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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

Osoth Manivong, Alien # [redacted],

Petitioner,

v.

PAMELA BONDI, in her official capacity as Attorney General, et al.

Respondents.

No. 2:25-cv-06747-JFW-KES

RESPONDENTS' OPPOSITION TO PETITIONER'S EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER [DKT. 11] AND REQUEST FOR CLARIFICATION OF COURT ORDER [DKT. 13]

RESPONDENTS' OPPOSITION TO *EX PARTE* TRO APPLICATION

I. INTRODUCTION

The Court should deny Petitioner's *ex parte* Motion for a Temporary Restraining Order (the "TRO Application") [Dkt. 11].

First, as to Petitioner's request that the Court issue a TRO barring Respondents from transferred him into another district, no authority supports barring the Attorney General from transferring detainees to other districts in the United States, nor does Petitioner establish that he would likely suffer any genuinely irreparable harm if he were so transferred. To the contrary, authority is clear that the Attorney General has discretion to make such transfers of detainees to other districts, which are not a 'harm' that is wrongfully inflicted on the detainees.

Moreover, in this case, Petitioner is subject to a final order of removal to Laos. At the time the TRO Application was filed, Petitioner was in the process of being transported to a staging facility outside of this district to permit removal by international flight to Laos to occur on September 1, 2025, pursuant to a final order of removal. Thus, the transfer was part of the Respondents' lawful efforts to effectuate his removal to Laos.[1]

Second, Petitioner is a Laotian national who contends he cannot be removed to Laos. He speculates that he might be removed to a third country without sufficient notice

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[1] Respondents have received this Court's Order setting a briefing schedule and enjoining respondents from transferring Petitioner out of the district or removing him to a third country until this Court rules on the TRO application. [Dkt. 13]. Respondents are informed and believe that Petitioner was transferred out of this district *prior* to the issuance of the Court's Order, which they received after 3:00 p.m. on August 26, 2025. For the avoidance of doubt about their compliance with the Court's Order, Petitioner is being routed back to Adelanto.

However, **Respondents respectfully request clarification that this Court's Order [Dkt. 13] does not preclude their taking steps to remove Petitioner to Laos pursuant to his final order of removal,** as removing him would necessarily require taking him out of the district. Respondents have already obtained travel documents and purchased passage on an international flight to Laos on September 1, 2025, which will not be usable if the Court intended to preclude transfer out of the district for *any* purpose, including lawful efforts to remove Petitioner to Laos.

and an opportunity to be heard. He therefore asks the Court to impose a multi-part notice and objection procedure now, by TRO, in advance of such a removal. *See* TRO Application, Proposed Order. This request for a TRO should be denied as speculative and an improper attempt to enjoin the government to follow the law. Furthermore, Petitioner's requested multi-part notice procedure is convoluted and obstructive. The requested procedure would constitute *de facto* improper interference with the prospective enforcement of a final removal order. Indeed, Petitioner's proposed TRO even seeks to impose a second stage requiring the Respondents to give him notice and time sufficient to enable him to try to re-open his old immigration proceedings. That is an improper effort to preemptively block removal in District Court.

Third, Petitioner's request for immediate release should be rejected because his present detention is statutorily authorized while Respondents attempt to effectuate his removal to Laos. Petitioner has not been detained for more than 90 days and cannot show that he will not be subject to removal in the reasonably foreseeable future. To the contrary, **Respondents have obtained travel documents from Laos and are prepared to enforce the removal order once the Court confirms that Petitioner may be transferred out of this district for purposes of effectuating removal.**

Accordingly, this Court should deny the instant TRO Application because no extraordinary emergency relief is warranted.

II. STANDARD OF REVIEW

The standard for issuing a TRO and a preliminary injunction are substantially identical. *Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A TRO is "an extraordinary and drastic remedy ... that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). For a TRO to issue, the movant must demonstrate: (1) a likelihood of success on the merits, (2) a likelihood of suffering irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in its favor, and (4) the TRO is in the public interest. *See Winter v. Nat. Res. Def. Council,*

Inc., 555 U.S. 7, 20 (2008). Where the government is a party, the balance of equities and the public interest factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

"A preliminary injunction can take two forms." *Marlyn Nutraceuticals v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 878 (9th Cir. 2009). "A prohibitory injunction prohibits a party from taking action and 'preserve[s] the status quo pending a determination of the action on the merits.'" *Id.* (quoting *Chalk v. U.S. Dist. Court*, 840 F.2d 701, 704 (9th Cir. 1988)). In contrast, a "mandatory injunction 'orders a responsible party to take action.'" *Id.* at 879 (quoting *Meghrig v. KFC W., Inc.*, 516 U.S. 479, 484 (1996)). "A mandatory injunction 'goes well beyond simply maintaining the status quo *pendente lite* [and] is particularly disfavored.'" *Stanley v. Univ. of S. Cal.*, 13 F.3d 1313, 1320 (9th Cir. 1994) (quoting *Anderson v. U.S.*, 612 F.2d 1112, 1114 (9th Cir. 1980)).

III. ARGUMENT

A. Petitioner's Request for a TRO Barring His Transfer From this District Should Be Denied

Petitioner first seeks a TRO barring the Respondents from transferring him to another district within the United States (a prohibitory TRO), or in the alternative requiring the Respondents to affirmatively transfer him back from such other district (a mandatory TRO). *See* TRO Application, Proposed Order. Petitioner fails to carry his demanding burden to show entitlement to such relief, which would improperly constrain the Attorney General's discretion to decide where to place detained immigrants,[2] and which does not involve any likely irreparable harm. Indeed, Petitioner's TRO Application is devoid of any discussion on this issue, much less any authority.

1. The law and facts do not clearly favor Petitioner because the relief sought is not part of his habeas claim

Petitioner argues that he is likely to succeed on the merits because he allegedly

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[2] *See Rios-Berrios v. INS*, 776 F.2d 859, 863 (9th Cir. 1985) (noting that where a petitioner should be transported "is within the province of the Attorney General to decide").

cannot be removed to Laos and thus cannot be removed within a reasonable time. However, the TRO relief he seeks—to be detained solely in the Central District of California—is not part of that habeas claim. There is no claim for "unlawful district of detention." Nor does Petitioner cite any authority establishing that INA detainees cannot be transferred to other districts. Furthermore, there is no prohibition on transferring alien detainees subject to removal; rather the INA bars this Court from entering injunctive relief with respect to transfers.

The government may detain aliens pending removal proceedings under 8 U.S.C. § 1226(a) and removable aliens under § 1231(a). And the government must detain aliens who are inadmissible or removable under certain provisions. *See id.* §§ 1226(c)(1), 1231(a)(2)(A). Under 8 U.S.C. § 1231(g)(1), the Executive has great discretion in deciding where to detain aliens. The INA precludes review of "any . . . decision or action of the Attorney General . . . the authority for which is specified under this subchapter to be in the discretion of the Attorney General . . . ." 8 U.S.C. § 1252(a)(2)(B)(ii). Therefore, § 1252(a)(2)(B)(ii) bars relief that would impact where and when to detain Petitioners. *See Van Dinh v. Reno*, 197 F.3d 427, 433–34 (10th Cir. 1999) (citing *Rios-Berrios*, 776 F.2d at 863) (finding that judicial review of decision to transfer a detainee is inappropriate due to lack of jurisdiction).

Furthermore, § 1252(g) also bars enjoining transfers under Title 8. It prohibits district courts from hearing challenges to decisions and actions about whether, when, and where to commence removal proceedings. Reading the discretionary language in §§ 1231(g)(1) and 1252(g) together confirms that Congress foreclosed piecemeal litigation over where a detainee may be placed into removal proceedings. *See Liu v. INS*, 293 F.3d 36, 41 (2d Cir. 2002) (habeas petition "must not be construed to be 'seeking review of any discretionary decision'" (*quoting Chmakov v. Blackman*, 266 F.3d 210, 215 (3d Cir. 2001))), superseded by statute on other grounds as recognized by *Ruiz-Martinez v. Mukasey*, 516 F.3d 102, 113 (2d Cir. 2008); *see also Jimenez-Angeles v. Ashcroft*, 291 F.3d 594, 599 (9th Cir. 2002); *Tercero v. Holder*, 510 F. App'x 761, 766 (10th Cir.

2013) (Attorney General's discretionary decision to detain aliens is not reviewable by way of habeas.).

Accordingly, Congress has barred judicial intervention with respect to the government's decision where to detain Petitioner. Hence, the government cannot be barred from transferring Petitioner, or even worse, ordered to return Petitioner back to this district after he has already been transferred.

Moreover, as discussed by the concurrently filed Declaration of Lourdes Palacios, ("Palacios Decl."), Respondents' transfer of Petitioner to a staging facility is for the express purpose of enforcing the removal order and removing Petitioner to Laos. *See* Palacios Decl. at ¶¶ 11-12. This Court should not prohibit transfer out of this district where doing so effectively prohibits enforcement of a final order of removal.[3]

2. Petitioner also fails to show that he will likely suffer extreme or very serious irreparable harm if he is transferred

Petitioner also has not demonstrated that he will suffer irreparable injury if he is transferred to another district while detained. To show irreparable harm, he must demonstrate "immediate threatened injury." *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League,* 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely showing a "possibility" of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22. Moreover, mandatory injunctions are not granted unless extreme or very serious damage will result. *Marlyn Nutraceuticals, Inc.*, 571 F.3d at 879 (internal citation omitted). "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter*, 555 U.S. at 22.

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[3] *See* 8 U.S.C. 1252(g) ("[N]o court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, **or execute removal orders** against any alien under this chapter.").

First, Petitioner fails to demonstrate irreparable harm since this Court continues to have jurisdiction to adjudicate his habeas petition. A writ of habeas corpus operates not upon the prisoner, but upon the prisoner's custodian. *See Braden v. 30th Jud. Circuit Ct. of Kentucky*, 410 U.S. 484, 494–495 (1973). Jurisdiction over a § 2241 petition attaches when a petitioner files a petition in his district of confinement and names his custodian. *See Mujahid v. Daniels*, 413 F.3d 991, 994 (9th Cir. 2005) ("jurisdiction attaches on the initial filing for habeas corpus relief, and it is not destroyed by a transfer of the petitioner and the accompanying custodial change."). *See, e.g., Acosta v. Doerer*, No. 5:24-cv-01630-SPG-SSC, 2024 WL 4800878, at *4 (C.D. Cal. Oct. 24, 2024) (holding that the district court maintained jurisdiction even after immigration detainee petitioner was transferred from one federal facility to another); *Rincon-Corrales v. Noem*, No. 2:25-cv-00801-APG-DJA, 2025 WL 1342851, at *2 (D. Nev. May 8, 2025) ("[O]nce a petitioner has properly filed a habeas petition in the district of confinement, any subsequent transfer does not strip the filing district of habeas jurisdiction.").

Petitioner argues that being subjected to unlawful detention itself constitutes irreparable injury. But this argument "begs the constitutional questions presented in [his] petition by assuming that [P]etitioner has suffered a constitutional injury." *Cortez v. Nielsen*, 2019 WL 1508458, at *3 (N.D. Cal. Apr. 5, 2019). Moreover, Petitioner's "loss of liberty" is "common to all [noncitizens] seeking review of their custody or bond determinations." *See Resendiz v. Holder*, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He faces the same alleged irreparable harm as any habeas corpus petitioner in immigration custody. That type of harm has nothing to do with the specific district he may be detained in.

Petitioner fails to identify any specific irreparable harm that would arise from his potentially being detained in another district versus within this district. He makes vague reference to having access to his counsel who is located in Los Angeles. However Petitioner fails to demonstrate that he will not be able to access such counsel if he is transferred to detention in another district. Indeed, telephone calls and mail are the

primary means by which detainees access their counsel while in detention facilities, and those means do not depend upon the specific district of detention.

Accordingly, Petitioner's request for a TRO barring his transfer, or requiring him to be transferred back, should be denied.

B. Petitioner's Request for a Prospective Injunction Prohibiting Any Potential Transfer to a Third Country Should Be Denied

Petitioner's request for an injunction prohibiting Petitioner's transfer to a third country similarly fails. At its outset, this request is speculative, insofar as Petitioner assumes that he would be removed unlawfully to an undesignated third country without any notice and an opportunity to be heard. To the contrary, Respondents have obtained travel documents to Laos, the country specified in his removal order. *See* Palacios Decl. at ¶¶ 11-12.

But even if no travel documents had been obtained, it is improper to prospectively enjoin the government to follow the law. *See Elend v. Basham*, 471 F.3d 1199, 1209 (11th Cir. 2006) (court cannot fashion an injunction that abstractly commands the Secret Service to obey the First Amendment, noting that injunction requiring party to do nothing more specific than 'obey the law' is impermissible."); *E.E.O.C. v. AutoZone, Inc.*, 707 F.3d 824, 841 (7th Cir. 2013) ("An obey-the-law injunction departs from the traditional equitable principle that injunctions should prohibit no more than the violation established in the litigation or similar conduct reasonably related to the violation."); *see, e.g. Lowery v. Circuit City Stores, Inc.*, 158 F.3d 742, 767 (4th Cir. 1998) (an "obey the law" injunction "impermissibly subjects a defendant to contempt proceedings for conduct unlike and unrelated to the violation with which it was originally charged"); *Burton v. City of Belle Glade*, 178 F.3d 1175, 1201 (11th Cir. 1999) ("As this injunction would do no more than instruct the City to 'obey the law,' we believe that it would not satisfy the specificity requirements of [Federal Rule of Civil Procedure] 65(d) and that it would be incapable of enforcement.").

Petitioner asks this Court to order the government not to remove him to a country

where "his life or freedom would be threatened because of five protected grounds," 8 U.S.C. § 1231(b)(3)(A), or where he would face a threat of torture, 8 C.F.R. §§ 208.16-208.18. Petitioner argues that Respondents intend to remove him to a third country without notice or opportunity to be heard. Petitioner's argument further assumes that the government will act in an unlawful manner in the future and so the Petitioner will suffer a constitutional injury at some point in the future. This is too hypothetical to warrant the extraordinary relief of a preliminary injunction. This particularly true where Respondents have obtained travel documents to remove Petitioner to Laos.

Furthermore, the Petitioner's Proposed Order seeks to impose a multi-stage notice and objection procedure whereby the Petitioner would first be given 10 days to raise a fear-based claim relative to written notice of prospective removal to a third country, and then the Respondents "must move to reopen Petitioner's removal proceedings." *See* TRO Application, Proposed Order. If the Respondents do not find such reasonable fear, Petitioner suggests they must then be ordered via TRO to give Petitioner "a meaningful opportunity" for Petitioner "to seek reopening of his immigration proceedings." *Id.* A TRO in District Court providing for such a last-ditch potential reopening of immigration proceedings is not a proper way to block the future imminent enforcement of a removal order. If Petitioner had any legitimate grounds for seeking relief from his final removal order, then he should have reopened his immigration proceedings on that basis long ago in the Immigration Court. The Attorney General's execution of a final removal order cannot be blocked at the very end of the process so that Petitioner may *then* try to reopen his immigration proceedings. *See* 8 U.S.C. 1252(g). And in any event, obligating a potential removal to be delayed for the purpose of such hypothetical proceedings is highly speculative, and not the proper subject of an *ex parte* TRO Application.

C. Petitioner's Request for Immediate Release Should be Denied.

Petitioner's request for immediate release should be denied because his detention pending removal is statutorily authorized and he does not qualify for *Zadvydas* relief.

"When a final order of removal has been entered against an alien, the Government must facilitate that alien's removal within a 90-day 'removal period.'" *Thai v. Ashcroft*, 366 F.3d 790, 793 (9th Cir. 2004) (citation omitted); *see also* 8 U.S.C. § 1231(a)(1)(A). Where removal cannot be accomplished within the 90-day removal period, continued detention is authorized by 8 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that 8 U.S.C. § 1231(a)(6) contained an implicit "reasonable time" limitation. *Zadvydas*, 533 U.S. at 682. The Court concluded that, for the sake of uniform administration in the federal courts, six months was a presumptively reasonable period of detention pending removal. *Id.* at 701.

The *Zadvydas* Court also held that, even when an alien is detained for longer than six months, the alien is not entitled to *habeas* relief unless he can show that there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*; *see also Clark v. Suarez-Martinez*, 543 U.S. 371, 377–78 (2005). The Ninth Circuit has held that, to meet this burden, the alien must show that he "is unremovable because the destination country will not accept him or his removal is barred by our own laws." *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008). Only if the alien can make this showing does the burden shift to Respondents to provide rebuttal evidence. *Zadvydas*, 533 U.S. at 701.

Here, Petitioner does not qualify for *Zadvydas* relief. He has not yet been detained for 90 days, much less the six months the Supreme Court held to be presumptively reasonable. Moreover, Respondents are actively seeking to remove Petitioner. They have obtained travel documents for Laos and have scheduled his removal for an international flight on September 1, 2025. *See* Palacios Decl. at ¶¶11-12. Under these circumstances, Petitioner has not shown that he is likely facing the prospect of indefinite detention and thus is not entitled to immediate release.

D. The Balance of Interests Favors the Government

It is well settled that the public interest in enforcement of the United States's immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S.

543, 556–58 (1976); *Blackie's House of Beef, Inc. 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); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders[.]"). This public interest outweighs Petitioner's private interest here.

IV. CONCLUSION

For the above reasons, the Respondents respectfully request that Petitioner's *ex parte* TRO Application be denied.

Dated: August 27, 2025

Respectfully submitted,

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Acting United States Attorney
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Assistant United States Attorney
Chief, Civil Division
DANIEL A. BECK
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/s/ *Jill S. Casselman*
JILL S. CASSELMAN
Assistant United States Attorney

Attorneys for Respondents

CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondents, certifies that the memorandum of points and authorities contains 3,313 words, which complies with the word limit of L.R. 11-6.1.

Dated: August 27, 2025

/s/ *Jill S. Casselman*
JILL S. CASSELMAN
Assistant United States Attorney

Attorneys for Respondents

DECLARATION OF LOURDES PALACIOS

I, Lourdes Palacios, do hereby declare and state as follows:

1. I am a Deportation Officer with the U.S. Department of Homeland Security ("Department"), U.S. Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO"), in the Adelanto ICE Processing Center in Adelanto, California. I have been employed as a Deportation Officer ("DO") with the Department since February 28, 2021.

2. I am currently assigned to the Adelanto Processing Center in Adelanto, California under the ERO Los Angeles Field Office. The duties and responsibilities of my position include the review of detained alien cases at the Adelanto Detention Center in Adelanto, California. In my capacity as a Deportation Officer, I have access to agency records of ICE including alien registration files, also known as A files.

3. I am familiar with ICE policy and procedures governing the detention and removal of aliens who come into ICE's custody. I am the ICE officer assigned to the case of Osoth Manivong, (A 027 821 667), hereinafter referred to as Petitioner. The facts in this declaration are based on my personal and professional knowledge, reasonable inquiry and review of information obtained from various records, systems, databases, consultation with other DHS employees, and employees of DHS contract facilities, and review of official documents and records maintained by the Department and other relevant sources obtained during the regular course of business. I provide this declaration based on the best of my knowledge, information, belief, and reasonable inquiry for the above captioned case. If called as a witness, I could and would competently testify thereto.

4. Petitioner is a native and citizen of Laos who initially entered the United States as a refugee June 17, 1986.

5. On December 28, 2001, Petitioner was convicted in the Superior Court of California, County of Orange, for Possession of Controlled Substance in violation of

Health and Safety Code 11378 and for the Sale and Transport of a Controlled Substance, in violation of Health and Safety Code 11379.

6. On February 2, 2009, Petitioner was convicted by the Superior Court of California, County of Orange for Assault with a Deadly Weapon, in violation of Penal Code section 245(A)(1).

7. On or about February 4, 2009, Petitioner was taken into ICE custody and placed into removal proceedings, with the issuance of a Notice to Appear with a charge of removability under section 237(a)(2)(A)(iii) of the Immigration and Nationality Act based on his conviction of an aggravated felony.

8. On or about April 1, 2009, after an individual hearing by an immigration judge, Petitioner was ordered removed to Laos. Petitioner waived appeal of this decision, making it a final order of removal.

9. On or about July 7, 2009, ICE released Petitioner from custody. On that date, ICE issued the Petitioner an Order of Release on Supervision.

10. On July 7, 2025, ICE officers took Petitioner into custody pursuant to 8 C.F.R. §241.4, 8 U.S.C. § 1231. He was then transported to the Adelanto ICE Processing Center. Petitioner remains detained at the Adelanto ICE Processing Center.

11. ICE has obtained travel documents from Laos and is prepared to enforce the removal order.

12. ICE has scheduled the Petitioner's removal from the United States on September 1, 2025. ICE has scheduled transport to a staging facility and has purchased passage on an international flight to Laos.

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on this 26th day of August 2025.

Lourdes Palacios
Deportation Officer
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security