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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

TUAN BUI,

Petitioner,

v.

KRISTI NOEM, Secretary of Homeland Security, *et al.*,

Respondents.

No. 5:25-cv-03370-RGK-AJR

RESPONDENTS' OPPOSITION TO PETITIONER'S APPLICATION FOR PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER

[Declaration of Christopher Jenson filed concurrently]

Honorable Gary Klausner
United States District Judge

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Federal Cases

Federal Statutes

I. INTRODUCTION

Petitioner Tuan Bui, a native and citizen of Vietnam—currently a detainee in immigration custody since November 14, 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 5-7 (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 11. He then filed an application seeking essentially the same relief. *See* Application for Preliminary Injunction & Temporary Restraining Order ("Application"), Docket No. 3. The Court should deny the Application.

First, the Application fails to provide a legal basis for relief. The Application is in fact totally devoid of any legal analysis related to any evidence in this case, relies on unverified allegations in the Petition, and merely tracks the language of the legal requirements warranting the requested relief. In turn, while the Petition claims to be verified by Petitioner's proposed counsel, it is filled with factual details that Petitioner's counsel could not have personal knowledge of, and which they thus instead purport to aver on information and belief. But the belief of counsel is not competent testimony under FRE 602; whether an attorney happens to believe claims relayed to them by a proposed client does not satisfy the requirement by FRCP 65(b)(1)(A) to submit *competent* testimony regarding *specific facts*. Exemplifying the problem, the putative "Verification" claims to aver that the Petitioner "is restrained in violation of his liberty." Such claims by lawyers about their own beliefs are not competent testimony. They are accusations, and accusations are not a sufficient basis for imposing extraordinary injunctive relief against a defendant.

Second, Petitioner is currently detained for purposes of enforcing his final removal order. And the BIA denied Petitioner's appeal of that removal order, via decision issued on September 20, 2024. Petitioner then filed a motion to reopen and for a stay. On November 12, 2025, however, the Board denied Petitioner's motion for a stay. *Id.* On

November 14, 2025, Petitioner was taken into ICE custody for removal, as

DHS revoked his OSUP that same day. Petitioner now falsely claims that no process was afforded to him. That is incorrect. 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. Constitution, including the Notice of Revocation signed by the Acting Field Office Director. And in any event, DHS has applied to Vietnam for a travel document. That application remains under active consideration.[1]

Tellingly, Petitioner relies on an outdated Vietnamese policy pursuant to which years ago it did not accept back its immigrants who left the country before 1995. *See, e.g.*, Petition at 9. 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. BACKGROUND

Petitioner is a native and citizen of Vietnam. Decl. of Christopher Jenson ("Jenson Decl.") ¶ 5.

On or about August 20, 1992, Petitioner was admitted to the United States as a refugee. *Id.*, ¶ 4.

On August 7, 1997, Petitioner was convicted of burglary, in violation of California Penal Code section 459, and sentenced to two years in prison. *Id.*, ¶ 5.

On June 14, 1998, Petitioner was placed in removal proceedings. *Id.*, ¶ 6.

On November 30, 1998, an Immigration Judge ordered Petitioner removed to Vietnam. *Id.*

Petitioner appealed the decision to the Board of Immigration Appeals (the "Board"),

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

[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).

which was remanded to the Immigration Judge on June 29, 1999. *Id.*, ¶ 6-7.

On September 7, 1999, Petitioner was again ordered removed to Vietnam by an Immigration Judge. *Id.*, ¶ 8.

On September 14, 1999, Petitioner was released on a bond granted by an Immigration Judge. *Id.*, ¶ 9.

On September 19, 2001, the Board again dismissed Petitioner's appeal. *Id.*, ¶ 10.

On April 30, 2002, Petitioner was convicted of reckless driving, in violation of California Vehicle Code section 23103, and sentenced to probation. *Id.*, ¶ 11.

On October 4, 2002, Petitioner was convicted of battery with serious bodily injury, in violation of California Penal Code section 243(D), and sentenced to four years in prison. *Id.*, ¶ 12.

On January 2, 2003, ICE cancelled Petitioner's bond after being informed of Petitioner's criminal conviction. *Id.*, ¶ 13.

On August 15, 2005, Petitioner went into ICE custody after being released from state custody. *Id.*, ¶ 14.

On November 17, 2005, Petitioner was released from ICE custody on OSUP. *Id.*

On December 6, 2006, Petitioner was convicted of driving under the influence of alcohol, in violation of California Vehicle Code section 23152, and sentenced to probation. *Id.*, ¶ 15.

On May 11, 2025, Petitioner filed a motion to reopen and a motion for a stay before the Board. *Id.*, ¶ 16.

On November 12, 2025, the Board denied Petitioner's motion for a stay. *Id.*, ¶ 17.

On November 14, 2025, Petitioner was taken into ICE custody for removal. *Id.*, ¶ 18.

On November 14, 2025, Petitioner was served with a Notice of Revocation of Release (attached hereto as Exhibit A). *Id.*, ¶ 19.

On November 27, 2025, ICE completed and sent a travel document request to Vietnam. *Id.*, ¶ 22.

The government of Vietnam is issuing travel documents for Vietnamese nationals, including those who arrived in the United States prior to 1995. *Id.*, ¶ 23.

DHS intends to remove Petitioner to Vietnam. *Id.* ¶ 21. Hence a request for removal to a third country has not been made.

III. LEGAL STANDARD

A temporary restraining order ("TRO") is an "extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008); *see also Lum v. Mercedes-Benz USA, LLC*, 2012 WL 13012454, at *1 (C.D. Cal. Jan. 5, 2012) ("The opportunities for legitimate *ex parte* applications are extremely limited."). The standard for issuing a TRO is "substantially identical" to that for issuing a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A court may grant preliminary injunctive relief to prevent "immediate and irreparable injury." Fed. R. Civ. P. 65(b). To obtain this relief, a plaintiff must establish the "*Winter*" factors: (1) the plaintiff "is likely to succeed on the merits"; (2) the plaintiff "is likely to suffer irreparable harm in the absence of preliminary relief"; (3) "the balance of equities tips in [the plaintiff's] favor"; and (4) "an injunction is in the public interest." *Am. Trucking Ass'ns, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting *Winter*, 555 U.S. at 20). "Because it is a threshold inquiry, when a plaintiff has failed to show the likelihood of success on the merits, [a court] need not consider the remaining three *Winter* elements." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (en banc) (cleaned up).

IV. ARGUMENT

A. Petitioner Fails to Provide Sufficient Legal Basis for Relief.

Petitioner's Application here is facially flawed, failing to provide a legal basis for relief. The Application is in fact totally devoid of any legal analysis related to any evidence in this case, relies on unverified allegations in the Petition, and merely tracks the language of the legal requirements warranting the requested relief—and as such is conclusory on its face. *See, e.g.*, Application at 2 (nakedly asserts, but does not argue by analyzing evidence

of the case in lights of the cited "authorities" upon which he relies, that "Bui is very likely to succeed on the merits of his habeas petition for the reasons set forth in his petition"); *id.* (labeling Petitioner's "confinement" "illegal," without analyzing relevant facts of this case under any controlling authority). The Application therefore fails to provide sufficient legal basis for the relief it seeks and so the Court need not reach the substance of the Application. *Greenwood*, 28 F.3d at 977 ("We will not manufacture arguments for [a litigant], and a bare assertion does not preserve a claim, particularly when, as here, a host of other issues are presented for review."); *Townsend*, 303 F. Supp. 3d at 1036 ("The Court's role is not to make or develop arguments on behalf of the parties."); *Graf*, 610 F.3d at 1166 ("Arguments made in passing and not supported by citations to the record or to case authority are generally deemed waived.").

The Honorable Judge Scarsi recently adjudicated, and denied on the foregoing basis, a TRO application by a habeas petitioner. *See Khamseh v. C. Langill et al.*, No. 25-09955, Docket No. 14 (C.D. Cal. Nov. 6, 2025). In addressing the likelihood of removal, Judge Scarsi explained as follows: "Petitioner's position on the low likelihood of removal in the reasonably foreseeable future rests exclusively on an argumentative proffer, not on verified allegations or evidence. Meanwhile, Respondents offer cognizable evidence of efforts the United States has undertaken in the past month to effect Petitioner's removal . . . ." *Id.* at 6 (internal citations omitted); *see also Nguyen*, No. 5:25-cv-03109-MCS-ADS, Docket No. 12 at 6 (C.D. Cal. Dec. 1, 2025) (denying TRO, finding, among other things, that: "Petitioner's argument that the likelihood of removal in the reasonably foreseeable future is low rests exclusively on an argumentative proffer, not on verified allegations or evidence. On this sparse evidentiary record, the Court is unable to conclude that Petitioner is not likely to be removed to Vietnam soon."). So too here: DHS has initiated the process for obtaining travel documents from Vietnam for the Petitioner. Jenson Decl. ¶¶ 21-23. Petitioner has offered argument—but no evidence—on the likelihood of his removal, which is insufficient to meet his burden to obtain a preliminary injunction (or a TRO).

B. Petitioner Fails to Meet the High Bar for Injunctive Relief.

1. Petitioner Cannot Show a Likelihood of Success on the Merits

a. Petitioner cannot show that "there is no significant likelihood of removal in the reasonably foreseeable future"

Petitioner cannot succeed on his claim that he cannot be removed to Vietnam in the reasonably foreseeable future. As an initial matter, he has not yet been detained over the six-months of presumptively reasonable removal order detention period that is required to shift the burden to the government to show that removal is likely in the reasonably foreseeable future: His order of removal became final on September 19, 2001. Jenson Decl. ¶ 10. He was not detained at this time, as he was released on bond. *Id.* ¶ 9. Petitioner was brought into ICE custody on August 15, 2005, and subsequently released on OSUP on November 17, 2005. *Id.* ¶ 14. That is a total of around 3 months. His OSUP release was revoked on or around November 14, 2025, and he has since been in DHS's custody. *Id.* ¶ 19. That is another month or so. That means Petitioner has been in custody for a little over 4 months total so far. Having such a short total detention time, he cannot prove "there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701; *accord Nguyen*, No. 5:25-cv-03109-MCS-ADS, Docket No. 12 at 6 (C.D. Cal. Dec. 1, 2025) (denying TRO, finding "five months of detention" as "presumptively reasonable under *Zadvydas*").

In any event, the government's authority to detain an alien for removal purposes pursuant to a final removal order does not end at six months under *Zadvydas*, but rather continues so long as it is "reasonable":

> 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.

Id. 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.* (bold 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). Petitioner cannot carry his burden to show so here.

Petitioner merely complains that his current detention under 8 U.S.C. § 1231(a)(6) for purposes of enforcing his final removal order is "unreasonable" because the government cannot remove him to Vietnam in the foreseeable future: Petitioner's main idea is that over two decades ago, the government released him when he could not be removed to Vietnam, so he cannot now be removed in 2025. *See, e.g.*, Petition at 7-8. That idea is a nonstarter. Courts 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*, No. 16-02186-KS, 2017 WL 11696616, at *3 (C.D. Cal. Apr. 19, 2017) (collecting cases).[3]

[3] Historically, there were political barriers to removing citizens of Vietnam as well as other Southeast Asian nations. Those barriers generated litigation, and many otherwise removable noncitizens—like Petitioner—were released because they could not be removed. Not so anymore: Those barriers were eventually dismantled. Vietnamese *(footnote cont'd on next page)*

"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); *Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008) (Martinez, J.) (denying *Zadvydas* petition where petitioner had been detained more than 14 months postfinal order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D. Wash. May 28, 2013) (Martinez, J.) (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-order).

Zadvydas does not require Respondents to pre-arrange a noncitizen's removal travel before arresting them, which would often be extremely difficult if not impossible. The constitutional standard is whether there is "a significant likelihood of removal" in the "reasonably foreseeable future"—not whether a removal will occur "imminently"—indeed, the law does not require that "every [noncitizen] not removed must be released after six months." *Id.* Instead, the Supreme Court was clear that the Constitution prevents only "indefinite" or "potentially permanent" detention. *Zadvydas*, 533 U.S. at 689-91. Courts therefore properly deny *Zadvydas* claims under such circumstances. *See, e.g.*, *Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008) (denying

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citizens and citizens of similar regional nations are now readily removed. Not long ago, Judge Carney observed so in his ruling in the putative class action *Trinh v. Homan*, 466 F.3d 1077 (C.D. Cal. 2020), aptly stating as follows:

> The parties now agree that Vietnam does not maintain a blanket policy of refusing to repatriate pre-1995 immigrants. Instead, Vietnam now considers each request from ICE on a case-by-case basis. ICE frequently requests travel documents from Vietnam for pre-1995 immigrants, and Vietnam issues them in a non-negligible portion of cases. Petitioners do not appear to dispute that once Vietnam issues a travel document, removal becomes significantly likely, rendering class members unable to meet their initial burden under *Zadvydas*.

Id. at 1090.

Zadvydas petition where petitioner had been detained more than 14 months post-final order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D. 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 specific date of anticipated removal does not make his detention indefinite. *See Diouf*, 542 F. 3d at 1233. In any case, DHS intends to remove Petitioner to Vietnam, and to that end, his travel documents remain pending for active consideration by Vietnam.[4] Jenson Decl. ¶¶ 21-23.

To that end, effectuating Petitioner's removal is now affirmatively likely. Indeed, pre-1995 Vietnamese immigrants are now routinely removed to Vietnam: 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

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

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").

Accordingly, Petitioner cannot succeed in establishing that his current detention is unreasonable pursuant to the Due Process standard delineated by the Supreme Court in *Zadvydas* for noncitizens detained pursuant to a final removal order.

b. Petitioner cannot show that DHS improperly revoked his OSUP and detained him

Petitioner also asks that the Court order that he be released from immigration detention, on the ostensible grounds that the government improperly revoked his OSUP. But Petitioner submits no evidence of that putative violation. *Cf. Winter*, 555 U.S. at 20 (requiring applicant to show—not merely allege—likelihood of success on the merits). If he were released while the government is seeking to arrange his travel to Vietnam pursuant to a final removal order, that would severely impair—if not outright prevent—the government's ability to timely remove him.

Petitioner suggests that revocation procedure was not followed properly. Petition at 11-13. But he submits no evidence of that. Nor can he—after all, he was *immediately* issued a Notice of Revocation of Release upon his detention, *see* Jenson Decl., Ex. A. Expectedly, his Notice of Revocation of Release notified him of changed circumstances in his case, including the BIA's denial of his removal order appeal on September 20, 2024, and also that he: "can be expeditiously removed from the United States pursuant to the outstanding order of removal against [him] on November 30, 1998". *Id.* The foregoing process is more than sufficient under the relevant regulations and the U.S. Constitution—and no more process is due to him. *See, e.g.*, 8 C.F.R § 241.13(i)(3).

To be sure, the government has very broad authority to revoke supervised release that it has granted. *Cf. Moran v. U.S. Dep't of Homeland Sec.*, No. 20-00696, 2020 WL 6083445, at *9 (C.D. Cal. Aug. 21, 2020) (dismissing petitioners' claim that § 241.4(l) [revocation of release] was a violation of their procedural due process rights and noting, "[Petitioners] fail to point to any constitutional, statutory, or regulatory authority to

support their contention that they have a protected interest in remaining at liberty in the United States while they have valid removal orders."). "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." *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). Indeed, the relevant statute under the INA does not contemplate a pre-detention hearing. *See, e.g.*, 8 U.S.C. § 1231.

The Hon. Judge Blumenfeld denied an injunction in a case alleging insufficient re-detention process, noting that the evidentiary burden was not met, and also that it was unclear that release would be the appropriate remedy for any violations of revocation procedure. *See Ton v. Noem*, No. 5:25-CV-02033-SB-AGR, 2025 WL 2995068, at *4-5 (C.D. Cal. Sept. 3, 2025) (denying application for preliminary injunction, noting that "Petitioner has not shown that release is the appropriate remedy for any APA violation"). The burden is on the moving party to show that ordering release via a TRO would be narrowly tailored to rectifying a deficiency that was proven under the heavy standard for preliminary injunctive relief. Speculating that the revocation of release was not fully satisfactory in all possible respects is insufficient to carry that burden. The Hon. Judge Birotte likewise recently denied an application seeking a TRO based on allegedly defective revocation of supervised release for a noncitizen detained pursuant to a final removal order, explaining why it did not meet the governing legal standard. *See Sanchez v. Bondi*, No. 5:25-CV-02530-AB-DTB, 2025 WL 3190816, at *3 (C.D. Cal. Oct. 3, 2025) ("While the regulations cited by Petitioner, 8 C.F.R. §§ 241.13(i)(1)–(2) and 241.4, establish procedural safeguards—including the requirements that revocation be based on a condition of release violation or on a significant likelihood of removal, and that the noncitizen receive notice and an informal interview—they do not create independent

substantive rights that override the statutory grant of detention authority.").

Finally, 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. Injunctive relief must be *narrowly tailored* to the wrong. *See, e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022). Other District Courts have correctly applied this point of remedy law. 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 the 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.*

So too here. Even if procedural deficiencies had hypothetically occurred—which they did not—they would not warrant Petitioner's release and indeed could be cured by means well short of release. At a minimum, any relief for any past procedural irregularity is now unwarranted.

2. The Balance of Interests Favors 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[.]"). This public interest outweighs Petitioner's private interest here.

V. CONCLUSION

Respondents respectfully request that the Court deny the Application.

Respectfully submitted,

Dated: December 15, 2025

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondents, certifies that the memorandum of points and authorities contains 4,394 words, which complies with the word limit of L.R. 11-6.1.

Dated: December 15, 2025

/s/ Whitney Wakefield
WHITNEY WAKEFIELD