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

Keomanivone Phrommany,

Petitioner,

v.

Kristi Noem, Secretary, U.S. Department of
Homeland Security; Department of
Homeland Security; Todd M. Lyons, Acting
Director of Immigration and Customs
Enforcement; Immigration and Customs
Enforcement; John E. Cantú, Director,
Phoenix Field Office Immigration and
Customs Enforcement & Fred Figueroa,
Warden of Eloy Federal Detention Center.

Respondents.

**PETITIONER'S
MEMORANDUM OF LAW IN
SUPPORT OF EMERGENCY
MOTION FOR TEMPORARY
RESTRAINING ORDER
UNDER FRCP 65(b) AND
PRELIMINARY
INJUNCTION UNDER FRCP
65(a)**

**EXPEDITED HANDLING
REQUESTED**

Keomanivone Phrommany filed a petition seeking a Writ of Habeas Corpus under 28 U.S.C. § 2241. *See* ECF No. 1. He is now filing for a Motion for Temporary Restraining Order (“TRO”) and Preliminary Injunction (“PI”), which this Memorandum supports.

INTRODUCTION

Petitioner Keomanivone Phrommany’s detention lacks legitimacy because it occurred in violation of law and was intended for punitive and public relations reasons,

unrelated to any legitimate interest in effectuating removal or preventing flight. As such, Mr. Phrommany requires injunctive relief.

RELEVANT FACTUAL AND PROCEDURAL HISTORY

Phrommany is a citizen of Laos. ECF No. 7, Ex. A. He was a lawful permanent resident from the age of eight until he was twenty-five, when he was ordered removed from the United States by an immigration judge on August 13, 1997, based on a nonviolent drug offense from 1991, when he was 19 years old. ECF No. 1, Ex. A. Neither side appealed. However, Phrommany's removal could not be effectuated, so he was released on an order of supervision. ECF No. 1, Ex. B.

Throughout and following this process, Phrommany obtained bachelor's and master's degrees, worked as a licensed physical therapist, volunteered with the Special Olympics, assisted with public school fundraising, and worked as an Alzheimer and Amyotrophic lateral sclerosis (ALS) awareness instructor, all while regularly checking in with ICE as required under the terms of his supervision. ECF No. 1 ¶¶ 21, 28-32, 34. He has two criminal convictions. The first, a 1991 conviction for selling \$140 worth of LSD to an undercover officer, cost him his lawful permanent residency. ECF No. 1 ¶ 18. The second was for providing a false name to a police officer during a traffic stop at the age of 21. ECF No. 1 ¶ 20.

The current administration has made its animus towards noncitizens with unexecuted final orders of removal clear. *See* ECF No. 1, Ex. B ("The reality is that prison isn't supposed to be fun. It's a necessary measure to protect society and punish bad guys. It is not meant to be comfortable. What's more: prison can be avoided by self-deportation.

CBP Home makes it simple and easy. If you are a criminal alien and we have to deport you, you could end up in Guantanamo Bay or CECOT. Leave now.”).

Phrommany was arrested while leaving a client’s home in Tucson on July 28, 2025. *See* ECF No. 1 ¶ 36. He was not provided with a Notice of Custody Revocation until 74 days after his detention, and he was never informally interviewed by ICE, informed that the Laotian government had issued a travel document for him, or informed that he had violated the terms of his release in any way. *See* ECF No. 1 ¶¶ 37-42. Phrommany remains detained.

ARGUMENT

Phrommany has been detained in violation of the regulatory provisions governing the release and re-detention of noncitizens convicted of certain crimes, 8 C.F.R. § 241.13, as well as the due process clause of the Fifth Amendment. He was not provided with notice as required under the regulations, any justifiable reason for re-detention, a prompt interview as required by regulation, or any evidence to support re-detention. Nor is there any evidence as nothing suggests that the Laotian government has issued travel document at this time. As such, injunctive relief must issue.

I. Injunctive Relief Is Warranted.

The TRO standard is “substantially identical” to the standard for issuing a preliminary injunction. *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). To obtain injunctive relief, the moving party must show: (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm to the moving party in the absence of preliminary relief; (3) that the balance of equities tips in favor of

the moving party; and (4) that an injunction is in the public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008). Application of these factors requires injunctive relief.

a. Likelihood of Success on the Merits.

The lack of justification, any interview and opportunity to respond, or any evidence to support Phrommany's re-detention demands immediate release. Phrommany's detention is governed by 8 U.S.C. § 1231 and its implementing regulations at 8 C.F.R. pt. 241. Section 1231 mandates detention during the 90-day removal period. 8 U.S.C. §§ 1231(a)(1)(A); (a)(2). Phrommany's removal period began on September 12, 1997, "the date he date the order of removal bec[a]me[] administratively final," and it ended on December 11, 1997. *See* 8 U.S.C. § 1231(a)(1)(B)(i); ECF No. 1 ¶ 25. Respondents did not remove Phrommany and released him on an order of supervision because there was no realistic possibility of removal in the reasonably foreseeable future and "once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001).

Once a noncitizen is released on an order of supervision, they are subject to certain conditions of release. *See* 8 C.F.R. § 241.13(h)(1). Release and re-detention are governed by regulation. *See* 8 C.F.R. § 241.13. It is well established that agencies like ICE must follow their own regulations. *See Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *Webster v. Doe*, 486 U.S. 592, 602 n.7 (1988). Regulations permit the government to withdraw or otherwise revoke release "in order to effect removal in the reasonably foreseeable future or where the alien refuses to comply with the conditions of release." *See* 8 C.F.R. § 241.13(h)(4). "Petitioner may only be re-detained if he violates a condition

of release, or ‘changed circumstances’ demonstrate a ‘significantly likelihood that [he] may be removed in the reasonably foreseeable future.’” *Ashqar v. LaRose*, 2019 WL 1793000, at *11 (N.D. Ohio Mar. 26, 2019) (emphasis added). There are no allegations that Phrommany violated any condition of release or that there are any changed circumstances. *See* ECF No. 1 ¶¶ 37-41.

“Upon revocation, the alien will be notified of the reasons for revocation of [their] release.” 8 C.F.R. § 241.13(i)(3). Typically, this occurs through service of a Notice of Revocation of Release. This was not provided for 74 days. *See* ECF No. 1 ¶ 39. After that, “[t]he Service will conduct an initial informal interview ... to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” 8 C.F.R. § 241.13(i)(3) (emphasis added). “The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.” *Id.* (emphasis added). No such interview was conducted here.

Under *Zadvydas*, 533 U.S. at 701, “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.” 533 U.S. at 699. While this evidentiary requirement applied after a “presumptively reasonable period of detention” lasting six months, that six-month period was “presumptive” and “once removal is no longer reasonably foreseeable, continued detention is no longer authorized.” *Id.* Respondents provided no evidence in this case. *See generally* ECF No. 1.

i. Respondents Cannot Re-detain Phrommany without Notice or Reasons as to Why.

Because Phrommany was released under 8 C.F.R. § 241.4, any future determinations as to whether there is a significant likelihood of removing Phrommany in the reasonably foreseeable future are governed by 8 C.F.R. § 241.13(a)-(b). Under the applicable regulations, the Service was required to provide some notice as to why it was revoking Phrommany's order of supervision before the Service re-detained him. *See* 8 C.F.R. § 241.13(i)(3). Indeed, three Justices from the Supreme Court recently reaffirmed this sequential reading of the plain language, finding that "in order to revoke conditional release, the Government must provide adequate notice and 'promptly' arrange an 'initial informal interview.'" *Noem v. Abrego Garcia*, 145 S. Ct. 1017, 1019 (2025) (J. Sotomayor, concurring) (emphasis added). *See also Sarail A. v. Bondi*, 2025 WL 2533673, at *5 (D. Minn. Sept. 3, 2025) ("The purpose of the interview, in other words, is to allow the petitioner to respond to reasons already given"). After all, "[t]he essence of due process is the requirement that 'a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it.'" *Mathews v. Eldridge*, 424 U.S. 319, 348-49 (1976). This is also consistent with how the Supreme Court has treated parole revocations, noting that "the State has no interest in revoking parole without some informal procedural guarantees." *Morrissey v. Brewer*, 408 U.S. 471, 483 (1972).

The Service did not meet even this minimal burden here. The Notice of Revocation of Release was not provided for 74 days following his detention. *See* ECF No. 1 ¶ 39. This is a clear violation of the requirement that "the alien will be notified of the reasons for

revocation of his or her release” and “conduct 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. § 241.13(i)(3). As the Judge Lungstrum, of the District Court in Kansas held, this means Respondents must provide “required written notice upon revocation.” *Liu v. Carter*, 2025 WL 1696526, at *2 (D. Kan.: June 17, 2025). No “written notice” was provided, prior to or upon Phrommany’s re-detention, and the regulations make it clear that the notice and informal interview occur “promptly after his or her return to Service custody.” 8 C.F.R. § 241.13(i)(3). Whatever “prompt” means, 74 days is not prompt. Thus, Phrommany was re-detained without adequate notice as to why his release was being revoked. This is a direct violation of 8 C.F.R. § 241.13(i)(3) and the requirement in *Accardi* that Agencies follow their own regulations. 347 U.S. at 268.

Even if notice provided seventy-four days after re-detention could suffice, and it cannot, no informal interview was ever conducted and Phrommany never got an opportunity to any “means to illustrate why the revocation of his release was not appropriate or why his removal was not immediately foreseeable.” ECF No. 1 ¶¶ 37-38.

This is also dispositive as the regulations require that “[t]he Service **will** conduct an initial informal interview ... to afford the alien an opportunity to respond to the reasons for revocation stated in the notification” and that “[t]he revocation custody review **will** include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.” 8 C.F.R. § 241.13(i)(3) (emphasis added). It also makes sense given that “[t]he essence of due

process is the requirement that ‘a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it.’” *Mathews*, 424 U.S. at 348–49, while Phrommany was provided no such opportunity here. This is a direct violation of 8 C.F.R. § 241.13(i)(3) and the requirement in *Accardi* that Agencies follow their own regulations. 347 U.S. at 268.

This is also consistent with rulings from California and Kansas, where judges faced with nearly identical facts granted Habeas relief. In California, Judge Coggins, held that “[b]ecause there is no indication that an informal interview was provided to Petitioner, the court finds Petitioner is likely to succeed on his claim that his re-detainment was unlawful.” *Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025). In Kansas, Judge Lungstrum, held “that officials did not properly revoke petitioner’s release pursuant to Section 241.13 ... [because] the Court finds that petitioner was not granted the required interview upon the revocation of his release.” *Liu v. Carter*, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025). Here too, the absence of any interview is dispositive. It stripped Phrommany of any meaningful way to respond to the revocation of his release and violated the clear regulatory language.

Even if the wholesale failure to provide an interview or any means to challenge the revocation of release were not dispositive, any revocation predicated upon “changed circumstances” must relate to “a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(3). Notably, “it is the Service’s burden to show a significant likelihood that the alien may be removed.” *Escalante v. Noem*, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025). *See also Roble v. Bondi*, 2025

WL 2443453, at *4 (D. Minn. Aug. 25, 2025).

Nothing in the “Notice of Revocation of Release” provided any reason, consistent with the regulatory framework, that can justify re-detention. There is no suggestion that a travel document had been obtained or was immediately available. *See* EFC No. 1 ¶¶ 39-42. As such, there can be no change in circumstances justifying his re-detention. To justify re-detention, Respondents noted that Phrommany “can be expeditiously removed from the US pursuant to outstanding order of removal against [him]” and added that the order dated to “August 13, 1997.” EFC No. 1 ¶ 39. The presence of the removal order is obviously insufficient standing alone. After all, re-detention “still requires a showing of *different* circumstances than existed at the time of his release.” *Ashqar*, 2019 WL 1793000, at *11. It cannot justify a change in custody status now as it is not a “changed circumstance.” That order has existed for nearly three decades.

The assertion that his “case is under current review by Laos for the issuance of a travel document” does not change the calculus. EFC No. 1 ¶ 39. This “change” appears to have arisen some three months after Phrommany was re-detained, so it cannot have justified his detention back in July of 2025. Indeed, “the fact that officials did not even request documentation for petitioner from the [Laotian] authorities until [October] undercuts any suggestion that petitioner's release was in fact revoked in [July] because the likelihood of obtaining that documentation had increased to any material degree.” *Liu*, 2025 WL 1696526, at *3. Nor have Respondents “identified what concrete steps ICE has taken to process Mr. [Phrommany]’s particular travel document,” so “Respondents cannot make the showing that circumstances have changed such that there is a significant

likelihood that Mr. [Phrommany] will be removed to [Laos] in the reasonably foreseeable future.” *Nguyen v. Hyde*, 2025 WL 1725791, at *4 (D. Mass. June 20, 2025). Nor have Respondents “provided any details about why a travel document could not be obtained in the past, nor have they attempted to show why obtaining a travel document is more likely this time around.” *Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025). This is particularly salient given that the government has failed to produce a travel document for thirty years.

Respondents’ bare assertions do not alter the fact that, in order to be released in the first place, Phrommany necessarily showed, in 1997, that removal was no realistic possibility of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 699. Respondents have done nothing over the past thirty years to shift the needle, so there are no “changed circumstances” and Phrommany must be released.

Compounding the issue is the wholesale lack of evidence presented to justify Phrommany’s re-detention. It is also important to note that the government, not Phrommany, bears the burden of making an evidentiary showing that satisfies *Zadvydas* by rebutting the showing that there was no significant likelihood of removal in the reasonably foreseeable future back in 1997. Reading *Zadvydas* in conjunction with 8 C.F.R. § 241.13(i)(2)-(3), it is clear the Service was required to rebut the prior showing that there is no significant likelihood of removal in the reasonably foreseeable future **before** the Service re-detained him and that it had to do so **with evidence**. See *Zadvydas*, 533 U.S. at 701. While the *Zadvydas* court established its evidentiary requirement in cases after a “presumptively reasonable” six month detention period, 533 U.S. at 699, that six month

period is only “presumptive,” meaning that it may be “overcome[] with other evidence.” *Presumption*, BLACK'S LAW DICTIONARY (12th ed. 2024).

Here, the prior finding that removal was not realistically possible in the reasonably foreseeable future shifted the burden to Respondents to illustrate changed circumstances. *Zadvydas*, 533 U.S. at 699; 8 C.F.R. § 241.13(i)(3). As such, the prior release effectively conceded that removal was not reasonably foreseeable, thereby rebutting any presumption that sixth months of detention are reasonable in this case. Moreover, here, the government has had more than twenty-five years since the start of the removal period to obtain travel documents to remove Phrommany. It cannot arbitrarily detain him now, years later, absent some evidence as to why his removal is now suddenly reasonably foreseeable. To be clear, the bare assertion that Phrommany’s “case is under current review by Laos for the issuance of a travel document,” is not sufficient evidence absent some “details about why a travel document could not be obtained in the past” or information as to “why obtaining a travel document is more likely this time around.” *Hoac*, 2025 WL 1993771, at *4.

If the Court were to allow the government to arbitrarily reset the removal period nearly twenty-five years later and then force Phrommany to make another new showing that removal is not significantly likely to occur in the reasonably foreseeable future under 8 C.F.R. § 241.4, the Court would necessarily render 8 C.F.R. § 241.13(i)(2)-(3) and 8 U.S.C. § 1231(a)(1) superfluous, while simultaneously negating the Supreme Court’s principal holding in *Zadvydas*, which is that “once removal is no longer reasonably foreseeable, continued detention is no longer authorized.” 533 U.S. at 699. The Court must disallow the government’s implicit attempts to improperly shift the evidentiary burden to

Phrommany.

Ultimately, there can be no showing that Phrommany's detention is "reasonably related" to a legitimate purpose such as effectuating removal or mitigating flight. Phrommany cannot be removed until the government obtains a travel document for him. The government has been unable to obtain a travel document that would permit Phrommany's removal to any country since at least September of 1997, a period of nearly twenty-eight years. Even though Respondents do appear to have applied for a travel document at this point, Phrommany was taken into custody prior to the government applying for any such travel document. *See* ECF No. 1 ¶¶ 36, 39, 42. Moreover, Respondents still do not have a travel document for Phrommany even though 78 days have elapsed since Phrommany was re-detained. ECF No. 1 ¶ 36.

Zadvydas requires the government to have sufficient evidence to rebut the previously established showing that Phrommany's removal is not significantly likely to occur in the reasonably foreseeable future. Because Phrommany was previously released, thereby showing an unlikelihood of removal in the immediate future, the government had to have already had a valid travel document for Phrommany, or at least immediate access to one, prior to detaining him under 8 C.F.R. § 241.13(i)(2)-(3). At absolute minimum, the government would have needed to have already applied for said travel document *and* been given some sort of positive affirmation from the relevant third-country government that a travel document for Phrommany would be received by a specific date in the very near future. It has none of these things, so Phrommany's detention is wholly unlawful.

ii. The Government's Evidence of Removability Does Not Satisfy *Zadvydas* or 8 C.F.R. § 241.13(i)(2)-(3).

The government has not produced any evidence that would justify Phrommany's re-detention. The only "evidence" that Phrommany is aware of is the existence of the removal order itself and the apparent "processing" of a travel document for him. ECF No. 1 ¶ 39. Once again, the government has been unable to obtain a document for nearly 30 years, they clearly had not applied for one as the time Phrommany was re-detained, and there is no evidence as to why a travel document is likely to issue now, particularly given the history of this case and the fact that Laos "retains total discretion to approve or deny issuance of a travel document to any individual." *Nguyen*, 2025 WL 1725791, at *4 n.6.

Any possible insinuation that ICE will ultimately obtain a travel document is impeached by the Verified Petition for Habeas Corpus, in which Phrommany alleges under penalty of perjury that as of October 13, 2025, he had "has no information that Respondents have secured a travel document to any country, Laos or otherwise." ECF No. 1 ¶ 42. Notably, the failure to seek a travel document before Phrommany was detained "undercuts any suggestion that petitioner's release was in fact revoked in [July] because the likelihood of obtaining that documentation had increased to any material degree." *Liu*, 2025 WL 1696526, at *3.

In short, there is no basis to believe that Phrommany will be removed from the United States in the reasonably foreseeable future, nor is there any evidence to support such a contention. To find otherwise, the Court would have to presume, without evidence, that (1) Laos or some other allegedly safe third country that will accept Phrommany

despite his criminal history in the United States and (2) that country will issue a travel document in the reasonably foreseeable future despite not having done so now for nearly 30 years. Such presumptions would be arbitrary, capricious, unlawful, unconstitutional and grounded on nothing more than conclusory opinions and beliefs rather than on fact and experience. Even if Respondents have sought a travel document, “intent to eventually complete a travel document request for Phrommany does not constitute a changed circumstance.” *Hoac*, 2025 WL 1993771, at *4. The absence of evidence requires release.

iii. The Absence of Any Notice Violates the Fifth Amendment’s Due Process Clause

Under the Fifth Amendment, no citizen or noncitizen may be deprived of life, liberty, or property without due process of law. *See* U.S. Const. amend. V. These protections extend to deportation proceedings. *Reno v. Flores*, 507 U.S. 292, 306 (1993). “The essence of due process is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it.” *Mathews v. Eldridge*, 424 U.S. 319, 348–49 (1976). In considering the adequacy of administrative action, courts consider “(1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and probable value, if any, of additional procedural safeguards; and (3) the Government’s interest ... that the additional or substitute procedures would entail.” *Id.* at 321.

The *Mathews* test illustrates a due process violation where, as here no justification, or evidence supports Respondents’ actions and Phrommany has been proved with absolutely no avenue to challenge the determination. Phrommany’s private interest is

substantial. “Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause.” *Zadvydas*, 533 U.S. at 679. The risk of erroneous deprivation of that interest is especially high where, as here, the government detains an individual who has previously been thought to be unremovable in the absence of any written notice, justification, or newly acquired proof that the individual can now be removed and then compounds the issue by failing to complete the regulatorily required interview and rebuttal process. The procedures used in Phrommany’s case are especially concerning, considering Phrommany has already been incarcerated for 78 days in 2025, yet the government still has not gotten around to obtaining a travel document. ECF No. 1 ¶ 42. Phrommany’s substantial liberty interests and the risk of erroneous deprivation of said interests far outweigh the government’s interest in executing a twenty-eight-year-old removal order relating to an individual who was previously determined to not constitute a flight risk or ongoing danger to the community. *See* 8 C.F.R. § 241.4(e)(2)-(6). This is particularly salient given that, if Respondents obtain a travel document, they can simply take Phrommany back into custody to effectuate that removal.

iv. The Government’s Detention of Phrommany Is Improperly Punitive in Violation of the Fifth Amendment.

Zadvydas held that civil detention must remain “nonpunitive in purpose and effect.” 533 U.S. at 690. The government’s re-detention of Phrommany is punitive. First, Respondents detained Phrommany without first obtaining a travel document, which necessarily increases the detention period. Second, the government has openly expressed and vocalized an intent to use civil detention punitively against noncitizens explicitly,

stating that “[t]he reality is that prison isn’t supposed to be fun. It’s a necessary measure to protect society and **punish** bad guys. It is not meant to be comfortable. What’s more: prison can be avoided by self-deportation. CBP Home makes it simple and easy. If you are a criminal alien and we have to deport you, you could end up in Guantanamo Bay or CECOT. Leave now.” (emphasis added). ECF No. 1, Ex. B. These posts evidence a clear intent to punish and threaten noncitizens like Phrommany in a manner bearing no relationship to the lawfully permissible purposes for detention under 8 U.S.C. § 1231.

v. Applicable Precedent Supports Phrommany’s Position.

On nearly identical facts, courts in California, Texas, Minnesota, Massachusetts, and Kansas ordered similarly situated petitioners released. *See Hoac v. Becerra*, 2025 WL 1993771 (E.D. Cal. July 16, 2025); *Escalante v. Noem*, 2025 WL 2206113 (E.D. Tex. Aug. 2, 2025); *Roble v. Bondi*, 2025 WL 2443453 (D. Minn. Aug. 25, 2025); *Sarail A. v. Bondi*, 2025 WL 2533673 (D. Minn. Sept. 3, 2025); *Nguyen v. Hyde*, 2025 WL 1725791 (D. Mass. June 20, 2025); *Liu v. Carter*, 2025 WL 1696526 (D. Kan. June 17, 2025).

b. Irreparable Harm

“[I]rreparable harms [are] imposed on anyone subject to immigration detention.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). Moreover, “[i]t is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Since Phrommany’s release in 1997, he has worked as a valued physical therapist, obtained education, volunteered, and generally contributed enormously to his community. ECF No.

¶ 21-32. He stands to lose all of this based on an ongoing constitutional violation. This factor weighs in favor of granting Phrommany's injunctive relief.

c. Balance of Equities and Public Interest

The balance of the equities and public interest analyses merge when the government is the opposing party. *See Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). "[T]he public has a strong interest in upholding procedural protections against unlawful detention." *Vargas v. Jennings*, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020). Phrommany has demonstrated that he is likely unlawfully detained in violation of his due process rights and is suffering the harm of immigration detention, while the government has suffered no injury in the twenty-eight years since he was released. If that were not enough, "[t]he costs to the public of immigration detention are 'staggering,'" and that "[s]upervised release programs cost much less by comparison." *Hernandez*, 872 F.3d at 996. Government expenditure in this case is not in the public interest in light of Phrommany's compliance with his OSUP, stable employment, contributions to the community. *See Vargas*, 2020 WL 5074312, at *4. Therefore, this factor weighs in favor of injunctive relief.

CONCLUSION

Due process prohibits detaining an individual without notice, reason, or evidence. The Court must grant Phrommany's emergency motion for a temporary restraining order and order Phrommany's immediate release from custody.

DATED: October 14, 2025

Respectfully submitted,

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