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17 **UNITED STATES DISTRICT COURT**
18 **SOUTHERN DISTRICT OF CALIFORNIA**

19 THAVONE THAMMAVONGSA,

20 Petitioner,

21 v.

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

24 Respondents.

25 Case No. 25-cv-2836-JO-AHG

26 **RESPONDENTS' RETURN IN
27 OPPOSITION TO PETITIONER'S
28 HABEAS PETITION AND
OPPOSITION TO PETITIONER'S
MOTION FOR TEMPORARY
RESTRANING ORDER**

29 Date: November 3, 2025
30 Time: 9:30 a.m.
31 Judge: Hon. Jinsook Ohta

1 I. INTRODUCTION

2 Petitioner Thavone Thammavongsa filed a habeas petition and a motion for
3 temporary restraining order. ECF Nos. 1, 3. On October 23, 2025, the Court set a
4 hearing on Petitioner's motion for restraining order for November 3, 2025. ECF No. 5.
5 For the reasons set forth below, the Court should deny Petitioner's request for injunctive
6 relief and dismiss the petition.

7 II. FACTUAL AND PROCEDURAL BACKGROUND

8 Petitioner is a citizen and national of Laos. *See* Declaration of Thavone
9 Thammavongsa ("Thammavongsa Decl.") at ¶ 1.¹ Petitioner entered the United States
10 as a refugee in 1987, and soon after he became a lawful permanent resident. *Id.* On
11 March 10, 2011, an immigration judge ordered Petitioner removed to Laos following
12 his conviction on crimes relating to burglary and methamphetamine. *Id.* at ¶¶ 2–3;
13 Declaration of Alexis Boada ("Boada Decl.") at ¶ 4. Petitioner was subsequently
14 released from immigration custody on an order of supervision on June 14, 2011,
15 pending removal to Laos because the government was unable to obtain a travel
16 document to Laos. *See* Boada Decl. at ¶ 5. Petitioner acknowledges that, following his
17 order of removal, he has been convicted of other additional criminal activity. *See*
18 Thammavongsa Decl. at ¶ 5 ("I believe my last criminal conviction was in 2018.").

19 Meanwhile, Immigration and Customs Enforcement (ICE) is now regularly
20 obtaining travel documents from Laos and arranging travel itineraries to execute final
21 orders of removal for Laotian citizens. *See* Boada Decl. at ¶¶ 17–18. ICE has removed
22 several Laotian citizens to Laos as recently as October 22, 2025. *Id.* at ¶ 18.

23 On September 1, 2025, ICE issued a Form I-200, Warrant for Arrest of Alien,
24 pertaining to Petitioner, in order to effectuate his removal to Laos. *Id.* at ¶ 6, Ex. A
25 (Form I-200, Warrant for Arrest of Alien). On September 2, 2025, ICE re-detained
26

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

1 Petitioner. Boada Decl. at ¶ 7. On September 2, 2025, Petitioner was served with the
2 Form I-200, Warrant for Arrest of Alien. *Id.* That same day, Petitioner also received a
3 Form I-205, Warrant of Removal/Deportation, which Petitioner refused to sign. *Id.* at
4 ¶ 8, Ex. B (Form I-205, Warrant of Removal/Deportation).

5 On September 24, 2025, ICE Enforcement and Removal Operations (ERO)
6 submitted a travel document request for Petitioner to the Laos Unit of ERO's Removal
7 and International Operations (RIO). Boada Decl. at ¶ 13. ERO subsequently received a
8 travel document from Laos, dated October 8, 2025, authorizing Petitioner's removal to
9 Laos for a 90-day period from the date of issuance, that is, by January 6, 2026. *Id.* ERO
10 is currently in the process of identifying a flight to Laos for Petitioner's removal. *Id.* at
11 ¶ 14.

12 On October 28, 2025, ICE provided Petitioner with formal notice of the reason
13 for revocation of his order of supervision. Boada Decl. at ¶ 9, Ex. C (Notice of
14 Revocation of Release). That same day, ICE conducted an informal interview with
15 Petitioner regarding his detention status. Boada Decl. at ¶ 10, Ex. D (Alien Informal
16 Interview Upon Revocation of Order of Supervision).

17 ICE is not seeking to remove Petitioner to a third country. *Id.* at ¶ 11. According
18 to the declaring officer's experience, "there is a high likelihood of Petitioner's removal
19 to Laos in the near future." *Id.* at ¶ 15.

20 III. ARGUMENT

21 A. Because Petitioner's Claims Regarding Third Countries Are Unfounded, 22 this Court Lacks Jurisdiction Over Petitioner's Third Claim for Relief

23 The Constitution limits federal judicial power to designated "cases" and
24 "controversies." U.S. Const., art. III, § 2; *see also SEC v. Med. Comm. for Human
25 Rights*, 404 U.S. 403, 407 (1972) (federal courts may only entertain matters that present
26 a "case" or "controversy" within the meaning of Article III). "Absent a real and
27 immediate threat of future injury there can be no case or controversy, and thus no Article
28 III standing for a party seeking injunctive relief." *Wilson v. Brown*, No. 05-cv-1774-

1 BAS-MDD, 2015 WL 8515412, at *3 (S.D. Cal. Dec. 11, 2015) (citing *Friends of the*
2 *Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000) (“[I]n a
3 lawsuit brought to force compliance, it is the plaintiff’s burden to establish standing by
4 demonstrating that, if unchecked by the litigation, the defendant’s allegedly wrongful
5 behavior will likely occur or continue, and that the threatened injury is certainly
6 impending.”) (simplified)). At the “irreducible constitutional minimum,” standing
7 requires that a petitioner demonstrate the following: (1) an injury in fact (2) that is fairly
8 traceable to the challenged action of the United States and (3) likely to be redressed by
9 a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

10 Here, Petitioner’s third claim for relief alleges that “ICE’s policies threaten his
11 removal to a third country without adequate notice and an opportunity to be heard.”
12 ECF No. 1 at 17:19–20. But Respondents are not seeking to remove Petitioner to a third
13 country and are instead working to promptly remove Petitioner to Laos. *See* Boada Decl.
14 at ¶¶ 11–18. As such, there is no controversy concerning third-country resettlement for
15 this Court to resolve. Federal courts do not have jurisdiction “to give opinions upon
16 moot questions or abstract propositions, or to declare principles or rules of law which
17 cannot affect the matter in issue in the case before it.” *Church of Scientology of Cal. v.*
18 *United States*, 506 U.S. 9, 12 (1992) (internal quotations and citations omitted). “A
19 claim is moot if it has lost its character as a present, live controversy.” *Am. Rivers v.*
20 *Nat’l Marine Fisheries Serv.*, 126 F.3d 1118, 1123 (9th Cir. 1997) (citation omitted).
21 The Court therefore lacks jurisdiction over Petitioner’s claims concerning third-country
22 resettlement because there is no live case or controversy. *See Powell v. McCormack*,
23 395 U.S. 486, 496 (1969); *Murphy v. Hunt*, 455 U.S. 478, 481 (1982).

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

25 Petitioner bears the burden of establishing that this Court has subject matter
26 jurisdiction over his claims. *See Ass’n of Am. Med. Colls. v. United States*, 217 F.3d
27 770, 778–79 (9th Cir. 2000). Here, Petitioner’s claims are jurisdictionally barred under
28 8 U.S.C. § 1252(g), which provides that courts lack jurisdiction over any claim or cause

1 of action arising from any decision to commence or adjudicate removal proceedings or
2 execute removal orders. *See 8 U.S.C. § 1252(g)* (“Except as provided in this section and
3 notwithstanding any other provision of law (statutory or nonstatutory), including
4 section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and
5 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on
6 behalf of any alien arising from the decision or action by the Attorney General to
7 commence proceedings, adjudicate cases, or execute removal orders against any alien
8 under this chapter.”) (emphasis added); *Reno v. Am.-Arab Anti-Discrimination Comm.*,
9 525 U.S. 471, 483 (1999) (“There was good reason for Congress to focus special
10 attention upon, and make special provision for, judicial review of the Attorney
11 General’s discrete acts of “commenc[ing] proceedings, adjudicat[ing] cases, [and]
12 execut[ing] removal orders”—which represent the initiation or prosecution of various
13 stages in the deportation process.”) (quoting 8 U.S.C. § 1252(g)). In other words,
14 section 1252(g) removes district court jurisdiction over “three discrete actions that the
15 Attorney General may take: her ‘decision or action’ to ‘commence proceedings,
16 adjudicate cases, or execute removal orders.’” *Reno*, 525 U.S. at 482 (emphasis
17 removed). Here, Petitioner’s claims necessarily arise “from the decision or action by
18 the Attorney General to . . . execute removal orders,” over which Congress has explicitly
19 foreclosed district court jurisdiction. 8 U.S.C. § 1252(g); *see* 8 U.S.C. § 1252(f)(2)
20 (“Notwithstanding any other provision of law, no court shall enjoin the removal of any
21 alien pursuant to a final order under this section unless the alien shows by clear and
22 convincing evidence that the entry or execution of such order is prohibited as a matter
23 of law.”). The Court should deny the pending motion and dismiss this matter for lack
24 of jurisdiction under 8 U.S.C. § 1252.

25 **C. Petitioner Fails to Establish Entitlement to a Restraining Order**

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

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

3 In general, the showing required for a temporary restraining order is the same as
4 that required for a preliminary injunction. *See Stuhlbarg Int'l Sales Co., Inc. v. John D.*
5 *Brush & Co., Inc.*, 240 F.3d 832, 839 (9th Cir. 2001). To prevail on a motion for a
6 temporary restraining order, a petitioner must “establish that he is likely to succeed on
7 the merits, that he is likely to suffer irreparable harm in the absence of preliminary
8 relief, that the balance of equities tips in his favor, and that an injunction is in the public
9 interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *accord Nken v.*
10 *Holder*, 556 U.S. 418, 426 (2009). Petitioner must demonstrate at least a “substantial
11 case for relief on the merits.” *Leiva-Perez v. Holder*, 640 F.3d 962, 967–68 (9th Cir.
12 2011). When “a plaintiff has failed to show the likelihood of success on the merits,
13 [courts] need not consider the remaining three [*Winter* factors].” *Garcia v. Google, Inc.*,
14 786 F.3d 733, 740 (9th Cir. 2015). The final two factors required for preliminary
15 injunctive relief—balancing of the harm to the opposing party and the public interest—
16 merge when the government is the opposing party. *See Nken*, 556 U.S. at 435. “Few
17 interests can be more compelling than a nation’s need to ensure its own security.” *Wayte*
18 *v. United States*, 470 U.S. 598, 611 (1985).

19 **1. Petitioner is Unlikely to Succeed on the Merits**

20 Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at
21 740. Here, apart from his non-justiciable claim of potential third-country removal,
22 Petitioner argues that his re-arrest and detention warrant habeas relief because: (1) ICE
23 violated its own regulations, ECF No. 1 at 8:19–11:5 (Petitioner’s first claim for relief);
24 and (2) they ran afoul of the Supreme Court’s holding in *Zadvydas v. Davis*, 533 U.S.
25 678, 689 (2001), ECF No. 1 at 11:7–13:28 (Petitioner’s second claim for relief). But
26 Petitioner cannot establish that he is likely to succeed on the underlying merits of those
27 claims because he is properly detained under 8 U.S.C. § 1231(a) and the applicable
28 agency regulations.

1 **a. Petitioner's detention is lawful, and he has not established that**
2 **there is no significant likelihood of removal in the reasonably**
3 **foreseeable future**

4 ICE's authority to detain, release, and re-detain noncitizens who are subject to a
5 final order of removal is governed by 8 U.S.C. § 1231(a). When an alien has been found
6 to be unlawfully present in the United States and a final order of removal has been
7 entered, the government ordinarily secures the alien's removal during a subsequent 90-
8 day statutory "removal period." 8 U.S.C. § 1231(a)(1). The statute provides that the
9 Attorney General "shall detain" the alien during this removal period. 8 U.S.C.
10 § 1231(a)(2).

11 The Supreme Court held in *Zadvydas* that when removal is not accomplished
12 during the 90-day removal period, the statute "limits an alien's post-removal-period
13 detention to a period reasonably necessary to bring about the alien's removal from the
14 United States" and does not permit "indefinite detention." *Zadvydas*, 533 U.S. at 689.
15 The Supreme Court has held that six months constitutes a "presumptively reasonable
16 period of detention." *Id.* at 701. Courts have repeatedly declined to grant habeas relief
17 where the presumptively reasonable six-month period has not yet elapsed. *See*
18 *Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D. Md. July 22,
19 2025) ("The government is entitled to its six-month presumptive period before
20 Petitioner's continued § 1231(a)(6) detention poses a constitutional issue."); *Guerra-*
21 *Castro v. Parra*, No. 1:25-cv-22487-GAYLES, 2025 WL 1984300, at *4 (S.D. Fla. July
22 17, 2025) ("The Court finds that the Petition is premature because Petitioner has not
23 been detained for more than six months. Petitioner has been in detention since May 29,
24 2025; therefore, his two-month detention is lawful under *Zadvydas*." (citations
25 omitted); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE, 2003 WL 221809, at *5 (D. Minn.
26 Jan. 29, 2013) (holding that when the government releases a noncitizen and then revokes
27 the release based on changed circumstances, "the revocation would merely restart the
28 90-day removal period, not necessarily the presumptively reasonable six-month

1 detention period under *Zadvydas*”).

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

14 The Supreme Court also instructed that detention could exceed six months: “This
15 6-month presumption, of course, does not mean that every alien not removed must be
16 released after six months. To the contrary, an alien may be held in confinement until it
17 has been determined that there is no significant likelihood of removal in the reasonably
18 foreseeable future.” *Id.* at 701. “After this 6-month period, once the alien provides good
19 reason to believe that there is no significant likelihood of removal in the reasonably
20 foreseeable future, the Government must respond with evidence sufficient to rebut that
21 showing.” *Id.* The Ninth Circuit has emphasized, “*Zadvydas* places the burden on the
22 alien to show, after a detention period of six months, that there is ‘good reason to believe
23 that there is no significant likelihood of removal in the reasonably foreseeable future.’”
24 *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at
25 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

26 Here, Petitioner contends that his current detention runs afoul of *Zadvydas*. But
27 even if Petitioner’s total time in detention since March 2011 does exceed the six months
28 of presumptive reasonableness, his claim still fails at the next step because he cannot

1 meet his burden to establish “that there is no significant likelihood of removal in the
2 reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. Petitioner was re-detained
3 on September 2, 2025, after ICE had been successfully obtaining travel documents for
4 Laotian citizens and routinely effectuating removals to Laos. Boada Decl. at ¶¶ 17–18;
5 *see Louangmilith v. Noem*, No. 25-cv-2502-JES-MSB, 2025 WL 2881578, at *4 (S.D.
6 Cal. Oct. 9, 2025) (acknowledging the government’s recent receipt of a travel document
7 from Laos for a detainee in this district).² On September 24, 2025, ERO submitted a
8 travel document request pertaining to Petitioner to the Laos Unit of ERO’s Removal
9 and International Operations (RIO), and ICE has now received a travel document from
10 Laos, dated October 8, 2025, authorizing Petitioner to travel to Laos between October
11 8, 2025, and January 6, 2026. Boada Decl. at ¶¶ 13–14. ERO is currently in the process
12 of identifying a flight to Laos for Petitioner’s removal, and ERO anticipates the flight
13 will be identified and will occur soon. *Id.* at ¶ 14.

14 Based on the foregoing efforts, ICE attests “there is a high likelihood of
15 Petitioner’s removal to Laos in the near future,” and ICE does not anticipate any delays
16 in Petitioner’s removal to Laos “during the 90-day validity of Petitioner’s travel
17 document.” *Id.* at ¶¶ 15–16. ICE’s confidence in effectuating Petitioner’s removal to
18 Laos is further based on ICE’s current ability to do so. Compared to fiscal year 2024,
19 where ICE removed no Laotian citizens, ICE removed 177 Laotian citizens to Laos in
20 fiscal year 2025 (as of September 8, 2025). *Id.* at ¶ 18.

21 ////

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23 ² ICE has also recently obtained travel documents from Laos for the petitioners in
24 several other cases in this district. *See Yang v. Warden et al.*, Case No. 25-cv-02371-
25 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-
26 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,
27 ECF No. 7-1 at ¶ 12 (ICE declaration dated October 7, 2025, confirming travel
28 document from Laos).

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

4 Courts properly deny *Zadvydas* claims under such circumstances. *See Malkandi*
5 *v. Mukasey*, No. C07-1858RSM, 2008 WL 916974, at *1 (W.D. Wash. April 2, 2008)
6 (denying *Zadvydas* petition where petitioner had been detained more than 14 months
7 post-final order); *Nicia v. ICE Field Office Dir.*, No. C13-0092-RSM, 2013 WL
8 2319402, at *3 (W.D. Wash. May 28, 2013) (holding petitioner "failed to satisfy his
9 burden of showing that there is no significant likelihood of his removal in the reasonably
10 foreseeable future" where he had been detained more than seven months post-final
11 order).

12 That Petitioner does not yet have a specific date of anticipated removal does not
13 make his detention unconstitutionally indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222,
14 1233 (9th Cir. 2008) (explaining that a demonstration of "no significant likelihood of
15 removal in the reasonably foreseeable future" would include a country's refusal to
16 accept a noncitizen or that removal is barred by our own laws). On the contrary, as
17 courts in this district have found, "evidence of progress, albeit slow progress, in
18 negotiating a petitioner's repatriation will satisfy *Zadvydas* until the petitioner's
19 detention grows unreasonably lengthy." Exhibit A, *Kim v. Ashcroft*, Case No. 02-cv-
20 1524-J-LAB, ECF No. 25 at 8:8-10 (S.D. Cal. June 2, 2003) (finding that petitioner's
21 one year and four-month detention does not violate *Zadvydas* given respondent's
22 production of evidence showing governments' negotiations are in progress and there is
23 reason to believe that removal is likely in the foreseeable future); *see also Marquez v.*
24 *Wolf*, No. 20-cv-1769-WQHBLM, 2020 WL 6044080, at *3 (S.D. Cal. Oct. 13, 2020)
25 (denying petition because "Respondents have set forth evidence that demonstrates
26 progress and the reasons for the delay in Petitioner's removal"); Exhibit B, *Sereke v.*
27 *DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at 5:4-6 (S.D. Cal. Aug. 15, 2019)
28 ("the record at this stage in the litigation does not support a finding that there is no

1 significant likelihood of Petitioner’s removal in the reasonably foreseeable future.”).

2 Petitioner’s continued detention is thus not unconstitutionally prolonged under
3 *Zadvydas*.

4 **b. Petitioner’s complaints about procedural defects in his re-**
5 **detention do not establish a basis for habeas relief**

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

8 A noncitizen who is not removed within the removal period may be released from
9 ICE custody “pending removal . . . subject to supervision under regulations prescribed
10 by the Attorney General.” 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3); *see also* 8 U.S.C.
11 § 1231(a)(6). An order of supervision may be issued under 8 C.F.R. § 241.4, and the
12 order may be revoked under 8 C.F.R. § 241.4(l)(2)(iii) where “appropriate to enforce a
13 removal order.” *See also* 8 C.F.R. § 241.5 (conditions of release after removal period).
14 ICE may also revoke the order of supervision where, “on account of changed
15 circumstances, [ICE] determines that there is a significant likelihood that the alien may
16 be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). The
17 regulations further provide:

18 *Upon revocation*, the alien will be notified of the reasons for revocation of
19 his or her release or parole. The alien will be afforded an initial informal
20 interview promptly *after* his or her return to Service custody to afford the
21 alien an opportunity to respond to the reasons for revocation stated in the
notification.

22 8 C.F.R. § 214.4(l) (emphasis added).

23 Here, Petitioner claims that his detention is unlawful because the agency failed
24 to comply with its regulations *before* re-detaining him. ECF No. 1 at 8:19. Specifically,
25 Petitioner argues that ICE did not identify any “changed circumstances” to justify re-
26 detaining him, ICE did not inform him of the reasons for re-detaining him, and he was
27
28

1 not given an informal interview. *Id.* at 10:1–15.³ Notably, the regulations do not require
2 written notice, advance notice, an advanced interview, nor for DHS to prove to the
3 satisfaction of a petitioner that changed circumstances are present.⁴

4 Yet it is clear that there *are* changed circumstances here—namely, ICE’s revived
5 ability to obtain travel documents from the Laotian government and to schedule routine
6 removal flights to Laos, as well as ICE’s receipt of a travel document authorizing
7 Petitioner’s travel to Laos. Boada Decl. at ¶¶ 14–18. These facts are fatal to Petitioner’s
8 claim, because even if the agency had failed to provide Petitioner with “advance notice”
9 of the revocation, or neglected to conduct the informal interview before the filing of the
10 petition, Petitioner could not establish that he was prejudiced by those omissions nor
11 that a constitutional-level violation has occurred. *See Brown v. Holder*, 763 F.3d 1141,
12 1148–50 (9th Cir. 2014) (“[T]he mere failure of an agency to follow its regulations is
13 not a violation of due process.”); *United States v. Tatoyan*, 474 F.3d 1174, 1178 (9th
14 Cir. 2007) (holding that “[c]ompliance with . . . internal [customs] agency regulations
15 is not mandated by the Constitution”) (simplified); *Bd. of Curators of Univ. of Mo. v.
16 Horowitz*, 435 U.S. 78, 92 n.8 (1978) (holding that *Accardi* “enunciate[s] principles of
17 federal administrative law rather than of constitutional law”).

18 For example, in *Ahmad v. Whitaker*, the government revoked the petitioner’s
19 release but did not provide him an informal interview. *Ahmad v. Whitaker*, No. C18-27-
20 JLR-BAT, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *report and*
21

22
23 ³ ICE provided Petitioner with a Notice of Revocation of Release and an informal
24 interview on October 28, 2025. Boada Decl. at ¶¶ 9–10, Ex. C (Notice of Revocation of
25 Release), Ex. D (Alien Informal Interview Upon Revocation of Order of Supervision).

26 ⁴ There are obvious law enforcement reasons for not providing “advance” notice of a
27 re-detention before executing a warrant of removal, just as there is no requirement to
28 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).

1 *recommendation adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner
2 argued the revocation of his release was unlawful because, he contended, the federal
3 regulations prohibited re-detention without, among other things, an opportunity to be
4 heard. *Id.* at *5. In rejecting his claim, the court held that although the regulations called
5 for an informal interview, petitioner could not establish “any actionable injury from this
6 violation of the regulations given that ICE had procured a travel document and
7 scheduled [petitioner’s] removal.” *Id.* Similarly, in *Doe v. Smith*, the court held that
8 even if ICE detained petitioner had not received a timely interview following her return
9 to custody, there was “no apparent reason why a violation of the regulation, even
10 assuming it occurred, should result in release.” *Doe v. Smith*, No. 18-11363-FDS, 2018
11 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, “it is difficult to see
12 an actionable injury stemming from such a violation. Doe is not challenging the
13 underlying justification for the removal order. . . . Nor is this a situation where a prompt
14 interview might have led to her immediate release—for example, a case of mistaken
15 identity.” *Id.*

16 So too here. At the time of his re-detention, Petitioner knew he was subject to a
17 final order of removal to Laos. *See* Thammavongsa Decl. at ¶ 3. He does not challenge
18 that order in this lawsuit or offer any indication that he intends to do so. Petitioner also
19 was informed of the reason for his re-detention when he was served with and refused to
20 signed the Form I-205, Warrant of Removal/Deportation, on September 15, 2025. *See*
21 Boada Decl. at ¶ 8, Ex. B (Form I-205, Warrant of Removal/Deportation). And because
22 Respondents had, and continue to have, an evidentiary basis to conclude there is a
23 significant likelihood that Petitioner will be removed to Laos in the reasonably
24 foreseeable future, any challenge that Petitioner would have raised to the revocation
25 prior to or after his re-detention would have failed. Because Petitioner cannot show
26 prejudice under these circumstances, the alleged violation of agency regulations does
27 not warrant release here. *See, e.g., Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir.
28 2009), *opinion amended and superseded on other grounds*, 591 F.3d 1105 (9th Cir.

1 2010) (“While the regulation provides the detainee some opportunity to respond to the
2 reasons for revocation, it provides no other procedural and no meaningful substantive
3 limit on this exercise of discretion as it allows revocation ‘when, in the opinion of the
4 revoking official . . . [t]he purposes of release have been served . . . [or] [t]he conduct
5 of the alien, or *any other circumstance*, indicates that release would no longer be
6 appropriate.’”) (emphasis in original) (citing 8 C.F.R. §§ 241.4(l)(2)(i), (iv)); *Carnation*
7 *Co. v. Sec'y of Lab.*, 641 F.2d 801, 804 n.4 (9th Cir. 1981) (“violations of procedural
8 regulations should be upheld if there is no significant possibility that the violation
9 affected the ultimate outcome of the agency’s action” (citation omitted)); *United States*
10 *v. Hernandez-Rojas*, 617 F.2d 533, 535 (9th Cir. 1980) (INS’ failure to follow
11 regulations requiring that an arrested alien be advised of his right to speak to his consul
12 was not prejudicial and thus not a ground for challenging the conviction); *United States*
13 *v. Barraza-Leon*, 575 F.2d 218, 221–22 (9th Cir. 1978) (holding that even assuming
14 that the judge had violated the rule by failing to inquire into the alien’s background, any
15 error was harmless because there was no showing that the petitioner was qualified for
16 relief from deportation).

17 Thus, whatever procedural deficiencies or delays may have occurred, they do
18 not warrant Petitioner’s release and indeed could be cured by means well short of
19 release. Petitioner does not challenge his removal order, nor could he. ICE has provided
20 Petitioner with a Notice of Revocation of Removal and conducted an informal
21 interview. Boada Decl. at ¶¶ 9–10. ICE has obtained a travel document authorizing
22 Petitioner’s removal to Laos on or before January 6, 2026, and expects Petitioner’s
23 removal to Laos to occur in the reasonably foreseeable future. *See id.* at ¶¶ 14–16.
24 Petitioner is thus unlikely to succeed on the merits of his claim that ICE’s alleged failure
25 to follow agency regulations merits his release.

26 **2. Petitioner Has Not Shown Irreparable Harm**

27 To prevail on his request for interim injunctive relief, Petitioner must demonstrate
28 “immediate threatened injury.” *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d

1 668, 674 (9th Cir. 1988) (citing *L.A. Memorial Coliseum Comm'n v. National Football*
2 *League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely showing a “possibility” of
3 irreparable harm is insufficient. *Winter*, 555 U.S. at 22. And detention alone is not an
4 irreparable injury. *See Reyes v. Wolf*, No. C20-0377JLR, 2021 WL 662659, at *3 (W.D.
5 Wash. Feb. 19, 2021). Further, “[i]ssuing a preliminary injunction based only on a
6 possibility of irreparable harm is inconsistent with [the Supreme Court’s]
7 characterization of injunctive relief as an extraordinary remedy that may only be
8 awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555
9 U.S. at 22.

10 Petitioner suggests that being subjected to allegedly unjustified detention itself
11 constitutes irreparable injury.⁵ But this argument “begs the constitutional questions
12 presented in [his] petition by assuming that [P]etitioner has suffered a constitutional
13 injury.” *Cortez v. Nielsen*, No. 19-cv-00754-PJH, 2019 WL 1508458, at *3 (N.D. Cal.
14 April 5, 2019). Moreover, Petitioner’s “loss of liberty” is “common to all aliens seeking
15 review of their custody or bond determinations.” *Resendiz v. Holder*, No. C 12-04850
16 WHA, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He faces the same alleged
17 irreparable harm as any habeas corpus petitioner in immigration custody, and he has not
18 shown extraordinary circumstances warranting a temporary restraining order.

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

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

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

2 It is well settled that “the public interest in enforcement of the immigration laws
3 is significant.” *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir.
4 1981) (collecting cases); *see also Nken*, 556 U.S. at 436 (“There is always a public
5 interest in prompt execution of removal orders: The continued presence of an alien
6 lawfully deemed removable undermines the streamlined removal proceedings [the
7 Illegal Immigration Reform and Immigrant Responsibility Act of 1996] established, and
8 permits and prolongs a continuing violation of United States law.”) (simplified).
9 Moreover, “ultimately the balance of the relative equities ‘may depend to a large extent
10 upon the determination of the [movant’s] prospects of success.’” *Tiznado-Reyna v.
11 Kane*, No. CV 12-1159-PHX-SRB (SPL), 2012 WL 12882387, at *4 (D. Ariz. Dec. 13,
12 2012) (quoting *Hilton v. Braunschweil*, 481 U.S. 770, 778 (1987)).

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

17 **IV. CONCLUSION**

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

21 DATED: October 29, 2025

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24 MATTHEW RILEY
25 Assistant United States Attorney

26 Attorneys for Respondents