ADAM GORDON
United States Attorney
ROBBIN O. LEE
New York Bar No. 5738067
ERIN M. DIMBLEBY
California Bar No. 323359
Assistant U.S. Attorneys
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101-8893
Telephone: (619) 546-7462
Facsimile: (619) 546-7751
Email: robbin.lee@usdoj.gov
Email: erin.dimbleby@usdoj.gov

Attorneys for Respondents

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

AMKHA SOUVANNASENG,

Petitioner,

v.

KRISTI NOEM *et al.*,

Respondents.

Case No. 3:25-cv-03473-CAB-DEB

RESPONDENTS' RETURN IN OPPOSITION TO PETITIONER'S HABEAS PETITION AND OPPOSITION TO PETITIONER'S MOTION FOR INJUNCTIVE RELIEF

I. INTRODUCTION

Petitioner Amkha Souvannaseng has filed a habeas petition and a motion for temporary restraining order. ECF Nos. 1, 2. On December 9, 2025, the Court denied the *ex parte* request for a temporary restraining order and stated it would consider the motion for injunctive relief under Federal Rule of Civil Procedure 65(a). ECF No. 3. The Court also provided notice to the parties that it intended to consolidate the motion for injunctive relief with a determination on the merits. *Id.* For purposes of judicial efficiency, given the petition and motion for injunctive relief assert the same claims and seek the same relief, Respondents respectfully respond to both the petition and motion herein. For the reasons set forth below, the Court should deny Petitioner's request for interim relief and dismiss the petition.

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a citizen and national of Laos. *See* Declaration of La'Shaniece Wilson ("Wilson Decl.") at ¶ 3. Petitioner entered the United States in 1979. On May 12, 1999, when he was 25 years old, Petitioner was convicted of possession of methamphetamine with intent to deliver, under Arkansas Code § 5-64-401 of the Uniform Controlled Substance Act, an aggravated felony, and sentenced to 42 months of incarceration. *See* Exhibit 2 (I-213); Wilson Decl. at ¶ 5. On May 19, 2000, Petitioner was transferred to U.S. Immigration and Customs Enforcement (ICE) custody. *See* Wilson Decl. at ¶ 6.

On July 3, 2000, based on Petitioner's conviction, an immigration judge ordered Petitioner's removal to Laos. *See* Declaration of Amkha Souvannaseng ("Souvannaseng Decl.") at ¶ 3 (ECF No. 1, Exhibit A); *see also* Wilson Decl. at ¶ 7. Petitioner waived his appeal, and as a result, his removal order became final that date. *See* Wilson Decl. at ¶ 7. However, at that time, the United States was unable to obtain a travel document for Petitioner. Souvannaseng Decl. at ¶ 4. On March 14, 2001, Petitioner was subsequently released from immigration custody under an Order of Supervision pending removal to Laos. Wilson Decl. at ¶ 8.

On November 28, 2025, ICE re-detained Petitioner to execute his removal to Laos. *Id.* at ¶ 9. At the time of his re-detention, ICE served Petitioner with the Form I-200, dated November 28, 2025. *See* Exhibit 3 (Warrant for Arrest of Alien).

ICE is *not* seeking to remove Petitioner to a third country. Wilson Decl. at ¶ 11 (emphasis added). According to the declaring officer, "[ICE] had determined that Petitioner could be expeditiously removed from the United States pursuant to the outstanding order of removal," and since Petitioner's re-detention, "ICE has worked diligently to effectuate his removal to Laos. These removal efforts remain ongoing." *Id.* at ¶¶ 9, 12.

Once ICE receives a travel document for Petitioner, ICE anticipates that "[Petitioner's] removal can be effectuated promptly." *Id.* at ¶ 14. For example, compared to fiscal year 2024, where ICE removed no Laotian citizens, ICE has removed 177 Laotian citizens to Laos in fiscal year 2025 (as of September 8, 2025). *Id.* at ¶ 13. Moreover, ICE is routinely obtaining travel documents for Laotian citizens and effectuating removal flights to Laos. *Id.* Since the start of fiscal year 2026 on October 1, 2025, ICE has removed 111 Laotian citizens to Laos, most recently on November 4, 2025. *Id.* Once ICE receives a travel document from Petitioner, his removal can be effectuated promptly. *Id.* at ¶ 14.

III. ARGUMENT

A. Claims and Requests Barred by 8 U.S.C. § 1252.

Petitioner bears the burden of establishing that this Court has subject matter jurisdiction over his claims. *See Ass'n of Am. Med. Colls. v. United States*, 217 F.3d 770, 778–79 (9th Cir. 2000). To the extent Petitioner's claims arise from—or seek to enjoin—the decision to execute his removal order, they are jurisdictionally barred under 8 U.S.C. § 1252(g). *See* 8 U.S.C. § 1252(g) ("Except as provided in this section and *notwithstanding any other provision of law* (statutory or nonstatutory), *including section 2241 of Title 28, or any other habeas corpus provision*, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on

behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or *execute removal orders* against any alien under this chapter.") (emphasis added); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) ("There was good reason for Congress to focus special attention upon, and make special provision for, judicial review of the Attorney General's discrete acts of "commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders"—which represent the initiation or prosecution of various stages in the deportation process.") (quoting 8 U.S.C. § 1252(g)). In other words, section 1252(g) removes district court jurisdiction over "three discrete actions that the Attorney General may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'" *Reno*, 525 U.S. at 482 (emphasis removed). Here, Petitioner's claims necessarily arise "from the decision or action by the Attorney General to . . . execute removal orders," over which Congress has explicitly foreclosed district court jurisdiction. 8 U.S.C. § 1252(g); *see also* 8 U.S.C. § 1252(f)(2) ("Notwithstanding any other provision of law, no court shall enjoin the removal of any alien pursuant to a final order under this section unless the alien shows by clear and convincing evidence that the entry or execution of such order is prohibited as a matter of law.").

Accordingly, to the extent Petitioner's claims arise from—or seek to enjoin—the decision to execute his removal order, the Court should deny and dismiss those claims for lack of jurisdiction under 8 U.S.C. § 1252.

B. Petitioner Fails to Establish Entitlement to Injunctive Relief

Alternatively, even if this Court determines that it has jurisdiction over Petitioner's claims, Petitioner has not established that he is entitled to a preliminary injunction. He cannot show that he is likely to succeed on the underlying merits of his

habeas petition, he has not demonstrated irreparable harm, and the equities do not weigh in his favor.

In general, the showing required for a temporary restraining order is the same as that required for a preliminary injunction. *See Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 (9th Cir. 2001). To prevail on a motion for an injunction, a petitioner must "establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *accord Nken v. Holder*, 556 U.S. 418, 426 (2009). Petitioner must demonstrate at least a "substantial case for relief on the merits." *Leiva-Perez v. Holder*, 640 F.3d 962, 967–68 (9th Cir. 2011). When "a plaintiff has failed to show the likelihood of success on the merits, [courts] need not consider the remaining three [*Winter* factors]." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). The final two factors required for preliminary injunctive relief—balancing of the harm to the opposing party and the public interest—merge when the government is the opposing party. *See Nken*, 556 U.S. at 435. "Few interests can be more compelling than a nation's need to ensure its own security." *Wayte v. United States*, 470 U.S. 598, 611 (1985).

1. Petitioner is Unlikely to Succeed on the Merits

Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at 740. Here, Petitioner argues that his re-detention warrants habeas relief because: (1) ICE failed to comply with its own regulations; and (2) it ran afoul of the Supreme Court's holding in *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). ECF No. 1 at 5–13. But Petitioner cannot establish that he is likely to succeed on the underlying merits of his claims because he is properly detained under 8 U.S.C. § 1231(a) and the applicable agency regulations.

a. Petitioner's detention is lawful, and he has not established that there is no significant likelihood of removal in the reasonably foreseeable future.

ICE's authority to detain, release, and re-detain noncitizens who are subject to a final order of removal is governed by 8 U.S.C. § 1231(a). When an alien has been found to be unlawfully present in the United States and a final order of removal has been entered, the government ordinarily secures the alien's removal during a subsequent 90-day statutory "removal period." 8 U.S.C. § 1231(a)(1). The statute provides that the Attorney General "shall detain" the alien during this removal period. 8 U.S.C. § 1231(a)(2).

The Supreme Court held in *Zadvydas* that when removal is not accomplished during the 90-day removal period, the statute "limits an alien's post-removal-period detention to a period reasonably necessary to bring about the alien's removal from the United States" and does not permit "indefinite detention." *Zadvydas*, 533 U.S. at 689. The Supreme Court has held that six months constitutes a "presumptively reasonable period of detention." *Id.* at 701. Courts have repeatedly declined to grant habeas relief where the presumptively reasonable six-month period has not yet elapsed. *See Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D. Md. July 22, 2025) ("The government is entitled to its six-month presumptive period before Petitioner's continued § 1231(a)(6) detention poses a constitutional issue."); *Guerra-Castro v. Parra*, No. 1:25-cv-22487-GAYLES, 2025 WL 1984300, at *4 (S.D. Fla. July 17, 2025) ("The Court finds that the Petition is premature because Petitioner has not been detained for more than six months. Petitioner has been in detention since May 29, 2025; therefore, his two-month detention is lawful under *Zadvydas*.") (citations omitted); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE, 2003 WL 221809, at *5 (D. Minn. Jan. 29, 2013) (holding that when the government releases a noncitizen and then revokes the release based on changed circumstances, "the revocation would merely restart the 90-day removal period, not necessarily the presumptively reasonable six-month

detention period under *Zadvydas*").

Even after the period of presumptive reasonableness has run, release is not required under *Zadvydas* unless "there is *no* significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701 (emphasis added). As the Supreme Court instructed, "the habeas court must ask whether the detention in question exceeds a period reasonably necessary to secure removal. It should measure reasonableness primarily in terms of the statute's basic purpose, namely, *assuring the alien's presence at the moment of removal*." *Id.* at 699 (emphasis added). In so holding, the Supreme Court recognized that detention is presumptively reasonable pending efforts to obtain travel documents, because the noncitizen's assistance is often needed to obtain the travel documents, and because a noncitizen who is subject to an imminent, executable warrant of removal becomes a significant flight risk, especially if he or she is aware that it is imminent.

The Supreme Court also instructed that detention could exceed six months: "This 6-month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. "After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* The Ninth Circuit has emphasized, "*Zadvydas* places the burden on the alien to show, after a detention period of six months, that there is 'good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.'" *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

Here, Petitioner contends that his current detention violates *Zadvydas*. But even if Petitioner's total time in detention since July 2000 does exceed the six months of presumptive reasonableness, his claim still fails at the next step because he cannot meet

his burden to establish "that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701.

Petitioner was re-detained on November 28, 2025—at point in time *after* ICE had been successfully obtaining travel documents for Laotian citizens and routinely effectuating removals to Laos. Wilson Decl. at ¶¶ 9, 12–14; *see also Louangmilith v. Noem*, No. 25-cv-2502-JES-MSB, 2025 WL 2881578, at *4 (S.D. Cal. Oct. 9, 2025) (acknowledging the government's recent receipt of a travel document from Laos for a detainee in this district).[1] Similarly, ERO is actively working to remove Petitioner to Laos. *Id.* at ¶ 12-14.

So circumstances have changed. ICE's belief in effectuating Petitioner's removal to Laos is based on ICE's current ability to do so. Compared to fiscal year 2024, where ICE removed no Laotian citizens, ICE removed 177 Laotian citizens to Laos in fiscal year 2025 (as of September 8, 2025), and since the start of fiscal year 2026, ICE has removed 111 Laotian citizens to Laos, most recently on November 4, 2025. *Id.* at ¶ 13.

Thus, Petitioner not only fails to meet his burden, but Respondents have affirmatively shown through sufficient evidence that there is a significant likelihood of Petitioner's removal to Laos in the reasonably foreseeable future. Courts properly deny *Zadvydas* claims under such circumstances. *See Malkandi v. Mukasey*, No. C07-1858RSM, 2008 WL 916974, at *1 (W.D. Wash. April 2, 2008) (denying *Zadvydas* petition where petitioner had been detained more than 14 months post-final order); *Nicia v. ICE Field Office Dir.*, No. C13–0092–RSM, 2013 WL 2319402, at *3 (W.D.

[1] Moreover, ICE has also recently obtained travel documents from Laos for the petitioners in several other cases in this district. *See Yang v. Warden et al.*, Case No. 25-cv-02371-JES-AHG, ECF No. 8-1 at ¶ 7 (ICE declaration dated October 9, 2025, confirming travel document from Laos); *Khambounheuang v. Noem et al.*, Case No. 25-cv-02575-JO-SBC, ECF No. 16-1 at ¶ 8 (ICE declaration dated October 17, 2025, confirming travel document from Laos); *Truong v. Noem et al.*, Case No. 25-cv-02597-JES-MMP, ECF No. 7-1 at ¶ 12 (ICE declaration dated October 7, 2025, confirming travel document from Laos).

Wash. May 28, 2013) (holding petitioner "failed to satisfy his burden of showing that there is no significant likelihood of his removal in the reasonably foreseeable future" where he had been detained more than seven months post-final order).

That Petitioner does not yet have a travel document or specific date of anticipated removal does not make his detention unconstitutionally indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008) (explaining that a demonstration of "no significant likelihood of removal in the reasonably foreseeable future" would include a country's refusal to accept a noncitizen or that removal is barred by our own laws). On the contrary, as courts in this district have found, "evidence of progress, albeit slow progress, in negotiating a petitioner's repatriation will satisfy *Zadvydas* until the petitioner's detention grows unreasonably lengthy." Exhibit 4, *Kim v. Ashcroft*, Case No. 02-cv-1524-J-LAB, ECF No. 25 at 7:8–10 and 7:15-20 (S.D. Cal. June 2, 2003) (finding that petitioner's one year and four-month detention does not violate *Zadvydas* given respondent's production of evidence showing governments' negotiations are in progress and there is reason to believe that removal is likely in the foreseeable future); *see also Marquez v. Wolf*, No. 20-cv-1769-WQHBLM, 2020 WL 6044080, at *3 (S.D. Cal. Oct. 13, 2020) (denying petition because "Respondents have set forth evidence that demonstrates progress and the reasons for the delay in Petitioner's removal"); Exhibit 5, *Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at 5:4–6 (S.D. Cal. Aug. 15, 2019) (even though travel documents were not yet issued, "the record at this stage in the litigation does not support a finding that there is no significant likelihood of Petitioner's removal in the reasonably foreseeable future.").

Here, because the Laotian government is routinely granting travel documents, Petitioner's continued detention is thus not unconstitutionally prolonged under *Zadvydas*.

b. Petitioner's complaints about procedural defects in his re-detention do not establish a basis for habeas relief.

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

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

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

8 C.F.R. § 241.4(*l*)(1) (emphasis added).

Here, Petitioner claims there are no "change circumstances" to support the conclusion that there is a "significant likelihood that [Petitioner] may be removed in the reasonably foreseeable future." ECF No. 1 at 7. But as stated above, there *are* changed circumstances here—namely, compared to prior years, ICE's current and revived ability to routinely obtain travel documents from the Laotian government and to schedule routine removal flights to Laos. Wilson Decl. at ¶¶ 13-14. These facts weigh against granting Petitioner relief.

Next, Petitioner contends that ICE failed to comply with its own regulations governing re-detention, including failure to provide adequate notice of the reasons for

revoking his order of supervision and failure to provide an informal interview. Even if Petitioner's alleged regulatory failures amount to a regulatory violation, Petitioner cannot establish that he was prejudiced by those omissions nor that a constitutional-level violation has occurred. *See Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014) ("[T]he mere failure of an agency to follow its regulations is not a violation of due process."); *United States v. Tatoyan,* 474 F.3d 1174, 1178 (9th Cir. 2007) (holding that "[c]ompliance with . . . internal [customs] agency regulations is not mandated by the Constitution") (simplified); *Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 92 n.8 (1978) (holding that *Accardi* "enunciate[s] principles of federal administrative law rather than of constitutional law").

Petitioner seeks a windfall based on regulatory deficiencies. Here, at the time of his re-detention, Petitioner knew he was subject to a final order of removal to Laos. *See* Souvannaseng Decl. at ¶¶ 2–3. Petitioner also admits that, "[i]n 1998, when I was 24 years old, I was convicted of a drug crime in Arkansas. As a result of this conviction, I was put into removal proceedings." *Id.* Petitioner even waived his appeal at the time, at which point the removal order became final. Wilson Decl. at ¶ 7.

Critically, it is obvious that he is aware that his pending removal is a result of his drug conviction. *Id.* at ¶ 3 ("On July 3, 2000, an immigration judge ordered me removed *on the basis of this conviction.*") (emphasis added).

What's more, after his removal order became final, Petitioner was aware that "ICE tried to deport me to Laos," but that the roadblock was because "Laos did not issue me travel documents." *Id.* at ¶ 4. But things are now different. As established by DO Wilson's declaration, whereas removals to Laos were non-existent in fiscal year 2024, ICE is routinely obtaining travel documents for Laotian citizens and effectuating removal flights to Laos in fiscal year 2025. Wilson Decl. at ¶ 13.

Based on these admissions, Petitioner cannot credibly contend that he lacked adequate notice that he was subject to a final removal order and that the basis for his re-detention was this final removal order.

In any event, Petitioner cannot prove prejudice due to the lack of a formal notice of revocation or informal interview. Petitioner failed to advance any reasoned argument of a significant possibility that the violation affected the ultimate outcome of the agency's action, namely, re-detaining Petitioner and facilitating his removal. This is especially the case because Petitioner cannot counter that ICE is routinely obtaining travel documents and scheduling flights to Laos. Wilson Decl. at ¶ 13. Nor can he.

And because Respondents had, and continue to have, an evidentiary basis to conclude there is a significant likelihood that Petitioner will be removed to Laos in the reasonably foreseeable future, any challenge that Petitioner would have raised to the revocation prior to or after his re-detention would have failed.

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

into the alien's background, any error was harmless because there was no showing that the petitioner was qualified for relief from deportation).

At bottom, Petitioner fails to carry his burden that any alleged violation of ICE's own procedures affected the outcome here and prejudiced him. This is especially true because, based on his own declaration attached to his petition, he was aware (i) of his criminal conviction; (ii) that an immigration judge ordered him removed on the basis of that conviction; (iii) ICE previously tried to deport him to Laos; but (iv) Laos did not issue him travel documents at the time. *See* Souvannaseng Decl. at ¶¶ 2-4.

Nowhere in his declaration does he rebut the fact that ICE is currently able to successfully remove individuals to Laos. Petitioner is thus unlikely to succeed on the merits of his claim that ICE's alleged failure to follow agency regulations merits his release.

2. Petitioner Has Not Shown Irreparable Harm.

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

///

///

///

///

Petitioner suggests that being subjected to allegedly unjustified detention itself constitutes irreparable injury.[2] But this argument "begs the constitutional questions presented in [his] petition by assuming that [P]etitioner has suffered a constitutional injury." *Cortez v. Nielsen*, No. 19-cv-00754-PJH, 2019 WL 1508458, at *3 (N.D. Cal. April 5, 2019). Moreover, Petitioner's "loss of liberty" is "common to all aliens seeking review of their custody or bond determinations." *Resendiz v. Holder*, No. C 12–04850 WHA, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He faces the same alleged irreparable harm as any habeas corpus petitioner in immigration custody, and he has not shown extraordinary circumstances warranting injunctive relief.

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

3. The Balance of Equities Does Not Tip in Petitioner's Favor.

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

[2] Detention is different than removal. But a removal is also not an inherently irreparable injury. *See Nken*, 556 U.S. at 435.

2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987)).

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

IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court deny Petitioner's motion for injunctive relief and dismiss Petitioner's habeas petition.

DATED: December 12, 2025

ADAM GORDON
United States Attorney

s/ *Robbin O. Lee*
ROBBIN O. LEE
Assistant United States Attorney

Attorneys for Respondents