UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOSE ELIEZER MARTINEZ-ANDINO,

Plaintiff,

v.

MARKWAYNE MULLIN,
Secretary of Homeland Security, et al.,

Defendants.

Civil Action No. 26-1208 (BAH)

MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION

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Defendants the Department of Homeland Security; Acting Attorney General Todd Blanche; Secretary Markwayne Mullin in his official capacity as Secretary of Homeland Security; David Venturella, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement ("ICE"); Marcos Charles, in his official capacity as Acting Executive Associate Director of ICE Enforcement and Removal Operations; Rodney S. Scott, in his official capacity as Commissioner of U.S. Customs and Border Protection; and Rosario "Pete" Vasquez, in his official capacity as Chief, U.S. Border Patrol (collectively "Defendants"), respectfully file this opposition to Plaintiff Jose Eliezer Martinez-Andino's motion for a preliminary injunction ("Pl.'s Mot.," ECF No. 37).

As discussed in the parties' July 8, 2026, Joint Status Report, both parties incorporate their briefing surrounding Plaintiff's second motion for a temporary restraining order (ECF Nos. 8, 23, 24). To the extent the Court wishes the parties to republish those arguments in response to Plaintiff's motion for a preliminary injunction, Defendant would be willing to do so.

PROCEDURAL BACKGROUND

On June 23, 2026, the Court granted in part and denied in part Defendant's motion to dismiss and granted in part and denied in part Plaintiff's Motion for a Temporary Restraining Order. *See* Order, ECF No. 26. Specifically, the Court dismissed Plaintiff's claims against Acting Attorney General Todd Blanche, Plaintiff's Administrative Procedure Act claim (Count II of the Amended Complaint), and Plaintiff's *Accardi* claim (Count IV of the Amended Compliant) to the extent it relied upon 8 C.F.R. § 292.5. *Id.*

The Court concluded that Plaintiff's Fifth Amendment claim (Count III of the Amended Complaint) was not moot and was redressable because "the remedies usually offered when someone is deprived of counsel in circumstances entitling them to counsel or is otherwise deprived of due process: reversal of the detrimental action against them with the opportunity to receive the process they were due." Mem. Op. at 18–19.

The Court concluded that Plaintiff's *Accardi* claim survived because, even though Plaintiff did not identify any "particular section of [ICE's Performance-Based National Detention Standards (PBNDS)] on which he relies," the Court combed through the Standards and identified certain sections of the PBNDS that the Court believed could potentially state a claim. *See* Mem. Op. at 25.

The Court granted Plaintiff's second motion for a temporary restraining order in part. The Court noted that Defendants did not challenge Plaintiff's assertions, after signing one document in Spanish and having another document read to him in Spanish, that he did not understand the documents, that he felt forced to sign, and that unidentified individuals at an unnamed agency did not let him speak to counsel and did not put him in front of a judge. *See* Mem. Op. at 35–36. The Court then looked to a series of cases, mostly outside this District, that required defendants to facilitate the return of removed individuals under various circumstances. *See id.* at 36–39. The Court concluded that Plaintiff had shown irreparable harm because he was at risk of harm in Honduras and was separated from his child. *See id.* at 42. Finally, the Court weighed that alleged irreparable harm against the Defendants' failure to make "arguments about the equities or the public interest," and concluded that the equities were in favor of injunctive relief. *See id.* at 42–43.

LEGAL STANDARDS

A preliminary injunction is "an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). To obtain such emergency relief, the movant must show that (1) "he is likely to succeed on the merits"; (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." *Id.* The latter two factors "merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009). The Supreme Court has held that at least the second factor—irreparable harm—must be likely and "not just a possibility." *Winter*, 555 U.S. at 20.

The moving party bears the burden of persuasion and must demonstrate "by a clear showing" that the requested relief is warranted. *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 297 (D.C. Cir. 2006). A "court must be persuaded as to all four factors." *Scottsdale Capital Advisors Corp. v. Fin. Indus. Regul. Auth. Inc.*, 678 F. Supp. 3d 88, 100 (D.D.C. 2023).

Thus, if the Court concludes that a claim fails as a matter of law—on a point of jurisdiction or merits—then a preliminary injunction is inappropriate. *See U.S. Ass'n of Reptile Keepers, Inc. v. Zinke*, 852 F.3d 1131, 1135 (D.C. Cir. 2017). Because preliminary injunctions are not "awarded as of right," but "[a]s a matter of equitable discretion, a preliminary injunction does not [even] follow as a matter of course from a plaintiff's showing of a likelihood of success on the merits." *Benisek v. Lamone*, 585 U.S. 155, 158 (2018). Even if the movant can show a strong likelihood of success on the merits but fails to make a sufficient showing of irreparable injury, the Court should deny the request for preliminary injunctive relief without considering the other factors. *CityFed Fin. Corp. v. Office of Thrift Supervision*, 58 F.3d 738, 747 (D.C. Cir. 1995).

ARGUMENT

I. Plaintiff's Motion for a Preliminary Injunction Should Be Denied.

A. Plaintiff Has Failed To Show that He Is Likely To Succeed on the Merits.

1. Plaintiff's Own Writing Contradicts His Fifth Amendment Claim.

In the Court's Memorandum Opinion, the Court wrote that "Defendants have made no effort substantively to refute either the legal or factual grounds for plaintiff's Fifth Amendment claim." Mem. Opp. at 34–35; *see also id.* at 2 (stating that "defendants neither proffer nor supply any evidentiary response" to plaintiff's allegations); *id.* at 20, 29–30 (similar).

Defendants believe that putting the burden on them to "refute" Plaintiff's post hoc narrative is inappropriate. *See, e.g.*, *Workman v. Bissessar*, 275 F. Supp. 3d 263, 267 (D.D.C. 2017) ("[A] party seeking a preliminary injunction bears the burden of showing . . . 'that [he] is likely to succeed on the merits[.]'" (quoting *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008))).

With respect to the facts, Plaintiff's own signature contradicts his post-removal story. Plaintiff signed a document in his native language that clearly set forth that he sought a voluntary departure. Def.'s Opp'n 2d Mot. TRO Ex. A (ECF No. 22-1); *see also id.* Ex. B (ECF No. 22-2); Mem. Op. at 4 n.3 (describing forms). He now contends that he never meant to agree to the voluntary departure, and that at one or more unspecified times between March 31 and April 9 he indicated as much. *See* Pl.'s Decl., ECF No. 13-1.[1] Short of invasive surveillance, it is hard to see how Defendants could prove that Plaintiff never asserted he was afraid to return to Honduras or that he wanted to void his voluntary departure agreement. But that does not mean that Plaintiff's story is uncontested. The fact remains that his story is rebutted by the presence of his signature of documents that are written in Spanish or were read to him in Spanish that indicate his voluntary agreement to waive his rights and be removed.

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[1] Plaintiff and the Memorandum Opinion suggest that Plaintiff's Declarations are entitled to more weight because it is an "Aff[advit]" or a "sworn declaration." Pl.'s Mot. at 6 ("Plaintiff has already presented significant probative evidence in the form of sworn statements from Plaintiff[.]"); Mem. Op. at 1, 7, 20, 29. In fact, neither Plaintiff's earlier declaration nor the declaration submitted with the Motion for a Preliminary Injunction include an oath or a jurat. *See* Pl.'s Decl., ECF No. 13-1; Pl.'s Decl., ECF No. 37-2. The translator of the second declaration refers to it as a "[l]etter." Pl.'s Decl., ECF No. 37-2 at 4.

Courts have indicated that the nature of the circumstances and specific forms signed by Plaintiff are sufficient to show that a noncitizen has made a voluntary departure was knowing, considered, and intelligent. *See, e.g.*, *Reyes-Sanchez v. Holder*, 646 F.3d 493, 498 (7th Cir. 2011) (rejecting noncitizen's argument that Form I-826 given to the noncitizen in Spanish did not compel the voluntary departure); *cf. Flores-Flores v. Holder*, 441 F. App'x 418, 419 (9th Cir. 2011) (explaining that in *Ibarra-Flores v. Gonzales*, 439 F.3d 614 (9th Cir. 2006), there was "insufficient evidence that alien knowingly and voluntarily accepted voluntary departure where record did not contain the Form I-826"); *Barrera-Quintero v. Holder*, 699 F.3d 1239, 1246–47 (10th Cir. 2012) (question about voluntariness of signature on Form I-826 was left to the Board of Immigration Appeals); *Rodriguez-Labato v. Sessions*, 868 F.3d 690, 694 (8th Cir. 2017) ("A decision regarding voluntary departure must be communicated on a Form I-210 and may not be granted unless the alien requests the departure and agrees to its terms and conditions." (citing 8 C.F.R. § 240.25(c)); *Péréz-Péréz v. Hoover*, Civ. A. No. 26-1101, 2026 WL 1728784, at *1–2 (N.D. Ohio June 16, 2026) (plaintiff's challenge to conditions of immigration confinement moot in light of departure pursuant to a signed I-210).

Thus, Plaintiff's unsworn post hoc declaration must be weighed against Plaintiff's signature, date, photograph and initials on his Form I-826 written in his native language, Ex. A, and Plaintiff's two signatures and dates on his Form I-210 interpreted into his preferred language, Ex. B. The Court should review those forms through the lens of the presumption of regularity. *See, e.g.*, *Paracha v. Trump*, 453 F. Supp. 3d 168, 185–88 (D.D.C. 2020) ("Mr. Paracha has not overcome the presumption of regularity to which the government's records are entitled. He has failed to provide clear evidence that the records are inauthentic or do not accurately capture the substance of the statements he made to interrogators.").

"Voluntary departure is an agreed-upon exchange of benefits, much like a settlement agreement." *Patel v. Att'y Gen.*, 619 F.3d 230, 234 (3d Cir. 2010) (quoting *Dada v. Mukasey*, 554 U.S. 1, 19 (2008)). In a sense, this is no different from a contract case in which one party's litigation narrative about subject expectations contradicts an unambiguous writing. *See, e.g.*, *Regan v. Spicer HB, LLC*, 134 F. Supp. 3d 21, 32 (D.D.C. 2015) ("[E]xtrinsic or parol evidence which tends to contradict, vary, add to, or subtract from the terms of a written contract must be excluded." (quoting *Segal Wholesale, Inc. v. United Drug Serv.*, 933 A.2d 780, 783 (D.C. 2007))).

Plaintiff also relies on a narrative created about his counsel. *See* Pl.'s Mot. at 6 (relying on the "sworn statement[] from . . . Attorney Allison Chan"). Specifically, Plaintiff was detained on March 18, 2026, and spoke with his current counsel on March 23, 2026. Am. Compl. ¶ 25. Counsel was not "hired to represent Plaintiff and assist with his release from . . .[c]ustody" until March 31, 2026. Am. Compl. ¶ 27. In her affidavit, counsel testifies to calling numerous DHS facilities, including many with little apparent relationship to Plaintiff's possible location including "the CBP office at the Raleigh-Durham International Airport" and "ICE Headquarters." Chan Aff. ¶ 10; Am. Compl. ¶¶ 29 (testifying to calling various facilities). This does not show Defendants attempted to keep Plaintiff from counsel.

Moreover, Plaintiff's further factual argument in his motion for preliminary injunction appears to be erroneous. Plaintiff claims that he agreed to the voluntary departure because he was "isolated" and "subject[] . . . to degrading conditions"—specifically, Plaintiff claims to have been "kept in inhumane conditions—denied access to showers and clean water for nearly two weeks." Pl.'s Mot. at 1, 6. Even taking all of Plaintiff's testimony as true, that misstates the sequence of events. Plaintiff was apprehended on March 18, 2026, Am. Compl. ¶ 24, and signed the relevant documents on March 18 and March 19, 2026, Def.'s Opp'n 2d Mot. TRO Ex. A (ECF No. 22-1);

id. Ex. B (ECF No. 22-2); Mem. Op. at 11–12 ("[T]hese forms indicate that between about 10:08 AM and 10:40 AM on March 19, 2026, the morning after plaintiff was picked up . . . , plaintiff had executed DHS forms volunteering to leave the United States."). Plaintiff himself alleges that he spoke to counsel and his family after signing the documents. *See* Am. Compl. ¶ 25. He was not, as Plaintiff contends, isolated or kept from clean water for nearly two weeks when he agreed to voluntarily depart.

2. Plaintiffs' Fifth Amendment Claim Is an Attempt to End Run Existing Processes.

The Memorandum Opinion states, "Defendants do not dispute that plaintiff had a Fifth Amendment due process right to retain and speak with counsel of his choice while detained or to void his signed documents prior to removal." Mem. Op. at 34–35. The due process rights to counsel in immigration proceedings generally flow from statutes, *accord* Pl.'s Mot. at 6 ("Defendants violated the core tenets of the Fifth Amendment's Due Process Clause and the Immigration and Nationality Act ('INA')."); *cf. Garrow v. Gramm*, 856 F.2d 203, 206–07 (D.C. Cir. 1988) (statutes can create due process rights). Specifically, in immigration proceedings, the contours of an individual's right to counsel is defined by statute: "In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose." 8 U.S.C. § 1362; *see also* 8 U.S.C. § 1229a(b)(4); *Priva v. Att'y Gen.*, 34 F.4th 946, 953–54 (11th Cir. 2022) (looking to INA to determine the extent of the right to counsel); *Aguilar v. Immigr. & Customs Enf't*, 510 F.3d 1, 13 (1st Cir. 2007) (indicating that a noncitizen's due process rights are defined by the INA).[2] "By any realistic measure, the alien's right to counsel is part and parcel of the removal proceeding itself." *Aguilar*, 510 F.3d at 13.

Because this right to counsel during removal proceedings is tied to removal, plaintiffs generally must bring claim about denial of the right to counsel through the petition for review process in the court of appeals. *See Nat'l Immigr. Proj. of Nat'l Lawyers Guild v. Exec. Off. of Immigr. Review*, 456 F. Supp. 3d 16, 29 (D.D.C. 2020); *cf. S. Poverty L. Ctr. v. Dep't of Homeland Sec.*, Civ. A. No. 18-0760 (CKK), 2020 WL 3265533, at *17 (D.D.C. June 17, 2020) (distinguishing access to counsel cases). Here, Plaintiff failed to bring his claim as a petition for review or in the immigration court, even though counsel believed they were blocked from contact with Plaintiff for more than a week. Plaintiff should not be allowed to perform a post hoc end run around the system designed to challenge access to counsel failures.

3. <u>Plaintiff Has Not Shown that the Facilitation of His Return Is the Proper Remedy for an Alleged Fifth Amendment Violation.</u>

With respect to Plaintiff's second motion for a temporary restraining order, Defendants largely argued that the Court lacked jurisdiction to order Defendants to facilitate Plaintiff's return. *See* Def.'s Mot. at 23–28, ECF No. 23; *accord Dep't of State v. Muñoz*, 602 U.S. 899 (2024) ("For more than a century, this Court has recognized that the admission and exclusion of foreign nationals is a fundamental sovereign attribute exercised by the Government's political departments largely immune from judicial control." (quoting *Trump v. Hawaii*, 585 U.S. 667, 702 (2018))). As with the other arguments in the motion to dismiss and opposition to Plaintiff's second motion for

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[2] Plaintiff asserts that "[i]t is well-established that interfering with an established attorney-client relationship in the immigration context violates due process." Pl.'s Mot. at 6 (citing *United States v. Raya-Vaca*, 771 F.3d 1195, 1199, 1205 (9th Cir. 2014)). *Raya-Vaca* did not pertain to "interfering with an established attorney-client relationship." Instead, it dealt with allegations of a violation of 8 C.F.R. § 235.3(b)(2)(i).

a temporary restraining order (ECF No. 22), Defendants stand behind this argument. The Court concluded that it did have jurisdiction based a series of cases cited at Memorandum Opinion at 18–19 and 36–39.

Defendants respectfully contend that those cases are distinguishable. On pages eighteen and nineteen of the Memorandum Opinion, the Court cited three cases for the proposition that "the remedies usually offered when someone is deprived of counsel in circumstances entitling them to counsel or is otherwise deprived of due process [are] reversal of the detrimental action against them with the opportunity to receive the process they were due." Mem. Op. at 18–19. The Court cited two criminal cases, *see United States v. Gonzalez-Lopez*, 548 U.S. 140 (2006), and *Powell v. Alabama*, 287 U.S. 45 (1932), which do not clearly bear on the immigration process. The immigration case that the Court cited was *Nken*, 556 U.S. at 418, in which the Supreme Court assessed whether it would be appropriate to stay a deportation order—not to return someone who had left the country.

On pages thirty-six through thirty-nine, the Court cites a series of more recent cases regarding the facilitation of the return of an immigrant. Defendants contend these also are inapposite. As Defendants argued in response to the second motion for a temporary restraining order, the *Abrego Garcia* decisions (cited at Mem. Op. at 36) were unique cases based on Defendant's confession of error. *See Abrego Garcia v. Noem*, 777 F. Supp. 3d 501, 507 & n.3 (D. Md. 2025)); *D.A. v. Noem*, 800 F. Supp. 3d 43, 52 (D.D.C. 2025). That does not exist here.

Notably, some of the other cases cited rely on a broad reading of *Abrego Garcia* and none of the other cases involve voluntary departures. The difference between a removal and a voluntary departure is important. A key difference between voluntary departure and a removal is that "by departing voluntarily the alien facilitates the possibility of readmission." *Dada v. Mukasey*, 554

U.S. 1, 11 (2008). In other words, a removal—itself not necessarily irreparable harm, *see Make the Road v. Mullin*, No. 25-5320, 2026 WL 1792978, at *5 (D.C. Cir. June 23, 2026) ("lawful 'removal alone cannot constitute the requisite irreparable injury[]") (quoting *Nken v. Holder*, 556 U.S. 419. 435 (2009)))—is more harmful than a voluntary departure. Thus, even if facilitation were appropriate when "removal is found to be unlawful" in part because of the collateral consequences of removal, Mem. Op. at 26 (quoting *D.V.D. v. Dep't of Homeland Sec.*, 784 F. Supp. 3d 401, 406 (D. Mass. 2025)), that does not require Defendants to reverse voluntary removals when a noncitizen alleges that the voluntary departure was not knowing, voluntary, and intelligent. For instance, in *D.V.D.*, 784 F. Supp. 3d at 406, the district court cited cases about removals that violated the law, including *Abrego Garcia*. The only case in this Circuit cited in *D.V.D.*'s stringcite was *Grace v. Whitaker*, 344 F. Supp. 3d 96 (D.D.C. 2018), *rev'd in part by* 965 F.3d 883 (D.C. Cir. 2020). In *Grace*, unlike here, the plaintiff would be unable to obtain any relief outside the country. *See Grace*, 344 F. Supp. 3d at 145 (plaintiffs would be "unable to attend the subsequent interviews to which they are entitled"); *Nken*, 556 U.S. at 435 ("It is accordingly plain that the burden of removal alone cannot constitute the requisite irreparable injury. Aliens who are removed may continue to pursue their petitions for review, and those who prevail can be afforded effective relief by facilitation of their return, along with restoration of the immigration status they had upon removal."). By contrast, Plaintiff has shown that he can continue to litigate this motion from Honduras.

Cruz v. Oddo, Civ. A. No. 26-0284 (SLH), 2026 WL 1650733 (W.D. Pa. June 8, 2026) (cited at Mem. Op. at 37), relies heavily on *D.V.D.* and a broad reading of *Abrego Garcia*. In *Cruz*, the district court expressly denied that it was reviewing the plaintiff's voluntary deportation. *See* 2026 WL 1650733 at *2 ("[T]he Court does not review the IJ's discretionary decision to grant voluntary departure, the conditions attached to that grant, or the length of the voluntary departure period."). Instead, plaintiff sought "to enforce [the court's] prior habeas order." *Id.*; *see also id.* at *5 ("Before Petitioner's departure, the Court ordered Respondents to provide him with an individualized bond hearing by May 11, 2026. Respondents' action prevented that hearing from occurring.").

Similarly, in *J.O.P. v. Department of Homeland Security*, 779 F. Supp. 3d 570 (D. Md. 2025), the court's order was to enforce an earlier decision. In *J.O.P.*, the court approved a settlement agreement under which USCIS was required to adjudicate plaintiffs' asylum claims. *See* 779 F. Supp. at 575–76. Defendants removed plaintiffs anyway, arguing that the plaintiffs fell outside the settlement agreement or the court should "void the Settlement Agreement, which it just approved." *J.O.P.*, 779 F. Supp. 3d at 581. The court rejected those arguments and ordered plaintiffs to be returned, applying "contract law principles." *Id.* at 582. Here, Plaintiff's voluntary departure did not violate any court order or any settlement. Accordingly, those courts' special interests in enforcing their own judgments are not applicable here.

In *Gordon v. Barr*, 965 F.3d 252 (4th Cir. 2020), *Nunez-Vasquez v. Barr*, 965 F.3d 272 (4th Cir. 2020), *Ramirez v. Sessions*, 887 F.3d 693 (4th Cir. 2018), and *Orabi v. Att'y Gen.*, 738 F.3d 535 (3d Cir. 2014) (cited at Mem. Op. at 36–37), the courts of appeals directly reviewed orders of removal and vacated them before ordering facilitation of return. *See Gordon*, 965 F.3d at 254 ("[W]e grant Gordon's petition for review [and] vacate the BIA's order of removal[.]"); *Nunez-Vasquez*, 965 F.3d at 277 (similar); *Ramirez*, 887 F.3d at 698 (similar); *Orabi*, 738 F.3d at 537 ("We have jurisdiction pursuant to 8 U.S.C. § 1252(a). For the reasons that follow, we will reverse the decision of the IJ and BIA."). Further, in *Orabi*, the "Government filed a letter brief stating that[] . . . the Government was prepared to return Orabi to the United States." *Id.* at 538. By contrast, here, Plaintiff has not obtained a binding judicial ruling about his voluntary removal.

The Court pointed to *Zapata v. Mullin*, Civ. A. No. 26-1560 (RJL), 2026 WL 1352420, at *1–2 (D.D.C. May 13, 2026), in which the Court had ordered defendants facilitate plaintiff's return. Subsequently, however, that Court dissolved the temporary restraining order. *See* Mem. Order, *Zapata v. Mullin*, Civ. A. No. 26-1560 (RJL) (D.D.C. June 5, 2026), ECF No. 35.

Finally, in *Roberts v. Anda-Ybarra*, Civ. A. No. 26-0377 (DCG), 2026 WL 1459725, at *1 (W.D. Tex. May 22, 2026) (cited at Mem. Op. at 38–39), the Court did not determine whether facilitation of return would be a legal judicial remedy because the plaintiff had not been removed from the United States. *See Roberts*, 2026 WL 1459725, at *2 (explaining that the Government had been restrained "from removing Peititoner" to allow the Court to rule on plaintiff's immigration arguments before removal).

Although some courts have applied *Abrego Garcia* broadly and suggested that courts usually have the power to order removed individuals to be returned, Plaintiff has not identified any case that is a close match to this one. Ordering facilitation here goes beyond existing precedent.

4. <u>Plaintiff Fails to Match the Alleged Duty for His Mandamus Act Claim to the Relief Sought.</u>

A mandamus claim is functionally equivalent to an undue delay claim. Thus, a plaintiff must argue that an agency failed to perform a crystal clear duty, a plaintiff has no other means to attain the relief desired, and whether the "whether the agency's delay is so egregious as to warrant mandamus." *In re Ctr. for Biological Diversity*, 53 F.4th 665, 670 (D.C. Cir. 2022) (quoting *In re Core Communications*, 531 F.3d 849, 860 (D.C. Cir. 2008)).

Here, there is a plain mismatch between the duty that Plaintiff claims that Defendants failed to perform and the relief sought in the preliminary injunction. As the Court explained, Plaintiff "argues" that "defendants breached clear duties under the Fifth Amendment, APA, and *Accardi* doctrine . . . by failing to provide plaintiff access to counsel and plaintiff's counsel access to information about plaintiff's custody status." Mem. Op. at 17. But the remedy sought is not to "provide plaintiff access to counsel" or "plaintiff's counsel access to information about plaintiff's custody status." Instead, Plaintiff seeks "to correct the resultant effects of those [alleged] breaches, including his detention, removal, and revocation of deferred action" by facilitating his return. *Cf.* Mem. Op. at 31 ("[P]laintiff has received this information from the government, and plaintiff is concededly not in any U.S. agency custody."). Plaintiff does not establish that the alleged denial is the clear and only basis for his independent decision to accept a voluntary removal. Because of this mismatch, mandamus is an inappropriate basis to order Defendant to facilitate Plaintiff's return. *See Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 63 (2004) ("The mandamus remedy was normally limited to enforcement of a specific, unequivocal command, the ordering of a precise, definite act about which an official had no discretion whatever." (citations omitted) (cleaned up)); *cf.* Mem. Op. at 18 ("Since defendants have now taken both actions plaintiff claims they unreasonably delayed, no more relief is available for plaintiff to seek under § 706(1).").

5. Plaintiff Has Not Shown that his *Accardi Claim* Has a Remedy.

The Court also should not issue a preliminary injunction based on *Accardi* claim. *See* Mem. Op. at 33 n.14 (noting that the TRO was issued solely with respect to Plaintiff's Fifth Amendment claim). Plaintiff's *Accardi* claim under ICE's Performance-Based National Detention Standards fails because an *Accardi* claim is an APA claim. *See, e.g.*, *S. Poverty L. Ctr. v. Dep't of Homeland Sec.*, Civ. A. No. 18-0760 (CKK), 2023 WL 2564119, at *4 (D.D.C. Mar. 15, 2023) ("As the Court explained in [*Americans for Immigration Just. v. Department of Homeland Security*, Civ. A. No. 22-3118 (CKK), 2023 WL 1438376 (D.D.C. Feb. 1, 2023)], an *Accardi* claim is simply a subset of claims for relief cognizable under the APA." (citing *Damus v. Nielsen*, 313 F. Supp. 3d 317, 336–37 (D.D.C. 2018))); *C.G.B. v. Wolf*, 464 F. Supp. 3d 174, 224 (D.D.C. 2020) (noting that plaintiffs' claim "based on the *Accardi* doctrine" was an "APA claim"). The Court correctly held that Plaintiff's APA claim should be dismissed because Plaintiff sought remedies under 5 U.S.C. § 706(1), and those remedies were no longer applicable. *See* Mem. Op. at 17–18. Plaintiff has not disputed this reasoning. *See generally* Pl.'s Mot.

Plaintiff has not shown that any of the other remedies provided for in 5 U.S.C. § 706 would apply to his *Accardi* claim. Therefore, the *Accardi* claim should be dismissed for the same reasons as the APA claim.

B. Plaintiff Has Failed to Show that He Is Certain to Suffer Irreparable Harm.

Even if the Court concludes that Defendants likely violated Plaintiff's Fifth Amendment rights, Plaintiff has to show irreparable harm. *See Love v. Bureau of Prisons*, Civ. A. No. 24-2571 (APM), 2025 WL 105845, at *5 (D.D.C. Jan. 15, 2025) ("Courts 'do not "axiomatically" find that a plaintiff will suffer irreparable harm simply because it alleges a violation of its [constitutional] rights.'" (quoting *Hanson v. Dist. of Columbia*, 120 F.4th 223, 244 (D.C. Cir. 2024))).

As a general matter, lawful removal alone does not constitute irreparable injury. In *Make the Road v. Mullin*, No. 25-5320, 2026 WL 1792978, at *5 (D.C. Cir. June 23, 2026) ("lawful 'removal alone cannot constitute the requisite irreparable injury[]") (quoting *Nken*, 556 U.S. at 435)); *see also Sultan v. Trump*, Civ. A. No. 25-1121 (TSC), 2025 WL 1207071, at * 4 (D.D.C. Apr. 24, 2025) ("Defendants are correct that 'the burden of removal alone cannot constitute the requisite irreparable injury.'").

In its Memorandum Opinion, the Court found Plaintiff had showed two irreparable injuries: (1) Plaintiff fears abuse from his father and (2) Plaintiff has been separated from "his child and extended family." Mem. Op. at 42, ECF No. 27. Here, Plaintiff has not proven that either of those are irreparable harms. Two cases illustrate this.

In *Lopez-Venegas v. Beers*, Civ. A. No. 13-3972, 2013 WL 12474081, at *3, *11–14 (C.D. Cal. Dec. 27, 2013), plaintiffs signed voluntary departure orders that they claimed were not voluntary, knowing, and intelligent. Plaintiffs argued they suffered irreparable harm because they were separated from their family, putting forward specific evidence. *Id.* at *22–23. The court determined that plaintiffs failed to make a sufficient showing of irreparable harm, including, among other things, that "the parents and children here may communicate frequently by telephone or over the Internet" and that Plaintiffs failed to provide sufficient evidence of harm. *Id.* at *23; *accord* Pl.'s Mot. at 8 ("[Plaintiff] video chats with [Plaintiff's child] every day[.]").

In *Cruz Uitz v. Noem*, Civ. A. No. 25-6420, 2025 WL 2995008, at *2–3 (C.D. Cal. Sept. 23, 2025), plaintiff signed a voluntary removal form, like Plaintiff. Like Plaintiff, the *Cruz Uitz* plaintiff claimed that he was told pressured to sign the form. *See id.* at *3, *9–11. The Court concluded that Plaintiff failed to show an irreparable injury from his arguments that "his constitutional rights have been violated and that there is irreparable harm flowing from the separation from his family and minor children." *Id.* at *11. Among other things, the court noted that "Plaintiff [may]] remain in detention while in removal proceedings and would not be reunited with his family regardless of the requested injunctive relief." *Id.* at *11.

With respect to Plaintiff's fear that his father might abuse him, this appears to be nothing more than speculation. Plaintiff testified that he has "scars" from his father's abuse that he suffered when he "was a child." *See* Martinez-Andino Decl. Translation at 2, ECF No. 13-1 at 2. He is now twenty years old and does not allege any specific reason to believe that he will be abused by his father now. Nevertheless, Plaintiff presses this point in the motion asserting that he suffers irreparable harm because he has been returned to "the exact environment from which he initially sought protection." Pl.'s Mot. at 8. Other than his assertion and related suggestions, Plaintiff has provided no reason to believe that he may be abused again. Additionally, to the extent he is seeking protection from this abuse through his SIJ petition, as Defendants previously explained, he may continue to pursue relief from outside the United States. *See* Def.'s Reply at 24, ECF No. 25 (explaining that Plaintiff can seek advance parole while abroad).

The Court cited *A.B.-B. v. Morgan*, 548 F. Supp. 3d 209, 221–22 (D.D.C. 2020), for the proposition that a "significant risk" of physical harm constitutes an irreparable injury. Mem. Op. at 42. But Plaintiff has largely asserted that there is a risk supported by his subjective fears—not shown a "significant risk." In *A.B.-B.*, the court explained that "Plaintiffs' declarations explain that they each fled their home countries due to threats of abuse, torture, sexual assault, kidnapping, and even death, to themselves and to their children." *Id.* at 221. Further, in *A.B.-B.*, the Court explained that, for the purpose of assessing irreparable harm, it was assuming that the abuse so severe that the Plaintiffs would obtain asylum. *Id.*

Many other cases have concluded that a risk of harm constitutes an irreparable injury, but, like *A.B.-B.* have relied on a concrete showing. *See Love v. Bureau of Prisons*, Civ. A. No. 24-2571 (APM), 2025 WL 105845, at *6 (D.D.C. Jan. 15, 2025) ("particularized evidence to support that he personally faces an increased risk of physical harm"); *J.G.G. v. Trump*, 772 F. Supp. 3d 18, 42 (D.D.C. 2025) (relying on expert testimony about the risk of Salvadoran prisons); *Gomez v. Trump*, 485 F. Supp. 3d 145, 200 (D.D.C. 2020) ("Plaintiffs in each case have provided a mountain of affidavits attesting to the severe emotional, economic, educational, and personal harms that they and their families will imminently experience"). Plaintiff here has not made such a showing.

In the motion for preliminary injunction, Plaintiff has also testified to three incidents that do not show a significant risk of harm based on the kinds of "particularized evidence" and expert testimony above. First, Plaintiff testified that "seemingly armed men" "demand[ed] his personal information." Pl.'s Mot. at 8. This story relies heavily on Plaintiff's subjective sense of danger, without any objective indicia or dangerousness.

Second, he claims he "saw men" from a gang fleeing police. This incident appears to have nothing to do with Plaintiff.

Finally, Plaintiff claims that "dangerous individuals approached him to ask the whereabouts of his sister." *Id.* at 9. While this statement implies a possible threat to his sister, Plaintiff does not explain how this establishes any imminent risk of harm to himself beyond conjecture and speculation.

Essentially, Plaintiff, who never sought asylum during his years in the United States and never testified to any need for asylum throughout the duration of this case, is belatedly articulating an asylum-like narrative and asking to be brought to the United States without going through the refugee process. Asylum or refugee claims do not belong in district courts in the first instance. *See Lopez v. Ashcroft*, 366 F.3d 799, 807 (9th Cir. 2004) ("Otherwise, we would be improvidently bypassing the agency's expertise in immigration matters committed in the first instance to the agency."); *Guang Ming Li v. Holder*, 387 F. App'x 78, 80 (2d Cir. 2010) ("[T]o the extent that Li argues that he fears persecution based on his illegal departure, because he failed to exhaust this claim before the BIA, we decline to address it."); 8 U.S.C. § 1252(a)(2)(B)(ii). To the extent Plaintiff now believes he is in danger in Honduras for a new reason, he can file for refugee status abroad. *See* 8 U.S.C. § 1157; 8 C.F.R. § 207.1.

Not only is Plaintiff trying to litigate an asylum claim belatedly and in the wrong forum, but he is trying to do so under an easier-to-meet standard than if he had properly brought an asylum claim. Notably, Plaintiff fails to explain why he cannot obtain protection from local authorities, which would be a key consideration with respect to the asylum claim he should have brought if he feared private violence in Honduras. *See Pena-Nolasco v. Att'y Gen.*, 832 F. App'x 665, 669 (11th Cir. 2020) ("Where, as here, an applicant alleges persecution by a private actor, she must prove that she is 'unable to avail [her]self of the protection of [her] home country.' [F]ailure to seek protection by reporting alleged persecution to local authorities is 'generally fatal to an asylum claim.'" (citations omitted) (quoting *Sama v. Att'y Gen.*, 887 F.3d 1225, 1234 (11th Cir. 2018), and *Lopez v. Att'y Gen.*, 504 F.3d 1341, 1345 (11th Cir. 2007))) (asylum claim of Honduran citizen). Plaintiff has not mentioned local authorities at all.

With respect to separation from family, the Court noted in the Memorandum Opinion that Plaintiff may be subject to immigration detention. *See* Mem. Op. at 19 n.9 ("Insofar as plaintiff seeks an order that the U.S. government return him to the United States, the grant of such relief would give plaintiff every reason to believe he would be placed in immigration custody again."); *id.* at 43 ("[T]he relief issued is narrow, with no decision made as to . . . whether plaintiff might have a basis on which to seek release from the custody of immigration authorities, if detained upon his return to the United States."). Therefore, the injury was not caused by Plaintiff's voluntary removal. Plaintiff is required to—and has failed to—show that the proposed relief would address the purported irreparable harm. *Pushkar v. Blinken*, Civ. A. No. 21-2297 (CKK), 2021 WL 4318116, at *11 (D.D.C. Sept. 23, 2021) ("[T]he Court finds that Plaintiff has not carried her burden of establishing certain irreparable harm, absent the specific injunctive relief she seeks from this Court."). Thus, this is different from *M.G.U. v. Nielsen*, 325 F. Supp. 3d 111, 114 (D.D.C. 2018) (cited at Mem. Op. at 42), where the policy at issue was "the separation of immigrant families."

At bottom, Plaintiff does not explain why preliminary relief is needed "before [the C]ourt can issue final judgment." *AFL-CIO v. Sonderling*, Civ. A. No. 26-2061 (JEB), 2026 WL 1906727, at *6 (D.D.C. Jul. 2, 2026). This is especially true in light of *Muñoz*, 602 U.S. at 899, which held that there was no right to family unification that compelled the admission of a noncitizen from abroad. *See, e.g.*, *id.* at 916 ("This is an area in which more than family unity is at play: Other issues, including national security and foreign policy, matter too. Thus, while Congress may show special solicitude to noncitizen spouses, such solicitude is 'a matter of legislative grace rather than fundamental right.'"). Thus, there is serious question as to whether Plaintiff's alleged injury from being separated from his child is sufficient to warrant the drastic remedy of preliminary injunctive relief.

In the motion for a preliminary injunction, Plaintiff also raises a new argument for irreparable injury that is directly at odds with Plaintiff's argument for jurisdiction. He argues that there is irreparable harm because he believes that the failure to grant an injunction may prevent him from "obtaining judicial review or prevent [him], even if successful in their legal case, from being afforded effective relief, including restoration of immigration status." Pl.'s Mot. at 7. Defendants have argued that the Court has no jurisdiction to order Defendants to return Plaintiff from Honduras. Plaintiff seems to argue that this means that the Court must have jurisdiction to prevent it from losing the jurisdiction it has already lost. For instance, Plaintiff cites two Ninth Circuit cases in which the courts granted stays to allow plaintiffs to pursue pending relief that might be lost when the plaintiffs were removed. *Accord D.A.M. v. Barr*, 486 F. Supp. 3d 404, 421 (D.D.C. 2020) (irreparable harm where plaintiffs "will find themselves unable to return, even if they ultimately succeed in showing that their deportation was wrongful"). By contrast, here, Plaintiff has already left.

Moreover, as Defendants argued, his voluntary departure is not a ground for automatic "revocation" of his SIJ status, *see* 8 C.F.R. § 204.11(j)(1) (providing grounds for automatic revocation); nor does it prevent him from seeking advance parole into the United States, *see* 8 C.F.R. § 212.5(f), that would allow him to adjust his status to that of a lawful permanent resident when his SIJ visa becomes current and available, *see* 8 U.S.C. § 1255(a); 8 C.F.R. § 245.1(a) ("A special immigrant described under section 101(a)(27)(J) of the Act shall be deemed, for the purpose of applying the adjustment to status provisions of section 245(a) of the Act, to have been paroled into the United States, regardless of the actual method of entry into the United States."); Defs.' Reply Mot. Dismiss at 24, ECF No. 25. Although Plaintiff states that he "risks losing the opportunity," *see* Pl.'s Mot. at 8 ("By removing Plaintiff from the United States, the government has disrupted his ability to adjust status under his approved SIJS pathway. If his priority date becomes current while he is unlawfully exiled, he risks losing the opportunity to seek lawful permanent resident status or facing insurmountable ground-of-inadmissibility bars, permanently destroying his statutory right to seek residency."), he can still seek advance parole.

As Defendants argued, challenges to Plaintiff's deferred action status are not reviewable. *See* Defs.' Mot. Dismiss at 28–29.

Plaintiff also suggests that he is suffering irreparable harm because he is suffering a "[r]egular, ongoing violation of constitutional rights." Pl.'s Mot. at 13. But any alleged Fifth Amendment violation is complete. *See Love*, 2025 WL 105845, at *5 ("Courts 'do not "axiomatically" find that a plaintiff will suffer irreparable harm simply because it alleges a violation of its [constitutional] rights.'" (quoting *Hanson v. Dist. of Columbia*, 120 F.4th 223, 244 (D.C. Cir. 2024))). That is, to the extent that his Fifth Amendment claim rests on a denial of access to counsel, he cannot show that he is currently being prevented from accessing his counsel such that this alleged violation continues.

C. The Public Interest Favors Enforcement of Immigration Laws.

The Court concluded that the balance of equities favored Plaintiff because it compared the irreparable injury that the Court found to the fact that "defendants make no arguments about the equities or the public interest." Mem. Op. at 42–43.

"The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant." *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (citing cases); *see also Nken*, 556 U.S. at 436 ("[T]he Government is harmed by 'an improper intrusion by a federal court into the workings of a coordinate branch of the Government.'" (quoting *INS v. Legalization Assistance Project*, 510 U.S. 1301, 1305-06 (1993) (O'Connor J., in chambers))); *Cruz Uitz*, 2025 WL 2995008, at *12 ("Defendants have a strong interest in enforcing federal immigration laws.").

The Court considered a weak version of the Government's interest, concluding that the "interest is not well served by allowing the government to make removals without due process, which then necessitate actions such as facilitating a person's return to this country." Mem. Op. at 43. Plaintiff's argument, too, assumes that Plaintiff has proven that his voluntary departure was unlawful. Pl.'s Mot. at 9–10 ("grave miscarriage of justice").

Defendants submit that the Court should consider the equities in light of the contested narratives surrounding the voluntary departure. The question is whether it benefits the public to facilitate the return of all noncitizens who claim that their voluntary removal was somehow coerced, relying on allegations of subject disagreement or understanding that are inconsistent with documents signed by those same noncitizen. Courts may conclude that facilitation is in the public's interest with respect to any one individual. But requiring facilitation of return in this instance opens the floodgate to many noncitizens attempting to undo their agreement to voluntary departures. *See, e.g.*, *Upstate Jobs Party v. Kosinski*, Civ. A. No. 18-0459, 2018 WL 10436253, at *10 (N.D.N.Y.

May 22, 2018) (concluding that equities weigh against plaintiffs' motion when it would "open the floodgates to other individuals"). Reversing all such voluntary dismissals based on after-the-fact doubts while the Court reviewed them would reduce the Government's incentive to provide the benefits of voluntary departures to noncitizens, harming both the Government and the noncitizens. *Cf. Dada*, 554 U.S. at 19 ("Voluntary departure is an agreed-upon exchange of benefits, much like a settlement agreement.").

Moreover, as noted above, the issue of threats of harm in a home country should have been raised before an immigration judge. Plaintiff's attempt to belatedly litigate that issue is resource-intensive and appears to circumvent the jurisdictional bar under 8 U.S.C. § 1252 that would have prevented him from bringing those issues in the court in the first instance. It is in the public interest that noncitizens properly channel their immigration claims. Thus, this case is unlike others where courts have found that "[t]he public's interest in enforcing the criminal and immigration laws of this country would be unaffected by issuance of the requested preliminary injunction." *Jacinto-Catanon de Nolasco*, 319 F. Supp. 3d 491, 504–05 (D.D.C. 2018).

II. The Relief Proposed Is Too Broad.

Even if the Court were to find the *Winter* factors favored Plaintiff and grant relief to Plaintiff, it should not issue the full relief requested by Plaintiff. "[I]t is generally inappropriate for a federal court at the preliminary-injunction stage to give a final judgment on the merits." *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981). That is because a preliminary injunction "is a stopgap measure, generally limited as to time, and intended to maintain a status quo or 'to preserve the relative positions of the parties until a trial on the merits can be held.'" *Sherley v. Sebelius*, 689 F.3d 776, 781–82 (D.C. Cir. 2012) (quoting *Univ. of Tex.*, 451 U.S. at 395); *accord Lopez-Venegas*, 2013 WL 12474081, at *24 ("[I]t is not usually proper to grant the moving party the full relief to which he might be entitled if successful at the conclusion of a trial. This is particularly true where the relief afforded, rather than preserving the status quo, completely changes it." (quoting *Tanner Motor Livery, Ltd. v. Avis, Inc.*, 316 F.2d 804, 808–09 (9th Cir. 1963))). The purpose of preliminary injunctive relief "is not to conclusively determine the rights of the parties, but to balance the equities as the litigation moves forward." *Trump v. Int'l Refugee Assistance Proj.*, 582 U.S. 571, 579-80 (2017) (citation omitted).

In his motion for a preliminary injunction, Plaintiff seeks an order requiring Defendants and various individuals to "take all necessary steps to immediately, or by July [31], 2026, facilitate, effectuate, and pay for Plaintiff's safe return to the United States, including but not limited to issuing necessary travel letters, coordinating with the U.S. attaché in Honduras, and booking commercial air travel[.]" Pl.'s Mot. (Proposed Order), ECF No. 37-3. This overlap weighs strongly against granting the full relief sought. *See Lopez-Venegas*, 2013 WL 12474081, at *24 ("Defendants also argue that, if the preliminary injunction is granted, the PI Plaintiffs will have been granted the ultimate relief sought in their complaint and their individual claims will become moot. '[I]t is not usually proper to grant the moving party the full relief to which he might be entitled if successful at the conclusion of a trial. This is particularly true where the relief afforded, rather than preserving the status quo, completely changes it.'" (quoting *Tanner Motor Livery, Ltd. v. Avis, Inc.*, 316 F.2d 804, 808-09 (9th Cir. 1963))).

Facilitating Plaintiff's return would give him most of the relief sought. Specifically, in the request for relief in the Amended Complaint, Plaintiff requested

> **A WRIT OF MANDAMUS** and/or a **MANDATORY INJUNCTION** compelling Defendants to immediately take all steps necessary to facilitate Plaintiff's return to the United States to restore the *status quo ante*, including but not limited to:
>
> o Approving and issuing humanitarian parole travel documents under 8 C.F.R. § 212.5 to allow for admission into the United States;
>
> o Coordinating with the U.S. Department of State to facilitate return, if appropriate; and

o Providing for the cost of Plaintiff's return flight to the United States.

Am. Compl. at 18–19; *accord* Mem. Op. at 2 (describing Plaintiff's prayer for relief). Other than the "humanitarian parole," which this Court ruled Plaintiff failed to show an entitlement to, *see* Mem. Op. at 40–41, the requested injunction is essentially coextensive with the relief sought. Indeed, Plaintiff admits that an injunction may provide the entirety of the relief sought in this action. *See* Pl.'s Mot. at 1 n.1 ("Upon return, Plaintiff will assess whether to file for dismissal and/or a motion for summary judgment.").

Further, "[t]he injunction should be 'no broader than necessary to achieve its desired goals.'" *Nora v. Wolf*, Civ. A. No. 20-0993 (ABJ), 2020 WL 3469670, at *14 (D.D.C. June 25, 2020) (quoting *Madsen v. Women's Health Ctr., Inc.*, 512 U.S. 753, 765 (1994), and citing *Neb. Dep't of Health & Human Servs. v. Dep't of Health & Human Servs.*, 435 F.3d 326, 330 (D.C. Cir. 2006))). Here, Plaintiff's requested relief goes beyond what is necessary to remediate Plaintiff's problem. The most egregious part of the requested relief is Plaintiff's assertion that of an "immediate[]" or July 31 deadline for his return. There is no basis for that deadline, and many of the steps involved in Plaintiffs return would rely on his actions working with the consulate in Honduras which are outside the control of the Defendants. Nor is there any basis for Plaintiff's demand that Defendants "book[] commercial air travel." The Court should not micromanage the facilitation of Plaintiff's return, if any. *Cf. Abrego Garcia*, 604 U.S. ---, 145 S. Ct. 1017, 1018 (2025) ("The intended scope of the term 'effectuate' . . . may exceed the District Court's authority. The District Court should clarify its directive, with due regard for the deference owed to the Executive Branch in the conduct of foreign affairs.").

Moreover, here, Plaintiff has argued that he needs to be able to return to the United States to maintain his place in line and keep his SIJS status. *See* Pl.'s Mot. at 7 (arguing that Plaintiff needs a motion for a preliminary injunction because, without it, he could not "obtain[] judicial review or . . . even if successful in [his] legal case," receive "effective relief, including restoration of immigration status"); *see also id.* at 9 (arguing that "Plaintiff faces substantial hardships, including the stripping of his Deferred Action status[and] deprivation of his lawful status in the United States"). Here, Plaintiff can continue to litigate the voluntariness of his voluntary departure from Honduras. Therefore, the Court need not return Plaintiff to accord him relief. *See Nora*, 2020 WL 3469670, at *14 ("[T]he Court is constrained to order that plaintiff Diana be afforded the *nonrefoulement* interview to which she is entitled, rather than that she be returned to the United States for the pendency of the litigation.").

III. <u>The Court Should Require Plaintiff to Post Security.</u>

For the reasons stated above and in Defendant's opposition to Plaintiff's motion for a temporary restraining order, the Court should deny Plaintiffs' motion in its entirety. Nevertheless, should the Court issue any injunctive relief, the Court should also order Plaintiffs to post security. Under Rule 65(c), the Court may issue a preliminary injunction "only if the movant gives security" for "costs and damages sustained" by the Government if they are later found to "have been wrongfully enjoined." Fed. R. Civ. P. 65(c). In the event the Court issues an injunction here, the Court should require Plaintiffs to post an appropriate bond commensurate with the scope of any injunction. *See DSE, Inc. v. United States*, 169 F.3d 21, 33 (D.C. Cir. 1999) (a district court has "broad discretion . . . to determine the appropriate amount of an injunction bond").

* * *

CONCLUSION

For these reasons, the Court should deny Plaintiff's motion for a preliminary injunction.

Dated: July 17, 2026

Respectfully submitted,

JEANINE FERRIS PIRRO
United States Attorney

By: */s/ Brian J. Levy*
BRIAN J. LEVY
Assistant United States Attorney
601 D Street, NW
Washington, DC 20530
(202) 252-6734

Attorneys for the United States of America