

Nguyen Tran Quan

FILED

DETAINED

California City Immigration
Processing Center
22844 Virginia Blvd
California City, CA 93505

JAN 05 2026

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Nguyen Tran Quan,
Petitioner, *Pro Se*

v.

CHRISTOPHER CHESTNUT,
Warden of California City Detention Facility
PAMELA BONDI, Attorney General of the
United States; KRISTI NOEM, Secretary,
United States Department of Homeland
Security; TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement,

Respondents.

Case No. 1:25-CV-01816

MOTION FOR
TEMPORARY RESTRAINING
ORDER
Federal Rule of Civil Procedure
RULE 65

I. Introduction

Here comes Petitioner asking this Honorable Court for a Temporary Restraining order to maintain the *status quo* of petitioner's Status prior to Department of Homeland Security ("DHS") violation of Petitioner's Procedural rights. Petitioner seeks his release from custody pending the review, of this Court Current petition. Further, "the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process." *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017).

II. Statutory Framework

Under the APA, a court must "hold unlawful and set aside agency action . . . found to be-arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or "without observance of procedure required by law." Agency action is arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise. *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43, 103 S. Ct. 2856, 77 L. Ed. 2d 443 (1983).

"[T]he touchstone of 'arbitrary and capricious' review under the APA is 'reasoned decision making.'" "[A]n agency's action can only survive arbitrary or capricious review where it has articulated a satisfactory explanation for its action including a rational connection between the facts found and the choice made. "A court "may not infer an agency's reasoning from mere silence"because "it makes no difference what [an agency] may have had in mind but failed to express; an administrative agency is not allowed to change direction without some explanation of what it is doing and why."As the Supreme Court has explained, "[a]n agency may not, for example, depart from a prior policy sub silentio or simply disregard rules that are still on the books. And of course the agency must show that there are good reasons for the new policy," even though it need not convince the court of the merits of its new policy. A court "must not 'rubber-stamp' . . . administrative decisions that [it] deem[s] inconsistent with a statutory mandate or that frustrate the congressional policy underlying a statute."

The Government has promulgated regulations in the Code of Federal Regulations concerning the release of noncitizens who are subject to a final removal order. 8 C.F.R. § 241.4; 8 C.F.R. § 241.13. Both 8 C.F.R. § 241.4(1)(1) and § 241.13(i) (3) provide that, upon revocation of release, the noncitizen "will be notified of the

reasons for revocation of his or her release,” and will be given “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.” *Constantinovici v. Bondi*, 2025 U.S. Dist. Lexis 201394 *12, 2025 WL 2898985, at *4 (S.D. Cal. Oct. 10, 2025) (citing cases); *Diaz v. Wofford*, 2025 WL 2581575, at *5 (E.D. Cal. Sept. 5, 2025) (same). “Both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 were intended to provide due process protections to noncitizens following the removal period as they are considered for continued detention, release, and then possible revocation of release.” *Constantinovici*, 2025 WL 2898985 at *5 (internal quotations and citations omitted). The government is required to follow these regulations in revoking a noncitizen's release. *Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal. Aug. 20, 2025) (same).

III. Legal Standard

The legal standards for issuing a temporary restraining order and a preliminary injunction are “substantially identical.” *See Stuhlberg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). “A preliminary injunction is an extraordinary remedy never awarded as of right.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24, 129 S. Ct. 365, 172 L. Ed. 2D 249 (2008) (citing *Munaf v. Geren*, 553 U.S. 674, 689-90, 128 S. Ct. 2207, 171 L. Ed. 2D 1 (2008)). “A plaintiff seeking a preliminary injunction 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.” (citing *Munaf*, 553 U.S. at 689-90; *Amoco Prod. Co. v. Vill. of Gambell*, AK, 480 U.S. 531, 542, 107 S. Ct. 1396, 94 L. Ed. 2D 542 (1987); *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 311-12, 102 S. Ct. 1798, 72 L. Ed. 2D 91 (1982)). “Likelihood of success on the merits is a threshold inquiry and is the most important factor.” *Simon v. City & Cnty. of San Francisco*, 135 F.4th 784, 797 (9th Cir. 2025) (quoting *Env't Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 989 (9th Cir. 2020)).

IV. Statement of Facts

Petitioner arrive in the U.S. in September 15, 1989 with political asylum. After some encounters with the Justice department petitioner was order remove on or about December 1995. Petitioner was release from Immigration Naturalization Services now known as Immigration and Customs Enforcement. Petitioner was granted parole and was order to check in routinely since August of 1999. No further criminal encounters after the release of August of 1999.

On October 02, 2025 petitioner went in for his regular check in and was detain by Immigration and Customs Enforcement with out any prior notice of the revocation of his condition of release. Until today petitioner has not been notify of the reason why his detention was revoke.

Respondent has not been able to obtain a travel document for petitioner due to a 2008 repatriation agreement with Vietnam prohibiting the removal of Vietnamese citizens who arrived to the U.S. Prior to July 12, 1995. Petitioner has establish a family in the U.S. since coming to America on September 15, 1989.

V. Argument

The Requirements for granting a Temporary Restraining Order are "substantially identical" to those for granting a preliminary injunction. *Stuhlbarg Int'l Sales Co. v John D. Brush & Co.*, 240 F.3d 832, 839 n,7 (9th Cir. 2001).

Petitioner must demonstrate that (1) they are "likely to succeed on the merits" of their claims, (2) they are "likely to suffer irreparable harm in the absence of a preliminary injunction," (3) "the balance of equities tips in [their] favor" and (4) "an injunction is in the public interest." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008).

The moving party has the burden to "make a showing on all four prongs" of the Winter test to obtain a preliminary injunction. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). Thus, the moving party has "the burden of

persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972, 117 S. Ct. 1865, 138 L. Ed. 2d 162 (1997); *Hecox v. Little*, 104 F.4th 1061, 1073 (9th Cir. 2023). The Court may weigh the request for a preliminary injunction with a sliding-scale approach. *Alliance*, at 1135 (9th Cir. 2011). Accordingly, a stronger showing on the balance of hardships may support the issuance of a preliminary injunction where there are "serious questions on the merits ... so long as the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in the public interest." *Id.* "A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. NRDC, Inc.*, 555 U.S. 7, 24, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008). Preliminary injunctions are intended to "merely to preserve the relative positions of the parties until a trial on the merits can be held, and to balance the equities at the litigation moves forward." *Lackey v. Stinnie*, 604 U.S. 192, 145 S. Ct. 659, 667, 221 L. Ed. 2d 63 (2025) (citations omitted). Petitioner satisfies the criteria and a TRO should be granted ordering Petitioner's release.

A. Likely to Succeed on the Merits

This first factor "is the most important" under *Winter*, and "is especially important when plaintiff alleges a constitutional violation and injury." *Baird v. Bonta*, 81 F.4th 1036, 1041 (9th Cir. 2023). When an immigrant is placed into parole status after having been detained, a protected liberty interest may arise. *Young v. Harper*, 520 U.S. 143, 147-149, 117 S. Ct. 1148, 137 L. Ed. 2d 270 (1997). The Due Process Clause may protect this liberty interest even where a statute allows the immigrant's arrest and detention and does not provide for procedural protections. *Id.* (Due Process requires pre-deprivation hearing before revocation of preparole); *Morrissey v. Brewer*, 408 U.S. 471, 482, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972).

Morrissey observed that parole allows the parolee to enjoy the same activities as those who have not been arrested and held in custody including, living at home, having a job, and "be[ing] with family and friends and to form the other enduring attachments of

normal life." *Morrissey*, 408 U.S. at 482. "Though the [government] properly subjects [the parolee] to many restrictions not applicable to other citizens," such as monitoring and seeking authorization to work and travel, "his condition is very different from that of confinement in a prison." *Id.* "The parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* The revocation of parole undoubtedly "inflicts a grievous loss on the parolee." *Id.* (quotations omitted). Therefore, a parolee possesses a protected liberty interest in his "continued liberty." *Id.* at 481-84.

Petitioner Quan Nguyen Tran, liberty interest was infringe by the revocation of his parole with out the Due Process provided by the Fifth Amendment. "[T]his Court joins other courts of this district facing facts similar to the present case and finds Petitioner raised serious questions going to the merits of his claim that due process requires a hearing before an IJ prior to re-detention."); *Jorge M.F. v. Wilkinson*, No. 21-cv-01434, 2021 U.S. Dist. LEXIS 40823, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020 U.S. Dist. LEXIS 153579, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Ortega*, 415 F. Supp. 3d at 969 ("Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody on bond."). *Pinchi*, 2025 U.S. Dist. LEXIS 142213, 2025 WL 2084921, at *3.

Petitioner is likely to succeed on the merits of his claim under the Due Process Clause. The Due Process Clause of the Fifth Amendment prohibits the Government from depriving individuals of their life, liberty, or property, without due process of law. U.S. Const. amend. V. In particular, "[f]reedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491, 150 L. Ed. 2D 653 (2001). These protections "appl[y] to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary,

or permanent," and to immigration detention as well as criminal detention. *Id.* at 693.

B. Will Suffer Irreparable Harm

"It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" (quoting *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). Here Petitioner has been detain without his right to Due Process, furthermore Petitioner has suffer irreparable injury by being away from family and the financial hardship to him and his love ones ever moment away from family is irreparable. *see also* 11A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure*, § 2948.1 (2d ed. 2004) ("When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.").

Moreover "the Ninth Circuit has recognized 'irreparable harms imposed on anyone subject to immigration detention' including 'the economic burdens imposed on detainees and their families as a result of detention. *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th cir. 2017); *Leiva- Perez v. Holder*, 640 F.3d 962, 969-970 (9th Cir. 2011)

C. The Balance of Equities and the Public Interest Favor Granting a Temporary Restraining Order.

Finally, Petitioner must establish that the "balance of equities tips in [their] favor, and that an injunction is in the public interest." See *Winter*, 555 U.S. at 20. "When the government is a party, [the balance of the equities and public interest] factors merge." *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)

These factors also favor Petitioner. In cases implicating removal, "there is a public interest in preventing [noncitizens] from being wrongfully removed, particularly to countries where they are likely to face substantial harm." *Nken v. Holder*, 556 U.S. 418, 436, 129 S. Ct. 1749, 173 L. Ed. 2d 550 (2009). Though there is a countervailing "public interest in prompt execution of removal orders," *id.*, it is well-established that "our system does not permit agencies to act unlawfully even in pursuit of desirable ends," *Ala. Ass'n of Realtors v. Dep't of Health & Hum. Servs.*, 594 U.S. 758, 766, 141 S. Ct.

2485, 210 L. Ed. 2d 856 (2021) (citing *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 582, 72 S. Ct. 863, 96 L. Ed. 1153, 62 Ohio Law Abs. 417 (1952)).

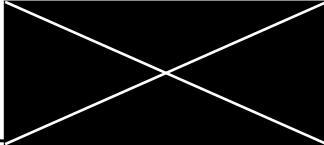
Petitioners removal without the proper procedures would be in the public interest, the Government has not been able to remove petitioner in the last thirty years. Petitioner removal to a third country is also not in the public interest where a individual might be torture or imprison upon arrival.

IV. Conclusion

For the above mention Petitioner should be granted a temporary restraining, if this TRO is not granted petitioner would sit in detention for months without being remove. There is no possibility of removal to Vietnam in the foreseeable future. Petitioner is being held pass the Removal Period. Petitioner ask the Court to grant the TRO for immediate release from Custody and if Respondent attempts to re-detain respondent should notify petitioner prior to detention.

Respectfully Submitted

Dated; December 23, 2025


Nguyen Tran Quan

California City Immigration
Processing Center
22844 Virginia Blvd
California City, CA 93505

CERTIFICATE OF SEERVICE

I here certify that a true copy of this Certificate of Service and Temporary Restraining was deposited at the California City Immigration Processing Center in a prepaid postage envelope mailing system authorize by the detainees on December 23 2025 in California City, and address to the following.

Office of the Clerk
Unites States District Court
Eastern District of California
2500 Tulare Street, Suite 1501
Fresno, Ca 93721

U.S. Department of Justice
United States Attorneys Office
Eastern District of California
501 I Street, Suite 10-100
Sacramento, Ca 95814

I declare under penalty of perjury that the foregoing is true and correct.



Nguyen Tran Quan


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