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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Bounpheng SORYADVONGSA,

Petitioner,

v.

Kristi NOEM, Secretary of the Department of Homeland Security; *et al.* ,

Respondents.

Case No.: 25-cv-2663-AGS-DDL

RESPONDENTS' RESPONSE IN OPPOSITION TO PETITIONER'S HABEAS PETITION AND MOTION FOR PRELIMINARY INJUNCTION

I. Introduction

Petitioner filed a habeas petition and a motion for temporary restraining order. ECF Nos. 1, 3. On October 11, 2025, the Court denied Petitioner's motion for temporary restraining order and set a hearing for a preliminary injunction. ECF No. 4. For the reasons set forth below, the Court should deny Petitioner's request for injunctive relief and dismiss the petition.

II. Factual and Procedural Background

Petitioner is a citizen and national of Laos. *See* Ex. 1 at 3, Ex. 2 at 5.[1] On November 27, 2002, an immigration judge ordered Petitioner removed to Laos following his conviction on crimes relating to a firearm and drugs. Ex. 1 at 3; ECF No. 1 at 3. Petitioner was subsequently released from immigration custody on an Order of Supervision on March 4, 2003, because the government was unable to obtain a travel document to Laos. *See* Declaration of Miguel Aguilar ("Aguilar Decl.") at ¶ 5. Petitioner acknowledges that "[i]n the years since his removal order, [h]e has been convicted of other offenses." ECF No. 1 at 3; see also Ex. 2 at 6–8 (U.S. government records regarding Petitioner's criminal history).

Meanwhile, Immigration and Customs Enforcement (ICE) is now regularly obtaining travel documents from Laos and arranging travel itineraries to execute final orders of removal for Laotian citizens. Aguilar Decl. at ¶ 15. ICE has removed several Laotian citizens to Laos as recently as October 22, 2025. *Id.* On July 23, 2025, ICE issued a Form I-200, Warrant for Arrest of Alien, pertaining to Petitioner, in order to effectuate his removal to Laos. Ex. 4 at 14. On September 23, 2025, ICE re-detained Petitioner. *Id.*; Aguilar Decl. at ¶ 7. On September 25, 2025, Petitioner was served a revised Form I-200, Warrant for Arrest of Alien. Ex. 5. Petitioner also received and

[1] The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel. Unless otherwise indicated, page citations herein refer to the ECF-generated page numbers stamped at the top of each ECF-filed document.

acknowledged a Form I-205, Warrant of Removal/Deportation. Aguilar Decl. at ¶ 8; Ex. 6.

On September 29, 2025, ICE Enforcement and Removal Operations (ERO) submitted a travel document (TD) request for Petitioner to the Laos Unit of ERO's Removal and International Operations (RIO). *Id.* at ¶ 13. The TD request remains pending. *Id.* Once Petitioner's travel document is obtained, ICE will arrange for his removal to Laos. *Id.* at ¶ 16. ICE is not seeking to remove Petitioner to a third country. *Id.* at ¶ 11. According to the declaring officer's experience, "there is a significant likelihood of Petitioner's removal" in the foreseeable future. *Id.* at ¶ 17.

III. Argument

A. Because Petitioner's Claims Regarding Third Countries Are Unfounded, this Court Lacks Jurisdiction Over Petitioner's Third Claim for Relief

The Constitution limits federal judicial power to designated "cases" and "controversies." U.S. Const., Art. III, § 2; *SEC v. Medical Committee for Human Rights*, 404 U.S. 403, 407 (1972) (federal courts may only entertain matters that present a "case" or "controversy" within the meaning of Article III). "Absent a real and immediate threat of future injury there can be no case or controversy, and thus no Article III standing for a party seeking injunctive relief." *Wilson v. Brown*, No. 05-cv-1774-BAS-MDD, 2015 WL 8515412, at *3 (S.D. Cal. Dec. 11, 2015) (citing *Friends of the Earth, Inc. v. Laidlow Env't Servs., Inc.*, 528 U.S. 167, 190 (2000) ("[I]n a lawsuit brought to force compliance, it is the plaintiff's burden to establish standing by demonstrating that, if unchecked by the litigation, the defendant's allegedly wrongful behavior will likely occur or continue, and that the threatened injury is certainly impending.") (citations and internal quotation marks omitted). At the "irreducible constitutional minimum," standing requires that a petitioner demonstrate the following: (1) an injury in fact (2) that is fairly traceable to the challenged action of the United States and (3) likely to be redressed by a favorable decision. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

Here, Petitioner's third claim for relief alleges that "ICE's policies threaten [his] removal to a third country without adequate notice and an opportunity to be heard." ECF No. 1 at 17. But Respondents are not seeking to remove Petitioner to a third country and are instead working to promptly remove Petitioner to Laos. *See* Aguilar Decl. at ¶¶ 12–17. As such, there is no controversy concerning third-country resettlement for this Court to resolve. Federal courts do not have jurisdiction "to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it." *Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992). "A claim is moot if it has lost its character as a present, live controversy." *Rosemere Neighborhood Ass'n v. U.S. Env't Prot. Agency*, 581 F.3d 1169, 1172–73 (9th Cir. 2009). The Court therefore lacks jurisdiction over Petitioner's claims concerning third-country resettlement because there is no live case or controversy. *See Powell v. McCormack*, 395 U.S. 486, 496 (1969); *see also Murphy v. Hunt*, 455 U.S. 478, 481 (1982).

B. Petitioner's Remaining Claims and Requests are Barred by 8 U.S.C. § 1252

Petitioner bears the burden of establishing that this Court has subject matter jurisdiction over his claims. *See Ass'n of Am. Med. Coll. v. United States*, 217 F.3d 770, 778–79 (9th Cir. 2000). Here, Petitioner's claims are jurisdictionally barred under 8 U.S.C. § 1252(g), which provides that courts lack jurisdiction over any claim or cause of action arising from any decision to commence or adjudicate removal proceedings or execute removal orders. *See* 8 U.S.C. § 1252(g) ("Except as provided in this section and *notwithstanding any other provision of law* (statutory or nonstatutory), *including section 2241 of Title 28, or any other habeas corpus provision*, and sections 1361 and 1651 of such title, no 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.") (emphasis added); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) ("There was good reason for Congress to focus special

attention upon, and make special provision for, judicial review of the Attorney General's discrete acts of "commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders"—which represent the initiation or prosecution of various stages in the deportation process."). In other words, § 1252(g) removes district court jurisdiction over "three discrete actions that the Attorney may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'" *Reno*, 525 U.S. at 482 (emphasis removed). Here, Petitioner's claims necessarily arise "from the decision or action by the Attorney General to . . . execute removal orders," over which Congress has explicitly foreclosed district court jurisdiction. 8 U.S.C. § 1252(g). The Court should deny the pending motion and dismiss this matter for lack of jurisdiction under 8 U.S.C. § 1252.

C. Petitioner Fails to Establish Entitlement to Preliminary Injunctive Relief

Alternatively, even if this Court determines that it has jurisdiction over Petitioner's claims, Petitioner has not established that he is entitled to preliminary injunctive relief. He cannot show that he is likely to succeed on the underlying merits, there is no showing of irreparable harm, and the equities do not weigh in his favor.

To prevail on a motion for a preliminary injunction, a plaintiff must "establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *accord Nken v. Holder*, 556 U.S. 418, 426 (2009). To obtain preliminary injunctive relief, Plaintiffs must demonstrate at least a "substantial case for relief on the merits." *Leiva-Perez v. Holder*, 640 F.3d 962, 967–68 (9th Cir. 2011).

When "a plaintiff has failed to show the likelihood of success on the merits, we need not consider the remaining three [*Winter* factors]." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). The final two factors required for preliminary injunctive relief—balancing of the harm to the opposing party and the public interest—merge when the government is the opposing party. *See Nken*, 556 U.S. at 435. "Few interests

can be more compelling than a nation's need to ensure its own security." *Wayte v. United States*, 470 U.S. 598, 611 (1985).

1. Petitioner is Unlikely to Succeed on the Merits

Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at 740. Here, apart from his non-justiciable claim of potential third-country removal, Petitioner argues that his re-arrest and detention warrant habeas relief because they (1) ran afoul the Supreme Court's holding in *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001), ECF No. 1 at 9 (Petitioner's first claim for relief); and (2) violated ICE's own regulations, ECF No. 1 at 15 (Petitioner's second claim for relief). But Petitioner cannot establish that he is likely to succeed on the underlying merits of those claims because he is properly detained under 8 U.S.C. § 1231(a) and the applicable agency regulations.

a. Petitioner's Detention is Lawful and He Has Not Established That There is No Significant Likelihood of Removal in the Reasonably Foreseeable Future

ICE's authority to detain, release, and re-detain noncitizens who are subject to a final order of removal is governed by 8 U.S.C. § 1231(a). When an alien has been found to be unlawfully present in the United States and a final order of removal has been entered, the government ordinarily secures the alien's removal during a subsequent 90-day statutory "removal period." 8 U.S.C. § 1231(a)(1). The statute provides that the Attorney General "shall detain" the alien during this removal period. 8 U.S.C. § 1231(a)(2).

The Supreme Court held in *Zadvydas v. Davis* that when removal is not accomplished during the 90-day removal period, the statute "limits an alien's post-removal-period detention to a period reasonably necessary to bring about the alien's removal from the United States" and does not permit "indefinite detention." *Zadvydas*, 533 U.S. at 689. The Supreme Court has held that six months constitutes a "presumptively reasonable period of detention." *Id.* at 701. Courts have repeatedly declined to grant habeas relief where the presumptively reasonable six-month period

has not yet elapsed. *See Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D. Md. July 22, 2025) ("The government is entitled to its six-month presumptive period before Petitioner's continued § 1231(a)(6) detention poses a constitutional issue"); *Guerra-Castro v. Parra*, No. 25-cv-22487-GAYLES, 2025 WL 1984300, at *4 (S.D. Fla. July 17, 2025) ("The Court finds that the Petition is premature because Petitioner has not been detained for more than six months. Petitioner has been in detention since May 29, 2025; therefore, his two-month detention is lawful under *Zadvydas*."); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE), 2003 WL 221809, at *5 (D. Minn. Jan. 29, 2013) (holding that when the government releases a noncitizen and then revokes the release based on changed circumstances, "the revocation would merely restart the 90-day removal period, not necessarily the presumptively reasonable six-month detention period under *Zadvydas*").

Even after the period of presumptive reasonableness has run, release is not required under *Zadvydas* unless "there is *no* significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701 (emphasis added). As the Supreme Court instructed, "the habeas court must ask whether the detention in question exceeds a period reasonably necessary to secure removal. It should measure reasonableness primarily in terms of the statute's basic purpose, namely, *assuring the alien's presence at the moment of removal*." *Id.* at 699 (emphasis added). In so holding, the Court recognized that detention is presumptively reasonable pending efforts to obtain travel documents, because the noncitizen's assistance is often needed to obtain the travel documents, and because a noncitizen who is subject to an imminent, executable warrant of removal becomes a significant flight risk, especially if he or she is aware that it is imminent.

The Court also instructed that detention could potentially exceed six months: "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.* at 701. "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 that the noncitizen has the initial burden of proving that removal is not significantly likely." *Id.* The Ninth Circuit has emphasized, "*Zadvydas* places the burden on the alien to show, after a detention period of six months, that there is 'good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.'" *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

Here, Petitioner contends that his current detention runs afoul of *Zadvydas*. But even if Petitioner's total time in detention since November 2002 does exceed the six months of presumptive reasonableness, his claim still fails at the next step because he cannot meet his burden to establish "that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. Petitioner was re-arrested in September 2025, after ICE had been successfully obtaining TDs for Laotian citizens and routinely effectuating removals to Laos. Aguilar Decl. at ¶¶ 15; *see Louangmilith v. Noem*, No. 25-cv-2502-JES-MSB, 2025 2881578, at *4 (S.D. Cal. Oct. 9, 2025) (acknowledging the government's recent receipt of a travel document from Laos for a detainee in this district). ICE began to prepare Petitioner's TD request within days of his re-detention. *Id.* at ¶ 13. Once ICE receives Petitioner's travel document, he can be removed promptly as ICE has established routine flights to Laos over the last several months and has completed a removal flight as recently as this week. *Id.* at ¶ 15. Thus, Petitioner not only fails to meet his burden, but Respondents have affirmatively shown that there is significant likelihood of his removal in the reasonably foreseeable future.

Courts properly deny *Zadvydas* claims under such circumstances. *See Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008) (denying *Zadvydas* petition where petitioner had been detained more than 14 months post-final order);

Nicia v. ICE Field Off. Dir., 2013 WL 2319402, at *3 (W.D. Wash. May 28, 2013) (holding petitioner "failed to satisfy his burden of showing that there is no significant likelihood of his removal in the reasonably foreseeable future" where he had been detained more than seven months post-final order).

That Petitioner does not yet have a specific date of anticipated removal does not make his detention unconstitutionally indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008) (explaining that a demonstration of "no significant likelihood of removal in the reasonably foreseeable future" would include a country's refusal to accept a noncitizen or that removal is barred by our own laws). On the contrary, evidence of progress, even slow progress, in negotiating a petitioner's repatriation will satisfy *Zadvydas* until the petitioner's detention grows unreasonably lengthy. *See, e.g.*, *Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at *5 (S.D. Cal. Aug. 15, 2019) (slip op.) ("the record at this stage in the litigation does not support a finding that there is no significant likelihood of Petitioner's removal in the reasonably foreseeable future."); *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080, at *3 (S.D. Cal. Oct. 13, 2020) (denying petition because "Respondents have set forth evidence that demonstrates progress and the reasons for the delay in Petitioner's removal").

Petitioner's continued detention is thus not unconstitutionally prolonged under *Zadvydas*.

b. Petitioner's Complaints About Procedural Defects in His Re-Detention Do Not Establish a Basis for Habeas Relief

Petitioner's second claim for relief—that ICE failed to comply with its regulations revoking Petitioner's Order of Supervision—is also deficient. ECF No. 1 at 15–17.

A noncitizen who is not removed within the removal period may be released from ICE custody, "pending removal . . . subject to supervision under regulations prescribed by the Attorney General." 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3); *see also* 8 U.S.C. §

1231(a)(6). An Order of Supervision may be issued under 8 C.F.R. § 241.4, and the order may be revoked under section 241.4(*l*)(2)(iii) where "appropriate to enforce a removal order." *See also* 8 C.F.R. § 241.5 (conditions of release after removal period). ICE may also revoke the Order of Supervision where, "on account of changed circumstances, [ICE] determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). The regulation further provides:

> *Upon revocation*, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded 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.

8 C.F.R. § 214.4(*l*) (emphasis added).

Here, Petitioner claims that his detention is unlawful because the agency failed to comply with its regulations for re-detaining him. ECF No. 3 at 8–10. Specifically, Petitioner argues that "there are no changed circumstances that justify re-detaining him," ECF No. 3 at 9, and he states he was not provided with "advance notice" of the revocation or given an informal interview. ECF No. 1 at 16, 25.[2]

Yet it is clear that there *are* changed circumstances here—namely, ICE's revived ability to obtain travel documents from the Laotian government and to schedule routine removal flights to Laos. Aguilar Decl. at ¶ 15. That fact alone is fatal to Petitioner's claim, because even if the agency had failed to provide Petitioner with "advance notice"

[2] ICE provided Petitioner with a Notice of Revocation of Release on September 27, 2025, within days of his re-detention and before this habeas action was filed. Aguilar Decl. at ¶ 9. On October 22, 2025, ICE served Petitioner with a second Notice of Revocation of Release and conducted an informal interview. *Id.;* Ex. 8 at 25. The interviewing officer's records indicate that at the informal interview, Petitioner indicated he just wanted to be removed to Laos as soon as possible. Ex. 8 at 25.

of the revocation (which the regulations do not require in any event),[3] or neglected to conduct the informal interview before the filing of the Petition, Petitioner could not establish that he was prejudiced by those omissions. *See Cmty. Legal Servs. in E. Palo Alto v. United States Dep't of Health & Hum. Servs.*, 780 F. Supp. 3d 897, 921 (N.D. Cal. 2025) ("To establish an APA claim under the *Accardi* doctrine, Plaintiffs must show both that (1) the Government violated its own regulations, and (2) Plaintiffs suffer substantial prejudice as a result of that violation.").

For example, in *Ahmad v. Whitaker*, the government revoked the petitioner's release but did not provide him an informal interview. *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner argued the revocation of his release was unlawful because, he contended, the federal regulations prohibited re-detention without, among other things, an opportunity to be heard. *Id.* In rejecting his claim, the court held that although the regulations called for an informal interview, petitioner could not establish "any actionable injury from this violation of the regulations" because the government had procured a travel document for the petitioner, and his removal was reasonably foreseeable. *Id.* Similarly, in *Doe v. Smith*, the district court held that even if the ICE detainee petitioner had not received a timely interview following her return to custody, there was "no apparent reason why a violation of the regulation . . . should result in release." *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, "[I]t is difficult to see an actionable injury stemming from such a violation. Doe is not challenging the underlying justification for the removal order. . . . Nor is this

[3] There are obvious law enforcement reasons for not providing "advance" notice of a re-detention before executing a warrant of removal, just as there is no requirement to provide prior notice of execution of an arrest warrant. Providing such notice "creates a risk that the alien will leave town before the delivery or deportation date." *United States v. Gonzales & Gonzales Bonds & Ins. Agency, Inc.*, 103 F. Supp. 3d 1121, 1137 (N.D. Cal. 2015).

a situation where a prompt interview might have led to her immediate release—for example, a case of mistaken identity." *Id.*

So too here. At the time of his re-detention, Petitioner knew he was subject to a final order of removal to Laos. *See* ECF No. 1 at 25. He does not challenge that order in this lawsuit or offer any indication that he intends to do so. Petitioner also had reason to know, based on his Order of Supervision, that although he was released from detention (most recently in 2024), ICE would continue its efforts to obtain a travel document to effectuate his removal to Laos. *See* Ex. 3 at 10. And because Respondents had, and continue to have, an evidentiary basis to conclude there is a significant likelihood that Petitioner will be removed to Laos in the reasonably foreseeable future, any challenge that Petitioner would have raised to the revocation prior to his re-detention would have failed. *See, e.g.*, *United States v. Barraza-Leon*, 575 F.2d 218, 221–22 (9th Cir. 1978) (holding that even assuming that the judge had violated the rule by failing to inquire into the alien's background, any error was harmless because there was no showing that the petitioner was qualified for relief from deportation); *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and superseded on other grounds*, 591 F.3d 1105 (9th Cir. 2010), citing §§241.4(*l*)(2)(i), (iv) ("While the regulation provides the detainee some opportunity to respond to the reasons for revocation, it provides no other procedural and no meaningful substantive limit on this exercise of discretion as it allows revocation "'hen, in the opinion of the revoking official ... [t]he purposes of release have been served ... [or] [t]he conduct of the alien, or *any other circumstance*, indicates that release would no longer be appropriate.'") (emphasis in original).

Thus, whatever procedural deficiencies or delays may have occurred, they do not warrant Petitioner's release, and indeed could be cured by means well short of release. Petitioner does not challenge his removal order, nor could he. ICE has now provided Petitioner with Notice of Revocation of Removal and conducted an informal interview. Exs. 7, 8. ICE's Enforcement and Removal Operations is diligently preparing its request

for Petitioner's travel document for submission to the Laotian government and expects the removal of Petitioner to Laos to occur in the reasonably foreseeable future. *See* Aguilar Decl. at ¶¶ 13–17. Petitioner is thus unlikely to succeed on the merits of his claim that ICE's alleged failure to follow agency regulations merits his release.

2. Petitioner Has Not Shown Irreparable Harm

To prevail on his request for interim injunctive relief, Petitioner must demonstrate "immediate threatened injury." *Caribbean Marine Services Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *Los Angeles Memorial Coliseum Commission v. National 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. And detention alone is not an irreparable injury. *See Reyes v. Wolf*, No. C20-0377JLR, 2021 WL 662659, at *3 (W.D. Wash. Feb. 19, 2021), *aff'd sub nom. Diaz Reyes v. Mayorkas*, No. 21-35142, 2021 WL 3082403 (9th Cir. July 21, 2021). Further, "[i]ssuing 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.

Petitioner suggests that being subjected to allegedly unjustified detention itself constitutes irreparable injury.[4] 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

[4] Detention is different than removal. But a removal is also not an inherently irreparable injury. *See Nken v. Holder*, 556 U.S. 418, 435 (2009).

corpus petitioner in immigration custody, and he has not shown extraordinary circumstances warranting a mandatory preliminary injunction.

Importantly, the purpose of civil detention is facilitating removal, and the government is working to timely remove Petitioner. Here, because Petitioner's alleged harm "is essentially inherent in detention, the Court cannot weigh this strongly in favor of Petitioner." *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at *10 (N.D. Cal. Dec. 24, 2018).

3. The Balance of Equities Does Not Tip in Petitioner's Favor

It is well settled that "the public interest in enforcement of the immigration laws is significant." *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (collecting cases); *see Nken*, 556 U.S. at 436 ("There is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings IIRIRA established, and permits and prolongs a continuing violation of United States law.") (simplified). And ultimately, "the balance of the relative equities 'may depend to a large extent upon the determination of the [movant's] prospects of success.'" *Tiznado-Reyna v. Kane*, Case No. C 12-1159-PHX-SRB (SPL), 2012 WL 12882387, at * 4 (D. Ariz. Dec. 13, 2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987).

Here, as explained above, Petitioner cannot succeed on the merits of his claims, and the public interest in the prompt execution of removal orders is significant. The balancing of equities and the public interest thus weigh heavily against granting equitable relief in this case.

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IV. Conclusion

For the foregoing reasons, Respondents respectfully request that the Court deny the motion for a preliminary injunction and dismiss the habeas petition.

DATED: October 24, 2025

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Bounpheng SORYADVONGSA, Petitioner, v. KRISTI NOEM, Secretary of the Department of Homeland Security; *et al.*, Respondents.	Case No. 25-cv-2663-AGS-DDL **DECLARATION OF MIGUEL AGUILAR**

I, Miguel Aguilar, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury that the following statements are true and correct, to the best of my knowledge, information, and belief:

1. I am currently employed by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), as a Deportation Officer (DO) assigned to the Otay Mesa suboffice of the ICE ERO San Diego Field Office. I have held this position since March 1, 2020.

2. I am currently assigned to the Otay Mesa suboffice and my responsibilities include enforcing final orders of deportation and removal from the United States for aliens and requesting travel documents from foreign consulates as part of the removal process. I am familiar with the repatriation of Laotian nationals.

3. I am currently responsible for monitoring this case. I make this declaration based upon my own personal knowledge and experience as a law enforcement officer and information provided to me in my official capacity as a DO in the ICE ERO San Diego Field Office. I make this declaration based on review of Petitioner Bounpheng Soryadvongsa's alien file (A027-739-518), consultation with other ICE officers, and review of official documents and records maintained by ICE.

4. Petitioner is a citizen and national of Laos.

5. On November 27, 2002, an immigration judge ordered Petitioner removed to Laos. On March 4, 2003, Petitioner was released from ICE custody under an Order of Supervision because ICE was unable to obtain a travel document at that time. Between 2007 and 2009 the Petitioner came back to ICE custody several times and each time ICE released Petitioner back on an Order of Supervision after ICE was unable to obtain travel documents.

6. On July 30, 2024, Petitioner was released from prison relating to a criminal sentence into ICE custody. On August 2, 2024, Petitioner was released on an Order of Supervision because ICE was unable to obtain travel documents at that time. The Order of Supervision was contingent on Petitioner's enrollment and participation in the Alternatives to Detention (ATD) Program. ICE removed the Petitioner from the ATD Program on December 11, 2024.

7. On July 23, 2025, ICE issued a Warrant for Arrest of Alien for Petitioner. On September 23, 2025, ICE served the Warrant for Arrest of Alien on Petitioner and re-detained Petitioner to execute his removal order to Laos.

8. On September 25, 2025, ICE issued a Warrant of Removal/Deportation for Petitioner.

9. On September 27, 2025, ICE served Petitioner with a Notice of Revocation of Release. On October 22, 2025, ICE served Petitioner with a second Notice of Revocation of Release and conducted an Informal Interview.

10. To effectuate Petitioner's removal to Laos, ERO must acquire a travel document ("TD") and schedule a flight for Petitioner.

11. ICE is not seeking to remove Petitioner to an alternate country.

12. Since Petitioner was re-detained, ERO has worked expeditiously to effectuate Petitioner's removal to Laos and has been diligently preparing a TD request to send to the Laos embassy.

13. On September 29, 2025, ERO submitted the TD request to the Laos Unit of ERO's Removal and International Operations (RIO). The TD request remains pending.

14. Since Petitioner was re-detained in September 2025, Laos has not denied a request from ICE for his TD.

15. ICE is routinely obtaining travel documents for Laotian citizens and effectuating removal flights to Laos. ICE has removed several Laotian citizens to Laos as recently as October 22, 2025.

16. Once ICE receives a travel document for Petitioner, his removal can be effectuated promptly.

17. Based on my experience, ICE's success with obtaining TDs from Laos, and knowledge of this case, there is a significant likelihood of Petitioner's removal on or before March 1, 2026. I am aware of no barrier to the consulate's issuance of a travel document for Petitioner.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed this 24th day of October 2025.

MIGUEL A AGUILAR Digitally signed by MIGUEL A AGUILAR Date: 2025.10.24 08:41:39 -07'00'

Miguel Aguilar
Deportation Officer
San Diego Field Office