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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Lester Bladimir Eguigure Avila,

Petitioner,

v.

Luis Rosas Jr., et al.,

Respondents.

Case No. _____

**MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

I. INTRODUCTION

The Petitioner is a young man from Honduras who was arbitrarily re-arrested on February 12, 2026. Without notice or a prior hearing, the Petitioner was placed in immigration custody, where he has been detained for over two months in violation of the Immigration Nationality Act ("INA") and the Fifth and Fourth Amendments. He remains detained despite his approved Special Immigrant Juvenile Status ("SIJS") and Deferred Action status. He remains detained despite an application to Adjust Status to Legal Permanent Resident ("AOS") that has been pending for two years, which USCIS has exclusive jurisdiction over, and which cannot be adjudicated while Petitioner is detained.

1 Perhaps most importantly, Petitioner remains detained despite an Immigration Judge's
2 recent order terminating removal proceedings specifically so that Petitioner could be
3 released in order to continue to pursue AOS.

4 Petitioner entered the United States in 2019, was determined to be an
5 unaccompanied child, and was placed in the custody of the Office of Refugee
6 Resettlement ("ORR"). On his 18th birthday, Petitioner was transferred to adult custody
7 and released two days later.

9 With the help of the Florence Project, Petitioner has diligently pursued
10 dependency, SIJS, AOS, and asylum.

11 Petitioner's detention is a violation of due process. DHS released him from custody
12 in 2019 and again in 2024, thus creating a liberty interest. The appropriateness of his
13 release was approved by the Immigration Court three times. USCIS granted him SIJS
14 with deferred action, giving him a lawful pathway to permanent status. Two months ago,
15 Respondents deprived Petitioner of his liberty interest without notice or a hearing, without
16 a showing of changed circumstances, and without articulating a legitimate purpose.

18 II. FACTS AND PROCEDURAL HISTORY

19 Petitioner incorporates by reference the facts alleged in Petitioner's Verified
20 Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241, and Supporting Exhibits
21 (concurrently filed).
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23 III. LEGAL STANDARD

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1 To obtain a temporary restraining order (“TRO”), a plaintiff “must establish that
2 he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the
3 absence of preliminary relief, that the balance of equities tips in his favor, and that an
4 injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20
5 (2008); *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir.
6 2001) (noting that preliminary injunction and temporary restraining order standards are
7 “substantially identical”). Even if Petitioner does not show a likelihood of success on the
8 merits, the Court may still grant a temporary restraining order if Petitioner raises “serious
9 questions” as to the merits of his claims, the balance of hardships tips “sharply” in his
10 favor, and the remaining equitable factors are satisfied. *All for the Wild Rockies v.*
11 *Cottrell*, 632 F.3d 1127 (9th Cir. 2011).

14 IV. ARGUMENT

15 Petitioner is likely to succeed on the merits of the claims as explained in the
16 Petition filed concurrently. He will continue to suffer irreparable harm absent an
17 injunction.

18 Irreparable harm is the type of harm for which there is “no adequate legal remedy,
19 such as an award of damages.” *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1068
20 (9th Cir. 2014). Detention is “a loss of liberty that is... irreparable.” *Moreno Galvez v.*
21 *Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff’d in part*,
22 *vacated in part on other grounds, remanded sub nom Moreno Galvez v. Jaddou*, 52 F.4th
23 821 (9th Cir. 2022), *R v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013) (irreparable harm
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1 is met where “preliminary injunction is necessary to ensure that individuals . . . are not
2 needlessly detained”). Civil immigration detention violates due process outside of
3 ‘certain special and narrow nonpunitive circumstances.’” *R v. Marin*, 909 F.3d 252, 257
4 (9th Cir. 2018) (citation omitted).

5 Petitioner has already suffered irreparable harm by being unlawfully detained for
6 over two months. He attempted to secure his release by seeking a Termination Order from
7 the Immigration Court. His Motion to Terminate was granted, but his release was
8 forestalled when DHS filed an appeal of the Immigration Judge’s decision, so now he
9 remains detained until the resolution of this appeal, an unpredictable and indefinite
10 amount of time.
11

12 Due process and the Fourth Amendment forbid Petitioner’s detention without a
13 pre-deprivation hearing. These constitutional concerns weigh in favor of finding that
14 Petitioner has demonstrated irreparable harm. *See Baird v. Bonta*, 81 F.4th 1036, 1048
15 (9th Cir. 2023) (declaring that “in cases involving a constitutional claim, a likelihood of
16 success on the merits usually establishes irreparable harm”); *Valle del Sol Inc. v. Whiting*,
17 732 F.3d 1006, 1029 (9th Cir. 2013) (finding deprivation of constitutional rights
18 constitutes irreparable harm; and *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
19 (same).
20
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22 The balance of hardship to the Petitioner and public interest “merge when the
23 Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here,
24 Petitioner faces considerable hardship, including the loss of liberty, loss of income,
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1 continued illness due to the conditions of detention, and separation from family.
2 Conversely, the government can make no comparable claim to harm from an injunction.
3 *See E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 678-79 (9th Cir. 2021) (public
4 interest factor weighs “sharply” against unlawful agency or executive action). Indeed, the
5 government cannot suffer harm from an injunction that prevents it from engaging in an
6 unlawful practice. *See Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) (“[T]he INS
7 cannot reasonably assert that it is harmed in any legally cognizable sense by being
8 enjoined from constitutional violations.”).

10 The public interest favors an injunction that prevents violations of federal law and
11 a party’s constitutional rights. *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th
12 Cir. 2014); and *Hernandez*, 872 F.3d at 996 (“The public interest benefits from an
13 injunction that ensures that individuals are not deprived of their liberty and held in
14 immigration detention because of bonds established by a likely unconstitutional
15 process.”) The balance of equities and the public interest favor an injunction in this case
16 as Respondents will continue to violate the TVPRA and Petitioner’s constitutional rights
17 in the absence of injunctive relief.

19 As detailed in Petitioner’s Petition, numerous federal district courts throughout the
20 country and in this circuit have recently ordered the immediate release of noncitizens
21 under similar facts as Petitioner.
22

23 Courts in this district have also found that the appropriate relief for an immigration
24 detainee denied a pre-deprivation hearing is immediate release from custody and return
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1 to the status quo ante, *i.e.*, the last uncontested status that preceded the pending
2 controversy. *See Garcia Carias*, CV-00672 at 4 (D. Ariz. Feb. 13, 2026); *Alvarez*, CV-
3 25-02943 at 39 (D. Ariz. Oct. 7, 2025); *Rosado*, CV-25-02157 at 33 (D. Ariz. Aug 11,
4 2025); and *Sanchez-Hernandez v. Figueroa*, 2:25-cv-2351, Dkt. 33 (D. Ariz. Aug. 5,
5 2025). In this case, Petitioner's last uncontested status preceding this pending controversy
6 was living freely without bond as his AOS application progressed in USCIS.
7

8 In similar cases, Respondents have asserted that granting immediate release via a
9 TRO inappropriately grants "ultimate relief." This is incorrect because Petitioner seeks
10 only to restore the status quo. This principle is also at odds with Supreme Court and Ninth
11 Circuit precedent. In fact, the Supreme Court long ago explained that for temporary relief
12 to be proper, it *should* be akin in nature to the final relief sought: "[a] preliminary
13 injunction is always appropriate to grant intermediate relief of the same character as that
14 which may be granted finally." *De Beers Consol. Mines v. United States*, 325 U.S. 212,
15 220 (1945). This principle remains the law. *Pac. Radiation Oncology, LLC v. Queen's*
16 *Med. Ctr.*, 810 F.3d 631, 636 (9th Cir. 2015) ("A preliminary injunction is appropriate
17 when it grants relief of the same nature as that to be finally granted."").
18

19 Accordingly, Petitioner respectfully seeks a TRO requiring his immediate release.
20 The Court should then direct Respondents to respond to an order to show cause with any
21 arguments or additional information they believe is necessary so that this Court can issue
22 the writ of habeas corpus securing Petitioner's continued right to liberty.
23

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25 V. CONCLUSION

1
2 Petitioner respectfully requests that the Court grant his motion for injunctive relief,
3 order his immediate release and return to the status quo ante without bond or any other
4 imposition on his liberty; order the return of his personal property; order the return of
5 Petitioner to Phoenix, Arizona, at Respondents' expense; and enjoin Respondents from
6 re-detaining Petitioner without a pre-deprivation hearing before a neutral adjudicator
7 where the government bears the burden of justifying his re-detention by clear and
8 convincing evidence.
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10 Dated: April 16, 2026

11 Respectfully submitted,
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