶¶ 15-16.
[18] Exh. 1 at p. 2, ¶ 14.
[19] Exh. 1 at p. 2, ¶ 17.

Mr. Cervantes Arredondo now files this motion for a temporary restraining order to prevent the ongoing irreparable harm that continues each day he is detained. The Court should order Mr. Cervantes Arredondo's release, or that Respondents provide a bond hearing within 7 days. In the alternative, Mr. Cervantes Arredondo asks this Court to order Respondents to show cause within seven days establishing why his habeas petition should not be granted. The Court should further enjoin Defendants from transferring Mr. Cervantes Arredondo outside of the Court's jurisdiction.

Counsel for Mr. Cervantes Arredondo provided notice of intent to file this motion to counsel for Respondents at the U.S. Attorney's Office for the District of Colorado on October 3, 2025, but is yet to learn Respondents' position.

LEGAL STANDARD

Federal Rule of Civil Procedure 65 requires a movant for a temporary restraining order to show that: (i) they are likely to prevail on the merits; (ii) they will suffer irreparable harm unless the injunction is issued; (iii) the threatened injury outweighs any harm that the preliminary injunction may cause the opposing party; and (iv) the injunction will not adversely affect the public interest. *Dine Citizens Against Ruining Our Env't v. Jewell*, 839 F.3d 1276, 1281 (10th Cir. 2016); *Greater Yellowstone Coal v. Flowers*, 321 F.3d 1250, 1255 (10th Cir. 2003).

Where an injunction alters the status quo, a movant must make a strong showing regarding their likelihood of success on the merits and also with regard to the balance of harms. *Free the Nipple-Fort Collins v. City of Fort Collins, Colorado*, 237 F. Supp. 3d 1126, 1130 (D. Colo. 2017), *aff'd*, 916 F.3d 792 (10th Cir. 2019) (quotation omitted); *see Essien v. Barr*, 457 F. Supp. 3d 1008, 1012–13 (D. Colo. 2020) (holding that a "strong showing" must be made for a detained immigrant to win a preliminary injunction). In *Nken*, the Supreme Court stated that the chance of success on the merits must be "more than a mere possibility of relief" and that "better than negligible" is not

enough. *Nken v. Holder*, 556 U.S. 418, 434 (2009) (quotation marks omitted). Here, Mr. Cervantes Arredondo makes a strong showing.

ARGUMENT

I. Mr. Cervantes Arredondo is likely to succeed on the merits.

By the plain language of § 1226, the principles of statutory construction, the legislative history, longstanding agency practice, and the Board's own interpretation of the statute, § 1226(a) governs Mr. Cervantes Arredondo's detention.

a. The text of § 1226(a) and canons of statutory construction demonstrate Mr. Cervantes Arredondo is entitled to a bond hearing.

Application of § 1226(a) does not turn on whether a person was previously inspected and admitted to the country. The plain language of the section explicitly confirms that it applies not only to people who are deportable, but also to those who are inadmissible, such as Mr. Cervantes Arredondo. *See* 8 U.S.C. §§ 1226(c)(1)(E). Section 1226(c) carves out specific, limited categories of inadmissible noncitizens subject to mandatory detention. 8 U.S.C. §§ 1226(c)(1)(A), (D), and (E). A plain reading of the exceptions implies that the default discretionary bond procedures in § 1226(a) apply to a noncitizen who, like Mr. Cervantes Arredondo, is present without being admitted or paroled but has not been implicated in any crimes as set forth § 1226(c). *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010) (recognizing that when Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies.).

A substantive amendment to INA Section 236(c)(1)(E) in the Laken Riley Act of 2025 LRA), codified at 8 U.S.C. § 1226(c)(1)(E), further clarifies this plain language reading. LRA, Pub. L. No. 119-1, 139 Stat. 3 (2025). The amendment requires mandatory detention of individuals who entered without inspection and are inadmissible like Mr. Cervantes Arredondo, but only if they were *also* arrested, charged with, or convicted of certain crimes. *See* 8 U.S.S § 1226(c)(1)(E).

By including such individuals in 8 U.S.C. § 1226(c), Congress clarified that 8 U.S.C. § 1226(a) governs the detention of people only subject to inadmissibility under 8 U.S.C. § 1182(a)(6) and who are not "seeking admission" to the country.

Two canons of statutory construction support Mr. Cervantes Arredondo's argument. First, statutes should be construed as a whole, giving effect to all their provisions. *Corley v. United States*, 556 U.S. 303, 314 (2009) (cleaned up) ("[a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous. . ."). Second, recent amendments to a statute should be read in harmony with an agency's longstanding construction. *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995) (citations omitted) ("When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.").

b. The statutory structure of § 1225(b)(2), the textual limitations of § 1225(b)(2), and the canon against superfluity further demonstrate that § 1226(a), not § 1225(b)(2), applies to Mr. Cervantes Arredondo.

The structure of 8 U.S.C. § 1225 also supports § 1226(a) applying to Mr. Cervantes Arredondo. Section 1225 is concerned "primarily with those seeking entry[ ] at the Nation's borders and ports of entry". *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018). Paragraphs (b)(1) and (b)(2) in § 1225 reflect this understanding.

Paragraph (b)(1) concerns the "expedited removal of inadmissible arriving [noncitizens]". It encompasses only the "inspection" of certain "arriving" noncitizens and other recent entrants the Attorney General designates, and only those who are "inadmissible under section [1182](a)(6)(C) or [1182](a)(7)", the sections for fraud and documentation requirements in § 1225(b)(1)(A)(i). Subsection (b)(1)'s text demonstrates that it is focused only on people *arriving* at a port of entry or who have *recently* entered the United States and not those already residing here.

Paragraph (b)(2) is similarly limited to people "seeking admission" when they *arrive* in the United States or very shortly thereafter. *See Garcia Cortes v. Noem*, 2025 WL 2652880, at *3 (D. Colo. Sept. 16, 2025) (noting that the noncitizen was not seeking admission at the time of his arrest because he has resided in the country for years). The title explains that this paragraph addresses the "[i]nspection of other [noncitizens]," i.e., those noncitizens who are "seeking admission" but who (b)(1) does not address. *Id.* § 235(b)(2), (b)(2)(A). By limiting (b)(2) to those "seeking admission," Congress confirmed that it did not intend to sweep into this section individuals like Mr. Cervantes Arredondo who already entered the United States and have been residing here for decades. The related regulation defines "arriving [noncitizen]," in relevant part, as "an applicant for admission coming or attempting to come into the United States at a port-of-entry...." *Jaquez-Estrada v. Barr*, 825 F. App'x 538, 540 (10th Cir. 2020). Moreover, subparagraph (b)(2)(C) addresses "[t]reatment of [noncitizens] *arriving* from contiguous territory," i.e., those who are "*arriving* on land." 8 U.S.C. § 1225(b)(2)(C) (emphasis added). This language further underscores Congress' focus in § 1225 on those who are *arriving* in the United States—not those already residing here for years.

Further, collapsing § 1225 and § 1226 would violate fundamental principles of statutory construction and render multiple portions of the INA, including the most recent LRA amendments, superfluous. Under the "most basic [of] interpretative canons, . . . '[a] statute should be construed so that effect is given to all of its provisions, so that no part will be inoperative or superfluous, void or insignificant.'" *Corley v. United States*, 556 U.S. 303, 314 (2009) (third alteration in original) (quoting *Hibbs v. Winn*, 542 U.S. 88, 101 (2004)). "This principle . . . applies to interpreting any two provisions in the U.S. Code, even when Congress enacted the provisions at different times." *Bilksi v. Kappos*, 561 U.S. 593, 607–08 (2010).

c. The legislative history further supports Mr. Cervantes Arredondo's argument.

In 1997, after Congress amended the INA through IRRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IRRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination*." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

d. BIA precent and countless federal court decisions support Mr. Cervantes Arredondo's argument.

Finally, the Respondents' position conflicts with various BIA precedent dictating bond jurisdiction over those who entered without inspection. *See, e.g. Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025) (assuming jurisdiction to redetermine custody of a noncitizen who entered without inspection and affirming denial of bond on discretionary consideration); *see also Matter of D-J-*, 23 I. & N. Dec. 572 (2003) (same); *Matter of R-A-V-P-*, 27 I. & N. Dec. 803 (BIA 2020) (same).

Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court incorrectly stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

Federal court after federal court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *Garcia Cortes v. Noem*, 2025 WL 2652880, at *7 (D. Colo. Sept. 16, 2025); *Jimenez v. FCI Berlin*, Warden, No. 25-cv-326-LM-AJ

(D.N.H. Sept. 8, 2025); *Rodriguez-Vazquez v. Bostock*, 779 F.Supp.3d 1239 (W.D. Wash. 2025) (granting preliminary relief); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, *8 (D. Mass. July 7, 2025) (granting individual habeas relief); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp.3d ---, 2025 WL 2084238, *9 (D. Mass. July 24, 2025) (denying reconsideration of individual habeas relief); *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01874-SSS-BFM, *13 (C.D. Cal. July 28, 2025) (granting preliminary relief); *Escalante v. Bondi*, No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025) (report and recommendation to grant preliminary relief, adopted sub nom O.E. v. Bondi, 2025 WL 2235056 (D. Minn. Aug. 4, 2025)); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D. N.Y. Aug. 8, 2025) (granting individual habeas relief); *de Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (report and recommendation to grant habeas relief, adopted without objection at 2025 WL 2349133 (D. Ariz. Aug. 13, 2025)); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (granting habeas relief); *Aguilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025) (same); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug 15, 2025) (same); *Romero v. Hyde*, --- F.Supp.3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (same); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428 JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025) (same); *Benitez v. Noem*, No. 5:25-cv 02190, Doc. 11 (C.D. Cal. Aug. 26, 2025) (granting preliminary relief); *Kostak v. Trump*, No. 3:25-dcv-01093-JE, Doc. 20 (W.D. La. Aug. 27, 2025) (same); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, Doc. 14 (E.D. Mich. Aug. 29, 2025) (granting habeas relief).

Additionally, multiple courts have expressly disagreed with the BIA's statutory interpretation in *Matter of Yajure*. *See e.g., Lepa v. Andrews,* 1:25-cv-01163-KES-SKO (finding *Matter of Yajure* unpersuasive and holding the respondent who entered without inspection is subject to § 1226(a) detention) (E.D. Cal. Sept. 23, 2025); *Chafla v. Scott*, No. 2:25-cv-00437-

SDN (D. Me. Sept. 21, 2025) (noting court's disagreement with BIA's analysis in *Matter of Yajure*); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court's disagreement with BIA's analysis in *Yajure Hurtado*); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E..D. Mich. Sept. 9, 2025) (disagreeing with BIA's analysis in *Matter of Yajure*).

Mr. Cervantes Arredondo is likely to succeed in his claim because the plain language of § 1226 and § 1225, the principles of statutory construction, the legislative history, longstanding agency practice, and the Board's own interpretation of the statute, makes clear that § 1226 applies to him. Additionally, numerous federal courts cited above have granted relief for those in Mr. Cervantes Arredondo's position. Most recently, Judge Gallagher in this District agreed that a Petitioner in the substantially same position as Mr. Cervantes Arredondo would likely succeed on the merits of this Claim. *Moya Pineda v. Baltasar*, No. 1:25-cv-2955-GPG (D. Colo. Sept. 25. 2025). This Court should do the same.

II. Mr. Cervantes Arredondo will suffer irreparable harm absent emergency relief.

Mr. Cervantes Arredondo will suffer severe and irreparable harm each day he is detained without a temporary restraining order from this court. Irreparable harm requires an injury that is concrete, significant, and actual, rather than speculative. *Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1189 (10th Cir. 2003). "Irreparable harm, as the name suggests, is harm that cannot be undone, such as by an award of compensatory damages or otherwise." *Salt Lake Tribune Publ'g Co., LLC v. AT&T Corp.*, 320 F.3d 1081, 1105 (10th Cir. 2003).

Irreparable physical and mental harm is inevitable for those whose liberty is restricted. Respondents confine Mr. Cervantes Arredondo in jail-like conditions that "strongly resemble penal confinement. More than that, they are abhorrent." *Arostegui-Maldonado v. Baltazar*, No. 25-CV-2205-WJM-STV, 2025 WL 2280357, at *7 (D. Colo. Aug. 8, 2025). "The time spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job; it disrupts

family life; and it enforces idleness." *Barker v. Wingo*, 407 U.S. 514, 532 (1972). Detention also makes it far more difficult for a detained noncitizen to gather evidence, reach witnesses, and prepare an effective defense. *Id.* at 533. Detention causes "potentially irreparable harm every day [one] remains in custody." *Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1262, (W.D. Wash. 2025). Courts routinely find far less weighty interests justify preliminary relief. *Ohio Oil Co. v. Conway*, 279 U.S. 813 (1929) (tax payment); *RoDa Drilling v. Siegal*, 552 F.3d 1203, 1210-11 (10th Cir. 2009) (control of real property); *Bray v. QFA Royalties, LLC*, 486 F.Supp.2d 1237 (D. Colo. 2007) (terminating sandwich shop franchise agreements).

Mr. Cervantes Arredondo has now been detained for more than 100 days. Freedom from imprisonment lies at the heart of the liberty that the Fifth Amendment Clause protects. *Zadvydas v. Davis*, 533 U.S.678, 690 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Each day Mr. Cervantes Arredondo spends in detention is a day in which his freedom and fundamental liberty interests are unlawfully deprived. *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017) (finding that likelihood of unconstitutional deprivation of physical liberty satisfied burden as to irreparable harm); *Ramirez v. United States Immigration & Customs Enf't*, 310 F. Supp. 3d 7, 31 (D.C.C. 2018) (nothing that "[c]ourts in this and other jurisdictions have found that deprivations of physical liberty are the sort of actual and imminent injuries that constitute irreparable harm"); *Mahmood v. Nielsen*, 312 F. Supp. 3d 417. 425 (S.D.N.Y. 2018) (noting that "[a] number of courts have held that detention in violation of constitutional rights establishes irreparable harm").

Here, Mr. Cervantes Arredondo's ongoing detention inflicts precisely the type of irreparable harm courts have recognized. Confined for more than 100 days in penal-like conditions, he faces daily physical and psychological injury from confinement that far exceeds what civil detention should entail and from which, should the government properly apply the law, he should have the opportunity to seek release. Even the government has acknowledged the severe

deficiencies in ICE detention, specifically at Aurora's privately run facility, where detained individuals are denied outdoor access, meaningful contact visits with family, and adequate medical and mental health services. *Arostegui-Maldonado*, No. 25-CV-2205-WJM-STV, 2025 WL 2280357, at *7.

These harms are further compounded by the fact that he remains unrepresented in his removal proceedings. Without counsel, his ability to gather evidence, contact witnesses, or prepare legal arguments is nearly impossible. Meanwhile, the Immigration Judge continues to advance his case on the compressed timeframe of the detained docket, placing him at serious risk of an unjust outcome. This is a significant, irreparable harm to Mr. Cervantes Arredondo.

Mr. Cervantes Arredondo has been separated from his partner and her father without the chance to seek his release from immigration detention and return to their family home. Petitioner's detention is causing severe economic and personal hardship. His partner has had to work extra hours to cover household expenses, all while managing her own serious health condition, including a brain cyst, making the financial and emotional strain even more acute. *Hernandez*, 872 F.3d at 995 (noting "the irreparable harms imposed on anyone subject to immigration detention (or other forms of imprisonment)", including "the economic burdens imposed on detainees and their families as a result of detention"). Granting emergency relief will prevent Mr. Cervantes Arredondo and his family from enduring additional harm beyond what detention has already caused. The continuation of these grave harms can only be prevented if the Court grants this preliminary injunction; this factor therefore weighs heavily in Mr. Cervantes Arredondo's favor.

III. Balancing the equities and public interest weighs heavily in favor of relief.

Both the balance of equities and the public interest weigh heavily in Mr. Cervantes Arredondo's favor. When the government is a party, the balance of equities and the public interest considerations converge. *See Nken v. Holder*, 556 U.S. at 435. A party seeking a preliminary

injunction must demonstrate that "the threatened injury to the movant outweighs the injury to the other party under the preliminary injunction." *Heideman*, 348 F.3d at 1190. The government cannot claim harm from an injunction that simply halts an unlawful practice or ensures a statute is applied consistent with constitutional requirements. *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). In this case, directing the government to resume its prior practice by affording Mr. Cervantes Arredondo a bond hearing would not cause any harm to Respondents. An IJ will only release someone on bond the IJ is satisfied the person is not a flight risk. *Matter of Guerra*, 24 I&N Dec. at 38. Thus, "[t]he harm to the government is minimal." *Vazquez*, 779 F.Supp.3d at 1262. Indeed, all "interested parties [would] prevail" if this Court were to grant this preliminary injunction because ICE "has no interest in the continued incarceration of an individual who it cannot show to be either a flight risk or a danger to the community." *Velasco Lopez v. Decker*, 978 F.3d 842, 857 (2d Cir. 2020).

Here, the balance of harms and public interest both weigh heavily in Mr. Cervantes Arredondo's favor. Without relief, Mr. Cervantes Arredondo will continue to suffer the irreparable harms of unlawful detention. This includes the severe economic strain on his family, as his partner must work additional shifts while simultaneously managing a serious medical condition. By contrast, Respondents will suffer no cognizable injury from an order requiring them to halt an unlawful practice or ensures a statute is applied consistent with constitutional requirements. *Rodriguez*, 715 F.3d at 1145. Given there is no countervailing government or public interest in Mr. Cervantes Arredondo's continued detention, he makes a strong showing that both the balance of harms and the public interest weigh in his favor.

CONCLUSION

Accordingly, the Court should grant a temporary restraining order requiring either Mr. Cervantes Arredondo's release, or that Respondents provide a bond hearing within 7 days. In the

alternative, Mr. Cervantes Arredondo asks this Court to order Respondents to show cause within seven days establishing why his habeas petition should not be granted. The Court should further enjoin Defendants from transferring Mr. Cervantes Arredondo outside of the Court's jurisdiction.

DATED this October 4, 2025.

Respectfully submitted,

/s/ Elizabeth Jordan
Elizabeth Jordan, Esq.
University of Denver Sturm College of Law
Pro Bono Counsel for Respondent

VERIFICATION

I, /s/ Elizabeth Jordan, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that, on information and belief, the factual statements in the foregoing Petitioner's Motion for a Temporary Restraining Order and Preliminary Injunction are true and correct.

Dated: October 4, 2025

CERTIFICATE OF SERVICE

I, Elizabeth Jordan, hereby certify that on October 4, 2025, I filed the foregoing with the Clerk of Court using the CM/ECF system. I, Elizabeth Jordan, hereby certify that a hard copy of the document was mailed to the individuals identified below pursuant to Fed.R.Civ.P. 4, via certified mail, on October 4, 2025.

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