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

10 HOANG VAN NGUYEN,
11 Petitioner,
12 v.
13 KRISTI NOEM, *et al.*,
14 Respondents.

Case No.: 3:25-cv-03033-BJC-MSB

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

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1 **I. INTRODUCTION**

2 Petitioner Hoang Van Nguyen has filed a habeas petition pursuant to 28 U.S.C.
3 § 2241 and a motion for temporary restraining order. For the reasons set forth below,
4 the Court should deny Petitioner’s requests for relief and dismiss the petition.

5 **II. FACTUAL AND PROCEDURAL BACKGROUND**

6 Petitioner is a citizen and national of Vietnam. Decl. of Jason Cole (“Cole Decl.”)
7 ¶ 3. On August 18, 1989, Petitioner was admitted into the United States as a refugee.
8 *Id.* Following a criminal conviction, Petitioner was ordered removed, on August 9,
9 1999, to Vietnam. *Id.* ¶ 4; Ex. 1. On October 14, 2004, Petitioner was apprehended by
10 Immigration and Customs Enforcement (“ICE”) to effectuate his removal order. *Id.* ¶
11 5. However, on February 1, 2005, Petitioner was released from ICE custody under an
12 order of supervision pending removal to Vietnam because the government had been
13 unable to obtain a travel document from Vietnam. *Id.*

14 On September 25, 2025, ICE re-detained Petitioner to effectuate his removal to
15 Vietnam. *Id.* ¶ 6. At that time, Petitioner was served a Form I-200, Warrant for Arrest
16 of Alien. *Id.*; Ex. 2. Shortly after, on September 27, 2025, Petitioner was served a Form
17 I-205, Warrant of Removal/Deportation, a Form I-294, Warning to Alien Ordered
18 Removed or Deported, and a Form I-286, Notice of Custody Determination. *Id.*; Exs.
19 3, 4, 5. Petitioner also was served a formal Notice of Revocation of Release on October
20 8, 2025. *Id.* ¶ 7; Ex. 6. On November 12, 2025, Petitioner was provided with an informal
21 interview. *Id.* ¶ 8; Ex. 7.

22 ICE is routinely obtaining travel documents from Vietnam and able to arrange
23 travel itineraries to execute final orders of removal for Vietnamese citizens, including
24 those who immigrated to the United States before 1995, like Petitioner. *Id.* ¶¶ 13-16.
25 ICE is working expeditiously to effectuate Petitioner’s removal to Vietnam. *Id.* ¶ 10.
26 On November 19, 2025, ICE’s Enforcement and Removal Operations (“ERO”)
27 Headquarters (“HQ”) obtained a travel document for Petitioner from the Vietnamese
28 government. *Id.* ¶ 11. ERO has tentatively scheduled a removal flight to occur no later

1 than December 15, 2025. *Id.*

2 Petitioner has set forth a claim that he is a United States citizen (“USC”). ICE is
3 investigating that claim and will not remove Petitioner until resolution of that claim. *Id.*
4 ¶ 12.

5 III. ARGUMENT

6 A. Petitioner’s Third-Country Removal Claims Are Unfounded

7 The Constitution limits federal judicial power to designated “cases” and
8 “controversies.” U.S. Const., Art. III, § 2; *SEC v. Medical Committee for Human Rights*,
9 404 U.S. 403, 407 (1972) (federal courts may only entertain matters that present a
10 “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. Laidlow Env’t Servs., Inc.*, 528 U.S. 167, 190 (2000) (“[I]n a lawsuit
15 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 if certainly
18 impending.”). At the “irreducible constitutional minimum,” standing requires that a
19 plaintiff demonstrate the following: (1) an injury in fact (2) that is fairly traceable to the
20 challenged action of the United States and (3) likely to be redressed by a favorable
21 decision. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

22 Here, Respondents are not seeking to remove Petitioner to a third country and
23 instead are working to timely remove Petitioner to Vietnam. *See Cole Decl.* ¶¶ 9-11. As
24 such, there is no controversy concerning third country resettlement for the Court to
25 resolve. Federal courts do not have jurisdiction “to give opinions upon moot questions
26 or abstract propositions, or to declare principles or rules of law which cannot affect the
27 matter in issue in the case before it.” *Church of Scientology of Cal. v. United States*,
28 506 U.S. 9, 12 (1992). “A claim is moot if it has lost its character as a present, live

1 controversy.” *Rosemere Neighborhood Ass’n v. U.S. Env’t Prot. Agency*, 581 F.3d
2 1169, 1172-73 (9th Cir. 2009). The Court therefore lacks jurisdiction over Petitioner’s
3 claims concerning third country resettlement because there is no live case or
4 controversy. *See Powell v. McCormack*, 395 U.S. 486, 496 (1969); *see also Murphy v.*
5 *Hunt*, 455 U.S. 478, 481 (1982).

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

7 Petitioner bears the burden of establishing that this Court has subject matter
8 jurisdiction over his claims. *See Ass’n of Am. Med. Coll. v. United States*, 217 F.3d 770,
9 778-79 (9th Cir. 2000); *Finley v. United States*, 490 U.S. 545, 547-48 (1989). To the
10 extent Petitioner’s claims arise from—or seek to enjoin—the decision to execute his
11 removal order, they are jurisdictionally barred under 8 U.S.C. § 1252(g). Courts lack
12 jurisdiction over any claim or cause of action arising from any decision to commence
13 or adjudicate removal proceedings or execute removal orders. *See* 8 U.S.C. § 1252(g)
14 (“Except as provided in this section and *notwithstanding any other provision of law*
15 *(statutory or nonstatutory), including section 2241 of Title 28, or any other habeas*
16 *corpus provision, and sections 1361 and 1651 of such title, no court shall have*
17 *jurisdiction to hear any cause or claim by or on behalf of any alien arising from the*
18 *decision or action by the Attorney General to commence proceedings, adjudicate cases,*
19 *or execute removal orders against any alien under this chapter.”) (emphasis added);*
20 *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) (“There was
21 good reason for Congress to focus special attention upon, and make special provision
22 for, judicial review of the Attorney General’s discrete acts of “commenc[ing]
23 proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders”—which represent
24 the initiation or prosecution of various stages in the deportation process.”). In other
25 words, § 1252(g) removes district court jurisdiction over “three discrete actions that the
26 Attorney General may take: her ‘decision or action’ to ‘commence proceedings,
27 adjudicate cases, or execute removal orders.’” *Reno*, 525 U.S. at 482 (emphasis
28 removed).

1 Here, Petitioner’s claims necessarily arise “from the decision or action by the
2 Attorney General to . . . execute removal orders,” over which Congress has explicitly
3 foreclosed district court jurisdiction. 8 U.S.C. § 1252(g); *see* 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 Interim Injunctive Relief**

11 Petitioner has not established entitlement to interim injunctive relief. Petitioner
12 has failed to show a likelihood of success on the underlying merits, a showing of
13 irreparable harm, and that the equities tip in his favor. Thus, Petitioner’s motion should
14 be denied.

15 In general, the showing required for a temporary restraining order (“TRO”) is the
16 same as that required for a preliminary injunction. *See Stuhlberg Int’l Sales Co., Inc. v.*
17 *John D. Brush & Co., Inc.*, 240 F.3d 832, 839 (9th Cir. 2001). To prevail on a motion
18 for a TRO, a plaintiff must “establish that he is likely to succeed on the merits, that he
19 is likely to suffer irreparable harm in the absence of preliminary relief, that the balance
20 of equities tips in his favor, and that an injunction is in the public interest.” *Winter v.*
21 *Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see Nken v. Holder*, 556 U.S. 418,
22 426 (2009). Petitioner must demonstrate a “substantial case for relief on the merits.”
23 *Leiva-Perez v. Holder*, 640 F.3d 962, 967-68 (9th Cir. 2011). When “a plaintiff has
24 failed to show the likelihood of success on the merits, we need not consider the
25 remaining three *Winter* elements.” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir.
26 2015) (citations omitted).

27 The final two factors required for preliminary injunctive relief—balancing of the
28 harm to the opposing party and the public interest—merge when the government is the

1 opposing party. *See Nken*, 556 U.S. at 435. Few interests, however, “can be more
2 compelling than a nation’s need to ensure its own security.” *Wayte v. United States*, 470
3 U.S. 598, 611 (1985); *see also United States v. Brignoni-Ponce*, 422 U.S. 873, 878-79
4 (1975); *New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977).

5 The Ninth Circuit also has a “serious questions” test which dictates that “serious
6 questions going to the merits and a hardship balance that tips sharply toward the
7 petitioner can support issuance of an injunction, assuming the other two elements of the
8 Winter test are also met.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-32
9 (9th Cir. 2011). Thus, under the serious questions test, a TRO can be granted if there is
10 a likelihood of irreparable injury to the petitioner, serious questions going to the merits,
11 the balance of hardships tips in favor of the petitioner, and the injunction is in the public
12 interest. *M.R. v. Dreyfus*, 697 F.3d 706, 725 (9th Cir. 2012).

13 **1. No Likelihood of Success on the Merits**

14 Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at
15 740. Here, apart from his non-justiciable claim of potential third-country removal,
16 Petitioner argues that his re-arrest and detention warrant habeas relief because: (1) ICE
17 violated its own regulations, ECF No. 1 at 10-13 (Petitioner’s first claim for relief); and
18 (2) they ran afoul of the Supreme Court’s holding in *Zadvydas v. Davis*, 533 U.S. 678,
19 689 (2001), ECF No. 1 at 14-18 (Petitioner’s second claim for relief). But Petitioner
20 cannot establish that he is likely to succeed on the underlying merits of those claims
21 because he is properly detained under 8 U.S.C. § 1231(a) and the applicable agency
22 regulations.

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

26 An alien ordered removed must be detained for ninety (90) days pending the
27 government’s efforts to secure the alien’s removal through negotiations with foreign
28 governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall detain” the alien

1 during the 90-day removal period). The statute “limits an alien’s post-removal detention
2 to a period reasonably necessary to bring about the alien’s removal from the United
3 States” and does not permit “indefinite detention.” *Zadvydas* 533 U.S. at 689. The
4 Supreme Court has held that a six-month period of post-removal detention constitutes
5 a “presumptively reasonable period of detention.” *Id.* at 683. Release is not mandated
6 after the expiration of the six-month period unless “there is no significant likelihood of
7 removal in the reasonably foreseeable future.” *Id.* at 701.

8 In *Zadvydas*, the Supreme Court held: “[T]he habeas court must ask whether the
9 detention in question exceeds a period reasonably necessary to secure removal. It should
10 measure reasonableness primarily in terms of the statute’s basic purpose, namely,
11 *assuring the alien’s presence at the moment of removal.*” *Id.* at 699 (emphasis added).
12 In so holding, the Court recognized that detention is presumptively reasonable pending
13 efforts to obtain travel documents, because the noncitizen’s assistance is needed to
14 obtain the travel documents, and a noncitizen who is subject to an imminent, executable
15 warrant of removal becomes a significant flight risk, especially if he or she is aware that
16 it is imminent.

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

1 *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

2 In the present case, Petitioner has failed to meet his burden to establish “that there
3 is no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,
4 533 U.S. at 701. Petitioner was re-detained for removal in late September 2025, after
5 ICE had been successfully obtaining travel documents for Vietnamese citizens who
6 immigrated to the United States before 1995 and removing them. Cole Decl. ¶¶ 13-16;
7 *see Nguyen v. Noem*, No. 25-cv-2501-AGS-KSC, ECF Nos. 7, 9 (S.D. Cal. Nov. 14,
8 2025); *Ngo v. Noem*, No. 25-cv02739-TWR-MMP, ECF Nos. 10, 11 (S.D. Cal. Oct. 23,
9 2025). A little over a month after his re-detention, ERO HQ successfully obtained travel
10 documents for Petitioner. Cole Decl. ¶ 11. ERO has tentatively scheduled a removal
11 flight to occur no later than December 15, 2025. *Id.*

12 Based on the foregoing efforts, Petitioner will be removed to Vietnam in the near
13 future. Indeed, Petitioner is likely to be removed to Vietnam *in the next two weeks*.
14 ICE’s confidence in effectuating Petitioner’s removal to Vietnam is further based on
15 ICE’s current ability to do so. In fiscal year 2025, ICE has removed at least 587
16 Vietnamese citizens to Vietnam. *Id.* ¶ 15. Of those 587 removed, 324 were Vietnamese
17 citizens who immigrated to the United States before July 12, 1995, like Petitioner. *Id.*

18 Thus, Petitioner not only fails to meet his burden, but Respondents have
19 affirmatively shown that there is a significant likelihood of Petitioner’s removal to
20 Vietnam in the reasonably foreseeable future.

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

1 Thus, because Petitioner cannot establish a violation under *Zadvydas*, the Petition
2 must be denied.

3 **b. Petitioner’s Complaints About Procedural Deficiencies in His**
4 **Re-detention Do Not Establish a Basis for Habeas Relief**

5 Petitioner’s argument that ICE failed to comply with its regulations revoking
6 Petitioner’s order of supervision is also deficient.

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

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

22 8 C.F.R. § 214.4(l)(1) (emphasis added).

23 Here, Petitioner claims that his detention is unlawful because the agency failed
24 to comply with its regulations *before* re-detaining him. *See generally* ECF No. 1 at 10-
25 13. Petitioner argues that ICE’s basis for revocation alleged in Petitioner’s revocation
26 notice does not support his re-detention. *Id.* at 11. Specifically, Petitioner takes issue
27 with the language that revocation was “based on a review of your official alien file and
28 review of your criminal history.” *Id.* Instead, Petitioner argues that ICE’s regulations
“permits re-detention based only on a forward-looking analysis of the prospects for

1 removal in light of changed circumstances.” *Id.* at 12. Petitioner, in part, is correct. Re-
2 detention is permitted upon a determination of changed circumstances, which, in this
3 case, is present here. Indeed, ICE’s revived ability to obtain travel documents from the
4 Vietnamese government and to schedule routine removal flights to Vietnam are clearly
5 changed circumstances. *See* Cole Decl. ¶¶ 13-16. ERO HQ’s obtainment of travel
6 documents and a scheduled flight for Petitioner further evidences this conclusion. *Id.* ¶
7 11. Petitioner, however, is incorrect that his re-detention was based on a “backward-
8 looking analysis of removability and convictions.” ECF No. 1 at 12. Petitioner’s re-
9 detention was based on the changed circumstances stated above.

10 Petitioner also argues that the Notice of Revocation was too vague. *Id.* However,
11 the regulations do not require written notice, advance notice, an advanced interview,
12 nor for DHS to prove to the satisfaction of a petitioner that changed circumstances are
13 present.¹

14 Here, at the time of his re-detention, Petitioner knew he was subject to a final
15 order of removal to Vietnam. ECF No. 1 at 3. He does not challenge that order in this
16 lawsuit or offer any indication that he intends to do so. Petitioner also was informed of
17 the reason for his re-detention when he was served with and signed the Notice of
18 Revocation of Release on October 8, 2025, *see* Cole Decl. at ¶ 7; Ex. 6 (“ICE has
19 determined that you can be removed from the United States pursuant to the outstanding
20 order of removal against you.”), and when he was given an informal interview, *see id.*
21 ¶ 8; Ex. 7.

22 Respondents had, and continue to have, an evidentiary basis to conclude there is
23 a significant likelihood that Petitioner will be removed to Vietnam in the reasonably
24 foreseeable future. In turn, any challenge that Petitioner would have raised to the
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26 ¹ There are obvious law enforcement reasons for not providing “advance” notice of a
27 re-detention before executing a warrant of removal, just as there is no requirement to
28 provide prior notice of execution of an arrest warrant. Providing such notice “creates a
risk that the alien will leave town before the delivery or deportation date.” *United States*
v. Gonzales & Gonzales Bonds & Ins. Agency, Inc., 103 F. Supp. 3d 1121, 1137 (N.D.
Cal. 2015).

1 revocation prior to or after his re-detention would have failed. And even if Petitioner’s
2 alleged regulatory failures actually amount to a regulatory violation, Petitioner cannot
3 establish that he was prejudiced by those omissions nor that a constitutional-level
4 violation has occurred. *See Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014)
5 (“[T]he mere failure of an agency to follow its regulations is not a violation of due
6 process.”); *United States v. Tatoyan*, 474 F.3d 1174, 1178 (9th Cir. 2007) (holding that
7 “[c]ompliance with . . . internal [customs] agency regulations is not mandated by the
8 Constitution”) (simplified); *Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78,
9 92 n.8 (1978) (holding that *Accardi* “enunciate[s] principles of federal administrative
10 law rather than of constitutional law”).

11 Because Petitioner cannot show prejudice under these circumstances, the alleged
12 violation of agency regulations does not warrant release here. *See, e.g., Rodriguez v.*
13 *Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and superseded on other*
14 *grounds*, 591 F.3d 1105 (9th Cir. 2010) (“While the regulation provides the detainee
15 some opportunity to respond to the reasons for revocation, it provides no other
16 procedural and no meaningful substantive limit on this exercise of discretion as it allows
17 revocation ‘when, in the opinion of the revoking official . . . [t]he purposes of release
18 have been served . . . [or] [t]he conduct of the alien, or *any other circumstance*, indicates
19 that release would no longer be appropriate.’”) (emphasis in original) (citing 8 C.F.R.
20 §§ 241.4(l)(2)(i), (iv)); *Carnation Co. v. Sec’y of Lab.*, 641 F.2d 801, 804 n.4 (9th Cir.
21 1981) (“violations of procedural regulations should be upheld if there is no significant
22 possibility that the violation affected the ultimate outcome of the agency’s action”
23 (citation omitted)); *United States v. Hernandez-Rojas*, 617 F.2d 533, 535 (9th Cir. 1980)
24 (INS’ failure to follow regulations requiring that an arrested alien be advised of his right
25 to speak to his consul was not prejudicial and thus not a ground for challenging the
26 conviction); *United States v. Barraza-Leon*, 575 F.2d 218, 221–22 (9th Cir. 1978)
27 (holding that even assuming that the judge had violated the rule by failing to inquire
28 into the alien’s background, any error was harmless because there was no showing that

1 the petitioner was qualified for relief from deportation).

2 In short, ICE provided Petitioner with a Notice of Revocation of Release and
3 conducted an informal interview. Cole Decl. at ¶¶ 7-8. Shortly after Petitioner’s re-
4 detention, ICE obtained a travel document authorizing Petitioner’s removal to Vietnam,
5 and ICE expects Petitioner’s removal to Vietnam to occur in the reasonably foreseeable
6 future, specifically, no later than December 15, 2025. *Id.* at ¶ 11. Accordingly, Petitioner
7 is unlikely to succeed on the merits of his claim that ICE’s alleged failure to follow
8 agency regulations merits his release.

9 **2. Irreparable Harm Has Not Been Shown**

10 To prevail on his request for interim injunctive relief, Petitioner must demonstrate
11 “immediate threatened injury.” *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d
12 668, 674 (9th Cir. 1988) (citing *L.A. Memorial Coliseum Comm’n v. National Football*
13 *League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely showing a “possibility” of
14 irreparable harm is insufficient. *Winter*, 555 U.S. at 22. And detention alone is not an
15 irreparable injury. *See Reyes v. Wolf*, No. C20-0377JLR, 2021 WL 662659, at *3 (W.D.
16 Wash. Feb. 19, 2021). Further, “[i]ssuing a preliminary injunction based only on a
17 possibility of irreparable harm is inconsistent with [the Supreme Court’s]
18 characterization of injunctive relief as an extraordinary remedy that may only be
19 awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555
20 U.S. at 22.

21 Petitioner suggests that being subjected to allegedly unjustified detention itself
22 constitutes irreparable injury.² But this argument “begs the constitutional questions
23 presented in [his] petition by assuming that [P]etitioner has suffered a constitutional
24 injury.” *Cortez v. Nielsen*, No. 19-cv-00754-PJH, 2019 WL 1508458, at *3 (N.D. Cal.
25 April 5, 2019). Moreover, Petitioner’s “loss of liberty” is “common to all aliens seeking
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27 ² Detention is different than removal. But a removal is also not an inherently irreparable
28 injury. *See Nken*, 556 U.S. at 435.

1 review of their custody or bond determinations.” *Resendiz v. Holder*, No. C 12–04850
2 WHA, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He faces the same alleged
3 irreparable harm as any habeas corpus petitioner in immigration custody, and he has not
4 shown extraordinary circumstances warranting a temporary restraining order.

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

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

11 It is well settled that “the public interest in enforcement of the immigration laws
12 is significant.” *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir.
13 1981) (collecting cases); *see also Nken*, 556 U.S. at 436 (“There is always a public
14 interest in prompt execution of removal orders: The continued presence of an alien
15 lawfully deemed removable undermines the streamlined removal proceedings [the
16 Illegal Immigration Reform and Immigrant Responsibility Act of 1996] established, and
17 permits and prolongs a continuing violation of United States law.”) (simplified).
18 Moreover, “ultimately the balance of the relative equities ‘may depend to a large extent
19 upon the determination of the [movant’s] prospects of success.’” *Tiznado-Reyna v.*
20 *Kane*, No. CV 12-1159-PHX-SRB (SPL), 2012 WL 12882387, at *4 (D. Ariz. Dec. 13,
21 2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987)).

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

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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.³

DATED: November 28, 2025

Respectfully submitted,

ADAM GORDON
United States Attorney

s/ Alyssa Sanderson
ALYSSA SANDERSON
Assistant United States Attorney
Attorney for Respondents

³ Because the record shows that Petitioner is not entitled to habeas relief, there is no need for an evidentiary hearing in this matter. *See Schriro v. Landrigan*, 550 U.S. 465, 474 (2007) (“[I]f the record refutes the applicant’s factual allegations or otherwise precludes habeas relief, a district court is not required to hold an evidentiary hearing.”).