

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

Attorneys for Respondents

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

SAENGPHEHET (a.k.a., Saengphet No Last
Name, Saengphet NLN),

Petitioner,

v.

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

Respondents.

Case No. 25-cv-2909-JES-BLM

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

1 I. INTRODUCTION

2 Petitioner Saengphet (a.k.a., Saengphet No Last Name, Saengphet NLN)
3 (Petitioner) filed a habeas petition and a motion for temporary restraining order. ECF
4 Nos. 1, 3. On October 29, 2025, the Court issued an order to show cause as to why the
5 petition and motion for temporary restraining order should not be granted. ECF No. 4.
6 For the reasons set forth below, the Court should deny Petitioner's request for injunctive
7 relief and dismiss the petition.

8 II. FACTUAL AND PROCEDURAL BACKGROUND

9 Petitioner is a citizen and national of Laos. *See* Declaration of Saengphet
10 ("Saengphet Decl.") at ¶ 1.¹ Petitioner entered the United States as a refugee in 1989,
11 and soon after he became a lawful permanent resident. *Id.* On June 27, 2002, an
12 immigration judge ordered Petitioner removed to Laos following his conviction for
13 assault. *Id.* at ¶¶ 2–3; Declaration of Daniel Negrin ("Negrin Decl.") at ¶ 4. Petitioner
14 was subsequently released from immigration custody on an order of supervision on
15 October 24, 2002, pending removal to Laos because the government was unable to
16 obtain a travel document to Laos. *See* Negrin Decl. at ¶ 5.

17 Between Petitioner's release on October 24, 2002, and February 6, 2012, ICE re-
18 detained Petitioner numerous times after Petitioner was arrested by the San Diego
19 Police Department, and he was subsequently released from custody each of these times
20 on an order of supervision. *Id.* at ¶ 6.

21 On May 28, 2017, ICE revoked Petitioner's order of supervision following his
22 conviction for being a felon in possession of a firearm for which he was sentenced to a
23 180-day term and three years' probation. *Id.* at ¶ 7. On June 5, 2017, ICE again released
24 Petitioner on an order of supervision after unsuccessful efforts to obtain a travel
25 document to remove Petitioner to Laos. *Id.*

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

5 On October 15, 2025, ICE issued a Form I-200, Warrant for Arrest of Alien,
6 pertaining to Petitioner, in order to effectuate his removal to Laos. *Id.* at ¶ 8, Ex. A
7 (Form I-200, Warrant for Arrest of Alien). On October 17, 2025, ICE re-detained
8 Petitioner. Negrin Decl. at ¶ 9. On October 17, 2025, Petitioner was served with the
9 Form I-200, Warrant for Arrest of Alien. *Id.* That same day, Petitioner also received
10 and signed a Notice of Revocation of Release informing him that his order of
11 supervision had been revoked. *Id.* at ¶ 10, Ex. B (Notice of Revocation of Release).

12 On October 17, 2025, ICE issued a Form I-205, Warrant of Removal/Deportation,
13 which Petitioner refused to sign. Negrin Decl. at ¶ 11, Ex. C (Form I-205, Warrant of
14 Removal/Deportation). On October 17, 2025, ICE also issued a Form I-294, Warning
15 to Alien Ordered Removed or Deported, and a Form I-213, Record of
16 Deportable/Inadmissible Alien. Negrin Decl. at ¶¶ 12–13, Ex. D (Form I-294, Warning
17 to Alien Ordered Removed or Deported), Ex. E (Form I-213, Record of
18 Deportable/Inadmissible Alien).

19 On October 29, 2025, ICE provided Petitioner with an amended Notice of
20 Revocation of Release informing Petitioner that his order of supervision had been
21 revoked. Negrin Decl. at ¶ 14, Ex. F (Amended Notice of Revocation of Release).

22 On October 29, 2025, ICE conducted an informal interview with Petitioner
23 regarding his detention status. *Id.* at ¶ 15, Ex. G (Alien Informal Interview Upon
24 Revocation of Order of Supervision).

25 On October 29, 2025, ICE Enforcement and Removal Operations (ERO)
26 submitted a travel document request for Petitioner to the Laos Unit of ERO's Removal
27 and International Operations (RIO). Negrin Decl. at ¶ 18. The travel document request
28 remains pending. *Id.*

1 ICE is not seeking to remove Petitioner to a third country. *Id.* at ¶ 16. According
2 to the declaring officer's experience, "there is a significant likelihood of Petitioner's
3 removal to Laos on or before March 1, 2026." *Id.* at ¶ 23.

4 III. ARGUMENT

5 A. **Because Petitioner's Claims Regarding Third Countries Are Unfounded,** 6 **this Court Lacks Jurisdiction Over Petitioner's Third Claim for Relief.**

7 The Constitution limits federal judicial power to designated "cases" and
8 "controversies." U.S. Const., art. III, § 2; *see also SEC v. Med. Comm. for Human*
9 *Rights*, 404 U.S. 403, 407 (1972) (federal courts may only entertain matters that present
10 a "case" or "controversy" within the meaning of Article III). "Absent a real and
11 immediate threat of future injury there can be no case or controversy, and thus no Article
12 III standing for a party seeking injunctive relief." *Wilson v. Brown*, No. 05-cv-1774-
13 BAS-MDD, 2015 WL 8515412, at *3 (S.D. Cal. Dec. 11, 2015) (citing *Friends of the*
14 *Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000) ("[I]n a
15 lawsuit brought to force compliance, it is the plaintiff's burden to establish standing by
16 demonstrating that, if unchecked by the litigation, the defendant's allegedly wrongful
17 behavior will likely occur or continue, and that the threatened injury is certainly
18 impending.") (simplified)). At the "irreducible constitutional minimum," standing
19 requires that a petitioner demonstrate the following: (1) an injury in fact (2) that is fairly
20 traceable to the challenged action of the United States and (3) likely to be redressed by
21 a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

22 Here, Petitioner's third claim for relief alleges that "ICE's policies threaten his
23 removal to a third country without adequate notice and an opportunity to be heard."
24 ECF No. 1 at 17:27–28. But Respondents are not seeking to remove Petitioner to a third
25 country and are instead working to promptly remove Petitioner to Laos. *See Negrin*
26 *Decl.* at ¶¶ 16–23. As such, there is no controversy concerning third-country
27 resettlement for this Court to resolve. Federal courts do not have jurisdiction "to give
28 opinions upon moot questions or abstract propositions, or to declare principles or rules

1 of law which cannot affect the matter in issue in the case before it.” *Church of*
2 *Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992) (internal quotations and
3 citations omitted). “A claim is moot if it has lost its character as a present, live
4 controversy.” *Am. Rivers v. Nat’l Marine Fisheries Serv.*, 126 F.3d 1118, 1123 (9th Cir.
5 1997) (citation omitted). The Court therefore lacks jurisdiction over Petitioner’s claims
6 concerning third-country resettlement because there is no live case or controversy. *See*
7 *Powell v. McCormack*, 395 U.S. 486, 496 (1969); *Murphy v. Hunt*, 455 U.S. 478, 481
8 (1982).

9 **B. Claims and Requests Barred by 8 U.S.C. § 1252.**

10 Petitioner bears the burden of establishing that this Court has subject matter
11 jurisdiction over his claims. *See Ass’n of Am. Med. Colls. v. United States*, 217 F.3d
12 770, 778–79 (9th Cir. 2000). To the extent Petitioner’s claims arise from—or seek to
13 enjoin—the decision to execute his removal order, they are jurisdictionally barred under
14 8 U.S.C. § 1252(g). *See* 8 U.S.C. § 1252(g) (“Except as provided in this section and
15 *notwithstanding any other provision of law* (statutory or nonstatutory), *including*
16 *section 2241 of Title 28, or any other habeas corpus provision*, and sections 1361 and
17 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on
18 behalf of any alien arising from the decision or action by the Attorney General to
19 commence proceedings, adjudicate cases, or *execute removal orders* against any alien
20 under this chapter.”) (emphasis added); *Reno v. Am.-Arab Anti-Discrimination Comm.*,
21 525 U.S. 471, 483 (1999) (“There was good reason for Congress to focus special
22 attention upon, and make special provision for, judicial review of the Attorney
23 General’s discrete acts of “commenc[ing] proceedings, adjudicat[ing] cases, [and]
24 execut[ing] removal orders”—which represent the initiation or prosecution of various
25 stages in the deportation process.”) (quoting 8 U.S.C. § 1252(g)). In other words,
26 section 1252(g) removes district court jurisdiction over “three discrete actions that the
27 Attorney General may take: her ‘decision or action’ to ‘commence proceedings,
28 adjudicate cases, or execute removal orders.’” *Reno*, 525 U.S. at 482 (emphasis

1 removed). Here, Petitioner's claims necessarily arise "from the decision or action by
2 the Attorney General to . . . execute removal orders," over which Congress has explicitly
3 foreclosed district court jurisdiction. 8 U.S.C. § 1252(g); *see also* 8 U.S.C. § 1252(f)(2)
4 ("Notwithstanding any other provision of law, no court shall enjoin the removal of any
5 alien pursuant to a final order under this section unless the alien shows by clear and
6 convincing evidence that the entry or execution of such order is prohibited as a matter
7 of law."). Accordingly, to the extent Petitioner's claims arise from—or seek to enjoin—
8 the decision to execute his removal order, the Court should deny and dismiss those
9 claims for lack of jurisdiction under 8 U.S.C. § 1252.

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

11 Alternatively, even if this Court determines that it has jurisdiction over
12 Petitioner's claims, Petitioner has not established that he is entitled to a temporary
13 restraining order. He cannot show that he is likely to succeed on the underlying merits
14 of his habeas petition, he has not demonstrated irreparable harm, and the equities do not
15 weigh in his favor.

16 In general, the showing required for a temporary restraining order is the same as
17 that required for a preliminary injunction. *See Stuhlbarg Int'l Sales Co., Inc. v. John D.*
18 *Brush & Co., Inc.*, 240 F.3d 832, 839 (9th Cir. 2001). To prevail on a motion for a
19 temporary restraining order, a petitioner must "establish that he is likely to succeed on
20 the merits, that he is likely to suffer irreparable harm in the absence of preliminary
21 relief, that the balance of equities tips in his favor, and that an injunction is in the public
22 interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *accord Nken v.*
23 *Holder*, 556 U.S. 418, 426 (2009). Petitioner must demonstrate at least a "substantial
24 case for relief on the merits." *Leiva-Perez v. Holder*, 640 F.3d 962, 967–68 (9th Cir.
25 2011). When "a plaintiff has failed to show the likelihood of success on the merits,
26 [courts] need not consider the remaining three [*Winter* factors]." *Garcia v. Google, Inc.*,
27 786 F.3d 733, 740 (9th Cir. 2015). The final two factors required for preliminary
28 injunctive relief—balancing of the harm to the opposing party and the public interest—

1 merge when the government is the opposing party. *See Nken*, 556 U.S. at 435. “Few
2 interests can be more compelling than a nation’s need to ensure its own security.” *Wayte*
3 *v. United States*, 470 U.S. 598, 611 (1985).

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

5 Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at
6 740. Here, apart from his non-justiciable claim of potential third-country removal,
7 Petitioner argues that his re-arrest and detention warrant habeas relief because: (1) ICE
8 violated its own regulations, ECF No. 1 at 8:25–11:5 (Petitioner’s first claim for relief);
9 and (2) they ran afoul of the Supreme Court’s holding in *Zadvydas v. Davis*, 533 U.S.
10 678, 689 (2001), ECF No. 1 at 11:7–17:24 (Petitioner’s second claim for relief). But
11 Petitioner cannot establish that he is likely to succeed on the underlying merits of those
12 claims because he is properly detained under 8 U.S.C. § 1231(a) and the applicable
13 agency regulations.

14 **a. Petitioner’s detention is lawful, and he has not established that**
15 **there is no significant likelihood of removal in the reasonably**
16 **foreseeable future.**

17 ICE’s authority to detain, release, and re-detain noncitizens who are subject to a
18 final order of removal is governed by 8 U.S.C. § 1231(a). When an alien has been found
19 to be unlawfully present in the United States and a final order of removal has been
20 entered, the government ordinarily secures the alien’s removal during a subsequent 90-
21 day statutory “removal period.” 8 U.S.C. § 1231(a)(1). The statute provides that the
22 Attorney General “shall detain” the alien during this removal period. 8 U.S.C.
23 § 1231(a)(2).

24 The Supreme Court held in *Zadvydas* that when removal is not accomplished
25 during the 90-day removal period, the statute “limits an alien’s post-removal-period
26 detention to a period reasonably necessary to bring about the alien’s removal from the
27 United States” and does not permit “indefinite detention.” *Zadvydas*, 533 U.S. at 689.
28 The Supreme Court has held that six months constitutes a “presumptively reasonable

1 period of detention.” *Id.* at 701. Courts have repeatedly declined to grant habeas relief
2 where the presumptively reasonable six-month period has not yet elapsed. *See*
3 *Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D. Md. July 22,
4 2025) (“The government is entitled to its six-month presumptive period before
5 Petitioner’s continued § 1231(a)(6) detention poses a constitutional issue.”); *Guerra-*
6 *Castro v. Parra*, No. 1:25-cv-22487-GAYLES, 2025 WL 1984300, at *4 (S.D. Fla. July
7 17, 2025) (“The Court finds that the Petition is premature because Petitioner has not
8 been detained for more than six months. Petitioner has been in detention since May 29,
9 2025; therefore, his two-month detention is lawful under *Zadvydas*.”) (citations
10 omitted); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE, 2003 WL 221809, at *5 (D. Minn.
11 Jan. 29, 2013) (holding that when the government releases a noncitizen and then revokes
12 the release based on changed circumstances, “the revocation would merely restart the
13 90-day removal period, not necessarily the presumptively reasonable six-month
14 detention period under *Zadvydas*”).

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

27 The Supreme Court also instructed that detention could exceed six months: “This
28 6-month presumption, of course, does not mean that every alien not removed must be

1 released after six months. To the contrary, an alien may be held in confinement until it
2 has been determined that there is no significant likelihood of removal in the reasonably
3 foreseeable future.” *Id.* at 701. “After this 6-month period, once the alien provides good
4 reason to believe that there is no significant likelihood of removal in the reasonably
5 foreseeable future, the Government must respond with evidence sufficient to rebut that
6 showing.” *Id.* The Ninth Circuit has emphasized, “*Zadvydas* places the burden on the
7 alien to show, after a detention period of six months, that there is ‘good reason to believe
8 that there is no significant likelihood of removal in the reasonably foreseeable future.’”
9 *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at
10 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

11 Here, Petitioner contends that his current detention runs afoul of *Zadvydas*. But
12 even if Petitioner’s total time in detention since June 2002 does exceed the six months
13 of presumptive reasonableness, his claim still fails at the next step because he cannot
14 meet his burden to establish “that there is no significant likelihood of removal in the
15 reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. Petitioner was re-detained
16 on October 15, 2025, after ICE had been successfully obtaining travel documents for
17 Laotian citizens and routinely effectuating removals to Laos. Negrin Decl. at ¶¶ 9, 20–
18 21; *see Louangmilith v. Noem*, No. 25-cv-2502-JES-MSB, 2025 WL 2881578, at *4
19 (S.D. Cal. Oct. 9, 2025) (acknowledging the government’s recent receipt of a travel
20 document from Laos for a detainee in this district).² On October 29, 2025, ERO
21

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

1 submitted a travel document request pertaining to Petitioner to the Laos Unit of ERO's
2 Removal and International Operations (RIO), and once ICE receives Petitioner's travel
3 document, he can be removed promptly as ICE has established routine flights to Laos
4 over the last several months and has completed removal flights as recently as October
5 22, 2025. Negrin Decl. at ¶¶ 18–22.

6 Based on the foregoing efforts, ICE attests “there is a significant likelihood of
7 Petitioner's removal to Laos on or before March 1, 2026,” and ICE does not anticipate
8 any “barrier to the consulate's issuance of a travel document for Petitioner.” *Id.* at ¶ 23.
9 ICE's confidence in effectuating Petitioner's removal to Laos is further based on ICE's
10 current ability to do so. Compared to fiscal year 2024, where ICE removed no Laotian
11 citizens, ICE removed 177 Laotian citizens to Laos in fiscal year 2025 (as of September
12 8, 2025). *Id.* at ¶ 21.

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

16 Courts properly deny *Zadvydas* claims under such circumstances. *See Malkandi*
17 *v. Mukasey*, No. C07-1858RSM, 2008 WL 916974, at *1 (W.D. Wash. April 2, 2008)
18 (denying *Zadvydas* petition where petitioner had been detained more than 14 months
19 post-final order); *Nicia v. ICE Field Office Dir.*, No. C13-0092-RSM, 2013 WL
20 2319402, at *3 (W.D. Wash. May 28, 2013) (holding petitioner “failed to satisfy his
21 burden of showing that there is no significant likelihood of his removal in the reasonably
22 foreseeable future” where he had been detained more than seven months post-final
23 order).

24 That Petitioner does not yet have a specific date of anticipated removal does not
25 make his detention unconstitutionally indefinite. *See Diouf v. Mukasey*, 542 F.3d 1222,
26 1233 (9th Cir. 2008) (explaining that a demonstration of “no significant likelihood of
27 removal in the reasonably foreseeable future” would include a country's refusal to
28 accept a noncitizen or that removal is barred by our own laws). On the contrary, as

1 courts in this district have found, “evidence of progress, albeit slow progress, in
2 negotiating a petitioner’s repatriation will satisfy *Zadvydas* until the petitioner’s
3 detention grows unreasonably lengthy.” Exhibit A, *Kim v. Ashcroft*, Case No. 02-cv-
4 1524-J-LAB, ECF No. 25 at 8:8–10 (S.D. Cal. June 2, 2003) (finding that petitioner’s
5 one year and four-month detention does not violate *Zadvydas* given respondent’s
6 production of evidence showing governments’ negotiations are in progress and there is
7 reason to believe that removal is likely in the foreseeable future); *see also Marquez v.*
8 *Wolf*, No. 20-cv-1769-WQHBLM, 2020 WL 6044080, at *3 (S.D. Cal. Oct. 13, 2020)
9 (denying petition because “Respondents have set forth evidence that demonstrates
10 progress and the reasons for the delay in Petitioner’s removal”); Exhibit B, *Sereke v.*
11 *DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at 5:4–6 (S.D. Cal. Aug. 15, 2019)
12 (“the record at this stage in the litigation does not support a finding that there is no
13 significant likelihood of Petitioner’s removal in the reasonably foreseeable future.”).

14 Petitioner’s continued detention is thus not unconstitutionally prolonged under
15 *Zadvydas*.

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

18 Petitioner’s first claim for relief—that ICE failed to comply with its regulations
19 revoking Petitioner’s order of supervision—is also deficient.

20 A noncitizen who is not removed within the removal period may be released from
21 ICE custody “pending removal . . . subject to supervision under regulations prescribed
22 by the Attorney General.” 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3); *see also* 8 U.S.C.
23 § 1231(a)(6). An order of supervision may be issued under 8 C.F.R. § 241.4, and the
24 order may be revoked under 8 C.F.R. § 241.4(l)(2)(iii) where “appropriate to enforce a
25 removal order.” *See also* 8 C.F.R. § 241.5 (conditions of release after removal period).
26 ICE may also revoke the order of supervision where, “on account of changed
27 circumstances, [ICE] determines that there is a significant likelihood that the alien may
28 be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). The

1 regulations further provide:

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

7 8 C.F.R. § 214.4(*l*) (emphasis added).

8 Here, Petitioner claims that his detention is unlawful because the agency failed
9 to comply with its regulations *before* re-detaining him. ECF No. 1 at 8:25. Specifically,
10 Petitioner argues that ICE did not identify any “changed circumstances” to justify re-
11 detaining him, ICE did not inform him of the reasons for re-detaining him, and he was
12 not given an informal interview. *Id.* at 10:7–20.³ Notably, the regulations do not require
13 written notice, advance notice, an advanced interview, nor for DHS to prove to the
14 satisfaction of a petitioner that changed circumstances are present.⁴

15 Yet it is clear that there *are* changed circumstances here—namely, ICE’s revived
16 ability to obtain travel documents from the Laotian government and to schedule routine
17 removal flights to Laos. Negrin Decl. at ¶¶ 20–21. These facts are fatal to Petitioner’s
18 claim, because even if the agency had failed to provide Petitioner with “advance notice”
19 of the revocation, or neglected to conduct the informal interview before the filing of the
20 petition, Petitioner could not establish that he was prejudiced by those omissions nor

21 ³ ICE provided Petitioner with a Notice of Revocation of Release on October 15, 2025,
22 an amended Notice of Revocation of Release on October 29, 2025, and an informal
23 interview on October 29, 2025. Negrin Decl. at ¶¶ 10, 14–15, Ex. B (Notice of
24 Revocation of Release), Ex. F (Amended Notice of Revocation of Release), Ex. G
(Alien Informal Interview Upon Revocation of Order of Supervision).

25 ⁴ There are obvious law enforcement reasons for not providing “advance” notice of a
26 re-detention before executing a warrant of removal, just as there is no requirement to
27 provide prior notice of execution of an arrest warrant. Providing such notice “creates a
28 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 that a constitutional level violation has occurred. *See Brown v. Holder*, 763 F.3d 1141,
2 1148–50 (9th Cir. 2014) (“[T]he mere failure of an agency to follow its regulations is
3 not a violation of due process.”); *United States v. Tatoyan*, 474 F.3d 1174, 1178 (9th
4 Cir. 2007) (holding that “[c]ompliance with . . . internal [customs] agency regulations
5 is not mandated by the Constitution”) (simplified); *Bd. of Curators of Univ. of Mo. v.*
6 *Horowitz*, 435 U.S. 78, 92 n.8 (1978) (holding that *Accardi* “enunciate[s] principles of
7 federal administrative law rather than of constitutional law”).

8 For example, in *Ahmad v. Whitaker*, the government revoked the petitioner’s
9 release but did not provide him an informal interview. *Ahmad v. Whitaker*, No. C18-27-
10 JLR-BAT, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *report and*
11 *recommendation adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner
12 argued the revocation of his release was unlawful because, he contended, the federal
13 regulations prohibited re-detention without, among other things, an opportunity to be
14 heard. *Id.* at *5. In rejecting his claim, the court held that although the regulations called
15 for an informal interview, petitioner could not establish “any actionable injury from this
16 violation of the regulations given that ICE had procured a travel document and
17 scheduled [petitioner’s] removal.” *Id.* Similarly, in *Doe v. Smith*, the court held that
18 even if ICE detained petitioner had not received a timely interview following her return
19 to custody, there was “no apparent reason why a violation of the regulation, even
20 assuming it occurred, should result in release.” *Doe v. Smith*, No. 18-11363-FDS, 2018
21 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, “it is difficult to see
22 an actionable injury stemming from such a violation. Doe is not challenging the
23 underlying justification for the removal order. . . . Nor is this a situation where a prompt
24 interview might have led to her immediate release—for example, a case of mistaken
25 identity.” *Id.*

26 So too here. At the time of his re-detention, Petitioner knew he was subject to a
27 final order of removal to Laos. *See Saengphet Decl.* at ¶ 3. He does not challenge that
28 order in this lawsuit or offer any indication that he intends to do so. Petitioner also was

1 informed of the reason for his re-detention when he was served with the original Notice
2 of Revocation of Release on October 15, 2025, the Form I-205, Warrant of
3 Removal/Deportation, on October 17, 2025, and the amended Notice of Revocation of
4 Release on October 29, 2025. *See* Negrin Decl. at ¶¶ 10–11, Ex. B (Notice of
5 Revocation of Release), Ex. C (Form I-205, Warrant of Removal/Deportation), Ex. F
6 (Amended Notice of Revocation of Release). And because Respondents had, and
7 continue to have, an evidentiary basis to conclude there is a significant likelihood that
8 Petitioner will be removed to Laos in the reasonably foreseeable future, any challenge
9 that Petitioner would have raised to the revocation prior to or after his re-detention
10 would have failed. Because Petitioner cannot show prejudice under these
11 circumstances, the alleged violation of agency regulations does not warrant release here.
12 *See, e.g., Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended*
13 *and superseded on other grounds*, 591 F.3d 1105 (9th Cir. 2010) (“While the regulation
14 provides the detainee some opportunity to respond to the reasons for revocation, it
15 provides no other procedural and no meaningful substantive limit on this exercise of
16 discretion as it allows revocation ‘when, in the opinion of the revoking official . . . [t]he
17 purposes of release have been served . . . [or] [t]he conduct of the alien, or *any other*
18 *circumstance*, indicates that release would no longer be appropriate.’”) (emphasis in
19 original) (citing 8 C.F.R. §§ 241.4(l)(2)(i), (iv)); *Carnation Co. v. Sec’y of Lab.*, 641
20 F.2d 801, 804 n.4 (9th Cir. 1981) (“violations of procedural regulations should be
21 upheld if there is no significant possibility that the violation affected the ultimate
22 outcome of the agency’s action” (citation omitted)); *United States v. Hernandez-Rojas*,
23 617 F.2d 533, 535 (9th Cir. 1980) (INS’ failure to follow regulations requiring that an
24 arrested alien be advised of his right to speak to his consul was not prejudicial and thus
25 not a ground for challenging the conviction); *United States v. Barraza-Leon*, 575 F.2d
26 218, 221–22 (9th Cir. 1978) (holding that even assuming that the judge had violated the
27 rule by failing to inquire into the alien’s background, any error was harmless because
28 there was no showing that the petitioner was qualified for relief from deportation).

1 Thus, whatever procedural deficiencies or delays may have occurred, they do
2 not warrant Petitioner's release and indeed could be cured by means well short of
3 release. Petitioner does not challenge his removal order, nor could he. ICE has provided
4 Petitioner with a Notice of Revocation of Removal and conducted an informal
5 interview. Negrin Decl. at ¶¶ 10, 14–15. ICE's Enforcement and Removal Operations
6 is diligently preparing its request for Petitioner's travel document for submission to the
7 Laotian government and expects the removal of Petitioner to Laos to occur in the
8 reasonably foreseeable future. *Id.* at ¶¶ 17–23. With Petitioner's removal highly likely
9 to occur in the reasonably foreseeable future, no purpose would be served by this
10 Court's ordering his release—other than frustrating “the statute's basic purpose,
11 namely, assuring the alien's presence at the moment of removal.” *Zadvydas*, 533 U.S.
12 at 699. Petitioner is thus unlikely to succeed on the merits of his claim that ICE's alleged
13 failure to follow agency regulations merits his release.

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

15 To prevail on his request for interim injunctive relief, Petitioner must demonstrate
16 “immediate threatened injury.” *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d
17 668, 674 (9th Cir. 1988) (citing *L.A. Memorial Coliseum Comm'n v. National Football*
18 *League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely showing a “possibility” of
19 irreparable harm is insufficient. *Winter*, 555 U.S. at 22. And detention alone is not an
20 irreparable injury. *See Reyes v. Wolf*, No. C20-0377JLR, 2021 WL 662659, at *3 (W.D.
21 Wash. Feb. 19, 2021). Further, “[i]ssuing a preliminary injunction based only on a
22 possibility of irreparable harm is inconsistent with [the Supreme Court's]
23 characterization of injunctive relief as an extraordinary remedy that may only be
24 awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555
25 U.S. at 22.

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

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

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

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

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

2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987)).

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

IV. CONCLUSION

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

DATED: November 3, 2025

ADAM GORDON
United States Attorney

s/ Matthew Riley
MATTHEW RILEY
Assistant United States Attorney

Attorneys for Respondents