UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

Chhot, Petitioner,	**CASE NO: 3:25-cv-01172**
vs.	ORAL ARGUMENT REQUESTED
Deville, *et al.*, Respondents.	

MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

By the above-captioned Petition for Writ of Habeas Corpus, Petitioner Chanthan Chhot challenges the lawfulness of his present detention and seeks his prompt release from the custody of U.S. Immigration and Customs Enforcement ("ICE"). By the instant Motion, Mr. Chhot respectfully seeks to maintain the pre-litigation *status quo* through the issuance of a judicial order requiring ICE to keep Chhot within the Western District of Louisiana while the above-captioned Petition is litigated. As outlined in more detail by the accompanying Memorandum of Law, Mr. Chhot's present detention is unlawful and he is likely to succeed on the merits of the above-captioned Petition. As also outlined in more detail by the accompanying Memorandum of Law, Mr. Chhot will be irreparably harmed if he is removed from the Western District of Louisiana while the above-captioned Petition is pending. And as further outlined in more detail by the accompanying Memorandum of Law, both the balance of equities and public interest respecting the provisional relief sought by Mr. Chhot tilt sharply in Chhot's favor.

Accordingly, based on the foregoing as well as the arguments contained in the accompanying Memorandum of Law and **Exhibits 1 through 7** submitted herewith, Mr. Chhot respectfully requests that the Court: (1) issue a temporary restraining order which prohibits the Respondents from transferring Chhot out of the Western District of Louisiana in the absence of judicial permission obtained after adequate notice to Chhot's counsel; (2) order Respondents to oppose the instant Motion and above-captioned Petition within 7 days of receiving said order; and (3) set a hearing pursuant to Rule 65(a)(2) for adjudication of the instant Motion and above-captioned Petition. A proposed form of Order is submitted herewith as **Exhibit 8**.

The undersigned has notified the United States Attorney's Office for the Western District of Louisiana and provided them with a copy of the petition for habeas corpus. The undersigned will serve courtesy copies of the instant Motion – as well as its supporting Memorandum and Exhibits – via electronic mail to the United States Attorney's Office for the Western District of Louisiana, while Rule 4 service is pending, so that they are on notice of all filings and evidence and thus will not be prejudiced while such service remains pending.

Respectfully submitted,
CHANTHAN CHHOT,

Dated: August 15, 2025

By his attorneys,

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CERTIFICATE OF SERVICE PURSUANT TO LOCAL RULE 65.1

I hereby certify that on August 15, 2025, I electronically filed the foregoing Motion, as well as its supporting Memorandum and Exhibits, with the Clerk of the Court using the CM/ECF system. I further certify that on August 15, 2025, I will send by electronic mail the above-captioned Petition and foregoing Motion, as well as its supporting Memorandum and Exhibits, to the U.S. Attorney's Office for the Western District of Louisiana at the following electronic mail addresses and have notified said counsel of the date and time the foregoing materials were filed:

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/s/ Charles Andrew Perry
Charles Andrew Perry

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

Chhot,	)	**CASE NO: 3:25-cv-1172**
Petitioner,	)	
vs.	)	
Deville, *et al.*,	)	
Respondents.	)	

MEMORANDUM OF LAW IN SUPPORT OF PETITIONER CHANTHAN CHHOT'S MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

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INTRODUCTION

The Fourth Amendment to the United States Constitution requires that all arrests by law enforcement be supported by probable cause – that is, an individualized, fact-based determination which supports a legitimate reason for the state to deprive the arrestee of his liberty. These protections apply not only to police officers in their pursuit of suspected criminals but they apply with equal force to arrests by U.S. Immigration and Customs Enforcement ("ICE") Officers in their pursuit of noncitizens whom ICE suspects are violating the nation's immigration laws. In the case of a noncitizen who has received a removal order but whom ICE has determined cannot be removed and thus has been released from custody, the lawful basis for rearresting and re-detaining that noncitizen for immigration purposes – in the absence of a new administrative proceeding – is narrow. That is to say, before ICE officers may re-arrest and re-detain such a noncitizen for no other reason than the fact that the noncitizen had previously been ordered removed, ICE must support the arrest with an individualized, fact-based determination that the agency is now substantially likely to effect the noncitizen's removal in the reasonably foreseeable future. Alternatively, ICE may re-arrest and re-detain such a noncitizen if ICE has made an individualized, fact-based determination that the noncitizen has violated the terms of his release and detention is necessary to enforce the agency's supervision of the noncitizen. In the absence of either of these two factual determinations, or a new administrative proceeding, ICE's arrest of the noncitizen violates the Fourth Amendment and the agency's continued custody of the noncitizen runs afoul of the Fifth Amendment as well as corresponding limitations placed on ICE's detention authority by the Immigration and Nationality Act ("INA") and its implementing regulations. This is the case of Petitioner Chanthan Chhot.

Mr. Chhot was born in a refugee camp, immigrated to the United States as a child in 1984 and, as a result of his criminal conduct, was ordered removed from the United States by the U.S. Immigration Court in 2004. Because the Immigration Court found that Mr. Chhot was a Cambodian national, ICE attempted to repatriate Chhot to Cambodia but the Royal Government of Cambodia ("RGC") declined to repatriate Mr. Chhot, likely because Chhot lacked sufficient indicia of Cambodian nationality. Accordingly, near the beginning of 2005, ICE released Mr. Chhot from immigration detention – pursuant to an administrative order of supervision ("2005 Order of Supervision") – because ICE could not remove Chhot from the United States and thus Chhot's ongoing civil detention served no legitimate purpose. Based on this set of facts, ICE allowed Mr. Chhot to reintegrate into society pursuant to the 2005 Order of Supervision.

More than twenty years later, in May of 2025, ICE revoked the 2005 Order of Supervision and re-detained Mr. Chhot, without any warning, to inquire into whether the RGC would change course concerning Chhot's repatriation. Yet, nothing in fact had changed. The RGC was continuing to accept Cambodian nationals as deportees from the United States pursuant to the same repatriation agreement that had existed in 2005. ICE had provided the RGC with no new information particular to Mr. Chhot which might impact the RGC's repatriation decision. And, to-date, ICE can provide no fact-based reason as to why it believes the RGC is more likely to repatriate Mr. Chhot now than in 2005. Indeed, ICE can provide no concrete justification as to why it is detaining Mr. Chhot other than with reference to a twelve-year-old misdemeanor conviction, the underlying conduct of which ICE asserts violated Chhot's 2005 Order of Supervision, or to wishful thinking that the agency could possibly pressure the RGC into accepting Chhot for repatriation after the RGC has declined to do so for two decades. However, both of these reasons for Chhot's more than three months of detention are invalid insofar as they run afoul

of the limitations which the Judicial Branch has for decades placed on civil immigration detention for noncitizens in circumstances like those of Mr. Chhot and which are expressly incorporated into the INA through its implementing regulations.

By the above-captioned Petition for Writ of Habeas Corpus, Mr. Chhot challenges the lawfulness of his present detention and seeks the prompt reinstatement of the 2005 Order of Supervision as well as his release from ICE custody pursuant to that Order. By the instant Motion, Mr. Chhot seeks to maintain the pre-litigation *status quo* through the issuance of a judicial order requiring ICE to keep Chhot within the Western District of Louisiana while the above-captioned Petition is litigated. As outlined above and as described in more detail below, Mr. Chhot's present detention is unlawful and he is likely to succeed on the merits of the above-captioned Petition. As described in more detail below, Mr. Chhot will be irreparably harmed if he is removed from the Western District of Louisiana while the above-captioned Petition is adjudicated. And, as also described in more detail below, both the balance of equities and public interest respecting Mr. Chhot's requested provisional relief tilt sharply in Chhot's favor.

Accordingly, based on the foregoing and the argument that follows, Mr. Chhot respectfully requests that the Court: (1) issue a temporary restraining order which prohibits the Respondents from transferring Chhot out of the Western District of Louisiana in the absence of judicial permission obtained after adequate notice to Chhot's counsel; (2) order Respondents to oppose the instant Motion and above-captioned Petition within 7 days of receiving said order; and (3) set a hearing pursuant to Rule 65(a)(2) for adjudication of the instant Motion and above-captioned Petition. A proposed form of Order is submitted herewith as **Exhibit 8**.

STATEMENT OF FACTS

Mr. Chhot was born in a refugee camp to parents whom Chhot believes were Cambodian citizens. *See* Decl. of Chanthan Chhot ("Chhot Decl."), **Exhibit 1**, at ¶ 3. In 1984, Mr. Chhot immigrated to the United States as a refugee and subsequently became a lawful permanent resident of the United States. *See id.*, **Exhibit 1**, at ¶ 2; Decl. of Janet H. Vo ("Vo Decl."), **Exhibit 2**, at ¶ 3 & Sub-Ex. A – p. 3. In February of 2003, the legacy U.S. Immigration and Naturalization Service ("INS") commenced removal proceedings against Mr. Chhot before the U.S. Immigration Court because of a recent conviction for assault and battery with a dangerous weapon. *See id.*, **Exhibit 2**, at ¶ 3 & Sub-Ex. A. In March of 2004, immigration authorities took Mr. Chhot into custody directly following the end of Chhot's penal sentence. *See id.*, **Exhibit 2**, at ¶ 4 & Sub-Ex. B. In October of 2004, the Immigration Court ordered Mr. Chhot's removal to Cambodia. *See id.*, **Exhibit 2**, at ¶ 5 & Sub-Ex. C.

In November of 2004, U.S. Immigration and Customs Enforcement ("ICE") – which had replaced the INS as the Executive Branch's immigration enforcement arm – formally requested that the Royal Government of Cambodia ("RGC") repatriate Mr. Chhot, pursuant to a recently negotiated repatriation agreement between the United States and the RGC, but the RGC declined to do so. *See id.*, **Exhibit 2**, at ¶¶ 6-7 & Sub-Ex. D-E; *see also* Memorandum between the Government of the United States and the Royal Government of Cambodia for the Establishment and Operation of a United States-Cambodia Joint Commission on Repatriation and Addendum ("Repatriation Agreement"), **Exhibit 3**.[1] ICE subsequently determined that it was unable to

[1] Pursuant to Fed. R. Evid. 201, Mr. Chhot respectfully requests that the Court take judicial notice of the electronic docket record of the U.S. District Court for the Central District of California respecting the matter of *Nak Kim Chhoeun, et al. v. David Marin, et al.*, which is docketed as Case Number 17-CV-1898 and which contains a copy of the Memorandum between the Government of the United States and the Royal Government of Cambodia for the Establishment and Operation of

remove Mr. Chhot from the United States and, in February of 2005, released Chhot from immigration detention with an Order of Supervision ("2005 Order of Supervision"). *See* Vo Decl., **Exhibit 2**, at ¶ 7 & Sub-Ex. E; *see also* Chhot Decl., **Exhibit 1**, at ¶ 7.

For at least the last 10 years, Mr. Chhot has stayed out of trouble, has focused on coping with his serious mental health issues and has done his best to comply with the 2005 Order of Supervision. *See id.*, **Exhibit 1**, at ¶¶ 4-5, 8. Nevertheless, in May of 2025, ICE – without warning – revoked the 2005 Order of Supervision and took Mr. Chhot back into immigration custody. *See id.*, **Exhibit 1**, at ¶ 9; Vo Decl., **Exhibit 2**, at ¶ 9 & Sub-Ex. G. At the time it detained Mr. Chhot, ICE had no reason to believe that Chhot's circumstances vis-à-vis the RGC had changed such that the RGC or any other foreign government was likely to accept Chhot for repatriation. *See id.*, **Exhibit 2**, at Sub-Exhs. F-G. Rather, ICE's purpose in taking Mr. Chhot into custody was to force Chhot into a detained interview with RGC consular officials who could decide whether or not the RGC would repatriate Chhot after two decades of declining to do so. *See* Chhot Decl., **Exhibit 1**, at ¶¶ 10-12. ICE has asserted that Mr. Chhot's detention has been lawful because a Massachusetts state court had convicted Chhot of misdemeanor disorderly conduct in 2013 and that such conviction violated the 2005 Order of Supervision. *See* Vo Decl., **Exhibit 2**, at Sub-Ex. G. At present, ICE has no fact-based, reason – specific to Mr. Chhot – to support an assertion that the RGC will likely accept Chhot for repatriation or that Chhot's 2013 misdemeanor conviction would have had any bearing on Chhot's compliance with the now revoked 2005 Order of Supervision. *See* Chhot Decl., **Exhibit 1**, at ¶¶ 8-12.

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a United States-Cambodia Joint Commission on Repatriation and Addendum that was filed by the U.S. Department of Justice at docket number 33-7.

ARGUMENT

I. APPLICABLE LAW

Before a provisional remedy under Fed. R. Civ. P. 65 issues, the movant must establish he is likely to prevail on the merits of the underlying claim, that he faces a substantial threat of irreparable injury if the court declines to order the requested remedy, that this threatened injury outweighs any harm which such remedy will impose upon the opposing party and that such remedy is consistent with the public interest. *See Louisiana v. Biden*, 55 F.4th 1017, 1022 (5th Cir. 2022).

II. MR. CHHOT IS LIKELY TO SUCCEED ON THE MERITS OF THE ABOVE-CAPTIONED PETITION

When ICE released Mr. Chhot from custody pursuant to the 2005 Order of Supervision, the agency did so because the only permissible reason for continuing Chhot's detention was to effect his removal from the United States and the agency knew that it could not do so. Moreover, at the time it released Mr. Chhot from custody, ICE knew that it had no other lawful option. Just four years earlier, the U.S. Supreme Court had made clear in the landmark *Zadvydas* decision that ICE could only continue the detention of noncitizens with final removal orders if the noncitizen's actual removal from the United States was significantly likely to occur in the reasonably foreseeable future. *See Zadvydas v. Davis*, 533 U.S. 678, 699-700 (2001) ("… if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.") (citing 8 U.S.C. § 1231(a)(6)). Moreover, within months of the *Zadvydas* decision, the Executive Branch – through ICE's predecessor the U.S. Immigration and Naturalization Service – had promulgated regulations implementing the requirements of that decision. *See* 8 C.F.R. § 241.13(g)(1) (requiring noncitizen to be released from immigration detention, absent special circumstances, if agency determines "there is no significant likelihood that the alien will be removed in the reasonably foreseeable future"); Continued Detention of

Aliens Subject to Final Orders of Removal, 66 Fed. Reg. 56967, 56967-70 (Interim Rule Nov. 14, 2001) (attributing Regulation 241.13 to limitations on immigration detention articulated in *Zadvydas*).[2] Accordingly, ICE's release of Mr. Chhot from immigration custody in 2005 was not discretionary, but rather was compelled by the INA, its implementing regulations and the constitutional principles which animated the *Zadvydas* decision. In short, without a fact-based reason to believe that it could remove Mr. Chhot from the United States, ICE had no lawful basis to continue his immigration detention. *See* Chhot Decl., **Exhibit 1**, at ¶ 7; Vo Decl., **Exhibit 2**, at ¶ 7 & Sub-Ex. E.

This same legal regime which required ICE to release Mr. Chhot from custody also restricted the circumstances in which ICE could resume Chhot's immigration detention to enforce Chhot's removal order – that is, either because the agency had determined Chhot's removal from the United States had become significantly likely to occur in the reasonably foreseeable future or because Chhot's arrest was necessary to enforce the conditions of his release. *See* 8 C.F.R. §§ 241.13(*i*)(1), (2). Under this regime and as outlined in the 2005 Order of Supervision, if ICE were to require Mr. Chhot's assistance in investigating the possibility that the RGC or perhaps a third country might repatriate Chhot, ICE would not be permitted to re-detain Chhot to further the investigation but rather must request that Chhot "appear in person at the time and place specified," *e.g.*, for a consular interview, and cooperate with ICE's efforts. Vo Decl., **Exhibit 2**, at Sub-Ex. E – p. 1. Moreover, upon a positive repatriation decision, ICE would be obligated not to detain Mr. Chhot by surprise, but rather must provide Chhot with "an opportunity to prepare for an orderly

[2] Such special circumstances include a noncitizen who is implicated in terrorism, a noncitizen who is implicated in matters of national security or sensitive international relations, a noncitizen who carries a highly contagious disease which threatens public safety or a noncitizen who is an especially dangerous individual – none of which are applicable here. *See* 8 C.F.R. § 241.14

departure." *Id.*, **Exhibit 2**, at Sub-Ex. E – p. 3. And, under this regime if Mr. Chhot were to refuse to cooperate with ICE's efforts at any stage in the investigatory process, ICE would be authorized to re-detain Mr. Chhot immediately for violating the conditions of the 2005 Order of Supervision. *See* 8 C.F.R. § 241.13(*i*)(1); *Zadvydas*, 533 U.S. at 695 ("...we nowhere deny the right of Congress to ... subject [noncitizens] to supervision with conditions when released from detention, or to incarcerate them where appropriate for violations of those conditions."). Yet ICE followed none of these rules when its agents, without any warning, arrested and detained Mr. Chhot in May of 2025 and thus both Chhot's arrest as well as subsequent detention were unlawful.

A. U.S. Immigration and Customs Enforcement ("ICE") Had and Continues to Have No Fact-Based Reason, Specific to Mr. Chhot, to Believe that It Can Effect Chhot's Removal in the Reasonably Foreseeable Future.

To lawfully revoke the 2005 Order of Supervision and return Mr. Chhot into immigration custody for the purpose of effectuating Chhot's removal, ICE was obligated to adduce specific facts supporting "(1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future." *Kong v. U.S.*, 62 F.4th 608, 619-20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(*i*)(2)); *see also, e.g.*, *Hernandez Escalante v. Noem*, 2025 WL 2206113, *3 (E.D. Tex. Aug. 2, 2015) (Truncale, J.) ("These regulations clearly indicate, upon revocation of supervised release, it is [ICE's] burden to show a significant likelihood that the alien may be removed").[3] Yet, when ICE detained Mr. Chhot

[3] Mr. Chhot notes that this individualized determination must implicate personal characteristics of the noncitizen and cannot be satisfied by the fact that U.S. Immigration and Customs Enforcement ("ICE") has successfully repatriated other noncitizens of the same national origin. *See, e.g., Heng Meng Lin v. Ashcroft*, 247 F. Supp. 2d 679, 685-86 & n.9 (E.D. Pa. 2003) (DuBois, J.) ("...statistics on the number of aliens who have been successfully removed to a certain country may not itself demonstrate that an alien will likely be removed to that country in the foreseeable future."); *Khader v. Holder*, 843 F. Supp. 2d 1202, 1208-09 (N.D. Ala. 2011) (Greene, M.J.) (government's burden is to adduce evidence concerning "the prospects for removing someone in the position of this

in May of 2025, nothing had changed since February of 2005 with respect to Chhot's removability. The governing repatriation agreement between the RGC and the United States was the same in May of 2025 as it was in February of 2005. *See* Repatriation Agreement, **Exhibit 3**; Decl. of Deputy Ass't Dir. John A. Schultz Jr. ("Schultz Decl."), **Exhibit 4**, at ¶¶ 1-6. Pursuant to that agreement, the RGC in May of 2025 was still interviewing alleged Cambodian nationals as a necessary antecedent for determining whether it would repatriate any particular proposed deportee, just as it had done during the previous 20 years. *See id.*, **Exhibit 4**, at ¶¶ 6-12.[4] And ICE had no new information particular to Mr. Chhot which could suggest that the RGC would repatriate Chhot after more than two decades of declining to do so. *See* Chhot Decl., **Exhibit 1**, at ¶¶ 7-11; Vo Decl., **Exhibit 2**, at Sub-Exhs. E-F.

ICE's apparent purpose for detaining Mr. Chhot was to circumvent the procedures outlined in the 2005 Order of Supervision and compel Chhot by surprise to sit for a detained interview with representatives of the RGC, to determine if the RGC would change course and accept Chhot for repatriation. *See* Chhot Decl., **Exhibit 1**, at ¶ 12. In this way, Mr. Chhot's detention violated and continues to violate the INA, its implementing regulations and the constitutional principles which animated the *Zadvydas* decision, given that ICE did not detain Chhot for the permissible purpose of actually effecting his removal to Cambodia but rather for the impermissible purpose of investigating whether the RGC might repatriate Chhot and thus whether the agency had a sufficient factual basis to justify Chhot's detention. *See, e.g.*, *Morales v. Chadbourne*, 996 F. Supp. 2d 19,

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Petitioner," *i.e.*, the specific noncitizen in-question); *Nguyen v. Hyde*, --- F.Supp.3d ----; 2025 WL 1725791, *4 (D. Mass. 2025) (Joun, J.) (same).

[4] Pursuant to Fed. R. Evid. 201, Mr. Chhot respectfully requests that the Court take judicial notice of ICE Enforcement and Removal Operations Statistics which are available on ICE's public website: https://www.ice.gov/spotlight/statistics. According to that website, ICE successfully removed 39 Cambodian nationals between October of 2020 and January of 2025

29 (D.R.I. 2014) (McConnell, J.), *aff'd at* 793 F.3d 208 (1st Cir. 2015) ("... the Fourth Amendment does not permit seizures for mere investigations."); *U.S. v. Ortiz-Hernandez*, 427 F.3d 567, 576 (9th Cir. 2005) (*per curiam*) (collection of evidence for investigatory purposes after unlawful arrest violated Fourth Amendment). And absent another lawful basis for Mr. Chhot's detention, Chhot is likely to succeed on the merits of his claims seeking reinstatement of the 2005 Order of Supervision and release from ICE custody.[5]

B. Mr. Chhot's Decades-Old Misdemeanor Conviction Bears No Relationship to ICE's Ability to Supervise the Conditions of Chhot's Release.

Understanding that it could not detain Mr. Chhot based on changed circumstances respecting Chhot's repatriation to Cambodia, because there were none, ICE attempted to justify Chhot's arrest and detention based on a twelve-year-old misdemeanor conviction for disorderly conduct. *See* Vo Decl., **Exhibit 2**, at Sub-Ex. G; *see also* 8 C.F.R. § 241.13(*i*)(1). That is to say, ICE dug up Mr. Chhot's conviction, dusted it off and claimed that it had detained Chhot for violating the terms of the 2005 Order of Supervision, which prohibited Chhot from committing crimes. *See id.*, **Exhibit 2**, at Sub-Ex. E – p. 2. Yet, even if the Court were to assume that ICE's reliance on Mr. Chhot's 2013 misdemeanor conviction was not pretext designed to improperly force Chhot into a detained interview with representatives of the RGC, *see*, *supra*, Section II.A, reliance on stale violations of the 2005 Order of Supervision would still be insufficient to justify Chhot's detention.

[5] While ICE may argue that Mr. Chhot is significantly likely to be repatriated in the reasonably foreseeable future to a country other than Cambodia, the agency to-date has not yet identified such a country. Moreover, as described in greater detail below at Section III, ICE cannot render Mr. Chhot's detention lawful through the commission of another unlawful act, that is, by proposing his removal to a country which would violate the Immigration and Nationality Act or the United States's treaty obligations.

ICE is authorized to supervise noncitizens like Mr. Chhot after their release from immigration detention to serve the same ends, though by less restrictive means, as the antecedent detention – *i.e.*, "ensuring the appearance of aliens at future immigration proceedings and preventing danger to the community." *Zadvydas*, 533 U.S. at 690 (internal quotation omitted); *see also* 8 C.F.R. 241.13(h)(1) (purpose of supervised release conditions is "to protect the public safety and to promote the ability of [ICE] to effect the alien's removal as ordered, or removal to a third country, should circumstances change in the future."). And like in all regimes of supervised release, the noncitizen's release conditions must be designed to achieve exclusively "forward-looking ends," specifically deterring a releasee from refusing to cooperate with ICE's efforts to secure his removal from the United States or from engaging in criminal conduct and incapacitating the releasee after such violations occur so as to prevent their reoccurrence. *Esteras v. U.S.*, 606 U.S. ----; 145 S. Ct. 2031, 2041 (2025) (emphasis omitted). Accordingly, when a multi-year delay occurs between the time of a violation and the re-detention of a releasee, the relationship between the violation and the detention becomes increasingly tenuous, insofar as the releasee who committed the violation bears little resemblance to the releasee who is returned to detention and the resultant detention becomes impermissibly punitive rather than a means to impact the releasee's future behavior. *See id.* (re-detaining supervised releasees not designed to achieve "backward-looking purpose of retribution") (emphasis omitted); *see also U.S. v. Tyler*, 605 F.2d 851, 853 (5th Cir. 1979) (*per curiam*) ("The probationary system, however, imposes a duty on a probation officer to represent the interests of society and the probationer. An unreasonable delay in bringing charges of violations ... will rarely, if ever, serve the interests of either."); *Holt v. Alexander*, 493 Fed. Appx. 608, 610 (5th Cir. 2012) (*per curiam*) ("An unreasonable delay may

violate the due process requirement that revocation hearings comport with principles of fundamental fairness.").

From this perspective, even if ICE agents earnestly believed that the 2005 Order of Supervision permitted them to revoke the Order and detain Mr. Chhot because of a recently discovered misdemeanor conviction from twelve years prior, the substantial time lapse between this relatively minor violation of the Order and Chhot's detention eviscerated any nexus between such detention and the purpose of the revocation – *i.e.*, to deter or prevent Chhot from committing more crimes. *See Tyler*, 605 F.2d at n.4 ("… probation should be revoked only in those instances in which the offender's behavior demonstrates that he or she cannot be counted on to avoid antisocial activity.") (internal quotations omitted). Completely unmoored from its purpose, Mr. Chhot's detention on this basis was either arbitrary or punitive, neither of which is permitted by applicable law. And without any lawful basis to justify Mr. Chhot's detention, Chhot is likely to prevail on the merits of the above-captioned Petition.

III. MR. CHHOT FACES A SUBSTANTIAL THREAT OF IRREPARABLE HARM IF THE COURT DOES NOT LIMIT ICE'S ABILITY TO TRANSFER CHHOT OUTSIDE OF THE WESTERN DISTRICT OF LOUISIANA DURING ADJUDICATION OF THE ABOVE-CAPTIONED PETITION

In its zeal to remove undesirable noncitizens from the United States, the current ICE administration has pursued an aggressive policy of effecting the removal of noncitizens whose countries of origin will not repatriate them to third countries, with minimal notice to the affected noncitizens. *See* Decl. of Acting Deputy Exec. Assoc. Dir. Garrett J. Ripa, **Exhibit 5**, at ¶¶ 1-5, 7-11, 29 (agency policy is to provide noncitizen subject to final removal order with 24-hour notice of removal to third country to discourage objection from noncitizen); *D.V.D., et al. v. U.S. Dep't of Homeland Sec., et al.*, 25-CV-10676-BEM at Doc No. 118 (D. Mass. May 21, 2025), **Exhibit 6** (noting ICE's recent efforts to remove six noncitizens with final removal orders, who are not South

Sudanese nationals, to South Sudan with less than 24 hours' notice). Accordingly, once ICE is forced to acknowledge that its detention of Mr. Chhot has been unlawful and that the RGC will not repatriate him, Chhot expects ICE to attempt to justify his ongoing detention by seeking Chhot's removal to a third country, such as South Sudan which has recently agreed to accept criminal deportees – like Chhot – from Southeast Asian nations. *See* Decl. of Acting Ass't Dir. Marcos D. Charles, **Exhibit 7**, at ¶¶ 1-4, 18-19, 29-30, 33-34, 37-38 (noting ICE's recent efforts to remove nationals of Laos, Burma and Vietnam to South Sudan); *see also* Chhot Decl., **Exhibit 1**, at ¶ 13. However, Mr. Chhot asserts that his removal to such countries, due to the extremely dangerous conditions therein, will violate the INA as well as the United States's treaty obligations which prevent ICE from removing a noncitizen to a country where he will persecuted or tortured. *See* 8 U.S.C. § 1231(b)(3) (INA provision preventing removal of noncitizen to country where he will be persecuted based on political opinion or protected identity); 8 C.F.R. § 1208.16(c) (implementing United States's obligations under United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment); *D.V.D., et al. v. U.S. Dep't of Homeland Sec., et al.*, 25-CV-10676-BEM at Doc No. 118 (D. Mass. May 21, 2025), **Exhibit 6** (noting dangerous conditions in South Sudan as reported by U.S. Department of State). Under such circumstances, Mr. Chhot's detention would continue to be unauthorized by law – insofar as ICE cannot cure its current unlawful reason for detaining Chhot – *i.e.*, to investigate his repatriation to Cambodia or to punish a twelve-year old violation of the 2005 Order of Supervision – by articulating a new unlawful reason for the detention – *i.e.*, to remove him to third country where he will be persecuted or tortured. Moreover, under such circumstances, the Court would lose its ability to end Mr. Chhot's unlawful detention and leave Chhot entirely unprotected from ICE's ongoing refusal to comply with the INA. *See Noem v. Abrego Garcia*, 604 U.S. ----; 145 S. Ct.

1017, 1018 (2025) (acknowledging limited ability of Judicial Branch to remedy wrongful ICE conduct after detainee is removed from United States). In this way, the limited provisional remedy sought by Mr. Chhot is necessary to prevent the irreparable harm that would result if ICE were to respond to the above-captioned Petition by spiriting Chhot off to avoid the scrutiny of this Court (or any other court) and removing Chhot to a country where he is likely to be persecuted or tortured.

IV. THE BALANCE OF EQUITIES AND THE PUBLIC INTEREST FAVOR LIMITING ICE'S ABILITY TO TRANSFER MR. CHHOT OUTSIDE OF THE WESTERN DISTRICT OF LOUISIANA DURING ADJUDICATION OF THE ABOVE-CAPTIONED PETITION

At bottom, the provisional remedy sought by Mr. Chhot seeks to maintain the *status quo* while the Court adjudicates in an orderly fashion the lawfulness of Chhot's current detention. ICE chose the Richwood Correctional Facility as the appropriate detention location for Mr. Chhot and should have no objection to Chhot remaining detained there while the above-captioned Petition is adjudicated. Moreover, neither ICE nor the public has an interest in effectuating Mr. Chhot's removal from the United States by ambush or surprise in violation of applicable law. *See Louisiana*, 55 F.4th at 1035 ("... there is generally no public interest in the perpetuation of unlawful agency action.") (internal quotations omitted). In contrast, the stakes for Mr. Chhot could not be higher as ICE threatens the removal of noncitizens like Chhot to terrifying places like South Sudan. Mr. Chhot's proposed temporary restraining order simply requires ICE to be transparent about its conduct by obligating ICE to explain its transfer decisions to the Court and to Mr. Chhot, so that the former can pass on their propriety or so Chhot may seek additional relief if appropriate. On this record, the Court should grant the instant Motion.

CONCLUSION

Based on the foregoing, Mr. Chhot respectfully reiterates his request that the Court: (1) issue a temporary restraining order which prohibits the Respondents from removing Chhot from the Western District of Louisiana in the absence of judicial permission obtained after adequate notice to Chhot's counsel, as outlined in the proposed form of Order submitted herewith as **Exhibit 8**; (2) order Respondents to oppose the instant Motion and above-captioned Petition within 7 days of receiving said order; and (3) set a hearing pursuant to Rule 65(a)(2) for adjudication of the instant Motion and above-captioned Petition.

Respectfully submitted,
CHANTHAN CHHOT,

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By his attorneys,

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