UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 25-cv-02836-LMP-JFD

Va Vang,

Petitioner,

v.

James Mchenry and Lisa Monaco, *et al.*,

Respondents.

RESPONSE TO PETITION AND MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

The Respondents, Pamela R. Bondi, the United States Attorney General, Todd Blanche, the United States Deputy Attorney General, Kristi Noem, Secretary of the Department of Homeland Security, and Tauria Rich, Acting St. Paul Field Office Director,[1] hereby file Memorandum in Opposition to the Petition (ECF 1). Petitioner was taken into ICE custody lawfully under 8 U.S.C. § 1231 to execute his long-standing final order of removal. Petitioner is a citizen of Laos, and ICE is substantially likely to remove him in the reasonably foreseeable future. This Court should deny Petitioner's request for a Temporary Restraining Order and Preliminary Injunction and dismiss the Petition.

[1] Federal Rule of Procedure 25(d) provides for the automatic substitution of current office holders. Each of these identified persons is the current holder of the office identified and should be substituted as the proper respondent.

RELEVANT FACTUAL BACKGROUND

I. Petitioner's Background & Criminal Activity

Petitioner is a citizen of Laos who claims to have entered the United States on or about August 25, 1976 as an immigrant. *See* Declaration of Richard Pryd Jr. ("Pryd Decl.") ¶ 4.

On November 28, 2001, Mr. Vang was convicted in Wisconsin State Court for the offenses of 2nd Degree Recklessly Endangering Safety; False Imprisonment; Intimidate Victim/Use or Attempt Force; three counts of Battery; and Criminal Damage to Property. *Id.* ¶ 5, Ex. 2. He was sentenced to prison in the State of Wisconsin. *Id.* Ex. 2.

II. Petitioner's Immigration Proceedings

On July 15, 2003, ICE served Mr. Vang at a Wisconsin state prison with a Notice to Appear in Removal Proceedings charging him as removable under Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (INA) because he had been convicted of an aggravated felony and Section 237(a)(2)(E)(i) of the INA because he had been convicted of a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment. *Id.*, Ex. 1 at 3. On August 5, 2004, he appeared at an immigration hearing via video conference and an immigration judge in Chicago, Illinois, ordered him removed from the United States to Laos. Pryd. Decl. ¶ 7, Ex. 3.

On December 28, 2005, Mr. Vang was extradited to Fresno, California to face criminal charges alleging Mr. Vang committed Kidnapping, Force/Assault Deadly Weapon not a Firearm, Sexual Penetration Foreign Object w/Force and Battery. *Id.*, ¶ 6, Ex. 2. On March 8, 2006, Mr. Vang was convicted in the Superior Court of California of the

following offenses: Forcible Rape, Assault with Deadly Weapon, Kidnapping, Anal and Genital Penetration, False Imprisonment by violence, and Criminal Threats. *Id.*, Ex. 2. For these offenses, Mr. Vang was sentenced to a term of imprisonment of six years. *Id.*

Mr. Vang was paroled to ICE custody on June 14, 2009. *Id.,* at ¶ 8. On August 4, 2009, ICE released Mr. Vang on an Order of Supervision after ICE determined that there was no significant likelihood of removal in the reasonably foreseeable future. *Id.,* at ¶ 8, Ex. 4.

III. Petitioner's Present Immigration Detention

On June 6, 2025, Special Agents from Homeland Security Investigations and the Internal Revenue Service revoked Petitioner's Order of Supervision and arrested him. Pryd Decl. ¶ 9, Ex. 5. ICE served Mr. Vang with a Notice of Revocation of Release stating that, "ICE is in the process of obtaining a travel document from Laos and there is a significant likelihood of your removal in the reasonably foreseeable future." *Id.,* Ex. 5 at 1. The Notice also stated that, while Petitioner is to remain in ICE custody at this time, he would "promptly be afforded an informal interview at which [he] w[ould] be given an opportunity to respond to the reasons for revocation and to provide any evidence to demonstrate that [his] removal is unlikely." *Id.*

Petitioner was afforded that Informal Interview that same day, on June 6, 2025. *Id.,* at 3 (ALIEN INFORMAL INTERVIEW UPON REVOCATION OF ORDER OF SUPERVISON UNDER 8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i)). *Id.* At the interview, he did not provide a statement or any documents showing that his removal was unlikely. *Id.*

Vang was also provided notification of his custody pursuant to Section 241 of the INA based upon his final order of removal. *Id.*, Ex. 5 at 1.

Petitioner was not released following his informal interview and is currently detained in ICE custody at Freeborn County Adult Detention Center. *See* ECF 1 ¶ 1. As the Notice reflects, he will next receive a notification of a custody review, which will occur "within approximately three months" of June 6, 2025, a period which has not yet elapsed. Ex. 5 at 1.

Shortly after his detention, ICE ERO St. Paul sent a request for a travel document to ICE headquarters. Pryd Decl. ¶ 10. Laos is now accepting its citizens for repatriation. ERO St. Paul has removed six individuals to Laos since January 2025. *Id.* at. ¶ 11. Thus, the agency believes that Petitioner's removal is significantly likely in the reasonably foreseeable future. *Id.*

IV. Procedural History

Petitioner filed this present Petition on July 14, 2025, asserting three separate claims. *See* ECF 1. First, Petitioner argues that his detention violates the Due Process clause of the U.S. Constitution because his removal to Laos is "unlikely to occur in the reasonably foreseeable future." *See* ECF 1 ¶¶ 23-28. Though he does not specify a basis concerning the alleged violation, the cases he cites appear to indicate that he believes his detention is punitive or not reasonably related to a legitimate governmental objective. *See Id.* ¶ 24. The Petition's second and third claims seek a preliminary injunction enjoining respondents from re-detaining him without court approval and a Temporary Restraining Order for his immediate release from custody. *Id.* ¶¶ 29-36.

ARGUMENT

I. Jurisdiction, Burden Of Proof, And Scope Of Review

28 U.S.C. § 2241 provides district courts with jurisdiction to hear federal habeas petitions. When doing so, the burden is on the habeas petitioner to demonstrate that he or she is in custody in violation of the Constitution or laws or treatises of the United States in order to warrant relief. *See Skaftouros v. United States*, 667 F.3d 144, 158 (2d Cir. 2011).

Judicial review of immigration matters, including immigration detention, is also limited. *I.N.S. v. Aguirre-Aguirre*, 526 U.S. 415, 425 (1999); *see also Hampton v. Mow Sun Wong*, 426 U.S. 88, 101 n.21 (1976) ("[T]he power over aliens is of a political character and therefore subject only to narrow judicial review."). The Supreme Court has "underscore[d] the limited scope of inquiry into immigration legislation," and "repeatedly emphasized that over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens." *Fiallo v. Bell*, 430 U.S. 787, 792 (1977).

For aliens their challenging civil immigration detention in a habeas action, courts employ a narrow standard of review and exercise "the greatest caution" in evaluating constitutional claims that implicate those decisions." *Mathews v. Diaz*, 426 U.S. 67, 81-82 (1976)). The plenary power of Congress and the Executive Branch over immigration necessarily encompasses immigration detention, because the authority to detain is elemental to the authority to deport, and because public safety is at stake. *See Shaughnessy v. United States*, 345 U.S. 206, 210 (1953) ("Courts have long recognized the power to expel or exclude aliens as a fundamental sovereign attribute exercised by the Government's

political departments largely immune from judicial control."); *Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of this deportation procedure."); *Wong Wing v. United States*, 163 U.S. 228, 235 (1896) ("Proceedings to exclude or expel would be vain if those accused could not be held in custody pending the inquiry into their true character, and while arrangements were being made for their deportation.").

Here, Petitioner's sole challenge is to his present immigration detention pending removal. *See, e.g.*, ECF at 1 (seeking immediate release from "unlawful detention"). Petitioner does not challenge his final order of removal, nor could he. Jurisdiction over a challenge to such an order lies exclusively with the appropriate circuit court of appeals. *See* 8 U.S.C. § 1252; *see also Tostado v. Carlson*, 481 F.3d 1012, 1014 (8th Cir. 2007) (exclusive jurisdiction to review final orders of removal lies with the circuit court).

II. Legal and Statutory Authority for Detention

For more than a century, the immigration laws have authorized immigration officials to charge noncitizens as removable from the country, arrest noncitizens subject to removal, and detain noncitizens during removal proceedings. *See Abel v. United States*, 362 U.S. 217, 232–37 (1960). Through the Immigration and Nationality Act ("INA"), Congress enacted a multi-layered statutory scheme for the civil detention of noncitizens pending a decision on removal, during the administrative and judicial review of removal orders, and in preparation for removal. *See generally* 8 U.S.C. §§ 1225, 1226, 1231.

Section 1226 "generally governs the process of arresting and detaining . . . aliens pending their removal." *Jennings v. Rodriguez*, 138 S. Ct. 830, 837 (2018). However, once an alien is subject to an administratively final removal order, as Petitioner is here,

detention is governed by 8 U.S.C. § 1231 and its implementing regulations at 8 C.F.R. pt. 241. Once ordered removed an alien lacks a legal right to remain in the United States and, as the governing legal rules reflect, his or her liberty interest is reduced. Under Section 1231, "when an alien is ordered removed," the Secretary of Homeland Security "shall detain the alien" "[d]uring the removal period." 8 U.S.C. § 1231(a)(1)(A), (a)(2).[2] The "removal period" is the period during which the U.S. Department of Homeland Security ("DHS") begins to take steps to execute the alien's final removal order. *See Id.* § 1231(a)(1)(A)-(B). That period begins on the latest of three dates: (i) the "date the order of removal becomes administratively final"; (ii) "[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order"; or (iii) "[i]f the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement." *Id.* § 1231(a)(1)(B)(i)-(iii).

Although Section 1231 initially provides a 90-day period for the government to execute a final removal order, that period may be extended in some circumstances. For example, aliens removable as convicted of an aggravated felony pursuant to section 8 U.S.C. § 1227(a)(2), as Petitioner is here, *see* Ex. 2, and those determined to be "a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period." *Id.* § 1231(a)(6); *see also Id.* § 1231(a)(1)(C) (suspension of period

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[2] Although § 1231 and other provisions of the Immigration and Nationality Act refer to the "Attorney General," under the Homeland Security Act of 2002 many of those references are now read to mean the Secretary of Homeland Security. *See Straker v. Jones*, 986 F. Supp. 2d 345, 351 (S.D.N.Y. 2013).

in certain circumstances). DHS also conducts periodic post-order custody reviews to determine whether an alien subject to a final removal order should continue to be detained beyond the initial removal period. *See* 8 C.F.R. § 241.4 (addressing continued detention for inadmissible, criminal, and other aliens).

An alien held beyond the removal period may also seek release from DHS custody, by showing that "there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future." 8 C.F.R. § 241.13(a). Beyond these statutory and regulatory mechanisms, the Supreme Court has held that an alien subject to a final removal order may file a habeas petition and seek release if he can show that his detention has become prolonged and that there is "no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

After the expiration of the removal period an alien may be released by DHS under an order of supervision. *See* 8 C.F.R. § 241.13. However, DHS may also revoke release in certain circumstances, including for removal. 8 C.F.R. § 1231.13(i)(2) (DHS "may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the [DHS] determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future."). Procedures for revocation are governed by the following section, 8 C.F.R § 1231.13(i)(3), and require that the alien:

> be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the

> reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.

8 C.F.R. § 241.13(i)(3). Where an alien is not released following the informal interview, the provisions of Section 241.4 govern continued detention pending removal. *Id.* § (i)(2).

III. DHS Fully Complied with the Regulatory Requirements In Revoking Petitioner's Release.

Petitioner argues that his detention does not comply with applicable regulatory requirements. *See* ECF 1 ¶¶ 19-21. That argument is meritless. Though Petitioner claims he "was not given any reason for his detention," *id.* ¶ 18, his assertion is belied by Declaration of Supervisory Detention and Deportation Officer Richard Pryd, Pryd Decl. ¶ 9, and the Notice of Revocation provided to Vang (Ex. 5). Indeed, elsewhere in the Petition, Petitioner appears to allude to having received the Notice and understanding the basis for his detention. *See* ECF 1 ¶¶ 23-26.

The Petition does not identify any problem with the Notice, which mirrored requirements set forth in the regulation. *Compare* 8 C.F.R. § 241.13(i)(2) *with* Ex. 5. The Notice of Revocation identified changed circumstances, namely the fact that ICE was in the process of requesting a travel document from Laos and ICE "has determined that there is a significant likelihood of removal in the reasonably foreseeable future in your case." Pryd Decl. ¶ 11, Ex. 5.

Petitioner asserts that Respondent could have waited for Laos's response to their request before arresting petitioner. ECF 1 ¶ 21. Petitioner cites *Sayonkon v. Beniecke*, No. CIV. 12-27 MJD/JJK, 2012 WL 1621149, at *4 (D. Minn. Apr. 17, 2012), *report and*

recommendation adopted, No. CIV. 12-27 MJD/JJK, 2012 WL 1622545 (D. Minn. May 9, 2012), for this proposition. The facts of *Sayonkon* are materially different. First, petitioner in that case had been in detention for over six months at the time of his petition. Second, ICE had re-released him on an Order of Supervision because it had not been able to obtain a travel document during those months and had no indication that the document would issue. *Id.* The court in *Sayonkon* dismissed the petition as moot because ICE voluntarily released Petitioner. *Id.*

Here, Petitioner has been in custody for under two months. ICE has just requested a travel document from Laos, pursuant to a newly established practice of successful removals to Laos. In this short time, ICE has no reason to think that Laos will not issue a travel document for Petitioner. Petitioner has been on notice for more than twenty years that ICE intends to remove him to Laos. Neither *Sayonkon* nor any other authority requires ICE to allow Petitioner to remain on supervised release until after his travel document is obtained. ICE maintains authority to determine how best to accomplish its mission--execution of Vang's long-standing removal order.

Petitioner has no allegations in his Petition to rebut ICE's finding that his removal is significantly likely to occur in the reasonably foreseeable future. Petitioner failed to dispute the government's basis for revocation at his interview or to provide any evidence or information that would rebut the likelihood of his removal in the reasonably foreseeable future though he was given the *opportunity* to do so. That is all the regulation requires. 8 C.F.R. 241.13(i)(3). "The regulation only mandates that upon revocation of release, the petitioner must be given an initial opportunity to dispute the government's justification for

revocation. There is no requirement that ICE give any advance notice of the informal interview . . . ." *Doe v. Smith*, 324 F. Supp. 3d 214, 223 (D. Mass. 2018) (denying petition for writ of habeas corpus following revocation).

Mr. Vang's Petition is similar to the habeas petition filed in *Vue v. Mchenry et. al.*, No. 25-2827 (PAM/DLM) where Judge Magnuson recently issued an order dismissing petitioner's immigration habeas petition. *Vue v. Mchenry et. al.*, No. 25-2827 (PAM/DLM) (July 21, 2025) (ECF 7). Like Mr. Vang, Mr. Vue was a citizen of Laos who was ordered removed from the United States over twenty years ago. *Id.* at 2. After he was ordered removed, Mr. Vue was placed on supervised release. *Id.* In June 2025, ICE revoked Mr. Vue's Order of Supervision and arrested him because ICE was in the process of obtaining travel documents from Loas and there was a significant likelihood of his removal in the reasonably foreseeable future. *Id.* Mr. Vue filed a petition similar to the petition that Mr. Vang filed. On July 21, 2025, Judge Magnuson issued an order dismissing Mr. Vue's petition finding that Mr. Vue received a Notice of Revocation that explained the basis for the revocation was that ICE was securing a travel document for him and that his removal to Laos was imminent. *Id.* at 4. This Court should similarly find that ICE complied with applicable regulatory requirements and dismiss Mr. Vang's Petition.

Magistrate Judge Docherty recently issued a Report and Recommendation finding that ICE had failed to follow its regulations for re-detention and therefore Judge Docherty recommended that the court grant habeas relief to a petitioner who did not have a "meaningful opportunity" to respond to ICE's invocation of changed circumstances and re-detention. Report and Recommendation, *Sarail A. v. Bondi, et al.*, No. 25-cv-2144

(ECT/JFD) (June 17, 2025) (ECF 9). The petition in *Sarail* is clearly distinguishable from Mr. Vang's Petition.

Here, Mr. Vang did receive a "meaningful opportunity" to respond to ICE's invocation of changed circumstances and re-detention. Unlike the petition in *Sarail* and like the petition in *Vue,* Mr. Vang received a Notice that informed him of changed circumstances. Specifically, the Notice stated "ICE is in the process of obtaining a travel document from Laos and there is a significant likelihood of your removal in the reasonably foreseeable future." Ex. 5. Additionally, the Government of Laos has recently been cooperative with the issuance of travel documents and since January of 2025, ICE's St. Paul Field Office has successfully removed six Laotians to Laos. Pryd Decl. ¶ 11. Therefore, Mr. Vang's removal is reasonably foreseeable. Since Federal Respondents have complied with the applicable regulatory requirements, his Petition should be dismissed.

IV. Petitioner's Detention Does Not Violate Due Process.

Petitioner's remaining claims premised on purported violations of his rights under the Due Process Clause of the Fifth Amendment, should also be dismissed. Though Petitioner makes no argument in support of his Due Process claim and does not articulate any theory as to how his rights were violated, he appears to rely on *Zadvydas*, 533 U.S. at 690, 693.

Under the Supreme Court's decision in *Zadvydas v. Davis*, a person subject to a final order of removal cannot, consistent with the Due Process Clause, be detained indefinitely pending removal. 533 U.S. at 699-700. *Zadvydas* established a temporal marker: post-final order of removal detention of six months or less is presumptively

constitutional. *Id.* at 701; *see also Sokpa-Anku v. Paget*, No. 17-cv-1107 (DWF/KMM), 2018 WL 3130681, at *3 (D. Minn. June 8, 2018) (report and recommendation) ("Once a person is finally ordered removed from the United States, it is presumptively constitutional for the government to detain him for a 6-month period."), *R&R adopted*, 2018 WL 3129002 (June 26, 2018). However, continued detention does not necessarily become unconstitutional after six months. Detention longer than six months still comports with due process if there is a "significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. As the Court in *Zadvydas* explained:

> After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink. *This 6-month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.*

Id. (emphasis added). Thus, under *Zadvydas*, a habeas petitioner bears the initial burden of demonstrating that there is no significant likelihood of his removal in the reasonably foreseeable future. *Id.* If he does so, the government must rebut that showing. *Id.*

Even assuming *arguendo* that Petitioner's current detention of less than two month in duration may be combined with his earlier immigration detention to aggregate to more than six months, Petitioner has not shown a due process violation under *Zadvydas* here, as he has not met his initial burden to "provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future[.]" *See Id.*;

Mehighlovesky v. U.S. Dep't of Homeland Sec., No. CIV. 12-902 RHK/JJG, 2012 WL 6878901, at *4 (D. Minn. Dec. 7, 2012), *report and recommendation adopted*, No. CIV. 12-902 RHK/JJG, 2013 WL 187553 (D. Minn. Jan. 17, 2013).

The Petition lacks *any* argument that Petitioner's removal unlikely in the reasonably foreseeable future. *See generally* Petition. Nor did Petitioner make that argument at his informal interview. *See* Ex. 5 at 3. That should be dispositive of his Due Process claims under *Zadvydas*, as Petitioner bears the initial burden on that issue. Zadvydas, 533 U.S. 678 at 701. One illustrative case, *Andrade*, involved a petitioner who had been detained for more than three years when his habeas appeal reached the Fifth Circuit. Andrade v. Gonzales, 459 F.3d 538, 543-44 (5th Cir. 2006), *cert. denied*, 549 U.S. 1132, 127 S. Ct. 973, 166 L. Ed. 2d 739 (2007). The Andrade Court noted that *Zadvydas* "creates no specific time limits on detention," rather an alien "may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* (citing 533 U.S. at 701). It found that, since "[t]he alien bears the initial burden of proof in showing that no such likelihood of removal exists" and "ha[d] offered nothing beyond his conclusory statements suggesting that he will not be immediately removed . . . following the resolution of his appeals," "[h]is constitutional claim [wa]s meritless." *Id.* (citing *Zadvydas*, 533 U.S. at 701). So too here, where Petitioner did even offer a conclusory statement. *Id.; see also Skaftouros*, 667 F.3d at 158 (the burden is on the habeas petitioner to demonstrate that he or she is in custody in violation of the Constitution or laws or treatises of the United States).

Petitioner's detention also serves a clear purpose "assuring [his] presence at the

moment of removal." *Zadvydas*, 533 U.S. at 699. Indeed, detention to facilitate removal has long been held to be a legitimate governmental objective. *See, e.g.*, Wong Wing, 163 U.S. at 235 ("Proceedings to exclude or expel would be vain if those accused could not be held . . . while arrangements were being made for their deportation."). Petitioner's detention also has an obvious endpoint at removal. Petitioner has currently been detained for less than two months, and "the mere passage of time . . . is not alone sufficient to show that no such likelihood exists" without more. *See Chen v. Banieke*, No. CIV. 15-2188 DSD/BRT, 2015 WL 4919889, at *4 (D. Minn. Aug. 11, 2015); *Jaiteh v. Gonzales*, No. 07-cv-1727, 2008 WL 2097592 at *2–3 (D. Minn. Apr. 28, 2008).

Finally, even assuming *arguendo* that Petitioner has met his initial burden of proof under *Zadvydas*, the record would be sufficient to rebut any notion that there is no significant likelihood of Petitioner's removal in the reasonably foreseeable future. *See Zadvydas*, 533 U.S. at 701. The local ICE ERO successfully has removed six individuals to Laos since January 2025. A travel document request for Petitioner has been submitted. Significant progress has been made. *See also* Ahmed v. Brott, No. 14-5000 (DSD/BRT), 2015 U.S. Dist. LEXIS 45346 (D. Minn. Mar. 17, 2015), at *4 (finding that where "ICE has made diligent and reasonable efforts to obtain travel documents," the alien's native country "ordinarily accepts repatriation," and "that country is acting on an application for travel documents," most courts conclude that there is a significant likelihood of removal in the foreseeable future.").

In the interim, there is no procedural due process violation since, as discussed *supra*, ICE has complied with its regulatory obligations, and Petitioner will be entitled to

normal custody determination procedures under 8 C.F.R. § 241.4. As the constitutional due process standard set forth in *Zadvydas* is also met, and the Petition should be denied.

V. Petitioner is Not Entitled to Injunctive Relief or a Temporary Restraining Order.

Finally, seemingly relying on the same arguments already addressed, the Petition seeks both a preliminary injunction enjoining respondents from re-detaining Petitioner without court approval and a Temporary Restraining Order for his immediate release from custody. *Id.* ¶¶ 27-32. Petitioner offers no legal basis for either request,[3] *see id.*, which would not maintain the status quo in the present case.

Courts evaluating a motion for a TRO or preliminary injunctive relief weigh four factors: (1) the movant's likelihood of success on the merits; (2) the threat of irreparable harm to the movant in the absence of relief; (3) the balance between that harm and the harm injunctive relief would cause to the other litigants; and (4) the public interest. *Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 113 (8th Cir. 1981) (*en banc*). Success on the merits is the most important factor—indeed, preliminary injunctive relief cannot be entered where a litigant cannot establish any likelihood of success on their claims. *Shrink Missouri Government PAC v. Adams*, 151 F.3d 763, 764 (8th Cir. 1998). Moreover, "[a] TRO is an extraordinary remedy, and the [Petitioner] has the burden of demonstrating that [she] is entitled to such relief." *Minneapolis Urban League, Inc. v. City of Minneapolis*, 650 F. Supp. 303, 305 (D. Minn. 1986).

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[3] Nor did Petitioner properly bring a motion for either a Temporary Restraining Order or a Preliminary Injunction as contemplated under this district's local rules. *See* District of Minnesota Local Rule 7.1(d) (setting forth specific requirements for such motions).

Here, for the reasons already discussed, Petitioner cannot show any likelihood of success on the merits. *See supra* §§ II-IV. Nor, even had he been able to show a violation of his due process rights—and he has not—would Petitioner be entitled to the relief he requests. *See, e.g.*, Doe, 324 F. Supp. 3d at 226. In *Doe*, a petitioner similarly subject to an order of supervision, received a release notification and was abruptly re-detained. *Id.* at 7-13. As here, the petitioner brought a habeas petition seeking immediate release from custody, including based on the contention that she had not timely received an informal interview. *Id.* at 13-14. As the Court observed, "Doe is not challenging the underlying justification for the removal order (although she seeks to reopen the proceeding). Nor is this a situation where a prompt interview might have led to her immediate release—for example, a case of mistaken identity. There is thus no apparent reason why a violation of the regulation, even assuming it occurred, should result in release." *Id.* at 24-25 (also noting regulations provide for conduct a custody review within 90 days under 8 C.F.R. § 241.4(k), and "[a]t that time, Doe may present any documentation or other evidence in support of her contention that continued detention is unwarranted."). The same is true here.

Finally, though a lack of likelihood of success on the merits is dispositive, the remaining *Dataphase* factors do not collectively support relief. In the absence of an injunction and TRO, the Petitioner will remain detained but may be removed from the country to Laos, the country to which an IJ determined he should be removed. There is potential for harm to the government, including because Petitioner seeks an injunction requiring court approval for him to be re-detained, which would directly impact its

removal efforts. The government would also incur costs in in supervising Petitioner outside of detention or in later re-detaining him only subject to judicial approval. Moreover, there is a public interest in the efficient administration of the nation's immigration laws. Thus, as with the first and most important factor, the remaining *Dataphase* factors thus do not weigh in Petitioner's favor and Petitioner's requests for emergency relief should be denied.

CONCLUSION

For all of the forgoing reasons, the Federal Respondents respectfully request that the Petition be dismissed.[4]

Dated: July 24, 2025

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[4] The Federal Respondents do not believe an evidentiary hearing is necessary in this matter, as the submissions, including the declaration and exhibits, of the Federal Respondents provide the Court with a sufficient record upon which to adjudicate the Petition.