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

9 Chai Ly,  
10 Petitioner,  
11 vs.  
12 Luis Rosa, Jr., Warden, et al.,  
13 Respondents.  
14

No. 2:25-cv-3443-PHX-KML (JZB)  
**Motion for a Preliminary Injunction**

15 Along with his second amended petition for a writ of habeas corpus under 28 U.S.C.  
16 § 2241, Mr. Ly is filing this motion for a preliminary injunction. In his petition, he asserts that he  
17 cannot be removed to Vietnam, such that his continued detention by immigration officials  
18 violates the Fifth Amendment’s Due Process Clause. He also asserts that his detention is illegal  
19 because he has not received notice and an opportunity to seek relief from removal to a country  
20 other than Vietnam. Because he is almost certain to prevail on at least one of these claims, he  
21 respectfully asks the Court to order his immediate release from custody while this case is  
22 litigated.

23 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on  
24 the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the  
25 balance of equities tips in his favor, and that an injunction is in the public interest.” *Planned*  
26 *Parenthood Great Northwest v. Labrador*, 122 F.4th 825, 843–44 (9th Cir. 2024) (quoting *Alliance*  
27 *for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011)). “Alternatively, a preliminary  
28

1 injunction may issue where serious questions going to the merits were raised and the balance of  
2 hardships tips sharply in plaintiff's favor if the plaintiff also shows that there is a likelihood of  
3 irreparable injury and that the injunction is in the public interest." *Id.* at 844 (quoting *Alliance for*  
4 *the Wild Rockies*, 632 F.3d at 1135). Here, Mr. Ly can make all four of these showings.

5 First, he is almost certain to succeed on the merits of his habeas petition. His continued,  
6 indefinite detention in immigration custody violates the Due Process Clause of the Fifth  
7 Amendment because there is no significant likelihood that he can be removed to Vietnam in the  
8 reasonably foreseeable future. Indeed, ICE released him from detention approximately 25 years  
9 ago for this very reason, and he fully complied with an order of supervision until he was re-  
10 arrested on or about May 9, 2025. Second, illegal confinement is quintessentially irreparable  
11 harm, because "the deprivation of constitutional rights unquestionably constitutes irreparable  
12 injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Third, and finally, when the  
13 government is a party, as it is here, "the balance of equities and public interest factors merge."  
14 *Pimentel-Estrada v. Barr*, 464 F. Supp. 3d 1225, 1237 (W.D. Wash. 2020) (citing *Drakes Bay*  
15 *Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)). The risk of harm to Mr. Ly far  
16 outweighs the government's interest in illegally detaining him, for it is "always in the public  
17 interest to prevent the violation of a party's constitutional rights." *Melendres*, 695 F.3d at 1002.

18 For the foregoing reasons, Mr. Ly respectfully asks the Court to grant a preliminary  
19 injunction and order his immediate release from custody.

20 Respectfully submitted:

November 6, 2025.

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