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10 **United States District Court**
11 **Central District of California**

12 Cuong Tu Hong
13 Petitioner,
14 v.
15 Kristi Noem, et al.
16 Respondents.

No. 5:25-cv-03353

**Application for Temporary
Restraining Order and
Preliminary Injunction**

19
20 Along with this document, Hong has filed a petition for a writ of
21 habeas corpus under 28 U.S.C. § 2241. Because he is almost certain to
22 prevail on at least one of his claims, he respectfully asks the Court to (1)
23 issue a temporary restraining order ordering the government to: (a)
24 immediately release him from custody, (b) refrain from removing him
25 from the United States or taking him from the Central District of
26 California, (c) restore him to the status quo prior to his detention by

1 reinstating his prior order of supervision; and (d) show cause why
2 Petitioner’s application for a preliminary injunction should not be
3 granted; (2) grant him a preliminary injunction; and (3) waive bond.

4 “A plaintiff seeking a preliminary injunction must establish that he
5 is likely to succeed on the merits, that he is likely to suffer irreparable
6 harm in the absence of preliminary relief, that the balance of equities tips
7 in his favor, and that an injunction is in the public interest.” *Planned*
8 *Parenthood Great Northwest v. Labrador*, 122 F.4th 825, 843-44 (9th Cir.
9 2024) (quoting *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127,
10 1131 (9th Cir. 2011)). “Alternatively, a preliminary injunction may issue
11 where serious questions going to the merits were raised and the balance
12 of hardships tips sharply in plaintiff’s favor if the plaintiff also shows
13 that there is a likelihood of irreparable injury and that the injunction is
14 in the public interest.” *Id.* at 844 (quoting *Alliance for the Wild Rockies*,
15 632 F.3d at 1135). The standards for granting a temporary restraining
16 order are the same as the standards for granting a preliminary
17 injunction. *See O.M. v. Nat’l Women’s Soccer League, LLC*, 541 F. Supp.
18 3d 1171, 1177 (D. Or. 2021).

19 First, for the reasons in his petition, Hong is almost certain to
20 succeed on the merits—“the most important factor.” *Chamber of*
21 *Commerce of the United States v. Bonta*, 62 F.4th 473, 481 (9th Cir. 2023)
22 (quoting *California ex. Rel. Becerra v. Azar*, 950 F.3d 1067, 1083 (9th Cir.
23 2020) en banc)).

24 Second, Hong’s unconstitutional confinement is irreparable harm:
25 He was the main provider for his family before re-detention, and now
26 cannot work, which imposes obvious economic burdens on him and his

1 family. His gratuitous detention also harms his children, who depend on
2 him not only as a provider but as a parent. “In the absence of [a TRO or]
3 an injunction, harms such as these will continue to occur needlessly on a
4 daily basis.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

5 Third, and finally, when, as here, the government is a party, “the
6 balance of equities and public interest factors merge.” *Pimentel-Estrada*
7 *v. Barr*, 464 F. Supp. 3d 1225, 1237 (W.D. Wash. 2020) (citing *Drakes Bay*
8 *Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)). The risk of
9 harm to Hong thus far outweighs the government’s interest in illegally
10 detaining him, for it is “always in the public interest to prevent the
11 violation of a party’s constitutional rights.” *Melendres*, 695 F.3d at 1002.

12 For all these reasons, the Court should:

- 13 (1) immediately grant Hong a temporary restraining order, and
14 order the government to:
 - 15 a. immediately release Hong from custody;
 - 16 b. refrain from removing Hong from the United States or
17 taking him from the Central District of California;
 - 18 c. restore Hong to the status quo prior to his re-detention by
19 reinstating his prior order of supervision; and
 - 20 d. show cause why Hong’s application for a preliminary
21 injunction should not be granted;
- 22 (2) grant Hong a preliminary injunction; and
- 23 (3) waive bond, since it is unlikely that the government will incur
24 any significant cost, and since imposing bond “would have a
25 negative impact” on the constitutional rights of both Hong and
26 other members of the public. *Baca v. Moreno Valley Unified*

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Sch. Dist., 936 F. Supp. 719, 738 (C.D. Cal. 1996) (citation omitted); *cf.* Fed. R. Civ. Proc. 65(c) (setting out bond requirement to temporary restraining orders and preliminary injunctions)

Respectfully submitted,
CUAUHTEMOC ORTEGA
Federal Public Defender

DATED: December 12, 2025

s/ Michael T. Drake

MICHAEL T. DRAKE
Deputy Federal Public Defender

Proposed Counsel for Petitioner
CUONG TU HONG

1 draft and file a petition and the related filings here the
2 following Monday.

- 3 7. Upon reaching that conclusion, I immediately emailed
4 Assistant United States Attorney Daniel Beck, who I
5 understand to be Chief of the Complex and Defensive
6 Litigation Section, the unit tasked with defending the
7 government in these matters. I told Beck about the nature of
8 the case—including the fact that Hong’s removal proceedings
9 had been terminated—described the two claims I intended to
10 raise, the possibility that I’d raise others, and informed him
11 that by the following Monday I intended to file the petition,
12 this application, and the other documents I’m filing today.
- 13 8. Though I don’t believe that this application is subject to Local
14 Rule 7-19 (I have not sought relief without notice or an
15 opportunity to respond), I also told Beck that it was my
16 understanding that my email to him resolved any concerns or
17 objections that his office would otherwise have under that rule,
18 and invited him to let me know if his understanding on that
19 differed from mine.
- 20 9. Beck promptly emailed back, thanked me for my email, and
21 said that he’d “check with the agency on whether this one can
22 be resolved.”
- 23 10. The following Monday morning, my legal assistant and I began
24 trying to set up a call with Hong so that I could review the
25 facts in the draft petition with him so that he could confirm or
26 correct the factual allegations that I drafted. Time was of the

1 essence, and the next available legal call wasn't until
2 December 17. So Having him call me on a monitored line was
3 the only practical option.

- 4 11. But it wasn't until yesterday afternoon, December 12, that
5 Hong was able to call me back, explaining that there'd been a
6 problem with the system at Adelanto and that he'd been
7 unable to access his account, access he needed to be able to
8 make the call. (He was unable to call collect.)
- 9 12. We spoke for about 30 minutes. I went over the factual
10 allegations in the petition point by point. He affirmed almost
11 all of them and corrected the few remaining. I revised to reflect
12 his corrections.
- 13 13. After the call with him, I called Pham, who confirmed that
14 she'd been with Hong when he was re-detained in September
15 this year, that ICE re-detained him even though she showed
16 them the motion to reopen she'd filed for him just the day
17 before, and that the only reason ICE officials gave for re-
18 detaining him was that he had a final removal order.
- 19 14. All other allegations in the habeas petition outside Hong's
20 knowledge are based on my review of records we received from
21 Pham, which I believe to be accurate, and from information I
22 gleaned from federal government websites, which jibes with
23 the information in the files from Pham.
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1 15. I have not heard back from Beck since his response last Friday,
2 which I understand to mean that his office will oppose this
3 application. His contact information:

4 Daniel A. Beck, Assistant United States Attorney,
5 Chief, Complex and Defensive Litigation Section,
6 United States Attorney's Office, Central District of California,
7 300 N. Los Angeles Street, Suite 7516, Los Angeles, CA 90012
8 T: (213) 894-2574; E-mail: daniel.beck@usdoj.gov.

9 I declare under penalty of perjury under the laws of the United
10 States of America that the foregoing is true and correct. Executed on
11 December 12, 2025, at Los Angeles, California.

12 *s/ Michael T. Drake*
13 MICHAEL T. DRAKE
14 Deputy Federal Public Defender
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