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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX, ARIZONA

[redacted] Leyva Mora

Plaintiff,

v.

Kristi Noem, Secretary, U.S. Department of Homeland Security; Pamela Bondi, Attorney General of the United States, Executive Office for Immigration Review (EOIR); Corina Almeida, Chief Counsel, Immigration and Customs Enforcement (ICE), Office of Principal Legal Advisor, Florence; John Cantu, Field Office Director, ICE Enforcement and Removal Operations, Phoenix; Fred Figueroa, Warden, Eloy Detention Center,

Defendants.

Case No._____

Immigration Number: [redacted]

PLAINTIFF'S EXPEDITED MOTION FOR TEMPORARY RESTRAINING ORDER/ PRELIMINARY INJUNCTION

I. INTRODUCTION

The above-named Plaintiff [redacted] Leyva Mora ([redacted]) aka Jules Leyva Mora[1], by and through undersigned counsel, respectfully requests this Honorable Court enter an emergency temporary restraining order and/or a preliminary injunction from this

[1] Plaintiff, although born biologically female, identifies as male and is in the process of transitioning. As such, he identifies with the "he/his" pronouns and Counsel will do the same for this filing. Despite identifying as a transgender male, he is being housed in female only housing at the Eloy Detention Center in Eloy, Arizona and being denied access to prescribed testosterone medication.

Honorable Court enjoining Defendants from preventing Plaintiff's release on bond. Plaintiff requests this Court order Respondents to accept the bond and release Plaintiff from ICE custody and restrain Defendants from moving Plaintiff out of the State of Arizona and this Judicial District pending payment of the bond and before resolution of Plaintiff's concurrently filed Habeas petition.

On or about September 30, 2025, DHS took Plaintiff into custody and placed him into removal proceedings by filing a Notice to Appear with the Eloy Immigration Court and detaining him at the Eloy Detention Center located at 1705 E Hanna Road, Eloy, Arizona 85131. Plaintiff requested a bond redetermination pursuant to 8 U.S.C. § 1226(a) and on November 18, 2025, the Immigration Judge ("IJ") denied Plaintiff's request. Plaintiff requested another hearing on November 25, 2025, which the IJ denied on December 1, 2025 without conducting a hearing. Defendants continue to detain the Plaintiff in violation of law.

Defendants violated Plaintiff's right to due process and took action not in accordance with the Immigration and Nationality Act ("INA") by asserting Plaintiff is subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(A). This section of law only applies to persons "seeking admission" and does not apply to Plaintiff who maintains 13 years of ongoing continuous physical presence in the United States and never sought admission.

Plaintiff will suffer irreparable and immediate injury from continued unlawful detention unless the temporary restraining order is issued. Plaintiff is likely to succeed on the merits against Defendants because there is no legal justification for Plaintiff's continued detention. It is in the public interest to grant the motion, and the balance of equities weigh in favor of Plaintiff who is not a danger, nor a flight risk. Defendants are in no way

prejudiced by Plaintiff's release pending resolution of the Habeas petition. However, the Plaintiff is highly prejudiced by his continued detention. In addition to Plaintiff being transgendered male being held in a female only housing in the Eloy Detention, he has been scheduled for an accelerated final "merit" hearing for his deportation proceedings for December 19, 2025. If he is not released prior to this date, he risks being deported prior to the conclusion of these proceedings.

II. LEGAL BACKGROUND

Since the implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), the Immigration Courts, BIA, and Circuit Courts regularly interpreted and implemented 8 U.S.C. § 1226(a) as the statute governing the detention and release of persons inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for having entered without inspection or admission. This has never caused any controversy or caused Congress to correct this practice and interpretation. 8 U.S.C. § 1226(a) allows the Immigration Court to hold a custody hearing and released non-citizens on parole or a bond of at least $1500. Respondents, beginning in July of 2025, engaged in a concerted effort to hold all non-citizens who entered without admission subject to 8 U.S.C. § 1225, a statute applying to arriving aliens at the port of entry, persons who entered without inspection within the 2 years prior to apprehension, and inadmissible non-citizens "seeking admission." The Respondents are unlikely to succeed because they do not adhere to the INA's statutory definition of "admission," *see Negrete-Ramirez v. Holder,* 741 F.3d 1047, 1051 (9th Cir. 2014), and Plaintiff cannot be considered to be "seeking admission" 23 years after entry. *See Torres v. Barr,* 976 F.3d 918, 923-926 (9th Cir. 2020)(en banc).

The Immigration and Nationality Act ("INA") prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge ("IJ"). See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c). Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" referred to under § 1225(b)(2). Third, the INA also provides for detention of noncitizens who have received a final order of removal from the United Staes. See 8 U.S.C. § 1231(a)-(b).

8 U.S.C. § 1225 governs the processing of arriving aliens and is not a detention statute. The only mention of "mandatory detention" comes under 8 U.S.C. § 1225(b)(1)(B)(IV) stating that applicants for admission pending asylum interviews "subject to the procedures under this clause shall be detained pending final determination of credible fear of persecution . . . ." 8 U.S.C. § 1225(b)(1)(A)(iii)(II) explicitly excludes from expedited removal non-citizens who can show they have been "physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility."

8 U.S.C. § 1225(b)(2)(A) applies to a non-citizen "who is an applicant for admission, if the examining officer determines that an alien seeking admission is not clearly and beyond a

doubt entitled to be admitted, the alien shall be detained for a proceeding under 1229a of this title." The subsection applies to an "applicant for admission," with this term being modified and limited to those "seeking admission." If applicants for admission are to always be considering seeking admission, the inclusion of the condition of those "seeking admission" would be superfluous.

Pursuant to *Loper Bright Enterprises v. Raimondo,* 44 S. Ct. 2244(2024), this Court is not bound to the Agency's interpretation of INA. The term "applicant for admission," as defined under 8 U.S.C. § 1225(a)(1), concerns both the non-citizen who is "present in the United States who has not been admitted" and the non-citizen "who arrives" at the port of entry, otherwise known as an "arriving alien." 8 U.S.C. § 1225(b)(2)(A) explicitly applies to "applicants for admission" "seeking admission." 8 U.S.C. § 1101(a)(13)(A) defines "admission" to mean "the lawful entry of the alien *into* the United States after inspection and authorization by an immigration officer." (Emphasis added). The literal and plain meaning of "seeking admission" means the non-citizen is contemporaneously attempting to lawfully enter the United States. If inspected by the officer after entry, the 2-year physical presence exclusion under 8 U.S.C. § 1225(b)(1)(A)(iii)(II) applies.

Who then does 8 U.S.C. § 1225(b)(2)(A) apply to if not those present without admission? 8 U.S.C. §§ 1101(a)(13)(B) and (C) provide that paroled non-citizens and certain lawful permanent residents presenting themselves at the port of entry can be processed for removal proceedings under 1225(b)(2)(A) as inadmissible aliens seeking admission. *See also* 8 C.F.R. § 235.3(b)(3) ("If an alien appears to be inadmissible under other grounds contained in section 212(a) of the Act, and if the Service wishes to pursue such additional grounds of

inadmissibility, the alien shall be detained and referred for a removal hearing before an immigration judge pursuant to sections 235(b)(2) and 240 of the Act for inquiry into all charges.")

Recently, in *Matter of Q. Li,* 29 I&N Dec. 66 (BIA 2025), Defendants applied mandatory detention under 8 U.S.C. § 1225(b)(2) to applicants for admission who are "arrested and detained without a warrant *while arriving* in the United States" acknowledging the temporal limit of the phrase. (Emphasis Added).

Without directly interpreting the statutory definition of "admission", Defendants issued *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025), holding that all non-citizens present without inspection, regardless of how many years they have been in the country, are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and are considered to be seeking admission in perpetuity. *Matter of Yajure Hurtado,* 29 I&N Dec. at 221, remains at odds with Ninth Circuit precedent. In *Torres v. Barr,* 976 F.3d 918, 923-926 (9th Cir. 2020)(en banc), the Ninth Circuit provides a thorough analysis, finding that applying for admission means doing so from outside the United States or at a port of entry, seeking physical entry into the country. The *Torres* decision holds that the legal and factual understanding of seeking admission is limited in time, it cannot continue without limit once the non-citizen is already in the United States. *Id.* at 926. "Accordingly, inadmissibility must be measured at the point in time that an immigrant actually submits an application for entry into the United States." *Id; See also; Negrete-Ramirez v. Holder,* 741 F.3d 1047, 1051 (9th Cir. 2014) ("The definition refers expressly to *entry into* the United States, denoting by its plain terms passage into the country from abroad at a port of entry.")

III. STATEMENTS OF FACTS

Plaintiff is a 20-year-old single transgendered male, citizen of Mexico. Plaintiff entered the United States without inspection on or about January 2012 and was never encountered by Border Patrol. He has continuously lived in the United States since that time, more than 13 years. Plaintiff is eligible for relief removal in the form of asylum pursuant to INA §208, withholding of removal and protection under the Convention against Torture. Prior to his detention, Plaintiff resided in Phoenix, Arizona with his mother and siblings. Plaintiff has no pending criminal issues anywhere in the world. On or about September 30, 2025, Immigration and Customs Enforcement ("ICE") detained Plaintiff. While the Plaintiff was arrested for trespassing, no charges have been filed and otherwise has no criminal issues anywhere in the world. Plaintiff had been at liberty in the United States for over 12 years prior to his detention. On or about September 30, 2025, ICE took Plaintiff into custody and placed him into removal proceedings by filing a Notice to Appear with the Eloy Immigration Court and detaining him at the Eloy Detention Center located at 1705 E Hanna Rd, Eloy, Arizona 85131.

Plaintiff requested a bond redetermination and on November 18, 2025. The Immigration Judge denied his release request based on jurisdiction, as compelled by the recent decision of *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025) ("*Matter of Hurtado"*). On December 1, 2025, the Immigration Judge again denied bond despite the Central District of California nationwide declaratory judgment in *Maldonado Bautista et al. v Santacruz Jr. et al.*, Case No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025). As such, Defendants continue to detain the Plaintiff in violation of law.

On September 5, 2025, the Board of Immigration Appeals issued *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025), implementing Defendants' concerted policy goal of holding all persons who entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Plaintiff remains detained at the Eloy Detention Center, pending removal proceedings. Defendants unilaterally and arbitrarily have scheduled Plaintiff for expedited removal hearings, disrupting his legal defense and causing additional litigation. Specifically, Plaintiff has been scheduled for a final hearing on December 19, 2025 and faces imminent removal from the United States.

IV. STATEMENTS OF FACTS

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Natural Resources Defense Counsel Inc.,* 129 S.Ct 365, 375 (2008).

a. Plaintiff is likely to succeed on the merits of their argument that 8 U.S.C. § 1225(b)(2)(A) does not apply to him because he is not "seeking admission" as defined under the INA

Plaintiff is likely to succeed on their claim that 13 years after entering the United States without inspection, he cannot be held under mandatory detention as an applicant for admission "seeking admission." "Admission" as defined in the INA under 8 U.S.C. § 1101(a)(13)(A) means "the lawful entry of the alien *into* the United States after inspection and authorization by an immigration officer." (Emphasis added). Plaintiff is charged as inadmissible under 8 U.S.C. § 1158(a)(6)(A)(i) for having entered the United States without inspection. If he was

seeking admission, as argued by the Respondents, then he would have been charged as such on the Notice to Appear. However, he was not.

Defendants denied Plaintiff's release on the argument that he is subject to mandatory detention under the expedited removal/inspection of arriving aliens statute as contained in 8 U.S.C. § 1225. Specifically, Defendants have engaged in a concerted effort to force ICE to argue all persons who entered the United States without admission and inspection are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Defendants intentionally brought this argument so that they could direct EOIR, through the Board of Immigration Appeals to publish *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025), holding exactly what DHS argued. This Agency precedent is without legal any persuasiveness, as it does not address the statutory definition of "admission." Defendants Kristi Noem and Pam Bondi predetermined the outcome prior to any litigation through the courts.

8 U.S.C. § 1225(b)(2)(A) states a non-citizen "who is an applicant for admission, if the examining officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, . . . shall be detained for a proceeding under 1229a of this title." The Ninth Circuit has previously held that section 1225(b)(2)(A) cannot apply to persons with long residence in the United States because there is a temporal limit to someone "seeking admission."

In *Torres v. Barr,* 976 F.3d 918, 923-926 (9th Cir. 2020)(en banc), the Ninth Circuit provides a thorough analysis, finding that applying for admission means doing so from outside the United States or at a port of entry, seeking physical entry into the country. The *Torres* decision holds that being an application for admission is limited in time, and it cannot

continue without limit once the non-citizen is already in the United States. *Id.* at 926. "Accordingly, inadmissibility must be measured at the point in time that an immigrant actually submits an application for entry into the United States." *Id; See also; Negrete-Ramirez v. Holder,* 741 F.3d 1047, 1051 (9th Cir. 2014) ("The definition refers expressly to *entry into* the United States, denoting by its plain terms passage into the country from abroad at a port of entry.") By the plain meaning of the statue and the Ninth Circuit's statutory analysis, the term "seeking admission" cannot apply to a person already inside the United States for over 23 years.

In addition to the Ninth Circuit, since Respondents adopted their new policies, dozens of federal courts have uniformly rejected their newly invented misclassification as illegal and because it defies the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE, ruling that the BIA's decision is not entitled to any deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412-13 (2024).[2]

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[2] See, e.g., *Alejandro v. Olson*, No. 1:25-cv-02027-JPH-MKK (S.D. Ind. Oct. 11, 2025); *B.D.V.S. v. Forestal*, No. 1:25-cv-01968-SEB-TAB (S.D. Ind. Oct. 8, 2025); *Campos Leon v. Forestal*, No. 1:25-cv-01774-SEB-MJD, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025); *Ochoa Ochoa v. Noem*, No. 25 C 10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025) (Jenkins, J.), *H.G.V.U. v. Smith*, No. 25 C 10931, 2025 WL 2962610 (N.D. Ill. Oct. 20, 2020) (Coleman, J.), *Mariano Miguel v. Noem*, No. 25 C 11137, 2025 WL 2976480 (N.D. Ill. Oct. 21, 2025) (Alonso, J.), and *G.Z.T. v. Smith*, No. 25 C 12802 (N.D. Ill. Oct. 21, 2025) (Ellis, J.), *Corona Diaz v. Olson, et al.*, No. 25-cv-12141 (N.D. Illinois 2025), *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25- cv-00835-DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25- cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Aguilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *9 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025

Most recently on November 25, 2025 the United States District court for the Central District of California issued a nationwide declaratory judgment in *Maldonado Bautista et al. v Santacruz Jr. et al.*, Case No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025), that directly governs the legality of Plaintiff's present detention. In that decision, the court held that the 2025 BIA precedent of *Matter of Yajure Hurtado*, which allowed DHS to classify all noncitizens who entered without admission or inspection as detained under INA § 235(b)(2)(A) regardless of where or how they were apprehended, is unlawful. The court further determined that DHS's long-standing policy mirroring that approach- treating every "EWI" ("entered without inspection") noncitizen as an applicant for admission subject to mandatory detention- likely violates the statutory framework enacted by Congress.

As the district court explained, Congress drew a clear distinction between individuals apprehended at or near the border and those arrested inside the United States. For noncitizens who entered without inspection but were arrested in the interior and placed into regular § 240 removal proceedings, the statutory authority governing detention is INA § 236(a), not § 235(b)(2)(A). The court therefore held that such individuals are not subject to mandatory detention and are instead entitled to the bond procedures Congress created under § 236(a).

While the order granting partial summary judgment came out on November 21, 2025, before the class certification was issued, the class certification order expressly states: "**When considering this determination with the MSJ Order, the Court extends the**

WL 1869299, at *8 (D. Mass. July 7, 2025).

same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole)."

See page 14 of attached class certification order.

The Bond Eligible Class is nationwide and encompasses:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Id.

Under the November 25, 2025 court order, DHS must treat all members of the certified nationwide class as eligible for individualized custody determination before an Immigration Judge.

Plaintiff is squarely within the class certified by *Maldonado Bautista.* First, Plaintiff entered the United States without admission or inspection in 2012. Second, he was not apprehended at the border or immediately after lawful entry; rather, he was arrested in the interior of the United States, well after his entry. Third, DHS did not process him through expedited removal or any other § 235 procedure, but instead properly placed him in ordinary § 240 removal proceedings before the Immigration Court. These are the exact conditions that define class membership under the *Maldonado Bautista* declaratory judgment.

Because Plaintiff meets each element of the class definition, the nationwide judgment applies to him fully and directly. As a matter of binding Federal law, Plaintiff cannot be detained under § 235(b)(2)(A) or any variant of the *Hurtado* framework. His detention must now be treated as arising under INA § 236(a), and he is entitled to the procedural protections associated with the statute, including an individualized bond hearing before an Immigration Judge.

Accordingly, as of November 25, 2025, Plaintiff's continued detention under invalid § 235(b)(2)(A) theory is unlawful, and this Court is obligated under 28 U.S.C. § 2243 to provide immediate habeas relief.

Pursuant to *Loper Bright Enterprises v. Raimondo,* 44 S. Ct. 2244(2024), this Court is not bound to the Agency's interpretation of INA. Even if this case is litigated on appeal, the ultimate decision of Plaintiff's custody will be determined by the Ninth Circuit, but at this moment, no appeal has been filed, and Plaintiff is not the party who would seek to appeal the Immigration Court's decision to grant bond. Plaintiff has no other recourse.

Plaintiff is likely to succeed arguing the bond is valid because the plain reading of the statute indicates he is subject to the general detention statute pursuant to 8 U.S.C. 1226(a), and not the expedited removal/inspection provisions under § 1225(b). Congress specifically excepted from the harsh provisions of § 1225(b), persons who established two years of physical presence after entering without admission. 8 U.S.C. § 1225(b)(1)(A)(iii)(II). When persons seek admission, and they are not subject to expedited removal under § 1225(b)(1), such as inadmissible lawful permanent residents, they are then processed under § 1225(b)(2)(A). If Congress wanted to subject all non-citizens inadmissible for having entered without inspection, they would have specifically stated such in § 1225, or they would have included non-citizens inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) in the enumerated list of persons subject to mandatory detention under 8 U.S.C. § 1226(c).

Finally, if the accepted widespread interpretation, practice, and implementation of releasing persons like the Plaintiff under 1226(a) was not congressional intent, congress would have stepped in to clarify the law. The only indication of congressional intent

concerning the custody statutes came in the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), which amended § 1226 to provide for the mandatory detention of inadmissible non-citizens with certain criminal convictions and conduct. The statute and the amendments made by the Laken Riley Act intentionally precludes some aliens inadmissible under 8 U.S.C. 1182(a)(6)(A)(i) from being granted bond. If 8 U.S.C. § 1225(b)(2)(A) clearly applied to all persons inadmissible under § 1182(a)(6)(A)(i), there would be no conceivable reason for the Laken Riley Act to include provisions specifying certain non-citizens inadmissible under § 1182(a)(6)(A)(i) arrested for shoplifting are subject to mandatory detention. By the plain reading of the statute, Plaintiff who entered 13 years ago, and never sought admission, cannot be considered "seeking admission." 8 U.S.C. § 1225(b)(2)(A) does not apply to Plainitff.

b. **Plaintiff suffers irreparable harm from his continued unlawful detention.**

Plaintiff remains detained. Defendants' refusal to accept the bond and release Plaintiff keeps him separated from his family and prevents him from returning to work to support his family. More importantly, he has been scheduled for an accelerated final hearing for December 19, 2025. If denied, he faces imminent removal from the United States, rendering this claim moot, which is exactly what the Defendants desire. He is not a danger and not a flight risk, so Plaintiff suffers the emotional harm of being detained without any good factual argument for why he should be detained. Should Plaintiff ultimately win relief from removal, he will be personally and financially set back by the months of detention. His continued detention in a purposely accelerated deprives him of the opportunity to actively prepare for his case with counsel. If he does not win relief, he would have missed out on the

opportunity to prepare and plan to return to his native country. In every way, he is prejudiced by the continued detention, and this harm cannot be undone.

c. **The balance of equities favors Plaintiff.**

Defendants advance a novel argument that goes against decades of practice and interpretation, all with the goal of subjecting millions of people like Plaintiff to mandatory detention. Plaintiff has accrued 13 years of continuous physical presence in the United States. This comes with establishing himself in the community, in the economy, and with his family. Defendants do not argue Plaintiff poses any danger or flight risk, and if in fact not subject to mandatory detention, there will not have been any justification for the public resources used to detain Plaintiff. Defendants await the outcome of their legal arguments without suffering any real prejudice.

d. **Granting the restraining order serves the public interest.**

Detaining those who pose no danger, and no flight risk constitutes misuse of government and public resources. Family unity remains an important public interest as stated throughout the INA and its attending regulations. *See e.g.* 8 U.S.C. §§ 1153(a), (d), 1158(b)(3), 1182(a)(9); 8 C.F.R. §§ 212.7(e), 236, Subpart B. Releasing Plaintiff back to his family and community maintains family unity, an important public interest. Treating people with dignity while they face removal proceedings engenders faith in the system that is both harsh but also provides pathways to legalization. There is merit to preventing Defendants from continuing to detain Plaintiff on the basis of a novel argument not supported by decades of legal practice and interpretation. For such a dramatic shift, there has been no notice. The public interest is served by the orderly implementation of the nation's immigration laws.

V. CONCLUSION

Plaintiff respectfully requests the Court grant their motion for temporary restraining order to restrain Defendants from detaining Plaintiff while the concurrently filed habeas petition is litigated.

RESPECTFULLY SUBMITTED, this day 4th day of November 2025

Zava Immigration Law Group PLLC

s/ *Jessica Anleu*
Jessica Anleu
Attorney for Plaintiff

CERTIFICATE OF SERVICE

On the 4th day of November, 2025, I, Jessica Anleu, the undersigned, served via certified U.S. Mail, the attached **PLAINTIFF'S EXPEDITED MOTION FOR TEMPORARY RESTRAINING ORDER/ PRELIMINARY INJUNCTION**, on each person/entity listed below addressed as follows:

Civil Clerk
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004-4408

Fred Figueroa
Warden, Eloy Detention Center
1705 E Hanna Rd
Eloy, Arizona 85131

Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW
Mail Stop 0485 Washington, DC 20528

s/ *Jessica Anleu, Esq.*