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

12 JUSTIN GARCIA-ARAUZ,

13 Petitioner,

14 v.

15 KRISTI NOEM, Secretary of the United  
 States Department of Homeland Security;  
 16 PAM BONDI, United States Attorney  
 General; TODD LYONS, Director of  
 United States Immigration and Customs  
 17 Enforcement; BRYAN WILCOX, Field  
 Office Director for Detention and Removal,  
 18 U.S. Immigration and Customs  
 Enforcement, Department of Homeland  
 19 Security; JOHN MATTOS, Warden,  
 Nevada Southern Detention Center;  
 20 EXECUTIVE OFFICE FOR  
 IMMIGRATION REVIEW (EOIR); SIRCE  
 21 OWEN, Acting Director, EOIR; LAS  
 VEGAS IMMIGRATION COURT,

22 Respondents.  
23

Case No. 2:25-cv-02117-RFB-EJY

**Federal Respondents' Opposition to  
 Petitioner's Amended Motion for  
 Preliminary Injunction, ECF No. 12**

24 The Federal Respondents hereby submit this Opposition to Petitioner Justin Garcia-  
 25 Arauz's ("Petitioner" or "Garcia-Arauz") Amended Motion for Preliminary Injunction for  
 26 Writ of Habeas Corpus (ECF No. 12).

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1 **I. Background**

2 In the interest of brevity and judicial efficiency, the Federal Respondents hereby  
3 incorporate by reference the arguments and case law set forth in Section I of their Response  
4 to the Amended Petition for Writ of Habeas Corpus (ECF No. 15).

5 **II. Standard of Review**

6 A preliminary injunction is “an extraordinary remedy that may only be awarded  
7 upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat’l Res. Def.*  
8 *Council, Inc.*, 555 U.S. 7, 22 (2008). It is “never awarded as of right.” *Id.* at 24. The moving  
9 party must establish: (1) a likelihood of success on the merits, (2) irreparable harm, (3) that  
10 the balance of equities tips in their favor, and (4) that an injunction serves the public  
11 interest. *Id.* at 20. When the nonmovant is the United States, the last two factors “merge.”  
12 *Baird v. Bonta*, 81 F. 4th 1036, 1040 (9th Cir. 2023).

13 The Ninth Circuit employs a “sliding scale” approach to the four factors. *All. for*  
14 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011) (quoting *The Lands Council v.*  
15 *McNair*, 537 F.3d 981, 987 (9th Cir. 2008). If the moving party raises “serious questions”  
16 going to the merits, the balance of hardships must “tip sharply” in his favor to secure a  
17 preliminary injunction. *Id.* Even under the sliding scale approach, the moving party must  
18 still show a likelihood of irreparable harm and that the injunction is in the public interest.  
19 *Id.* at 1125.

20 **III. Argument**

21 In the interest of brevity and judicial efficiency, the Federal Respondents hereby  
22 incorporate by reference the arguments set forth in the Federal Respondents’ Opposition to  
23 Petitioner’s Amended Motion for Preliminary Injunction in *Dominguez-Lara v. Noem*, Case  
24 No. 2:25-cv-01553-RFB-BNW, filed as ECF No. 28 in *Domiguez-Lara* and attached herein  
25 as Exhibit A. Specifically, the Federal Respondents incorporate by reference the arguments  
26 set forth at Section IV.1 through IV.3. Exhibit A, at 6–22.

1 Further, the Federal Respondents respectfully assert that Petitioner is not likely to  
2 succeed on the merits because he has failed to carry his burden of proof, as further  
3 explained below.

4 **A. Petitioner Is Not Likely to Succeed on the Merits for Failure to Carry the Burden**  
5 **of Proof**

6 **1. Petitioner Bears the Burden of Proof in Immigration Habeas Proceedings**

7 In immigration habeas corpus proceedings, the petitioner must present evidence  
8 establishing the factual predicates for his claims. Habeas corpus is an extraordinary remedy,  
9 and petitioners seeking such relief cannot proceed on unsupported allegations alone. A recent  
10 decision directly on point illustrates this principle. In *Vargas Lopez v. Trump*, No. 8:25CV526,  
11 2025 WL 2780351 (D. Neb. Sept. 30, 2025), the court denied an immigration habeas petition  
12 where the petitioner argued he should be detained under § 1226 rather than § 1225 but failed  
13 to provide any documentary evidence supporting his claim. *Id.* at \*6. The court held this  
14 evidentiary failure was fatal to the petition, emphasizing that petitioners must come forward  
15 with proof to support their statutory arguments. *Id.* Further, at no point did the court place  
16 the burden of proof on the United States.

17 The *Vargas Lopez* court explained that even where the legal question is disputed and  
18 potentially meritorious, the petitioner must establish the factual predicates necessary to  
19 resolve that dispute. Without evidence, the petition must be denied regardless of the  
20 theoretical merits of the petitioner's legal theory. This principle recognizes that courts cannot  
21 grant extraordinary relief based on speculation or attorney argument divorced from factual  
22 support.

23 Petitioner argues that he is improperly detained under § 1225(b)(2). To establish this  
24 claim, Petitioner must prove his case, and each of the alleged factual elements in his case  
25 requires documentary support, yet Petitioner has provided none. *See generally* ECF No. 11.

26 **2. Petitioner Has Access to the Requisite Evidentiary Documents Through**  
27 **Established Administrative Channels**

28 Petitioner has made no effort to obtain the evidence necessary to support his request  
for habeas relief before filing his Petition, and he has offered no explanation for why he

1 cannot obtain them through established administrative channels. Immigration attorneys  
2 routinely obtain their clients' immigration files through Freedom of Information Act requests  
3 submitted to ICE or USCIS. Immigration attorneys also obtain documents through Privacy  
4 Act requests, which provide access to agency records about specific individuals, or by  
5 submitting requests to EORI or immigration courts. There are established procedures and  
6 regulations to access the relevant agency records, including A-files. *See e.g.* 8 C.F.R. § 103.42  
7 (rules relating to FOIA and the Privacy Act).

8         Petitioner's counsel is experienced in immigration law. It is inconceivable that counsel  
9 for Petitioner would not know how to obtain the substantive evidence that the Court requires  
10 to properly evaluate this case. Yet the Petition contains no representation that counsel  
11 attempted to obtain any of these materials before filing. The Petition does not state that  
12 counsel submitted a FOIA request and is awaiting a response. It does not state that counsel  
13 requested documents from ICE, EOIR, or an immigration court and was refused. It does not  
14 state that counsel requested the A-file under applicable regulations and encountered  
15 obstacles. The Petition is entirely silent regarding any efforts to secure documentary support  
16 for Petitioner's allegations.

17         This silence suggests that Petitioner filed this habeas petition without undertaking  
18 even basic efforts to obtain the documentary evidence necessary to support his claims.  
19 Petitioner appears to have assumed that the burden would shift to the Federal Respondents  
20 to produce all relevant materials once a petition was filed, regardless of whether Petitioner  
21 made any threshold evidentiary showing. This assumption is fundamentally at odds with  
22 habeas corpus principles and the allocation of burdens. The party seeking relief bears the  
23 burden of establishing entitlement to that relief, which necessarily includes the burden of  
24 producing evidence supporting factual allegations.

25         Under the proper framework, Petitioner must first establish a threshold showing of  
26 unlawful detention supported by evidence. This means Petitioner must produce documents  
27 and testimony demonstrating that he is detained under circumstances not authorized by  
28 statute or in violation of constitutional protections. Only after Petitioner makes this threshold

1 showing might the United States need to produce contrary evidence or justify continued  
2 detention with additional materials.

3 Here, Petitioner has not made even a threshold evidentiary showing. He has filed  
4 legal arguments and conclusory allegations without any supporting documentation. This  
5 approach, if endorsed by the Court, would allow petitioners to file bare-bones petitions  
6 consisting of legal theories and unsupported allegations, then require the United States to  
7 produce all potentially relevant materials that might support or refute those theories. Such  
8 an approach would fundamentally alter habeas practice and create perverse incentives for  
9 petitioners to file first and gather evidence later, knowing that the United States would be  
10 required to produce materials that petitioner should have obtained before filing.

11 The proper approach requires Petitioner to produce the documents to support the  
12 allegations in his Petition as part of his initial evidentiary showing. If Petitioner cannot obtain  
13 these documents through established administrative channels despite reasonable efforts,  
14 Petitioner should explain those efforts and the obstacles encountered. The Court could then  
15 determine whether to order production by the Federal Respondents based on a showing that  
16 the documents are genuinely unavailable to Petitioner despite diligent efforts.

17 **3. Petitioner Has Provided No Evidence Supporting His Factual Allegations**

18 The Amended Petition (ECF No. 11) consists entirely of legal argument and  
19 conclusory factual allegations unsupported by any documentary evidence. Despite having  
20 the burden of proof in this immigration habeas proceeding, Petitioner has attached no  
21 exhibits, affidavits, declarations, or administrative records to support his claims. This failure  
22 to provide evidentiary support is not merely a technical deficiency. The documents Petitioner  
23 has failed to produce are essential to resolving the central legal question in this case, namely  
24 whether Petitioner is properly detained under 8 U.S.C. § 1225(b)(2) or § 1226(a). Without  
25 evidence of Petitioner's immigration history, the circumstances of his entry, any prior  
26 immigration proceedings or grants of status, and the specific charges filed against him, the  
27 Court cannot evaluate whether the statutory framework Petitioner challenges actually  
28 applies to him.

