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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Nelson ARREAGA MEZA,	) Case No.
Petitioner,	)
v.	) PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE
Kristi NOEM, et al.,	)
Respondents.	)

Petitioner, Nelson Geovanni Arreaga Meza ("Mr. Arreaga Meza"), hereby makes this *ex parte* Application for a Temporary Restraining Order ("TRO") and Order to Show Cause ("OSC") Re: Preliminary Injunction pursuant to Federal Rule of Civil Procedure 65 and 5 U.S.C. §705. Petitioner is a man who entered the United States in 1999 without inspection and has resided here continuously since then without interruption. On July 24, 2012, removal proceedings were initiated against him with the issuance of a putative Notice to Appear. DHS charged him with being present in the United States without admission, in violation of §212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"), as amended; 8 U.S.C. §1182(a)(6)(A)(i). Having been found: (1) not to be subject to mandatory detention; (2) not to be a threat to national security, public health or safety; and (3) not a flight risk he was released from custody under an order of supervision by Immigration and Customs Enforcement ("ICE")'s Alternatives to Detention ("ATD") program pursuant to 8 C.F.R. §241.5(a). On July 23, 2015, the Immigration Judge ("IJ") administratively closed his removal proceedings and he was told by ICE that he no longer needed to report to ATD unless his case was recalendared by the Immigration Court.

On June 29, 2025, ICE re-detained him without warning, without a formal or informal interview, without hearing, no explanation, and no procedural step to revisit that prior determination.

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Further, after re-detaining him, ICE/Enforcement and Removal Operations ("ERO") and/or the Office of the Principal Legal Advisor ("OPLA") did not inform the Immigration Court that Mr. Arreaga Martinez was in their custody. As a result, Mr. Arreaga Meza has been in ICE custody with no movement on his case immigration case for almost 6 months.

On November 20, 2025, the United States District Court, Central District of California granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. §1226(a) and thus may not be denied consideration for release on bond under §1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

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Finally, in the most recent ruling issued on December 18, 2025, the District Court noted that the core holding of *Yajure Hurtado* cannot be squared with the MSJ Order. *See Yajure-Hurtado,* 29 I&N Dec. at 220-28 (subjecting non-citizens present in the United States without inspection to §1225 and denying them volunteer hearings for lack of jurisdiction). In spite of *Yajure-Hurtado*, this Court petitioners and those similarly situated are not "applicants for admission", and therefore not subject to mandatory detention under §1225. [MSJ Order at 12-17]. *See Loper Bright Enters v. Raimondo,* 603 U.S. 369, 398-99 (2024)(requiring courts "to *ignore*, not follow, 'the reading the court would have reached' had it exercised its own independent judgement). Although the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA, *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable. *Lazaro Maldonado Bautista v. Santacruz, 5:25-CV-01873-SSS-BFM (C.D. Cal.).* The Court then went on to grant class wide vacatur of the unlawful DHS policy.

At a minimum, based on this nationwide class certification and ruling, Respondent is eligible for bond under INA §236(a).

The refusal to allow a bond redetermination in this matter violates both the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Petitioner now seeks a temporary restraining order ("TRO") requiring Respondents to release Petitioner. Expedited relief is necessary to prevent further irreparable injury.

Petitioner requests that this Court issue a TRO and Order to Show Cause re: Preliminary Injunction in the form of the proposed order submitted concurrently with this Application. This Application is based on the Petition for Writ of Habeas Corpus and exhibits in support thereof

Dated: December 29, 2025

/s/ Mardy M. Sproule

Mardy M. Sproule, *Attorney for Petitioner Nelson Arreaga Meza*

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I. INTRODUCTION

Petitioner, Mr. Arreaga Meza, seeks a TRO that requires Respondents to release him from custody or in the alternative provide him with a bond hearing pursuant to 8 U.S.C. §1226(a), within seven days of the issuance of a TRO.

Mr. Arreaga Meza is a citizen of Guatemala who entered the United States in 1999 without inspection. He has a set of 18 year old United States citizens twins, David and Reyna Arreaga-Gonzalez, who depend on him.

Mr. Arreaga Meza has been in removal proceedings since July 24, 2012. At the point that he came into removal proceedings, he had already been living in the United States for approximately 13 years. On July 24, 2012, he was released on order of supervision under 8 C.F.R. §214.5(a) on a program called ATD-ISAP and was complaint with the conditions of the program through 2015 when his case was administratively closed by the Immigration Judge. In 2015, he was never told that he had failed to comply nor did ICE ever take any steps to revoke his release. Instead, upon administrative closure of his removal proceedings, he was instructed by ICE that he was no longer required report to ATD-ISAP unless the Immigration Court recalendared his proceedings .

On June 29, 2025, he was re-detained without warning, without a formal or informal interview, without a hearing, without explanation, and with no procedural step to revisit that prior determination in violation of 8 C.F.R. §241.4.

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Petitioner lived another 10 years in the United States before he was re-detained by ICE. Since his re-detention, the government has failed to inform Mr. Arreaga Meza why it was revoking his release of a program that they themselves told him to no longer report to in 2015.

Further, after re-detaining him, ICE/ERO has not taken the proper steps to ensure that the Office of the Principal Legal Advisor ("OPLA") inform the Immigration Court that Mr. Arreaga Martinez was in their custody. As a result, Mr. Arreaga Meza's case appears to have been recalendared by the Executive Office for Immigration Review ("EOIR"), Immigration Court, on the non-detained docket and scheduled for August 31, 2027, while he remains detained in ICE custody.

Consequently, extraordinary intervention is necessary. The denial of bond to the Petitioner and his ongoing detention based on the new DHS policy violates the plain language of the INA, 8 U.S.C. §1101 *et seq. See Lazaro Maldonado Bautista et al v. Gabriel Santacruz Jr et al.*, 5:25-cv-01873-SSS-BFM, Dkt # 14 (C.D. Ca. Jul. 28, 2025); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *16 (W.D. Wash. Apr. 24, 2025). A multitude of cases that have concluded that applying Section 1225 in this situation "(1) disregards the plain meaning of section 1225(b)(2)(A); (2) disregards the relationship between sections 1225 and 1226; (3) would render a recent amendment to section 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation

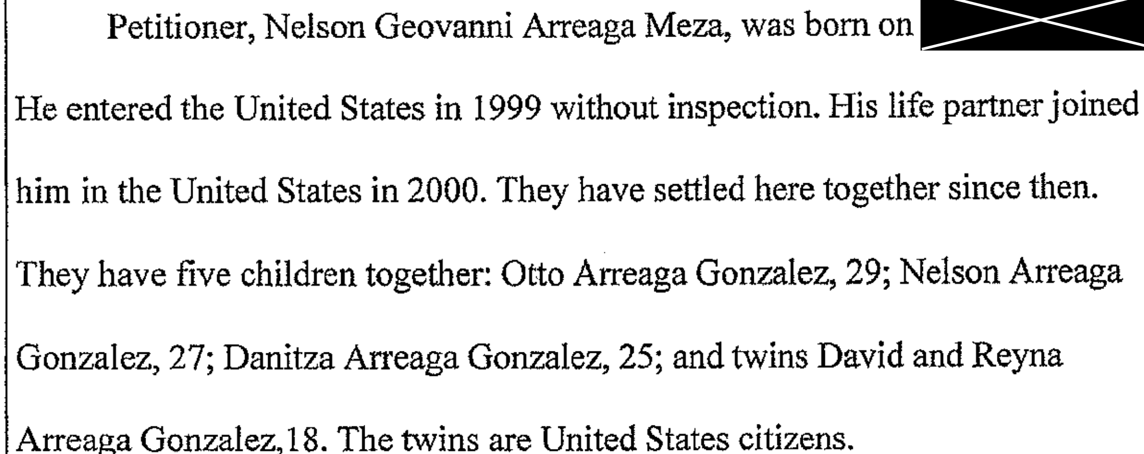
and practice." *Lepe v. Andrews*, __F. Supp. 3d__, 2025 WL 2716910, at *4 (E.D. Cal. Sept. 23, 2025) (citing cases).

Respondents' legal interpretation set forth in their new policy is plainly contrary to the statutory framework and contrary to decades of agency practice applying §1226(a) to people like Petitioner. Respondents' policy and the resulting ongoing detention of Petitioner without a bond hearing is depriving Petitioner of statutory and constitutional rights and unquestionably constitutes irreparable injury.

Petitioner therefore seeks a TRO enjoining Respondents from continuing to detain him and asks the Court to order his immediate release or a bond hearing under 8 U.S.C. §1226.

Petitioner also seeks an Order prohibiting Respondents from relocating Petitioner outside of the District of Arizona pending final resolution of this litigation.

II. STATEMENT OF FACTS

Petitioner, Nelson Geovanni Arreaga Meza, was born on 
He entered the United States in 1999 without inspection. His life partner joined him in the United States in 2000. They have settled here together since then. They have five children together: Otto Arreaga Gonzalez, 29; Nelson Arreaga Gonzalez, 27; Danitza Arreaga Gonzalez, 25; and twins David and Reyna Arreaga Gonzalez,18. The twins are United States citizens.

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In July 2010, a domestic dispute occurred between Mr. Arreaga and his partner. The police were involved and he was taken into custody to diffuse the situation. *Exhibit. 1: Declaration of Nelson Arreaga Meza.* No charges were filed against him. *Exhibit 2: Certificate of Clerk Re: Name Search Results.* From the police station, an ICE detainer was placed on him and he was turned over to ICE custody. On July 24, 2012, removal proceedings were initiated against him with the issuance of a putative Notice to Appear. *Exhibit 3: Notice to Appear.* DHS charged him with being present in the United States without admission, in violation of 8 U.S.C. §1182(a)(6)(A)(i). Having been found by an ICE authorizing official to: (1) not to be subject to mandatory detention; (2) not to be a threat to national security, public health or safety; and (3) not a flight risk he was released from custody under an order of supervision, specifically, ICE's ATD program.

ATD exists to ensure compliance with release conditions and provides important case management services for non-detained non-citizens. ATD consists of Intensive Supervision Appearance Program ("ISAP"). The ATD-ISAP program utilizes case management and technology tools to support non-citizens' compliance with release conditions while on the non-detained docket. ATD-ISAP enables non-citizens to remain in their communities, contributing to their families

and community organizations, or concluding their affairs in the US, as they move through the immigration proceedings or prepare for departure.[1]

From 2012 through 2015, he regularly reported with ATD-ISAP to the best of his abilities. *Exhibit 1.* From 2012-2015, he was never warned or informed that he had violated the terms or conditions of the program. On July 23, 2015, the IJ granted an unopposed motion to administratively close his removal proceedings. *Exhibit 4: Administrative Closure Order.* At his following ATD-ISAP reporting, he was advised by ICE that he was no longer required to report unless and until his case was recalendared by the IJ. *Exhibit 1.* Mr. Arreaga Meza has continued to live, work and contribute to his community with his valid employment authorization ("EAD") since then. *Exhibit 5: Approval Notice of Employment Authorized from 9/12/2024-9/11/2029.*

On June 29, 2025, Mr. Arreaga's son, Otto Arreaga Gonzalez appeared in state court related to a traffic citation. When he failed to return home, Mr. Arreaga Meza went to the police station to inquire about his son. The police asked him for identification. He presented his valid driver's license and valid EAD. *Exhibit 1.* The police then contacted ICE, who then re-detained Mr. Arreaga Meza and was told that his case would be re-calendared. However, at no time was he informed why his release was being revoked or why he was being re-detained. *Exhibit 1.*

[1] https://www.ice.gov/features/atd

Moreover, after re-detaining him neither ICE/ERO nor OPLA have taken the the proper steps to inform the Immigration Court that Mr. Arreaga Martinez is in ICE custody as EOIR has not received a Form I-830 Notice to EOIR: Alien Address from ICE or OPLA. *Exhibit 6: Email Correspondence between counsel and Eloy, Arizona ICE Outreach.* As a result, Mr. Arreaga Meza's case appears to have been improperly recalendared by EOIR on the non-detained docket rather than the detained docket. Consequently, his next hearing is scheduled to be heard well over two years from when he was re-detained, on August 31, 2027. *Exhibit 7: EOIR Automated Case Information.* If a detainee has pending proceedings before the EOIR, ICE *must* submit Form I-830, Notice to EOIR: Alien Address. *Exhibit 8: ICE Policy 11022.1, Detainee Transfers.* Had ICE or OPLA properly submitted the Form I-830 to EOIR, it would have alerted EOIR that Mr. Arreaga Meza is in ICE custody and the court could then transfer his case from the non-detained to a detained docket ensuring his constitutionally protected right to a fair hearing free of unreasonable delays. Instead, their actions have further contributed to prolonging Mr. Arreaga Meza's unlawful detention.

Petitioner has now been detained in immigration custody without a right to be released on DHS's own custody determination in 2012, no change in circumstances, and over two decades of residence in the United States.

III. ARGUMENT

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The requirements for granting a TRO are "substantially identical" to those for granting a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

Petitioner must demonstrate that (1) he is likely to succeed on the merits of his claims; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). A sliding scale test may be applied and an injunction should be issued when there is a stronger showing on the balance of hardships, even if there are "serious questions on the merits ... so long as the plaintiff also shows a likelihood of irreparable harm and that the injunction is in the public interest." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011); *see also Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024).

Petitioner satisfies the criteria and a TRO should be granted.

A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIM.

Petitioner is likely to succeed on his claim that his ongoing detention by Respondents is unlawful.

1. Unlawful Revocation of Release

On July 24, 2012, Petitioner was released under an order of supervision program (ATD-ISAP) governed by 8 C.F.R. §241.4(l). An alien released pursuant to 8 C.F.R. §241.4(l) shall be released pursuant to an order of

supervision. The Commissioner, Deputy Commissioner, Executive Associate Commissioner Field Operations, regional director, district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer-in-charge… shall specify conditions of supervision including, but not limited to, the following: (1) a requirement that the alien report to a specified officer periodically and provide relevant information under oath as directed. Alongside the regulations establishing conditions of release are the regulations establishing the *revocation* of that release. 8 C.F.R. §241.4(l). In other words, to revoke release the government must notify the noncitizen of the reason for the revocation and give them both an informal and formal interview. Here, none of that required process was followed.

When Mr. Arreaga Meza went to the police station in Havasu to inquire about his son after he failed to return home from a court hearing, he was asked for identification. *Exhibit 1.* Upon providing his valid driver's license and valid employment authorization card, ICE was alerted (presumably because he is not a United States citizen), and ICE re-detained him without explanation other than that his case would be recalenared. To his knowledge, he complied with the terms of his order of supervision while he was actively on the program from 2012-2015 and after he was advised by ICE that he was no longer required to report because his case had been administratively closed 2015. He had never been told otherwise

by ICE. At no time between 2012 and 2025 was non-compliance an issue. At no time was he afforded an informal or formal revocation interview between 2012-2025. In other words, under 8 C.F.R.§241.4 the government has had a period of 13 years to give Mr. Arreaga Meza a formal or informal interview if they wanted to lawfully revoke his conditions of release, and they have failed to do so.

This failure by the government is in clear violation of the due process requirements of 8 C.F.R. §241.4(l). It is well established that government agencies are required to follow their own regulations. *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). A growing number of courts have unequivocally found that the government's failure to follow its release revocation procedures—in particular the failure to give a detainee the required notice and interview—renders the re-detention unlawful. *See Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) ("Because there is no indication that an informal interview was provided to Petitioner, the court finds Petitioner is likely to succeed on his claim that his re-detainment was unlawful."); *Ceesay v. Kurzdorfer*, No. 25- cv-267-LJV, 2025 WL 1284720, at *21 (W.D.N.Y. May 2, 2025) ("[B]ecause ICE did not follow its own regulations in deciding to re-detain Ceesay, his due process rights were violated, and he is entitled to release."); *Liu v. Carter*, No. 25-3036-JWL, 2025 WL 1696526, at *3 (D. Kan. June 17, 2025) ("[B]ecause officials did not properly revoke petitioner's release pursuant to the applicable regulations, that

revocation has no effect, and petitioner is entitled to release."); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387–88 (D. Mass. 2017) (holding that ICE's failures to follow the release revocation procedures in 8 C.F.R. §241.4 rendered the petitioner's detention unlawful).

The procedures outlined in 8 C.F.R. §241.4(l) are not optional or discretionary, they *must* be followed and failure to do so renders this dentation unlawful. For this reason, we ask the Court to find that Mr. Arreaga Meza is likely to succeed on his claim that the government did not properly revoke his release pursuant to 8 C.F.R. §241.4(l).

2. Petitioner Is Not Subject To Mandatory Detention.

Further, the plain text of §1226 demonstrates that subsection (a) applies to Petitioner. 8 U.S.C. §1225(b)(2) should not be read to apply to everyone who is in the United States "who has not been admitted." Section 1226(a) covers those who are present within and residing within the United States and who are not at the border seeking admission. The text of §1225 reinforces this interpretation. As the Supreme Court recognized, §1225 is concerned "primarily [with those] seeking entry," *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018), 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) in §1225 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) in §1225 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 entered over two decades ago and has been residing continuously in the United States without interruption for said decades. 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 who 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.

Here, Petitioner is being classified as an applicant for admission despite his arrest in the interior of the United States the first time 13 years after his entry; and the second time 26 years after his entry and after uninterrupted continuous physical presence. DHS and EOIR are trying to apply a new policy to an existing NTA that was issued in 2012.

Significantly, in deeming that all noncitizens who entered without inspection are necessarily encompassed by the mandatory detention provision at §1225(b)(2), the DHS and EOIR policy ignores that the provision does not simply address applicants for admission. The new policy and the IJs' implementation ignore the statutory language in §1226 that expressly encompasses persons who have entered the United States and are present without admission. Thus, Petitioner will prevail regardless of the scope of §1225(a)(1)'s definition of "applicant for admission."

B. PETITIONER WILL SUFFER IRREPARABLE HARM IN THE ABSENCE OF A TRO.

"It is well established the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d

990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where, as here, the "alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (quoting Wright, Miller, & Kane, Federal Practice and Procedure, §2948.1 (2d ed. 2004)). To be sure, "unlawful detention certainly constitutes 'extreme or very serious'" injury which "is not compensable in damages." *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017). Mr. Arreaga Meza's revocation of release is a violation of due process (*i.e.*, notice and an opportunity to be heard regarding the revocation of his release), rendering his continued and prolonged re-detention unlawful.

In the absence of a TRO, Petitioner will continue to be unlawfully detained by Respondents pursuant to §1225(b)(2) and denied bond before an IJ. Petitioner has now been in ICE detention for 6 almost months, partially due to ICE/ERO and OPLA's failure to properly notify the EOIR of his custody status. His dependent United States citizen son suffers from a serious medical condition. *Exhibit 1*. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention constitutes "a loss of liberty that is . . . irreparable." *Moreno Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff'd in part, vacated in part on other grounds, remanded sub nom. Moreno Galvez v. Jaddou*,

1 52 F.4th 821 (9th Cir. 2022) ("Thus, it follows inexorably from our conclusion
2 that the government's current policies [which fail to consider financial ability to
3
4 pay immigration bonds] are likely unconstitutional—and thus that members of
5 the plaintiff class will likely be deprived of their physical liberty
6
7 unconstitutionally in the absence of the injunction—that Plaintiffs have also
8 carried their burden as to irreparable harm."); *Maldonado Bautista et al. v.*
9 *Santacruz, et al.*, No. 5:25-cv- 01873-SSS-BFM (C.D. Calif. July 28, 2025),
10
11 Order Granting Temporary Restraining Order, Dkt. 14 at 9 ("[T]he Court finds
12 that the potential for Petitioners' continued detention without an initial bond
13
14 hearing would cause immediate and irreparable injury, as this violates statutory
15 rights afforded under §1226(a).").
16
17 C. THE BALANCE OF EQUTITES TIPS IN PETITIONER'S FAVOR AND A TRO IS IN THE PUBLIC INTEREST.
18
19 Because the government is a party, these two factors are considered
20 together. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Petitioner has established
21 that the public interest factors weigh in his favor because his claims assert that
22
23 the new policy has violated federal laws. *See Valle del Sol Inc. v. Whiting*, 732
24 F.3d 1006, 1029 (9th Cir. 2013). Because the policy preventing Petitioner from
25
26 obtaining bond "is inconsistent with federal law, . . . the balance of hardships and
27 public interest factors weigh in favor of a preliminary injunction." *Moreno*
28 *Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (*Moreno I*);
see also Moreno Galvez, 52 F.4th 821, 832 (9th Cir. 2022) (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) (second alteration in original) (citation omitted). Indeed, Respondents "cannot suffer harm from an injunction that merely ends an unlawful practice." *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013).

D. PRUDENTIAL EXHAUSATION IS NOT REQUIRED.

Prudential exhaustion does not require Petitioner to be forced to endure the very harm he is seeking to avoid by having to appeal an IJ bond order to the BIA and waiting many months for a decision from the BIA, when the BIA will rely on its own precedent of *Yajure-Hurtado, supra.* "[T]here are a number of exceptions to the general rule requiring exhaustion, covering situations such as where administrative remedies are inadequate or not efficacious, . . . [or] irreparable injury will result . . ." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation omitted). In addition, a court may waive an exhaustion requirement when "requiring resort to the administrative remedy may occasion undue prejudice to subsequent assertion of a court action." *McCarthy v. Madigan*, 503 U.S. 140, 146–47 (1992), *superseded by statute on other grounds as stated in*

1 *Booth v. Churner*, 532 U.S. 731, 739–41 (2001). "Such prejudice may result . . .
2 from an unreasonable or indefinite time frame for administrative action." *Id.* at
3 147 (citing cases). Here, the exceptions regarding irreparable injury and agency
4 delay apply and warrant waiving any prudential exhaustion requirement.
5
6
7 1. Futility
8 Futility is an exception to the prudential exhaustion requirement. Petitioner
9 has been subjected to the new Department of Homeland Security (DHS) policy
10 issued on July 8, 2025, instructing all ICE officers to treat any person arrested
11 within the United States and charged under 8 U.S.C. §1182(a)(6)(A)(i) as an
12 "applicant for admission" under 8 U.S.C. §1225(b)(2)(A) and therefore subject to
13 mandatory detention. This policy was issued "in coordination with the DOJ"
14 according to the agency's memorandum titled Interim Guidance Regarding
15 Detention Authority for Applicants for Admission (ICE, July 8, 2025).
16
17 Because IJ's operate within the EOIR—a component of the DOJ—the new
18 DHS policy has effectively bound all immigration courts. Petitioner has been
19 denied the bond by EOIR, which has been uniformly applied nationwide to
20 individuals charged under §1182(a)(6)(A)(i), even when, as here, the arrest
21 occurred deep within the interior of the United States decades after his entry.
22
23 On September 5, 2025, the BIA issued a precedential decision in *Matter of*
24 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), explicitly holding that individuals
25 who entered the United States without inspection are subject to mandatory
26
27
28

1 detention under 8 U.S.C. §1225(b)(2)(A) and that IJs lack jurisdiction to conduct
2 bond redetermination hearings in such cases.
3
4 On November 20, 2025, the United States District Court, Central District
5 of California granted partial summary judgment on behalf of individual plaintiffs
6
7 and on November 25, 2025, certified a nationwide class and extended declaratory
8 judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-
9
10 01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov.
11 20, 2025) . The declaratory judgment held that the Bond Denial Class members
12 are detained under 8 U.S.C. §1226(a) and thus may not be denied consideration
13
14 for release on bond under §1225(b)(2)(A). *Maldonado Bautista*, 2025 WL
15 3289861, at *11.
16
17 In response to this, IJ's have informed class members currently in
18 detention seeking bond hearings that they (the IJ's) have been instructed by
19 "leadership" that the declaratory judgment in *Maldonado Bautista* is not
20
21 controlling, even with respect to class members, and that instead IJs remain
22 bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. &
23
24 N. Dec. 216 (BIA 2025).
25 Petitioner therefore has no further available administrative remedy and
26 properly invokes this Court's habeas jurisdiction to challenge his unlawful
27
28 detention and the categorical denial of a bond hearing.

2. Irreparable Injury

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

Irreparable injury is an exception to any prudential exhaustion requirement. Because Petitioner was denied bond and ordered mandatorily detained, each day he remains in detention is one in which his statutory and constitutional rights have been violated. Similarly situated district courts have repeatedly recognized this fact. As one court has explained, "because of delays inherent in the administrative process, BIA review would result in the very harm that the bond hearing was designed to prevent: prolonged detention without due process." *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) (internal quotation marks omitted). Indeed, "if Petitioner is correct on the merits of his habeas petition, then Petitioner has *already* been unlawfully deprived of a [lawful] bond hearing [,] [and] . . . each additional day that Petitioner is detained without a [lawful] bond hearing would cause him harm that cannot be repaired." *Villalta v. Sessions*, No. 17-CV-05390-LHK, 2017 WL 4355182, at *3 (N.D. Cal. Oct. 2, 2017) (internal quotation marks and brackets omitted); *see also Cortez v. Sessions*, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018) (similar). Other district courts have echoed these points.[2]

---

[2] *See, e.g., Perez v. Wolf*, 445 F. Supp. 3d 275, 286 (N.D. Cal. 2020); *Blandon v. Barr*, 434 F.Supp. 3d 30, 37 (W.D.N.Y. 2020); *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 961 (N.D. Cal. 2019); *Ortega-Rangel v. Sessions*, 313 F. Supp. 3d 993, 1003–04 (N.D. Cal. 2018); *Montoya Echeverria v. Barr*, No. 20-CV-02917-JSC, 2020 WL 2759731, at *6 (N.D. Cal. May 27, 2020); *Rodriguez Diaz v. Barr*, No. 4:20-CV-01806-YGR, 2020 WL 1984301, at *5 (N.D. Cal. Apr. 27, 2020); *Birru v. Barr*, No. 20-CV-01285-LHK, 2020 WL 1905581, at *4 (N.D. Cal. Apr. 17, 2020); *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at *7 (N.D. Cal. Dec. 24, 2018).

Petitioner asserts both statutory and constitutional claims and has a "fundamental" interest in a bond hearing, as "freedom from imprisonment is at the 'core of the liberty protected by the Due Process Clause.'" *Hernandez*, 872 F.3d at 993 (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

E. THERE IS NO JURISDICTIONAL HURDLE BARRING RELIEF

Finally, nothing in the Immigration and Nationality Act precludes this Court from granting the TRO. The "zipper clause" at 8 U.S.C. §1252(b)(9), which channels "[j]udicial review of all questions of law . . . including interpretation and application of constitutional and statutory provisions, arising from any action taken . . . to remove an alien from the United States" to the appropriate federal court of appeals, does not apply because that section applies only to review of removal orders, and Petitioner does not seek review of orders of removal but of custody. *Maldonado Bautista et al. v. Santacruz, et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Calif. July 28, 2025), Order Granting Temporary Restraining Order, Dkt. 14 at 4-5.

Petitioner does not challenge Respondents authority to remove him from the United States. He challenges the revocation of his release in violation of 8 C.F.R. §241.4(l) and his classification under 8 U.S.C. §1225(b)(2) instead of §1226(a). Thus, §1252(b)(9) does not provide a jurisdictional bar.

As such, the Court has jurisdiction over Petitioner's challenge to his detention.

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CONCLUSION

For the foregoing reasons, the Court should grant Petitioner's Application for a Temporary Restraining Order and Order to Show Cause.

Dated: December 29, 2025

Respectfully Submitted,
<u>*S/ Mardy M. Sproule*</u>

Attorney for *Nelson Arreaga Meza*
Email: Mardy.Sproule@att.net

1

EXHIBIT INDEX

2

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EX. 1 DECLARATION OF NELSON ARREAGA MEZA

TRANSLATION OF DECLARATION OF NELSON GEOVANNI ARREAGA-MEZA

//I, Nelson Geovanni Arreaga Meza, being over the age of eighteen and of sound mind, hereby declare under penalty of perjury, pursuant to the laws of the state of California, that the following is true and correct to the best of my knowledge and belief:

1. I am native and citizen of Guatemala.
2. I entered the United States in June 1999 without inspection. I have never left the country since that date.
3. I have been in a loving and committed relationship since 1996; I consider her my wife.
4. My partner and I share 5 children, two of which are United States citizens: Otto Arreaga Gonzalez, 29; Nelson Arreaga Gonzalez, 27; Danitza Arreaga Gonzalez, 25; and twins David and Reyna Arreaga Gonzalez,18.
5. The twins are United States citizens.
6. In July 2010, a domestic dispute occurred between my wife and me.
7. The police were involved in order to calm things down; they took me away. They did not file charges against me but they did transfer me to ICE.
8. On July 24, 2012, removal proceedings were started against me for being in the country without inspection.
9. Having been found to: (1) not to be subject to mandatory detention; (2) not to be a threat to national security, public health or safety; and (3) not a flight risk I was released under Alternatives to Detention ("ATD") program.
10. I was compliant with the program to the best of my abilities.
11. I reported regularly between 2012-2015.
12. Never once between 2012-2015 was I told that that I was at risk of having my ATD-ISAP program cnaceled, that my release would be revoked.

13. Never once between 2012-2015 was I given a formal or informal interview to review revocation of my release.
14. My case was administratively closed by the immigration Judge on July 23, 2015.
15. When I went to my next ATD-ISAP reporting after my case was closed, the ICE officer told me that I did not need to report anymore unless and until the Immigration Court recalendared my case.
16. I have been working lawfully and living the in the United States ever since with no incidents.
17. I was never informed that I was not complying with the Court or ATD or that I was going to be redetained for any reason.
18. On June 29, 2025, my son Otto had a hearing in Havasu for a traffic violation. My nephew, Jorge, attended the hearing with him for moral support. As Otto was leaving court, ICE was waiting for him and arrested him. Jorge has a pending application for Adjustment of Status so he thought it would be safe to attend with Otto. In spite of that, Jorge was also taken into ICE custody just because he was with Otto.
19. By evening that day I did not know that Otto and Jorge had been detained by ICE. When they did not come back home, my wife and I worried about them. I decided to go to the police station in Havasu to ask if they knew anything about them.
20. At the police station I was asked for identification. I presented a valid driver's license and my valid work permit that is set to expire in 2029. The police officer called the ICE officer over. ICE looked at my work permit and told me that my case was going to be recalendared and that I was going to be arrested without more explanation.

21. After I was re-detained, at no time was I told why my release was bring revoked, why I was being re-detained. I was not provided with a formal or informal interview before or after being re-detained.
22. I have been detained at the Eloy Federal Center Facility (Core Civic) in Eloy, Arizona since June 29, 2025.
23. I do not have any criminal convictions.
24. If released, I will be reunited with my wife and his children.
25. My entire family has been negatively impacted by my prolonged detention.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/Signature/

Nelson Geovanni Arreaga Meza//

I CERTIFY THAT THE ABOVE IS A COMPLETE AND ACCURATE TRANSLATION OF THE ATTACHED DOCUMENT. I FURTHER CERTIFY THAT I AM A TRANSLATOR CONVERSANT IN BOTH ENGLISH AND SPANISH, COMPETENT TO TRANSLATE THE ATTACHED DOCUMENT AND THE TRANSLATION IS TRUE AND CORRECT TO THE BEST OF MY ABILITIES.

KARLA DE LA TORRE
TRANSLATOR

DATE

DECLARACION DE NELSON GEOVANNI ARREAGA MEZA

Yo, Nelson Geovanni Arreaga Meza, siendo mayor de dieciocho años y en pleno uso de mis facultades mentales, por la presente declaro, bajo pena de perjurio y de conformidad con las leyes del estado de California, que lo siguiente es verdadero y correcto según mi leal saber y entender:

1. Soy originario y ciudadano de México.
2. Ingresé a los Estados Unidos en junio de 1999 sin inspección. No he salido del país desde esa fecha.
3. He estado en una relación amorosa y comprometida desde 1996; la considero mi esposa.
4. Mi pareja y yo tenemos cinco hijos, dos de los cuales son ciudadanos de los Estados Unidos: Otto Arreaga González, 29 años; Nelson Arreaga González, 27 años; Danitza Arreaga González, 25 años; y los gemelos David y Reyna Arreaga González, de 18 años.
5. Los gemelos son ciudadanos de los Estados Unidos.
6. En julio de 2010, ocurrió una disputa doméstica entre mi esposa y yo.
7. La policía intervino para calmar la situación y me llevó detenido. No se presentaron cargos en mi contra, pero fui transferido a ICE.
8. El 24 de julio de 2012, se iniciaron procedimientos de deportación en mi contra por haber ingresado al país sin inspección.
9. Tras haberse determinado que: (1) no estaba sujeto a detención obligatoria; (2) no representaba una amenaza para la seguridad nacional, la salud pública ni la seguridad pública; y (3) no existía riesgo de fuga, fui liberado bajo el programa de **Alternativas a la Detención** ("ATD").
10. Cumplí con el programa en la medida de mis posibilidades.
11. Reporté regularmente entre los años 2012 y 2015.
12. En ningún momento entre 2012 y 2015 se me informó que corría el riesgo de que mi programa ATD-ISAP fuera cancelado ni de que mi libertad fuera revocada.
13. En ningún momento entre 2012 y 2015 se me realizó una entrevista formal o informal para revisar la revocación de mi libertad.
14. Mi caso fue cerrado administrativamente por el Juez de Inmigración el 23 de julio de 2015.
15. Cuando acudí a mi siguiente cita de reporte del programa ATD-ISAP después de que mi caso fue cerrado, el oficial de ICE me informó que ya no necesitaba presentarme a reportar a menos y hasta que la Corte de Inmigración volviera a poner mi caso en el calendario.
16. Desde entonces he trabajado legalmente y he vivido en los Estados Unidos sin incidentes.
17. Nunca se me informó que no estuviera cumpliendo con la Corte o con el programa ATD, ni que fuera a ser nuevamente detenido por ningún motivo.
18. On June 29, 2025, my son Otto had a hearing in Havasu for a traffic violation. My nephew, Jorge, attended the hearing with him for moral support. As Otto was leaving court, ICE was waiting for him and arrested him. Jorge has a pending application for Adjustment of Status so he thought it would be safe to attend with Otto. In spite of that, Jorge was also taken into ICE custody just because he was with Otto.

19. By evening that day I did not know that Otto and Jorge had been detained by ICE. When they did not come back home, my wife and I worried about them. I decided to go to the police station in Havasu to ask if they knew anything about them.
20. At the police station I was asked for identification. I presented a valid driver's license and my valid work permit that is set to expire in 2029. The police officer called the ICE officer over. ICE looked at my work permit and told me that my case was going to be recalendared and that I was going to be arrested without more explanation.
21. After I was re-detained, at no time was I told why my release was bring revoked, why I was being re-detained. I was not provided with a formal or informal interview before or after being re-detained.
22. El 29 de junio de 2025, mi hijo Otto tuvo una audiencia. Mi sobrino, Jorge, asistió a la audiencia con él para brindarle apoyo moral. Al salir Otto de la corte, agentes de ICE lo estaban esperando y lo arrestaron. Jorge tiene una solicitud de Ajuste de Estatus pendiente, por lo que pensó que sería seguro acompañar a Otto. A pesar de ello, Jorge también fue puesto bajo custodia de ICE únicamente por estar con Otto.
23. Cuando mi esposa y yo nos enteramos de que ambos habían sido puestos bajo custodia, acudí a la oficina local de ICE para preguntar qué había sucedido y qué iba a ocurrir con ellos. Llevaba conmigo mi número de caso en mi tarjeta de autorización de empleo (EAD), válida hasta 2029. Ese mismo día, también fui puesto bajo custodia de ICE sin ninguna explicación, únicamente por haber acudido a preguntar por mi hijo y mi sobrino.
24. He estado detenido en el Centro Federal de Detención de Eloy (CoreCivic), en Eloy, Arizona, desde el 29 de junio de 2025.
25. No tengo condenas penales.
26. En caso de ser liberado, me reuniré con mi esposa y mis hijos.
27. Toda mi familia se ha visto negativamente afectada por mi detención prolongada.

Declaro bajo pena de perjurio conforme a las leyes de los Estados Unidos de América que lo anterior es verdadero y correcto.

/*Nelson Geovanni Arreaga-Meza*/FIRMA ELECTRONICA/

EX. 2 CERTIFICATE OF CLERK RE: NAME SEARCH RESULTS

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

COURTHOUSE ADDRESS:
NORWALK COURTHOUSE 12720 NORWALK BLVD, NORWALK, CA 90650

NAME SEARCHED:
NELSON ARREAGA MEZA

DATE OF BIRTH:
[redacted]

CERTIFICATE OF CLERK RE: NAME SEARCH RESULTS

I, DAVID W. SLAYTON, Executive Officer/Clerk of Court of the Superior Court of California, County of Los Angeles, do hereby certify that I am the Custodian of Records of the Superior Court of California, County of Los Angeles, and that I have conducted a thorough search of all Court records, excluding those that are sealed pursuant to California Rules of Court, Rule 2.550, or are confidential by law,

from [redacted] (YEAR / DATE) [redacted] (YEAR / DATE) for the above-referenced name, and that:

☐ I am unable to provide you with a copy of the case information/case number. The case information requested has been purged and/or destroyed pursuant to Court order. (G.C. 68152)

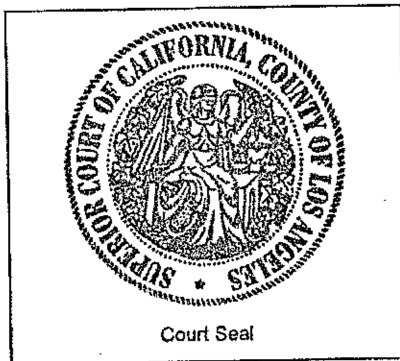
☑ My search has disclosed "NO CASE FILE" for the aforementioned name.

☐ My search has disclosed that the following case(s) was (were) filed involving the above-referenced name:

DATE: 12/18/2025

DAVID W. SLAYTON, Executive Officer/Clerk of Court

By: A Cohen Deputy Clerk



Court Seal

CERTIFICATE OF CLERK – NAME SEARCH RESULTS

LASC CRIM 156 Rev. 01/23

EX. 3 NOTICE TO APPEAR

U.S. Department of Homeland Security

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID : [redacted] FIN [redacted] File No: [redacted]
DOB [redacted] Event [redacted]

In the Matter of:

Nelson ARREAGA-Meza AKA: ARREAGA, NELSON ;

Respondent: [redacted] currently residing at:

(Number, street, city and ZIP code) (Area code and phone number)

☐ 1. You are an arriving alien.

☒ 2. You are an alien present in the United States who has not been admitted or paroled.

☐ 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:
1. You are not a citizen or national of the United States;
2. You are a native of GUATEMALA and a citizen of GUATEMALA;
3. You arrived in the United States at or near unknown place, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer.
5. OR
6. At that time you arrived at a time or place other than as designated by the Attorney General.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:
212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐8CFR 208.30(f)(2) ☐8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
606 South Olive Street, 15 Floor Los Angeles CALIFORNIA US 90014

(Complete Address of Immigration Court, including Room Number, if any)

on a date to be set *(Date)* at a time to be set *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

E SANTACRUZ SDDO

(Signature and Title of Issuing Officer)

Date: July 24, 2012

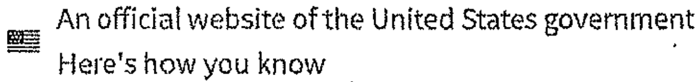
LOS ANGELES, CA

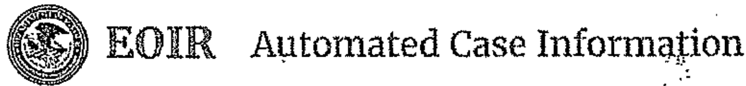
(City and State)

See reverse for important information

Form I-862 (Rev. 08/01/07)

EX. 4 ADMINISTRATIVE CLOSURE NOTICE


An official website of the United States government
Here's how you know


EOIR Automated Case Information

Court Closures Today July 30, 2025

Please check https://www.justice.gov/eoir-operational-status for up to date closures.

Automated Case Information

Name: MEZA, NELSON ARREAGA | A-Number: [redacted]

Next Hearing Information

There are no future hearings for this case.

Court Decision and Motion Information

The immigration judge issued an **ADMINISTRATIVE DECISION.**

DECISION DATE

July 23, 2015

EX. 5 APPROVAL NOTICE OF EMPLOYMENT AUTHORIZED FROM 09/12/2024 – 09/11/2029

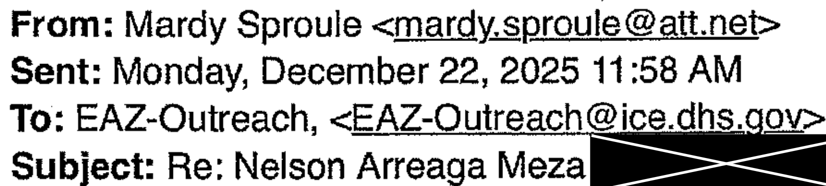
EX. 6 EMAIL CORRESPONDENCE BETWEEN COUNSEL AND ELOY, ARIZONA ICE OUTREACH

< Inbox Nelson Arreaga Meza A20...

To: Mardy Sproule >
December 26, 2025 at 8:22 AM

Yes, many times.

Respectfully,
EAZ Outreach



From: Mardy Sproule <mardy.sproule@att.net>
Sent: Monday, December 22, 2025 11:58 AM
To: EAZ-Outreach, <EAZ-Outreach@ice.dhs.gov>
Subject: Re: Nelson Arreaga Meza [redacted]

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I have been advised by the immigration court that DHS has not filed a motion for a change of venue to the Eloy Immigration Court since Mr. Arreaga-Meza came into your custody on June 29, 2026. In the last 6 months, has ERO reached out to OPLA to notify them of his custody status so that OPLA could file the I-830 with the immigration court?

I will be filing a petition for writ of habeas corpus due to his unlawful prolonged detention and I would like to be clear as to what steps, if any, DHS has taken to mitigate this situation.

Best Regards,

Mardy Sproule

EX. 7 EOIR AUTOMATED CASE INFORMATION