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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

KHOANH A. LAM,

Petitioner,

v.

KRISTI NOEM, *et al.*,

Respondents.

No. 5:25-cv-03344-CV-RAO

FEDERAL RESPONDENT'S OPPOSITION TO PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER

[*Declaration of Jorge Preciado filed concurrently herewith*]

Honorable Cynthia Valenzuela
United States District Judge

I. INTRODUCTION

Petitioner Khoanh A. Lam, a native and citizen of Vietnam—currently a detainee in immigration custody since August 24, 2025, who has a final removal order against him—filed a petition for writ of habeas corpus asking the Court to order his release. *See* Pet. for a Writ of Habeas Corpus ("Petition"), Docket No. 1. He claims mainly that there is no good reason to believe he will be deported to Vietnam in the reasonably foreseeable future. *See, e.g.*, *id.* at 4 (citing *Zadvydas v. Davis*, 533 U.S. 678 (2001)). He further claims that the government revoked his Order of Supervision (OSUP) without notice and an opportunity to be heard. *Id.* at 8. His proposed counsel simultaneously filed an Application for Temporary Restraining Order and Preliminary Injunction seeking essentially the same relief. *See* App. for Temporary Restraining Order & Preliminary Injunction ("TRO"), Docket No. 3.

Contrary to Petitioner's allegations, ICE expects to effectuate Petitioner's removal to Vietnam in the reasonably foreseeable future. DHS has applied to Vietnam for a travel document and the application remains under active consideration.[1] As such, Petitioner's Application fails to carry the extremely high burden for a TRO release. Accordingly, the Application should be denied.

Very similar TRO applications filed on behalf of Vietnamese detainees have been denied in this District via decisions correctly explaining why they fail to meet the very high governing evidentiary and procedural standards. *See Hung Huu Anh Hoang v. Kristi Noem et al.*, 5:25-cv-03177-JLS-RAO [Dkt. no. 10] (Dec. 4, 2025 order denying application for TRO); *Nghia Giang Nguyen v. Mark Bowen et al.*, 5:25-cv-03109-MCD-ADS [Dkt. no. 12] (Dec. 1, 2025 order denying application for TRO).

Petitioner is currently detained for purposes of enforcing his final removal order. To that end, DHS revoked his OSUP. On or around the day of his re-arrest, Petitioner was afforded sufficient process due to him under the applicable regulations and the U.S.

[1] Due to this reason, DHS has not made any request for removal to a third country.

Constitution. He was notified of his failure to comply with the terms of his OSUP release for, among other things, 1) violating his ATD conditions and becoming a post-order absconder on June 13, 2025 (Preciado Decl. ¶14), and 2) failing to check-in as required on August 15, 2025 and cooperate with DHS. See Preciado Decl. ¶15. Indeed, he flouted numerous DHS instructions in violation of the terms of his OSUP.

Lastly, Petitioner relies on an outdated Vietnamese policy pursuant to which it did not accept back its immigrants who left the country before 1995. *See, e.g.*, Petition at 6; Motion at 2. That policy has since been dismantled. As such, pre-1995 Vietnamese immigrants such as Petitioner are now routinely removed to Vietnam. *See, e.g.*, *Huynh v. Semaia*, 2:24-cv-10901-MRA-DFM (C.D. Cal.).[2] Simply put, circumstances for Vietnam removals have changed dramatically since Petitioner's OSUP release decades ago.

II. FACTUAL BACKGROUND

Petitioner is a native and citizen of Vietnam. Decl. of Jorge Preciado ("Preciado Decl.") ¶ 4. On or about February 10, 1979. Petitioner was admitted to the United States as a refugee. *Id.* In 1980, Petitioner's status was adjusted to that of a lawful permanent resident. *Id.*, ¶ 5.

A. Petitioner's Criminal History

Petitioner was convicted of several On or about June 20, 2005, Petitioner was convicted in the Superior Court of California for the offense of Murder, in violation of Section 187(A) of the California Penal Code. *Id.* ¶ 11. He was sentenced to twenty-four (24) years in prison. *Id.*

B. Final Order of Removal and Order of Supervision

On October 21, 2021, an immigration judge denied Petitioner's applications for relief and ordered him removed to Vietnam. *Id.* ¶ 12. On January 19, 2022, Petitioner was released from custody on Order of Supervision. *Id.* ¶ 13.

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[2] There, the petition was held in abeyance to see if the government could remove the detained Vietnamese petitioner. *See Huynh*, Docket No. 11 (C.D. Cal. Mar. 19, 2025). He was indeed promptly removed to Vietnam, mooting his petition, which was then dismissed. *See id.*, Docket No. 12 (C.D. Cal. Apr. 9, 2025).

C. Petitioner's Detention and Removal to Vietnam

On June 13, 2025, Petitioner violated his Alternatives to Detention conditions and became a post-order absconder. *Id.*, ¶ 14. On August 1, 2025, Petitioner was sent a G-56 call-in letter requiring he report for check-in on August 15, 2025. *Id.*, ¶ 15. Petitioner failed to report as instructed. *Id.*

Petitioner was arrested on August 24, 2025. *Id.*, ¶ 16. On September 18, 2025, ICE submitted a request to the government of Vietnam to obtain travel documents for LAM. *Id.*, ¶ 17. Vietnam is issuing travel documents when ICE has made such requests for Vietnamese nationals, including pre-1995 immigrants and including to children of Vietnamese citizens born abroad. *Id.*, ¶ 18. ICE has recently been able to timely obtain travel documents and effectuate removal to Vietnam. *Id*

ICE expects that a travel document for Petitioner will be issued, and ICE will be able to effectuate his removal to Vietnam in the reasonably foreseeable future. *Id.*, ¶ 19.

III. STANDARD OF REVIEW

Courts have recognized very few circumstances justifying the issuance of an ex parte temporary restraining order. *See Reno Air Racing Ass'n., Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006). A TRO is "an extraordinary and drastic remedy ... that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). For a TRO to issue, the movant must demonstrate: (1) a likelihood of success on the merits, (2) a likelihood of suffering irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in its favor, and (4) the TRO is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Where a litigant seeks their ultimate relief by preliminary injunctive means, that is improper since "judgment on the merits in the guise of preliminary relief is a highly inappropriate result." *Senate of California v. Mosbacher*, 968 F.2d 974, 978 (9th Cir. 1992).

In addition, to obtain emergency *ex parte* relief in this District, Petitioner "must show why [she] should be allowed to go to the head of the line in front of all other

litigants and receive special treatment." *Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995). Petitioner fails to do so, as he has not even addressed the *Mission Power* standard.

IV. ARGUMENT

A. Petitioner Has Not Shown a Likelihood of Success on the Merits Because He Has Not Established That "There Is No Significant Likelihood of Removal in the Reasonably Foreseeable Future."

Here, with a valid final order of removal, ICE may re-detain under 8 U.S.C. § 1231(a)(6), for post-removal-period detention, as well as under 8 U.S.C. §1357 (a), general immigration enforcement authority.

As an initial matter, there is no jurisdiction to contest the government's decision to detain Petitioner pending his removal pursuant to a final removal order. 8 U.S.C. § 1252(g) provides that for "Judicial review of orders of removal":

> 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.

Even if the detention decision were reviewable in District Court, the INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). When a noncitizen receives a final removal order, their detention is mandatory for the following 90 days. 8 U.S.C. § 1231(a)(2). After that time, detention is within ICE's discretion under 8 U.S.C. § 1231(a)(6). 8 U.S.C. § 1231(a)(6) provides that an alien ordered removed who is inadmissible under section 1182, removable under 1227(a)(1)(C), (a)(2), or (a)(4), or who has been determined to be a risk to the community or unlikely to comply with the order of removal "may be detained beyond the removal period."

Here, Petitioner does not identify any basis for contesting his removal from the

United States. And as discussed above, claims contesting removal in District Court are generally barred by 8 U.S.C. § 1252(g), which permits the government to enforce final removal orders without judicial review except in certain narrowly delimited circumstances not present here. To the extent a non-citizen wishes to contest such final removal orders, they have other legal process available—not a District Court lawsuit.

Petitioner contends that his detention is improper, however, because it is too prolonged, asserting that he previously spent 89 days in post-removal order detention from October 21, 2021 until January 18, 2022, and has now been detained since August 24, 2025—an additional 108 days of detention, placing him over the total six-month presumptive limit of *Zadvydas*.

It is important to emphasize how the Supreme Court ruled in *Zadvydas* and what the exact constitutional standard is:

> 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. And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink. 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.

Zadvydas, 533 U.S. at 701. Thus the noncitizen "may be held in confinement until it has been determined that there *is no significant likelihood of removal in the reasonably foreseeable future.*" *Id.* (italic emphasis added).

The Ninth Circuit has explained that the *Zadvydas* language requires an alien to show that "he is stuck in a 'removable-but-unremovable limbo,' as the petitioners in *Zadvydas* were[;]" that is, the alien must show he "is unremovable because the destination country will not accept him or his removal is barred by our own laws." *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008).

Here, there is certainly a significant likelihood that Petitioner will be removed in

the reasonably foreseeable future. After being released in 2022, he was recently taken into detention—on August 24, 2025. The government then submitted his travel document request to Vietnam on September 18 of 2025. *See* Preciado Decl., ¶ 17. There is no evident bar against Petitioner's removal to Vietnam, and the government is arranging for that removal. *See Id.*, ¶ 18.

Courts therefore properly deny *Zadvydas* claims under such circumstances and find that a "habeas petitioner's assertion as to the unforeseeability of removal, supported only by the mere passage of time, [is] insufficient to meet the petitioner's burden to demonstrate no significant likelihood of removal under the Supreme Court's holding in *Zadvydas." Muthalib v. Kelly*, 2017 WL 11696616, at *3 (C.D. Cal. Apr. 19, 2017) (collecting cases). "This is particularly so where the only impediment to removal is the issuance of the appropriate travel document." *Id. (citing Nasr v. Larocca*, 2016 WL 3710200 (C.D. Cal. June 1, 2016), *report and recommendation adopted,* 2016 WL 3704675 (C.D. Cal. July 11, 2016)). That Petitioner does not yet have a specific date of anticipated removal does not make his detention indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008).

As noted above, very similar TRO applications filed on behalf of Vietnamese detainees have been denied in this District via decisions correctly explaining why they fail to meet the very high governing evidentiary and procedural standards. *See Hung Huu Anh Hoang v. Kristi Noem et al.*, 5:25-cv-03177-JLS-RAO [Dkt. no. 10] (Dec. 4, 2025 order denying application for TRO); *Nghia Giang Nguyen v. Mark Bowen et al.*, 5:25-cv-03109-MCD-ADS [Dkt. no. 12] (Dec. 1, 2025 order denying application for TRO).

Indeed, when petitions have been filed in this District claiming that Vietnam does not accept such removals, they have been proven incorrect and mooted by the government's prompt removal of the petitioner to Vietnam. *See, e.g.*, *Huynh v. Semaia, et al.*, 2:24-cv-10901-MRA-DFM (petition by Vietnamese national asserting *Zadvydas* claim mooted by removal to Vietnam); *Le Van Minh v. DHS, et al.*, 5:25-cv-02245-HDV-JDE (August 18, 2025 petition by Vietnamese national mooted by September 2,

2025 removal of petitioner to Vietnam); *Tan Minh Vo v. DHS et al.*, 5:25-cv-02791-SVW-MBK (petition by Vietnamese national asserting *Zadvydas* claim mooted by November 5, 2025 removal of petitioner to Vietnam). In *Huynh*, for example, the petition was held in abeyance to see if the government could timely remove the Vietnamese petitioner—consistent with the Supreme Court's directives in *Zadvydas*. *See Huynh*, Docket No. 11 (C.D. Cal. Mar. 19, 2025). He was indeed promptly removed to Vietnam, mooting his petition, which was then dismissed. *See id.*, Docket No. 12 (C.D. Cal. Apr. 9, 2025); *accord Nguyen*, No. 5:25-cv-03109-MCS-ADS, Docket No. 12 at 6 (C.D. Cal. Dec. 1, 2025) (denying TRO where, as here, "Respondents cite[d] other instances in recent months in which the United States has effected the removal of pre-1995 Vietnamese immigrants to Vietnam," noting that "the Court cannot determine on this record 'that there is no significant likelihood' that Petitioner will be removed from the United States in the reasonably foreseeable future").

Petitioner's TRO Application cites *Nguyen v. Hyde*, 2025 WL 1725791 (D. Mass. June 20, 2025). *Nguyen*, however, confuses the *Zadvydas* constitutional standard with ICE regulations for re-detention.[3] *Nguyen* also explained that its District Court was not aware of information that the government's ability to remove pre-1995 Vietnamese immigrants had significantly changed. Yet numerous cases have recognized that change, including (as noted above) precedent in this District, discussing the general principles and changed circumstances at length. *See Trinh v. Homan*, 466 F.3d 1077 (C.D. Cal. 2020). Finally, in *Nguyen* only the petitioner had requested travel documents—and not the government.

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[3] Asserting violations of such ICE regulations. moreover, is not a valid basis for injunctive relief against detention. *See Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019); *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). As the *Smith* court elaborated, "[I]t is difficult to see an actionable injury stemming from such a violation. Doe is not challenging the underlying justification for the removal order.... Nor is this a situation where a prompt interview might have led to her immediate release—for example, a case of mistaken identity." *Id.*

Here, the government affirmatively requested travel documents for Petitioner via request submitted and delivered to Vietnam on September 18, 2025. *See* Preciado Decl., ¶ 17. The government expects that travel documents will be issued, and Petitioner will be removed in the reasonably foreseeable future. *Id.* ¶ 19.

This case is thus much closer to *Phonc Thanh Nguyen v. Bruce Scott*, 2025 WL 2165995 (W.D. Wash. July 30, 2025), where a TRO was denied, but the case was not dismissed outright, but was rather referred to preliminary injunction stage. It is also akin to the recent case in this District of *Huynh v. Semaia, et al.*, 2:24-cv-10901-MRA-DFM. The *Huynh* petition was held in abeyance, given the government's submission of evidence that it was working to timely remove the petitioner. *See* Dkt. 11. The detained petitioner was then removed to Vietnam, and the petition (being moot) was dismissed on April 9, 2025. *See* Dkt. 12.

Accordingly the TRO Application should be denied.

B. Petitioner's Complaints about Procedural Deficiencies in His Re-detention Do Not Establish a Basis for a TRO

As discussed above, on June 13, 2025, Petitioner violated his Alternatives to Detention conditions and became a post-order absconder. *See* Preciado Decl., ¶ 14. On August 1, 2025, Petitioner was sent a G-56 call-in letter requiring he report for check-in on August 15, 2025. *Id.*, ¶ 15. Petitioner failed to report as instructed. *Id.*

Petitioner argues that he was denied notice of the reasons for revocation of his release, violating the Petitioner's constitutional right to due process. However, the government's authority to re-detain individuals who ICE had previously released is discretionary. The government is allowed to revoke for many reasons, and the process for objections is very limited. As the Ninth Circuit recognized, "[w]hile 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.'" *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and superseded*, 591 F.3d 1105 (9th Cir. 2010), citing §§ 241.4(l)(2)(i), (iv) (emphasis in original).The government is thus broadly authorized to exercise its discretion to revoke such release pursuant to 8 CFR § 241.1(l)(1), and 8 CFR § 241.4(l)(2).

While a small number of District Court decisions have found that a supervised release was not properly revoked, such decisions generally (1) involve a non-citizen's detention *during* their removal proceedings (i.e. before the non-citizen has yet been found removable by an Immigration Court), rather than their detention after an administratively final removal order is issued; (2) typically involve no revocation documentation at all—which is not the case here. Contrary to Petitioner's contention that the Notice of Revocation did not provide reasons, the Notice of Revocation is attached hereto as Exhibit A and states:

> This letter is to inform you that your order of supervision has been revoked and you will be detained in the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your file and/or your personal interview, in light of your failure to abide by one or more conditions of your prior order of supervision (…) Based on the above, and pursuant to 8 C.F.R. § 241.4, you are to remain in ICE custody at this time.
>
> (Notice of Revocation of Release).

Perhaps even more importantly, the appropriate remedy for any such procedural deficiency would *not* be automatic release from custody, but rather to remedy the specific procedural deficiency that might be established. That is consistent with the well-established principle that injunctive relief must be *narrowly tailored* to the specific wrong at issue. *See e.g. Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022).

Other District Courts have correctly applied this point. In *Ahmad v. Whitaker*, for example, the government revoked the petitioner's release but did not provide him an

informal interview. *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner argued that revocation of his release was unlawful because, he contended, the federal regulations prohibited re-detention without, among other things, an opportunity to be heard. *Id.* In rejecting his claim, the court held that although the regulations called for an informal interview, petitioner could not establish "any actionable injury from this violation of the regulations" because the government had procured a travel document for the petitioner, and his removable was reasonably foreseeable. *Id.* Similarly, in *Doe v. Smith*, the U.S. District Court for the District of Massachusetts held that even if the ICE detainee petitioner had not received a timely interview following her return to custody, there was "no apparent reason why a violation of the regulation … should result in release." *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, "[I]t is difficult to see an actionable injury stemming from such a violation. Doe is not challenging the underlying justification for the removal order…. Nor is this a situation where a prompt interview might have led to her immediate release—for example, a case of mistaken identity." *Id.*

The Honorable Judge Birotte Jr. recently denied a TRO seeking to assert such a re-detention procedure challenge. *See Sanchez v. Bondi*, No. 5:25-cv-02530-AB-DTB, 2025 U.S. Dist. LEXIS 196639, at *13 (C.D. Cal. Oct. 3, 2025) (order denying TRO). Indeed, much like Petitioner's argument here, the Court noted that "[p]etitioner has not produced evidence showing that the SDDO lacked authority to revoke supervision or that ICE's procedures were fundamentally flawed. Even more, the absence of additional details regarding the identity of the SDDO or a formal interview, while potentially imperfect under the regulations, does not negate the statutory authority provided by § 1231(a)(2)–(6)." *Id.* at *7. *See also Ton v. Noem*, No. 5:25-CV-02033-SB-AGR, 2025 WL 2995068, at *1 (C.D. Cal. Sept. 3, 2025) (denying preliminary injunction to petitioner who was born in refuge camp in Hong Kong and came to the United States 45 years ago).

Even if there were violations of release revocation procedure, which have not been established, they would not warrant a TRO barring detention.

C. Petitioner's Request for a TRO against Third Country Removal Is Unsupported by Any Evidence: He Is Being Removed to Vietnam

Petitioner claims he should be granted a bar against third country removals. But he submits no evidence that he faces such a removal. This is not a third country removal case. Respondents are taking steps to remove the instant Petitioner to his home nation of Vietnam—not a third country. *See* Preciado Decl. ¶ 19. There are no barriers to removing him to Vietnam, he has not been told he will be removed to another country, and individuals in his situation are routinely removed to Vietnam. He does not have a bar against removal to his home nation like a CAT claim or withholding of removal granted by an Immigration Court. And he does not cite any examples of other pre-1995 Vietnamese immigrants being removed to third countries, rather than back to Vietnam. Nor do there appear to be any. To routinely order a bar on third country removals—with no evidence that such a removal is at issue—anytime a noncitizen raises a *Zadvydas* claim would transgress upon the heavy standard required for granting a TRO.

D. Petitioner Has Not Shown He Will Suffer Irreparable Harm Absent a TRO

Finally, Petitioner has not demonstrated that he will suffer irreparable injury absent his release. To show irreparable harm, he must demonstrate "immediate threatened injury." *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League,* 634 F.2d 1197, 1201 (9th Cir. 1980)). "Issuing 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 is subject to a final order of removal, and the government has taken steps to effectuate his removal to his country of origin in the foreseeable future.

Petitioner's re-detention is "common to all [noncitizens] seeking review of their custody or bond determinations." *See Resendiz v. Holder*, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He has not shown extraordinary circumstances warranting the emergency relief requested.

E. The Balance of Interests Favors the Respondents

It is well settled that the public interest in enforcement of the United States's immigration laws is significant. *See, e.g.*, *United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.") (citing cases); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders[.]"); *see also Noem v. Vasquez Perdomo*, No. 25A169, 2025 WL 2585637, at *2 (U.S. Sept. 8, 2025) (Kavanaugh, J. concurrence) (finding the equities favor the government in enforcing its current immigration priorities "given the millions of individuals illegally in the United States, the myriad 'significant economic and social problems' caused by illegal immigration, and the Government's efforts to prioritize stricter enforcement of the immigration laws enacted by Congress.") (internal citation omitted). This public interest outweighs Petitioner's private interest here. The government has valid reasons and statutory bases for detaining him to effectuate his removal pursuant to his valid final removal order.

V. CONCLUSION

For all the above reasons, the Respondents respectfully request that Petitioner's *Ex Parte* TRO Application be denied.

Respectfully submitted,

Dated: December 12, 2025

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondent, certifies that the memorandum of points and authorities contains 3,969 words, which complies with the word limit of L.R. 11-6.1.

Dated: December 12, 2025

/s/ Patrick J. Kearney
PATRICK J. KEARNEY