Raquel E. Hecht, OSB # 933018
Alliance Legal, LLC
329 E 8th Ave.
Eugene, OR 97401
541-465-2173
raquel@a-legalservices.com

Elijah C. Moon, OSB # 252371
Alliance Legal, LLC
329 E 8th Ave.
Eugene, OR 97401
eli@a-legalservices.com

Attorneys for Petitioner

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
Eugene Division

VICTORIANO CARRILLO PABLO,

Petitioner,

v.

JULIO HERNANDEZ, et al, Respondents include: (1) Julio Hernandez, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); (2) David Venturella, Acting Director of Immigration Customs Enforcement ("ICE"); (3) Markwayne Mullin, Secretary of the Department of Homeland Security ("DHS"); (4) Todd Blanche, Acting Attorney General of the United States; (5) U.S. Immigration and Customs Enforcement; and 6) U.S. Department of Homeland Security.

Respondents.

Case No. 6:26-01492-AR

Agency No. A[redacted]

PETITIONER'S MOTION FOR AND MEMORANDUM IN SUPPORT OF TEMPORARY RESTRAINING ORDER

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

MOTION AND MEMORANDUM OF LAW

MOTION AND MEMORANDUM OF LAW

Petitioner, Victoriano CARRILLO PABLO, respectfully moves this Court for an emergency order preventing his transfer out of the district while he litigates the present petition. Petitioner seeks a narrow emergency order from this Court to halt his transfer out of this district. The court should issue an order maintaining the status quo, particularly, ordering Respondents not to transfer the Petitioner outside of Oregon. *See Innovation L. Lab v. Nielsen*, 310 F. Supp. 3d 1150, 1165 (D. Or. 2018) (issuing TRO that "Defendants shall not transfer [detainees] outside of the District of Oregon without: (1) the consent of counsel for that detainee; or (2) prior leave of the Court.").

I. INTRODUCTION

Mr. CARRILLO PABLO is a Guatemalan national who entered the United States on or about May 31, 2021. He arrived in the US after fleeing ongoing death threats and violence in Guatemala and the abandonment and neglect of his parents. Mr. CARRILLO PABLO has filed form I-589, Application for Asylum and for Withholding of Removal and has an approved Form I-360 as a Special Immigrant Juvenile.

On the morning of July 20, 2026, Mr. CARRILLO PABLO was detained while leaving his home to commute to work. As Mr. CARRILLO PABLO went to enter his vehicle, multiple agents, presumably DHS agents, stopped him and detained him.

Following the executive orders and proclamations of President Donald Trump and their implementation by Respondents, Petitioner believes that Respondents have adopted a blanket policy to detain and immediately remove noncitizens like him.

II. FACTUAL BACKGROUND

On January 20, 2025, President Donald Trump signed 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. This EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures "that protect the public safety and national security interests of the American people, including by ensuring the successful enforcement of final orders of removal."

In implementing President Trump's deportation priorities, Respondents have relied on rapid transfer and detentions of individuals to remote detention centers outside U.S. borders, including Guantanamo Bay in Cuba and the Center for Terrorism Confinement (CECOT) in El Salvador. Transfer to such locations has been well-documented to cause severe harms to individuals and their rights, ranging from lack of access to legal representation and separation from family and community to "egregious human rights abuses."[1] *See Trump v. J.G.G.*, 604 U.S. ___, slip op. at 16 (2025) (Sotomayor, J., dissenting). Evidence from experts shows that "inmates [at CECOT] are rarely allowed to leave their cells, have no regular access to drinking water or adequate food, sleep standing up because of overcrowding, and are held in cells where they do not see sunlight for days." *J.G.G. v. Trump*, 2025 WL 890401 at *16 (D.D.C. 2025), *citing* ECF No. 44-3 (Decl. of Juanita Goebertus) at ¶¶ 3, 11 and ECF No. 44-4 (Decl. of Sarah Bishop) at ¶ 31. Prisoners are "often disciplined through beatings and humiliation" and subject to treatment that arguably constitutes torture. *Id.* at *16, *citing* ECF No. 44-3 at ¶¶ 8, 10, 17 (one prisoner was

[1] *See, e.g.*, Sacha Pfeiffer, National Public Radio, *ACLU and other advocates sue for access to migrants moved to Guantanamo Bay* (Feb. 12, 2025), available at https://www.npr.org/2025/02/12/nx-s1-5295046/guantanamo-aclu-lawsuit-dhs-migrants-trump (describing noncitizens at Guantanamo Bay held "incommunicado, without access to attorneys, family, or the outside world"); *J.G.G. v. Trump*, No. 25-cv-00766, Declaration of Juanita Goebertus, Director, Americas Division, Human Rights Watch ("Goebertus Decl."), ECF 44-3 at 4 (D.D.C. Mar. 19, 2025).

forced to kneel naked for hours before the prison's gate; another was questioned while sitting in a barrel of ice water, where guards forced his head underwater so he could not breathe). Respondents have also removed noncitizens from their local communities by rapidly transferring detained individuals to distant and remote locations within U.S. borders, often in apparent violation of their own transfer policies. *See* U.S. Immigr. & Customs Enforcement, Policy 1022.1: Detainee Transfers § 5.2(1)(a)-(b) (Jan. 4, 2012), available at https://www.ice.gov/doclib/detention-reform/pdf/hd-detainee-transfers.pdf (stating that "... ICE Supervisory Immigration Officer(s) will not transfer a detainee when there is documentation to support the following: a) immediate family within the AOR [Area of Responsibility]; b) An attorney of record … within the AOR". These transfers have happened rapidly, without warning, and without notification to counsel. *See, e.g.*, *Ozturk v. Trump*, No. 25-cv-10695, Memorandum and Order, ECF 42 (D.Mass. Apr. 4, 2025) (describing undisputed facts that "[d]espite the best efforts of her counsel and, even the Turkish consulate to determine her whereabouts, the government did not disclose [Petitioner's] place of confinement" for nearly 24 hours, during which time she was transferred from Massachusetts to Louisiana).

Widespread reporting further suggests that Respondents have adopted a blanket policy under which determinations are made categorically to detain individuals such as Petitioner, notwithstanding their compliance with the conditions of release and despite *no negative* changes in their facts or circumstances. In this case, Petitioner has additional forms of relief that should make it more likely for ICE to favor his release, if they were to provide him with individualized determination. Instead, ICE is currently arresting, detaining, and deporting people like Petitioner without individualized consideration of their cases.

III. LEGAL STANDARDS

The standard for issuing a temporary restraining order (TRO) is the same as the standard for issuing a preliminary injunction. *See New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1347 n.2 (1977). A TRO 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, 24 (2008). "The proper legal standard for preliminary injunctive relief requires a party to demonstrate (1) 'that he is likely to succeed on the merits, (2) that he is likely to suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tips in his favor, and (4) that an injunction is in the public interest.'" *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1127 (9th Cir. 2009) (*citing Winter*, 555 U.S. at 20).

As an alternative to this test, a preliminary injunction is appropriate if "serious questions going to the merits were raised and the balance of the hardships tips sharply in the plaintiff's favor," thereby allowing preservation of the status quo when complex legal questions require further inspection or deliberation. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th Cir. 2011).

IV. ARGUMENT

Petitioner's Motion for a Temporary Restraining Order should be granted because he is likely to suffer irreparable harm in the absence of preliminary relief, he is likely to succeed on the merits, and the balance of the equities and public interest weight heavily in favor of emergency relief.

A. Petitioner will likely suffer irreparable harm if not granted preliminary relief

If this Court does not grant a temporary restraining order, Petitioner will be imminently transferred out of the District of Oregon. Respondent ICE clearly intends to transfer him away from his lawyers and his family, possibly seeking to undermine this court's jurisdiction. *See J.G.G.*, 604 U.S. at 15 (Sotomayor, J., dissenting)

Respondents' actions will cause irreparable harm to Petitioner by separating him from his family and community in the United States. Petitioner has pending petitions for relief before the Immigration Court and a priority date based on his approved I-360 as a Special Immigrant Juvenile. His ability to present his claims will be significantly impaired if he is in custody, particularly if he is transferred far away from his counsel. Mr. CARRILLO PABLO may be deprived of access to non-frivolous claims to relief and separated from his family who depend on him as a source of stability and support. Such impacts constitute irreparable harm. *See e.g.*, *Leiva-Perez v.Holder*, 640 F.3d 962, 969-70 (9th Cir. 2011) (describing "separation from family members" and the mental damage concomitant with such separation as irreparable harm) (quotation marks omitted); *see also Ching v. Mayorkas*, 725 F.3d 1149, 1157 (9th Cir. 2013) ("The right to live with and not be separated from one's immediate family is 'a right that ranks high among the interests of the individual' and that cannot be taken away without procedural due process.") (quoting *Landon v. Plasencia*, 459 U.S. 21, 34-35 (1982)). Additionally, transferring Petitioner out of this district will deprive him of proximity to his loved ones and community support, distance him from access to his local counsel, and impede his ability to engage in these immediate judicial proceedings. *See Arroyo v. United States Dep't of Homeland Sec.*, 2019 WL 2912848, at *17 (C.D. Cal. June 20, 2019) (observing that ("a significant burden on the attorney-client relationship, without a showing of underlying prejudice to the removal proceedings, may be sufficient to establish a legal injury sufficient to justify injunctive relief"), citing *Comm. of Cent. Am. Refugees v. I.N.S.*, 795 F.2d 1434, 1439 (9th Cir.), amended on other grounds, 807 F.2d 769 (9th Cir. 1986); *see also Escobar-Grijalva v. I.N.S.*, 206 F.3d 1331, 1335 (9th Cir.), amended on other grounds, 213 F.3d 1221 (9th Cir. 2000) ("Deprivation of the statutory right to counsel deprives [a noncitizen] asylum-seeker of the one hope she has to thread a labyrinth almost as impenetrable as the Internal Revenue Code.").

As alleged in Petitioner's habeas petition, Respondents' actions will also violate his constitutional right to due process. "It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (internal quotation omitted). Respondents' recent transfer practices suggest that Petitioner may be rapidly transferred to a detention site where he is prevented from contacting counsel or receiving any legal advice. *See Innovation L. Lab*, 310 F. Supp. at 1162-63, 1166 (enjoining transfer outside Oregon where Plaintiffs presented evidence of government practices that cumulatively obstructed noncitizens' access to counsel); *see also Orantes–Hernandez v. Thornburgh*, 919 F.2d 549, 565 (9th Cir. 1990) (upholding mandatory injunction where the "cumulative effect" of government practices "was to prevent [noncitizens] from contacting counsel and receiving any legal advice").

B. Petitioner is likely to succeed on the merits of his habeas petition

Petitioner requests habeas relief from this court on the grounds that Respondents' decision to detain and transfer him under a categorical policy is (1) arbitrary and capricious and in violation of Respondents' own policies and (2) a violation of his procedural due process rights.

Petitioner is likely to succeed on the merits of his claims under the Administrative Procedures Act. Under the APA, a court shall "hold unlawful and set aside agency action" that is arbitrary and capricious. 5 U.S.C. § 706(2)(A). An action is arbitrary and capricious if the agency "entirely failed to consider an important aspect of the problem, 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).

Respondent ICE/ERO's decision to detain Petitioner categorically without regard to the facts and circumstances of his case violates the APA. Further, the circumstances surrounding his detention suggest significant violations of the Fourth Amendment which qualify as "egregious" in this case because Respondents are aware that ethnicity alone cannot serve as the basis for stopping an individual who is driving in a car when no other factors are present that may constitute grounds for "reasonable suspicion" to support the stop. *See* Noem v Vasquez Perdomo et al 606 U.S. ___(2025) at PDF pgs 5-6.

Petitioner is in removal proceedings and the government has made an individualized custody determination that assessed his flight risk and his danger to the community. Since that decision, there has been no individualized determination of substantive changes such that Respondents should revoke their custody determination. Because Respondent has articulated no "satisfactory explanation" for its decision to detain Petitioner and refused to engage with Counsel, Petitioner is likely to succeed in his APA claim. *See Dep't of Com.*, 139 S. Ct. at 2569.

Respondent ICE/ERO's decision to detain and transfer Petitioner categorically based on a "list" or categorical policy prepared by unidentified government officials in Washington, D.C., violates the APA. Only specific officials are authorized to revoke such a custody determination. 8 C.F.R. § 1236.1(c)(9). Because Mr. CARRILLO PABLO is being detained based on a categorical policy of Respondents, rather than an individual officer's individualized discretion, his detention is agency action taken without lawful authority and thus not in accordance with law and in excess of statutory authority. *See Hooks v. Kistap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016); *see also L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020) ("[A]gency action taken

without lawful authority is at least voidable, if not void *ab initio*.").

Petitioner is also likely to succeed on his due process claim. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). As noted above, there are no "exceptional circumstances" that justify Petitioner's detention and transfer out of the district. Absent a change in the facts particular to Petitioner's case, it is arbitrary for Respondents to decide to transfer him. Petitioner is therefore likely to succeed on his due process claim.

C. The balance of the equities and public interest factors tip sharply in favor of preliminary relief

Petitioner has established that "the balance of the equities tip in [his] favor and that an injunction is in the public interest" because he is in removal proceedings and has a pending, non-frivolous application for relief, he is not a flight risk, and he is not a danger to the community. *See Winter*, 555 U.S. at 20. When the federal government is a party, the balance of the equities and public interest factors merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)).

The balance of hardships tips substantially in favor of Petitioner. "[I]n addition to the potential hardships facing Plaintiffs in the absence of the injunction, the court 'may consider . . . the indirect hardship to their friends and family members.'" *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017), *quoting Golden Gate Rest. Ass'n v. City & Cty. of San Francisco*, 512 F.3d 1112, 1126 (9th Cir. 2008). Petitioner's detention and transfer would harm not only him, but also his family members depending on him for their care and support. Petitioner lives in Cottage Grove, Oregon with his family. He is a caring and conscientious family member, a hard worker and a conscious member of his community. There is also a strong public interest in maintaining Petitioner's presence in his local community, where he is a hard-working member

of society.

The merits of the due process violations that Petitioner has raised in his habeas petition further weigh the public interest toward emergency relief. "Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the Constitution." *Preminger v. Principi,* 422 F.3d 815, 826 (9th Cir. 2005); *see also Zepeda v. U.S. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983) (concluding that "the INS cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations"). In addition, "the public interest also benefits from a preliminary injunction that ensures that federal statutes are construed and implemented in a manner that avoids serious constitutional questions." *Rodriguez v. Robbins*, 715 F.3d 1127, 1146 (9th Cir. 2013).

Even when considered from a fiscal perspective, the public interest in the efficient allocation of the government's resources weighs in favor of emergency relief here. As the Ninth Circuit has explained, "[t]he costs to the public of immigration detention are "staggering": $158 each day per detainee, amounting to a total daily cost of $6.5 million. Supervised release programs cost much less by comparison: between 17 cents and 17 dollars each day per person." *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017). The interests of the general public will not be served by Petitioner's detention and out-of-district transfer where he has a bona fide application for relief pending and is neither a flight risk nor a danger to the community.

By contrast, any public interest favoring Petitioner's immediate transfer is weak. Respondents do not appear to have any reason to suspect that public safety or national security may somehow be at risk if the motion for a temporary order is granted.

Moreover, given that the agencies controlled by Respondents have ameliorated the conditions of release, his continued presence in Oregon cannot be said to be prejudicial to the

public interest.

V. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant his motion for temporary restraining order to issue an order enjoining Respondents from transferring him out of the district.

Dated: July 20, 2026.



Elijah C. Moon, OSB 252371
Attorney for Petitioner
Alliance Legal LLC