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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Tuan Bui,
Petitioner,
v.
Kristi Noem, et al.,
Respondents.

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

**RESPONDENTS' OPPOSITION TO
PETITIONER'S "RENEWED" EX
PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
[Dkt. no. 12]**

[Declaration of Christopher Jenson filed
concurrently]

Hon. R. Gary Klausner
United States District Judge

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1 **I. INTRODUCTION**

2 By order dated December 15, 2025 [Dkt. no. 9], the Court denied Petitioner’s *ex*
3 *parte* application for a temporary restraining order, correctly explaining why Petitioner
4 had not met the standard established by *Mission Power Eng’g Co. v. Cont’l Cas. Co.*,
5 883 F. Supp. 488 (C.D. Cal. 1995).

6 As background, the Public Defender’s Office had filed this action as “proposed”
7 counsel, and simultaneously filed an *ex parte* application for a temporary restraining
8 order affirmatively requesting that the Court immediately issue a TRO against the
9 Respondents. The TRO application contained severe procedural deficiencies shared by
10 the numerous similar *ex parte* TRO applications that the office has recently filed in this
11 District, regardless of the type and duration of the underlying claim at issue.¹ As the
12 Court’s order [Dkt. no. 9] explained, such a filing does not meet the *Mission Power* test
13 without a specific showing.

14 Unhappy with the Court’s ruling, Petitioner’s counsel has filed a “renewed” TRO
15 Application [Dkt. no. 10]. The “renewed” TRO application is in reality largely a
16 defective motion for reconsideration, one which violates Local Rule 7-18.

17 But in any event, insofar as Petitioner suggests that every habeas claim for
18 unconstitutional detention under *Zadvydas v. Davis*, 533 U.S. 678 (2001) inherently
19 satisfies the *Mission Power* standard—since the lawyer claims their client is not lawfully
20 detained, and is thus subject to an irreparable harm that must instantly cease—that is
21 inconsistent with *Mission Power*, which does not permit depriving the Respondents of
22 their rights to a fair defense, nor depriving the Court of a proper record and basis for
23 decision-making on important claims. Civil defendants are not presumed guilty, via
24 accusation, until they are proven innocent. And a *Mission Power* emergency does not

25 _____
26 ¹ For example, they typically lack a supporting declaration regarding the facts relied
27 upon, and yet request a TRO be *immediately* issued based on allegations by counsel who
28 purportedly “verify” the petition’s accuracy regarding facts that the counsel has no
personal knowledge of—i.e., they demand relief based on accusations made by counsel,
rather than on sworn testimony of witnesses.

1 arise the instant that Petitioner’s counsel happens to finish drafting a brief, per the
2 demands of their work schedule, regardless of the duration of the detention at issue,
3 regardless of the claim, and regardless of its purpose. The Supreme Court was clear in
4 *Zadvydas* that the length of detention that is reasonable for purposes of enforcing a final
5 removal order is not a simple black-and-white issue, but rather over the period of months
6 the strength of the claim (after six months) increases. It is not an unforeseen emergency
7 violation that arises whenever a lawyer happens to finish a brief.

8 That said, the Renewed TRO Application does raise one new argument: That
9 Petitioner is now not receiving a certain medication, which he had received after he
10 arrived at Adelanto, but stopped receiving two weeks ago. While providing medication
11 to detainees is certainly a very significant issue, there are two overwhelming problems
12 with that argument. **First**, it is not a basis for a habeas claim; there is no jurisdiction for
13 it. *See Pinson v. Carvajal*, 69 F.4th 1059, 1073 (9th Cir. 2023). As the Ninth Circuit
14 held, such claims lie outside the historic core of habeas corpus, for which the only
15 available remedy is release, and thus the district court lacked jurisdiction to hear the
16 petition regarding conditions of confinement. *Id.* at 1075. *See also Rhodes v. Pfeiffer*,
17 No. CV 14-7687-JGB-KK, 2020 WL 4018608, at *2 (C.D. Cal. May 6, 2020)
18 (“Petitioner’s Motion essentially presents a challenge to the conditions of his
19 confinement, which may not be addressed in this habeas corpus action.”).

20 **Second**, and relatedly, when a detainee is concerned about medical care (which
21 can of course be a legitimate concern), their remedy is to *request the care immediately as*
22 *if it were indeed important*, both through the administrative system and (potentially)
23 legal system. By contrast, the remedy is not try to leverage such a claim, through
24 counsel, in the form of a demand for immediate release from custody, while *not even*
25 *requesting provision of the care at issue*. Conspicuously, and concerningly, the Renewed
26 TRO Application does not even ask for the medication at issue to be provided via Court
27 order. Asking for the care to be promptly provided would mean the care might then be
28

1 provided—thus negating the basis for their request for release. But medical claims, while
2 potentially very serious, are not ammunition to save for habeas claims.

3 Finally, the Respondents herein reiterate the arguments and evidence they already
4 previously submitted in opposition [Dkt. no. 9] to Petitioner’s first TRO application, as
5 Petitioner has repeated his TRO claims.

6 Accordingly, the “Renewed” TRO Application is defective and should be denied.

7 **II. LEGAL STANDARD**

8 A temporary restraining order (“TRO”) is an “extraordinary remedy that may only
9 be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v.*
10 *Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008); *see also Lum v. Mercedes-Benz USA,*
11 *LLC*, 2012 WL 13012454, at *1 (C.D. Cal. Jan. 5, 2012) (“The opportunities for
12 legitimate *ex parte* applications are extremely limited.”). The standard for issuing a TRO
13 is “substantially identical” to that for issuing a preliminary injunction. *Stuhlberg Int’l*
14 *Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A court may
15 grant preliminary injunctive relief to prevent “immediate and irreparable injury.” Fed. R.
16 Civ. P. 65(b). To obtain this relief, a plaintiff must establish the “*Winter*” factors: (1) the
17 plaintiff “is likely to succeed on the merits”; (2) the plaintiff “is likely to suffer
18 irreparable harm in the absence of preliminary relief”; (3) “the balance of equities tips in
19 [the plaintiff’s] favor”; and (4) “an injunction is in the public interest.” *Am. Trucking*
20 *Ass’n, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting *Winter*,
21 555 U.S. at 20). “Because it is a threshold inquiry, when a plaintiff has failed to show the
22 likelihood of success on the merits, [a court] need not consider the remaining three
23 *Winter* elements.” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (en banc)
24 (cleaned up).

1 **III. ARGUMENT**

2 **A. A *Zadvydas* Claim For Unconstitutionally Prolonged Detention Is Not,**
3 **Barring Extraordinary Circumstances, An Unforeseeable Emergency**
4 **Requiring *Ex Parte* Relief Under the *Mission Power* Standard**

5 To justify *ex parte* relief, a litigant must demonstrate it “is without fault in
6 creating the crisis that requires *ex parte* relief, or that the crisis occurred as a result of
7 excusable neglect.” *Mission Power Engineering Co. v. Continental Cas. Co.*, 883 F.
8 Supp. 488, 492 (C.D. Cal. 1995).

9 While excessively prolonged detention pursuant to efforts to enforce a final
10 removal can rise to the level of being unconstitutional—which is indeed a serious
11 harm—the Supreme Court could not have been more clear in *Zadvydas* that there is a
12 crucial countervailing interest at stake, one which determines the timing and duration of
13 detention that is assessed as reasonable or not: It is lawful to detain noncitizens for
14 purposes of enforcing a final removal order, and such detention is presumptively
15 reasonable for up to six months, and can remain reasonable thereafter pursuant to a
16 contested evidence. Petitioner’s suggestion that counsel’s belief that a removal of their
17 client is not reasonably foreseeable constitutes an immediate “emergency” that could not
18 possibly be brought on a normal schedule is contrary to the *Zadvydas* framework
19 articulated by the Supreme Court.

20 A *Zadvydas* claim instead involves a *balance*—as the Supreme Court explained—
21 of assessing the important competing interests that must BOTH be considered by the
22 District Court. Civil defendants facing a demand to impose the extraordinary remedy of
23 immediate injunctive relief against them have rights that must be considered too; the
24 rights of defendants are important, and cannot be cast aside on the theory that one’s
25 client is right and the other side is wrong. Petitioner’s Renewed TRO Application
26 essentially ignores the opposing government and public’s interest in enforcing removal
27 orders, but the consideration of that interest—of the defendant’s rights—is a critical part
28

1 of the *Zadvydas* claim that Petitioner has asserted as the putative basis for granting
2 habeas relief via a TRO. With the total increased length of detention, the strength of the
3 detainee’s claim grows, relative to the government’s corresponding interest in enforcing
4 a removal order. From a *Mission Power* perspective, there is thus normally no
5 instantaneous and unforeseeable emergency requiring instant decisions on a faulty
6 record. Nor is the preferred schedule and the brief-drafting timeline of Petitioner’s
7 counsel, relative to their various other responsibilities, what constitutes an unavoidable
8 emergency for the Respondents and the Court to cater to.

9 Indeed, the government’s authority to detain an alien for removal purposes
10 pursuant to a final removal order does not end at six months under *Zadvydas*, but rather
11 continues so long as it is “reasonable”:

12 After this 6–month period, once the alien provides good reason to believe
13 that there is no significant likelihood of removal in the reasonably
14 foreseeable future, the Government must respond with evidence sufficient to
15 rebut that showing. And for detention to remain reasonable, as the period of
16 prior postremoval confinement grows, what counts as the “reasonably
17 foreseeable future” conversely would have to shrink. This 6–month
18 presumption, of course, does not mean that every alien not removed must be
19 released after six months. To the contrary, an alien may be held in
20 confinement until it has been determined that there is no significant
21 likelihood of removal in the reasonably foreseeable future.

22 *Id.* at 701. Thus, the noncitizen “may be held in confinement until it has been determined
23 that there is ***no significant likelihood of removal in the reasonably foreseeable future.***”

24 *Id.* (bold italic emphasis added). The Ninth Circuit has explained that the *Zadvydas*
25 language requires an alien to show that “he is stuck in a ‘removable-but-unremovable
26 limbo,’ as the petitioners in *Zadvydas* were[;]” that is, the alien must show he “is
27 unremovable because the destination country will not accept him or his removal is barred
28

1 by our own laws.” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008).

2 “This is particularly so where the only impediment to removal is the issuance of
3 the appropriate travel document.” *Id.* (citing *Nasr v. Larocca*, 2016 WL 3710200 (C.D.
4 Cal. June 1, 2016), *report and recommendation adopted*, 2016 WL 3704675 (C.D. Cal.
5 July 11, 2016)). That Petitioner does not yet have a specific date of anticipated removal
6 does not make the detention indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th
7 Cir. 2008); *Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008)
8 (Martinez, J.) (denying *Zadvydas* petition where petitioner had been detained more than
9 14 months postfinal order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D.
10 Wash. May 28, 2013) (Martinez, J.) (holding petitioner “failed to satisfy his burden of
11 showing that there is no significant likelihood of his removal in the reasonably
12 foreseeable future” where he had been detained more than seven months post-order).

13 Petitioner suggests that because the government is allegedly acting unlawfully by
14 detaining him, therefore the *Mission Power* standard is met. But the *Mission Power*
15 standard does not turn on whether lawyers may insist that their client’s claims are
16 meritorious. Every legal claim normally involves the belief that the other side has done
17 something wrong. Rather the *Mission Power* test involves showing, as legal process, that
18 the issue could not have been brought in a normal manner, and that the interests at stake
19 require immediate resolution.

20 Many TRO applications certainly do involve exigent circumstances, e.g. imminent
21 removal where there is an appellate stay, or something of the sort. In that regard,
22 numerous immigration TRO applications are submitted in this District that meet no
23 objection from the government on *Mission Power* grounds. But it must nonetheless be
24 *shown*, and not just facilely presumed, that both in its substance and in the timing of its
25 filing and adjudication the demanding *Mission Power* standard is met. *Zadvydas* claims
26 normally can be brought on a regular motion schedule, and Petitioner does not
27 demonstrate otherwise here (and certainly not via motion for reconsideration). To
28

1 maintain that every time an attorney wants to file a *Zadvydas* claim asserting that a
2 detention is unconstitutional, they thus meet the *Mission Power* standard and are entitled
3 to file for *ex parte* relief the moment that counsel may happen to finish drafting a brief,
4 entirely irrespective of the timing needs of the District Court and of the opposing
5 Respondents—as the Public Defender’s Office has consistently done in this District in
6 this and many similar cases—is in plain derogation of the *Mission Power* standard, and it
7 inflicts unjustified and serious damage on basic mechanisms of civil justice. It also
8 disregards the balance of important competing interests, and their timing, that the
9 Supreme Court had set forth in *Zadvydas*.

10 Accordingly, Petitioner’s “Renewed” TRO Application should be denied for this
11 threshold basis.

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

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

14 a. *Petitioner cannot show that “there is no significant likelihood of*
15 *removal in the reasonably foreseeable future”*

16 Petitioner cannot succeed on his claim that he cannot be removed to Vietnam in
17 the reasonably foreseeable future. As an initial matter, he has not yet been detained over
18 the six-months of presumptively reasonable removal order detention period that is
19 required to shift the burden to the government to show that removal is likely in the
20 reasonably foreseeable future: His order of removal became final on September 19,
21 2001. Jenson Decl. ¶ 10. He was not detained at this time, as he was released on bond.
22 *Id.* ¶ 9. Petitioner was brought into ICE custody on August 15, 2005, and subsequently
23 released on OSUP on November 17, 2005. *Id.* ¶ 14. That is a total of around 3 months.
24 His OSUP release was revoked on or around November 14, 2025, and he has since been
25 in DHS’s custody. *Id.* ¶ 19. That is another month or so. That means Petitioner has been
26 in custody for a little over 4 months total so far. Having such a short total detention time,
27 he cannot prove “there is no significant likelihood of removal in the reasonably
28

1 foreseeable future.” *Zadvydas*, 533 U.S. at 701; *accord Nguyen*, No. 5:25-cv-03109-
2 MCS-ADS, Docket No. 12 at 6 (C.D. Cal. Dec. 1, 2025) (denying TRO, finding “five
3 months of detention” as “presumptively reasonable under *Zadvydas*”).

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

7 After this 6-month period, once the alien provides good reason
8 to believe that there is no significant likelihood of removal in
9 the reasonably foreseeable future, the Government must
10 respond with evidence sufficient to rebut that showing. And for
11 detention to remain reasonable, as the period of prior
12 postremoval confinement grows, what counts as the
13 “reasonably foreseeable future” conversely would have to
14 shrink. This 6-month presumption, of course, does not mean
15 that every alien not removed must be released after six months.
16 To the contrary, an alien may be held in confinement until it has
17 been determined that there is no significant likelihood of
18 removal in the reasonably foreseeable future.

19 *Id.* at 701. Thus, the noncitizen “may be held in confinement until it has been determined
20 that there is ***no significant likelihood of removal in the reasonably foreseeable future.***”

21 *Id.* (bold italic emphasis added). The Ninth Circuit has explained that the *Zadvydas*
22 language requires an alien to show that “he is stuck in a ‘removable-but-unremovable
23 limbo,’ as the petitioners in *Zadvydas* were[;]” that is, the alien must show he “is
24 unremovable because the destination country will not accept him or his removal is barred
25 by our own laws.” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008).
26 Petitioner cannot carry his burden to show so here.

27 Petitioner merely complains that his current detention under 8 U.S.C. § 1231(a)(6)
28

1 for purposes of enforcing his final removal order is “unreasonable” because the
2 government cannot remove him to Vietnam in the foreseeable future: Petitioner’s main
3 idea is that over two decades ago, the government released him when he could not be
4 removed to Vietnam, so he cannot now be removed in 2025. *See, e.g.*, Petition at 7-8.
5 That idea is a nonstarter. Courts properly deny *Zadvydas* claims under such
6 circumstances and find that a “habeas petitioner’s assertion as to the unforeseeability of
7 removal, supported only by the mere passage of time, [is] insufficient to meet the
8 petitioner’s burden to demonstrate no significant likelihood of removal under the
9 Supreme Court’s holding in *Zadvydas*.” *Muthalib v. Kelly*, No. 16-02186-KS, 2017 WL
10 11696616, at *3 (C.D. Cal. Apr. 19, 2017) (collecting cases).²

11 “This is particularly so where the only impediment to removal is the issuance of
12 the appropriate travel document.” *Id.* (citing *Nasr v. Larocca*, 2016 WL 3710200 (C.D.
13 Cal. June 1, 2016), *report and recommendation adopted*, 2016 WL 3704675 (C.D. Cal.
14 July 11, 2016)). That Petitioner does not yet have a specific date of anticipated removal
15 does not make his detention indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th
16 Cir. 2008); *Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008)
17 (Martinez, J.) (denying *Zadvydas* petition where petitioner had been detained more than
18 14 months postfinal order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D.

19 ² Historically, there were political barriers to removing citizens of Vietnam as well
20 as other Southeast Asian nations. Those barriers generated litigation, and many
21 otherwise removable noncitizens—like Petitioner—were released because they could not
22 be removed. Not so anymore: Those barriers were eventually dismantled. Vietnamese
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:

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

28 *Id.* at 1090.

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

4 *Zadvydas* does not require Respondents to pre-arrange a noncitizen’s removal
5 travel before arresting them, which would often be extremely difficult if not impossible.
6 The constitutional standard is whether there is “a significant likelihood of removal” in
7 the “reasonably foreseeable future”—not whether a removal will occur “imminently”—
8 indeed, the law does not require that “every [noncitizen] not removed must be released
9 after six months.” *Id.* Instead, the Supreme Court was clear that the Constitution prevents
10 only “indefinite” or “potentially permanent” detention. *Zadvydas*, 533 U.S. at 689-91.
11 Courts therefore properly deny *Zadvydas* claims under such circumstances. *See, e.g.,*
12 *Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008) (denying
13 *Zadvydas* petition where petitioner had been detained more than 14 months post-final
14 order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D. Wash. May 28,
15 2013) (holding petitioner “failed to satisfy his burden of showing that there is no
16 significant likelihood of his removal in the reasonably foreseeable future” where he had
17 been detained more than seven months post-final order). That Petitioner does not yet
18 have a specific date of anticipated removal does not make his detention indefinite. *See*
19 *Diouf*, 542 F. 3d at 1233. In any case, DHS intends to remove Petitioner to Vietnam, and
20 to that end, his travel documents remain pending for active consideration by Vietnam.³
21 Jenson Decl. ¶¶ 21-23.

22 To that end, effectuating Petitioner’s removal is now affirmatively likely. Indeed,
23 pre-1995 Vietnamese immigrants are now routinely removed to Vietnam: When
24 petitions have been filed in this District claiming that Vietnam does not accept such
25 removals, they have been proven incorrect and mooted by the government’s prompt
26 removal of the petitioner to Vietnam. *See, e.g., Huynh v. Semaia, et al.*, 2:24-cv-10901-

27
28 ³ Due to this reason, DHS has not made any request for removal to a third country.

1 MRA-DFM (petition by Vietnamese national asserting *Zadvydas* claim mooted by
2 removal to Vietnam); *Le Van Minh v. DHS, et al.*, 5:25-cv-02245-HDV-JDE (August 18,
3 2025 petition by Vietnamese national mooted by September 2, 2025 removal of
4 petitioner to Vietnam); *Tan Minh Vo v. DHS et al.*, 5:25-cv-02791-SVW-MBK (petition
5 by Vietnamese national asserting *Zadvydas* claim mooted by November 5, 2025 removal
6 of petitioner to Vietnam). In *Huynh*, for example, the petition was held in abeyance to
7 see if the government could timely remove the Vietnamese petitioner—consistent with
8 the Supreme Court’s directives in *Zadvydas*. *See Huynh*, Docket No. 11 (C.D. Cal. Mar.
9 19, 2025). He was indeed promptly removed to Vietnam, mooting his petition, which
10 was then dismissed. *See id.*, Docket No. 12 (C.D. Cal. Apr. 9, 2025); *accord Nguyen*,
11 No. 5:25-cv-03109-MCS-ADS, Docket No. 12 at 6 (C.D. Cal. Dec. 1, 2025) (denying
12 TRO where, as here, “Respondents cite[d] other instances in recent months in which the
13 United States has effected the removal of pre-1995 Vietnamese immigrants to Vietnam,”
14 noting that “the Court cannot determine on this record ‘that there is no significant
15 likelihood’ that Petitioner will be removed from the United States in the reasonably
16 foreseeable future”).

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

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

22 Petitioner also asks that the Court order that he be released from immigration
23 detention, on the ostensible grounds that the government improperly revoked his OSUP.
24 But Petitioner submits no evidence of that putative violation. *Cf. Winter*, 555 U.S. at 20
25 (requiring applicant to show—not merely allege—likelihood of success on the merits). If
26 he were released while the government is seeking to arrange his travel to Vietnam
27 pursuant to a final removal order, that would severely impair—if not outright prevent—
28

1 the government’s ability to timely remove him.

2 Petitioner suggests that revocation procedure was not followed properly. Petition
3 at 11-13. But he submits no evidence of that. Nor can he—after all, he was *immediately*
4 issued a Notice of Revocation of Release upon his detention, *see* Jenson Decl., Ex. A.
5 Expectedly, his Notice of Revocation of Release notified him of changed circumstances
6 in his case, including the BIA’s denial of his removal order appeal on September 20,
7 2024, and also that he: “can be expeditiously removed from the United States pursuant to
8 the outstanding order of removal against [him] on November 30, 1998”. *Id.* The
9 foregoing process is more than sufficient under the relevant regulations and the U.S.
10 Constitution—and no more process is due to him. *See, e.g.*, 8 C.F.R § 241.13(i)(3).

11 To be sure, the government has very broad authority to revoke supervised release
12 that it has granted. *Cf. Moran v. U.S. Dep’t of Homeland Sec.*, No. 20-00696, 2020 WL
13 6083445, at *9 (C.D. Cal. Aug. 21, 2020) (dismissing petitioners’ claim that § 241.4(l)
14 [revocation of release] was a violation of their procedural due process rights and noting,
15 “[Petitioners] fail to point to any constitutional, statutory, or regulatory authority to
16 support their contention that they have a protected interest in remaining at liberty in the
17 United States while they have valid removal orders.”). “While the regulation provides
18 the detainee some opportunity to respond to the reasons for revocation, it provides no
19 other procedural and no meaningful substantive limit on this exercise of discretion as it
20 allows revocation “when, in the opinion of the revoking official . . . [t]he purposes of
21 release have been served . . . [or] [t]he conduct of the alien, or *any other circumstance*,
22 indicates that release would no longer be appropriate.” *Rodriguez v. Hayes*, 578 F.3d
23 1032, 1044 (9th Cir. 2009), *opinion amended and superseded*, 591 F.3d 1105 (9th Cir.
24 2010) (citing § 241.4(l)(2)(i), (iv)) (emphasis in original). Indeed, the relevant statute
25 under the INA does not contemplate a pre-detention hearing. *See, e.g.*, 8 U.S.C. § 1231.

26 The Hon. Judge Blumenfeld denied an injunction in a case alleging insufficient re-
27 detention process, noting that the evidentiary burden was not met, and also that it was
28

1 unclear that release would be the appropriate remedy for any violations of revocation
2 procedure. *See Ton v. Noem*, No. 5:25-CV-02033-SB-AGR, 2025 WL 2995068, at *4-5
3 (C.D. Cal. Sept. 3, 2025) (denying application for preliminary injunction, noting that
4 “Petitioner has not shown that release is the appropriate remedy for any APA violation”).
5 The burden is on the moving party to show that ordering release via a TRO would be
6 narrowly tailored to rectifying a deficiency that was proven under the heavy standard for
7 preliminary injunctive relief. Speculating that the revocation of release was not fully
8 satisfactory in all possible respects is insufficient to carry that burden. The Hon. Judge
9 Birotte likewise recently denied an application seeking a TRO based on allegedly
10 defective revocation of supervised release for a noncitizen detained pursuant to a final
11 removal order, explaining why it did not meet the governing legal standard. *See Sanchez*
12 *v. Bondi*, No. 5:25-CV-02530-AB-DTB, 2025 WL 3190816, at *3 (C.D. Cal. Oct. 3,
13 2025) (“While the regulations cited by Petitioner, 8 C.F.R. §§ 241.13(i)(1)–(2) and
14 241.4, establish procedural safeguards—including the requirements that revocation be
15 based on a condition of release violation or on a significant likelihood of removal, and
16 that the noncitizen receive notice and an informal interview—they do not create
17 independent substantive rights that override the statutory grant of detention authority.”).

18 Finally, the appropriate remedy for any such procedural deficiency would not be
19 automatic release from custody, but rather to remedy the specific procedural deficiency
20 that might be established. Injunctive relief must be *narrowly tailored* to the wrong. *See,*
21 *e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022). Other District
22 Courts have correctly applied this point of remedy law. In *Ahmad v. Whitaker*, for
23 example, the government revoked the petitioner’s release but did not provide him an
24 informal interview. *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4,
25 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner
26 argued the revocation of his release was unlawful because, he contended, the federal
27 regulations prohibited re-detention without, among other things, an opportunity to be
28

1 heard. *Id.* In rejecting his claim, the court held that although the regulations called for an
2 informal interview, petitioner could not establish “any actionable injury from this
3 violation of the regulations” because the government had procured a travel document for
4 the petitioner, and his removable was reasonably foreseeable. *Id.* Similarly, in *Doe v.*
5 *Smith*, the U.S. District Court for the District of Massachusetts held that even if the ICE
6 detainee petitioner had not received a timely interview following her return to custody,
7 there was “no apparent reason why a violation of the regulation . . . should result in
8 release.” *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court
9 elaborated: “[I]t is difficult to see an actionable injury stemming from such a violation.
10 Doe is not challenging the underlying justification for the removal order. . . . Nor is this a
11 situation where a prompt interview might have led to her immediate release—for
12 example, a case of mistaken identity.” *Id.*

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

17 2. The Balance of Interests Favors Respondents

18 It is well settled that the public interest in enforcement of the United States’s
19 immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S.
20 543, 556–58 (1976); *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C.
21 Cir. 1981) (“The Supreme Court has recognized that the public interest in enforcement
22 of the immigration laws is significant.”) (citing cases); *see also Nken v. Holder*, 556 U.S.
23 418, 435 (2009) (“There is always a public interest in prompt execution of removal
24 orders[.]”). This public interest outweighs Petitioner’s private interest here.

25 **IV. CONCLUSION**

26 Respondents respectfully request that Petitioner’s Renewed TRO Application be
27 denied.

1 Dated: December 19, 2025

2 Respectfully submitted,

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17 **CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2**

18 The undersigned, counsel of record for Respondents, certifies that the
19 memorandum of points and authorities contains 4,800 words, which complies with the
20 word limit of L.R. 11-6.1.

21 Dated: December 19, 2025

22 /s/ Whitney Wakefield
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