UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

DENIS PINEDA TIJERINO,

Petitioner-Plaintiff,

v.

JUAN BALTAZAR, in his official capacity as warden of the Aurora Contract Detention Facility,

ROBERT HAGAN, in his official capacity as Field Office Director, Denver, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security;

KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security,

TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement,

PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents-Defendants.

Case No. 1:26-cv-907

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; Request for Declaratory and Injunctive Relief

I. INTRODUCTION

Petitioner-Plaintiff, Denis Pineda Tijerino, 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's ("DHS"), U.S. Immigration and Customs Enforcement ("ICE") from continuing his unlawful detention. Respondents oppose the motion.

Mr. Pineda Tijerino is a 38-year-old native and citizen of Nicaragua who entered the United States on or about October 20, 2023, fleeing political persecution for protesting the repressive Ortega government. He surrendered to immigration authorities near Eagle Pass, Texas and was found to have a credible fear of persecution or torture if returned to Nicaragua. ICE thereafter released him on an order of release on recognizance. He then moved to Longmont, CO and began working as an auto mechanic. Under the conditions of his release, he was required to check-in monthly with ICE in person and to be available for home visits and phone calls. Mr. Pineda Tijerino complied with these conditions in all respects and timely submitted his asylum application.

On or about January 20, 2026, Mr. Pineda Tijerino appeared for what he thought was a routine ICE check-in at the ICE substation in Frederick, CO. Instead, he was arrested and thereafter detained at the GEO Aurora ICE Processing Center. As he had not violated the terms of his OSUP, he was unable to understand the reason for his arrest, nor was he given an opportunity to contest his detention. Compounding matters, Mr. Pineda Tijerino had driven his car to the substation, and all his immigration paperwork, including his notice to appear, order of supervision, credible fear interview transcript, and asylum application, were in the car. Over a month later, he still does not know what has happened to his car and is not possession of any of his immigration paperwork.

Mr. Pineda Tijerino's detention is unlawful and release is necessary because: (1) his detention violates 8 U.S.C. § 1226(b) and its implementing regulations; (2) His detention violates the Administrative Procedure Act insofar as it constitutes an abuse of discretion, is not in

accordance with the law, and is in excess of statutory authority; and (3) ICE detained Mr. Pineda Tijerino without notice or opportunity to be heard, based on the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules and procedural due process.

Mr. Pineda Tijerino meets the standard for a temporary restraining order. He will suffer immediate and irreparable harm absent an order from this Court enjoining the government from continuing his redetention and deporting him. 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. Pineda Tijerino's favor.

II. STATEMENT OF FACTS AND CASE

1. Petitioner Denis Pineda Tijerino is a 38 year-old native and citizen of Nicaragua who entered the United States on or about October 20, 2023, fleeing political persecution by the repressive Ortega government. Exh. 1 (Form I-862, Notice to Appear). Petitioner was targeted because of his opposition to the government; paramilitaries supporting the Ortega regime attacked him with machetes, mutilating his ear. The regime thereafter imprisoned him where he was subject to further torture including beatings, solitary confinement, and being sprayed with a high pressure hose. After getting out of prison, he fled to Costa Rica; however, he was only able to secure temporary permission there, and left the country after about four years, making his way to the United States.

Petitioner entered the United States without inspection by crossing the Rio Grande near Eagle Pass, TX, on or about October 20, 2023, and surrendering to immigration authorities. He was given a credible fear interview and was found not to have a credible fear of persecution or torture if returned to Nicaragua. However, upon review of that determination, an immigration judge vacated the asylum officer's decision and the ensuing removal order, finding that Petitioner had in fact established a credible fear of persecution or torture. Exh. 2 (form I-213). As such, on November 20, 2023,

Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a. *See* Exh. 1. Respondents alleged that Petitioner was inadmissible to the United States under 8 U.S.C. § 1182(a)(6)(A)(i) and commanded that Petitioner appear for a hearing in immigration court. *Id.*

On information and belief, based on the individualized facts of Petitioner's case, Respondent DHS released Petitioner from its custody on an Order of Release on Recognizance under 8 U.S.C. § 1226(a). Petitioner then moved to Longmont, CO and began working as an auto mechanic. Under the conditions of release, he was required to check-in monthly with ICE in person and to be available for home visits and phone calls. Petitioner complied with his order of release in all respects and timely submitted his asylum application on August 30, 2024. On information and belief, he has no criminal history.

On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

On information and belief, on or about January 20, 2026, Petitioner appeared for what he thought was a routine ICE check-in at the ICE substation in Frederick, CO. Instead, he was arrested and thereafter detained at the GEO Aurora ICE Processing Center. *See* Exh. 3 (Form I-830E, Notice to EOIR: Change of Alien Address). As he had not violated the terms of his release, he was unable to understand the reason for his arrest, nor was he given an opportunity to contest his detention. Compounding matters, Petitioner had driven his car to the substation, and all his immigration

paperwork, including his notice to appear, order of supervision, credible fear interview transcript, and asylum application, were in the car.

Over a month later, he still does not know what has happened to his car. He still lacks many of his immigration documents and was only able to obtain others when undersigned counsel requested them from the court—a process which itself took two weeks.[1]

Petitioner appeared for several court dates before an immigration judge in Aurora. His most recent court date was on February 17, 2026. At this hearing, he explained to the judge that he had no documents because they were all in his car at the time ICE arrested him at his check-in. Neither the court nor ICE counsel provided him with any documents.

Petitioner's next hearing in immigration court is on March 23, 2026 but he is unclear about what happened at the prior hearing or what the next steps in his case are. He believes the immigration judge indicated that she would order his deportation, but he does not know what the purpose of his next hearing is or how to prepare for it.

On information and belief, Respondents have detained Petitioner regardless of the individual facts and circumstances of his case. On information and belief, Respondents are using the immigration

[1] Undersigned counsel notes that he does not represent Mr. Pineda Tijerino before the immigration court. Counsel is the sole legal services employee at a small nonprofit in Longmont, CO; to support as many detained individuals as possible, to the greatest extent possible, in most cases counsel provides support via consultations and limited scope representation rather than formally entering an appearance. The EOIR provides for limited scope representation on applications, briefs, motions, and other documents through the submission of a form EOIR-61, as well as for representation that is limited to bond proceedings. Moreover, EOIR provides for the release of information to third-parties such as attorneys who may be providing consultations or limited-scope representation via the submission of a form EOIR-59. This information is relevant to the instant petition because undersigned counsel submitted an EOIR-59 on February 12, 2026 and repeatedly followed-up, but did not receive any documents until February 25, 2026. Moreover, those documents do not include a copy of the credible fear interview, immigration judge order vacating the negative finding, or order of release.

Additionally, Petitioner does not understand what happened at his prior hearing on February 17, 2026, and does not know what is expected of him at his next hearing on March 23, 2026.

Finally, after a review of Petitioner's asylum application, undersigned counsel discovered that it was prepared by a *notario* who charged Petitioner $700, committed numerous blatant errors, and did not include *any* of Petitioner's account in the application. Petitioner was not aware of this until undersigned counsel brought it to his detention.

detention system, including extra-territorial transfer and detention, as a means to punish individuals for asserting rights under the Refugee Act.

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 temporary restraining order or 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. Pineda Tijerino satisfies all three factors for a temporary restraining order and preliminary injunction. First, he is likely to suffer irreparable harm. As argued below, his unlawful detention itself constitutes such harm. This is particularly true when he is an asylum seeker who has suffered extremely traumatizing past persecution and torture for his political activities. Second, he 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 his 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. The public has an extremely strong interest in a government that does not arbitrarily arrest and detain individuals that are subject to its jurisdiction.

A. Mr. Pineda Tijerino will Suffer Irreparable Harm Absent Injunctive Relief

Mr. Pineda Tijerino will suffer irreparable harm if his unlawful detention continues. First, each day Mr. Pineda Tijerino 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. Pineda Tijerino 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. Pineda Tijerino 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). Moreover, Mr. Pineda Tijerino is an asylum seeker who has suffered extremely traumatic past harm for his political beliefs in

Nicaragua. Paramilitary groups supporting the Ortega regime mutilated his ear with a machete and then imprisoned him, where he was subject to additional torture, including solitary confinement, beatings, and being sprayed with a high pressure hose. The arbitrary arrest and detainment of an asylum-seeker who has suffered such extreme trauma manifestly compounds both such trauma and the inherent harm of detention itself.

Relatedly, 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).[2]

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

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

1. Violation of the APA—Abuse of Discretion and in Excess of Statutory Authority

First, Mr. Pineda Tijerino is likely to succeed on his APA claims because his detainment was arbitrary and occurred in violation of the INA and its implementing regulations, specifically 8 U.S.C. § 1226(b) & 8 C.F.R. § 1236.1(c)(9). Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A). An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem,

[2] *Available at* https://www.oig.dhs.gov/sites/default/files/assets/2024-09/OIG-24-59-Sep24.pdf (last accessed March 4, 2026).

offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife,* 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co*., 463 U.S. 29, 43 (1983)).

To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted). Here, by categorically revoking Petitioner's release and seeking to transfer him away from the district without consideration of his individualized facts and circumstances, Respondents have violated the APA.

By detaining the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determinations that support the revocation of his release from custody. Respondents have already considered Petitioner's facts and circumstances and determined that he was not a flight risk or danger to the community. There have been no changes to the facts that justify this revocation of his release on his own recognizance. The fact that Petitioner has already been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider him, on an individualized basis, to be a danger to the community or a flight risk.

Here, there is no evidence that an authorized official under 8 C.F.R. § 1236.1(c)(9) revoked Petitioner's release order, let alone that such official meaningfully exercised their discretion. Additionally, Mr. Pineda Tijerino was never given notice of the reasons for revocation, an interview, or any opportunity whatsoever to respond. The revocation of his order of supervision therefore violated the statute and regulations and occurred without any consideration of the serious constitutional concerns discussed above. Such agency action should

be set aside as contrary to law and as arbitrary or capricious.

The Supreme Court has recognized that a federal agency's failure to comply with its own regulations generally renders the associated agency action unlawful. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). As previously discussed, Respondents violated agency regulations governing who may properly revoke an order of supervision and the findings that must be made prior to revocation. "As a result, this Court cannot conclude that [the revoking officer] had the authority to revoke release," and Petitioner "is entitled to release on that basis alone." *Ceesay*, 781 F. Supp. 3d at 162 (citing *Rombot*, 296 F. Supp. 3d at 386–89); *see also, e.g.*, *Zhu v. Genalo*, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21, 2025) (releasing habeas petitioner where revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so).

2. Violation of Procedural Due Process

Mr. Pineda Tijerino's detention is also unlawful because it violates 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.

The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *See Zadvydas*, 533 U.S. at 678, 690–92 (discussing constitutional limitations on civil detention). "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a non-citizen's order of supervision. *Mathews*

2. *v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified); *Guillermo M. R. v. Kaiser*, --- F.Supp.3d ---, 2025 WL 1983677, at *7 n.4 (N.D. Cal. July 17, 2025) (applying the *Mathews* Test where ICE intended to redetain petitioner, who was released on an OSUP, and finding that procedural due process required a hearing before a neutral adjudicator given the importance of his liberty interest). Courts have repeatedly found that the Government must provide due process to noncitizens before revoking supervised release and re-detaining them. *See, e.g., Gomez v. Wamsley,* CASE NO. 2:25-cv-02642-JNW, 2026 U.S. Dist. LEXIS 22488 (W.D. Wa. Feb. 3, 2026), at 6 (collecting cases).

Mr. Pineda Tijerino's detention by ICE on January 20, 2026, without any notice or opportunity to respond, violates procedural due process. The first factor, the private interest at issue, favors Mr. Pineda Tijerino. "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 [of the Fifth Amendment] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Moreover, as described above, Mr. Pineda Tijerino's private interest is particularly profound given the grave past harm that he has suffered.

The second factor, the risk of erroneous deprivation, strongly favors Mr. Pineda Tijerino. *Mathews* asks the court to consider "the procedures used"—yet here, ICE arrested Mr. Pineda Tijerino and revoked his release order without any procedures at all. Moreover, regarding the probable value of additional procedures, this Court should decline to rubber-stamp any nominal *post hoc* efforts by ICE to justify their prior unlawful action through a nominal evaluation of individualized facts and circumstances.

The third factor, the government's interest, also favors Mr. Pineda Tijerino. When the government ignores law that ensures notice and an opportunity to respond to a person at risk of

revocation of an order of release, it is more likely to waste limited financial and administrative resources on unnecessary detention. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with the law, requiring Respondents to instead provide notice and a meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and administrative burdens on the government.

As with the APA analysis, Mr. Pineda Tijerino's procedural due process claim amply satisfies the *Mathews* factors. The private interest at stake, erroneous deprivation of liberty in and of itself, has long been considered a fundamental private interest against which all others are weighed. The risk of erroneous deprivation of that interest here is massive and has already occurred, because Mr. Pineda Tijerino was not provided with any meaningful process to contest his detention, and—equally important—no material facts exist justifying his detention. Finally, the government's interest can be satisfied simply by continuing with Mr. Pineda Tijerino's order of release, as his past compliance with that order amply demonstrates. Moreover, the fiscal burden on the government is actually lessened when it does not need to house, feed, and provide Mr. Pineda Tijerino with medical care.

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

The balance of hardships and the public interest both tip strongly in Mr. Pineda Tijerino'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, the government cannot allege harm arising from having to comply with the Constitution, INA, or regulations. If a TRO or preliminary injunction is not entered, the government would effectively be granted permission to detain and deport Mr. Pineda Tijerino in violation of law.

Further, any burden imposed by requiring DHS to refrain from detaining Mr. Pineda Tijerino is both *de minimis* and clearly outweighed by the substantial harm he will suffer if he continued to be detained. *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."). This is especially true where, as here, Mr. Pineda Tijerino demonstrated compliance with the release order over a period of years. There is no meaningful burden imposed on DHS when they themselves have already demonstrated, through the successful implementation of alternatives to detention in this case, that a sufficient alternative to detention exists.

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. Pineda Tijerino to be released.

D. In the Alternative, Mr. Pineda Tijerino Requests That the Government be Enjoined From Transferring Him Out of District While His Petition is in Process

If the Court does not order Mr. Pineda Tijerino immediately released, he respectfully requests that, at a minimum, 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. Pineda Tijerino's significant constitutional and statutory claims, and preserve judicial resources by avoiding the necessity of refiling this case elsewhere, Mr. Pineda Tijerino 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. Pineda Tijerino warrants a TRO or preliminary injunction ordering that Respondents release him from unlawful detention.

Dated: March 5, 2026

/s/ Charles J Vernon
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CERTIFICATE OF SERVICE

I, Charles J Vernon, hereby certify that on March 5, 2026, I filed the foregoing with the Clerk of Court using the CM/ECF system, pursuant to Fed. R. Civ. P. 5 and provided a courtesy copy to:

Kevin.Traskos@usdoj.gov
Joann.Stark@usdoj.gov

/s/ Charles J Vernon