

1 TIMOTHY COURCHAINÉ
2 United States Attorney
3 District of Arizona
4 LINDSEY E. GILMAN
5 Assistant United States Attorney
6 Arizona State Bar No. 034003
7 Two Renaissance Square
8 40 North Central Avenue, Suite 1800
9 Phoenix, Arizona 85004-4449
10 Telephone: (602) 514-7500
11 Fax: (602) 514-7760
12 Email: lindsey.gilman@usdoj.gov
13 *Attorneys for Respondents*

14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 Quoc Huy Nguyen,

17 Petitioner,

18 v.

19 Gregory J. Archambeault, et al.,

20 Respondents.

No. CV-25-04052-PHX-DWL (ASB)

**RESPONSE IN OPPOSITION TO
MOTION FOR A TEMPORARY
RESTRAINING ORDER**

21 Respondents Gregory J. Archambeault, Field Office Director, San Diego Field
22 Office, U.S. Immigration and Customs Enforcement (ICE), David R. Rivas, San Luis
23 Regional Detention Center, United States Department of Homeland Security (DHS), and
24 ICE, through counsel, respond in opposition to Petitioner's Motion for Temporary
25 Restraining Order (TRO). Doc. 2 Petitioner Quoc Huy Nguyen is a Vietnamese citizen
26 with an assault conviction subject to final order of removal. Petitioner's request for a TRO
27 should be denied because Petitioner has not been unconstitutionally detained, he cannot
28 establish that his removal is not likely to occur in the reasonably foreseeable future, and
Respondents have no intention of removing him to a country other than Vietnam. Petitioner
thus cannot establish a likelihood of success on the merits, irreparable harm, and the public
interest and balance of equities favors the government.

1 **I. FACTUAL BACKGROUND.**

2 Petitioner Quoc Huy Nguyen is a native and citizen of the Socialist Republic of
3 Vietnam (Vietnam). *See* Declaration of Fernando Valenzuela, Assistant Field Office
4 Director, Enforcement and Removal Operations, attached as Exhibit A, at ¶ 6. He entered
5 the United States on May 15, 1992, in Los Angeles as an immigrant (Legal Permanent
6 Resident). *Id.* at ¶ 7. On April 26, 1996, Petitioner was charged with Kidnapping for
7 Ransom, Second Degree Robbery, and Assault Great Bodily Injury, and with Deadly
8 Weapon, all felonies. *Id.* at ¶ 8. Petitioner pleaded guilty to Assault, and he was sentenced
9 to six years in prison. *Id.* On October 1, 2001, the former Immigration and Naturalization
10 Service (INS) placed Petitioner into removal proceedings under Immigration and
11 Nationality Act (INA) § 240, 8 U.S.C. § 1229a, via the filing of a Notice to Appear. *Id.* at
12 ¶ 9. Petitioner was charged with removability under INA § 237(a)(2)(A)(iii) for having
13 been convicted of an aggravated felony as defined in INA § 101(a)(43)(F) (a crime of
14 violence), 8 U.S.C. § 1101(a)(43)(F). *Id.* at ¶ 10. On December 6, 2001, an immigration
15 judge (IJ) ordered him removed to Vietnam. *Id.* at ¶ 11. Petitioner waived appeal and the
16 order became final on that date. *Id.* On March 7, 2002, INS released Petitioner from custody
17 on an order of supervision. *Id.* at ¶ 12.

18 Petitioner was out of immigration custody until ICE detained him on June 17, 2025,
19 for removal to Vietnam. *Id.* at ¶ 13. On June 21, 2025, Petitioner was served with an I-205
20 (Warrant of Removal/Deportation) and I-294 (Warning to Alien Ordered Removed or
21 Deported). *Id.* at ¶ 14. On October 30, 2025, Petitioner filled out a Self-Declaration Form
22 that provides necessary information to ICE to apply for a travel document. *Id.* at ¶ 15. In
23 October 2025, an ICE/ERO deportation officer prepared a travel document request
24 application for Petitioner. *Id.* at ¶ 16. All documents in the request must be translated into
25 Vietnamese. *Id.* It is anticipated that the translations will be received by November 15,
26 2025. *Id.* Once the translations are received, the request will be forwarded to ERO Removal
27 and International Operations Headquarters (HQRIO) in Washington, D.C. to route to the
28 Government of Vietnam. *Id.*

1 ICE routinely obtains travel documents for Vietnamese citizens, including those
2 who immigrated to the United States prior to 1995. *Id.* at ¶ 17. In fiscal year 2025, ICE has
3 removed at least 587 Vietnamese citizens to Vietnam. *Id.* at ¶ 18. Of those 587 removed,
4 324 were Vietnamese citizens who immigrated to the United States before July 12, 1995,
5 like the Petitioner. *Id.* ICE routinely has flights to Vietnam. *Id.* at ¶ 19. Once ICE receives
6 a travel document for Petitioner, his removal can be effectuated promptly. *Id.* at ¶ 20. As
7 an alien who has been ordered removed based on removability under INA § 237(a)(2), 8
8 U.S.C. § 1227(a)(2), Petitioner is currently detained pursuant to INA § 241(a)(6), 8 U.S.C.
9 § 1231(a)(6). *Id.* at ¶ 21. On November 6, 2025, Petitioner was served with a Notice of
10 Revocation of Release. *Id.* at ¶ 22; *see also* Exhibit B. Petitioner refused to sign. *Id.* at 2.
11 Petitioner stated to refer to this attorney during the informal interview conducted on
12 November 7, 2025. *See* Exhibit C.

13 In his request for a TRO, Petitioner seeks a court order directing ICE to immediately
14 release him from immigration detention, restore the status quo by reinstating his prior order
15 of supervision, and enjoin Respondents from removing him to a country other than
16 Vietnam. Doc 2. Respondents respond in opposition below.

17 **II. LEGAL STANDARD FOR TEMPORARY RESTRAINING ORDERS.**

18 The substantive standard for issuing a temporary restraining order is identical to the
19 standard for issuing a preliminary injunction. *See Stuhlberg Int'l Sales Co. v. John D.*
20 *Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). An injunction is a matter of equitable
21 discretion and is “an extraordinary remedy that may only be awarded upon a clear showing
22 that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S.
23 7, 22 (2008). Preliminary injunctions are “never awarded as of right.” *Id.* at 24.

24 Preliminary injunctions are intended to preserve the relative positions of the parties
25 until a trial on the merits can be held, “preventing the irreparable loss of a right or
26 judgment.” *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir.
27 1984). Preliminary injunctions are “not a preliminary adjudication on the merits.” *Id.* A
28 court should not grant a preliminary injunction unless the applicant shows: (1) a strong

1 likelihood of his success on the merits; (2) that the applicant is likely to suffer an irreparable
2 injury absent preliminary relief; (3) the balance of hardships favors the applicant; and (4)
3 the public interest favors a preliminary injunction. *Winter*, 555 U.S. at 20. To show harm,
4 a movant must allege that concrete, imminent harm is likely with particularized facts. *Id.*
5 at 22. Where the government is a party, courts merge the analysis of the final two *Winter*
6 factors, the balance of equities and the public interest. *Drakes Bay Oyster Co. v. Jewell*,
7 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)).
8 Alternatively, a plaintiff can show that there are “serious questions going to the merits’
9 and the ‘balance of hardships tips sharply towards’ [plaintiff], as long as the second and
10 third *Winter* factors are [also] satisfied.” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d
11 848, 856 (9th Cir. 2017) (citing *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-
12 35 (9th Cir. 2011)). “[P]laintiffs seeking a preliminary injunction face a difficult task in
13 proving that they are entitled to this ‘extraordinary remedy.’ *Earth Island Inst. v. Carlton*,
14 626 F.3d 462, 469 (9th Cir. 2010). Petitioner’s carries a “heavy” burden. *Id.*

15 A preliminary injunction can take two forms. A “prohibitory injunction prohibits a
16 party from taking action and preserves the status quo pending a determination of the action
17 on the merits.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873,
18 878-79 (9th Cir. 2009) (cleaned up). A “mandatory injunction orders a responsible party to
19 take action. . . . A mandatory injunction goes well beyond simply maintaining the status
20 quo pendente lite and is particularly disfavored.” *Id.* at 879 (cleaned up). A mandatory
21 injunction is “subject to a higher degree of scrutiny because such relief is particularly
22 disfavored under the law of this circuit.” *Stanley v. Univ. of S. California*, 13 F.3d 1313,
23 1320 (9th Cir. 1994) (citation omitted). The Ninth Circuit has warned courts to be
24 “extremely cautious” when issuing this type of relief, *Martin v. Int’l Olympic Comm.*, 740
25 F.2d 670, 675 (9th Cir. 1984), and requests for such relief are generally denied “unless
26 extreme or very serious damage will result,” and even then, not in “doubtful cases.” *Marlyn*
27 *Nutraceuticals, Inc.*, 571 F.3d at 879; accord *LGS Architects, Inc. v. Concordia Homes of*
28 *Nevada*, 434 F.3d 1150, 1158 (9th Cir. 2006); *Garcia v. Google, Inc.*, 786 F.3d 733, 740

1 (9th Cir. 2015). In such cases, district courts should deny preliminary relief unless the facts
2 and law *clearly* favor the moving party. *Garcia*, 786 F.3d at 740 (emphasis in original).

3 **III. ARGUMENT.**

4 **A. Standard Governing Detention of Aliens Ordered Removal.**

5 The detention, release, and removal of aliens subject to a final order of removal is
6 governed by § 241 of the INA, 8 U.S.C. § 1231. Pursuant to INA § 241(a), the Attorney
7 General has 90 days to remove an alien from the United States after an order of removal
8 becomes final. During this “removal period,” detention of the alien is mandatory. *Id.* After
9 the 90-day period, if the alien has not been removed and remains in the United States, his
10 detention may be continued, or he may be released under the supervision of the Attorney
11 General. INA § 241, 8 U.S.C. §§ 1231(a)(3) and (6). Under this section, ICE may detain
12 an alien for a “reasonable time” necessary to effectuate the alien’s deportation. INA §
13 241(a), 8 U.S.C. § 1231(a). However, indefinite detention is not authorized. *Id.*

14 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court defined six months
15 as a presumptively reasonable period of detention. *Zadvydas* places the burden on the alien
16 to show, after a detention period of six months, that there is “good reason to believe that
17 there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at
18 701. If the alien makes that showing, the Government must then introduce evidence to
19 refute that assertion to keep the alien in custody. *See id.*; *see also Xi v. I.N.S.*, 298 F.3d 832,
20 839-40 (9th Cir. 2002). The Court must “ask whether the detention in question exceeds a
21 period reasonably necessary to secure removal. It should measure reasonableness primarily
22 in terms of the statute’s basic purpose, namely, assuring the alien’s presence at the moment
23 of removal. Thus, if removal is not reasonably foreseeable, the court should hold continued
24 detention unreasonable and no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699.

25 **B. Petitioner’s Detention Is Statutorily Authorized and Constitutional.**

26 Here, Petitioner became subject to a final order of removal on December 6, 2001,
27 and thus his detention is governed by 8 U.S.C. § 1231 and *Zadvydas*. *See* 8 U.S.C.
28 1231(a)(1)(B); *Zadvydas*, 533 U.S. at 688-89. While he has remained in the United States

1 since, he remains subject to removal pursuant to a final order of removal to Vietnam. His
2 ICE detention on July 17, 2025, was proper to effectuate his removal to Vietnam, and as
3 explained below, an alien is not entitled to release after six months of detention. Ex. A at ¶
4 13; *Id.* at 701.

5 **C. Petitioner Has Not Met His Burden to Establish There Is No Significant**
6 **Likelihood of Removal in the Reasonably Foreseeable Future.**

7 Petitioner has the burden to show that his removal is not likely in the reasonably
8 foreseeable future. *Zadvydas*, 533 U.S. at 701. Only then does the burden shift to the
9 Government to show that removal is significantly likely in the reasonably foreseeable
10 future. *Id.* Petitioner has not met his burden to show that his removal is unlikely in the
11 reasonably foreseeable future and, even if he could, the Government can overcome that
12 with evidence showing that removal is likely.

13 In *Zadvydas*, the Supreme Court designated six months as a presumptively
14 reasonable period of time to allow the government to remove an alien detained under 8
15 U.S.C. § 1231(a)(6), but an alien is not entitled to release after six months detention. *Id.* at
16 701 (“This 6-month presumption, of course, *does not mean that every alien not removed*
17 *must be released after six months.* To the contrary, an alien may be held in confinement
18 until it has been determined that there is no significant likelihood of removal in the
19 reasonably foreseeable future.”) (emphasis added). The passage of time alone is
20 insufficient to establish that no significant likelihood of removal exists in the reasonably
21 foreseeable future. *Lema v. I.N.S.*, 214 F. Supp. 2d 1116, 1118 (W.D. Wash. 2002). In
22 *Lema*, where the petitioner had been detained for more than a year, the district court held
23 that the passage of time was only the first step in the analysis, and that the petitioner must
24 then provide good reason to believe that no significant likelihood of removal exists in the
25 reasonably foreseeable future. *Id.*

26 Petitioner argues that his detention is unlawful under *Zadvydas* because his removal
27 is not “reasonably foreseeable.” Petitioner may only be granted release from detention if
28 he can show “good reason to believe that there is no significant likelihood of removal in

1 the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. Courts have held that
2 Petitioners have met this bar when no country would agree to accept the alien or when the
3 alien’s home country had no repatriation treaty with the United States, *Id.* at 686, when the
4 government “concede[d] that it [was] no longer even involved in repatriation negotiations”
5 with the alien’s home country, *Clark v. Suarez Martinez*, 543 U.S. 371, 386 (2005), and
6 when the alien had been detained for five years and had “won relief at every administrative
7 level.” *Nadarajah v. Gonzales*, 443 F.3d 1069, 1081 (9th Cir. 2006). The Supreme Court
8 clarified that its holding in *Zadvydas* was concerned with detention that is “indefinite and
9 potentially permanent,” and for aliens whose removal is “no longer practically attainable.”
10 *See Demore v. Kim*, 538 U.S. 510, 527–28 (2003) (internal quotations omitted). The mere
11 fact that an alien’s detention “lacks a certain end date” does not render their detention
12 unlawfully indefinite. *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008).

13 Here, Petitioner asserts that Vietnam is not accepting pre-1995 emigrants “at greater
14 rates that would make removal significantly likely in the reasonably foreseeable future.”
15 Doc. 2 at 14. He also claims that Respondents “intent to complete a travel document
16 request” does not indicate that he will be removed in the foreseeable future or constitute a
17 changed circumstance. *Id.* Generously assuming Petitioner has met his burden showing
18 that his removal is not likely in the reasonably foreseeable future, the Government rebuts
19 that presumption with evidence showing that Respondents have done more than formulated
20 an “intent” to remove him. Instead, Petitioner’s removal is practically attainable, and his
21 detention is not “potentially permanent.” *Demore*, 538 U.S. at 528.

22 First, Petitioner’s concerns about removals to Vietnam are misplaced. ICE routinely
23 obtains travel documents for Vietnamese citizens, including those who immigrated to the
24 United States prior to 1995. Ex. A at ¶ 17. In fiscal year 2025, ICE has removed at least
25 587 Vietnamese citizens to Vietnam. *Id.* at ¶ 18. Of those 587 removed, 324 were
26 Vietnamese citizens who immigrated to the United States before July 12, 1995, like the
27 Petitioner. *Id.* ICE routinely has flights to Vietnam. *Id.* at ¶ 19. Once ICE receives a travel
28 document for Petitioner, his removal can be effectuated promptly. *Id.* at ¶ 20. As an alien

1 who has been ordered removed based on removability under INA § 237(a)(2), 8 U.S.C. §
2 1227(a)(2), Petitioner is currently detained pursuant to INA § 241(a)(6), 8 U.S.C. §
3 1231(a)(6). *Id.* at ¶ 21. Additionally, in a recent habeas petition before this District, the
4 petitioner there made a similar argument—that is, that the petitioner was not significantly
5 likely to be removed to Vietnam as a pre-1995 emigrant. That petition was ultimately
6 dismissed as moot, because the petitioner was successfully removed to Vietnam a mere
7 two months after he filed his habeas petition. *See Long Phi Do v. Rivas, et al.*, 2:25-cv-
8 01885-KLM (ASB) Docs. 23-24.

9 Second, the process is in motion. On October 30, 2025, Petitioner filled out a Self-
10 Declaration Form that provides necessary information to ICE to apply for a travel
11 document. Ex. A at ¶ 15. In October 2025, an ICE/ERO deportation officer prepared a
12 travel document request application for Petitioner. *Id.* at ¶ 16. All documents in the request
13 must be translated into Vietnamese. *Id.* It is anticipated that the translations will be received
14 by November 15, 2025. *Id.* Once the translations are received, the request will be forwarded
15 to HQRIO in Washington, D.C. to route to the Government of Vietnam. *Id.*

16 Unlike in *Hoac v. Becerra*, 2025 WL 1993771 (E.D. Cal. 2025), on which Petitioner
17 relies, ICE has made progress towards obtaining travel documents for Petitioner. Ex. A at
18 ¶¶ 15-16. Moreover, Petitioner's detention is not unlawfully indefinite because its end is
19 in sight—ICE expects to receive all requested translated documents by November 15,
20 2025, and will then forward the travel document request to HQRIO to route the request to
21 Vietnam. *Id.* at ¶ 16. ICE routinely obtains travel documents for Vietnamese citizens,
22 including those who immigrated to the United States prior to 1995. *Id.* at ¶ 17. Further,
23 Petitioner has provided no compelling reason to believe that Vietnam will not decide soon
24 whether to issue travel documents to him. Thus, Petitioner has failed to show that his
25 detention is unconstitutionally indefinite under *Zadvydas*, so his request should be denied.
26 *See Zadvydas*, 533 U.S. at 700–01.

27 **D. Petitioner's Order of Supervision Was Lawfully Revoked.**

28 Petitioner also argues that his detention is unlawful because ICE revoked his order

1 of supervision unlawfully. Respondents argue that any error was harmless, because the
2 lapse in procedure was subsequently rectified and even if this court were to order Petitioner
3 to be released on this basis, ICE could detain him again immediately. ICE's regulations
4 permit it to revoke an order of supervision and detain the alien released under it if it
5 "determines that there is a significant likelihood that the alien may be removed in the
6 reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). If an alien's order of supervision
7 is revoked for this reason, ICE must notify the alien "of the reasons for revocation" and
8 "conduct an initial informal interview promptly after [the alien's] return to Service custody
9 to afford the alien an opportunity to respond to the reasons for revocation stated in the
10 notification." 8 C.F.R. § 241.13(i)(3).

11 Many of Petitioner's arguments that his order of supervision was unlawfully
12 revoked are based on procedures promised in a different regulation, which are required
13 only when the order of supervision is revoked under that regulation's authority. *See* Doc.
14 1 at ¶¶ 65–67 (citing 8 C.F.R. § 241.4). However, the regulation under which ICE revoked
15 Petitioner's order of supervision grants only two procedural protections to an alien whose
16 order of supervision is revoked: the alien is entitled to know "the reasons for revocation of
17 his or her release," and the alien is entitled to "an initial informal interview promptly after
18 his or her return to [ICE] custody" to respond to the reasons for revocation. 8 C.F.R. §
19 241.13(i)(3); *see also* Ex. B. ICE has provided Petitioner with the required notice and
20 attempted to conduct the required informal interview, where Petitioner stated to refer to his
21 attorney. *See* Ex.'s B and C. ICE has therefore provided Petitioner with all the procedural
22 protections to which he is entitled. Because ICE complied with its regulations by providing
23 Petitioner notice of the revocation and an informal interview under 8 C.F.R. § 241.13(i)(3),
24 he cannot prevail on a habeas claim based on any improper revocation of his OSUP claim.
25 His request for a TRO should be denied on these grounds.

26 **IV. PETITIONER IS NOT ENTITLED TO INJUNCTIVE RELIEF**

27 A "preliminary injunction is an extraordinary and drastic remedy." *Munaf v. Geren*,
28 553 U.S. 674, 689-90 (2008). A district court should enter a preliminary injunction only

1 “upon a clear showing that the [movant] is entitled to such relief.” *Winter v. Natural*
2 *Resources Defense Council, Inc.*, 555 U.S. 7, 22 (2008). As the Supreme Court has
3 articulated, “[a] stay is not a matter of right, even if irreparable injury might otherwise
4 result” but is instead an exercise of judicial discretion that depends on the particular
5 circumstances of the case. *Nken*, 556 U.S. at 433 (quoting *Virginian R. Co. v. United States*,
6 272 U.S. 658, 672 (1926)).

7 **A. Respondents Are Not Seeking Removal to a Third Country.**

8 Petitioner asks this Court to enjoin Respondents from removing him to a third
9 country without providing him several procedural protections. Respondents have no
10 present intention of removing him to a third country—they intend to remove him to
11 Vietnam. Ex. A at ¶ 16. Further, Petitioner has presented no support for the proposition
12 that ICE intends to remove him to a country other than Vietnam. This Court has no
13 jurisdiction to entertain an action when the petitioner lacks standing. *Lujan v. Defenders of*
14 *Wildlife*, 504 U.S. 555, 560 (1992). A petitioner lacks standing when their suit is not
15 grounded in an “actual or imminent” injury. *Id.* Although “an allegation of future injury
16 may suffice” for standing purposes, the threatened injury must be “certainly impending,”
17 or there must be a “substantial risk that the harm will occur.” *Susan B. Anthony List v.*
18 *Driehaus*, 573 U.S. 149, 158 (2014) (quoting *Clapper v. Amnesty Int’l USA*, 568 U.S. 398,
19 409, 414 n.5 (2013)). Petitioner has not and cannot show that he is at substantial risk of
20 removal to a third country, so this Court has no jurisdiction to grant relief based on
21 speculation that he might be.

22 **B. Petitioner Cannot Establish a Likelihood of Success on the Merits.**

23 Petitioner also requests that this Court order his immediate release and reinstate his
24 prior order of supervision. As argued above, Petitioner’s request for injunctive relief should
25 be denied given that ICE/ERO is working on obtaining travel documents, waiting on all
26 documents in the request to be translated into Vietnamese by November 15, 2025, and then
27 the request will be forwarded to HQRIO in Washington, D.C. to route to the Government
28 of Vietnam. Ex. A at ¶ 16. For these same reasons, Petitioner cannot show that he is “likely

1 to succeed on the merits,” as is required for injunctive relief. *Winter*, 555 U.S. at 20.

2 **C. Petitioner Cannot Establish Irreparable Harm.**

3 The Court should deny Petitioner’s request for injunctive relief because Petitioner
4 “must demonstrate immediate threatened injury as a prerequisite to preliminary injunctive
5 relief.” *Caribbean Marine Servs. Co. v. Baldridge*, 844 F.2d 668, 674 (9th Cir. 1988). The
6 “possibility” of injury is “too remote and speculative to constitute an irreparable injury
7 meriting preliminary injunctive relief.” *Id.* “Subjective apprehensions and unsupported
8 predictions . . . are not sufficient to satisfy a plaintiff’s burden of demonstrating an
9 immediate threat of irreparable harm.” *Id.* at 675-76.

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

21 **D. The Equities and Public Interest Do Not Favor Petitioner.**

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

27 An adverse decision here would negatively impact the public interest by
28 jeopardizing “the orderly and efficient administration of this country’s immigration laws.”

1 *See Sasso v. Milhollan*, 735 F. Supp. 1045, 1049 (S.D. Fla. 1990); *see also Coal. for Econ.*
2 *Equity v. Wilson*, 122 F.3d 718, 719 (9th Cir. 1997) (“[I]t is clear that a state suffers
3 irreparable injury whenever an enactment of its people or their representatives is
4 enjoined.”). The public has a legitimate interest in the government’s enforcement of its
5 laws. *See, e.g., Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009) (“[T]he
6 district court should give due weight to the serious consideration of the public interest in
7 this case that has already been undertaken by the responsible state officials in Washington,
8 who unanimously passed the rules that are the subject of this appeal.”).

9 While it is in the public interest to protect constitutional rights, if the petitioner has
10 not shown a likelihood of success on the merits of that claim—as Petitioner has not shown
11 here—that presumptive public interest evaporates. *See Preminger v. Principi*, 422 F.3d
12 815, 826 (9th Cir. 2005). And the public interest lies in the Executive’s ability to enforce
13 U.S. immigration laws. *El Rescate Legal Servs., Inc. v. Exec. Off. of Immigr. Rev.*, 959 F.2d
14 742, 750 (9th Cir. 1991) (“Control over immigration is a sovereign prerogative.”). Given
15 Petitioner’s undisputed criminal history and likelihood of removal to Vietnam, the public
16 and governmental interest in permitting his continued detention to effectuate removal is
17 significant. Because Petitioner is a convicted criminal subject to a final removal order, the
18 public interest lies with the government’s ability to effectuate his removal to Vietnam.

19 **V. CONCLUSION.**

20 For the foregoing reasons, Respondents respectfully request that this Court deny the
21 Motion for a Temporary Restraining Order (Doc. 2).

22 Respectfully submitted on November 10, 2025.

23 TIMOTHY COURCHAIINE
24 United States Attorney
25 District of Arizona

26 *s/Lindsey E. Gilman*
27 LINDSEY E. GILMAN
28 Assistant United States Attorney
Attorneys for Respondents