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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 TUAN BUI

13 Petitioner,

14 v.

15 KRISTI NOEM, et al.

16 Respondents,
17

No. 5:25-cv-3370-RGK-AJR

**SECOND RENEWED APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION
[EXHIBITS]**

18 On December 15, this Court denied Bui’s first application for a temporary
19 restraining order (“TRO”) and preliminary injunction (“PI”), stating that he had
20 failed to meet the test for ex parte relief under *Mission Power Eng’g Co. v. Cont’l*
21 *Cas. Co.*, 883 F. Supp. 488 (C.D. Cal. 1995) (ECF No. 7 at 2. Bui then filed a
22 renewed application for a TRO. (ECF No. 12). On December 22, this Court issued a
23 decision on the renewed application in which it found that Bui had met the *Mission*
24 *Power* standard for ex parte relief but denied the application because he had failed to
25 explain, beyond referencing his petition, why he was likely to succeed on the merits
26 of the claims he raised in the petition. (ECF No. 14).
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1 Bui here renews his application for a TRO and a PI to set forth in detail why
2 he is likely to succeed on the merits of the claims in his habeas petition. Bui also
3 alleges he meets the *Mission Power* standard for ex parte relief.

4 **I. BUI MEETS THE STANDARD FOR GRANTING A TRO**

5 On December 12, Bui filed a petition under 28 U.S.C. § 2241. Because he is
6 very likely to prevail on at least one of his claims, he respectfully asks this Court to
7 (1) issue a TRO ordering Respondent to: (a) immediately release Petitioner from
8 custody, (b) refrain from removing Petitioner from the United States or taking him
9 from the Central District of California, (c) restore Petitioner to the status quo prior to
10 his detention by reinstating his prior order of supervision; and (d) show cause why
11 Petitioner’s application for a PI should not be granted; (2) ultimately grant Petitioner
12 a PI; and (3) waive bond.

13 “A plaintiff seeking a preliminary injunction must establish that he is likely to
14 succeed on the merits, that he is likely to suffer irreparable harm in the absence of
15 preliminary relief, that the balance of equities tips in his favor, and that an injunction
16 is in the public interest.” *Planned Parenthood Great Northwest v. Labrador*, 122
17 F.4th 825, 843-44 (9th Cir. 2024). “Alternatively, a preliminary injunction may issue
18 where serious questions going to the merits were raised and the balance of hardships
19 tips sharply in plaintiff’s favor if the plaintiff also shows that there is a likelihood of
20 irreparable injury and that the injunction is in the public interest.” *Id.* at 844. The
21 standards for granting a temporary restraining order are the same as the standards for
22 granting a preliminary injunction. *See O.M. v. Nat’l Women’s Soccer League, LLC*,
23 541 F. Supp. 3d 1171, 1177 (D. Or. 2021).

24 **A. Likelihood of Succeeding on the Merits**

25 Bui is very likely to succeed on the merits of his petition for the reasons set
26 forth below. And this factor, after all, is “the most important factor.” *Chamber of*
27 *Commerce of the United States v. Bonta*, 62 F.4th 473, 481 (9th Cir. 2023).

1 **1. Facts relevant to Bui’s claims**

2 Tuan Bui came to the United States from Vietnam in 1992 as a refugee at the
3 age of 13. Ex. A, Bui Decl. ¶ 3; Ex. B, Jenson Decl. ¶ 4. He eventually gained lawful
4 permanent resident status but was convicted of a crime that led to a removal order
5 against him becoming final in September 2001. Ex. A ¶ 10. Bui was detained by ICE
6 on or about August 15, 2005, after completing a term in state prison. *Id.* ¶ 14. He was
7 released from ICE custody pursuant to an Order of Supervision (“OSUP”) on or
8 about November 17, 2005, after ICE again failed to remove him. *Id.* Over the
9 following two decades, Bui reported to approximately 45 consecutive ICE check-ins
10 without issue. Ex. A ¶ 10. Despite his record of compliance, Bui was informed at his
11 October 30, 2025, ICE check-in that he would be required to wear an ankle monitor.
12 *Id.* ¶ 9. He complied with this condition. *Id.* On November 14, 2025, with no
13 advance notice, he was detained at an ICE check-in. *Id.* ¶ 10; Ex. B ¶ 18.

14 That evening, he was provided with a boilerplate letter stating that
15 circumstances had changed such that ICE could now expeditiously remove him to
16 Vietnam. Ex. A ¶ 11; Ex. C, “Notice of Revocation of Release”. The letter did not
17 indicate there had been any failure to abide by release conditions or that
18 noncompliance played any role in the decision to detain him. *See id.* The letter Bui
19 received provided no information indicating why removal to Vietnam was now
20 likely. *Id.* ¶ 11. There was no suggestion Vietnam had issued a travel document to
21 allow for Bui’s removal. Nor was there any evidence that ICE had taken the first step
22 toward obtaining a travel document from Vietnam. *Id.*

23 In a sworn declaration, ICE deportation officer Christopher Jenson avers that
24 on or about Nov. 27, 2025, “ICE completed and sent a travel document to Vietnam
25 for MAI to its headquarters for review and submission.” (ECF No. 13; Jenson Decl.
26 at ¶ 22.) But Jenson’s declaration makes no representations about efforts to obtain a
27 travel document for Bui as opposed to an individual named “MAI”. Nor does it
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1 provide a timeline within which ICE expects to receive a response from Vietnam
2 whenever a request is sent, or why a potential travel document for “MAI” may be
3 indictive that a similar document would be obtained for Bui as described below.

4 Since being detained nearly a month and a half ago, Bui recalls speaking to
5 someone he believed to be an ICE officer just twice. Ex. A ¶ 12. These brief
6 conversations were limited to this person asking Bui for information about his
7 family, which Bui provided. *Id.* Bui does not recall being given an informal
8 interview to contest the reasons for his detention. *Id.* ¶ 13. Bui has now spent nearly
9 four and a half months in ICE custody since his removal order became final in 2001.
10 *See id.*, ¶¶ 10, 14, 21.

11 **CLAIM ONE: BUI’S CONTINUED DETENTION VIOLATES *ZADVYDAS V.***
12 ***DAVIS* AND 8 C.F.R. § 241.13 AS THERE IS NO SIGNIFICANT LIKELIHOOD**
13 **THAT HE WILL BE DEPORTED TO VIETNAM IN THE REASONABLY**
14 **FORESEEABLE FUTURE.**

15 Bui is very likely to succeed on the first claim for relief in his petition—that
16 his continued detention violates his due process rights under *Zadvydas v. Davis*, 533
17 U.S. 678 (2001) and 8 C.F.R. § 241.13(i)(2)—because there is no significant
18 likelihood that he will be removed to Vietnam in the foreseeable future.

19 The Due Process Clause limits a “[noncitizen’s] post-removal-period detention
20 to a period reasonably necessary to bring about that [noncitizen’s] removal from the
21 United States.” *Zadvydas*, 533 U.S. at 689. Recognizing “an argument can be made
22 for confining any presumption to 90 days,” the Court resolved doubts in favor of a
23 longer presumptively reasonable period of six months. *Id.* at 701. If “[a]fter this 6-
24 month period” the noncitizen “provides good reason to believe there is no significant
25 likelihood of removal in the reasonably foreseeable future, the Government must
26 respond with evidence sufficient to rebut the showing.” *Id.* at 701. If it cannot, then
27 absent other cause for the detention, the government must release him. *Id.*

1 But relief for unduly prolonged detention need not wait six months, for
2 *Zadvydas*'s presumption of reasonableness "is just that—a presumption." *Clark v.*
3 *Martinez*, 543 U.S. 371, 387 (2005) (O'Connor, J., concurring). *Zadvydas* provides a
4 "guide" for lower court determinations, *id.* at 701, "not a prohibition on claims
5 challenging detention less than six months." *Hoang Trinh v. Homan*, 333 F. Supp. 3d
6 984, 994 (C.D. Cal. Sept. 6, 2018). "Multiple courts have reached the same
7 conclusion." *Zavvar*, 2025 WL 2592543.

8 Following the Supreme Court's decision in *Zadvydas*, 8 C.F.R. § 241.13 was
9 issued to govern custody determinations for noncitizens subject to final orders of
10 removal whose initial removal period had expired where there was not a significant
11 likelihood of removal. Continued Detention of Aliens Subject to Final Orders of
12 Removal, 66 Fed. Reg. 56967 (Nov. 14, 2001). Thus, ICE can only re-detain such
13 noncitizens on two grounds: violation of release conditions or a determination "on
14 account of changed circumstances . . . there is a significant likelihood that the alien
15 may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(1)-(2).

16 Here, ICE was unable to remove Bui during the initial 90-day period after his
17 removal order became final in 2001. Consequently, ICE's decision to re-detain him
18 is governed by § 241.13. Respondents do not allege Bui violated the conditions of
19 his release. The sole basis for his re-detention is that ICE now believes it can remove
20 him "expeditiously" based on an unspecified change in circumstances. *See Ex. D.*

21 Respondents offer three pieces of evidence in support of their contention that
22 Bui's removal is not just reasonably foreseeable but "affirmatively likely,"
23 Opposition at *10 (ECF No. 13): (1) the end of certain formal barriers to removing
24 any pre-1995 arrivals from Vietnam, (2) citations to three cases where a habeas
25 petition was mooted when the petitioner was successfully removed to Vietnam, and
26 (3) a vague statement from an ICE deportation officer about Vietnam's granting of
27 an unspecified number of recent requests for travel documents at an unspecified rate
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1 on an unspecified timeline.

2 “Until 2008, Vietnam refused to repatriate Vietnamese immigrants whom the
3 United States had ordered removed.” *Tran v. Scott*, ___ F. Supp. 3d ___, No. 2:24-
4 CV-01886-TMC-BAT, 2025 WL 2898638, at *5 (W.D. Wash. Oct. 12, 2025). While
5 Vietnam agreed in 2008 to consider certain repatriation requests, the agreement
6 excluded Vietnamese immigrants who, like Bui, arrived in the United States before
7 1995. *Id.* Save for a brief period of renegotiations during 2017, during which
8 Vietnam “verbally committed” to considering travel document requests for pre-1995
9 immigrants, ICE continued to “concede[] that ... in general, the removal of these
10 individuals was still not significantly likely.” *Id.* at *6-7.

11 In 2020, a Memorandum of Understanding (“MOU”) was secured with
12 Vietnam, creating a process through which the Vietnamese government could
13 consider *some* pre-1995 Vietnamese immigrants for removal. *See* Ex. D,
14 Memorandum of Understanding. Sections 4 and 6 of the MOU limit consideration
15 for removal to those meeting certain criteria. But not all of these criteria have even
16 been made publicly available. *See Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL
17 2419288, at *14 (W.D. Wash. Aug. 21, 2025). Respondents have not provided these
18 redacted criteria to the Court during the litigation of this case, nor, to counsel’s
19 knowledge, has it done so in other cases, including cases in this district. Sections 6 of
20 the MOU contains additional factors Vietnam considers before accepting an
21 individual who has been ordered removed. Ex. D at 3. These factors are redacted in
22 their entirety from the publicly available version of the MOU. *See id.* Even when a
23 noncitizen *does* meet all these criteria, the MOU provides only
24 that Vietnam has “discretion whether to issue a travel document,” which it exercises
25 “on a case-by-case basis.” *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL
26 1993771, at *5 (E.D. Cal. July 16, 2025).

1 On June 9, 2025, ICE rescinded its policy of finding that pre-1995 Vietnamese
2 immigrants were not likely to be removed in the foreseeable future, in large part
3 based on the 2020 MOU. *See Nguyen v. Scott*, 796 F. Supp. 3d 703, 715 (W.D.
4 Wash. 2025).

5 The Honorable Hernán D. Vera recently addressed Respondents’ position that
6 in light of the 2020 MOU, “[p]re-1995 Vietnamese immigrants are now routinely
7 removed to Vietnam”:

8 The 2020 MOU—which gives Vietnam *total discretion* whether to accept
9 particular non-citizens, and has now been in effect for five years—is not by
10 itself sufficient to show a changed circumstance or a significant likelihood
11 of removal. . . . The record in this case is devoid of concrete information
12 about the criteria that make a particular person eligible for repatriation and
13 that guide Vietnam’s exercise of discretion, which are redacted from the
14 publicly-available version of the MOU.

15 *Nguyen v. Noem*, 8:25-cv-02654-HDV-DSR, at *8 (Dec. 19, 2025) (ECF No. 17)
16 (emphasis added); *accord Luu v. Noem*, 5:25-CV-03145-MEMF-SP (ECF No. 16)
17 (granting TRO) (“Even if the Government can establish that Luu is removable under
18 the 2020 MOU, Vietnam has total discretion whether to accept particular non-
19 citizens so the 2020 MOU is insufficient on its own to show a significant likelihood
20 of removal.”).

21 The same is true here. Respondents have not provided the redacted criteria and
22 factors Vietnam considers nor any individualized analysis of how Bui meets them.
23 Without either of these, there is little basis for concluding that Vietnam will even
24 *consider* exercising its broad discretion
25 to grant a travel document to Bui, let alone a conclusion that they will grant one in
26 the foreseeable future. For this reason, Bui is very likely to succeed on the merits of
27 his claim.
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1 And given deportation officer Jenson’s inexplicable reference to ICE’s request
2 for travel documents for someone other than Bui in his declaration, Respondents are
3 yet to provide any evidence as to when a travel document was requested for Bui.
4 Even if ICE has requested documents for Bui, Jenson’s declaration still provides no
5 timeline for when a decision will be reached and documents issued nor evidence
6 supporting the reasonableness of such a timeline. Without a timeline for the issuance
7 of a travel document, Bui’s removal is plainly not reasonably foreseeable.

8 Next, Respondents’ citations to three cases of recently mooted petitions where
9 a petitioner was removed to Vietnam are inadequate to address the objections raised
10 by the Honorable Judge Vera, *supra*. See Opposition at 10-11 (citing *Huynh v.*
11 *Semaia, et al.*, 2:24-cv-10901-MRA-DFM; *Le Van Minh v. DHS, et al.*, 5:25-cv-
12 02245-HDV-JDE; *Tan Minh Vo v. DHS et al.*, 5:25-cv-02791-SVW-MBK).

13 As the Honorable Dolly Gee observed in granting a preliminary injunction on
14 Monday:

15 “[e]vidence that one person has recently been repatriated, in a vacuum, does
16 little to support the Government’s position without supporting evidence of
17 the percentage of travel document requests for pre-1995 Vietnamese
18 immigrants that are approved or why [Petitioner’s] request for for [*sic*] pre-
19 1995 Vietnamese immigrants that are approved or why Ton’s request for
20 travel documents is similarly situated to Huynh’s in relevant respects.”

21 *Ton v. Noem et al.*, ED CV-25-3348-DMG, at *10-11 (Dec. 22, 2025) (referencing
22 Respondents’ citation to *Huynh v. Semaia*); *accord Hoac*, 2025 WL 1993771, at *5.

23 That Respondents now cite to two more mooted petitions does not establish a
24 likelihood that Bui will be removed to Vietnam. Indeed, in *Nguyen v. Noem*, the
25 Honorable Judge Vera granted a PI where Respondents cited the exact same three
26 cases in their opposition to Nguyen’s application. *Nguyen*, No. 8:25-cv-02654-HDV-
27 DSR (ECF No. 17, at *8.) The court there noted that “beyond this *anecdotal*

1 evidence, the government provides no *statistics* regarding how often it is requesting
2 and receiving travel documents from Vietnam, and no information about whether the
3 people for whom it is receiving those documents are relevantly similar to
4 [petitioner].” *Id.* It concluded that these three citations were “‘hardly persuasive’ to
5 demonstrate changed circumstances, especially without more information on whether
6 those individuals are similar to Petitioner.” *Id.*

7 Determining whether there is a significant likelihood any individual noncitizen
8 can be removed to Vietnam is necessarily a fact-specific analysis given the number
9 of criteria and factors Vietnam weighs in determining whether to issue a travel
10 document. Yet, Respondents provide no indication of how the petitioners who filed
11 the mooted petitions resemble Bui or why the Court ought to conclude from their
12 anecdotal experience that Bui is now significantly likely to be removed 24 years after
13 his removal order became final. Respondents have not presented any compelling
14 reason to reject what ICE conceded until June 2025: the likelihood of removing any
15 given pre-1995 arrival to Vietnam in the foreseeable future is not significant. *See*
16 *Tran*, 2025 WL 2898638, at *5.

17 Even assuming Respondents could point to more, this by itself would not rebut
18 the lack of a substantial likelihood that Bui will be removed promptly. *See Nguyen v.*
19 *Hyde*, No. 25-CV-11470-MJJ, 2025 WL 1725791, at *4 (D. Mass. June 20, 2025)
20 (lack of data on recent removal rates of pre-1995 Vietnamese immigrants
21 undermined Respondents’ argument that removal was likely).

22 Finally, deportation officer Jenson’s assertion that Vietnam “is issuing travel
23 documents when ICE has made such requests for Vietnamese nationals, including
24 those who arrived in the United States prior to 1995”, is so vague it cannot possibly
25 rebut the reasons why Bui’s removal is not reasonably foreseeable. In saying
26 Vietnam “is issuing travel documents when ICE” requests them, it is unclear whether
27 Jenson means a travel document is nearly always forthcoming *or* whether by “is
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1 issuing” he means that at least *some* number of travel documents are being issued as
2 opposed to the previous status quo where few if any were being issued for pre-1995
3 arrivals. If the former, neither Jenson nor Respondents provide any evidence,
4 statistical or otherwise, for that assertion. If the latter, it merely states a point Bui has
5 never contested and which is insufficient to rebut the lack of any significant
6 likelihood that Bui will be removed in the foreseeable future. Further, Jenson
7 provides no basis for concluding that those issued travel documents were similar to
8 Bui in any respect other than that some unspecified number of them were also pre-
9 1995 arrivals. Jenson’s declaration provides no support for Respondents’ argument
10 that Bui’s removal is affirmatively likely.

11 For all these reasons, there is plainly no significant likelihood of Bui being
12 removed, and he is very likely to succeed on the merits of this claim.

13 **CLAIM TWO: THE GOVERNMENT VIOLATED DUE PROCESS AND INS**
14 **REGULATIONS BY RE-DETAINING BUI WITHOUT ADEQUATE NOTICE**
15 **AND OPPORTUNITY TO BE HEARD.**

16 Due process rights extend to noncitizens present in the United States, including
17 those subject to final removal orders. *Zadvydas*, 533 U.S. at 693–94; *Trump v. J.G.G.*,
18 604 U.S. 670, 673 (2025). The fundamental requirements of procedural due process are
19 that a person be afforded notice and opportunity to be heard “at a meaningful time and
20 in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

21 If a noncitizen has been previously released, before reimprisonment, the
22 regulations require the noncitizen “will be notified of the reasons for revocation of his
23 or her release,” and will be given “an initial informal interview promptly after his or her
24 return to Service custody to afford the alien an opportunity to respond to the reasons for
25 revocation stated in the notification.” 8 C.F.R. § 241.4(l)(1); § 241.13(i)(3). ICE is
26 required to follow its own regulations. *United States ex rel. Accardi v. Shaughnessy*,
27 347 U.S. 260, 268 (1954); *Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir. 2004). A court
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1 may review a re-detention decision for compliance with the regulations. *See Phan v.*
2 *Beccerra*, No. 2:25-CV-01757, 2025 WL 1993735, at *3 (E.D. Cal. July 16, 2025);
3 *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023).

4 Bui is very likely to succeed on this claim due to (1) the inadequate notice of the
5 reasons for his re-detention, namely what change in circumstances made his removal
6 suddenly likely, and (2) his deprivation of a post-detention informal interview.

7 The notice Bui received after being detained merely stated ICE could now
8 remove him “expeditiously” but offered no indication of what circumstances had
9 changed to make this true. Ex. C. The same treaty has applied since 2008, and the same
10 MOU has applied since 2020. Respondents have not demonstrated a change of
11 circumstances rendering Bui’s removal significantly likely in the reasonably
12 foreseeable future. Absent compelling evidence for “why obtaining a travel document
13 is more likely this time around[,] Respondents’ intent to eventually complete a travel
14 document request for Petitioner does not constitute a changed circumstance.” *Hoac* at
15 *4 (citing *Liu v. Carter*, No. 25-3036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17,
16 2025)). Here, there is no indication ICE even began drafting a travel document request
17 prior to detaining Bui. Given how fact-specific decisions under the MOU are, ICE
18 could hardly have had the knowledge it purported to have that Bui could be
19 expeditiously removed when there is no evidence it even worked on a travel document
20 request for Bui prior to detaining him.

21 That Bui was not provided with the informal interview required by INA
22 regulations is an independent basis on which Bui is likely to succeed on this claim.
23 Respondents do not contest Bui’s allegation that he did not receive this interview. *See*
24 *Opposition* at 12-14.

25 “[B]ecause officials did not properly revoke petitioner’s release pursuant to the
26 applicable regulations, that revocation has no effect, and [Bui] is entitled to his release
27 (subject to the same Order of Supervision that governed his most recent release).” *Liu*,

1 2025 WL 1696526, at *3; *Quan v. Bowen*, No. 5:25-cv-02546-HDV-PVC (C.D. Cal.
2 Nov. 14, 2025) (ECF No. 14) (“A growing number of courts—including this one—
3 have unequivocally found that the government’s failure to follow its release revocation
4 procedures renders the re-detention unlawful and requires release.”); *Delkash v. Noem*,
5 No. 5:25-cv-01675-HDV-AGR, 2025 WL 2683988, at *5–6 (C.D. Cal. Aug. 28, 2025)
6 (collecting cases); *Hoac*, 2025 WL 1993771, at *4.

7 **B. Irreparable Harm**

8 As this court found in its order concerning Bui’s renewed application for
9 TRO, (ECF No. 14), Bui’s unconstitutional confinement is inflicting irreparable
10 harm. As the Ninth Circuit has recognized, “immigration detention” results in
11 “subpar medical and psychiatric care . . . , [] economic burdens . . . on detainees and
12 their families . . . , and [] collateral harms to children of detainees.” *Hernandez v.*
13 *Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). In Bui’s case, ICE has deprived him of
14 the medication his doctor prescribed him to take daily for his diagnosis of
15 hyperkalemia. *See* Ex. E, Bui Suppl. Decl. ¶¶ 8-12. Hyperkalemia, or abnormally
16 high potassium levels, is a life-threatening condition that can cause irregular heart
17 rhythms, paralysis, or even cardiac arrest if levels are allowed to rise to 6.0
18 millimoles per liter or higher. *See, e.g.*, National Kidney Foundation, “High
19 Potassium (hyperkalemia)”, <https://perma.cc/PCQ9-YMCT>. The range for healthy
20 adults is 3.5 to 5.0. *Id.* Bui was diagnosed with hyperkalemia after lab work showed
21 his potassium levels had reached 5.6 mmol/L. *See* Ex. E ¶ 8; Ex. F, Bui Lab Results.
22 His doctor prescribed him the drug Lokelma (taken daily) to treat his hyperkalemia.
23 Ex. B ¶ 8.

24 Bui told ICE when he was first detained that he needed to take this medication
25 daily. *Id.* For the first two weeks he was detained, he received it. *Id.* ¶ 10. After that,
26 officers told him they had run out of the medication and had to order more. *Id.* It was
27 not explained to Bui how ICE had managed to run out of his medication given Bui
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1 informed ICE the moment he entered ICE custody of his need to take it. *Id.* ¶ 8. For
2 the last two and a half weeks, ICE had not given Bui the medication he needs for his
3 life-threatening condition, nor has ICE provided Bui information about when to
4 expect it. *Id.* ¶ 11.

5 **C. The Balance of Equities and the Public Interest Favor Bui**

6 Finally, when the government is a party, as it is here, “the balance of equities
7 and public interest factors merge.” *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073,
8 1092 (9th Cir. 2014)). The risk of harm to Bui from the extended deprivation of a
9 life-saving medication and the harm inherent in unconstitutional confinement far
10 outweigh the government’s interest in illegally detaining him, for it is “always in the
11 public interest to prevent the violation of a party’s constitutional rights.” *Melendres*
12 *v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). Further, releasing Bui does not
13 prevent Respondents from continuing any efforts to obtain travel document for him.
14 There is no evidence Bui is a flight risk. And given his two decades of compliance
15 with ICE, there is no reason to expect Bui would not continue to assist ICE in any
16 efforts to obtain travel documents for him.

17 **1. Bui Satisfies the *Mission Power* Standard for Ex Parte Relief**

18 To justify ex parte relief in this district, Bui must show: (1) “the evidence must
19 show that the moving party’s cause will be irreparably prejudiced if the underlying
20 motion is heard according to regular noticed motion procedures”; and (2) “it must be
21 established that the moving party is without fault in creating the crisis that requires
22 ex parte relief, or that the crisis occurred as a result of excusable neglect.” *Mission*
23 *Power Eng’g Co. v. Cont’l Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995). Taking
24 the second requirement first, it’s clear who was at fault in creating the crisis that
25 requires expedited relief: the government, who unlawfully re-detained Bui without
26 due process, by failing to provide him proper notice of changed circumstances or an
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1 informal interview at which he could be heard to contest the reasons for his
2 detention. *See* Petition at 11-13.

3 Nor has Bui been negligent in the timing of his application for a TRO. FPD
4 paralegals have conducted intake interviews with several dozen ICE detainees
5 waiting for attorneys to become available to review their cases. *See* Ex. G, Threlkeld
6 Decl. at ¶¶ 2-3. Bui was taken into ICE custody the afternoon of November 14. Bui's
7 wife, Kaitlynn Bui, called the FPD on his behalf on November 17 (less than 72 hours
8 after Bui was detained) after learning the office was consulting on immigration
9 detention cases. *Id.* ¶¶ 4-5. On December 5, undersigned counsel was assigned to
10 Bui's case. *Id.* ¶ 13. Counsel spoke to Kaitlynn the same day and was able to speak
11 at length with Bui the following Monday. *Id.* ¶¶ 14-15, 17. On December 12, counsel
12 was able to speak to Bui again to confirm the veracity of a declaration and obtain
13 Bui's authorization to sign the declaration on his behalf. *Id.* ¶ 19. Counsel filed the
14 petition and application for a TRO the same day. Counsel first learned of Bui's
15 hyperkalemia condition on December 17, when he mentioned that he had spent days
16 with a fever after not being given his medication for more than two weeks. Thus, the
17 only delay in bringing a TRO application attributable to Bui was the three days it
18 took him and his wife to learn the FPD was consulting on 8 U.S.C. § 2241 cases and
19 call requesting assistance on November 17. *Id.* ¶ 20.

20 As this Court found in its previous order (ECF No. 14), ICE's ongoing failure
21 to provide Bui with his hyperkalemia medication satisfies the irreparable prejudice
22 prong.

23 For all these reasons, the Court should:

- 24 (1) Immediately grant Petitioner a temporary restraining order, and order
25 Respondent to:
26 a. Immediately release Petitioner from custody;

- b. Refrain from removing Petitioner from the United States or taking him from the Central District of California;
- c. Restore Petitioner to the status quo prior to his re-detention by reinstating his prior order of supervision; and
- d. Show cause why Petitioner’s application for a preliminary injunction should not be granted.

(2) Ultimately, grant Petitioner a preliminary injunction.

Lastly, Federal Rule of Civil Procedure 65(c) requires that, prior to granting injunctive relief, the Court require a movant to pay security “in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” Fed. R. Civ. P. 65(c); *See* Ex. H. Gómez Decl. This rule “invests the district court with discretion as to the amount of security required, if any.” *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009). The Court should waive the bond requirement here, as it is unlikely that the government will incur any significant cost, and requiring a bond “would have a negative impact on plaintiff’s constitutional rights, as well as the constitutional rights of other members of the public.” *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 738 (C.D. Cal. 1996) (citation omitted)

Respectfully submitted,

CUAUHTEMOC ORTEGA
Federal Public Defender

Dated: December 24, 2025

By: /s/ Colin Threlkeld

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