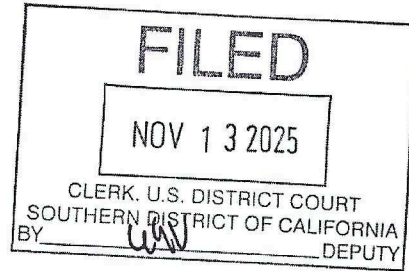


**ORIGINAL**

1 **Liem Thanh Lam**  
2 ~~XXXXXXXXXX~~  
3 Otay Mesa Detention Center  
4 P.O. Box 439049  
5 San Diego, CA 92143-9049

6 Pro Se<sup>1</sup>



7  
8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 LIEM THANH LAM,  
11  
12 Petitioner,

13 v.

14 KRISTI NOEM, Secretary of the  
15 Department of Homeland Security,  
16 PAMELA JO BONDI, Attorney General,  
17 TODD M. LYONS, Acting Director,  
18 Immigration and Customs Enforcement,  
19 JESUS ROCHA, Acting Field Office  
20 Director, San Diego Field Office,  
21 CHRISTOPHER LAROSE, Warden at  
22 Otay Mesa Detention Center,  
23 Respondents.

CIVIL CASE NO.: '25CV3141 CAB MSB

**Notice of motion and memorandum  
of law in support of temporary  
restraining order**

24  
25  
26  
27 <sup>1</sup> Mr. Lam is filing this motion, habeas petition, and all associated documents with  
28 the assistance of the Federal Defenders of San Diego, Inc. Federal Defenders has  
consistently used this procedure in seeking appointment for immigration habeas  
cases.

1 **I. Introduction**

2 Petitioner Liem Thanh Lam faces immediate irreparable harm:  
3 (1) revocation of his release on immigration supervision after 15 years of living  
4 peacefully in the community, despite ICE’s failure to follow its own revocation  
5 procedures; (2) indefinite immigration detention with no individualized,  
6 significantly likely prospect of removal to Vietnam in the reasonably foreseeable  
7 future; and (3) potential removal to a prison in an unidentified, potentially  
8 dangerous third country never considered by an IJ. This Court should grant  
9 temporary relief of his release on his pre-existing order of supervision to preserve  
10 the status quo.

11 For 15 years, the government has proved unable to remove him to Vietnam.  
12 Yet on October 22, 2025, the government re-detained him when he appeared as  
13 scheduled at his check-in. ICE gave him no opportunity to contest his re-  
14 detention, and did not identify changed circumstances justifying it. ICE does not  
15 appear to have a travel document in hand. Worse yet, in the case that ICE still  
16 proves unable to remove Mr. Lam to Vietnam, ICE’s own policies allow ICE to  
17 remove him to a third country never before considered by an IJ, with either 6-to-  
18 24 hours’ notice or no notice at all.

19 Mr. Lam is facing both unlawful detention and a threat of removal to a  
20 dangerous third country without due process. The requested temporary restraining  
21 order (“TRO”) would preserve the status quo while Petitioner litigates these  
22 claims by (1) reinstating Mr. Lam’s release on supervision, and (2) prohibiting the  
23 government from removing him to a third country without an opportunity to file a  
24 motion to reopen with an IJ.

25 In granting this motion, this Court would not break new ground. Courts in  
26 this district and around the Ninth Circuit have granted TROs or preliminary  
27 injunctions mandating release for post-final-removal-order immigrants like  
28 Petitioner. *See, e.g., Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D.

1 Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-JES,  
2 \*3 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES, ECF No.  
3 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-02575-JO-  
4 SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025); *see also, e.g., Phetsadakone v. Scott*,  
5 2025 WL 2579569, at \*6 (W.D. Wash. Sept. 5, 2025); *Hoac v. Becerra*, No. 2:25-  
6 CV-01740-DC-JDP, 2025 WL 1993771, at \*7 (E.D. Cal. July 16, 2025); *Phan v.*  
7 *Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at \*7 (E.D. Cal. July  
8 16, 2025); *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at \*29 (W.D.  
9 Wash. Aug. 21, 2025). These courts have determined that, for these long-term  
10 releasees, liberty is the status quo, and only a return to that status quo can avert  
11 irreparable harm.

12 Courts have likewise granted temporary restraining orders preventing third-  
13 country removals without due process. *See, e.g., Van Tran v. Noem*, 2025 WL  
14 2770623 at \*3; *Nguyen Tran v. Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D.  
15 Cal. Sept. 18, 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-2502-  
16 JES, \*4 (S.D. Cal. Oct. 9, 2025); *see also, e.g., J.R. v. Bostock*, 25-cv-01161-  
17 JNW, 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); *Vaskanyan v. Janecka*, 25-  
18 cv-01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. Jun. 25, 2025); *Ortega v.*  
19 *Kaiser*, 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025); *Hoac v.*  
20 *Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at \*7 (E.D. Cal. July  
21 16, 2025); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at  
22 \*7 (E.D. Cal. July 16, 2025).

23 Mr. Lam therefore respectfully requests that this Court grant this TRO.  
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1 **II. Statement of Facts: Mr. Lam is ordered removed, held in ICE custody,**  
2 **and released as ICE proves unable to deport him for the next 15 years,**  
3 **until he is arrested at his annual ICE check-in.**

4 In 1986, Mr. Lam fled Vietnam with his mother and two siblings.  
5 Declaration of Liem Thanh Lam, Exhibit A (“Exh. A”) ¶ 1. He soon obtained  
6 lawful permanent status in the United States. *Id.* An immigration judge ordered  
7 him removed on April 10, 2010.<sup>2</sup> *Id.* at ¶ 3. Mr. Lam was detained for  
8 approximately three months after the order of removal. *Id.* He was then placed  
9 under an order of supervision. *Id.* For the next 15 years, Mr. Lam had no issues on  
10 supervision. *Id.* at ¶ 5. He checked in every time ICE asked him to. *Id.*

11 On October 22, 2025, Mr. Lam went in for his scheduled check-in. *Id.* at  
12 ¶ 6. ICE agents detained him, and without further explanation, they arrested him.  
13 *Id.* No one gave him notice of why he was being re-detained. *Id.* No one gave him  
14 a chance to fight his re-detention. *Id.* No one told him what changed to make it  
15 more likely that he could be removed to Vietnam. *Id.* Since his detention, ICE has  
16 not spoken to him about his detention or his removal. *Id.* at ¶ 7.

17 **III. Argument: Mr. Lam meets all *Winter* factors.**

18 To obtain a TRO, a petitioner “must establish that he is likely to succeed on  
19 the merits, that he is likely to suffer irreparable harm in the absence of preliminary  
20 relief, that the balance of equities tips in his favor, and that an injunction is in the  
21 public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008);  
22 *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7  
23 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve  
24 “substantially identical” analysis). A “variant[] of the same standard” is the  
25 “sliding scale”: “if a plaintiff can only show that there are ‘serious questions  
26 going to the merits—a lesser showing than likelihood of success on the merits—  
27 then a preliminary injunction may still issue if the balance of hardships tips

28 <sup>2</sup> EOIR, *Automated Case Information*, <https://acis.eoir.justice.gov/en/>.

1 *sharply* in the plaintiff’s favor, and the other two *Winter* factors are satisfied.”  
2 *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025)  
3 (internal quotation marks omitted). Under this approach, the four *Winter* elements  
4 are “balanced, so that a stronger showing of one element may offset a weaker  
5 showing of another.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131  
6 (9th Cir. 2011). A TRO may be granted where there are “serious questions going  
7 to the merits’ and a hardship balance. . . tips sharply toward the plaintiff,” and so  
8 long as the other *Winter* factors are met. *Id.* at 1132.

9 Here, this Court should issue a temporary restraining order because  
10 “immediate and irreparable injury . . . or damage” is occurring and will continue  
11 in the absence of an order. Fed. R. Civ. P. 65(b). Not only have Respondents re-  
12 detained Mr. Lam in violation of his due process, statutory, and regulatory rights.  
13 ICE policy also allows them to remove him to a third country in violation of his  
14 due process, statutory, and regulatory rights. This Court should order Petitioner’s  
15 release and enjoin removal to a third country with no or inadequate notice.

16 **A. Mr. Lam is likely to succeed on the merits, or at a minimum,**  
17 **raises serious merits questions.**

18 As described in detail in Mr. Lam’s habeas petition, he is likely to succeed  
19 on each of his three claims.

20 First, ICE failed to follow its own regulations requiring changed  
21 circumstances before Mr. Lam re-detention, as well as its procedural regulations  
22 requiring it to notify him of those circumstances and allow him an opportunity to  
23 contest them. This was a violation of both the regulations and due process and  
24 requires his release. *See, e.g., See Phan v. Noem*, 2025 WL 2898977, No. 25-CV-  
25 2422-RBM-MSB, \*3–\*5 (S.D. Cal. Oct. 10, 2025) (explaining this regulatory  
26 framework and granting a habeas petition for ICE’s failure to follow these  
27 regulations for a refugee of Vietnam who entered the United States before 1995);  
28 *Rokhfirooz*, No. 25-CV-2053-RSH-VET, 2025 WL 2646165 at \*2 (same as to an

1 Iranian national).

2 Second, *Zadvydas v. Davis* holds that immigration statutes do not authorize  
3 the government to detain immigrants like Mr. Lam, for whom there is “no  
4 significant likelihood of removal in the reasonably foreseeable future.” 533 U.S.  
5 678, 701 (2001); *see, e.g., Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL  
6 2419288 \*17 (W.D. Wash. Aug. 21, 2025) (granting habeas petition on *Zadvydas*  
7 grounds and ordering pre-1995 Vietnamese immigrant released); *Hoac v. Becerra*,  
8 No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, \*5, \*7 (E.D. Cal. July 16,  
9 2025) (granting preliminary injunction and temporary restraining order on these  
10 same grounds).

11 Third, Respondents cannot remove Mr. Lam to a third country without first  
12 providing notice and a sufficient opportunity to be heard before an immigration  
13 judge. Their current policy allowing third-country removal “contravenes Ninth  
14 Circuit law.” *Nguyen v. Scott*, No. 25-CV-1398, 2025 WL 2419288, \*19 (W.D.  
15 Wash. Aug. 21, 2025) (explaining how the July 9, 2025 ICE memo contravenes  
16 Ninth Circuit law on the process due to noncitizens in detail); *see also Van Tran*  
17 *v. Noem*, 2025 WL 2770623, No 25-cv-2334-JES-MSB (S.D. Cal. Sept. 29, 2025)  
18 (granting temporary restraining order preventing a noncitizen’s deportation to a  
19 third country pending litigation in light of due process problems); *Nguyen Tran v.*  
20 *Noem*, No. 25-cv-2391-BTM-BLM, ECF No. 6 (S.D. Cal. Sept. 18, 2025) (same).

21 **B. Mr. Lam will suffer irreparable harm absent injunctive relief.**

22 Mr. Lam also meets the second factor, irreparable harm. “It is well  
23 established that the deprivation of constitutional rights ‘unquestionably constitutes  
24 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)  
25 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged  
26 deprivation of a constitutional right is involved, most courts hold that no further  
27 showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d  
28 989, 1001-02 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal*

1 *Practice and Procedure*, § 2948.1 (2d ed. 2004)). The Ninth Circuit has  
2 specifically recognized the “irreparable harm” created by the likelihood of being  
3 “unconstitutionally detained for an indeterminate period of time” in immigration  
4 detention. *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

5 Third-country deportations pose that risk and more. Recent third-country  
6 deportees have been held, indefinitely and without charge, in hazardous foreign  
7 prisons. See Edward Wong et al, *Inside the Global Deal-Making Behind Trump’s*  
8 *Mass Deportations*, N.Y. Times, June 25, 2025. They have been subjected to  
9 solitary confinement. Gerald Imray, *3 Deported by US held in African Prison*  
10 *Despite Completing Sentences, Lawyers Say*, PBS (Sept. 2, 2025). They have  
11 been removed to countries so unstable that the U.S. government recommends  
12 making a will and appointing a hostage negotiator before traveling to them. See  
13 Wong, *supra*. These and other threats to Mr. Lam’s health and life independently  
14 constitute irreparable harm.

15 Mr. Lam thus is facing irreparable harm several times over.

16 **IV. The balance of hardships and the public interest weigh heavily in Mr.**  
17 **Lam’s favor.**

18 The final two factors for a TRO—the balance of hardships and public  
19 interest—“merge when the Government is the opposing party.” *Nken v. Holder*,  
20 556 U.S. 418, 435 (2009). That balance tips decidedly in Mr. Lam’s favor.

21 On the one hand, the government “cannot reasonably assert that it is  
22 harmed in any legally cognizable sense” by being compelled to follow the law.  
23 *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983). Moreover, it is always in the  
24 public interest to prevent violations of the U.S. Constitution and ensure the rule of  
25 law. See *Nken*, 556 U.S. at 436 (describing public interest in preventing  
26 noncitizens “from being wrongfully removed, particularly to countries where they  
27 are likely to face substantial harm”); *Moreno Galvez v. Cuccinelli*, 387 F. Supp.  
28 3d 1208, 1218 (W.D. Wash. 2019) (when government’s treatment “is inconsistent

1 with federal law, . . . the balance of hardships and public interest factors weigh in  
2 favor of a preliminary injunction.”).

3 On the other hand, Mr. Lam faces weighty hardships: unlawful, indefinite  
4 detention, and possible removal to a third country where he is likely to suffer  
5 imprisonment or other serious harm. The balance of equities thus favors  
6 preventing the violation of “requirements of federal law,” *Arizona Dream Act*  
7 *Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014), by granting emergency  
8 relief to protect against unlawful detention and prevent unlawful third country  
9 removal.

10 **V. Mr. Lam will give the government notice of this TRO motion**  
11 **immediately, and the TRO should remain in place throughout habeas**  
12 **litigation.**

13 When Federal Defenders first started filing TROs in immigration habeas  
14 cases, a Federal Defenders attorney called the U.S. Attorney’s Office and was put  
15 in touch with Janet Cabral. Ms. Cabral requested that Federal Defenders provide  
16 notice of these motions via email after the motion has been filed with the court.  
17 Federal Defenders will do so in this case.

18 Additionally, Mr. Lam requests that this TRO remain in place until the  
19 habeas petition is decided. Fed. R. Civ. Pro. 65(b)(2). Good cause exists, because  
20 the same considerations will continue to warrant injunctive relief throughout this  
21 litigation, and habeas petitions must be adjudicated promptly. *See In re Habeas*  
22 *Corpus Cases*, 216 F.R.D. 52 (E.D.N.Y. 2003). A proposed order is attached.  
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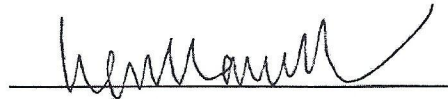
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**Conclusion**

For those reasons, Petitioner requests that this Court issue a temporary restraining order.

DATED: 10/25/2025

Respectfully submitted,



**LIEM THANH LAM**

Petitioner

**PROOF OF SERVICE**

I, the undersigned, caused to be served the within Notice of Motion and Memorandum of Law in Support of Temporary Restraining Order by email, at the request of Janet Cabral, Chief of the Civil Division, to:

U.S. Attorney's Office, Southern District of California  
Civil Division  
Janet.Cabral@usdoj.gov

Date: November 13, 2025

/s/ Zandra L. Lopez  
Zandra L. Lopez