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

12 **SAVATH DIPRASEUTH,**  
13  
14 **Petitioner,**

15 **v.**

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

25 **Respondents.**

**CIVIL CASE NO.:**

**'25CV3471 JLS B JW**

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

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1 **I. Introduction**

2 Petitioner Savath Dipraseuth faces immediate irreparable harm:

3 (1) revocation of his release on immigration supervision after 15 years of living in  
4 the community, despite ICE’s failure to follow its own revocation procedures; and  
5 (2) indefinite immigration detention with no individualized, significantly likely  
6 prospect of removal to Laos in the reasonably foreseeable future. This Court  
7 should grant temporary relief of his release on his pre-existing order of  
8 supervision to preserve the status quo.

9 Mr. Dipraseuth has spent the last 15 years in the community on an order of  
10 supervision. Throughout that time, the government has proved unable to remove  
11 him to Laos. Yet on October 7, 2025, the government re-detained him when he  
12 appeared as scheduled at his check-in. ICE gave him no opportunity to contest his  
13 re-detention, and did not identify changed circumstances justifying it. ICE does  
14 not appear to have a travel document in hand.

15 Because Mr. Dipraseuth is facing unlawful detention, the requested  
16 temporary restraining order (“TRO”) would preserve the status quo while  
17 Petitioner litigates these claims by reinstating Mr. Dipraseuth’s release on  
18 supervision.

19 In granting this motion, this Court would not break new ground. Courts in  
20 this district and around the Ninth Circuit have granted TROs or preliminary  
21 injunctions mandating release for post-final-removal-order immigrants like  
22 Petitioner. *See, e.g., Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D.  
23 Cal. Sept. 30, 2025); *Van Dipraseuth v. Noem*, 2025 WL 2770623, No. 25-cv-  
24 2334-JES, \*3 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES,  
25 ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-  
26 02575-JO-SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025); *see also, e.g.,*  
27 *Phetsadakone v. Scott*, 2025 WL 2579569, at \*6 (W.D. Wash. Sept. 5, 2025);  
28 *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at \*7 (E.D.

1 Cal. July 16, 2025); *Dipraseuth v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025  
2 WL 1993735, at \*7 (E.D. Cal. July 16, 2025); *Dipraseuth v. Scott*, No. 2:25-CV-  
3 01398, 2025 WL 2419288, at \*29 (W.D. Wash. Aug. 21, 2025). These courts  
4 have determined that, for these long-term releasees, liberty is the status quo, and  
5 only a return to that status quo can avert irreparable harm. Mr. Dipraseuth  
6 therefore respectfully requests that this Court grant this TRO.

7 **II. Statement of Facts**

8 In 1978, Mr. Dipraseuth fled Laos and entered the United States as a  
9 refugee. Declaration of Savath Dipraseuth, Exhibit A of habeas petition (“Exh.  
10 A”) ¶ 1. He soon obtained a green card. *Id.*

11 In 2009, Mr. Dipraseuth was placed in removal proceedings as a result of  
12 several criminal convictions. *Id.* at ¶ 2. An immigration judge ordered him  
13 removed on January 13, 2010. *Id.* at ¶ 3.

14 But ICE was not able to effectuate Mr. Dipraseuth’s removal to Laos and  
15 released him on an order of supervision after six months. *Id.* In the years since his  
16 removal order, Mr. Dipraseuth has never missed a check-in appointment. *Id.* at  
17 ¶ 5.

18 On October 7, 2025, ICE officials arrested Mr. Dipraseuth during his  
19 annual check in appointment. *Id.* at ¶ 6. They did not provide him any notice or  
20 give him an interview or an opportunity to contest his detention. *Id.*

21 **Argument**

22 To obtain a TRO, a plaintiff “must establish that he is likely to succeed on  
23 the merits, that he is likely to suffer irreparable harm in the absence of preliminary  
24 relief, that the balance of equities tips in his favor, and that an injunction is in the  
25 public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008);  
26 *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7  
27 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve  
28 “substantially identical” analysis). A “variant[] of the same standard” is the

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

12 Here, this Court should issue a temporary restraining order and an  
13 injunction because “immediate and irreparable injury . . . or damage” is occurring  
14 and will continue in the absence of an order. Fed. R. Civ. P. 65(b). Respondents  
15 have re-detained Petitioner in violation of his due process, statutory, and  
16 regulatory rights, and this Court should order Petitioner’s immediate release.

17 **III. Petitioner is likely to succeed on the merits, or at a minimum, raises  
18 serious merits questions.**

19 **A. Petitioner is likely to succeed on the merits of his claim that ICE  
20 violated its own regulations.**

21 The regulations set forth the procedures for someone who, like Petitioner, is  
22 re-detained following a period of release. Under 8 C.F.R. § 241.4(l), ICE may re-  
23 detain an immigrant on supervision only with an interview and a chance to contest  
24 a re-detention. When an immigrant is specifically released after giving good  
25 reason why they cannot be removed, additional regulations apply: ICE may  
26 revoke a noncitizen’s release and return them to ICE custody due to failure to  
27 comply with conditions of release, 8 C.F.R. § 241.13(i)(1), or if, “on account of  
28 changed circumstances,” a noncitizen likely can be removed in the reasonably  
foreseeable future. *Id.* § 241.13(i)(2).

1 The regulations further provide noncitizens with a chance to contest a re-  
2 detention decision. ICE must “notif[y] [the person] of the reasons for revocation  
3 of his or her release.” *Id.* § 241.13(i)(3). ICE must then “conduct an initial  
4 informal interview promptly” after re-detention “to afford the alien an opportunity  
5 to respond to the reasons for revocation stated in the notification.” *Id.* During the  
6 interview, the person “may submit any evidence or information” showing that the  
7 prerequisites to re-detention have not been met, and the interviewer must evaluate  
8 “any contested facts.” *Id.*

9 ICE is required to follow its own regulations. *United States ex rel. Accardi*  
10 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,  
11 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to  
12 abide by certain internal policies is well-established.”). A court may review a re-  
13 detention decision for compliance with the regulations. *See Dipraseuth v.*  
14 *Beccerra*, No. 2:25-CV-01757, 2025 WL 1993735, at \*3 (E.D. Cal. July 16,  
15 2025); *Dipraseuth v. Hyde*, No. 25-cv-11470-MJJ, 2025 WL 1725791, at \*3 (D.  
16 Mass. June 20, 2025) (citing *Kong v. United States*, 62 F.4th 608, 620 (1st Cir.  
17 2023)).

18 None of the prerequisites to detention apply here. Since ICE last tried to  
19 deport him in 2010, Petitioner has not missed a check-in appointment. And there  
20 are no changed circumstances that justify re-detaining him. ICE already tried—  
21 and failed—to remove Petitioner and has given Petitioner no indication that  
22 agents have a travel document in hand for him. Of course, ICE may be planning  
23 to renew their request for a travel document from Laos. But absent any evidence  
24 for “why obtaining a travel document is more likely this time around[,]”  
25 Respondents’ intent to eventually complete a travel document request for  
26 Petitioner does not constitute a changed circumstance.” *Hoac v. Becerra*, No.  
27 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at \*4 (E.D. Cal. July 16, 2025)  
28 (citing *Liu v. Carter*, No. 25-3036-JWL, 2025 WL 1696526, at \*2 (D. Kan. June

1 17, 2025)). Nor has Petitioner received an interview where he was able to respond  
2 to the purported “reasons” for his revocation.

3 “[B]ecause officials did not properly revoke petitioner's release pursuant to  
4 the applicable regulations,” this Court will likely find that “petitioner is entitled to  
5 his release” on an order of supervision. *Liu*, 2025 WL 1696526, at \*3.

6 **B. Petitioner is likely to succeed on the merits of his claim that his  
7 detention violates *Zadvydas*.**

8 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered  
9 a problem affecting people like Mr. Dipraseuth: Federal law requires ICE to  
10 detain an immigrant during the “removal period,” which typically spans the first  
11 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). And  
12 after that 90-day removal period expires, ICE may detain the migrant while  
13 continuing to try to remove them. *Id.* § 1231(a)(6). If that subsection were  
14 understood to allow for “indefinite, perhaps permanent, detention,” it would pose  
15 “a serious constitutional threat.” *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the  
16 Supreme Court avoided the constitutional concern by interpreting § 1231(a)(6) to  
17 incorporate implicit limits. *Id.* at 689.

18 As an initial matter, *Zadvydas* held that detention is “presumptively  
19 reasonable” for at least six months after the removal order becomes final. *Id.* at  
20 701. This acts as a kind of grace period for effectuating removals. Following the  
21 six-month grace period, courts must use a burden-shifting framework to decide  
22 whether detention remains authorized. First, the petitioner must prove that there is  
23 “good reason to believe that there is no significant likelihood of removal in the  
24 reasonably foreseeable future.” *Id.*

25 If he does so, the burden shifts to “the Government [to] respond with  
26 evidence sufficient to rebut that showing.” *Id.* Ultimately, then, the burden of  
27 proof rests with the government: The government must prove that there is a  
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1 “significant likelihood of removal in the reasonably foreseeable future,” or the  
2 immigrant must be released. *Id.*

3 Here, Petitioner was ordered removed more than six months ago, as his  
4 removal order became final in 2010. Dipraseuth Dec. at ¶ 3. Thus, it is clear that  
5 the *Zadvydas* grace period has ended.

6 There is also strong evidence that there is no “significant likelihood of  
7 removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. Laos  
8 refused to accept Mr. Dipraseuth when he was detained in 2010. Dipraseuth Dec.  
9 at ¶ 4, 5. Nothing has changed since the last time ICE attempted to deport him.  
10 And to date, there is no indication that ICE has obtained a travel document.

11 Finally, Petitioner’s criminal history cannot change this equation. Not only  
12 has Petitioner proved that he poses no danger or flight risk, *Zadvydas* also  
13 squarely prohibits ICE from indefinitely detaining immigrants because they pose  
14 risks of danger or flight. 533 U.S. at 684–91.

15 Thus, this Court will likely find that Petitioner warrants *Zadvydas* relief.

16 **IV. Petitioner will suffer irreparable harm absent injunctive relief.**

17 Petitioner also meets the second factor, irreparable harm. “It is well  
18 established that the deprivation of constitutional rights ‘unquestionably constitutes  
19 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)  
20 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged  
21 deprivation of a constitutional right is involved, most courts hold that no further  
22 showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d  
23 989, 1001-02 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal*  
24 *Practice and Procedure*, § 2948.1 (2d ed. 2004)).

25 Here, the potential irreparable harm to Petitioner is even more concrete.  
26 “Unlawful detention certainly constitutes ‘extreme or very serious damage, and  
27 that damage is not compensable in damages.’” *Hernandez v. Sessions*, 872 F.3d  
28 976, 999 (9th Cir. 2017). These and other threats to Petitioner’s health and life

1 independently constitute irreparable harm.

2 **V. The balance of hardships and the public interest weigh heavily in**  
3 **petitioner’s favor.**

4 The final two factors for a TRO—the balance of hardships and public  
5 interest—“merge when the Government is the opposing party.” *Nken v. Holder*,  
6 556 U.S. 418, 435 (2009). That balance tips decidedly in Petitioner’s favor. On  
7 the one hand, the government “cannot reasonably assert that it is harmed in any  
8 legally cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*,  
9 753 F.2d 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to  
10 prevent violations of the U.S. Constitution and ensure the rule of law. *See Nken*,  
11 556 U.S. at 436 (describing public interest in preventing noncitizens “from being  
12 wrongfully removed, particularly to countries where they are likely to face  
13 substantial harm”); *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218  
14 (W.D. Wash. 2019) (when government’s treatment “is inconsistent with federal  
15 law, . . . the balance of hardships and public interest factors weigh in favor of a  
16 preliminary injunction.”). On the other hand, Petitioner faces weighty hardships:  
17 unlawful, indefinite detention. The balance of equities thus favors preventing the  
18 violation of “requirements of federal law,” *Arizona Dream Act Coal. v. Brewer*,  
19 757 F.3d 1053, 1069 (9th Cir. 2014), by granting emergency relief to protect  
20 against unlawful detention and unlawful third country removal.

21 **VI. Petitioner gave the government notice of this TRO, and the TRO**  
22 **should remain in place throughout habeas litigation.**

23 Upon filing this motion, proposed counsel emailed Janet Cabral, from the  
24 United States Attorney’s Office, notice of this request for a temporary restraining  
25 and all the filings associated with it. Additionally, Petitioner requests that this  
26 TRO and injunction remain in place until the habeas petition is decided. Fed. R.  
27 Civ. Pro. 65(b)(2). Good cause exists, because the same considerations will  
28 continue to warrant injunctive relief throughout this litigation, and habeas  
petitions must be adjudicated promptly. *See In re Habeas Corpus Cases*, 216

1 F.R.D. 52 (E.D.N.Y. 2003).

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Respectfully submitted,

Dated: December 8, 2025

*s/ Kara Hartzler*  
Federal Defenders of San Diego, Inc.  
Attorneys for Mr. Dipraseuth  
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**Proof of Service**

I, the undersigned, will cause the attached Motion for a Temporary Restraining Order to be emailed to the U.S. Attorney’s Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Dated: December 8, 2025

/s/ Kara Hartzler  
Kara L. Hartzler