MELISSA CORRAL
Nevada Bar. No. 14182
MICHAEL KAGAN
Nevada Bar No. 12318C
Attorneys for Petitioner
UNLV IMMIGRATION CLINIC
Thomas & Mack Legal Clinic
William S. Boyd School of Law
University of Nevada, Las Vegas
P.O. Box 451003
Las Vegas, Nevada 89154-1003
Email: melissa.corral@unlv.edu
Email: Michael.kagan@unlv.edu
Office: 702-895-2080

SADMIRA RAMIC
Nevada Bar No.: 15984
CHRISTOPHER M. PETERSON
Nevada Bar No. 13932
AMERICAN CIVIL LIBERTIES UNION OF NEVADA
4362 W. Cheyenne Ave.
North Las Vegas, NV 89032
Telephone: (702) 366-1226
Facsimile: (702) 830-9205
Email: ramic@aclunv.org
Email: peterson@aclunv.org

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA (Las Vegas)

Adrian Arturo Viloria Aviles

Plaintiff-Petitioner,

v.

DONALD J. TRUMP,
in his official capacity as President of the United States *et al.*,
in his official capacity as Secretary, U.S. Department of State, 2201 C Street, NW, Washington, DC 20520;

Defendant-Respondents.

Case No. 2:25-cv-00611

Agency No. A 246 871 105

Additional Counsel
DANIEL GALINDO (*LR IA 11-2 petition forthcoming*)
Email: dgalindo@aclu.org
LEE GELERNT (*LR IA 11-2 petition forthcoming*)
Email: lgelernt@aclu.org
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
T: (212) 549-2660
F: (212) 519-7871

EMERGENCY APPLICATION FOR A TEMPORARY RESTRAINING ORDER

Plaintiff-Petitioner ("Petitioner") is in imminent danger of being removed from the United States **tonight or early tomorrow morning** under the Alien Enemies Act—**and this Court could potentially permanently lose jurisdiction**. Accordingly, Petitioner respectfully requests a temporary injunction to preserve the status quo, (1) enjoining any removal outside the country pursuant to the Alien Enemies Act, and (2) requiring notice to Petitioner as well as undersigned counsel of any designation of Petitioner as an alien enemy, with at least 30 days' notice and an opportunity to respond prior to any removal under the Proclamation.

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, and the All Writs Act, Petitioner hereby applies for a temporary restraining order against Defendants-Respondents ("Defendants"). Petitioner is a civil immigration detainee who is at substantial risk of immediate, summary removal from the United States pursuant to use of the Alien Enemies Act, 50 U.S.C. § 21 et seq. against a non-state actor for the first time in the country's history. Petitioner was relocated from New Mexico to Texas in the middle of night on April 14, 2025.

As set forth in the accompanying Memorandum of Law, Defendants' invocation and application of the Alien Enemies Act patently violates the plain text of the statute and exceeds the limited authority granted to the President by Congress. Defendants' invocation and application of the Alien Enemies Act also violates the Immigration and Nationality Act, statutes providing

protection for people seeking humanitarian relief, and due process. In the absence of a temporary restraining order, Petitioner will suffer irreparable injury, and the balance of hardships and the public interest favor relief. Critically, moreover, if Petitioner is removed to the custody of another country, the government's position is that **this Court will lose jurisdiction permanently.**

In support of this Motion, Petitioner relies upon the accompanying memorandum in support of a Temporary Restraining Order and declarations. A proposed order is attached for the Court's convenience. Petitioner respectfully requests that this Court grant this emergency application and issue a temporary restraining order **tonight**.

MEMORANDUM OF POINTS OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiff-Petitioner ("Petitioner") respectfully requests this Court's immediate action to avoid irreparable harm to him – and to ensure this Court is not potentially deprived, permanently, of jurisdiction.

In a Proclamation signed on March 14 but not made public until March 15 (after the government had already attempted to use it), the President invoked a war power, the Alien Enemies Act of 1798 ("AEA"), to summarily remove noncitizens from the U.S. and bypass the immigration laws Congress has enacted. *See* Invocation of the Alien Enemies Act (Mar. 15, 2025) ("Proclamation").[1] The AEA permits the President to invoke the AEA only where the United States is in a "declared war" with a "foreign government or nation" or a 'foreign government or nation" is threatening to, or has engaged in, an "invasion or predatory incursion" against the "territory of the United States." The Proclamation targets Venezuelan noncitizens

[1] https://perma.cc/ZS8M-ZQHJ.

accused of being part of Tren de Aragua ("TdA"), a criminal gang, and claims that the gang is engaged in an "invasion and predatory incursion" within the meaning of the AEA.

On the evening of March 15, a D.C. District Court issued an order temporarily pausing removals pursuant to the Proclamation for a provisionally certified nationwide class. *J.G.G. v. Trump*, No. 25-5067, 2025 WL 914682, at *2 (D.C. Cir. Mar. 26, 2025). The D.C. Circuit denied the government's motion to vacate that TRO. On April 7, in a 5-4 decision, the Supreme Court granted the government's application to vacate the TRO order on the basis that Plaintiffs had to proceed through habeas, without reaching the merits of whether the Proclamation exceeds the President's power under the AEA. In doing so, however, the Court emphasized that individuals who are designated under the AEA Proclamation are "entitle[d] to due process" and notice "within a reasonable time and in such manner as will allow them to actually seek habeas relief" before removal. *Trump v. J.G.G.*, No. 24A931, 2025 WL 1024097, at *2 (U.S. Apr. 7, 2025).

To date, the government has not indicated the type of notice they intend to provide or how much time they will give individuals before seeking to remove them under the AEA. However, in a hearing in the Southern District of Texas on Friday, April 11, **the government said they had not ruled out the possibility that individuals will receive no more than 24 hours' notice; the government did not say whether it was considering providing even less than 24 hours**.

In light of the Supreme Court's ruling, **Petitioner now moves for a TRO to protect him from summary removal and ensure that this Court does not lose jurisdiction over his habeas petition**. All five of the original petitioners in the D.C. litigation have filed class habeas petitions in the district where they are detained, along with motions for temporary restraining

orders for the putative classes. The first one was filed on April 8, 2025, in the Southern District of New York on behalf of two of the five, and the second on April 9, 2025, in the Southern District of Texas on behalf of the other three. Within hours, both district courts granted *ex parte* requests for TROs, ordering that the named petitioners and putative class members may not be removed from the United States or transferred out of their respective districts. *See G.F.F. v. Trump*, No. 25-cv-2886 (S.D.N.Y. Apr. 9, 2025), ECF No. 31, *as amended*, ECF No. 35 (S.D.N.Y. Apr. 11, 2025); *J.A.V. v. Trump*, No. 25-cv-72 (S.D. Tex Apr. 9, 2025), ECF No. 12, *as amended*, ECF No. 34 (S.D. Tex. Apr. 11, 2025). Both courts subsequently held TRO hearings, extended the TROs, and scheduled preliminary injunction hearings, S.D.N.Y on April 22 and S.D. Tex. on April 24.

Petitioner contends that the Proclamation is invalid under the AEA for several reasons. First, TdA is not a "foreign nation or government," nor is TdA engaged in an "invasion" or "predatory incursions" within the meaning of the AEA. Thus, the government's attempt to summarily remove Venezuelan noncitizens exceeds the wartime authority that Congress delegated in the AEA. *Second*, the Proclamation violates both the Act and due process by failing to provide notice and a meaningful opportunity for individuals to challenge their designation as alien enemies. *Third*, the Proclamation violates the process and protections that Congress has prescribed for the removal of noncitizens in the immigration laws, including protection against being sent to a country where they will be tortured.

Accordingly, Petitioner moves the Court for a TRO barring his summary removal under the AEA.[2] Immediate intervention by this Court is required given that the vacatur of the

[2] Petitioner does not seek to enjoin the President but the President remains a proper respondent because, at a minimum, Petitioner may obtain declaratory relief against him. *See, e.g.*, *Nat'l*

D.C. district court's TRO no longer protects them and the government's failure to specify how much notice they intend to provide individuals. And if there is an unlawful removal, the government has taken the position that the courts would lose jurisdiction and there would be no way to correct any erroneous removal. Indeed**,** in the government's rush to transfer individuals to El Salvador, the government has mistakenly deported at least one Salvadoran man without legal basis and claims that individual cannot be returned. *See Noem v. Abrego Garcia*, No. 24A949, 2025 WL 1077101, at *1 (U.S. Apr. 10, 2025). And declarations and news accounts suggest that many of the alleged Venezuelan TdA members sent to El Salvador pursuant to the Proclamation at issue here were not in fact TdA members. *See* Pls.' Mot. for Prelim. Inj., *J.G.G.*, No. 25-cv-766-JEB (D.D.C. Mar. 28, 2025), EF No. 67-1 at 3–7 (describing accounts and evidence of individuals without ties to TdA).

The TRO sought here does *not* seek to prohibit the government from prosecuting any individual who has committed a crime. Nor does it seek release from immigration detention or to prohibit the government from removing any individual who may lawfully be removed under the immigration laws.

LEGAL AND FACTUAL BACKGROUND

I. The Alien Enemies Act

The AEA is a wartime authority that grants the President specific powers with respect to the regulation, detention, and deportation of enemy aliens. Passed in 1798 in anticipation of a war with France, the AEA, as codified today, provides:

> Whenever there is a declared war between the United States and any foreign

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Treasury Emps. Union v. Nixon, 492 F.2d 587, 616 (D.C. Cir. 1974) (concluding that court had jurisdiction to issue writ of mandamus against the President but "opt[ing] instead" to issue declaration).

> nation or government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government, and the President makes public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being of the age of fourteen years and upward, who shall be within the United States and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies."

50 U.S.C. § 21.

This Act has been used only three times in the country's history and each time in a period of war—the War of 1912, World War I, and World War II. The Act provides that, generally, individuals designated as enemy aliens will have time to "settle affairs" before removal and the option to voluntarily "depart."[3] *See, e.g.*, *United States ex rel. Dorfler v. Watkins*, 171 F.2d 431, 432 (2d Cir. 1948) ("An alien must be afforded the privilege of voluntary departure before the Attorney General can lawfully remove him against his will.").

II. Congress's Comprehensive Reform of Immigration Law

Following World War II, Congress consolidated U.S. immigration laws into a single text under the Immigration and Nationality Act of 1952 ("INA"). The INA, and its subsequent amendments, provide for a comprehensive system of procedures that the government must follow before removing a noncitizen from the United States. *See* 8 U.S.C. § 1229a(a)(3) (the INA provides the "sole and exclusive procedure" for determining whether a noncitizen may be removed from the United States).

As part of that reform and other subsequent amendments, Congress prescribed safeguards for noncitizens seeking protection from persecution and torture. These protections codify the humanitarian framework adopted by the United Nations in response to the

[3] 50 U.S.C. § 21 (providing for removal of only those "alien enemies" who "refuse or neglect to depart" from the United States); *id.* § 22 (providing for "departure, the full time which is or shall be stipulated by any treaty then in force between the United States and the hostile nation or government of which he is a native citizen, denizen, or subject; and where no such treaty exists, or is in force, the President may ascertain and declare such reasonable time as may be consistent with the public safety, and according to the dictates of humanity and national hospitality").

humanitarian failures of World War II. *See INS v. Cardoza-Fonseca*, 480 U.S, 421, 439-40 (1987) (describing the United States' adoption of the United Nations' post-war refugee protections). One of Congress's "primary purposes" was "to bring United States refugee law into conformance" with international refugee treaties and the bedrock principle that individuals may not be returned to countries where they face persecution or torture. *Id.* at 436. As the Second Circuit has recognized, "[i]t is no accident that many of our asylum laws sprang forth as a result of events in 1930s Europe." *Aliyev v. Mukasey*, 549 F.3d 111, 118 n.8 (2d Cir. 2008).

First, the asylum statute, 8 U.S.C. § 1158, provides that any noncitizen in the United States has a right to apply for asylum. *See* 8 U.S.C. § 1158(a)(1) (providing that "[a]ny alien who is physically present in the United States or who arrives in the United States . . . irrespective of such alien's status, may apply for asylum").

Second, the withholding of removal statute, 8 U.S.C. § 1231(b)(3), provides that noncitizens "may not" be removed to a country where their "life or freedom" would be threatened based on a protected ground. A grant of withholding is mandatory if the individual meets the statutory criteria. *INS v. Aguirre-Aguirre*, 526 U.S. 415, 420 (1999). Congress enacted this statute to "conform [] it to the language of Article 33 [of the 1951 U.N. Convention on Refugees]," *INS v. Stevia*, 467 U.S. 407, 421 (1984), which was passed in the wake of the failure of humanitarian protections during World War II. This conforming language makes withholding "mandatory" where the eligibility criteria are satisfied, *INS v. Cardoza-Fonseca*, 480 U.S. 421, 440 n.25 (1987), and gives the statute broad application where the government seeks to return a noncitizen to a country where he fears persecution, *see Innovation Law Lab v. Wolf*, 951 F.3d 1073, 1089 (9th Cir. 2020), *vacated as moot sub nom. Innovation Law Lab v.*

Mayorkas, 5 F.4th 1099 (9th Cir. 2021).

Third, protections under the Convention Against Torture ("CAT") prohibit returning noncitizens to a country where it is more likely than not that they would face torture. *See* Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA") § 2242(a), Pub. L. No. 105-207, Div. G. Title XXI, 112 Stat. 2681 (codified at 8 U.S.C. § 1231 note); 8 C.F.R. § 1208.16-.18 (implementing regulations).

III. The AEA Proclamation and Unlawful Removals

On March 14, 2025, the President signed the AEA Proclamation at issue here. It provides that "all Venezuelan citizens 14 years of age or older who are members of Tren de Aragua ("TdA"), are within the United States, and are not actually naturalized or lawful permanent residents of the United States are liable to be apprehended, restrained, secured, and removed as Alien Enemies." *See* Proclamation.[4] Although the AEA calls for a "public proclamation," 50 U.S.C. § 21, the administration did not make the invocation public until around 3:53 p.m. EDT on March 15. As set forth more fully in Judge Boasberg's opinion, even prior to the Proclamation's publication the government sought to remove individuals. *J.G.G. v. Trump*, No. 1:25-cv-766-JEB (D.D.C. Mar. 18, 2025), ECF No. 28-1 (Cerna Decl.) ¶ 5; *J.G.G.*, 2025 WL 890401, at *3 (noting that prior to publication of Proclamation, and after a lawsuit was filed against the summary removals, it appeared that "the Government . . . was nonetheless moving forward with its summary deportation plan").

In addition to claiming that a *criminal gang* during *peacetime* satisfies the AEA's statutory predicates, the Proclamation also does not provide any process for individuals to contest that they are members of TdA and do not therefore fall within the terms of the

[4] https://perma.cc/ZS8M-ZQHJ.

Proclamation. The Proclamation also supplants the removal process under the congressionally enacted immigration laws, which, among other things, provide a right to seek protection from persecution and torture. *See, e.g.*, 8 U.S.C. §§ 1158, 1231(b)(3), 1231 note.

To date, at least 137 Venezuelan men have been removed under the Proclamation and are now in El Salvador in one of the most notorious prisons in the world, possibly for the rest of their lives. Whether most (or perhaps all) of the men lack ties to TdA remains to be seen, because the government secretly rushed the men out of the country and have provided no information about them. But evidence since these individuals were to El Salvador on March 15 increasingly shows that many individuals removed to El Salvador under the AEA were not "members" of TdA as is required to fall within the Proclamation; many have no ties to TdA at all. *See J.G.G.*, No. 1:25-cv-766-JEB, ECF No. 67-21 (Sarabia Roman Decl., Exhs. 4-20) (media and other reports regarding evidence contradicting gang allegations). These false accusations are particularly devastating here, where Petitioner has strong claims for relief under our immigration laws. *See* Exh. A, at 001 - 031(Credible Fear Interview) (Venezuelan Special Action Forces, detained Plaintiff on false charges and, beat him.).

The government's errors are unsurprising, given the methods it is employing to identify members of TdA. The "Alien Enemy Validation Guide" that the government has used to ascertain alien enemy status, requires ICE officers to tally points for different categories of alleged TdA membership characteristics. *J.G.G.*, No. 1:25-cv-766-JEB, ECF No. 67-21 (Sarabia Roman Decl., Exh. 1). The guide relies on a number of dubious criteria, including physical attributes like "tattoos denoting membership/loyalty to TDA" and hand gestures, symbols, logos, graffiti, or manner of dress. Experts who study the TdA have explained how none of these physical attributes are reliable ways of identifying gang members. *Id.* at ECF No. 67-3 (Hanson

Decl.) ¶¶ 22-24, 27; *id.* at ECF No. 67-4 (Antillano Decl.) ¶ 14; *id.* at ECF No. 67-12 (Dudley Decl.) ¶ 25.

Experts who have spent over a decade studying policing, violence, migration, prisons, and organized crime in Venezuela—and TdA in particular—have provided accurate, comprehensive picture of TdA and its activities. *See generally J.G.G.*, No. 1:25-cv-766-JEB, ECF Nos. 67-3 (Hanson Decl.), 67-4 (Antillano Decl.), 67-12 (Dudley Decl.). Experts explain that there is no evidence of direct and stable links between the Maduro regime and TdA, nor evidence that the gang is intertwined with the Maduro regime or an arm of the Venezuelan state. *Id.* at ECF No. 67-3 (Hanson Decl.) ¶¶ 1, 14, 17; *id.* at ECF No. 67-4 (Antillano Decl.) ¶ 13; *id.* at ECF No. 67-12 (Dudley Decl.) ¶¶ 2, 21, 23.

And experts on El Salvador have explained how those who have been removed to El Salvador face harm and threatening prison conditions at the Terrorism Confinement Center ("CECOT"), including electric shocks, beating, waterboarding, and implements of torture on detainee's fingers to try to force confessions of gang affiliation. *See J.G.G.*, 2025 WL 1024097, at *9 (U.S. Apr. 7, 2025) (Sotomayor, J., dissenting) (individuals "face the prospect of removal directly into the perilous conditions of El Salvador's CECOT, where detainees suffer egregious human rights abuses"); *see also J.G.G.*, No. 1:25-cv-766-JEB, at ECF No. 44-4 (Bishop Decl.) ¶¶ 21, 33, 37, 39, 41; *id.* at ECF No. 44-3 (Goebertus Decl.) ¶¶ 8, 10, 17; *see also J.G.G.*, 2025 WL 1024097, at *5. These abusive conditions are life threatening, as demonstrated by the hundreds of people who have died in Salvadoran prisons. *J.G.G.*, No. 1:25-cv-766-JEB, ECF No. 44-3 (Goebertus Decl.) ¶ 5; *id.* at ECF No. 44-4 (Bishop Decl.) ¶¶ 43–50. Worse, those removed to El Salvador and detained at CECOT face indefinite detention. *Id.* at ECF No. 44-3 (Goebertus Decl.) ¶ 3 (quoting the Salvadorean government that people

held in CECOT "will never leave"); *id.* ("Human Rights Watch is not aware of any detainees who have been released from that prison."); Nayib Bukele, X.com post (Mar 16, 2025, 5:13 AM ET)[5] (detainees "were immediately transferred to CECOT…for a period of one year (renewable)").

IV. Petitioner-Plaintiff

Petitioner is a citizen of Venezuela, who is in immigration custody and faces substantial risk of imminent removal under the President's AEA Proclamation because ICE arbitrarily designated him as a member of TdA.

Petitioner entered the United States in September 2023. *See* Exh. C, at 037-038 (Counsel's Declaration). He was released on his own recognizance after a credible fear interview. *Id.* Petitioner fears returning to Venezuela because while living there, a government entity persecuted him. *See* Exh. A, at 002-033 (Credible Fear Interview). Plaintiff was arrested and detained in Utah on or around February 17, 2025. *See* Exh. C, at 033-034 (Counsel's Declaration). Plaintiff was later transferred to Nevada Southern Detention Center, located at 2190 E Mesquite Ave, Pahrump, NV 89060. *Id*. He remained there until April 4, 2024, when ICE officials relocated Plaintiff to New Mexico. *See* Exh. B, at 035 (I-830, Notice to EOIR: Alien Address). Upon his detention, DHS filed an I-213 identifying him as "member/active of Tren de Aragua." *See* Exh. D, at 040-044 (I-213, Record of Admissible/Inadmissible Alien).

On information and belief, Plaintiff was relocated out of Otero County Processing Center in Chaparral, New Mexico on April 14, 2025, in the middle of the night without informing him of where he is headed. For these reasons, Petitioner requests a TRO.

[5] https://perma.cc/52PT-DWMR.

LEGAL STANDARD

The standard for obtaining a TRO and preliminary injunction is the same. *Quiroga v. Chen*, 735 F. Supp. 2d 1226, 1228 (D. Nev. 2010). In considering whether to grant a TRO pursuant to Fed. R. Civ. P. 65(a), a court must consider whether "(1) [the plaintiff] is likely to succeed on the merits, (2) they are likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in their favor, and (4) an injunction is in the public interest." *East Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 668 (9th Cir. 2021); *Chamber of Commerce of the United States v. Bonta*, 62 F.4th 473, 481 (9th Cir. 2023) (citing *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). "The first factor—likelihood of success on the merits—is the most important factor.'" *Chamber of Comm.*, 62 F.4th at 481 (quoting *California ex rel. Becerra v. Azar*, 950 F.3d 1067, 1083 (9th Cir. 2020) (en banc)). When the government is the defendant, "the balance of the equities and public interest factors merge." *Id.* (citing *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)). As such, even if Plaintiff raises only "serious questions" as to the merits of his claims, the court can grant relief if the balance of hardships tips "sharply" in Plaintiff's favor, and the remaining equitable factors are satisfied. *All. for the Wild Rockies*, 632 F.3d at 1135.

ARGUMENT

I. Petitioner Is Likely to Succeed on the Merits.

A. The Proclamation Does Not Satisfy the AEA.

The Proclamation is unprecedented, exceeding the President's statutory authority in three critical respects: there is no invasion or predatory incursion; no foreign government or nation; and no process to contest whether an individual falls within the Proclamation. When the government asserts "an unheralded power" in a "long-extant statute," courts "greet its

announcement with a measure of skepticism." *Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 324 (2014).

That skepticism is well warranted here. As Judge Henderson stressed in denying the government's request for a stay of a TRO, a gang's criminal activities do not constitute an "invasion or predatory incursion" under the AEA and the Act is a wartime authority meant to address "military" attacks. *J.G.G. v. Trump*, No. 25-5067, 2025 WL 914682, at *1-13 (D.D.C. Mar. 26, 2025).

1. There Is No "Invasion" or "Predatory Incursion" upon the U.S.

The Proclamation fails, on its face, to satisfy an essential statutory requirement: that there be an "invasion or predatory incursion" directed "against the territory of the United States." The text and history of the AEA make clear that it uses these terms to refer to military actions that are indicative of an actual or impending war. At the time of enactment, an "invasion" was a large-scale military action by an army intent on territorial conquest. *See* Webster's Dictionary, Invasion (1828) ("invasion" is a "hostile entrance into the possession of another; particularly, the entrance of a hostile army into a country for purpose of conquest or plunder, or the attack of a military force"); Johnson's Dictionary, *Invasion* (1773) ("invasion" is a "[h]ostile entrance upon the right or possession of another; hostile encroachment" such as when "William the Conqueror invaded England"); *see also J.G.G.*, 2025 WL 914682, at *20 (Henderson, J., concurring) (in the Constitution, "invasion" "is used in a military sense" "*in every instance*"). And "predatory incursion" referred to smaller-scale military raids aimed to destroy military structures or supplies, or to otherwise sabotage the enemy, often as a precursor to invasion and war. *See* Webster's Dictionary, *Predatory* (1828) ("predatory" underscores that the purpose of a military party's "incursion" was "plundering" or "pillaging"); *id.*, *Incursion* (1828) ("incursion . . .

applies to the expeditions of small parties or detachments of an enemy's army, entering a territory for attack, plunder, or destruction of a post or magazine"); *J.G.G.*, 2025 WL 914682, at *10 (Henderson, J., concurring) (early American caselaw indicates that "predatory incursion" is "a form of hostilities against the United States by another nation-state, a form of attack short of war"). The interpretive canon of *noscitur a sociis* confirms that the AEA's powers extended beyond an existing war only when war was imminent. *Ludecke*, 335 U.S. at 169 n.13 (explaining that "the life of [the AEA] is defined by the existence of a war"). Reading "invasion" and "predatory incursion" in light of the neighboring term, "declared war," highlights the express military nature of their usage here. *See Jarecki v. G.D. Searle & Co.*, 367 U.S. 303, 307 (1961).

The historical context in which the AEA was passed reinforces what Congress meant by "predatory incursion" and "invasion." At the time of passage, French ships were already attacking U.S. merchant ships in U.S. *See, e.g.*, 7 Annals of Cong. 58 (May 1797) (promoting creation of a Navy to "diminish the probability of . . . predatory incursions" by French ships while recognizing that distance from Europe lessened the chance of "invasion"); Act of July 9, 1798, ch. 68, 1 Stat. 578, 578 (authorizing US ships to seize "any armed French vessel" "found within the jurisdictional limits of the United States"). Congress worried that these attacks against the territory of the United States were the precursor to all-out war with France. *J.G.G.*, 2025 WL 914682, at *1 (Henderson, J., concurring) ("In 1798, our fledgling Republic was consumed with fear . . . of external war with France."). This "predatory violence" by a sovereign nation led, in part, to the AEA. *See* Act of July 7, 1798, ch. 67, 1 Stat. 578, 578 ("[W]hereas, under authority of the French government, there is yet pursued against the United States, a

system of predatory violence").[6] The interpretive canon of *noscitur a sociis* confirms that the AEA's powers extended beyond an existing war only when war was imminent. *Ludecke*, 335 U.S. at 169 n.13 (explaining that "the life of [the AEA] is defined by the existence of a war"). The three terms "declared war," "invasion," and "predatory incursion" appear alongside each other in a related list. Reading the latter two in light of the company they keep highlights the express military nature of their usage here. *See Jarecki v. G.D. Searle & Co.*, 367 U.S. 303, 307 (1961).

"Mass illegal migration" or criminal activities, as described in the Proclamation, plainly do not fall within the statutory boundaries. On its face, the Proclamation makes no findings that TdA is acting as an army or military force. Nor does the Proclamation assert that TdA is acting with an intent to gain a territorial foothold in the United States for military purposes. And the Proclamation makes no suggestion that the United States will imminently be at war with Venezuela. The oblique references to the TdA's ongoing "irregular warfare" within the United States does not suffice because the Proclamation makes clear that term is referring to "mass illegal migration" and "crimes"—neither of which constitute war within the Founding Era understanding. It asserts that TdA "commits brutal crimes" with the goal of "harming United States citizens, undermining public safety, and . . . destabilizing democratic nations." But these actions are simply not "against the territory" of the United States. Indeed, if mass migration or

[6] At the same time, the 1798 Congress was considering whether to authorize the President to raise troops to respond to impending conflict with France. It ultimately did so, authorizing him to raise troops "in the event of a declaration of war against the United States, or of an actual invasion of their territory, by a foreign power, or of imminent danger of such invasion." Act of May 28, 1798, ch. 47, 1 Stat. 558. As Judge Henderson noted in a previous iteration of this case, "[t]his language bears more than a passing resemblance to the language of the AEA, which the Congress enacted a mere thirty-nine days later. *J.G.G.*, 2025 WL 914682, at *9. As such, the historical context makes plain that Congress was concerned about *military* incursions by the armed forces of a foreign nation.

criminal activities by some members of a particular nationality could qualify as an "invasion," then virtually any group, hailing from any country, could be deemed enemy aliens. *See J.G.G.*, 2025 WL 914682, at *10 (observing that "[m]igration alone [does] not suffice" to establish an "invasion" or "predatory incursion under the AEA).

2. The Purported Invasion Is Not by a "Foreign Nation or Government."

The Proclamation also fails to assert that any "foreign nation or government" within the meaning of the Act is invading the United States. Put simply, the Proclamation never finds that TdA is a foreign "nation" or "government." Instead, the Proclamation asserts that "[o]ver the years," the Venezuelan government has "ceded ever-greater control over their territories to transnational criminal organizations." But the Proclamation notably does *not* say that TdA operates as a government in those regions.[7] In fact, the Proclamation does not even specify that TdA currently controls *any* territory in Venezuela.

Moreover, when a "nation or government" is designated under the AEA, the statute unlocks power over that nation or government's "natives, citizens, denizens, or subjects." 50 U.S.C. § 21. *Countries* have "natives, citizens, denizens, or subjects." By contrast, criminal organizations, in the Proclamation's own words, have "members." Proclamation § 1 ("members of TdA"). And it designates TdA "members" as subject to AEA enforcement—but "members" are not "natives, citizens, denizens, or subjects." That glaring mismatch underscores that Respondents are attempting not only to use the AEA in an unprecedented way, but in a way that Congress never permitted—as a mechanism to address, in the

[7] Guantanamo Bay provides an analogy. There, the United States controls the naval base on the island. But the United States' control of a piece of land does not somehow render it the "government" of Cuba.

government's own words, a *non*-state actor.[8] *Venezuela* has natives, citizens, and subjects, but TdA (not Venezuela) is designated under the Proclamation.

Even as the Proclamation singles out certain Venezuelan nationals, it does not claim that *Venezuela* is invading the United States. And, as the President's own CIA Director recently testified, the intelligence community has no assessment that says the U.S. is at war with or being invaded by Venezuela. Ryan Goodman, Bluesky (Mar. 26, 2025).[9] The AEA requires the President to identify a "foreign nation or government" that is invading or engaging in an invasion or incursion. Because it does not, the Proclamation fails on its face.

Instead, the Proclamation makes a half-hearted attempt to link TdA to Venezuela by suggesting that TdA is "supporting," "closely aligned with," or "has infiltrated" the Maduro regime. *See* Proclamation. But experts are in accord that it is "absolutely implausible that the Maduro regime controls TdA or that the Maduro government and TdA are intertwined." *J.G.G.*, No. 1:25-cv-766-JEB, ECF No. 67-3 (Hanson Decl.) ¶17; *id.* at 67-4 (Antillano Decl.) ¶ 13; *id.* at 67-12 (Dudley Decl.) ¶¶ 2, 21. As one expert who has done numerous projects for the U.S. government, including on the topic of TdA, explained, the Proclamation's characterization of the relationship between the Venezuelan state and TdA with respect to TdA's activities in the United States is "simply incorrect." *Id.* at 67-12 (Dudley Decl.) ¶¶ 5, 17-18. The President's own intelligence agencies reached that same conclusion

[8] The AEA presumes that a designated nation possesses treaty-making powers. *See* 50 U.S.C. § 22 ("stipulated by any treaty . . . between the United States and the hostile nation or government"). Nations—not criminal organizations—are the entities that enter into treaties. *See, e.g.*, *Medellin v. Texas*, 552 U.S. 491, 505, 508 (2008) (treaty is "a compact between independent nations" and "agreement among sovereign powers"); *Holmes v. Jennison*, 39 U.S. 540, 570-72 (1840) (similar). It should go without saying that TdA possesses no such power.

[9] https://bsky.app/profile/rgoodlaw.bsky.social/post/3llc4wzbkr22k (Q: "Does the intelligence community assess that we are currently at war or being invaded by the nation of Venezuela?" A: We have no assessment that says that."); *also available at* https://www.c- pan.org/program/house-committee/national-security-and-intelligence-officials-testify-on-global- threats/657380.

prior to his invocation of the AEA. *See id.* at 67-21 (Sarabia Roman Decl., Exh. 19) ("shared judgment of the nation's spy agencies" is "that [TdA] was not controlled by the Venezuelan government").

But the AEA's historical record confirms that it was intended to address conflicts with foreign sovereigns, not a criminal gang like TdA. *See* 5 Annals of Cong. 1453 (Apr. 1798) ("[W]e may very shortly be involved in war . . ."); John Lord O'Brian, Special Ass't to the Att'y Gen. for War Work, N.Y. State Bar Ass'n Annual Meeting: Civil Liberty in War Time, at 8 (Jan. 17, 1919) ("The [AEA] was passed by Congress . . . at a time when it was supposed that war with France was imminent."); Jennifer K. Elsea & Matthew C. Weed, Cong. Rsch. Serv., RL3113, Declarations of War and Authorizations for the Use of Military Force 1 (2014) (Congress has never issued a declaration of war against a nonstate actor). If Respondents were allowed to designate any group with ties to officials as a foreign government, and courts were powerless to review that designation, any group could be deemed a government, leading to an untenable and overbroad application of the AEA.

B. Summary Removals Without Notice, a Meaningful Opportunity to Challenge "Alien Enemy" Designations, or the Right of Voluntary Departure Violate the AEA and Due Process.

As the Supreme Court has now made clear, the government must provide Petitioner notice "within a reasonable time and in such a manner as will allow them to actually seek" relief from summary removals under the Proclamation. *J.G.G.*, 2025 WL 102409, at *2; *id.* ("detainees subject to removal orders under the AEA are entitled to notice and an opportunity to challenge their removal.").

Because the government has not stated whether or how it will comply with the Supreme Court's recent order, a TRO is warranted to ensure that the government provides the Court with a

protocol for how it will provide notice. *See J.G.G.*, 2025 WL 102409, at *2 ("'It is well established that the Fifth Amendment entitles [noncitizens] to due process of law' in the context of removal proceedings.") (quoting *Reno v. Flores*, 507 U. S. 292, 306 (1993)). At a minimum, the notice must be translated into a language that individuals can understand, for Venezuelans, Spanish and English. Most importantly, there must be sufficient time for individuals to seek review. As during World War II, that notice must be at least 30 days in advance of any attempted removal. And it must be provided to undersigned counsel so that no individual is mistakenly removed. *See, e.g.*, *Noem v. Abrego Garcia*, No. 24A949, 2025 WL 1077101 (U.S. Apr. 10, 2025).

C. The Proclamation Violates the Specific Protections That Congress Established for Noncitizens Seeking Humanitarian Protection.

The Proclamation is unlawful for an independent reason: it overrides statutory protections for noncitizens seeking relief from persecution and torture by subjecting them to removal without meaningful consideration of their claims. Congress codified the U.N. Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment ("CAT") to ensure that noncitizens have meaningful opportunities to seek protection from torture. *See* 8 U.S.C. § 1231 note; C.F.R. §§ 208.16-.18. CAT categorically prohibits returning a noncitizen to any country where they would more likely than not face torture. 8 U.S.C. §1231 note. CAT applies regardless of the mechanism for removal. The D.C. Circuit recently addressed a similar issue in *Huisha-Huisha v. Mayorkas*, reconciling the Executive's authority under a public-health statute, 42 U.S.C. § 265, with CAT's protections. 27 F.4th 718 (D.C. Cir. 2022). Because § 265 was silent about where noncitizens could be expelled, and CAT explicitly addressed that question, the court held no conflict existed. *Id*. Both statutes could—and therefore must—be given effect. *Id.* at 721, 731-32. This case is on all fours with *Huisha-Huisha,* because the AEA and CAT must be

harmonized by applying CAT's protections to AEA removals. Despite this clear statutory framework, the Proclamation overrides all of the INA's protections and deprives those designated under the Proclamation with any opportunity to seek protection against being sent to a place where they will be tortured. *See J.G.G.*, 2025 WL 890401, at *15 ("CAT could stand as an independent obstacle" to "potential torture should Plaintiffs be removed to El Salvador and incarcerated there.").

The AEA can similarly be harmonized with other subsequently enacted statutes specifically designed to protect noncitizens seeking asylum and withholding of removal. *See* Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102 (1980) (asylum and withholding); 8 U.S.C. §§ 1158 (asylum), 1231(b)(3) (withholding of removal). Congress has unequivocally declared that "[a]ny alien who is physically present in the United States or who arrives in the United States . . . irrespective of such alien's status, may apply for asylum." 8 U.S.C. § 1158(a)(1). Likewise, the withholding of removal statute explicitly bars returning a noncitizen to a country where their "life or freedom" would be threatened based on a protected ground. *Id.* § 1231(b)(3). These humanitarian protections were enacted in the aftermath of World War II, when the United States joined other countries in committing to never again turn our backs on people fleeing persecution and torture. Sadako Ogata, U.N. High Comm'r for Refugees, Address at the Holocaust Memorial Museum (Apr. 30, 1997).[10] A President invoking the AEA cannot simply sweep away these protections.

The Proclamation and its expected implementation jettison all those protections and safeguards, subjecting Plaintiff to potential summary deportation back to potential persecution and torture, including, possible death. Whatever the AEA authorizes, it must be reads so as to be

[10] https://perma.cc/X5YF-K6EU.

consistent with the provisions of immigration law specifically designed to ensure that vulnerable people seeking protection would have access to a meaningful and robust system to assess their claims—even where such individuals have been deemed "alien enemies," however dubious that designation.

The AEA's general command that noncitizens from enemy countries are "liable to be . . . removed as alien enemies" thus cannot be construed to bypass the specific procedural protections provided by the asylum, withholding of removal, and torture statutes. *See Radzanower v. Touche Ross & Co.*, 426 U.S. 148, 159 n.2 (1976) ("[T]he more specific legislation will usually take precedence over the more general.").

D. The Proclamation Violates the Procedural Requirements of the INA.

Since the last invocation of the AEA more than eighty years ago, Congress has carefully specified the procedures by which noncitizens may be removed from the United States. And the INA leaves little doubt that its procedures must apply to every removal, unless otherwise specified by that statute. It directs: "Unless otherwise specified in this chapter," the INA's comprehensive scheme provides "the sole and exclusive procedure for determining whether an alien may be admitted to the United States, or if the alien has been so admitted, removed from the United States." 8 U.S.C. § 1229a(a)(3); *see also United States v. Tinoso*, 327 F.3d 864, 867 (9th Cir. 2003) ("Deportation and removal must be achieved through the procedures provided in the INA."). This language makes clear that Congress intended for the INA to "supersede all previous laws with regard to deportability." S. Rep. No. 82-1137, at 30 (Jan. 29, 1952).[11]

[11] One of the processes otherwise specified in the INA is the Alien Terrorist Removal Procedure at 8 U.S.C. § 1531 *et seq.* The Attorney General may opt to use these proceedings when he or she has classified information that a noncitizen is an "alien terrorist." *Id.* § 1533(a)(1). But even that process requires notice, a public hearing, provision

Congress was aware that alien enemies were subject to removal in times of war or invasion when it enacted the INA. *See Miles v. Apex Marine Corp.*, 498 U.S. 19, 32 (1990) (courts presume Congress drafts statutes with full knowledge of existing law). Indeed, the AEA had been invoked just a few years before passage of the 1952 INA. With this awareness, Congress provided that the INA contains the "sole and exclusive" procedures for deportation or removal and declined to carve out AEA removals as an exception from standard immigration procedures, even as it expressly provided exceptions for other groups of noncitizens, including noncitizens who pose security risks. *See, e.g.*, 8 U.S.C. § 1531 *et seq*. (establishing fast-track proceedings for noncitizens posing national security risks).

Ignoring the INA's role as the "sole and exclusive" procedure for determining whether a noncitizen may be removed, Respondents purport to bypass the mandated congressional scheme in order to formulate an entirely separate procedure for removal and usurp Congress's Article I power in the process.

II. The Administration's Abuse of the AEA Will Cause Petitioner Irreparable Harm.

In the absence of a TRO, Petitioner can be summarily removed to places, such as El Salvador, where he will face life-threatening conditions, persecution and torture. *See J.G.G.*, 2025 WL 1024097, at *5 ("[I]nmates in Salvadoran prisons are 'highly likely to face immediate and intentional life-threatening harm at the hands of state actors.'"). That easily constitutes irreparable harm. *Leiva-Perez v. Holder*, 640 F.3d 962, 969 (9th Cir. 2011) (holding that removal to a country where one faces harm constitutes irreparable injury); *see also Huisha-Huisha*, 27 F.4th at 733 (irreparable harm exists where petitioners "expelled to places where they

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of counsel for indigents, the opportunity to present evidence, and individualized review by an Article III judge. *Id.* §§ 1532(a), 1534(a)(2), (b), (c)(1)-(2). And the government bears the burden of proving, by a preponderance of the evidence, that the noncitizen is subject to removal as an "alien terrorist." *Id.* § 1534(g).

will be persecuted or tortured"). And Petitioner may never get out of these prisons. *See J.G.G.*, 2025 WL 1024097, at *5 (Sotomayor, J., dissenting); *see also supra,* Nayib Bukele, X.com.

Even if the government instead removes Petitioner to Venezuela, he faces serious harm there, too. In fact, Petitioner fled Venezuela for the very purpose of escaping the persecution he faced there and has a pending asylum case on that basis. Returning to Venezuela now, labeled as a gang member by the United States government, only increases the danger, as he will face heightened scrutiny from Venezuela's security agency, and possibly even violence from TdA rivals. *J.G.G.*, No. 1:25-cv-766-JEB, ECF No. 67-3 (Hanson Decl.) ¶ 28.

Petitioner faces grave harm, as thus far the government has tried to execute removals without any due process. *See Huisha-Huisha v. Mayorkas*, 560 F. Supp. 3d 146, 172 (D.D.C. 2021) (irreparable harm where plaintiffs "face the threat of removal prior to receiving any of the protections the immigration laws provide")' *Innovation Law Lab v. Nielsen*, 342 F. Supp. 3d 1067, 1081 (D. Or. 2018) (considering "serious harm—including persecution, torture, and death—that may result if asylum is improperly denied" in finding irreparable harm). Although the Supreme Court has now made clear that meaningful notice is required under the AEA, *J.G.G.*, 2025 WL 102409, at *2, Respondents have yet to concede that they will provide meaningful notice, much less any sense of when that notice will be provided to the individuals or what form it will take. As such, there remains an unacceptably high risk that the government will deport people who are not in fact members of TdA.

III. The Balance of Equities and Public Interest Weigh Decidedly in Favor of a Temporary Restraining Order.

The balance of equities and the public interest factors merge in cases against the government. *See Chamber of Commerce of the United States v. Bonta*, 62 F.4th 473, 481 (9th Cir. 2023) (citing *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing

Nken v. Holder, 556 U.S. 418, 435, 129 S. Ct. 1749, 173 L. Ed. 2d 550 (2009))). Here, the balance overwhelmingly favors Petitioner.

The public has a critical interest in preventing wrongful removals, especially where it could mean a lifetime sentence in a notorious foreign prison. *See Nken*, 556 U.S. at 436 (describing the "public interest in preventing aliens from being wrongfully removed, particularly to countries where they are likely to face substantial harm"); *Simms v. District of Columbia*, 872 F. Supp. 2d 90, 105 (D.D.C. 2012) ("It is always in the public interest to prevent the violation of a party's constitutional rights." (quotation marks and citations omitted)); *Nunez v. Boldin*, 537 F. Supp. 578, 587 (S.D. Tex. 1982) (protecting the rights of people who face persecution abroad "goes to the very heart of the principles and moral precepts upon which this country and its Constitution were founded"); *Torres v. U.S. Dep't of Homeland Sec.*, 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) ("[T]he public has an interest in the orderly administration of justice[.]"). That is especially so given the government's position that it will not obtain the release of individuals mistakenly sent to the notorious Salvadoran prison.

Petitioner moreover, does not contest Respondents' ability to prosecute criminal offenses, detain noncitizens, and remove noncitizens under the immigration laws. *Cf. J.G.G.*, 2025 WL 914682, at *30 ("The Executive remains free to take TdA members off the streets and keep them in detention. The Executive can also deport alleged members of TdA under the INA[.]"). Thus, Respondents cannot show how the government's interests "overcome the irreparable injury to [petitioner] absent a stay, or justify denial of a short stay *pendente lite*." *Ragbir v. United States*, No. 2:17-CV-1256-KM, 2018 WL 1446407, at *18 (D.N.J. Mar. 23, 2018), *appeal dismissed*, No. 18-2142, 2018 WL 6133744 (3d Cir. Nov. 15, 2018);

see also Patel, 2020 WL 4700636, at *9 (noting "any inconvenience to the Government from the

brief delay is far outweighed by the threat of irreparable harm to [plaintiff]" and that "[t]he public interest is also better served by an orderly court process that assures that [the plaintiff's] invocation of federal court relief is considered before the removal process continues.").

IV. The All Writs Act Confers Broad Power to Preserve the Integrity of Court Proceedings.

In addition to this Court's general equitable powers, this is a textbook case for use of the All Writs Act ("AWA"), which provides federal courts with a powerful tool "maintain the status quo by injunction pending review of an agency's action through the prescribed statutory channels." *F.T.C. v. Dean Foods Co.*, 384 U.S. 597, 604 (1966); 28 U.S.C. § 1651(a); *California v. M&P Inv.*, 46 F. App'x 876, 878 (9th Cir. 2002) (finding Act should be broadly construed to "achieve all rational ends of law") (quoting *Adams v. United States*, 317 U.S. 269, 273 (1942)); *J.A.V. v. Trump*, No. 1:25-CV-072, 2025 WL 1064009, at *1 (S.D. Tex. Apr. 9, 2025) ("A federal court has the power under the All Writs Act to issue injunctive orders in a case even before the court's jurisdiction has been established."). If Petitioner is illegally sent to a foreign country, and El Salvador assumes jurisdiction, the government will argue, as it already has, that this Court will no longer have jurisdiction to remedy the unlawful use of the AEA. *See* Resp. to Order to Show Cause, *J.G.G.*, No. 25-cv-766-JEB (D.D.C. Mar. 25, 2025), ECF No. 58 at 12 (government asserting "once the flights were outside the United States, the President did not need to rely on that Proclamation or Act to justify transferring members of a designated foreign terrorist group to a foreign country"); Resp. to Plfs.' Mot. for Additional Relief, *Abrego Garcia v. Noem*, No. 8:25-cv-951-PX (D. Md. Apr. 13, 2025), ECF No. 65 at 3-4 (government arguing that "[t]he federal courts have no authority to direct the Executive Branch to engage with a foreign sovereign in a given manner," to facilitate return of wrongfully deported individual).

Whereas a traditional preliminary injunction requires a party to state a claim, an

injunction based on the AWA requires only that a party identify a threat to the integrity of an ongoing or prospective proceeding, or of a past order or judgment. *See In Re: Nat'l Football League Players Concussion Injury Litigation*, 923 F.3d 96, 109 (3d Cir. 2019) ("[U]nder the All Writs Act, action is authorized to the extent it is 'necessary or appropriate' to enforce a Court's prior orders. . . Or, as this Court has explained it, there is authority under the Act to issue an injunction where such relief is 'necessary, or perhaps merely helpful.'") (citing 28 U.S.C. § 1651); *ITT Cmty. Dev. Corp. v. Barton*, 569 F.2d 1351, 1359 (5th Cir. 1978) (court may enjoin "conduct which, left unchecked, would have . . . the practical effect of diminishing the court's power to bring the litigation to a natural conclusion").

Courts have explicitly relied upon the AWA in order to prevent even a risk that a respondent's actions will diminish the court's capacity to adjudicate claims before it. *See Kurnaz v. Bush*, No. 04-cv- 1135, 2005 WL 839542, *1–2 (D.D.C. Apr. 12, 2005) (enjoining Defense Department from transferring Guantánamo detainee with pending habeas petition, absent notice, outside the jurisdiction of the court); *Michael v. INS*, 48 F.3d 657, 664 (2d Cir. 1995) (using the AWA to stay an order of deportation "in order to safeguard the court's appellate jurisdiction" and preserve its ability to hear subsequent appeals by the petitioner).

V. The Court Should Not Require Petitioner to Provide Security Prior to the Temporary Restraining Order.

Federal Rule of Civil Procedure 65(c) provides that "[t]he court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damage sustained by any party found to have been wrongfully enjoined or restrained." However, district courts exercise this discretion to require no security in cases brought by indigent and/or incarcerated people, and in the vindication of immigrants' rights. *See e.g., Ashland v. Cooper*, 863 F.2d 691, 693 (9th Cir. 1988); *P.J.E.S. by*

& through Escobar Francisco v. Wolf, 502 F. Supp. 3d 492, 520 (D.D.C. 2020). Additionally, courts "may dispense with the filing of a bond when," as here, "there is no realistic likelihood of harm to the defendant from enjoining his or her conduct", *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003), or plaintiff shows a high likelihood of success on the merits. *See, e.g.*, *People of State of Cal. ex rel. Van De Kamp v. Tahoe Reg'l Plan. Agency*, 766 F.2d 1319, 1325 (9th Cir. 1985), *amended*, 775 F.2d 998 (9th Cir. 1985). As such, this Court should waive the security requirement here.

CONCLUSION

The Court should grant Petitioner's motion for a temporary restraining order.

Dated: **April 14, 2025**

Respectfully Submitted,

/s/Melissa Corral
Melissa Corral, Esq.
Nevada Bar. No. 14182
Michael Kagan, Esq.
Nevada Bar No. 12318C
Attorneys for Petitioner
UNLV IMMIGRATION CLINIC
Thomas & Mack Legal Clinic
William S. Boyd School of Law
University of Nevada, Las Vegas
P.O. Box 451003
Las Vegas, Nevada 89154-1003
Email: melissa.corral@unlv.edu
Email: Michael.kagan@unlv.edu
Office: 702-895-2080

SADMIRA RAMIC
Nevada Bar No.: 15984
CHRISTOPHER M. PETERSON
Nevada Bar No. 13932
AMERICAN CIVIL LIBERTIES UNION OF NEVADA
4362 W. Cheyenne Ave.
North Las Vegas, NV 89032
Telephone: (702) 366-1226

Facsimile: (702) 830-9205
Email: ramic@aclunv.org
Email: peterson@aclunv.org

DANIEL GALINDO (*LR IA 11-2 petition forthcoming*)
Email: dgalindo@aclu.org
LEE GELERNT (*LR IA 11-2 petition forthcoming*)
Email: lgelernt@aclu.org
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
T: (212) 549-2660
F: (212) 519-7871

[PROPOSED] TEMPORARY RESTRAINING ORDER

Upon consideration of Plaintiff-Petitioner's Motion for a Temporary Restraining Order, and any opposition, reply, and further pleadings and argument thereto:

Having determined that Plaintiff-Petitioner ("Petitioner") is likely to succeed on the merits of their claims that the Proclamation violates the Alien Enemies Act ("AEA"), 50 U.S.C. § 21 *et seq.*; that the AEA does not authorize Respondents-Defendants ("Respondents") to summarily remove them from the United States; that Respondents' actions implementing removals under the AEA violate due process, the Immigration and Nationality Act, and statutes providing protection for those seeking humanitarian relief; that Petitioner will suffer irreparable injury in the absence of injunctive relief; and that the balance of hardships and public interest favor temporary relief, it is, therefore,

ORDERED that Petitioner's Motion for a Temporary Restraining Order is hereby GRANTED; and that Respondents (excluding the President with respect to any injunctive relief), their agents, representatives, and all persons or entities acting in concert with them are hereby:

1. ORDERED, pending further order of this Court, not to remove Petitioner, from the United States pursuant to the Alien Enemies Act and any Proclamation invoking the Act;

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2. ORDERED, pending further order of this Court, to provide Petitioner and undersigned counsel with notice of any designation of Petitioner as an alien enemy under the Proclamation, and at least 30 days' notice and an opportunity to respond prior to any removal pursuant to the Proclamation.

It is further ORDERED that Petitioner shall not be required to furnish security for costs.

Entered on _____, 2025 at _____ a.m./p.m.

_____
U.S. District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **Plaintiff's Emergency Motion for a Temporary Restraining Order and Memorandum of Law in Support of Plaintiff's Motion for Temporary Restraining Order** with the Clerk of the Court for the United States District Court of Nevada by using the court's CM/ECF system on April 14, 2025. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished on all participants by:

☒ CM/ECF

☐ Electronic mail; or

☐ US Mail or Carrier Service

/s/ Melissa Corral
An employee of the Thomas and Mack Legal Clinic