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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

INPONE OMDARA,

Petitioner,

v.

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

Respondents.

Case No.: 25-cv-02834-BAS-MMP

RESPONDENTS' RETURN TO PETITION FOR WRIT OF HABEAS CORPUS AND OPPOSITION TO MOTION FOR INJUNCTIVE RELIEF

Date: November 14, 2025
Time: 11:00 a.m.

I. Introduction

Petitioner has filed a habeas petition and a motion for temporary restraining order. ECF Nos. 1, 3. 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 Jason Cole (Cole Decl.) at ¶ 4. On or around April 1, 2004, an immigration judge ordered Petitioner removed to Laos. *Id.* at ¶ 8; Ex. 1.[1] Petitioner was subsequently released from immigration custody on an Order of Supervision on July 8, 2004, because Immigration and Customs Enforcement (ICE) was unable to obtain a travel document (TD) to Laos at that time. *See* Cole Decl. at ¶ 9; Ex. 2.

ICE is now regularly obtaining travel documents from Laos and arranging travel itineraries to execute final orders of removal for citizens of Laos. Cole Decl. at ¶ 15. On August 12, 2025, ICE re-detained Petitioner to effectuate his removal to Laos. *See id.* at ¶ 14; Exs. 3–7.

Following Petitioner's re-detention, ICE Enforcement and Removal Operations (ERO) promptly prepared and submitted a TD request for Petitioner to the Laotian government. Cole Decl. at ¶¶ 16–17. On October 10, 2025, ERO received a travel document for Petitioner. *Id.* at ¶ 18. The TD is valid for 90 days, during which time ERO anticipates removing Petitioner on a flight to Laos. *Id.* at ¶¶ 18–20. According to the declaring officer's experience, there is "a high likelihood of Petitioner's removal in the reasonably foreseeable future." *Id.* at ¶ 22. The government is not seeking to remove Petitioner to a third country. *Id.* at ¶ 21.

[1] The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel.

III. Argument

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

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

Here, Petitioner's third claim for relief alleges that "ICE's policies threaten his removal to a third country without adequate notice and an opportunity to be heard." ECF No. 1 at 17.[2] But Respondents are not seeking to remove Petitioner to a third country and have in fact obtained a travel document to remove him to Laos. *See* Cole Decl. at ¶¶ 18, 21. As such, there is no controversy concerning third-country resettlement for this Court to resolve. Federal courts do not have jurisdiction "to give

[2] Unless otherwise indicated, citations to pages of documents filed on the Court's CM/ECF system refer to the automatically generated page number in header of each ECF-filed document.

opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it." *Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992). "A claim is moot if it has lost its character as a present, live controversy." *Rosemere Neighborhood Ass'n v. U.S. Env't Prot. Agency*, 581 F.3d 1169, 1172–73 (9th Cir. 2009). The Court therefore lacks jurisdiction over Petitioner's claims concerning third-country resettlement because there is no live case or controversy. *See Powell v. McCormack*, 395 U.S. 486, 496 (1969); *see also Murphy v. Hunt*, 455 U.S. 478, 481 (1982).

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

Petitioner bears the burden of establishing that this Court has subject matter jurisdiction over his claims. *See Ass'n of Am. Med. Coll. v. United States*, 217 F.3d 770, 778–79 (9th Cir. 2000). Here, Petitioner's claims are jurisdictionally barred under 8 U.S.C. § 1252(g), which provides that courts lack jurisdiction over any claim or cause of action arising from any decision to commence or adjudicate removal proceedings or execute removal orders. *See* 8 U.S.C. § 1252(g) ("Except as provided in this section and *notwithstanding any other provision of law* (statutory or nonstatutory), *including section 2241 of Title 28, or any other habeas corpus provision*, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or *execute removal orders* against any alien under this chapter.") (emphasis added); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) ("There was good reason for Congress to focus special attention upon, and make special provision for, judicial review of the Attorney General's discrete acts of "commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders"—which represent the initiation or prosecution of various stages in the deportation process."). In other words, § 1252(g) removes district court jurisdiction over "three discrete actions that the Attorney may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'" *Reno*,

525 U.S. at 482 (emphasis removed). Petitioner's claims necessarily arise "from the decision or action by the Attorney General to . . . execute removal orders," over which Congress has explicitly foreclosed district court jurisdiction. 8 U.S.C. § 1252(g). The Court should deny the pending motion and dismiss this matter for lack of jurisdiction under 8 U.S.C. § 1252.

C. Petitioner Fails to Establish Entitlement to Preliminary Injunctive Relief

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

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

When "a plaintiff has failed to show the likelihood of success on the merits, we need not consider the remaining three [*Winter* factors]." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). The final two factors required for preliminary injunctive relief—balancing of the harm to the opposing party and the public interest—merge when the government is the opposing party. *See Nken*, 556 U.S. at 435. "Few interests can be more compelling than a nation's need to ensure its own security." *Wayte v. United States*, 470 U.S. 598, 611 (1985).

1. Petitioner is Unlikely to Succeed on the Merits

Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at 740. Here, apart from his non-justiciable claim of potential third-country removal, Petitioner argues that his re-arrest and detention warrant habeas relief because they

(1) ran afoul the Supreme Court's holding in *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001), ECF No. 1 at 11 (Petitioner's second claim for relief); and (2) violated ICE's own regulations, ECF No. 1 at 8 (Petitioner's first claim for relief). But Petitioner cannot establish that he is likely to succeed on the underlying merits of those claims because he is properly detained under 8 U.S.C. § 1231(a) and the applicable agency regulations.

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

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

The Supreme Court held in *Zadvydas v. Davis* that when removal is not accomplished during the 90-day removal period, the statute "limits an alien's post-removal-period detention to a period reasonably necessary to bring about the alien's removal from the United States" and does not permit "indefinite detention." *Zadvydas*, 533 U.S. at 689. The Supreme Court has held that six months constitutes a "presumptively reasonable period of detention." *Id.* at 683. Courts have repeatedly declined to grant habeas relief where the presumptively reasonable six-month period has not yet elapsed. *See Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D. Md. July 22, 2025) ("The government is entitled to its six-month presumptive period before Petitioner's continued § 1231(a)(6) detention poses a constitutional issue"); *Guerra-Castro v. Parra*, No. 25-cv-22487-GAYLES, 2025 WL 1984300, at *4 (S.D. Fla. July 17, 2025) ("The Court finds that the Petition is premature because Petitioner has not been detained for more than six months. Petitioner has been in

detention since May 29, 2025; therefore, his two-month detention is lawful under *Zadvydas*."); *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 1895479, at *8 (S.D. Fla. July 8, 2025) ("Because Grigorian has been in custody for fifteen days, his detention does not violate the implicit six-month period read into the post-removal-period detention statute under *Zadvydas*."); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE), 2003 WL 221809, at *5 (D. Minn. Jan. 29, 2013) (holding that when the government releases a noncitizen and then revokes the release based on changed circumstances, "the revocation would merely restart the 90-day removal period, not necessarily the presumptively reasonable six-month detention period under *Zadvydas*").

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

The Court also instructed that the 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 and that the noncitizen has the initial burden of proving that removal is not

significantly likely." *Id.* The Ninth Circuit has emphasized, "*Zadvydas* places the burden on the alien to show, after a detention period of six months, that there is 'good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.'" *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

Here, Petitioner contends that his current detention runs afoul of *Zadvydas* because (1) Petitioner was ordered removed more than six months ago, and (2) his removal is not reasonably foreseeable at this juncture, given that the government was unable to remove him in 2004. ECF No. 1 at 11–17; ECF No. 3 at 8–9. Petitioner is wrong on both counts.

First, Petitioner miscalculates the length of presumptively reasonable period of detention outlined in *Zadvydas*. By Petitioner's own account, ICE detained him for three months—i.e., the statutory removal period—following the issuance of his April 2004 removal order. ECF No. 1 at 27; *accord* Cole Decl. at ¶¶ 8–9. He then argues that the *Zadvydas* "grace period" expired three months later in October 2004. ECF No. 1 at 13, No. 3 at 9. Petitioner offers no authority for the proposition that the presumptively reasonable period of detention continued to run for three months when he was not in detention at all. Rather, Respondents calculate that Petitioner's total time in detention—including his confinement since August 12, 2025—will only reach the six-month mark on or around the time of the filing of this response to the Petition. *See* Cole Decl. at ¶¶ 8–13 (summarizing periods of ICE detention).

Second, even if Petitioner's total time in detention has satisfied the six-month period of presumptive reasonableness, his claim would fail 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. On the contrary: ICE has recently obtained a travel document for Petitioner from the Laotian government, and his removal is—if not imminent—highly likely to occur in the reasonably foreseeable future. Cole Decl. at ¶ 18–22. *Cf. Louangmilith v. Noem*, No. 25-cv-2502-

JES-MSB, 2025 2881578, at *4 (S.D. Cal. Oct. 9, 2025) (court in this district denying habeas relief to a Laotian national because ICE's recent receipt of a travel document meant there was "a significant likelihood that Petitioner will be removed to his home country in the imminent future").

In any event, it is important to emphasize how the Supreme Court actually ruled in *Zadvydas* and what the exact constitutional standard is:

> After this 6–month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink. 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.

Zadvydas, 533 U.S. at 701. Thus, the noncitizen "may be held in confinement until it has been determined that there is ***no significant likelihood of removal in the reasonably foreseeable future.***" *Id.* (bold italic emphasis added).

Here, Petitioner not only fails to meet that burden, but Respondents have affirmatively shown that there is significant likelihood of his removal in the reasonably foreseeable future. Courts properly deny *Zadvydas* claims under such circumstances. *See Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008) (denying *Zadvydas* petition where petitioner had been detained more than 14 months post-final order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D. Wash. May 28, 2013) (holding petitioner "failed to satisfy his burden of showing that there is no significant likelihood of his removal in the reasonably foreseeable future" where he had been detained more than seven months post-final order).

That Petitioner does not yet have an exact date of anticipated removal does not make his detention unconstitutionally indefinite. Indeed, courts regularly find that a petitioner's continued detention is constitutional even where (a) the presumptively reasonable six-month period has passed and (b) ICE has not yet been able to obtain a travel document but is making reasonable efforts toward doing so. *See, e.g., Diouf v.*

Mukasey, 542 F. 3d 1222, 1233 (9th Cir. 2008) (explaining that a demonstration of "no significant likelihood of removal in the reasonably foreseeable future" would include a country's refusal to accept a noncitizen or that removal is barred by our own laws). On the contrary, "evidence of progress, albeit slow progress, in negotiating a petitioner's repatriation will satisfy *Zadvydas* until the petitioner's detention grows unreasonably lengthy." *Kim v. Ashcroft*, Case No. 02-cv-1524-J (LAB) slip op., at 7 (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 Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at *5 (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."); *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080 at *3 (denying petition because "Respondents have set forth evidence that demonstrates progress and the reasons for the delay in Petitioner's removal").

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

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

Petitioner's second claim—that ICE failed to comply with its regulations revoking Petitioner's Order of Supervision—is also deficient. Moreover, ICE's recent acquisition of a travel document for Petitioner—as well as Petitioner's anticipated removal in the near future—renders his request for relief untenable.

A noncitizen who is not removed within the removal period may be released from ICE custody, "pending removal . . . subject to supervision under regulations prescribed by the Attorney General." 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3); *see also* 8 U.S.C. § 1231(a)(6). An Order of Supervision may be issued under 8 C.F.R. § 241.4, and the

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

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

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

Here, Petitioner claims that his detention is unlawful because the agency failed to comply with its regulations for re-detaining him. ECF No. 1 at 8–11. Specifically, Petitioner argues that "ICE failed to follow its own regulations requiring changed circumstances before re-detention," and he states he was not told at his arrest why his supervision was being revoked or given an informal interview at that time. ECF No. 1 at 8, 27. Instead, Petitioner was provided with a Notice of Revocation of Release and an informal interview on October 28, 2025. Exs. 6, 7.

In any event, it is clear that there *are* changed circumstances here—namely, ICE's revived ability to obtain travel documents from the Laotian government (including one for Petitioner himself) and to schedule routine removal flights to Laos. Cole Decl. at ¶ 15, 18. That fact alone is fatal to Petitioner's claim, because even if the agency had failed to provide Petitioner with advance notice of the revocation (which the regulations do not require in any event),[3] or neglected to conduct the informal

[3] There are obvious law enforcement reasons for not providing advance notice of a re-detention before executing a warrant of removal, just as there is no requirement to provide prior notice of execution of an arrest warrant. Providing such notice "creates a risk that the alien will leave town before the delivery or deportation date." *United States*

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

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v. Gonzales & Gonzales Bonds & Ins. Agency, Inc., 103 F. Supp. 3d 1121, 1137 (N.D. Cal. 2015).

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

So too here. At the time of his re-detention, Petitioner knew he was subject to a final order of removal to Laos. *See* ECF No. 1 at 27. He does not challenge that order in this lawsuit or offer any indication that he intends to do so. Petitioner also had good reason to know, based on his regular check-ins with the agency, that although he was released from detention in 2004, ICE would continue its efforts to obtain a travel document to effectuate his removal to Laos. *Id* And because Respondents had, and continue to have, an evidentiary basis to conclude there is a significant likelihood that Petitioner will be removed to Laos in the reasonably foreseeable future, any challenge that Petitioner would have raised to the revocation prior to his re-detention would have failed. *See, e.g., United States v. Barraza-Leon*, 575 F.2d 218, 221–22 (9th Cir. 1978) (holding that even assuming that the judge had violated the rule by failing to inquire into the alien's background, any error was harmless because there was no showing that the petitioner was qualified for relief from deportation); *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and superseded on other grounds*, 591 F.3d 1105 (9th Cir. 2010), citing §§241.4(*l*)(2)(i), (iv) ("While the regulation provides the detainee some opportunity to respond to the reasons for revocation, it provides no other procedural and no meaningful substantive limit on this exercise of discretion as it allows revocation "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).

Thus, whatever procedural deficiencies or delays may have occurred in connection with Petitioner's re-detention, they do not warrant Petitioner's release today, and indeed they could be cured by means well short of release. Petitioner has now received a Notice of Revocation of Release and an informal interview pursuant to the regulations. *See* Exs. 6,7. Petitioner does not challenge his removal order, nor could he. With Petitioner's removal highly likely to occur in the reasonably foreseeable future,

no legitimate end would be served by this Court ordering his release—other than frustrating "the statute's basic purpose, namely, assuring the alien's presence at the moment of removal." *Zadvydas*, 533 U.S. at 699. Petitioner is thus unlikely to succeed on the merits of his claim that ICE's alleged failure to follow agency regulations merits his release.

2. Petitioner Has Not Shown Irreparable Harm

To prevail on his request for interim injunctive relief, Petitioner must demonstrate "immediate threatened injury." *Caribbean Marine Services Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *Los Angeles Memorial Coliseum Commission v. National Football League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely showing a "possibility" of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22. And detention alone is not an irreparable injury. *See Reyes v. Wolf*, No. C20-0377JLR, 2021 WL 662659, at *3 (W.D. Wash. Feb. 19, 2021), *aff'd sub nom. Diaz Reyes v. Mayorkas*, No. 21-35142, 2021 WL 3082403 (9th Cir. July 21, 2021). Further, "[i]ssuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter*, 555 U.S. at 22.

Petitioner suggests that being subjected to unjustified detention itself constitutes irreparable injury.[4] But this argument "begs the constitutional questions presented in [his] petition by assuming that [P]etitioner has suffered a constitutional injury." *Cortez v. Nielsen*, 2019 WL 1508458, at *3 (N.D. Cal. Apr. 5, 2019). Moreover, Petitioner's "loss of liberty" is "common to all [noncitizens] seeking review of their custody or bond determinations." *See Resendiz v. Holder*, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He faces the same alleged irreparable harm as any habeas corpus petitioner in

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

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

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

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

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

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

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IV. Conclusion

For the foregoing reasons, Respondents respectfully request that the Court deny Petitioner's request for injunctive relief and dismiss the habeas petition.

DATED: October 31, 2025

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