IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

OSCAR ARTOLA ARAUZ, 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-03260 **PETITIONER'S MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

INTRODUCTION

Petitioner Oscar Artola Arauz ("Mr. Artola Arauz") moves for a temporary restraining order against Respondents pursuant to Rule 65 and the All Writs Act. Mr. Artola Arauz 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. Artola Arauz 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 detaining those who entered without inspection under 8 U.S.C. § 1225, a mandatory detention statute rendering them ineligible for bond. Respondents' radical, novel interpretation goes against the plain language of both section 1226 and section 1225, principles of statutory construction, the legislative history, longstanding agency practice, and the Board of Immigration Appeals' (BIA) own interpretation of the statute. Dozens of federal courts have agreed.

Because of Respondent's erroneous interpretation of the INA, Mr. Artola Arauz is not only being deprived of his freedom, but he is also attempting to manage extreme heart failure while detained in a facility that has grossly neglected his serious and urgent medical condition. This neglect almost killed Mr. Artola Arauz once, and it is ongoing. Mr. Artola Arauz will suffer irreparable harm if he is unable to seek release on bond and obtain the medical care he needs outside of the detention center. The Court should order Mr. Artola Arauz's release, or that Respondents provide a bond hearing within 7 days. The Court should further enjoin Respondents from transferring Mr. Artola Arauz outside of the Court's jurisdiction.

FACTUAL BACKGROUND

In the late 1980s, Mr. Artola Arauz, a young boy at the time, came to the United States from Nicaragua. Ex. 1 at ¶ 3. He entered without inspection when he was carried over the Rio Grande. *Id.* Mr. Artola Arauz grew up in Florida, surrounded by immediate and extended family members. Ex. 1 at ¶ 6. His mother obtained asylum when he was a child and later became a U.S. Citizen.

Mr. Artola Arauz has since established lasting community ties in Florida. Ex. 1 at ¶ 8. Mr. Artola Arauz has lived in Florida for nearly his entire life. *See id.* He went through school, raised a family, found meaningful work, and built an extensive community in Florida. Ex. 1 at ¶¶ 6-8. He has lived at the same fixed address in Jacksonville, FL, for the last two years. Mr. Artola

Arauz's son, mother, brother, and sister also reside in the United States, along with his nieces. *See* Ex. 1 at ¶ 6. All of his known family members are U.S. Citizens.

Since being in detention, Mr. Artola Arauz has suffered from chest pain and fatigue. Ex. 1 at ¶ 13. Mr. Artola Arauz complained about these issues immediately after ICE detained him on June 11, 2025. *Id.* Fifteen days later, a nurse administered an Electrocardiogram ("ECG") on June 26, 2025. Ex. 3 at 5. When his symptoms persisted, he asked to be seen by a doctor. Ex. 1 at ¶ 15. He received another ECG on July 2, 2025. Ex. 3 at 7. Dr. Cary Walker, the detention center doctor, did not sign off on the June 26 or July 2 ECGs (nor, apparently, review them in any fashion) until July 8, 2025. Ex. 3 at 2, 7.

On July 8, 2025, Mr. Artola Arauz was rushed to the hospital late at night. Ex. 3 at 21.e Mr. Artola Arauz remained at the University of Colorado hospital for 10 days where he was diagnosed with heart failure. Ex. 3 at 30. His left ventricular function is severely reduced at 12.6%. *Id.* This is a percentage that requires consistent care by cardiologists. Ex. 2 at ¶ 3. Anything under 40% indicates heart failure. Ex. 3 at 30.

Mr. Artola Arauz's doctors provided specific and detailed information about care and following up after his time in the hospital. Ex. 3 at 26-30. The hospital doctors emphasized the severity of his condition and instructed Mr. Artola Arauz to begin a low sodium, low fat, and low cholesterol diet. Ex. 3 at 31. The hospital doctors communicated warning signs, such as a significant gain or loss of weight or the return of chest pains and instructed him to notify the hospital if any of these issues arise. Ex. 3 at 28, 30. The hospital doctors instructed him to weigh himself every morning to track weight gain and loss. Ex. 3 at 30. Regardless of any warning signs, the doctors at UC Health stressed the importance of regular follow-up appointments with cardiologists as stated in their discharge documents sent to the detention center medical team. Ex. 3 at 26-32. The detention center failed to send Mr. Artola Arauz to any follow-up

appointment with a cardiologist. Ex. 1 at ¶ 18. The detention center has not changed Mr. Artola Arauz's diet, and he has gained almost 20 pounds since returning to the detention center from the hospital. Ex. 1 at ¶¶ 24, 25. He has not seen a doctor outside of the detention center since his return despite being scheduled for appointments. Ex. 1 at ¶¶ 18-20. Additionally, he has notified GEO of severe shoulder pain that could be related to his heart failure but was only given ibuprofen from a nurse and has not been seen by a doctor for that pain. Ex. 1 at ¶ 26.

Mr. Artola Arauz is an essential source of support for both his family and his community. *See* Ex. 1 at ¶ 8. His mother has complications from a stroke and is diabetic. *See* Ex. 1 at ¶ 9. Mr. Artola Arauz provides financial and emotional support for his sick mother. Ex. 1 at ¶ 9. He works in construction, but he is unable to provide her with the resources she needs since he has been in detention. Ex. 1 at ¶¶ 8, 9. Mr. Artola Arauz is also unable to receive adequate health care, earn an income, and reasonably access legal resources while in detention.

Mr. Artola Arauz's criminal convictions primarily consist of minor infractions and offenses that reflect personal struggles, rather than being a danger to the community. They do not subject him to mandatory immigration detention. Mr. Artola Arauz will not pose a threat to the community if he is able to fight his case outside of the detention center.

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, concluding they are applicants for admission subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). \. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 229 (BIA 2025).

Mr. Artola Arauz sought a bond redetermination hearing before an IJ but, on October 6, 2025, 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.

Artola Arauz's approximately 38 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. Artola Arauz simultaneously petitions 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. Artola Arauz is a flight risk or a danger to the community. See *id.*

Mr. Artola Arauz 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. Artola Arauz's release, or that Respondents provide a bond hearing within 7 days. In the alternative, Mr. Artola Arauz 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 Respondents from transferring Mr. Artola Arauz outside of the Court's jurisdiction.

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). This Court has not issued a precedential decision regarding what constitutes a strong showing. In *Nken*, the Supreme Court defined it as more than "better than negligible." *Nken v. Holder*, 556 U.S. 418, 434 (2009) (quotation marks omitted). Here, Mr. Artola Arauz makes a strong showing.

ARGUMENT

I. Mr. Artola Arauz is likely to succeed on the merits.

By the plain language of 8 U.S.C. § 1226, the principles of statutory construction, the legislative history, longstanding agency practice, and the Board of Immigration Appeals' (BIA) own interpretation of the statute, 8 U.S.C. § 1226(a) governs Mr. Artola Arauz's detention.

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

Application of §1226(a) does not turn on whether a person was previously 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. Artola Arauz. *See* 8 U.S.C. § 1226(c)(1)(E). Section 1226(c) offers a carve out for 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. Artola Arauz, 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. Artola Arauz, but only if they were *also* arrested, charged with, or convicted of certain crimes. *See* 8 U.S.C. § 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. Artola Arauz'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. Artola Arauz.

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

Paragraph (b)(1)—which concerns "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]inspection 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. Artola Arauz 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 superfluous, including the most recent LRA amendments. 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. Artola Arauz's argument.

In 1997, after Congress amended the INA through the Illegal Immigration Reform and Immigrant Responsibility Act ("IRRIRA"), the Executive Office for Immigration Review ("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. Artola Arauz's argument.

Mr. Artola Arauz's position is consistent with decades of 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 illegally 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. Artola Arauz is likely to succeed in his claim because 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, makes clear that section 1226 applies to him. Additionally, numerous federal courts cited above have granted relief for those in Mr. Artola Arauz's position. Most recently, Judges Gallagher and Jackson in this District agreed that a Petitioner in the substantially same position as Mr. Artola Arauz would likely succeed on the merits of this Claim. *Moya Pineda v. Baltasar*, No. 1:25-cv-2955-GPG (D. Colo. Sept. 25. 2025); *Cervantes Arredondo v. Baltazar et al.*, 1:25-cv-03040-RBJ (D. Colo. 2025). This Court should do the same.

II. Mr. Artola Arauz will suffer irreparable harm absent emergency relief.

Mr. Artola Arauz 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). Here, he is facing three sources of irreparable harm, one of which may well cost him his life.

a. Mr. Artola Arauz will suffer irreparable harm due to medical neglect for his extreme heart failure if he is required to stay in detention.

Mr. Artola Arauz, despite repeated complaints of chest pain, went without seeing a doctor from June 11, 2025 until July 8, 2025. When a doctor finally reviewed his records, he was rushed to the hospital and diagnosed with heart failure. Neither the detention center nor ICE has followed the protocol given to them by Mr. Artola Arauz's doctors at the hospital. The lackadaisical medical care Mr. Artola Arauz has received while detained has thus almost killed him once. If Mr. Artola Arauz remains in detention for much longer, it may well cost him his life. This is undoubtedly harm that cannot be undone.

i. The detention facility has neglected Mr. Artola Arauz's medical needs generally from the outset, which has already almost resulted in fatal consequences.

Respondents' neglect of Mr. Artola Arauz's medical needs started promptly after detaining him. Mr. Artola Arauz has been extremely sick since entering detention on June 11, 2025, complaining of chest pains and fatigue. On June 24, 2025, shortly after his transfer to Aurora, he submitted a medical care request to the detention center medical staff complaining of blurry vision, dizziness, and chest pains. These were signs of heart failure that should have grabbed the attention of a doctor. *See* Ex. 2 at ¶ 1. Instead, Mr. Artola Arauz did not see a doctor and, though he underwent an ECG, the results apparently went unreviewed. At Mr. Artola

Arauz's follow-up appointment on July 2nd, at which there was no doctor, he stated that he experienced chest pain when active but no pain when resting. Upon making this statement, Mr. Artola Arauz again should have been seen by the staff doctor immediately and sent to the hospital for further evaluation. Ex. 2 at ¶ 3. However, Mr. Artola Arauz only received another ECG at this appointment. Neither ECG was reviewed by the detention center doctor, Dr. Cary Walker, until July 8, 2025.

The detention center neglected Mr. Artola Arauz's condition until it was almost too late. The moment Dr. Walker reviewed Mr. Artola Arauz's case on July 8 and took action, the only action to take was to immediately rush Mr. Artola Arauz to the emergency room. He remained there for 10 days. The hospital doctors diagnosed Mr. Artola Arauz with heart failure. His left ventricular function is severely reduced at 12.6%, a percentage that requires frequent follow-ups with cardiologists and medication management from cardiologists, not subpar medical care that has not met the needs of Mr. Artola Arauz to date. *See* Ex. 2 at ¶ 3. The medical staff's procrastination before his hospitalization could have cost Mr. Artola Arauz his life. *See id.*

ii. Respondents have moved on from neglecting Mr. Artola Arauz's condition generally to ignoring the explicit instructions and dire warnings from Mr. Artola Arauz's specialty care doctors.

On July 22, 2025, Mr. Artola Arauz's doctors at UC Health faxed specific and detailed discharge records to the medical staff at the detention facility, emphasizing the severity of his condition and providing specific instructions. Mr. Artola Arauz needed to begin a low sodium, low fat, low cholesterol diet. Mr. Artola Arauz needed to be watched for warning signs, being weighed every day for instability and monitored for chest pain or fatigue. Any of these signs called for immediate medical attention and notifying the hospital. Mr. Artola Arauz was to appear for regular follow-up appointments at the hospital within specific timeframes.

The medical staff at the detention facility have ignored these instructions entirely. They have failed to provide Mr. Artola Arauz with the requisite diet. They have failed to monitor Mr. Artola Arauz's weight every morning. He has gained almost 20 pounds since returning to immigration detention from the hospital, and detention center staff have not returned him to the hospital for that instability. Mr. Artola Arauz has continued to complain of pain and fatigue, and detention staff have not returned him to the hospital for this either. The detention center has not effectuated Mr. Artola Arauz's follow-up appointments: scheduling only one appointment within the recommended timeline but then failing to take Mr. Artola Arauz to it. He has not been back to the hospital or seen specialists, despite being diagnosed with such severe heart failure, and the only doctor on staff at the detention center is ill-equipped, lacking board certification in any specialty let alone cardiology. *See* Ex. 2 at ¶ 9.

iii. Mr. Artola Arauz's life-threatening condition and the detention center's extreme and severe medical neglect persist.

Respondents' ongoing neglect goes beyond ignoring the doctors' orders as described above. Since leaving the hospital nearly two months ago, Mr. Artola Arauz has not returned nor seen a doctor in any capacity, despite dire warnings of the necessity to do so. Mr. Artola Arauz has continued to notify the detention medical staff of severe shoulder pain, fatigue, and weight gain. All of these symptoms were flagged by his team of doctors at the hospital as signs to seek immediate medical attention. An independent reviewer of Mr. Artola Arauz's medical records states that these "may constitute signs/symptoms of worsening heart disease and require immediate evaluation in an emergency department or by a cardiologist." Ex. 2 at ¶ 7.

Nonetheless, Mr. Artola Arauz has only seen non-doctor medical staff at the detention center, who do not have the necessary training. *Id.* at ¶ 2. The nurses in the detention center gave Mr. Artola Arauz ibuprofen for his shoulder pain and sent him on his way without evaluating any of his other symptoms. The last time Mr. Artola Arauz had a medical emergency, it took the

doctor almost a month to evaluate his case. By that point, the only thing left to do was to rush Mr. Artola Arauz to the emergency room.

This is recent history repeating itself. Mr. Artola Arauz runs the risk of irreparable harm or death while the detention medical team dilly dallies as he presents with new symptoms that should be ringing alarm bells. *Id.* at ¶ 7. If Mr. Artola Arauz were at home, he would have immediately sought medical attention for these symptoms. However, because Mr. Artola Arauz is at the mercy of the detention center, he is entirely reliant on their ability to comply with the professional recommendations of the hospital, which they do not do. The continued lack of care shown by the medical staff at the detention center after Mr. Artola Arauz's prior emergency hospitalization proves they are unwilling to change the lackadaisical medical response that almost killed Mr. Artola Arauz in July.

If Mr. Artola Arauz is not granted emergency relief, he will continue to be subjected to extreme and severe medical neglect and he may well die in detention. It is clear that the detention center cannot care for him given the complex state of his disease. *See* Exh. 2 at ¶ 8. Failure to release him to seek community-based care constitutes irreparable harm.

b. Mr. Artola Arauz will suffer irreparable physical and mental harm is while his liberty is restricted.

Respondents confine Mr. Artola Arauz 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. Artola Arauz has now been detained for more than 120 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. Artola Arauz 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. Artola Arauz's ongoing detention inflicts precisely the type of irreparable harm courts have recognized. Confined for more than 120 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. More specifically, Mr. Artola Arauz's severe heart failure has been exacerbated by grossly inadequate healthcare inherent to civil detention facilities.

c. Mr. Artola Arauz will suffer irreparable harm due to fighting his removal case from illegal detention.

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 significant, irreparable harm to Mr. Artola Arauz.

Mr. Artola Arauz asks the Court to find that he will suffer irreparable harm absent emergency relief. Mr. Artola Arauz's health problems and illegal detention show concrete, significant, and actual injury that cannot be undone by granting an alternative form of relief.

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. Artola Arauz'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. 418, 435 (2009). 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 of affording Mr. Artola Arauz would not cause any harm to Respondents. An IJ will only release someone on bond after being satisfied that they are not a flight risk or danger. *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 harm and public interest both weigh heavily in Mr. Artola Arauz's favor. Without relief, Mr. Artola Arauz will continue to suffer the irreparable harm of unlawful detention. This includes the abhorrent and irresponsible medical care he has received from the GEO detention center staff, which has blatantly disregarded vital advisement from cardiologists at the University of Colorado Hospital. By contrast, Respondents will suffer no cognizable injury from an order requiring them to halt an unlawful practice or ensure 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. Artola Arauz's continued detention, he makes a strong showing that both the balance of harm and the public interest weigh in his favor.

CONCLUSION

Accordingly, the Court should grant a temporary restraining order requiring either Mr. Artola Arauz's release, or that Respondents provide a bond hearing within 7 days. In the alternative, Mr. Artola Arauz 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 Respondents from transferring Mr. Artola Arauz outside of the Court's jurisdiction.

DATED this October 15, 2025.

Respectfully submitted,

/s/ Elizabeth Jordan

Rachel Ware*
Elizabeth Jordan
John A. Hathaway
STUDENT LAW OFFICE

University of Denver Sturm College of Law
2255 East Evans Avenue Suite 335
Denver, CO 80210
Rachel.Ware@du.edu
Elizabeth.Jordan@du.edu
John.A.Hathaway@du.edu

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 15, 2025