

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Tan Hoang BUI,

Petitioner,

v.

Bruce SCOTT, Warden, Northwest ICE
Processing Center; Camilla WAMSLEY,
Enforcement and Removal Operations, Seattle
Field Office Director, U.S. Immigration and
Customs Enforcement; Kristi NOEM,
Secretary of U.S. Department of Homeland
Security, in her official Capacity; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Todd LYONS, Acting Director
and Senior Officer Performing Duties of
Director of ICE; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT,

Respondents.

Civil Case No.: 2:25-cv-02268-TMC

**PETITIONER'S REPLY TO
FEDERAL RESPONDENTS'
OPPOSITION TO MOTION FOR
TEMPORARY RESTRAINING
ORDER**

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ORDER [CASE NO. 2:25-CV-02268-TMC]- 1**

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I. RESPONSE

Respondents' argue Mr. Bui is unlikely to succeed on the merits, he has not shown irreparable harm, and the balance of interests favor the government. Petitioner believes Respondents' fail on all three arguments.

A. Mr. Bui's detention has become "indefinite" or unconstitutional.

Mr. Bui's re-detention was unlawful as he was detained contrary to regulation, and he has been detained beyond 180-days cumulatively with no travel document having been obtained. Mr. Bui has spent cumulatively over eight and a half months in detention post removal order. *See* Pet. Ex. E and F. Mr. Bui was then taken back into custody on October 28, 2025. Resp. Lambert Decl., Ex. E, Form I-213, pg. 2. The regulations at 8 C.F.R. § 241.13(h) allow for revocation for removal if there is a significant likelihood that an alien may be removed in the reasonably foreseeable future. Under 8 C.F.R. § 241.13(h)(3) the regulations provide that the alien be notified of the reasons for revocation of reason, then the service will conduct an informal interview promptly after the return to custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification, and that then the alien may submit evidence or information that he or she believes showing there is no significant likelihood he or she should be removed in the reasonably foreseeable future. The regulation further provides that the review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release. 8 C.F.R. § 241.13(h)(3).

Respondents' indicated it was unclear whether Mr. Bui has had an informal interview concerning his OSUP revocation, but the lack of interview should not entitle his release. Respondents' evidence, however, claims that Mr. Bui was provided an oral OSUP revocation at the time he was taken into custody and he refused to make a statement. Resp. Strzelczyk Decl., ¶7

1 Deportation Officer Daniel Strzelczyk is assigned to the Northwest ICE Processing Center
2 (“NWIPC”) in Tacoma, Washington. Resp. Strzelczyk Decl., ¶1 From the Declaration submitted,
3 it appears Officer Daniel Strzelczyk considers Mr. Bui to have received oral notice. Officer Daniel
4 Strzelczyk does not appear on the I-213 as having been present at Petitioner’s arrest. Resp. Lambert
5 Decl., Ex. E, Form I-213. Respondents’ evidence also indicates Petitioner Bui had reported and
6 was instructed to check in on June 03, 2025. It then goes on to state “An OSUP revocation was
7 sent to the Filed Office Director (FOD) for review based on the subject’s criminal history.” Resp.
8 Lambert Decl., Ex. E, Form I-213, pg. 2. There is no indication whatsoever that Petitioner Bui
9 was provided with the OSUP revocation that was supposedly sent to the Field Office Director at
10 some unknown date or time but was rather only provided some form of oral notice during his
11 arrest.

12 Mr. Bui was apprehended during a vehicle stop while Mr. Bui had been operating a vehicle.
13 Resp. Lambert Decl., Ex. E, Form I-213, pg 2. It cannot be possibly conceivable that oral notice
14 in the middle of traffic while under arrest afforded Petitioner Bui of proper notice or a meaningful
15 opportunity to respond as required by regulation. It also was not indicated if the “oral OSUP
16 revocation notice” provided reasons for the revocation. It is somewhat inconceivable to consider
17 Petitioner Bui was in a proper position to submit or prepare evidence while in handcuffs after a
18 surprise arrest in the middle of traffic. Respondents’ had time to serve him with a warrant for arrest
19 form I-200 and a warrant of removal/deportation I-205. Resp. Lambert Decl., Ex. E, Form I-213,
20 pg. 3. Respondents’ appear rather to have revoked his OSUP with no meaningful opportunity to
21 respond or submit evidence in violation of regulation. Whatever oral notice they may have
22 provided seems woefully insufficient, and it is unclear what may have been provided to Petitioner.

1 Respondent's cite *Ahmad v. Whitaker*, No. 18-cv-287, 2018 WL 6928540, at 6*(W.D.
2 Washin. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash Jan. 3, 2019) as a case
3 in support of an individual who was not afforded an informal interview after the revocation of their
4 release where the court found the petitioner could not establish any actionable injury. However, in
5 *Ahmad v. Whitaker*, the government had already procured a travel document. Similarly, the
6 Respondent's cite *Doe v. Smith*, No. 18-cv-11363, 2018 WL 4696748, at *9(D. Mass. Oct. 1, 2018),
7 where the Court did not find actionable injury from the violation, but in that case Doe was not
8 challenging the underlying justification of the removal order.

9 Petitioner Bui indicated in the Motion for Temporary Restraining Order his conviction may
10 not be an "aggravated felony" under immigration law, potentially rendering him no longer
11 removable. It was further indicated Mr. Bui was in the process of seeking by separate action in
12 Immigration Court to reopen his removal order. On November 19, 2025, Petitioner Bui, though
13 counsel, submitted three Motions by overnight mail to the West Los Angeles Immigration Court,
14 the current immigration court with jurisdiction over his removal order, with an expected arrival
15 date to the court on or before November 21, 2025, by 9:30am. Petitioner Bui filed a Motion to
16 Reconsider *Sua Sponte*, a Motion to Terminate Removal Proceedings, and an Emergency Motion
17 to Stay Removal. Petitioner Bui is seeking to challenge his removal order with the immigration
18 court. Petitioner Bui believes his charge of removability may have been sustained due to an error
19 in law, and that error if corrected by the immigration court would no longer render him removable
20 as it was the single charge of removability alleged against him in his Notice to Appear. *See* Pet.
21 Ex. F. As such, he requested termination of his proceedings from the immigration court should
22 they find in his favor and return his status to that of a Lawful Permanent Resident.

23 In the Motion to Reconsider *Sua Sponte*, Petitioner Bui argued that the Notice to Appear
24 dated July, 2000, alleging he was removable under INA 237(a)(2)(A)(iii) for having been

1 convicted of an aggravated felony crime of violence, for the offense of Voluntary Manslaughter
2 in violation of California Penal Code 192(a), is categorically not a crime of violence, and
3 therefore, not an aggravated felony as defined in 101(a)(43)(F). Mr. Bui did not challenge the
4 allegations against him in the Notice to Appear, nor did he challenge that he was convicted of
5 voluntary manslaughter in violation of California Penal Code 192(a), but rather he challenged
6 that the charge of removability itself should never have been sustained against him.

7 In *Quijada-Aguilar v. Lynch*, 799 F.3d 1303, 1306 (9th Cir. 2015), the Ninth Circuit
8 Court found that California Penal Code § 192(a) is not categorically a crime of violence because
9 it encompasses a broader range of criminal intent than the federal definition of a crime of
10 violence in 18 U.S.C. § 16. The Court found that in order to constitute a crime of violence under
11 18 U.S.C. § 16, there must be proof of intentional use of force or substantial risk that force will
12 be intentionally used during its commission. *Id.* The Ninth Circuit based their ruling in part on a
13 California Supreme Court decision that clarified a person may be convicted of voluntary
14 manslaughter under California Penal Code 192(a) for merely reckless conduct. *See People v.*
15 *Lasko*, 23 Cal. 4th 101, 96 Cal. Rptr. 2d 441, 999 P.2d 666.672 (Cal. 2000). As such, a
16 conviction under California Penal Code 192(a) is categorically not a crime of violence, and thus
17 not an aggravated felony. In another Ninth Circuit case, *Narez v. Garland*, 25 F.4th 1223, 1228
18 (9th Cir. 2022), the Court held that voluntary manslaughter in violation of California Penal Code
19 § 192(a) qualifies as a crime involving moral turpitude under 8 U.S.C § 1227(a)(2)(A), and can
20 qualify as a CIMT even if the crime was committed recklessly. *Narez v. Garland*, 25 F.4th 1223,
21 1228 (9th Cir. 2022). Mr. Bui concedes that his conviction for voluntary manslaughter in

1 violation of California Penal Code 192(a), is a CIMT as determined by the Ninth Circuit.

2 However, Mr. Bui was not charged in his Notice to Appear as removable for having committed a
3 CIMT. *See* Pet. Ex. F.

4 Given the procedural deficiencies, and Petitioner Bui's now active attempt to challenge is
5 removal order, the Court should grant his Motion for Temporary Restraining Order given his
6 likelihood of success.

7 **B. Mr. Bui has shown irreparable harm and the balance of interest is in his favor**

8 Mr. Bui has suffered irreparable injury as alleged in his Motion for Temporary
9 Restraining Order. His experiencing unlawful prolonged immigration detention and deprivation
10 of his constitutional rights constitutes irreparable injury. Prior to having a removal order entered
11 against him, Petitioner Bui was a Lawful Permanent Resident. Pet. Ex. A. As he now challenges
12 his sustained charge of removability for having been an error of law, the public interest in
13 enforcement of the United States immigration laws balances in his favor. A claim that his charge
14 of removability was sustained contrary to law leading to entry of a removal order and the
15 stripping of his status as a Lawful Permanent Resident is significant. Petitioner Bui's detention
16 should be declared unlawful.

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II. CONCLUSION

For the above reasons, the Court should immediately grant Tan Hoang BUI's Temporary Restraining Order.

RESPECTFULLY SUBMITTED this 19th of November, 2025.

By: /s/ Jeffrey C. Gonzales

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ATTORNEYS FOR PETITIONER

I certify that this memorandum contains 1,559 words, in compliance with the Local Civil Rules.