

1 TODD BLANCHE
 Deputy Attorney General of the United States
 2 SIGAL CHATTAH
 First Assistant United States Attorney
 3 District of Nevada
 Nevada Bar Number 8264
 4 TAMER B. BOTROS
 Assistant United States Attorney
 5 Nevada Bar No. 12183
 501 Las Vegas Blvd. South, Suite 1100
 6 Las Vegas, Nevada 89101
 Telephone: (702) 388-6336
 7 Fax: (702) 388-6787
Tamer.Botros@usdoj.gov

8 *Attorneys for the Federal Respondents*

9
 10 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

11 L.R.,

12 Plaintiff,

13 v.

14 KRISTI NOEM, in her official capacity of
 Secretary, U.S. Dept of Homeland Security;
 U.S. DEPARTMENT OF HOMELAND
 15 SECURITY; PAMELA BONDI, in her
 official capacity as Attorney General; U.S.
 16 DEPARTMENT OF JUSTICE; TODD
 LYONS, in his official capacity as Acting
 17 Director for U.S. Immigration and Customs
 Enforcement; JASON KNIGHT, in his
 18 official capacity as Acting Field Director,
 Salt Lake City Field Office; U.S.
 19 IMMIGRATION AND CUSTOMS
 ENFORCEMENT; JOHN MATTOS, in his
 20 official capacity as Warden, Nevada
 Southern Detention Facility,

21 Respondents.
22

Case No. 2:25-cv-02019-RFB-BNW

**Federal Respondents' Response to
 Petitioner's Motion for Temporary
 Restraining Order (ECF No. 11)**

23 Federal Respondents hereby file their response to Petitioner L.R.'s Motion for
 24 Temporary Restraining Order (ECF No. 11) ("motion"). Petitioner's motion should be
 25 denied because he has failed to demonstrate that he is entitled to a preliminary injunction.
 26 In addition, Petitioner is subject to mandatory detention under 8 U.S.C. § 1226(c) because
 27 he was convicted of murder and is a noncitizen and therefore is inadmissible. This response
 28 is supported by the following memorandum of points and authorities.

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I. Introduction

Petitioner seeks in his motion to not be moved out of the state of Nevada due to his removal order to Mexico being stayed by the Ninth Circuit and seeks to be refrained from being moved from his cell between midnight and 6:00 am unless doing so is required by exigent circumstances. ECF No. 11, Page 6, lines 21-28 and Page 7, lines 1-4. Petitioner filed a Petition for Review and a Motion to Stay removal to Mexico in the Ninth Circuit on June 27, 2025. The Ninth Circuit stayed the removal order to Mexico. Petitioner is now detained under 8 U.S.C. 1226(c) because of his conviction for murder and is a noncitizen who is inadmissible and is currently not in the removal period due to the stay of the final removal order to Mexico. Petitioner references an incident that occurred on November 20, 2025, where he claims “that officers essentially staged the initiation of a deportation.” ECF No. 11, Page 5, line 8. The declaration of Randy Flores, Supervisory Detention Deportation Officer Immigration and Customs Enforcement, makes clear that no staging of deportation took place. See Declaration of Randy Flores as Exhibit A. As explained in detail by Mr. Flores, “individuals detained at the NSDC and scheduled for removal from the U.S. are generally subject to early morning processing due to time constraints. After initial processing at the NSDC individuals are then transported by bus from Pahrump, Nevada, to Las Vegas, Nevada for additional processing by ERO at the Las Vegas Federal Justice tower. After final processing, individuals scheduled for removal are taken by bus to the Las Vegas, Nevada, Harry Reid International Airport. Contracted departure flights are generally scheduled to leave at 6:00 am.” See Exhibit A, ¶ 8. As further explained by Mr. Flores, “on November 20, 2025, L.R. was inadvertently processed for removal at the NSDC. L.R. was taken by bus to the Las Vegas, Nevada, Federal Justice Tower. Upon processing by ERO or Deportation Officers, it was determined that L.R. should not be removed from the U.S. L.R. was informed that he would not be removed, that he would be transported to the Las Vegas, Nevada, Harry Reid International Airport with other individuals scheduled for removal, and then returned to the NSDC.” Exhibit A, ¶ 9. Furthermore, Mr. Flores states, that “L.R. was returned to NSDC on November 20, 2025,

1 and has not been subject to further removal processing. The Department does not intend to
2 remove L.R. while a stay is in place and will not transfer L.R. out of Nevada while the
3 instant Writ for Habeas Corpus is pending before the United States District Court for the
4 District of Nevada. See Exhibit A, ¶ 10. Petitioner was specifically informed that he would
5 not be removed. No staging of an unlawful deportation took place. Although, L.R. was
6 inadvertently processed, it was determined that L.R. should not be removed from the U.S
7 and was returned to NSDC. See Exhibit A, ¶ 10.

8 **II. Statutory Background**

9 **A. Petitioner Fails to Establish Entitlement to Interim Injunctive Relief.**

10 Alternatively, Petitioner's motion should be denied because he has not established
11 that he is entitled to interim injunctive relief. The legal standard for issuing a TRO is
12 essentially identical to the standard for issuing a preliminary injunction. See *Stuhlberg Int'l*
13 *Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001); see also *Zamfir v.*
14 *Casperlabs, LLC*, 528 F. Supp. 3d 1136, 1142 (S.D. Cal. 2021). "A party seeking a
15 preliminary injunction must meet one of two variants of the same standard." *All. for the Wild*
16 *Rockies v. Pena*, 865 F.3d 1211, 1217 (9th Cir. 2017). Under the *Winter* standard, a party is
17 entitled to a preliminary injunction if he demonstrates (1) that he is likely to succeed on the
18 merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3)
19 that the balance of equities tips in his favor, and (4) that an injunction is in the public
20 interest. *Winter v. NRDC, Inc.*, 555 U.S. 7, 20 (2008); see *Nken v. Holder*, 556 U.S. 418, 426
21 (2009). A party must make a showing on all four prongs. *A Woman's Friend Pregnancy Res.*
22 *Clinic v. Becerra*, 901 F.3d 1166, 1167 (9th Cir. 2018) (cleaned up). Plaintiffs must
23 demonstrate a "substantial case for relief on the merits." *Leiva-Perez v. Holder*, 640 F.3d 962,
24 967–68 (9th Cir. 2011). When "a plaintiff has failed to show the likelihood of success on the
25 merits, we need not consider the remaining three [*Winter* factors]." *Garcia v. Google, Inc.*, 786
26 F.3d 733, 740 (9th Cir. 2015).

27 The final two factors required for preliminary injunctive relief — balancing of the
28 harm to the opposing party and the public interest — merge when the Government is the

1 opposing party. *See Nken*, 556 U.S. at 435. The Supreme Court has specifically
2 acknowledged that “[f]ew interests can be more compelling than a nation’s need to ensure
3 its own security.” *Wayte v. United States*, 470 U.S. 598, 611 (1985); *see also United States v.*
4 *Brignoni-Ponce*, 422 U.S. 873, 878-79 (1975); *New Motor Vehicle Bd. of California v. Orrin W.*
5 *Fox Co.*, 434 U.S. 1345, 1351 (1977); *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211,
6 1220–21 (D.C. Cir. 1981); *Maharaj v. Ashcroft*, 295 F.3d 963, 966 (9th Cir. 2002) (movant
7 seeking injunctive relief “must show either (1) a probability of success on the merits and the
8 possibility of irreparable harm, or (2) that serious legal questions are raised and the balance
9 of hardships tips sharply in the moving party’s favor.”) (quoting *Andreiu v. Ashcroft*, 253 F.3d
10 477, 483 (9th Cir. 2001)).

11 In this case, Petitioner cannot establish that he is likely to succeed on the underlying
12 merits due to the declaration by Randy Flores, Supervisory Detention Deportation Officer
13 Immigration and Customs Enforcement, which makes clear that the version of events are
14 distinctively different and no staging of deportation took place. See Exhibit A.

15 ***a. Petitioner is not likely to succeed on the underlying merits.***

16 A preliminary injunction is an “extraordinary remedy never awarded as of right.”
17 *Winter*, 555 U.S. at 7, 24. The first *Winter* factor — likely success on the merits — is “the
18 most important” and is a threshold inquiry. *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir.
19 2015). Petitioners carry the burden of demonstrating a likelihood of success (or alternatively
20 showing “serious questions going to the merits”). *See A Woman’s Friend Pregnancy Resource*
21 *Clinic*, 901 F.3d at 1167; *Alliance for the Wild Rockies*, 865 F.3d at 1217.

22 In this case, Petitioner is seeking not to be removed from the State of Nevada. As
23 stated in the declaration by Mr. Flores, Petitioner will not be removed from Nevada while
24 the stay by the Ninth Circuit of his final removal order to Mexico is in place. Exhibit A, ¶
25 10. Therefore, he cannot establish that he is likely to succeed on the underlying merits of
26 his claims that a staging of deportation took place.

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1 ***b. Petitioner cannot show irreparable harm.***

2 To prevail on their request for interim injunctive relief, Petitioners must demonstrate
3 “immediate threatened injury.” *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th
4 Cir. 1988) (citing *Los Angeles Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d 1197,
5 1201 (9th Cir. 1980)). Merely showing a “possibility” of irreparable harm is insufficient. *See*
6 *Winter*, 555 U.S. at 22. And as discussed above, detention alone is not an irreparable injury.
7 *See Reyes*, 2021 WL 662659, at *3 (“[C]ivil detention after the denial of a bond hearing [does
8 not] constitute[] irreparable harm such that prudential exhaustion should be waived.”).
9 Further, “[i]ssuing a preliminary injunction based only on a possibility of irreparable harm
10 is inconsistent with [the Supreme Court’s] characterization of injunctive relief as an
11 extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is
12 entitled to such relief.” *Winter*, 555 U.S. at 22. Here, as explained above, because
13 Petitioner’s alleged harm “is essentially inherent in detention, the Court cannot weigh this
14 strongly in favor of” Petitioner. *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL
15 7474861, at *10 (N.D. Cal. Dec. 24, 2018).

16 ***c. Balance of Equities does not tip in Petitioner’s favor.***

17 It is well settled that the public interest in enforcement of the United States’
18 immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 551-58
19 (1976); *Blackie’s House of Beef, Inc.*, 659 F.2d at 1221 (“The Supreme Court has recognized
20 that the public interest in enforcement of the immigration laws is significant.”) (citing cases);
21 *see also Nken*, 556 U.S. at 435 (“There is always a public interest in prompt execution of
22 removal orders: The continued presence of an alien lawfully deemed removable undermines
23 the streamlined removal proceedings IIRIRA established and permits and prolongs a
24 continuing violation of United States law.”) (internal quotation omitted). The BIA also has
25 an “institutional interest” to protect its “administrative agency authority.” *See McCarthy v.*
26 *Madigan*, 503 U.S. 140, 145, 146 (1992) *superseded by statute as recognized in Porter v. Nussle*,
27 534 U.S. 516 (2002). “Exhaustion is generally required as a matter of preventing premature
28 interference with agency processes, so that the agency may function efficiently and so that it

1 may have an opportunity to correct its own errors, to afford the parties and the courts the
2 benefit of its experience and expertise, and to compile a record which is adequate for
3 judicial review.” *Glob. Rescue Jets, LLC v. Kaiser Found. Health Plan, Inc.*, 30 F.4th 905, 913
4 (9th Cir. 2022) (quoting *Weinberger v. Salfi*, 422 U.S. 749, 765 (1975)). Indeed, “agencies, not
5 the courts, ought to have primary responsibility for the programs that Congress has charged
6 them to administer.” *McCarthy*, 503 U.S. at 145.

7 Moreover, “[u]ltimately the balance of the relative equities ‘may depend to a large
8 extent upon the determination of the [movant’s] prospects of success.’” *Tiznado-Reyna v.*
9 *Kane*, Case No. CV 12-1159-PHX-SRB (SPL), 2012 WL 12882387, at * 4 (D. Ariz. Dec. 13,
10 2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987)).

11 In this case, as explained above, Petitioner cannot succeed on the merits of his claims
12 because of the declaration of Mr. Flores, which makes clear that no staging of deportation
13 took place on November 20, 2025. Exhibit A.

14 **III. Conclusion**

15 For the foregoing reasons, Respondents respectfully request that the Court deny
16 Petitioner’s motion for temporary restraining order.

17 Respectfully submitted this 12th day of December 2025.

18 TODD BLANCHE
19 Deputy Attorney General of the United States
20 SIGAL CHATTAH
21 First Assistant United States Attorney

22 /s/ Tamer B. Botros
23 TAMER B. BOTROS
24 Assistant United States Attorney
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