UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

LIBERATO, Wardy Alfonso,

Petitioner-Plaintiff,

v.

JUAN BALTAZAR, is his official capacity as Warden of the Denver Contract Detention Facility (Aurora), owned and operated by GEO Group, Inc.;

GEORGE VALDEZ, in his official capacity as Acting Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement (ICE);

TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement (ICE);

MARKWAYNE MULLIN, in his official capacity as Secretary, U.S. Department of Homeland Security (DHS);

TODD BLANCHE, in his official capacity as Acting Attorney General, U.S. Department of Justice (DOJ).

Respondents-Defendants.

Case No. _____

MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION

Challenge to Unlawful Incarceration

I. INTRODUCTION

Petitioner-Plaintiff, Wardy Alfonso Liberato [hereinafter "Mr. Liberato"], by and through undersigned counsel, hereby files this motion for a temporary restraining order and preliminary injunction to enjoin the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), from continuing his unlawful detention [hereinafter "Respondents"].

Mr. Liberato is a citizen of the Dominican Republic. Mr. Liberato's mother is a lawful permanent resident (LPR) of the United States and lives in New York. Mr. Liberato's two U.S. citizen siblings reside in the United States. Mr. Liberato's three U.S. citizen children reside in the United States. Mr. Liberato is [redacted]. Mr. Liberato suffers from several serious illnesses, including Major Depressive Disorder, Post-Traumatic Stress Disorder, and substance use disorders. Mr. Liberato cannot read or write in the Spanish or English languages due to limited schooling. Additionally, Mr. Liberato has suffered significant trauma as both a child and an adult which, when combined with the educational neglect he suffered, has resulted in neurocognitive deficits.

On November 6, 2025, Mr. Liberato was granted deferral of removal under the Convention Against Torture (D-CAT) by the Aurora Immigration Court, based on the likelihood of being tortured if deported to the Dominican Republic. Mr. Liberato has been detained by Respondents since October 4, 2023. Prior to ICE custody, Mr. Liberato was in federal custody on an illegal re-entry charge. He has been continuously detained since January 12, 2023, when he re-entered the United States, totaling, today, three years and four months in detention.

Respondents began implementing a third country removal policy in February 2025, when

they first removed several noncitizens with withholding and CAT grants to Guantanamo Bay, in Cuba, and the CECOT prison in El Salvador. Thereafter, Respondents began sending people to additional third countries, including Panama, Costa Rica, Mexico, South Sudan, and Eswatini. Recently, Ghana accepted people deported from the United States, only to return some of them to countries where their removal was prohibited under U.S. law due to the likelihood of future persecution or torture. As recently as April 2026, a group of Latin American people with protections were deported by the United States to the Democratic Republic of Congo and are now being removed by Congo to the countries which U.S. law prohibits their removal.[5]

Mr. Liberato's detention is unlawful and release is necessary because: (1) Mr. Liberato's detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), given there is not a significant likelihood that Respondents can carry out his removal in the reasonably foreseeable future; (2) Mr. Liberato's detention violates the substantive due process protections of the Fifth Amendment because his continued detention is no longer reasonably related to a legitimate nonpunitive governmental objective – namely, removal from the United States; and has thus become impermissible punishment; (3) Mr. Liberato's detention violates the procedural due process protections of the Fifth Amendment because he has been denied the opportunity to demonstrate that he should not be detained, an opportunity enshrined in the regulatory framework implemented post-*Zadvydas*; and further, without notice of the Respondents' intent to deport him to a specific country, Mr. Liberato has not been provided a meaningful opportunity to challenge the viability of his removal, further depriving him of his due process rights under the U.S. Constitution and pursuant to 8 U.S.C. § 1231(b)(3) (providing restrictions on removal to a country where a person's life or freedom would

be threatened); 8 C.F.R. §§ 208.17–18; 1208.17–18 (providing restrictions on removal to a country where a person is likely to be tortured).

Mr. Liberato meets the standard for a temporary restraining order. Mr. Liberato will suffer immediate and irreparable harm absent an order from this Court enjoining Respondents from continuing his detention. Because holding federal agencies accountable to the demands of the U.S. Constitution, statues, and regulations is in the public interest, the balance of equities and public interest are also strongly in Mr. Liberato's favor.

II. STATEMENT OF FACTS AND CASE

Mr. Liberato is a 46-year-old citizen of the Dominican Republic. He is not a citizen of any other country. Mr. Liberato initially entered as the United States as a lawful permanent resident (LPR) in 1993, when he was 13 years old. However, he was ordered deported on November 30, 2006, and removed from the United States on March 21, 2007, after being convicted of what was then considered to be an aggravated felony. He filed no relief applications to defend his deportation. Mr. Liberato re-entered the United States on or around January 12, 2023, fleeing persecution and torture in the Dominican Republic. Mr. Liberato was found to have a reasonable fear of return to the Dominican Republic. He was placed in withholding-only proceedings before the Immigration Court after serving a federal sentence for illegal re-entry. Mr. Liberato has been in continuous custody since January 12, 2023. He has been in the custody of ICE since October 4, 2023. He was transferred from Arizona to Colorado in May of 2024, where he remains to date. On November 6, 2025, Mr. Liberato was granted deferral of his removal to the Dominican

Republic under the Convention Against Torture (D-CAT). Mr. Liberato remains detained by ICE over six months after the grant of deferral.

III. LEGAL STANDARD

Federal Rule of Civil Procedure 65 authorizes courts to enter preliminary injunctions and issue temporary restraining orders (TRO). Fed. R. Civ. P. 65(a), (b). The Court exercises its discretion when deciding whether to issue a TRO. *Allen W. Hinkel Dry Goods Co. v. Wichison Indus. Gas Co.*, 64 F.2d 881, 884 (10th Cir. 1933). The procedure and standards for determining whether to issue a TRO mirror those for a preliminary injunction. The Supreme Court has explained that a temporary restraining order or a preliminary injunction is warranted when a party is "likely to succeed on the merits, . . . 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. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see also Diné Citizens Against Ruining Our Env't v. Jewell*, 839 F.3d 1276, 1281 (10th Cir. 2016). The Tenth Circuit has held that "a showing of probable irreparable harm is the single most important prerequisite" for a preliminary injunction or temporary restraining order, and "the moving party must first demonstrate that such injury is likely before the other requirements for the issuance of an injunction will be considered." *Dominion Video Satellite v. Echostar Satellite Corp.*, 356 F.3d 1256, 1260–61 (10th Cir. 2004) (quotation and citation omitted).

IV. ARGUMENT

Mr. Liberato satisfies all three factors for a temporary restraining order and preliminary injunction. First, Mr. Liberato is likely to suffer irreparable harm; namely, psychological and emotional decline in detention, exacerbating his mental illnesses, separation from his family, and risk of removal to a third country where he may face persecution or torture without notice. Second, Mr. Liberato is likely to succeed on the merits of his claim because his detention is unlawful, in violation of the Due Process Clause of the Fifth Amendment, statutes, and regulations. Third, the balance of equities tips in Mr. Liberato's favor, as the threatened injury outweighs any harm that the preliminary injunction may cause the opposing party. Finally, the public interest favors requiring Respondents to follow the law.

A. Mr. Liberato Will Suffer Irreparable Harm Absent Injunctive Relief

Mr. Liberato will suffer irreparable harm if his unlawful detention continues. First, each day Mr. Liberato is detained in violation of his constitutional rights, he faces irreparable harm. *Elrod v. Burns*, 427 U.S. 347, 373–74 (1976); *Free the Nipple—Fort Collins v. City of Fort Collins*, 916 F.3d 792, 805–06 (10th Cir. 2019) (citing *Awad v. Ziriax*, 670 F.3d 1111, 1131 (10th Cir. 2012)). The due process violation alone is sufficient to meet this standard.

Second, Mr. Liberato provides cogent evidence of individualized harm resulting from his continued detention, further supporting an irreparable harm finding. *See, e.g.*, *Burnham v. Villani*, 2023 WL 6464914 at *3 (D. Colo. Oct. 4, 2023) (holding that serious medical ailments that could lead the plaintiff to require a colostomy bag constituted irreparable harm); *Carranza v. Reams*, 614 F. Supp. 3d 899, 917 (D. Colo. 2020); *Essien v. Barr*, 457 F. Supp. 3d 1008, 1019 (D. Colo.

2020); *Castillo v. Barr*, 449 F. Supp. 3d 915 (C.D. Cal. 2020); *Coronel v. Decker*, 449 F. Supp. 3d 274, 281 (S.D.N.Y. 2020); *C.G.B. v. Wolf*, 464 F. Supp. 3d 174, 218 (D.D.C. 2020).

Mr. Liberato is being held in "prison-like conditions." *Preap v. Johnson*, 831 F.3d 1193, 1195 (9th Cir. 2016). As the Supreme Court has explained, "[t]he time spent in jail . . . has a detrimental impact on the individual. It often means loss of a job; it disrupts family life; and it enforces idleness." *Barker v. Wingo*, 407 U.S. 514, 532–33 (1972). Mr. Liberato is separated from his mother and siblings, all of whom are members of his support community and critical to Mr. Liberato's psychological and emotional well-being and sustained rehabilitation and sobriety. In addition to harm to Mr. Liberato, his continued detention causes harm to his family. Mr. Liberato's mother suffers from coronary artery disease and had open heart surgery in 2022; she also suffered a heart attack and had a coronary angiography, catheterization, and grafts and stents placed in December 2025. Mr. Liberato's sister lives with his mother and has uterine cancer. Mr. Liberato's sister had a total hysterectomy and salpingectomy in December 2025. Mr. Liberato's continued absence from his mother's and sister's lives causes them harm as they need Mr. Liberato's support as they manage these severe health conditions.

Additionally, the government itself has documented alarmingly poor conditions in ICE detention centers. *See, e.g.*, DHS, Office of Inspector General (OIG), Summary of Unannounced Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024) (reporting violations of environmental health and safety standards; staffing shortages affecting the level of care people in detention received for suicide watch, and holding people in administrative segregation in

unauthorized restraints, without being allowed time outside their cell, and with no documentation that they were provided health care or three meals a day)[1].

As explained above, Mr. Liberato suffers from multiple mental illnesses and a history of significant psychological and physical trauma. Mr. Liberato has Major Depressive Disorder, Post-Traumatic Stress Disorder, and substance use disorders. Mr. Liberato's symptoms have intensified in detention due to being far from his family, the lack of stability, and environmental stressors such as noise and lighting. Mr. Liberato has experienced educational neglect, and combined with the severe trauma he has endured, suffers from neurocognitive deficits. These factors, combined with the poor conditions in detention, place Mr. Liberato at a particularly high risk of irreparable harm.

A TRO or preliminary injunction is necessary to prevent Mr. Liberato from suffering such irreparable harm.

B. Mr. Liberato is Likely to Succeed on the Merits of His Claims

1. Violation of Due Process Because Removal is Not "Reasonably Foreseeable"

First, Mr. Liberato is likely to succeed on his due process claim because his removal is not reasonably foreseeable. "The Due Process Clause applies to all persons within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. at 683. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690. Under substantive due process doctrine, a restraint on liberty, such as prolonged civil

[1] Available at https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf (last accessed May 7, 2026).

detention, is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997).

Under the Immigration and Nationality Act (INA), a non-citizen with a final order of removal who is not removed within the 90-day removal period following a removal order "shall be subject to [an order of] supervision." 8 U.S.C. § 1231(a)(3) (titled "Supervision after 90-day period"). Detention may only continue beyond the 90-day removal period if the noncitizen is found to be "a risk to the community or unlikely to comply with the order of removal" or if the order of removal was on specified grounds. 8 U.S.C. § 1231(a)(3). Furthermore, the Supreme Court has held that, even where initial detention past the 90-day removal period is authorized, if "removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]." *Zadvydas*, 533 U.S. at 699–700.

In *Zadvydas*, the Supreme Court limited post-final order detention to "a period reasonably necessary to secure removal;" namely, six months. 533 U.S. at 699 (stating, "the habeas court…should measure reasonableness primarily in terms of the statute's basic purpose, namely, assuring the alien's presence at the moment of removal."), at 701. The Court held that a noncitizen may not be held in post-final order detention beyond six months unless there is a significant likelihood of removability in the reasonably foreseeable future. *Id.* at 699. "[F]or detention to remain reasonable, as the period of post-removal confinement grows, what counts as 'the reasonably foreseeable future' conversely would have to shrink," meaning the longer the noncitizen remains in post-final order detention, the shorter the window the government has to demonstrate that removal is reasonably foreseeable. *Id.* at 701.

Once the six-month period of "presumptively reasonable" detention has expired, a petitioner seeking release from post-removal order detention must show that there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," shifting the burden to the government to "respond with evidence sufficient to rebut that showing." *Zadvydas*, 533 U.S. 678 at 701.

Here, Mr. Liberato's detention began, for purposes of the *Zadvydas* analysis, on November 6, 2025, the date of his most recent administratively final removal order. The six-month period of "presumptively reasonable" detention under *Zadvydas* has expired. Mr. Liberato's removal is not reasonably foreseeable, and he should therefore be released under *Zadvydas*. Mr. Liberato's release may be conditioned "on any of the various forms of supervised release that are appropriate in the circumstances." *Id.* at 700. Mr. Liberato cannot be deported to the Dominican Republic because he was granted deferral of removal to that country, and Respondents have provided no notice of intent to remove him to any other country. Nor have Respondents provided any evidence that they can remove Mr. Liberato in the reasonably foreseeable future.

2. Violation of Procedural Due Process

Mr. Liberato's detention is also unlawful because it violates procedural due process. Mr. Liberato's removal to a third country without the opportunity to present a fear-based claim as to that third country would violate procedural due process. Under *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976), courts must balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards;

and (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

Removal to a third country without the opportunity to present a fear-based claim violates procedural due process. *See Arostegui Maldonado v. Baltazar*, No. 25-CV-2205-WJM-STV, 2025 WL 2280357, at *13 (D. Colo. Aug. 8, 2025) (granting "an injunction requiring Respondents to adhere to their *non-discretionary* obligation to provide Maldonado with notice and an opportunity to seek withholding of removal before he is deported to any third country."). The Supreme Court has stressed that before being spirited away, noncitizens are "entitled to notice and an opportunity to challenge their removal." *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025).

In immigration proceedings addressing fear-based claims for protection, judges are obligated to provide notice of proposed countries of removal. *See* 8 C.F.R. § 1240.10(f) (stating that "immigration judge shall notify the [noncitizen]" of proposed countries of removal); 8 C.F.R. § 1240.11(c)(1)(i) ("If the [noncitizen] expresses fear of persecution or harm upon return to any of the countries to which the [noncitizen] might be removed pursuant to § 1240.10(f) . . . the immigration judge shall . . . [a]dvise [the noncitizen] that he or she may apply for asylum in the United States or withholding of removal to those countries[.]").

Prior to removal to a third country, Mr. Liberato must be given these same protections. The Ninth Circuit found in an unpublished opinion that "last minute orders of removal to a country may violate due process if an immigrant was not provided an opportunity to address his fear of persecution in that country." *Najjar v. Lynch,* 630 Fed. App'x 724 (9th Cir. 2016). Numerous district courts across the country have found similarly. *See, e.g., Karapetyan v. Warden of Otay Mesa Det. Ctr.*, No. 3:26-cv-00697-RBM-MSB, 2026 U.S. Dist. LEXIS 60969 (S.D. Cal. 2026)

(holding that Respondents are prohibited from removing Petitioner to a third country without providing notice and an opportunity to be heard in accordance with due process.); *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019) ("A noncitizen must be given sufficient notice of a country of deportation that, given his capacities and circumstances, he would have a reasonable opportunity to raise and pursue his claim for withholding of deportation.") (citing *Mathews,* 424 U.S. at 349); *Mahdejian v. Bradford*, No. 9:25-CV-00191, 2025 WL 2269796, at *4 (E.D. Tex. July 3, 2025) ("Noncitizens have a right to meaningful notice and opportunity to be heard before being deported to a third country."); *Sagastizado Sanchez v. Noem, et al.*, Case 5:25-cv-00104, ECF No. 26 (S.D. TX, Oct. 2, 2025) (applying the *Mathews* factors in the context of a claim against unlawful removal to a third country, finding that "the cost-benefit analysis weighs in [petitioner's] favor"); *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 1771438, at *3 (N.D. Cal. June 26, 2025) (finding that, where CAT deferral to El Salvador was previously granted, "there are no countries to which [petitioner] could currently be removed without his first being afforded notice and opportunity to be heard on a fear-based claim as to that country, as the Fifth Amendment Due Process Clause requires"); *Vaskanyan v. Janecka,* No. 5:25-CV-01475-MRA-AS, 2025 WL 2014208, at *7 (C.D. Cal. June 25, 2025) (requiring "adequate notice and a meaningful opportunity to raise any fear-based claim under CAT prior to effectuating [petitioner's] removal.").

When applied to the present circumstances, the *Mathews* factors weigh heavily in Mr. Liberato's favor. *See Mathews*, 424 U.S. at 335. First, Mr. Liberato has a private interest at stake: his right to have his removal withheld from a country where he is more likely than not to be persecuted or tortured. To date, Mr. Liberato has not been provided with adequate notice or a meaningful opportunity to present a fear-based claim to protect against his removal to a third

country as no such country has been identified, yet he remains detained, presumably on this basis. In other words, Mr. Liberato's detention and the question of its legality merges with his right to have his removal withheld or deferred from a country where it is likely he will face persecution or torture. As such, Mr. Liberato seeks to raise a claim for withholding of removal and CAT protection to any country where Respondents intend to effectuate removal. 8 U.S.C. § 1231(b)(3) (providing restrictions on removal to a country where a person's life or freedom would be threatened); 8 C.F.R. §§ 208.17–18; 1208.17–18 (same as to torture). Given the significance of this interest and the mandatory nature of withholding of removal and deferral of removal for noncitizens who qualify, Mr. Liberato's private interest weighs heavily in favor of a robust due process requirement.

Second, there is a high risk of Respondents' erroneous deprivation of Mr. Liberato's rights given they have not provided any notice of an intended third country of removal or an opportunity to seek protection, a right to which he is entitled. *See id.* Because Mr. Liberato has not received any process in this regard, the importance of these statutory and procedural safeguards far outweighs the minimal administrative burden.

Finally, the public interest in preventing unlawful deportation of noncitizens outweighs Respondents' interest in executing a removal order—particularly where protection has already been afforded. The procedures Mr. Liberato requests – namely, that he be provided notice of any third country of removal and the opportunity to express fear as to that country - are necessary to give meaning to the mandatory protections afforded by statute and regulation. Mr. Liberato will likely demonstrate he is at risk of harm in any intended country of removal given the risk factors

he displays. Thus, pursuant to *Mathews*, due process requires the procedural protections Mr. Liberato seeks prior to being unlawfully removed.

C. The Balance of Equities and Public Interest Weigh Heavily in Mr. Liberato's Favor

The balance of hardships and the public interest both tip strongly in Mr. Liberato's favor. Where, as here, the government is a party to a case, the final two injunction factors—*i.e.*, the balance of equities and the public interest—merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). When assessing whether a TRO or preliminary injunction is warranted, the Court "must balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief." *Winter*, 555 U.S. at 24.

The government cannot suffer harm from an injunction that prevents it from engaging in an unlawful practice, and the public interest is best served by ensuring that constitutional rights and statutes are upheld. Federal legislative enactments, as "democratic determinations of the public interest," offer useful guidance to courts analyzing the public interest prong of the preliminary injunction inquiry. *Fish v. Kobach*, 840 F.3d 710, 755 (10th Cir. 2016) (quoting *Heideman v. South Salt Lake City*, 348 F.3d 1182, 1191 (10th Cir. 2003)); *see also O Centro Espirita Beneficente Uniao Do Vegetal v. Ashcroft*, 342 F.3d 1170, 1174 (10th Cir. 2003) (affirming a preliminary injunction because "failure to vindicate religious freedom protected under RFRA—a statute specifically enacted by Congress, as representative of the public ... — would be adverse to the public interest"); *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) ("[T]he INS cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations."); *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) ("The public interest benefits from an injunction that ensures that individuals are not

deprived of their liberty and held in immigration detention because of bonds established by a likely unconstitutional process."); *Andujo-Andujo v. Longshore*, 2014 WL 2781163 at *6 (D. Colo. June 19, 2014) (reasoning that ICE's "compliance with the law serves the public interest"). Therefore, Respondents cannot allege harm arising from having to comply with the Constitution, INA, or regulations. If a TRO or preliminary injunction is not entered, Respondents would effectively be granted permission to detain, and possibly deport, Mr. Liberato in violation of law.

Further, any burden imposed by requiring Respondents to refrain from unlawfully detaining and unlawfully deporting Mr. Liberato is both *de minimis* and clearly outweighed by the substantial harm Mr. Liberato will suffer if he is continued to be detained or is deported to a third country without notice. *See Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) ("Society's interest lies on the side of affording fair procedures to all persons, even though the expenditure of governmental funds is required."). Courts granting temporary restraining orders in immigration habeas cases have routinely found that these factors weigh in a petitioner's favor. *See, e.g., Arostegui-Maldonado,* 2025 WL 2280357, at *10 ("True, there may be a generalized public interest in the enforcement of the country's immigration laws. But that cannot mean that Respondents enjoy an unfettered right to detain noncitizens in contravention with their Fifth Amendment rights."); *Pham v. Becerra,* No. 23-CV-01288-CRB, 2023 WL 2744397, at *7 (N.D. Cal. Mar. 31, 2023) (noting the administrative burden of a bond hearing is minimal when weighed against a petitioner's severe hardships); *Xuyue Zhang v. Barr*, 612 F. Supp. 3d 1005, 1017 (C.D. Cal. 2020) ("the public interest benefits from a preliminary injunction that expedites a bond hearing to ensure that no individual is detained in violation of the Due Process Clause."). Therefore, the balance of equities and public interest both overwhelmingly favor granting a TRO

or preliminary injunction requiring Mr. Liberato to be released.

D. In the Alternative, Mr. Liberato Requests that Respondents be Enjoined from Transferring Him Out of This District While the Case is Pending.

If the Court does not order Mr. Liberato immediately released, Mr. Liberato respectfully requests that, at a minimum, that this Court enjoin Respondents from transferring him outside the District of Colorado during the pendency of his underlying habeas case. In a recent case in this district, the respondents transferred the petitioner to an ICE facility in Arizona one day before she was able to get her habeas petition on file with this Court, thus frustrating this Court's exercise of jurisdiction. *See Fuentes v. Choate*, 2024 WL 2978285 (D. Colo. June 13, 2024). To preserve this Court's jurisdiction over this matter, facilitate judicial review of Mr. Liberato's constitutional and statutory claims, and preserve judicial resources by avoiding the necessity of refiling this case elsewhere, Mr. Liberato respectfully asks this Court to enjoin his transfer outside this district during the pendency of this case.

CONCLUSION

For all the above reasons, this Court should find that Mr. Liberato warrants a TRO or preliminary injunction ordering that Respondents release him from unlawful detention.

Dated: May 12, 2026

/s/ Kathleen M. Glynn
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CERTIFICATE OF SERVICE

I, Kathleen M. Glynn, hereby certify that on May 12, 2026, I filed the foregoing with the Clerk of Court using the CM/ECF system. I, Kathleen M. Glynn, hereby certify that I have mailed via certified USPS a hard copy of the document to the individuals identified below pursuant to Fed. R. Civ. P. 4 via certified mail on May 12, 2026.

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