IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

GERARDO FELIPE FIGOLI GOMEZ
IN REPRESENTATION OF
PERFECTO PAULA,
Petitioner-Plaintiff,

v.

REBECCA GONZALEZ, et al
Respondents-Defendants.

Civil No. 26-1091 (MAJ)

RESPONDENT'S MEMORANDUM IN OPPOSITION TO PETITIONER'S URGENT MOTION REQUESTING ORDER PROHIBITING THE TRANSFER OF THE PETITITONER FROM PUERTO RICO TO ANOTHER JURISDICTION AND REQUESTING BOND HEARING

Respondents by and through their attorneys, submit this opposition to Perfecto Paula's ("Petitioner") *Urgent Motion Requesting Order Prohibiting the Transfer of the Petitioner from Puerto Rico to Other Jurisdiction and that this Court Conduct a Bond Hearing Forthwith* (the "Motion"). See ECF No. 1. The Court should deny Petitioner's request for injunctive relief for lack of merit.

I. STANDARD OF REVIEW

Courts have interpreted the standard for issuing a temporary restraining order ("TRO") "the same as [those] for a preliminary injunction." *Servicios Legales de P.R., Inc. v. Unión Independiente de Trabajadores de Servicios Legales*, 376 F. Supp. 3d 163, 166 (D.P.R. 2019) (citation omitted). "A preliminary injunction is an extraordinary and drastic remedy that is never awarded as of right." *Peoples Fed. Sav. Bank v. People's United Bank*, 672 F.3d 1, 8-9 (1st Cir. 2012) (quoting *Voice of the Arab World, Inc. v. MDTV Med. News Now, Inc.*, 645 F.3d 26,

32 (1st Cir. 2011). To determine whether to issue a preliminary injunction, a court must analyze four factors:

> (1) the likelihood of success on the merits; (2) the potential for irreparable harm [to the movant] if the injunction is denied; (3) the balance of relevant impositions, i.e., the hardship to the nonmovant if enjoined as contrasted with the hardship to the movant if no injunction issues; and (4) the effect (if any) of the court's ruling on the public interest.

Esso Standard Oil Co. (P.R.) v. Monroig-Zayas, 445 F.3d 13, 17-18 (1st Cir. 2006) (alteration in original) (quoting *Bl(a)ck Tea Soc'y v. City of Boston*, 378 F.3d 8, 11 (1st Cir. 2004)). "The party seeking the preliminary injunction bears the burden of establishing that these four factors weigh in its favor." *Id.* at 18 (citing *Nieves-Marquez v. Puerto Rico*, 353 F.3d 108, 120 (1st Cir. 2003)). Ultimately, "trial courts have wide discretion in making judgments regarding the appropriateness of such relief." *Francisco Sánchez v. Esso Standard Oil Co.*, 572 F.3d 1, 14 (1st Cir. 2009).

"The sine qua non of this four-part inquiry is likelihood of success on the merits: if the moving party cannot demonstrate that he is likely to succeed in his quest, the remaining factors become matters of idle curiosity." *New Comm Wireless Servs., Inc. v. SprintCom, Inc.*, 287 F.3d 1, 9 (1st Cir. 2002); *see also Sindicato Puertorriqueño de Trabajadores v. Fortuño*, 699 F.3d 1, 7 (1st Cir. 2012) (confirming that this factor is "the most important part of the preliminary injunction assessment" (quoting *Jean v. Mass. State Police*, 492 F.3d 24, 27 (1st Cir. 2008)).

Irreparable harm is "an injury that cannot adequately be compensated for either by a later-issued permanent injunction, after a full adjudication on the merits, or by a later-issued damages remedy." *Rio Grande Cmty. Health Ctr., Inc. v. Rullan*, 397 F.3d 56, 76 (1st Cir. 2005). For the court to grant the motion for preliminary injunction, Petitioner must "demonstrate

that irreparable injury is likely in the absence of an injunction," not merely that it is a possibility. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22, 129 S.Ct. 365, 172 L.Ed.2d 249 (2008) (emphasis in original); *see also Canadian Nat'l Ry. Co. v. Montreal, Me. & Atl. Ry., Inc.*, 786 F. Supp. 2d 398, 432 (D. Me. 2011) ("[P]roof of a mere possibility of injury is insufficient to justify an injunction"). Courts "measure irreparable harm on 'a sliding scale, working in conjunction with a moving party's likelihood of success on the merits.' " *Braintree Lab'ys, Inc. v. Citigroup Glob. Mkts. Inc.*, 622 F.3d 36, 42-43 (1st Cir. 2010) (quoting *Vaqueriá Tres Monjitas, Inc. v. Irizarry*, 587 F.3d 464, 485 (1st Cir. 2009)). Thus, "[t]he strength of the showing necessary on irreparable harm depends in part on the degree of likelihood of success shown;" however, "at least some positive showing of irreparable harm must still be made." *Id.* at 43 (internal quotation omitted) (alteration in original); *see also Gately v. Commonwealth of Mass.*, 2 F.3d 1221, 1232 (1st Cir. 1993) ("[A] federal court cannot dispense with the irreparable harm requirement in affording injunctive relief").

The First Circuit has termed the third factor the "balance of relevant impositions," assessing "the hardship to the nonmovant if enjoined as contrasted with the hardship to the movant if no injunction issues." *Monroig-Zayas*, 445 F.3d at 18 (quoting *Bl(a)ck Tea Soc'y*, 378 F.3d at 11) (internal quotations omitted). The Court must weigh the balance of equities to determine whether the injury to the moving party in the absence of a preliminary injunction outweighs any harm to the nonmoving party if granted.

The final factor is the public interest. This factor requires the Court to "inquire whether there are public interests beyond the private interests of the litigants that would be affected by the issuance or denial of injunctive relief." *Everett J. Prescott, Inc. v. Ross*, 383 F. Supp. 2d 180, 193 (D. Me. 2005). "In exercising their sound discretion, courts of equity should pay

particular regard for the public consequences in employing the extraordinary remedy of injunction." *Winter*, 555 U.S. at 24.

II. DISCUSSION

A. Likelihood of Success on the Merits

As discussed in the Respondents' Memorandum in Opposition to the Petition of *Habeas Corpus* (the "Opposition"), the Government contends that Petitioner is unlikely and should not prevail on the merits of the arguments as they pertain to every Count in the Petition. For purposes of this motion, Respondents hereby refer to and fully incorporate hereto their arguments in their Response. *See* ECF No. 16.

As fully explained in the Opposition, Petitioner is mandatorily detained under § 1225(b)(2)(A) and is thus not entitled to a bond hearing under the separate detention provision at § 1226(a). This determination is consistent with the clear language of the INA and Supreme Court precedent, as persuasively explained by the Board of Immigration Appeals ("BIA") in *Matter of Yajure Hurtado ("Hurtado")*, 29 I&N Dec. 216, 222-223 (BIA 2025). *See* ECF No. 16 at 24 and 41. Petitioner's position suggesting that only aliens who present at a port of entry ("arriving aliens" as defined in 8 C.F.R. § 1.2) or who are otherwise arriving in the United States near the physical border can be "seeking admission" is contrary to the statutory scheme created by Congress. Petitioner is, likewise, not a member of the certified class action in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). DE #21 at 31-33.

B. Likelihood of Irreparable Harm

The party seeking preliminary injunctive relief must demonstrate "that irreparable injury is likely in the absence of an injunction." *Winter*, 555 U.S. at 22, 129 S.Ct. 365

(emphasis in original). "[I]rreparable harm can consist of 'a substantial injury that is not accurately measurable or adequately compensable by money damages.' " *Ross-Simons of Warwick, Inc. v. Baccarat, Inc.*, 217 F.3d 8, 13 (1st Cir. 2000) (Ross-Simons II) (quoting Ross-Simons of Warwick, Inc. v. Baccarat, Inc., 102 F.3d 12, 19 (1st Cir. 1996) (Ross-Simons I)). "[D]istrict courts have broad discretion to evaluate the irreparability of alleged harm." *Ross-Simons II*, 217 F.3d at 13 (quoting *K-Mart Corp. v. Oriental Plaza, Inc.*, 875 F.2d 907, 915 (1st Cir. 1989)).

Petitioner argues that his detention causes irreparable harm because it violates his constitutional rights and the court would be divested from jurisdiction if he were transferred. ECF No. 1 at 4-5 and 7. As asserted in the Opposition, Petitioner's detention does not violate his constitutional rights (ECF No. 16 at 18-19), is in full compliance with the strictures of the Immigration and Nationality Act ("INA") (ECF No. 1), and he has not alleged with specificity any access to counsel hurdles posed by his detention or potential transfer (ECF No. 1). As far as Respondents know, Petitioner has been able to confer with his counsel to file and pursue his underlying habeas claim. Likewise, his complaints about the conditions of the facility to which he may be transferred are speculative, at best. *Id.* Also, Petitioner's generalized complaints of family separation are not enough to warrant injunctive relief. Because the type of harm Petitioner alleges "is essentially inherent in detention, the Court cannot weigh this strongly in favor of" Petitioner. *Lopez Reyes v. Bonnar*, 2018 WL 7474861 at *10 (N.D. Cal. Dec. 24, 2018). Indeed, "if detention during removal proceedings constitutes irreparable harm in and of itself, nearly all habeas petitioners would be entitled to injunctive relief." *Abi v. Barr*, 2019 WL 2463036, at *2 (D. Minn. 2019).

Finally, a transfer outside this district after jurisdiction has properly attached does not divest the court of jurisdiction. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441, 124 S.Ct. 2711, 159 L.Ed.2d 513 (2004) ("[W]hen the Government moves a habeas petitioner after she properly files a petition naming her immediate custodian, the District Court retains jurisdiction and may direct the writ to any respondent within its jurisdiction who has legal authority to effectuate the prisoner's release." (restating the holding of Ex parte Endo, 323 U.S. 283, 65 S.Ct. 208, 89 L.Ed. 243 (1944))). Accordingly, the transfer of Petitioner outside the jurisdiction pending adjudication of this matter is not a harm that requires redress through injunctive relief. The Court can duly adjudicate this matter whether or not Petitioner is in Puerto Rico.

At present there is no risk of harm to Petitioner that would be remedied by an order of this court prohibiting his transfer outside of the jurisdiction. The likelihood of irreparable harm weighs against granting Petitioner's TRO motion.

Furthermore, as stated in Respondents' Opposition (*see* ECF No. 16, at 14), on February 17, 2026, Petitioner requested a bond redetermination hearing before the EOIR. *See* ECF No. 16, Exhibit 2. On that same date, because the United States District Court for the District of Puerto Rico instructed the Immigration Court to conduct a bond hearing based upon a Writ of Habeas Corpus, the EOIR scheduled the bond redetermination hearing for February 19, 2026, at 8:30am. *See* ECF No. 16, Exhibit 3. Although the EOIR lacks jurisdiction to grant such remedy pursuant to *Hurtado*, the hearing was conducted in strict compliance with the District Court's order and the Immigration Judge granted the release from custody of Petitioner upon securing a bond of $7,500.

C. The Balance of Equities and the Public Interest

The Supreme Court has instructed that the last two factors in the TRO analysis "merge when the Government is the opposing party" to the TRO; hence, the court should follow this instruction and review the balance of the equities and the public interest in tandem. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

Upon consideration of the last two factors, the balance of the equities weighs against granting Petitioner's TRO request, and a TRO/preliminary injunction is not now necessary to serve the public interest. To obtain preliminary injunctive relief, a petitioner must also show "the balance of equities tips in [their] favor." *Winter*, 555 U.S. at 20, 129 S.Ct. 365. This involves weighing "the balance of relevant hardships as between the parties." *Vaqueria Tres Monjitas, Inc. v. Fabre Laboy*, 587 F.3d 464, 482 (1st Cir. 2009). Furthermore, "[i]n exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." *Winter*, 555 U.S. at 24, 129 S.Ct. 365. Injunctive relief is "an extraordinary remedy that may only be awarded upon a clear showing that the [Petitioner] is entitled to such relief." *Id.* at 22, 129 S.Ct. 365 (citing *Mazurek v. Armstrong*, 520 U.S. 968, 972, 117 S.Ct. 1865 (1997)).

Petitioner argues there is a public interest in upholding the Constitution, ensuring the executive branch acts within the limits of the Administrative Procedure Act ("APA"), maintaining the integrity of the judicial process, and protecting the sanctity of the family unit. See DE #1. The Respondents counter that Petitioner has been illegally present in the United States, and the public and government have a strong interest in the proper functioning of United States immigration law. Here, Petitioner's detention by U.S. Immigration and Customs Enforcement serves a legitimate purpose – to ensure his presence for removal

proceedings. Hence, the balance of equities and public interest weigh against granting a preliminary injunction. We explain further.

It is well settled that the public and governmental interest in enforcement of the United States' immigration laws is extremely significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 551-58 (1976); *Blackie's House of Beef v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.") (citing cases); cf. *Nken v. Holder*, 556 U.S. 418, 436 (2009) ("There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings IIRIRA established, and permits and prolongs a continuing violation of United States law.") (internal quotation omitted); *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) ("[I]t must weigh heavily in the balance that control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature.").

As the First Circuit has recognized, the "prompt execution of removal orders is a legitimate governmental interest which detention may facilitate." *Hernandez-Lara v. Lyons*, 10 F.4th 19, 32 (1st Cir. 2021). This strong governmental interest in ensuring appearance for removal proceedings and prompt removal through mandatory detention pending removal proceedings thus outweighs the Petitioner's alleged hardships. Indeed, "[a]ny interference with . . . family integrity alleged here was incidental to the government's legitimate interest in effectuating detentions pending the removal of persons illegally in the country." *Aguilar v. U.S. Immigr. & Customs Enf't*, 510 F.3d 1, 22 (1st Cir. 2007). Thus, even assuming Petitioner were likely to succeed on the merits of his claims (he is not), the balance of the equities weighs heavily in favor of the government, and the court should decline to enter any injunction.

Further weighing against the declination of the injunctive relief requested is the fact that the Immigration Judge has granted the release from custody of Petitioner upon securing a bond of $7,500.

III. CONCLUSION

Pursuant to all the foregoing, the Court should deny Petitioner's Petition and dismiss this case with prejudice.

WHERFORE, the undersigned respectfully requests that this Response be noted, that the Petition be denied, and that the case be closed for statistical and administrative purposes.

I HEREBY CERTIFY that on this date, I electronically filed the forgoing with the Clerk of the Court using CM/ECF System, which will send notification of such filing to all parties.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on February 26, 2026.

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