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10 **IN THE UNITED STATES DISTRICT COURT**  
 11 **FOR THE DISTRICT OF ARIZONA**

12 Minh Khac Nguyen,  
 13  
 14 Petitioner,  
 15 v.  
 16 Fred Figueroa, *et al.*  
 17 Respondents.

Case No. 25-cv-3958-DJH (JFM)

**RESPONSE TO PETITION FOR  
 WRIT OF HABEAS CORPUS**

18 **I. INTRODUCTION**

19 Respondents, by and through counsel, respond to the Court’s Order to Show Cause  
 20 (Doc. 7) and accordingly to the Petition for a Writ of Habeas Corpus (Doc. 1) and Motion  
 21 for a Temporary Restraining Order and Preliminary Injunction (Doc.2). Petitioner Minh  
 22 Khac Nguyen is a national of Vietnam who came to the United States in 1975. Since then,  
 23 he has been convicted of several serious crimes under state law, including possession of  
 24 cocaine, grand theft auto, and burglary. Because of his long history of committing  
 25 deportable offenses, an immigration court ordered Petitioner removed pursuant to a final  
 26 order in 1999. In the Motion, Petitioner asks this Court to enjoin Respondents from  
 27 removing him from the country pursuant to his lawfully issued final removal order, to  
 28 enjoin Respondents from removing him from the District of Arizona pending disposition

1 of this action, and to order Respondents to produce Petitioner’s entire A-File and various  
2 other documents. In the Petition, Petitioner requests that this Court order Respondents to  
3 release him from immigration detention immediately. Petitioner’s entire suit rests on a  
4 single claim: that he became a citizen by operation of law on the day his adoptive mother  
5 became a naturalized American citizen. Respondents respectfully request that this Court  
6 deny the Petition and Motion because Petitioner is not now, nor was he ever, a citizen of  
7 the United States, which means his final removal order was issued lawfully. Further, this  
8 Court has no jurisdiction to award Petitioner any of the relief he requests. For these reasons,  
9 which are explained fully below, the Court should deny the Petition.

## 10 **II. FACTUAL BACKGROUND**

11 Petitioner Minh Khac Nguyen, a native of Vietnam, was admitted to the United  
12 States as a lawful permanent resident on May 20, 1975. Declaration of Terrell Peck,  
13 Deportation Officer, Enforcement and Removal Operations, attached as Exhibit A, at ¶¶  
14 4–5. Over the next ten years, Petitioner was in and out of police custody. *Id.* at ¶¶ 6–10.  
15 From 1985 through 1988, Petitioner was convicted of attempted extortion and two  
16 controlled substance offenses. *Id.* at ¶¶ 11–13. Petitioner was then convicted of two  
17 separate car-theft offenses, once in 1989 and once in 1993. *Id.* at ¶¶ 14–15. After  
18 Petitioner’s 1993 conviction, the former Immigration and Naturalization Service (“INS”)  
19 placed him into removal proceedings. Petitioner was ultimately ordered removed in 1999.  
20 *Id.* at ¶¶ 16–19; Doc. 1 at 5. After Petitioner was ordered removed, he continued to break  
21 the law, ultimately leading to an arrest for another controlled-substance violation, which  
22 led to his present detention. Exhibit A at ¶¶ 22–25.

## 23 **III. THE HABEAS PETITION SHOULD BE DENIED**

### 24 **A. This Court has no jurisdiction to grant the petition.**

25 Petitioner asks this Court to order his release from custody. However, Petitioner is  
26 held pursuant to a final removal order, and this Court has no jurisdiction to review final  
27 removal orders.

28 The “sole and exclusive means” of judicial review of a final order of removal is a

1 petition for review in a federal court of appeals. 8 U.S.C. § 1252(a)(5). Similarly,  
2 “[j]udicial review of all questions of law and fact, including interpretation and application  
3 of constitutional and statutory provisions” may only occur via a petition for review. 8  
4 U.S.C. § 1252(b)(9); *see also* *Martinez v. Napolitano*, 704 F.3d 620, 622 (9th Cir. 2012).  
5 Whether a claim constitutes a challenge to an order of removal turns “on the substance of  
6 the relief that a plaintiff is seeking,” and a claim is a prohibited challenge to an order of  
7 removal when it “challenges the procedure and substance of an agency determination that  
8 is inextricably linked to the order of removal.” *Martinez*, 704 F.3d at 622–23 (quoting  
9 *Delgado v. Quarantillo*, 643 F.3d 52, 55 (2d. Cir. 2011) and *Morales-Izquierdo v. Dep’t of*  
10 *Homeland Sec.*, 600 F.3d 1076, 1082–83 (9th Cir. 2010)) (internal quotation marks  
11 omitted). This prohibition applies to a habeas petition where the petitioner claims to be a  
12 naturalized American citizen. *See Iasu v. Smith*, 511 F.3d 881 (9th Cir. 2007).

13 This Court has no jurisdiction to hear Petitioner’s claim. *Iasu* is entirely on point—  
14 there, the petitioner was ordered removed, and he declined to file a petition for review in  
15 the Ninth Circuit. *Iasu*, 511 F.3d at 885. After his removal order became final, the petitioner  
16 challenged his detention on the grounds that he was a naturalized American citizen. *Id.* The  
17 court held that his habeas petition was barred by Section 1252. *Id.* at 891. *Iasu* is controlling  
18 authority, and this Court must follow it where, as here, it applies.<sup>1</sup> *See also* *Painka v. De*  
19 *Rosa*, 2016 U.S. Dist. LEXIS 24452 (D. Ariz. Feb. 29, 2016) at \*4–5

20 Petitioner’s claims that this Court has jurisdiction are unavailing. Petitioner asserts,  
21 without citing to any authority, that it is “well established that the exclusive review  
22 provisions of § 1252 do not apply, and indeed cannot constitutionally apply, to foreclose  
23

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24 <sup>1</sup> Petitioner may argue that *Flores-Torres v. Mukasey*, 548 F.3d 708 (9th Cir. 2008)  
25 authorizes this Court to exercise jurisdiction over his Petition. However, *Flores-Torres*  
26 held that jurisdiction was permissible because the petitioner was not yet subject to a final  
27 order of removal, *Flores-Torres*, 548 F.3d at 711, which is not the case here. The *Flores-*  
28 *Torres* court had no authority to disregard *Iasu*, so even if the two cases contradict one  
another, *Iasu* must hold. *See, e.g., Hart v. Massanari*, 266 F.3d 1155, 1171 (9th Cir. 2001)  
 (“[A] later three-judge panel . . . may not any more disregard [an] earlier panel’s opinion  
than it may disregard a ruling of the Supreme Court.”)

1 habeas relief for a person with a colorable claim to U.S. citizenship.” Doc. 1 at 2–3.  
2 However, as discussed above, this assertion is incorrect and plainly contradicted by binding  
3 precedent. Petitioner also invokes this Court’s authority under the All Writs Act, 28 U.S.C.  
4 § 1651, “to issue orders necessary to protect its jurisdiction and to prevent actions that  
5 could defeat the Court’s ability to grant effective relief.” Doc. 1 at 3. However, the All  
6 Writs Act does not provide an independent basis for jurisdiction. *See, e.g., Brown v. Stroud*,  
7 2011 U.S. Dist. LEXIS 172223 at \*26 (N.D. Cal. Jan. 28, 2011); *In re Codner*, 643 F.  
8 App’x 214, 218 (3d. Cir. 2016). Thus, Petitioner has provided no basis for this Court to  
9 exercise jurisdiction.

10 Petitioner’s claim is not completely beyond his reach, however. He may file a  
11 motion to reopen his removal proceedings with an immigration judge. *See Iasu*, F.3d at  
12 892 (citing 8 C.F.R. 1003.23(b)). If that motion is denied, he may appeal that denial to the  
13 Board of Immigration appeals. If that appeal is denied, he may then file a petition for review  
14 in the Ninth Circuit. *Id.* at 893. That process—and not the present Petition—is the proper  
15 avenue for Petitioner to present his claim. Accordingly, his petition must be denied.

16 **B. Petitioner may be removed because he is not a citizen.**

17 Petitioner argues that his detention is unlawful because his final removal order is  
18 void *ab initio*. Petitioner argues that his final removal order is void because he was made a  
19 citizen of the United States by operation of law on July 3, 1979, when his sister and  
20 adoptive mother became a naturalized American citizen. Doc. 1 at 8. However, Petitioner  
21 did not qualify for automatic citizenship under law, and he never became a naturalized  
22 citizen in any other way. Thus, his final order of removal is valid and he may be removed.

23 Until 1988, the Immigration and Nationality Act (“INA”) provided a pathway for  
24 alien children born to “alien parents, or . . . an alien parent and a citizen parent who has  
25 subsequently lost citizenship” to gain citizenship automatically in certain circumstances:

26 A child born outside of the United States of alien parents, or of an alien parent  
27 and a citizen parent who has subsequently lost citizenship of the United  
28 States, becomes a citizen of the United States upon fulfillment of the

1 following conditions:

2 (1) The naturalization of both parents; or

3 (2) The naturalization of the surviving parent if one of the parents is  
4 deceased; or

5 (3) The naturalization of the parent having legal custody of the child when  
6 there has been a legal separation of the parents or the naturalization of the  
7 mother if the child was born out of wedlock and the paternity of the child has  
8 not been established by legitimation; and if

9 (4) Such naturalization takes place while such child is unmarried and under  
10 the age of eighteen years; and

11 (5) Such child is residing in the United States pursuant to a lawful admission  
12 for permanent residence at the time of the naturalization of the parent last  
13 naturalized under clause (1) of this subsection, or the parent naturalized  
14 under clause (2) or (3) of this subsection, or thereafter begins to reside  
15 permanently in the United States while under the age of eighteen years.

16 8 U.S.C. § 1432(a) (1982).<sup>2</sup>

17 Alien children who were adopted were also eligible for citizenship under this law  
18 only if they were lawful permanent residents living in the United States “at the time of  
19 naturalization” of their parent or parents. 8 U.S.C. § 1432(b) (1982).

20 To summarize, Section 1432(a) creates three triggers for automatic citizenship: both  
21 parents become naturalized; if one parent has died, the surviving parent becomes  
22 naturalized; and if the parents are separated or if the child’s father is unknown, the custodial  
23 parent becomes naturalized. However, Petitioner admits that none of these three triggers  
24 ever occurred in his case, because his adoptive father was a U.S. citizen by birth. Petitioner  
25 refers vaguely to a “requirement of having citizen parent(s),” Doc. 1 at 7, but the law does  
26 not grant citizenship to all alien minors—it grants citizenship to alien minors whose parents

27

28 <sup>2</sup> Because the US Code is updated every six years, there is no 1979 version of  
Section 1432 to cite. The only amendment made between 1979 and 1982 was a small  
change to Section 1432(b) not at issue in this case.

1 become naturalized. The two triggers that grant citizenship upon the naturalization of a  
2 single parent alone occur only when the parent not being naturalized is dead, not confirmed  
3 as legitimate, or not legally entitled to custody. 8 U.S.C. § 1432(a)(1)–(3) (1982).  
4 Petitioner does not allege that his adoptive father was any of these; indeed, he states that  
5 both of his adoptive parents were alive and married to one another when his mother was  
6 naturalized. *See* Doc. 1 at 4–5; Declaration of Larry Clapp, Doc. 1, Exhibit 1 at ¶ 6;  
7 Declaration of Net Thi Clapp, Doc. 1, Exhibit 2 at ¶ 6.

8 The statute’s text leaves no room for doubt that Petitioner’s adoptive father is not a  
9 naturalized citizen. The term “naturalization” means “the conferring of nationality of a state  
10 upon a person *after birth*, by any means whatsoever.” 8 U.S.C. § 1101(a)(23) (1982).  
11 Someone who is born in the United States—like Petitioner’s adopted father, *see*  
12 Declaration of Larry Clapp, Doc. 1, Exhibit 1 at ¶ 1—acquires citizenship at birth, not after  
13 birth. 8 U.S.C. § 1401(a).

14 Petitioner’s case citations do not help him because all of those cases involve  
15 applicants for whom the triggers were met. Petitioner claims that *Flores-Torres v. Holder*,  
16 680 F. Supp. 2d 1099 (N.D. Cal. 2009), is “strikingly similar” to his own case, but *Flores-*  
17 *Torres* is not like his case at all. In *Flores-Torres*, the petitioner was born out of wedlock  
18 in El Salvador, and the court in that case granted his claim on the grounds that his paternity  
19 “[had] not been established by legitimation” under Salvadorean law, meaning that his  
20 mother’s naturalization triggered a grant of citizenship under Section 1432(a)(3). *Id.* at  
21 1104–06. Petitioner does not argue that his legitimacy is in any way in question, nor has  
22 he provided any documents that would suggest this.<sup>3</sup>

23 Petitioner refers at various points to “the requirement of having citizen parent(s)”  
24 present in Section 1432. *See, e.g.*, Doc. 1 at 7. But the requirement is not that an alien child  
25 have citizen parents to receive an automatic grant of citizenship—the requirement is that  
26

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27 <sup>3</sup> It is unlikely that Section 1432(a)(3)’s legitimacy trigger could plausibly apply  
28 when Petitioner claims derivative citizenship by means of adoption, but because Petitioner  
has neither made a claim under Section 1432(a)(3) nor provided any evidence supporting  
such a claim, this Court could not reasonably grant him citizenship for that reason.

1 the child’s parents become naturalized. Because Petitioner admits that his adoptive father  
2 was not naturalized, his claim to citizenship fails even if every fact he alleges in his petition  
3 were true.

4 Even if this Court were to find that Petitioner’s claim fell within the scope of Section  
5 1432, Petitioner has not established that his sister and her husband legally adopted him.  
6 When an alien claims citizenship, they bear the burden to prove their eligibility, and any  
7 doubts are “resolved in favor of the United States and against the claimant.” *Alocozy v.*  
8 *United States Immigr. and Customs Servs.*, 704 F.3d 795, 799 (9th Cir. 2012) (quoting  
9 *Berenyi v. Dist. Dir.*, 385 U.S. 630, 636–37 (1967)). Courts have held that the term  
10 “adopted” in Section 1432 “contemplates a formal judicial act[.]” *Ojo v. Lynch*, 813 F.3d  
11 533, 539–40 (4th Cir. 2016); *see also Perez v. Cuccinelli*, 949 F.3d 865, 874–75 (4th Cir.  
12 2020).

13 Petitioner’s claim to citizenship derives entirely from his sister and her husband,  
14 whom Petitioner claims are his adoptive parents. *See* Doc. 1 at 3–5; Declaration of Larry  
15 Clapp, Doc. 1, Exhibit 1 at ¶ 3. However, this claim cannot succeed if Petitioner’s sister  
16 and her husband are not his adoptive parents. *See* 8 U.S.C. § 1431. Petitioner states that he  
17 was under his sister’s “legal and physical custody” at the time she was naturalized, but he  
18 provides no documentation that establishes this.<sup>4</sup> The only document that Petitioner  
19 produced to support his claim of legal adoption is a document that Petitioner claims  
20 demonstrates that his sister’s husband received a dependency allowance for him from the

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21  
22 <sup>4</sup> Petitioner also alleges that Section 1432 only required “custody of the adopting  
23 parent,” Doc. 1 at 7, but this misrepresents the law. Petitioner appears to be referring to  
24 section 1432(a)(3), but as discussed above, this section only applies “when there has been  
25 a legal separation of the parents or . . . the paternity of the child has not been established  
26 by legitimation,” neither of which applies here. 8 U.S.C. § 1432(a)(3) (1982). Petitioner  
27 also alleges, without citation to any authority, that “either physical or legal custody  
28 suffices” to establish eligibility under Section 1432(b). Doc. 1 at 7. However, Respondents  
note that Section 1432(b) contains no standalone grant of citizenship; it merely permits an  
adopted alien child to access citizenship if one of the three triggers in Section 1432(a) is  
met. 8 U.S.C. § 1432(b). As discussed above, none of the three triggers was met in  
Petitioner’s case, so this argument is unavailing.

1 Navy. Doc. 1-6. However, this document appears to have been materially altered.  
2 Respondents note the presence of off-white discoloration to the immediate left and right of  
3 the word “approved” on the document, and Respondents further note that a blank space  
4 under “Reason Codes for Disapproval” is filled in, suggesting that the application was  
5 denied due to “nonreceipt of dependency affidavit and court order awarding member  
6 custody.” Further, the application lists Petitioner as a “ward” of his brother-in-law, not a  
7 “child” or “son,” which does not suggest a legal adoption ever took place. Thus, even if  
8 this document said what Petitioner claims, it does not support his claim that his sister and  
9 brother-in-law adopted him.

10 To summarize, Petitioner asks this court to review a decision it has no jurisdiction  
11 to review and to provide him citizenship in a procedural posture from which it cannot do  
12 so, relying on a law that does not apply to the facts as he alleges them, based on altered  
13 documents that do not support his claim. This Court should accordingly deny his habeas  
14 petition.

#### 15 **IV. PETITIONER IS NOT ENTITLED TO INJUNCTIVE RELIEF**

##### 16 **A. Legal Standard**

17 Petitioner asks this Court to issue a temporary restraining order and preliminary  
18 injunction granting him immediate release from custody and preventing Respondents from  
19 removing him from the District of Arizona until the Petition is disposed of. Respondents  
20 argue that this motion should be denied because Petitioner has not demonstrated  
21 entitlement to any of the relief he requests.

22 A temporary restraining order (“TRO”) should be granted to “preserv[e] the status  
23 quo and prevent[] irreparable harm just so long as is necessary to hold a hearing and no  
24 longer.” *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 779 (9th Cir. 2018) (quoting  
25 *Granny Goose Foods v. Bd. of Teamsters & Auto Truck Drivers Local No. 70*, 415 U.S.  
26 423, 439 (1974)). A petitioner must show “that he is likely to succeed on the merits, that  
27 he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance  
28 of equities tips in his favor, and that an injunction is in the public interest” to receive a

1 TRO or a preliminary injunction. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008);  
2 *see also Stuhlberg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir.  
3 2001) (stating that the “analysis is substantially identical for [an] injunction and [a] TRO”).  
4 Injunctive relief is “an extraordinary remedy never awarded as of right.” *Winter*, 555 U.S.  
5 at 9. A TRO normally lasts for no longer than fourteen days, but a court may extend a  
6 TRO’s duration for an additional fourteen days “for good cause.” FRCP 65(b)(2).  
7 However, a TRO may not last longer than 28 days unless the adverse party consents. *Id.*;  
8 *see also H-D Michigan, LLC v. Hellenic Duty Free Shops S.A.*, 694 F.3d 827, 844 (7th Cir.  
9 2012) (“[T]he great weight of authority support the view that 28 days is the outer limit for  
10 a TRO without the consent of the enjoined party. . .”).

11 **B. Petitioner requests relief that this Court has no jurisdiction to issue.**

12 Petitioner asks this Court to stay his removal from the United States pending the  
13 disposition of his Petition. Congress has spoken clearly that “no court” has jurisdiction  
14 over “any cause or claim” arising from the execution of removal orders, “notwithstanding  
15 any other provision of law,” whether “statutory or nonstatutory,” including habeas, the  
16 Declaratory Judgment Act, the All Writs Act, or the Administrative Procedures Act. 8  
17 U.S.C. § 1252(g). Accordingly, by its terms, this jurisdiction-stripping provision precludes  
18 habeas review under 28 U.S.C. § 2241 (as well as review pursuant to the All Writs Act and  
19 Administrative Procedure Act) of claims arising from a decision or action to “execute” a  
20 final order of removal. *See Reno v. American-Arab Anti-Discrimination Committee*  
21 (*“AADC”*), 525 U.S. 471, 482 (1999).

22 Numerous courts of appeals, including the Ninth Circuit, have consistently held that  
23 claims seeking a stay of removal—even temporarily to assert other claims to relief—are  
24 barred by 8 US.C. § 1252(g). *See Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022)  
25 (holding Section 1252(g) barred petitioner’s claim seeking a temporary stay of removal  
26 while he pursued a motion to reopen his immigration proceedings); *Camarena v. Dir.*,  
27 *Immigr. & Customs Enf’t*, 988 F.3d 1268, 1274 (11th Cir. 2021) (“[W]e do not have  
28 jurisdiction to consider ‘any’ cause or claim brought by an alien arising from the

1 government’s decision to execute a removal order. If we held otherwise, any petitioner  
2 could frame his or her claim as an attack on the government’s authority to execute a  
3 removal order rather than its execution of a removal order.”); *E.F.L. v. Prim*, 986 F.3d 959,  
4 964-65 (7th Cir. 2021) (rejecting petitioner’s argument that jurisdiction remained because  
5 petitioner was challenging DHS’s “legal authority” as opposed to its “discretionary  
6 decisions”); *Tazu v. Att’y Gen. United States*, 975 F.3d 292, 297 (3d Cir. 2020) (observing  
7 that “the discretion to decide whether to execute a removal order includes the discretion to  
8 decide when to do it. Both are covered by the statute.”) (emphasis in original) (quoted with  
9 approval in *Rauda*, 55 F.4th at 777); *Hamama v. Adducci*, 912 F.3d 869, 874-77 (6th Cir.  
10 2018) (vacating district court’s injunction staying removal, concluding that § 1252(g)  
11 stripped district court of jurisdiction over removal-based claims and remanding with  
12 instructions to dismiss those claims); *Silva v. United States*, 866 F.3d 938, 941 (8th Cir.  
13 2017) (Section 1252(g) applies to constitutional claims arising from the execution of a final  
14 order of removal, and language barring “any cause or claim” made it “unnecessary for  
15 Congress to enumerate every possible cause or claim”). Accordingly, this Court is  
16 explicitly barred by 8 U.S.C. § 1252(g) from enjoining Petitioner’s removal pursuant to a  
17 final order of removal.

18 .  
19 **C. Petitioner is not likely to succeed on the merits.**

20 Petitioner requests that this Court order his immediate release. As argued in Section  
21 III above, Petitioner’s habeas claim should not be granted. For these same reasons,  
22 Petitioner cannot show that he is “likely to succeed on the merits,” as is required for  
23 injunctive relief. *Winter*, 555 U.S. at 20. Thus, this Court should issue neither a temporary  
24 restraining order nor a preliminary injunction.

25 **D. Petitioner cannot establish irreparable harm.**

26 The Court should deny Petitioner’s Motion, because Petitioner “must demonstrate  
27 immediate threatened injury as a prerequisite to preliminary injunctive relief.” *Caribbean  
28 Marine Servs. Co. v. Baldridge*, 844 F.2d 668, 674 (9th Cir. 1988). The “possibility” of

1 injury is “too remote and speculative to constitute an irreparable injury meriting  
2 preliminary injunctive relief.” *Id.* “Subjective apprehensions and unsupported predictions  
3 . . . are not sufficient to satisfy a plaintiff’s burden of demonstrating an immediate threat  
4 of irreparable harm.” *Id.* at 675-76.

5 Petitioner cannot show that denying the temporary restraining order would make  
6 “irreparable harm” the likely outcome. *Winter*, 555 U.S. at 22 (“[P]laintiffs . . . [must]  
7 demonstrate that irreparable injury is likely in the absence of an injunction.”) (emphasis in  
8 original). “[A] preliminary injunction will not be issued simply to prevent the possibility  
9 of some remote future injury.” *Id.* “Speculative injury does not constitute irreparable  
10 injury.” *Goldie’s Bookstore, Inc. v. Superior Court of State of Cal.*, 739 F.2d 466, 472 (9th  
11 Cir. 1984). Petitioner cannot establish irreparable harm if he is not released from detention  
12 where he is lawfully and constitutionally detained pursuant to a final executable removal  
13 order.

14 **E. The equities and public interest do not favor Petitioner.**

15 The third and fourth factors, “harm to the opposing party” and the “public interest,”  
16 “merge when the Government is the opposing party.” *Nken*, 556 U.S. at 435. “In exercising  
17 their sound discretion, courts of equity should pay particular regard for the public  
18 consequences in employing the extraordinary remedy of injunction.” *Weinberger v.*  
19 *Romero-Barcelo*, 456 U.S. 305, 312 (1982).

20 An adverse decision here would negatively impact the public interest by  
21 jeopardizing “the orderly and efficient administration of this country’s immigration laws.”  
22 *See Sasso v. Milhollan*, 735 F. Supp. 1045, 1049 (S.D. Fla. 1990); *see also Coal. for Econ.*  
23 *Equity v. Wilson*, 122 F.3d 718, 719 (9th Cir. 1997) (“[I]t is clear that a state suffers  
24 irreparable injury whenever an enactment of its people or their representatives is  
25 enjoined.”). The public has a legitimate interest in the government’s enforcement of its  
26 laws. *See, e.g., Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009) (“[T]he  
27 district court should give due weight to the serious consideration of the public interest in  
28 this case that has already been undertaken by the responsible state officials in Washington,

1 who unanimously passed the rules that are the subject of this appeal.”).

2 While it is in the public interest to protect constitutional rights, if the petitioner has  
3 not shown a likelihood of success on the merits of that claim—as Petitioner has not shown  
4 here—that presumptive public interest evaporates. *See Preminger v. Principi*, 422 F.3d  
5 815, 826 (9th Cir. 2005). And the public interest lies in the Executive’s ability to enforce  
6 U.S. immigration laws. *El Rescate Legal Servs., Inc. v. Exec. Off. of Immigr. Rev.*, 959 F.2d  
7 742, 750 (9th Cir. 1991) (“Control over immigration is a sovereign prerogative.”). Given  
8 Petitioner’s undisputed criminal history and lawful final removal order to Vietnam, the  
9 public and governmental interest in permitting his continued detention to effectuate  
10 removal is significant. Because Petitioner is a convicted criminal subject to a final removal  
11 order, the public interest lies with the government’s ability to effectuate his removal to  
12 Vietnam.

13  
14 RESPECTFULLY SUBMITTED October 31, 2025.

15 TIMOTHY COURCHAINED  
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17 District of Arizona

18 s/ Brooks Chupp  
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20 Assistant United States Attorney  
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**CERTIFICATE OF SERVICE**

I hereby certify that on October 31, 2025, I electronically transmitted the attached documents by Electronic Mail to :

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