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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Arturo Andres Delgadillo Ramirez, Petitioner, vs. Warden, Florence Service Processing Center; Christopher McGregor, Acting Phoenix Field Office Director, U.S. Immigration and Customs Enforcement; Markwayne Mullin, Secretary of Homeland Security; and Todd Blanche, Acting Attorney General of the United States, Respondents.	No. **Motion for Preliminary Injunction or Bail Pending Adjudication of Habeas Corpus Petition**

Petitioner Arturo Andres Delgadillo Ramirez is a citizen of Mexico who is challenging his immigration detention. Simultaneously with this motion, Mr. Delgadillo is filing a petition for a writ of habeas corpus under 28 U.S.C. § 2241, and a motion for appointment of counsel. In his petition, Mr. Delgadillo asserts that his summary arrest and continuing detention violate the Administrative Procedure Act, the governing regulation, and the Fifth Amendment's Due Process Clause. Mr. Delgadillo respectfully

asks the Court to order his immediate release from custody via a preliminary injunction or a grant of bail, while this case is litigated.

I. Preliminary Injunction

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Planned Parenthood Great Northwest v. Labrador*, 122 F.4th 825, 843 (9th Cir. 2024) (internal quotation marks omitted). "Alternatively, a preliminary injunction may issue where serious questions going to the merits were raised and the balance of hardships tips sharply in plaintiff's favor if the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest." *Id.* at 844 (internal quotation marks omitted). Mr. Delgadillo can make these showings here.

First, Mr. Delgadillo is likely to succeed on the merits of his habeas claims. As reflected in the petition for habeas corpus filed herewith, Respondents' arrest and detention of him, effectively amounting to a summary revocation of his status under the Deferred Action for Childhood Arrivals (DACA) program, violated the Administrative Procedure Act, the governing regulation, and the Fifth Amendment's Due Process Clause. At the very least, he has raised "serious questions" as to the legality of his detention. *Id.*

Second, Mr. Delgadillo's continued illegal confinement is quintessentially irreparable harm, because "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)).

Third, the balance of equities and public interest factors "merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009). The risk of harm to Mr. Delgadillo from continued unlawful detention far outweighs the government's interest in continuing to detain him, and it is "always in the public interest

to prevent the violation of a party's constitutional rights." *Melendres*, 695 F.3d at 1002 (internal quotation marks omitted).

In sum, the entry of a preliminary injunction is appropriate.

II. Bail

The Ninth Circuit has not definitively decided whether a district court may order a habeas corpus petitioner released on bail pending adjudication of his habeas petition, *In re Roe*, 257 F.3d 1077, 1080 (9th Cir. 2001), but many of its sister circuits have recognized that district courts have this authority. *See, e.g.*, *Mapp v. Reno*, 241 F.3d 221, 226 (2d Cir. 2001); *Landano v. Rafferty*, 970 F.2d 1230, 1239 (3d Cir. 1992); *Dotson v. Clark*, 900 F.2d 77, 79 (6th Cir. 1990); *Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986); *Cherek v. United States*, 767 F.2d 335, 337 (7th Cir. 1985); *Pfaff v. Wells*, 648 F.2d 689, 693 (10th Cir. 1981); *Calley v. Callaway*, 496 F.2d 701, 702 (5th Cir. 1974); *Woodcock v. Donnelly*, 470 F.2d 93, 94 (1st Cir. 1972); *Baker v. Sard*, 420 F.2d 1342, 1343–44 (D.C. Cir. 1969).

The Ninth Circuit has, however, indicated that an exercise of this authority would call for an inquiry into whether the petitioner has demonstrated that his case involves "special circumstances or a high probability of success." *Roe*, 257 F.3d at 1080 (internal quotation marks omitted). The court has also stated that a habeas petitioner's articulation of "substantial claims" carrying a "high probability of success" constitutes a "special circumstance." *Salerno v. United States*, 878 F.2d 317, 317 (9th Cir. 1989). It follows that bail should be granted where such claims are raised. As noted above, Mr. Delgadillo's habeas corpus petition filed herewith raises such claims.

Mr. Delgadillo's release on bail pending the adjudication of his habeas corpus petition is therefore appropriate.

III. Conclusion

For these reasons, Mr. Delgadillo respectfully asks the Court to grant a preliminary injunction or bail and order his immediate release from custody pending the full adjudication of this case.

Respectfully submitted:

April 3, 2026.

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