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Attorneys for Petitioner

Thai Quang Quach

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Thai Quang Quach,

Petitioner-Plaintiff,

v.

M. Martinez, et al.,

Respondents-Defendants.

Case No. 2:25-CV-02937-JJT-JFM

**EMERGENCY / EX PARTE
MOTION FOR TEMPORARY
RESTRAINING ORDER**

**MEMORANDUM OF POINTS
AND AUTHORITIES**

Challenge to Unlawful Incarceration;
Request for Declaratory and Injunctive
Relief

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NOTICE OF MOTION

Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, Petitioner Thai Quang Quach hereby applies for an emergency temporary restraining order prohibiting Defendants Department of Homeland Security (“DHS”), U.S. Immigration and Customs Enforcement (“ICE”), Pamela Bondi, in her official capacity as the U.S. Attorney General, and Luis Rosa, Jr., in his official capacity as Warden of the Central Arizona Correctional Complex in Florence, Arizona, from transferring him outside the District of Arizona or deporting him to Vietnam or any third country during the pendency of these proceedings. The reasons in support of this emergency Motion are set forth in the accompanying Memorandum of Points and Authorities, Petitioner’s First Amended Petition for Writ of Habeas Corpus (Doc. 17), and Petitioner’s Motion for Preliminary Injunction (Doc. 18).

Dated: October 17, 2025

Respectfully Submitted,

/s/Ami Hutchinson
Ami E. Hutchinson
Attorney for Petitioner-Plaintiff

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I. INTRODUCTION

Petitioner-Plaintiff Thai-Quang Quach (“Mr. Quach”), by and through undersigned counsel, hereby requests an emergency order temporarily prohibiting Respondents from transferring Petitioner out of the District of Arizona or from removing him to Vietnam or any other country while these proceedings remain pending. The reasons for this emergency motion are set forth below and in the accompany Affidavit. *See* Exhibit (“Exh.”) 1, Affidavit of Ami Hutchinson.

According to the Respondents, **Mr. Quach is scheduled to be removed from the United States on October 22, 2025**, before this case can be heard on the merits. The government intends to deport him to Vietnam—the very country his family fled many years ago, and despite a Memorandum of Understanding that for decades has ensured protection for pre-1995 Vietnamese arrivals. In addition, there is concern that the government will try to remove him *before* October 22.

Mr. Quach requests that this Court exercise its authority to prevent his removal for at least a period of 14 days, or until further Order from the Court.

II. BRIEF STATEMENT OF FACTS AND CASE¹

Mr. Quach is a citizen of Vietnam who has lived in the United States since approximately 1983, when he was four years old. *See* Doc. 17 at Exh. 1 (Declaration of Petitioner). Although he was ordered removed on April 8, 2003, Mr. Quach was released

¹ A full statement of facts can be found at Petitioner’s First Amended Petition for Writ of Habeas Corpus (Doc. 17) at ¶¶ 31-52 and at Petitioner’s Motion for Preliminary Injunction (Doc. 18) at pp. 4-8.

1 from detention due to ICE's inability to execute his removal order.² He has been reporting
2 to ICE on a regular basis since his release from detention over twenty years ago.
3

4 On May 1, 2025, Immigration and Customs Enforcement, without prior notice or
5 a hearing, took Mr. Quach into custody during a routine check-in appointment. The only
6 explanation provided to him regarding the reason for his detention was that his Order of
7 Supervision "had been revoked based on new policy" and "because of the Trump
8 administration." Doc. 17 at Exh. 1.
9

10 Mr. Quach sought a stay of removal by filing Form I-246 with ICE, but on June
11 27, 2025, ICE rejected his application for a stay for "Incomplete Information." Doc. 17
12 at Exh. 5 (Form I-246, Application for Stay of Deportation or Removal). Mr. Quach
13 believes ICE thought the request for a stay was not complete because he does not have a
14 Vietnamese passport.
15

16 Since May 1, 2025, Mr. Quach was promised a custody review multiple times.
17 (July 30, August 6, August 29, and September 2). However, none was provided until
18 October 2, 2025. *See* Doc. 24-1 (Declaration of Miguel J. Martinez) at ¶ 23. That
19 interview did not comply with DHS regulations because Mr. Quach was not provided
20 with the opportunity to submit any documentation for review. Moreover, it is clear that
21 the government never intended to consider his request.
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25 ² *See* U.S. Department of State, "Repatriation Agreement Between the United States
26 of America and Vietnam" (Jan. 22, 2008), available at: [https://www.state.gov/wp-](https://www.state.gov/wp-content/uploads/2019/02/08-322-Vietnam-Repatriations.pdf)
27 [content/uploads/2019/02/08-322-Vietnam-Repatriations.pdf](https://www.state.gov/wp-content/uploads/2019/02/08-322-Vietnam-Repatriations.pdf) ("Vietnamese citizens are
28 not subject to return to Vietnam under this Agreement if they arrived in the United States before July 12, 1995....").

1 On August 15, 2025, Mr. Quach filed the Petition for Writ of Habeas Corpus (Doc.
2 1) *pro se*. On August 26, 2025, the court denied Petitioner’s Motion for Appointment of
3 Counsel (Doc. 2) and ordered Respondents to answer the Petition within 20 days of
4 service.
5

6 On September 19, 2025, Petitioner, through undersigned counsel, filed his First
7 Amended Petition for Writ of Habeas Corpus (Doc. 17) and Motion for Preliminary
8 Injunction (Doc. 18). The court granted Petitioner’s unopposed motion to amend the
9 briefing schedule (Doc. 20) and ordered Respondents to reply to the Petition by October
10 14, 2025. *See* Doc. 22.
11

12 The same day Petitioner’s amended Petition was filed, Respondents took Mr.
13 Quach from Florence Correctional Center to Florence Service Processing Center very
14 early in the morning. *See* Exh. 1 (Affidavit of Ami Hutchinson). At approximately 5:00
15 AM, Mr. Quach was taken to a trailer and put on the phone with Vietnamese officials,
16 who asked personal and troubling questions about his life and family history. *Id.* *See also*
17 Doc. 24-1 (Declaration of Miguel J. Martinez) at ¶ 22.
18

19 On October 14, 2025, Respondents responded to the Amended Petition (Doc. 17)
20 and Motion for PI (Doc. 18). Therein, Respondents aver that Mr. Quach will be removed
21 to Vietnam on October 22, 2025. *See* Doc. 24-1 at ¶ 22.
22

23 Mr. Quach’s reply to the Government’s pleading is due on October 21, 2025.
24

25 **III. LEGAL STANDARD**

26 Mr. Quach is entitled to a temporary restraining order if he establishes that he is
27 “likely to succeed on the merits, . . . likely to suffer irreparable harm in the absence of
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1 preliminary relief, that the balance of equities tips in his favor, and that an injunction is
2 in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008);
3 *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)
4 (noting that preliminary injunction and temporary restraining order standards are
5 “substantially identical”). Even if Petitioner does not show a likelihood of success on the
6 merits, the Court may still grant a temporary restraining order if Mr. Quach raises
7 “serious questions” as to the merits of her claims, the balance of hardships tips “sharply”
8 in his favor, and the remaining equitable factors are satisfied. *Alliance for the Wild*
9 *Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011).

10 11 12 13 **IV. ARGUMENT**

14 **A. LIKELIHOOD OF SUCCESS ON THE MERITS**

15 As set forth in the Motion for Preliminary Injunction (Doc. 18), Petitioner
16 demonstrates that he is likely to succeed on the merits. *See* Doc. 18. Specifically,
17 Petitioner maintains that his re-detention is unconstitutional, at a minimum because it
18 was done in violation of Respondent ICE’s own regulations; and because his due process
19 rights have been violated. Doc. 18 at 10-15.

20
21 To be sure, Respondents argue that Mr. Quach was re-detained because DHS
22 determined was likely that he would be removed in the “foreseeable future,” and
23 alternatively because he violated the conditions of his supervised release. Doc. 24 at 2.
24 Mr. Quach will address these arguments in full in his forthcoming reply. For purposes of
25 the instant motion, however, he notes the following:
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2 First, that his current order of removal is based solely on his conviction for
3 kidnapping under California Penal Code § 207(a). In the years since, the Ninth Circuit
4 Court of Appeals has held that a conviction under Cal. P.C. § 207(a) is neither a Crime
5 Involving Moral Turpitude nor an Aggravated Felony. *See Ceron v. Holder*, 747 F.3d
6 773, 782 n.2 (9th Cir. 2014) (en banc) (holding that § 207(a) does not categorically
7 involve moral turpitude); *Delgado-Hernandez v. Holder*, 697 F.3d 1125, 1127 (9th Cir.
8 2012) (holding that § 207(a) is not categorically a crime of violence under the elements
9 clause of 18 U.S.C. § 16(a); *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018) (holding that the
10 enumerated acts clause of 18 U.S.C. § 16(b) is unconstitutional) . Thus, the legal
11 justification for Mr. Quach’s underlying removal order no longer exists. This alone
12 provides a strong basis for reopening his removal proceedings, thereby returning him to
13 LPR status.

14
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16 Second, that undersigned counsel was unaware of any additional convictions and
17 cannot determine the potential immigration consequences of Mr. Quach’s alleged prior
18 history without access to the criminal records. Given that Mr. Quach’s known conviction
19 is no longer a removable offense, a key question remains as to whether any additional
20 offenses would render him removable under the Immigration and Nationality Act. Mr.
21 Quach, through counsel, must be provided adequate opportunity to evaluate: (1) whether
22 the alleged convictions are convictions for immigration purposes; (2) whether they are
23 removable offenses; and (3) whether there are any bases for post-conviction relief.
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B. LIKELIHOOD OF IRREPARABLE HARM

A temporary restraining order should be issued if “immediate and irreparable injury, loss, or irreversible damage will result” to the applicant in the absence of an order. Fed. R. Civ. P. 65(b). The purpose of a temporary restraining order is to prevent irreparable harm before a preliminary injunction hearing is held. *See Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Local No. 70 of Alameda City*, 415 U.S. 423, 439 (1974). Mr. Quach will undoubtedly suffer harm if he is removed from the United States before this Court can reach a decision as to the merits of his claim. In addition to removing an individual whose removal order is legally questionable, the deportation of Mr. Quach will result in indefinite separation from his U.S. citizen wife and children, his elderly parents (also U.S. citizens), his siblings (same), and many more. Mr. Quach would likely never be permitted to return to the United States. He will suffer further hardship in Vietnam, where he has zero ties, where he does not speak the language fluently, and where he fears retribution for his family’s past involvement in the Vietnam War.

C. BALANCE OF EQUITIES AND PUBLIC INTEREST

The balance of hardships is undeniably in Mr. Quach’s favor, as removing him from the United States before this Court can consider his claim deprives him of any opportunity to be heard.

Further, just as the government cannot be burdened by releasing Mr. Quach from custody, any burden imposed by requiring them to *maintain* custody for the duration of

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this case is clearly outweighed by the substantial harm Mr. Quach will face if his case cannot be heard at all.

Finally, a temporary restraining order is in the public interest, which principally lies in preventing the violation of a party’s constitutional rights. *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014); *cf. Preminger v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005) (“Generally, public interest concerns are implicated when a constitutional right has been violated, because all citizens have a stake in upholding the Constitution.”).

V. REQUIREMENTS OF FRCP 65(b)

Undersigned counsel has contacted counsel for Respondents via email to advise them of this motion. Given the urgency of the matter, Petitioner requests that the Court find that the requirements of FRCP 65(b) have been met.

VI. CONCLUSION

For all the above reasons, Mr. Quach requests that this court enter an order prohibiting the government from removing him from the District of Arizona, or the United States, pending an outcome in these proceedings.

Dated: October 17, 2025

Respectfully submitted,

s/Ami Hutchinson

Ami E. Hutchinson
Attorney for Petitioner