ADAM GORDON
United States Attorney
MATTHEW RILEY
Assistant U.S. Attorney
California Bar No. 257643
ERIN M. DIMBLEBY
Assistant U.S. Attorney
California Bar No. 323359
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
Telephone: (619) 546-9675/6987
Facsimile: (619) 546-7751
Email: matthew.riley2@usdoj.gov
Email: erin.dimbleby@usdoj.gov

Attorneys for Respondents

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

SONXAI RASAKHAMDEE,

Petitioner,

v.

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

Respondents.

Case No. 25-cv-2816-RBM-DEB

RESPONDENTS' RETURN IN OPPOSITION TO PETITIONER'S HABEAS PETITION AND OPPOSITION TO PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER

I. INTRODUCTION

Petitioner Sonxai Rasakhamdee filed a habeas petition and a motion for temporary restraining order. ECF Nos. 1, 3. On October 24, 2025, the Court issued an order to show cause as to why the petition should not be granted. 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* Declaration of Sonxai Rasakhamdee ("Rasakhamdee Decl.") at ¶ 1.[1] Petitioner entered the United States as a refugee in 1990, and soon after he became a lawful permanent resident. *Id.* On July 20, 2011, an immigration judge ordered Petitioner removed to Laos following his previous guilty plea of manslaughter. *Id.* at ¶¶ 2–3; Declaration of Jason Cole ("Cole Decl.") at ¶ 4, Ex. A (Order of the Immigration Judge). Petitioner was subsequently released from immigration custody on an Order of Supervision on October 14, 2011, pending removal to Laos because the government was unable to obtain a travel document to Laos. *See* Cole Decl. at ¶ 5, Ex. B (Order of Supervision).

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. *See* Cole Decl. at ¶¶ 17–18. ICE has removed several Laotian citizens to Laos as recently as October 22, 2025. *Id.* at ¶ 18.

On September 15, 2025, ICE issued a Form I-200, Warrant for Arrest of Alien, pertaining to Petitioner, in order to effectuate his removal to Laos. Cole Decl. at ¶ 6, Ex. C (Form I-200, Warrant for Arrest of Alien). On September 15, 2025, ICE re-detained Petitioner. Cole Decl. at ¶ 7. On September 15, 2025, Petitioner was served with the Form I-200, Warrant for Arrest of Alien. *Id.* That same day, Petitioner also

[1] Petitioner's declaration is found at pages 26–28 of ECF No. 1. Unless otherwise indicated, page citations herein refer to the ECF-generated page numbers stamped at the top of each ECF-filed document.

received and signed a Form I-205, Warrant of Removal/Deportation. *Id.* at ¶ 8, Ex. D (Form I-205, Warrant of Removal/Deportation). On September 15, 2025, ICE also issued a Form I-294, Warning to Alien Ordered Removed or Deported, and a Form I-213, Record of Deportable/Inadmissible Alien. Cole Decl. at ¶¶ 9–10, Ex. E (Form I-294, Warning to Alien Ordered Removed or Deported), Ex. F (Form I-213, Record of Deportable/Inadmissible Alien).

On September 16, 2025, ICE provided Petitioner with a Notice of Revocation of Release informing Petitioner that his Order of Supervision had been revoked. Cole Decl. at ¶ 11, Ex. G (Notice of Revocation of Release).

On October 20, 2025, ICE Enforcement and Removal Operations (ERO) submitted a travel document request for Petitioner to the Laos Unit of ERO's Removal and International Operations (RIO). Cole Decl. at ¶ 15. The travel document request remains pending. *Id.*

On October 29, 2025, ICE conducted an informal interview with Petitioner regarding his detention status. *Id.* at ¶ 12, Ex. H (Alien Informal Interview Upon Revocation of Order of Supervision).

ICE is not seeking to remove Petitioner to a third country. Cole Decl. at ¶ 13. According to the declaring officer's experience, "there is a significant likelihood of Petitioner's removal to Laos on or before March 1, 2026." *Id.* at ¶ 20.

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; *see also SEC v. Med. Comm. 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. Laidlaw Envtl. Servs. (TOC), 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.") (simplified)). 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. *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 17:8–9. But Respondents are not seeking to remove Petitioner to a third country and are instead working to promptly remove Petitioner to Laos. *See* Cole Decl. at ¶¶ 13–20. 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) (internal quotations and citations omitted). "A claim is moot if it has lost its character as a present, live controversy." *Am. Rivers v. Nat'l Marine Fisheries Serv.*, 126 F.3d 1118, 1123 (9th Cir. 1997) (citation omitted). 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); *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. Colls. 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.") (quoting 8 U.S.C. § 1252(g)). In other words, section 1252(g) removes district court jurisdiction over "three discrete actions that the Attorney General 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); *see also* 8 U.S.C. § 1252(f)(2) ("Notwithstanding any other provision of law, no court shall enjoin the removal of any alien pursuant to a final order under this section unless the alien shows by clear and convincing evidence that the entry or execution of such order is prohibited as a matter of law."). 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 a Restraining Order

Alternatively, even if this Court determines that it has jurisdiction over Petitioner's claims, Petitioner has not established that he is entitled to a temporary restraining order. He cannot show that he is likely to succeed on the underlying merits

of his habeas petition, he has not demonstrated irreparable harm, and the equities do not weigh in his favor.

In general, the showing required for a temporary restraining order is the same as that required for a preliminary injunction. *See Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 (9th Cir. 2001). To prevail on a motion for a temporary restraining order, a petitioner 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). Petitioner 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, [courts] 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: (1) ICE violated its own regulations, ECF No. 1 at 8:25–11:5 (Petitioner's first claim for relief); and (2) they ran afoul of the Supreme Court's holding in *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001), ECF No. 1 at 11:7–18:5 (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* 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. 1:25-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*.") (citations omitted); *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 Supreme 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 Supreme Court also instructed that detention could 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." *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 July 2011 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-detained on September 15, 2025, after ICE had been successfully obtaining travel documents for Laotian citizens and routinely effectuating removals to Laos. Cole Decl. at ¶¶ 7, 17–18; *see Louangmilith v. Noem*, No. 25-cv-2502-JES-MSB, 2025 WL 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).[2] On October 20, 2025, ERO submitted a travel document request pertaining to Petitioner to the Laos Unit of ERO's Removal and International Operations (RIO), and 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 last week. Cole Decl. at ¶¶ 15–19.

Based on the foregoing efforts, ICE attests "there is a significant likelihood of Petitioner's removal to Laos on or before March 1, 2026," and ICE does not anticipate any "barrier to the consulate' issuance of a travel document for Petitioner." *Id.* at ¶ 20. ICE's confidence in effectuating Petitioner's removal to Laos is further based on ICE's current ability to do so. Compared to fiscal year 2024, where ICE removed no Laotian citizens, ICE removed 177 Laotian citizens to Laos in fiscal year 2025 (as of September 8, 2025). *Id.* at ¶ 18.

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[2] ICE has also recently obtained travel documents from Laos for the petitioners in several other cases in this district. *See Yang v. Warden et al.*, Case No. 25-cv-02371-JES-AHG, ECF No. 8-1 at ¶ 7 (ICE declaration dated October 9, 2025, confirming travel document from Laos); *Khambounheuang v. Noem et al.*, Case No. 25-cv-02575-JO-SBC, ECF No. 16-1 at ¶ 8 (ICE declaration dated October 17, 2025, confirming travel document from Laos); *Truong v. Noem et al.*, Case No. 25-cv-02597-JES-MMP, ECF No. 7-1 at ¶ 12 (ICE declaration dated October 7, 2025, confirming travel document from Laos); *Thammavongsa v. Noem et al.*, Case No. 25-cv-02836-JO-AHG, ECF No. 10-2 at ¶ 14 (ICE declaration dated October 28, 2025, confirming travel document from Laos).

Thus, Petitioner not only fails to meet his burden, but Respondents have affirmatively shown that there is a significant likelihood of Petitioner's removal to Laos in the reasonably foreseeable future.

Courts properly deny *Zadvydas* claims under such circumstances. *See Malkandi v. Mukasey*, No. C07-1858RSM, 2008 WL 916974, at *1 (W.D. Wash. April 2, 2008) (denying *Zadvydas* petition where petitioner had been detained more than 14 months post-final order); *Nicia v. ICE Field Office Dir.*, No. C13–0092–RSM, 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, as courts in this district have found, "evidence of progress, albeit slow progress, in negotiating a petitioner's repatriation will satisfy *Zadvydas* until the petitioner's detention grows unreasonably lengthy." Exhibit A, *Kim v. Ashcroft*, Case No. 02-cv-1524-J-LAB, ECF No. 25 at 8:8–10 (S.D. Cal. June 2, 2003) (finding that petitioner's one year and four-month detention does not violate *Zadvydas* given respondent's production of evidence showing governments' negotiations are in progress and there is reason to believe that removal is likely in the foreseeable future); *see also Marquez v. Wolf*, No. 20-cv-1769-WQHBLM, 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"); Exhibit B, *Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at 5:4–6 (S.D. Cal. Aug. 15, 2019) ("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.").

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 first claim for relief—that ICE failed to comply with its regulations revoking Petitioner's Order of Supervision—is also deficient.

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 8 C.F.R. § 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 regulations further provide:

> *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 *before* re-detaining him. ECF No. 1 at 8:25. Specifically, Petitioner argues that ICE did not identify any "changed circumstances" to justify re-detaining him, ICE did not inform him of the reasons for re-detaining him, and he was

not given an informal interview. *Id.* at 10:7–20.[3] Notably, the regulations do not require written notice, advance notice, an advanced interview, nor for DHS to prove to the satisfaction of a petitioner that changed circumstances are present.[4]

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. Cole Decl. at ¶¶ 17–18. These facts are fatal to Petitioner's claim, because even if the agency had failed to provide Petitioner with "advance notice" of the revocation, or neglected to conduct the informal interview before the filing of the petition, Petitioner could not establish that he was prejudiced by those omissions nor that a constitutional level violation has occurred. *See Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014) ("[T]he mere failure of an agency to follow its regulations is not a violation of due process."); *United States v. Tatoyan,* 474 F.3d 1174, 1178 (9th Cir. 2007) (holding that "[c]ompliance with . . . internal [customs] agency regulations is not mandated by the Constitution") (simplified); *Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 92 n.8 (1978) (holding that *Accardi* "enunciate[s] principles of federal administrative law rather than of constitutional law").

For example, in *Ahmad v. Whitaker*, the government revoked the petitioner's release but did not provide him an informal interview. *Ahmad v. Whitaker*, No. C18-27-JLR-BAT, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *report and recommendation adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner

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[3] ICE provided Petitioner with a Notice of Revocation of Release on September 16, 2025, and an informal interview on October 29, 2025. Cole Decl. at ¶¶ 11–12, Ex. G (Notice of Revocation of Release), Ex. H (Alien Informal Interview Upon Revocation of Order of Supervision).

[4] 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).

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.* at *5. 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 given that ICE had procured a travel document and scheduled [petitioner's] removal." *Id.* Similarly, in *Doe v. Smith*, the court held that even if ICE detained petitioner had not received a timely interview following her return to custody, there was "no apparent reason why a violation of the regulation, even assuming it occurred, should result in release." *Doe v. Smith*, No. 18-11363-FDS, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, "it 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 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* Rasakhamdee Decl. at ¶ 3. He does not challenge that order in this lawsuit or offer any indication that he intends to do so. Petitioner also was informed of the reason for his re-detention when he was served with and signed the Form I-205, Warrant of Removal/Deportation, on September 15, 2025. *See* Cole Decl. at ¶ 8, Ex. D (Form I-205, Warrant of Removal/Deportation). Petitioner also had reason to know, based on his Order of Supervision, that although he was released from detention, ICE would continue its efforts to obtain a travel document to effectuate his removal to Laos. *See* Cole Decl. at ¶ 5, Ex. B (Order of Supervision). 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 or after his re-detention would have failed. Because Petitioner cannot show prejudice under these circumstances, the alleged violation of agency regulations does

not warrant release here. *See, e.g.*, *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) ("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 'when, 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) (citing 8 C.F.R. §§ 241.4(*l*)(2)(i), (iv)); *Carnation Co. v. Sec'y of Lab.*, 641 F.2d 801, 804 n.4 (9th Cir. 1981) ("violations of procedural regulations should be upheld if there is no significant possibility that the violation affected the ultimate outcome of the agency's action" (citation omitted)); *United States v. Hernandez-Rojas*, 617 F.2d 533, 535 (9th Cir. 1980) (INS' failure to follow regulations requiring that an arrested alien be advised of his right to speak to his consul was not prejudicial and thus not a ground for challenging the conviction); *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).

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 provided Petitioner with a Notice of Revocation of Removal and conducted an informal interview. Cole Decl. at ¶¶ 11–12. 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. *Id.* at ¶¶ 14–20. 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 Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Memorial Coliseum Comm'n v. National Football League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely showing a "possibility" of irreparable harm is insufficient. *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). 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.[5] But this argument "begs the constitutional questions presented in [his] petition by assuming that [P]etitioner has suffered a constitutional injury." *Cortez v. Nielsen*, No. 19-cv-00754-PJH, 2019 WL 1508458, at *3 (N.D. Cal. April 5, 2019). Moreover, Petitioner's "loss of liberty" is "common to all aliens seeking review of their custody or bond determinations." *Resendiz v. Holder*, No. C 12–04850 WHA, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He faces the same alleged irreparable harm as any habeas corpus petitioner in immigration custody, and he has not shown extraordinary circumstances warranting a temporary restraining order.

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

[5] Detention is different than removal. But a removal is also not an inherently irreparable injury. *See Nken*, 556 U.S. at 435.

(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 also 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 [the Illegal Immigration Reform and Immigrant Responsibility Act of 1996] established, and permits and prolongs a continuing violation of United States law.") (simplified). Moreover, "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*, No. CV 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.

IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court deny Petitioner's motion for a temporary restraining order and dismiss Petitioner's habeas petition.

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ADAM GORDON
United States Attorney

s/ *Matthew Riley*
MATTHEW RILEY
Assistant United States Attorney

Attorneys for Respondents