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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Julio Armando Laurean-Ayala, **Petitioner,** **v.** **Kristi Noem**, Secretary of the United States Department of Homeland Security, in her official capacity; **Todd Lyons**, Acting of the Director of U.S. Immigration and Customs Enforcement, in his official capacity; **John Cantu**, Field Office Director for ICE's Enforcement and Removal Operation's ("ERO") Phoenix, Arizona Field Office, in his official capacity; **Sirce Owen**, Acting Director of Executive Office for Immigration Review, in her official capacity; **Fred Figueroa,** Warden, Eloy Federal Detention Center, **Respondents.**	**Case No.** **A No.** [redacted] **PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER OR PRELIMINARY INJUNCTION** **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**

INTRODUCTION

Petitioner Julio Armando Laurean-Ayala respectfully moves this honorable Court for an *ex parte* temporary restraining order (TRO) or, in the alternative, for a preliminary injunction, requiring Respondents to immediately release him from his unlawful detention at Eloy Federal Correctional Facility, Eloy, Arizona or, in the alternative, schedule him for a bond hearing within three (3) days under 8 U. S. C. § 1 226, without regard to the holding

of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025)), filed with the Habeas Petition as Exhibit 2.

The Department of Homeland Security (DHS) recently changed its long-standing position with regard to bond hearings and the status of mandatory detention. *See,* ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission, filed with the Habeas Petition as Exhibit 1. And the Bureau of Immigration Appeals (BIA) issued a precedential decision on September 5, 2025, holding that all noncitizens present in the United States without admission – no matter how long they have resided here – are still "applicants for admission" under 8 U.S.C. § 1225(a) and therefore subject to mandatory detention under § 1225(b)(2)(A). *See, Yajure Hurtado*, filed with the Habeas Petition as Exhibit 2.

But this interpretation of the Immigration and Naturalization Act (INA) violates both procedural and substantive Fifth Amendment protections, ignores the plain statutory language of both § 1225 and § 1226, and is contrary to numerous recent Federal Court decisions in this District that have rejected these exact arguments. *See e.g.* October 3, 2025 Order entered by District Court Judge Dominic W. Lanza, requiring Respondents to grant Petitioner, who had been present in the United States for 24 years, a "prompt bond hearing", saying that it " agrees with the majority of courts that have concluded that § 1226(a), rather than § 1225(b)(2)(A), applies in this circumstance.") *See, Francisco Echevarria v. Pam Bondi, et al.,* CV-25-03252-PHX-DWL (ESW) (D. Ariz. 10/3/2025). (gathering cases), filed with the Habeas Petition as Exhibit 3.

Here, Petitioner has been living in the United States for 29 years, since he last entered the United States in 1996; has 4 U.S. citizen children born in Arizona; has worked steadily

and contributed to the economy of Arizona; and has submitted proof of his family and community support. *See,* Petitioner's Affidavit, filed herewith as Exhibit 4 and Petitioner's Evidence in Support of Bond Hearing, filed herewith as Exhibit 7. Further, when Respondents issued a Notice to Appear, it identified Petitioner as an "alien present in the United States" despite "arriving alien" being an option. *See,* Petitioner's Notice to Appear, filed herewith as Exhibit 6.

Matter of Yajure Hurtado is not binding precedent this court. And the Supreme Court decision last year in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 400 (2024), made clear that federal courts must independently interpret statutes and no longer defer under so-called "*Chevron* deference" to agency interpretations of statutes. Therefore, this Court is in the best position to determine whether Petitioner Fauser Reino Godinez-Juarez was improperly barred for consideration for release on bond.

MEMORANDUM OF LAW

I. STATEMENT OF FACTS.

Petitioner Julio Armando Laurean-Ayala was born on [redacted] in Mexico City, Mexico. He last entered the United States in 1996 *See,* Petitioner's Affidavit, filed herewith as Exhibit 4. Petitioner had one misdemeanor DUI in Chandler, AZ in 2024, but all fines, classes, and sentences were timely completed and that case is closed. *Id.*

Respondents arrested Petitioner on 6/13/2025. *Id.* He was issued a Notice to Appear which identified him as an "alien present in the United States" even though "arriving alien" was an alternate option. *See,* Petitioner's Notice to Appear, filed herewith as Exhibit 6. He is currently detained by ICE at Eloy Federal Correctional Facility, Eloy, Arizona. *See,* Petitioner's Affidavit, filed herewith as Exhibit 4.

Although Petitioner requested a bond redetermination hearing, and both his prior counsel and DHS submitted evidence for that hearing, his prior counsel resigned, and no bond hearing was actually conducted. In light of the BIA holding in *Yajure Hurtado* that Immigration Judges no longer have jurisdiction to conduct bond hearings, Petitioner decided to file this habeas petition instead.

II. LEGAL STANDARDS

To obtain a preliminary injunction, a plaintiff must establish: "(1) a likelihood of success on the merits, (2) a likelihood of irreparable harm in the absence of preliminary relief, (3) that the balance of equities favors the plaintiff, and (4) that an injunction is in the public interest." *Geo Group, Inc. v. Newsom*, 50 F.4th 745, 753 (9th Cir. 2022) (*en banc*), citing *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 at 20 (2008). The legal standards applicable to TROs and preliminary injunctions are "substantially identical.'" *Babaria v. Blinken*, 87 F. 4th 963, 976 (9th Cir. 2023), citing to *Washington v. Trump*, 847 F.3d 1151, 1159 n.3 (9th Cir. 2017) (*per curiam*) (*quoting Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)).

The Court considers the elements on a "sliding scale" pursuant to the Ninth Circuit's "serious question" test. "A preliminary injunction is appropriate when a plaintiff demonstrates that serious questions going to the merits were raised and the balance of hardships tips sharply in the plaintiff's favor." *Alliance for the Wild Rockies v. Cottrell*, 632 F. 3d 1127, 1134-35 (9th Cir. 2011) (*citing Lands Council v. McNair*, 537 F.3d 981, 987 (9th Cir. 2008) (*en banc*)) (internal quotations omitted). Likelihood of success on the merits is the most important factor. Where a movant fails to meet this requirement, the "court need not consider the other factors in the absence of serious questions going to the

merits." *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017) (internal citations and quotations omitted).

A. Petitioner Is Likely To Succeed On The Merits Of His Argument That He Is Wrongfully Detained Because He Is Not Subject To Mandatory Detention Under § 1225(B)(2).

DHS argues that Petitioner is subject to "mandatory detention" under § 1225 (b)(2)(A) by virtue of being an "applicant for admission" under § 1225 (a)(1), pursuant to a July 8, 2025 change in DHS policy. *See,* ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission filed with the Habeas Petition as Exhibit 1. In essence, DHS now argue that *any* noncitizen not previously admitted to the United States is subject to mandatory detention, without the possibility of a bond hearing. However, Petitioner is likely to succeed on his claims that he is detained under 8 U.S.C. § 1226(a). He has been residing in the United States for almost 20 years, since he last entered the United States in 2005 and has never sought admission.

Further, the plain text of § 1226 demonstrates that its subsection (a) applies to Petitioner. By its own terms, § 1226(a) applies to anyone who is detained "pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a). Section 1226 goes on to explicitly confirm that this authority includes not just persons who are deportable, but also noncitizens who are inadmissible. Generally speaking, grounds of deportability (found in 8 U.S.C. § 1227) apply to people who have previously been admitted, such as lawful permanent residents and certain visa holders, while grounds of inadmissibility (found in § 1182) apply to those who have not been admitted to the United States. *See, e.g., Barton v. Barr, 590 U.S. 222, 234 (2020).*

While § 1226(a) provides the right to seek release, § 1226(c) carves out specific categories of noncitizens who may not be released— including certain categories of inadmissible noncitizens—and subjects them instead to mandatory detention. *See, e.g., id.* § 1226(c)(1)(A), (C). Even if § 1226(a) did not cover inadmissible noncitizens—there would be no reason to specify that § 1226(c) governs certain persons who are inadmissible; instead, it would have only needed to address people who are deportable for certain offenses.

Notably, recent amendments to § 1226 dramatically reinforce this argument. The Laken Riley Act added language to § 1226 that directly references people who have entered without inspection or who are present without authorization. *See Laken Riley Act* (LRA), Pub. L. No. 119-1, 139 Stat. 3 (2025). Specifically, pursuant to the LRA amendments, people charged as inadmissible pursuant to § 1182(a)(6) (the inadmissibility ground for entry without inspection) or (a)(7) (the inadmissibility ground for lacking valid documentation to enter the United States) and who have been arrested, charged with, or convicted of certain crimes are subject to § 1226(c)'s mandatory detention provisions. See 8 U.S.C. § 1226(c)(1)(E). By including such individuals under § 1226(c), Congress further clarified that, by default, § 1226(a) covers persons charged under § 1182(a)(6) or (a)(7). In other words, if someone is only charged as inadmissible under § 1182(a)(6) or (a)(7) and the additional crime-related provisions of § 1226(c)(1)(E) do not apply, then § 1226(a) governs that person's detention. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010) (observing that a statutory exception would be unnecessary if the statute at issue did not otherwise cover the excepted conduct).

In sum § 1226's plain text demonstrates that § 1225(b)(2) should not be read to apply to everyone who is in the United States "who has not been admitted," 8 U.S.C. § 1225(a)(1). Section 1226(a) covers those who are not now seeking admission but instead are already residing in the United States—including those who are charged with inadmissibility—while § 1225(b)(2) covers only those "seeking admission," i.e., those who are apprehended upon arrival in the United States (and who are not subject to the procedures of § 1225(b)(1)). A contrary interpretation would ignore § 1226(a)'s plain text and structure and render meaningless § 1226's language that specifically addresses individuals who have entered without inspection. The text of § 1225 reinforces this interpretation. As the Supreme Court has recognized, § 1225 is concerned "primarily [with those] seeking entry," *Jennings*, 583 U.S. at 297, i.e., cases "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible," id. at 287. Paragraphs (b)(1) and (b)(2) in § 1225 reflect this understanding. To begin, paragraph (b)(1)—which concerns "expedited removal of inadmissible arriving [noncitizens]"—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)." 8 U.S.C. § 1225(b)(1), (A)(i). These grounds of inadmissibility are for those who misrepresent information to an examining immigration officer or do not have adequate documents to enter the United States. Thus, 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 applying for admission when they arrive in the United States. 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. § 1225(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 Petitioner, who have already entered and are now residing in the United States. An individual submits an "application for admission" only at "the moment in time when the immigrant actually applies for admission into the United States." *Torres v. Barr,* 976 F.3d 918, 927 (9th Cir. 2020) (en banc). Indeed, in *Torres*, the *en banc* Court of Appeals rejected the idea that § 1225(a)(1) means that anyone who is presently in the United States without admission or parole is someone "deemed to have made an actual application for admission." *Id.* (emphasis omitted). That holding is instructive here too, as only those who take affirmative acts, like submitting an "application for admission," are those that can be said to be "seeking admission" within § 1225(b)(2)(A).

Otherwise, that language would serve no purpose, violating a key rule of statutory construction. See Shulman, 58 F.4th at 410–11. Furthermore, subparagraph (b)(2)(C) addresses the "[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's focus in § 1225 on those who are arriving into the United States—not those already residing here. Similarly, the title of § 1225 refers to the "inspection" of "inadmissible arriving" noncitizens. *See Dubin v. United States*, 599 U.S. 110, 120–21 (2023) (emphasis added) (relying on section title to help construe statute). Finally, the entire statute is premised on the idea that an inspection occurs near the border and shortly after arrival, as the statute repeatedly refers to "examining immigration officer[s]," 8 U.S.C. § 1225(b)(2)(A), (b)(4), or officers conducting "inspection[s]" of people "arriving in the United

States," *id.* § 1225(a)(3), (b)(1), (b)(2), (d); *see also King v. Burwell*, 576 U.S. 473, 492 (2015) (looking to an Act's "broader structure . . . to determine [the statute's] meaning").

B. The Record And Longstanding Practice Reflect That § 1226 Governs Petitioner's Detention.

Here, DHS's long practice of considering people living in the United States for more than two years as detained under § 1226(a) further supports this reading of the statute. For decades, and across administrations, DHS has acknowledged that § 1226(a) applies to individuals who entered the United States unlawfully, but who were later apprehended within the borders of the United States long after their entry. Such a longstanding and consistent interpretation "is powerful evidence that interpreting the Act in [this] way is natural and reasonable." *Abramski v. United States*, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting); *see also Bankamerica Corp. v. United States*, 462 U.S. 122, 130 (1983) (relying in part on "over 60 years" of government interpretation and practice to reject government's new proposed interpretation of the law at issue).

Indeed, in 1997, after Congress amended the INA through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [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.

In sum, § 1226 governs this case. Section 1225 applies only to individuals arriving in the United States as specified in the statute, while § 1226 applies to those who have previously entered without admission and have been residing in the United States for more than 2 years.

C. Caselaw Holds That An Alien Present In The U.S. For More Than 2 Years Is Not An "Arriving Alien".

Both Supreme Court and Ninth Circuit precedent hold that 8 U.S.C.§ 1226(a) is the "default" provision for aliens already present in the United States. In *Jennings v. Rodriguez,* 583 U.S. 281, 297 (2018), the Supreme Court reversed a Ninth Circuit holding that there was a statutory right to periodic bond hearings. It held that "U. S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also held that "§ 1226 applies to aliens ***already present*** in the United States. Section 1226(a) creates a ***default rule*** for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings." *Jennings,* 583 U.S. at 303 (emphasis added). In *Zadvydas v. Davis,* 533 U.S. 678 (2001), the Supreme Court stated that "[w]hile removal proceedings are in progress, ***most aliens may be released on bond or paroled***. 8 U. S. C. §§ 1226(a) (1994 ed., Supp. V)." *Id.* at 683 (emphasis added).

The Ninth Circuit has held that § 1226(a) is the "default" detention statute for aliens in removal proceedings "[8 U.S.C. §1226(a) ("Subsection A")] is the default detention statute for noncitizens in removal proceedings and applies to noncitizens "[e]xcept as provided in [Subsection C]." 8 U.S.C. § 1226(a)." *Avilez v. Garland*, 69 F. 4th 525, 529-530 (9th Cir. 2022). *Accord, Rodriguez Diaz v. Garland*, 83 F. 4th 1177, 1179 (9th Cir. 2023); *Sarr v. Scott*,

765 F. Supp. 3d 1091, 1095 (WD Wash. 2025); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008). *Casas-Castrillon v. DHS*, 535 F.3d 942 (9th Cir. 2008).

Echevarria v. Bondi, et al., No. 2:25-cv-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025) collects many of the District Court cases across the country holding against the government in this regard. *See,* 10/3/2025 Order entered in *Francisco Echevarria v. Pam Bondi, et al.,* CV-25-03252-PHX-DWL (ESW), (D. Ariz. 10/3/2025), filed with the Habeas Petition as Exhibit 3. However at least nine additional cases in the Arizona District Court have recently found against the government's position:

1) Order granting habeas in *Rodrigues da Silva v. Figueroa, et al.,* Case No. 25-cv-04015-PHX (D. Ariz. 11-18-25)("dozens of other district courts have concluded individuals like Petitioner are subject to § 1226 and not § 1225 and, therefore, are not subject to mandatory detention"), gathering cases, filed with the Habeas Petition as Exhibit 9;

2) Order granting habeas in *Perez Rodriguez v. Noem, et al.*, Case No. 25-cv-03921-PHX (D. Ariz. 11/13/2025)("the vast majority of courts concluded individuals like Petitioner are subject to § 1226 and not § 1225 and, therefore, are not subject to mandatory detention"), gathering cases, filed with the Habeas Petition as Exhibit 10;

3) Order granting habeas in *Gonzalez Rodriguez v. Bondi, et al.,* Case No. 25-cv-03917-PHX (D. Ariz. 11-6-25)("dozens of other district courts have concluded individuals like Petitioner are subject to § 1226 and not § 1225 and, therefore, are not subject to mandatory detention"), gathering cases, filed with the Habeas Petition as Exhibit 11;

4) Order granting habeas in *Abrego-Zarate v. Noem, et al.*, Case No. 25-cv-03564-KML (D. Ariz. 11-6-25)("in accord with numerous other courts addressing the same issue—'Respondents' narrow focus on the language of § 1225(a)(1) fails to take account of the entirety of the statutory scheme…" *citing to Echevarria v. Bondi, et al.,* CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282, at *9 (D. Ariz. October 3, 2025)), filed with the Habeas Petition as Exhibit 12;

5) Order granting habeas in *Garcia-Rosales v. Noem, et al.,* No. 2:25-cv-03391-SHD-DMF at page 2 (D. Ariz. Oct. 22, 2025)("while Respondents point to two district court opinions adopting their interpretation of § 1225(b)(2)(A), myriad other district courts have reached the same

conclusion as *Echevarria* and held individuals like Petitioner are not subject to mandatory detention under 1225(b)(2)(A)"), filed with the Habeas Petition as Exhibit 13;

6) Order granting habeas corpus in *Benitez-Cornejo v. Cantu, et al.,* No. 2:25-cv-03672 (D. Arizona Oct. 17, 2025)("individuals like Petitioner are not "arriving aliens" subject to mandatory detention but, rather, are subject tot he general removal statute, 8 U.S.C. § 1226(a)"), filed with the Habeas Petition as Exhibit 14;

7) Order granting habeas entered in *Hector Lopez-Melo v. Bondi, et. al.,* Case No. Case 2:25-cv-03394-DJH--JZB (D. Ariz. 10/9/2025)("petitioner, who had been present in the United States for years, was not an applicant for admission under 1225(b)(2)(A) or subject to mandatory detention"); filed with the Habeas Petition as Exhibit 15.

8) Order granting habeas corpus in *Bo Li v. Cantu, et al.,* No. CV-25-02989-PHX-SPL (D Arizona 10/07/2025)("Respondents maintain he is subject to mandatory detention under 1225(b)(2). Again, Respondents are mistaken."); filed with the Habeas Petition as Exhibit 16.

9) Magistrate's Report and Recommendation in *Rocha Rosado v. Figueroa,* No. CV-25-02157-PHX-DLR 2025 WL 2349133 at *10 (D. Ariz. Aug. 13, 2025)(Magistrate's Report and Recommendation Adopted at 2025 WL 2349133)([t]he text of § 1226, the canons of statutory interpretation, this section's legislative history, and longstanding agency practice indicate that Rosado is subject to § 1226(a)'s 'default' rule for discretionary detention rather than § 1225's mandatory detention requirement, and that the IJ erred by finding they did not have jurisdiction to consider Rosado's detention.") *report and recommendation adopted sub nom.* 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); filed with the Habeas Petition as Exhibit 17.

Petitioner has located only 5 publicly available cases holding to the contrary. In *Vargas Lopez v. Trump*, --F. Supp. 3d--, 2025 WL 2780351 (D. Neb. Sept. 30, 2025), the court held that Vargas Lopez failed to meet his burden to show that he falls under § 1226(a), so "his Petition fails ***regardless of the parties' arguments about the scope of § 1225(b) and § 1226(a).***" *Vargas Lopez v. Trump*, 2025 WL 2780351 at *7 (emphasis added).

In *Chavez v. Noem*, -- F. Supp. 3d --, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), the court denied a temporary restraining order on the grounds that the petitioners had "not

demonstrated serious questions about the application of Section 1225 to aliens present in the United States." *Chavez v. Noem*, 2025 WL 2730228 at *4. However, the court spent less than 2 pages analyzing the statutory language and caselaw before concluding that "Petitioners have not shown either a likelihood of success or serious questions going to the merits [therefore] we do not address the remaining *Winter* factors." *Chavez v. Noem*, 2025 WL 2730228 at *5.

Mejia Olalde v. Noem, 2025 U.S. Dist. LEXIS 221830 (E.D. Mo. Nov. 10, 2025) was concerned with whether the habeas petition had been properly filed in that court's jurisdiction and never reached the application of § 1225(b) to the petitioner. *Pipa-Aquise v. Bondi*, No. 25-1094, 2025 WL 2490657 (E.D. Va. Aug. 5, 2025) and *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913 (D. Mass. July 28, 2025) were each shorter than two pages long and neither contained any significant analysis.

Thus, none of these are particularly instructive. Neither are they binding precedent on this Court.

D. BIA's Determinations Are Not Entitled To Deference.

Obviously, decisions by the BIA are not binding on the Federal Judiciary, and vice-versa. *Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993). The legal relationship between federal courts and the BIA was fundamentally restructured on June 28, 2024, when the Supreme Court issued its decision in *Loper Bright Enterprises v. Raimondo,* 603 U.S. 369 (2024), which expressly overruled *Chevron [24] Chevron v. Natural Resources Defense Council, 467 U.S. 837 (1984).* deference to agency interpretations of statutes. The majority opinion, authored by Chief Justice John Roberts, held that Federal Courts must "exercise their

independent judgment in deciding whether an agency has acted within its statutory authority". *Loper Bright,* 603 U.S. at 207.

Thus, determining whether or not DHS's new internal policy of treating all noncitizens as "applicants for admission" under § 1225 (a)(1) and thereby subject to "mandatory detention" under 8 U.S.C. § 1225 (b)(2)(A) is properly decided by the Federal Courts. The recent decision of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) is not binding on this Court.

E. Petitioner Will Suffer Irreparable Harm Absent An Injunction.

Parties seeking preliminary injunctive relief must also show they are "likely to suffer irreparable harm in the absence of preliminary relief." *Winter*, 555 U.S. at 20. Irreparable harm is the type of harm for which there is "no adequate legal remedy, such as an award of damages." *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068 (9th Cir. 2014).

Since Petitioner's detention he has been detained at the Eloy Federal Correctional Facility, Eloy, Arizona, similar to a criminal detention, under the pretense that his detention is mandatory. The Supreme Court has established that the "loss of freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns,* 427 U.S. 347, 355 (1976). Thus, by virtue of Petitioner's ongoing loss of liberty, he has demonstrated significant irreparable harm. This factor weighs in his favor.

F. The balance of hardships and public interest weigh heavily in Petitioner's favor.

The final two factors for a preliminary injunction—the balance of hardships and public interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, Petitioner faces weighty hardships: loss of liberty, separation from family, significant stress and anxiety, and difficulty in communicating with his attorney.

The government, by contrast, faces minimal hardship: the administrative costs associated with three bond hearings. "[T]he balance of hardships tips decidedly in plaintiffs' favor" when "[f]aced with such a conflict between financial concerns and preventable human suffering." What is more, because the policy preventing Petitioner from obtaining bond "is inconsistent with federal law, . . . the balance of hardships and public interest factors weigh in favor of a preliminary injunction." *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (Moreno I); *see also Moreno Galvez*, 52 F.4th at 832 (affirming in part permanent injunction issued in Moreno II and quoting approvingly district judge's declaration that "it is clear that neither equity nor the public's interest are furthered by allowing violations of federal law to continue"). This is because "it would not be equitable or in the public's interest to allow the [government] . . . to violate the requirements of federal law, especially when there are no adequate remedies available." *Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013). Indeed, Defendants "cannot suffer harm from an injunction that merely ends an unlawful practice." *Rodriguez*, 715 F.3d at 1145."

CONCLUSION

For all the foregoing reasons, Petitioner Julio Armando Laurean-Ayala respectfully requests the Court grant this motion for a Temporary Restraining Order and require Respondents to immediately release him from his unlawful detention at the Eloy Federal Detention Center in Eloy, Arizona or, in the alternative, schedule him for a bond

hearing within three (3) days under 8 U.S.C. § 1226, without regard to the holding of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025).

Dated: 26th day of November

Attorney for Respondent

By: */s/ Erica Sanchez*

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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Julio Armando Laurean-Ayala, **Petitioner,** **v.** **Kristi Noem**, Secretary of the United States Department of Homeland Security, in her official capacity; **Todd Lyons**, Acting of the Director of U.S. Immigration and Customs Enforcement, in his official capacity; **John Cantu**, Field Office Director for ICE's Enforcement and Removal Operation's ("ERO") Phoenix, Arizona Field Office, in his official capacity; **Sirce Owen**, Acting Director of Executive Office for Immigration Review, in her official capacity; **Luis Rosa, Jr.,** Warden of the Central Arizona Florence Correctional Complex, in his official capacity; **Respondents.**	**Case No.** **A No.** [redacted]

Rule 65(b) Declaration of Attorney Erica Sanchez

I, Erica Sanchez, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the following is true and correct to the best of my knowledge, information, and belief:

1. I am counsel for Petitioner, Julio Armando Laurean-Ayala.

2. I file this Declaration in Support of Petitioner's *Ex Parte* Motion for A Temporary Restraining Order or, in the Alternative, a Preliminary Injunction.

3. In an attempt to confer with Respondents' counsel before filing the Ex Parte Motion in compliance with Fed.R.Civ.Pro. 65(b)(1)(A), I sent an email on November 25, 2025 to Katherine R. Branch, Assistant United State Attorney, at katherine.branch@usdoj.gov, attaching copies of the Habeas Petition and *Ex Parte* Motion.

5. Attached is a copy of that email.

6. Accordingly, I did attempt to meet and confer with opposing counsel before filing the *Ex Parte* Motion in compliance with Fed.R.Civ.Pro. 65(b)(1)(A) but was unable to resolve the matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of November 2025, at Phoenix, County of Maricopa, State of Arizona.

By: */s/ Erica Sanchez*
Erica Sanchez, Esq.

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Notice of Filing Habeas Petition and Ex Parte Motion_[redacted]

AA abogados alianza

To: Katherine R. Branch <katherine.branch@usdoj.gov>

Tue 11/25/2025 6:22 PM

HABEAS Laurean-Ayala 11-2... 224 KB

Laurean-Ayala TRO 11-25-20... 166 KB

2 attachments (389 KB) Download all

Dear Ms. Katherine R. Branch,

I represent Julio Armando Lauren-Ayala ([redacted]1). In an effort to provide notice pursuant to Federal Rule of Civil Procedure 65(b)(1)(B), I am writing to inform you that I intend to file an Ex Parte Application for Temporary Restraining Order, together with a Petition for Writ of Habeas Corpus, on behalf of my client.

The emergency motion seeks immediate release from unlawful detention in Arizona on the basis that immediate and irreparable harm will occur before the government can be heard.
Attached please find:

1. The Habeas Petition (draft), and
2. The Ex Parte Motion for Temporary Restraining Order (draft).

If you wish to respond or confer, please contact me as soon as possible. Due to the time-sensitive nature of this matter, I expect to file the motion with the Court as early as today unless I hear otherwise.

Sincerely,
Erica Sanchez
Attorney for Petitioner

Reply Forward

Yo, **Julio Armando Laurean Ayala**, declaro bajo pena de perjurio de conformidad con **28 U.S.C. § 1746** que lo siguiente es verdadero y correcto a mi leal saber y entender. He revisado además la petición de hábeas corpus presentada en mi nombre por mi abogada y afirmo que todos los hechos contenidos en ella son verdaderos y correctos.

Mi historia es la siguiente:

Mi nombre completo es **Julio Armando Laurean Ayala** . Nací el [redacted] en México, D.F., y soy ciudadano mexicano. Desde aproximadamente el 13 de Junio del 2025, estoy arrestado en Eloy por ICE. Califico por Cancelacion de Removicion para no residentes de este pais porque tengo mas de 10 de presencia fisica continua en este pais y tengo hijos menores de 21 anos nacidos aqui.

Llegué a los Estados Unidos por primera vez el **20 de junio de 1996**, cuando tenía 15 años, ingresando por **Sonoita, Arizona**, sin inspección, y desde entonces he vivido casi toda mi vida en este país .

He trabajado por décadas para sostener a mi familia, primero como **land surveyor** y luego como contratista independiente. Soy dueño de **JALA PRO SERVICES**, mi compañía de remodelación y servicios de construcción, que he desarrollado con esfuerzo y honradez por años .

Estoy casado desde el **26 de junio de 2001** con mi esposa **Erika del Carmen Valdivia Maldonado** . Nuestros cuatro hijos —todos **ciudadanos estadounidenses**— son:

1. [redacted] **Laurean** – [redacted] (Chandler, AZ) .
2. [redacted] **Laurean** – [redacted] (Phoenix, AZ) .
3. [redacted] **Laurean Valdivia** – [redacted] (Phoenix, AZ) .
4. [redacted] **Laurean Valdivia** – [redacted] (Mesa, AZ) .

También soy **abuelo** de mi nieto [redacted], hijo de [redacted].

MI ANTECEDENTE CRIMINAL (ÚNICO INCIDENTE)

Quiero explicar de manera honesta mi historial, porque entiendo la importancia de la transparencia ante la Corte.

En **2024**, fui arrestado por **DUI – Slightest Degree** (Conducir bajo la influencia al grado más leve) en Chandler, Arizona. Este es **mi único arresto y mi única condena criminal.**

El caso aparece como [redacted] en la **Corte Municipal de Chandler** .

Me declaré culpable, acepté total responsabilidad y cumplí con todas las sanciones impuestas por el tribunal, que incluyeron:

- Pago de multa y cuotas: **$1,619**.
- **Evaluación, clases obligatorias**, y **panel de impacto de MADD**.
- **1 día de cárcel** (crédito de tiempo cumplido al presentarme).
- Requisito de **ignition interlock** por 6 meses.

También cumplí con los pagos posteriores relacionados al caso y nunca falté a ninguna obligación impuesta por la corte. Los registros de pago muestran mi responsabilidad y cumplimiento constante .

Desde ese incidente, he mantenido **conducta intachable,** no he vuelto a tener problemas con la ley, y reforcé aún más mi compromiso con mis hijos, mi familia y con ser un ejemplo positivo.

DIFICULTADES DESDE MI ARRESTO MIGRATORIO

Desde mi detención por ICE en junio de 2025, mi familia ha sufrido **impactos devastadores**:

- Mi esposa ha explicado que **yo soy el sostén emocional y económico del hogar**, y que mi ausencia ha desestabilizado completamente a la familia, incluyendo el cuidado de nuestro nieto Santiago .
- Mis hijos describieron en sus cartas cómo crecieron conmigo como **entrenador, guía, mentor, proveedor y figura central**, y cómo mi ausencia ha creado un vacío insostenible en sus vidas .
- Mi hermana Edy —residente permanente— también expresó que desde la muerte de mi padre he sido **el apoyo principal de mi madre y mis hermanos**, y que mi detención ha afectado profundamente a toda la familia extendida .

Además, mi negocio —del cual dependen clientes, familiares y miembros de la comunidad— quedó paralizado al momento de mi arresto, afectando económicamente a todos quienes dependen de mi trabajo.

Declaro bajo pena de perjurio que lo anterior es verdadero y correcto.

Julio Laurean

Julio Armando Laurean Ayala

I, **Julio Armando Laurean Ayala**, declare under penalty of perjury pursuant to **28 U.S.C. § 1746** that the following is true and correct to the best of my knowledge. I have further reviewed the habeas corpus petition filed on my behalf by my counsel and affirm that all the facts contained therein are true and correct.

My story is as follows:

My full name is **Julio Armando Laurean Ayala** . I was born on [redacted] in Mexico City, and I am a Mexican citizen. Since approximately June 13, 2025, I have been arrested in Eloy by ICE. I qualify for Cancellation of Removal for non-residents of this country because I have more than 10 continuous physical presence in this country and have children under the age of 21 born here.

I first came to the United States on **June 20, 1996**, when I was 15 years old, entering through **Sonoita, Arizona**, without inspection, and since then I have lived almost my entire life in this country.

I have worked for decades to support my family, first as a **land surveyor** and then as an independent contractor. I own **JALA PRO SERVICES,** my remodeling and construction services company, which I have developed with effort and honesty for years.

I have been married since **June 26, 2001** to my wife **Erika del Carmen Valdivia Maldonado** . Our four children—all **U.S. citizens**—are:

5. **Jason Arath Laurean** – January 23, 2002 (Chandler, AZ).
6. [redacted] – [redacted] (Phoenix, AZ).
7. [redacted] – [redacted] (Phoenix, AZ).
8. [redacted] – [redacted] (Mesa, AZ).

I am also **the grandfather** of my grandson Santiago, [redacted] son.

MY CRIMINAL RECORD (ONLY INCIDENT)

I want to explain my record honestly, because I understand the importance of transparency before the Court.

In **2024**, I was arrested for **DUI – Slightest Degree** in Chandler, Arizona. This is **my only arrest and my only criminal conviction.**

The case appears as [redacted] in **Chandler Municipal Court** .

I pleaded guilty, accepted full responsibility, and complied with all sanctions imposed by the court, which included:

- Payment of fine and fees: **$1,619**.
- **Assessment**, **required classes**, and **MADD impact dashboard**.
- **1 day in jail** (credit of time served when I appear).
- Interlock **ignition requirement** for 6 months.

I also complied with subsequent payments related to the case and never failed to comply with any court-imposed obligations. The payment records show my accountability and consistent compliance.

Since that incident, I have maintained **impeccable conduct**, have not been in trouble with the law again, and further strengthened my commitment to my children, my family, and to being a positive example.

DIFFICULTIES SINCE MY IMMIGRATION ARREST

Since my arrest by ICE in June 2025, my family has suffered **devastating impacts**:

- My wife has explained that **I am the emotional and economic breadwinner of the household**, and that my absence has completely destabilized the family, including the care of our grandson Santiago.
- My children described in their letters how they grew with me as a **coach, guide, mentor, provider, and central figure**, and how my absence has created an unsustainable void in their lives.
- My sister Edy — a permanent resident — also expressed that since my father's death I have been **the primary supporter of my mother and siblings**, and that my detention has deeply affected the entire extended family.

In addition, my business—on which customers, family members, and community members depend—was paralyzed at the time of my arrest, financially affecting all those who depend on my work.

I declare under penalty of perjury that the foregoing is true and correct.

(signature)

Julio Armando Laurean Ayala

Certificate of Translation

I, Christina Caicedo, certify that I am fluent in Spanish and English that I have translated the attached document to the best of my abilities.

/s/Christina Caicedo

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