

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

Luc Quy Tran,

Petitioner,

v.

Warden, Florida Soft Side South, et al.,

Respondents.

Case No: 2:25-cv-01224

**PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION AND INCORPORATED  
MEMORANDUM OF LAW IN SUPPORT THEREOF**

Petitioner Luc Quy Tran respectfully moves this Court for a Temporary Restraining Order and/or Preliminary Injunction under Federal Rule of Civil Procedure 65. Petitioner submits this motion in conjunction with a verified petition for a writ of habeas corpus, ECF No. 1. Petitioner seeks the entry of a temporary restraining order that:

- 1) Enjoins Respondents, and all of their officers, agents, servants, employees, attorneys, successors, assigns, and persons acting in concert or

participation with them, from removing Petitioner from this District and from the United States pending this action.

- 2) Enjoins Respondents, and all of their officers, agents, servants, employees, attorneys, successors, assigns, and persons acting in concert or participation with them, from removing Petitioner to a third country without meaningful notice and opportunity to present a fear-based claim of persecution or torture in the designated third country.
- 3) In the alternative, enjoins Respondents, and all of their officers, agents, servants, employees, attorneys, successors, assigns, and persons acting in concert or participation with them, from removing Petitioner without providing him with 7-days' notice prior to removal in order to permit Petitioner and his family the opportunity to contest, and if unsuccessful, to prepare for Petitioner's removal to a third country to which he has no ties or lawful status.

**CERTIFICATION OF COMPLIANCE WITH RULE 65(b)**

Under Federal Rule of Civil Procedure 65(b), a Court may issue the Temporary Restraining Order without written or oral notice to the adverse party when:

- (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant

before the adverse party can be heard in opposition; and

(B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Here, both requirements are satisfied. As set forth in the instant motion and the verified habeas petition, Petitioner establishes that irreparable harm will result to Petitioner if the Court does not enjoin his removal without affording him his due process rights should Respondents seek to remove him to a third country.

Further, on December 29, 2025, undersigned counsel's office contacted Randy Harwell, Civil Chief for the United States Attorney's Office for the Middle District of Florida to ascertain its procedures for individuals to serve TROs upon the USAO's office. On December 30, 2025, Mr. Harwell informed the undersigned's office that any filings should be electronically submitted to Shelby Hill at [Shelby.Hill@usdoj.gov](mailto:Shelby.Hill@usdoj.gov). Petitioner served copies of all pleadings and other papers filed in this action on the Respondents by transmitting copies to [Shelby.Hill@usdoj.gov](mailto:Shelby.Hill@usdoj.gov).

### **INTRODUCTION**

Petitioner, a native and citizen of Vietnam, cannot be removed to Vietnam because the Vietnamese government refuses to repatriate individuals, like Petitioner, who resettled in the United States as refugees prior to 1995. Since Petitioner last entered the United States in 1978, his removal to Vietnam is infeasible—as the

deportation officer who detained Petitioner himself acknowledged. As such, Petitioner is at risk of removal to a third country without any opportunity to present a fear-based claim, and faces the risk of being removed to a country where he will be stranded because he has no valid passport.

Petitioner has substantial family ties to the United States, including his U.S.-citizen wife, his U.S.-citizen stepchildren, his U.S.-citizen mother, and his five U.S.-citizen siblings. His removal—and in particular his removal to a third country in which he will have no legal status, no basis for lawful employment, and where he will be potentially subject to persecution or torture—will cause extreme hardship for Petitioner and his family. Without the Court’s restraint on Respondents’ efforts to effectuate Petitioner’s removal to a yet-to-be determined third country without constitutionally sufficient process, Petitioner’s life will be put at risk and subject Petitioner to immeasurable harm. Petitioner respectfully urges the Court to enjoin and restrain Respondents from removing Petitioner until adjudication of this pending action, or at minimum, enjoin and restrain Respondents from removing Petitioner to a third country without providing him meaningful notice of the country of removal and affording him a meaningful opportunity to present a fear-based claim. While Respondents have identified no affirmative steps taken to effectuate Petitioner’s removal, the Government has indicated its intent to remove Petitioner to a third country. Moreover, the Government’s documented practice of spiriting away

individuals to third countries with as little as six hours' notice and without notifying counsel warrants entry of a temporary restraining order to protect Petitioner's due process rights and to preserve this Court's jurisdiction to adjudicate the claims raised in his habeas petition. *See* **Exhibit A** (Congressional Letter to the Secretaries of Defense, Homeland Security, and State expressing concern that the Government's policy and practice in effectuating third country removals "is offshoring the immigration detention system in an apparent attempt to evade the due process requirements of the U.S. Constitution.").

#### **FACTUAL BACKGROUND<sup>1</sup>**

Petitioner came to the United States in 1978 as a toddler with his parents and five siblings. They came through a program established by the United States at the end of the Vietnam War to resettle Vietnamese refugees. Vietnamese refugees who resettled in the United States, like Petitioner, obtained lawful permanent residence ("LPR"). Due to a 1994 criminal conviction, Petitioner was placed in removal proceedings, ordered removed in 1997, and lost his LPR status.

As a result of the lack of diplomatic relations between the United States and Vietnam, Vietnamese nationals who last entered the United States prior to 1995, like Petitioner, were generally not removed to Vietnam because the Vietnamese

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<sup>1</sup> The factual background is drawn from the verified petition for writ of habeas corpus and the attached declaration from undersigned counsel. *See* **Exhibit B**, Declaration of Edward F. Ramos.

government refused to repatriate them. Consequently, individuals like Petitioner were typically released pursuant to an order of supervision.

On November 19, 2003, after three months in immigration detention, Immigration and Customs Enforcement (“ICE”) released Petitioner from custody pursuant to an order of supervision. Petitioner’s release from detention only occurred after ICE determined that his removal was not reasonably foreseeable.

Petitioner has diligently complied with the conditions of his release, including regularly attending his check-ins with ICE since his release in 2003. At his last check-in on December 9, 2025, he was detained by ICE—all despite his continued compliance with the order of supervision and ICE’s failure to identify any new facts to suggest that Petitioner poses any risk of danger or flight, or that his removal can now be effectuated. ICE did not make any conclusions or provide any explanation for detention specific to Petitioner.

At the time of his re-detention, Petitioner was informed by an ICE officer that his removal to Vietnam was “impossible” because the Vietnamese government would not accept him and he does not have a Vietnamese passport or any other passport. The ICE officer proceeded to inform Petitioner that he would be removed to a third country and referenced Mexico as a possibility. Should removal to Mexico not be effectuated, the ICE officer indicated removal to an African country would occur. Petitioner has no ties or status in Mexico or any African country.

## ARGUMENT

To obtain a Temporary Restraining Order, Petitioner must demonstrate that he is (1) likely to succeed on the merits, (2) likely to suffer irreparable harm in the absence of a TRO, (3) the balance of the equities tips in his favor, and (4) an injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Shahla v. Rhoden*, No. 3:25-CV-1404-MMH-SJH, 2025 WL 3227544, at \*3 (M.D. Fla. Nov. 19, 2025) (citing *Citizens for Police Accountability Political Comm. v. Browning*, 572 F.3d 1213, 1217 (11th Cir. 2009) (per curiam)). Petitioner meets these factors, and therefore a TRO should issue.

### **I. Petitioner is Likely to Succeed on the Merits of His Claims.**

Respondents' conduct in re-detaining Petitioner with the purported intent of removing him to a yet-to-be designated country is unlawful, and Petitioner is likely to succeed on the merits.

First, under the substantive due process doctrine, a restraint on liberty is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. See *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).

As argued in Petitioner’s petition, ECF No. 1, the government can make no showing that ICE re-detained Petitioner because removal from the United States is reasonably foreseeable. Respondents are fully aware that Petitioner’s removal to Vietnam cannot be effectuated given the Vietnamese government’s refusal to repatriate individuals like Petitioner who arrived in the United States before 1995. Indeed, Respondents have made no effort to remove Petitioner since his release on an order of supervision in 2003 and have not made any efforts to do so since detaining him on December 9, 2025. To the contrary, ICE has told Petitioner that his removal to Vietnam is “impossible” because Vietnam will not accept him.

This leaves removal to a third country as the only possibility. But Respondents have identified no third country where removal can be effectuated—and the possibility of such removal remains speculative, particularly given Petitioner’s lack of valid travel documents. As such, ICE’s conduct in re-detaining Petitioner violates his due process rights. *See, e.g., Momennia v. Bondi, et al.*, No. CIV-25-1067-J, 2025 WL 3011896, at \*10 (W.D. Okla. Oct. 15, 2025) (“mere intent to find a third country is too speculative to permit indefinite detention”); *Sun v. Noem*, 2025 WL 2800037, at \*2-3 (S.D. Cal. Sept. 30, 2025) (“Respondents say they are ‘putting together a travel document [TD] request to send to [the] Cambodian embassy,’ and that ‘[o]nce ICE receives the TD, it will begin efforts to secure a flight itinerary for Petitioner.’ The Court finds these kind of vague assertions—akin to promising the check is in

the mail—insufficient to meet ICE’s own requirement to show ‘changed circumstances’ or ‘a significant likelihood that the alien may be removed in the reasonably foreseeable future.’”) (record citations omitted).

Second, Respondents violated Petitioner’s due process by re-detaining him without a pre-deprivation hearing. ICE provided Petitioner no notice of the basis for his re-detention, nor did it provide him with the opportunity to contest his re-detention, despite over two decades of Petitioner living free from custody and his diligent compliance with the conditions of his release. *See, e.g., Grigorian v. Bondi*, No. 25-CV-22914-RAR, [2025 WL 2604573](#) \*10 (S.D. Fla. Sept. 9, 2025) (holding that release is “compel[led]” because “[t]he failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE’s own regulations and the Fifth Amendment Due Process Clause”).

Third, Respondents violated the *Accardi* doctrine by failing to comply with agency procedures and regulations in re-detaining Petitioner. The regulatory-mandated process for revoking an individual’s prior release on an order of supervision requires ICE: 1) prior to re-detaining, to determine that there have been changed circumstances justifying re-detention; 2) to issue written notice formally terminating the release pursuant to an order of supervision and detailing the reasons for the revocation of the individual’s order of supervision; 3) to have such a notice

issued by the Executive Associate Director, or by an individual with authority to do so; 4) upon revoking the individual's release, to promptly provide him or her with an informal interview; and 5) to provide the individual an opportunity to contest the basis for his or her re-detention. 8 C.F.R. § 241.4(D)(1)-(2).

In re-detaining Mr. Tran, ICE did not comply with this process because: 1) ICE did not establish that there has been a change in circumstances justifying his re-detention, particularly as there is no evidence that removal is more likely now than it was in 2003; 2) based on information and belief, no written notice was issued formally terminating Mr. Tran's order of supervision nor was Mr. Tran provided the basis for the revocation; 3) based on information and belief, there is no indication that the Executive Associate Director, or any other individual with authority ordered the revocation of Mr. Tran's release; 4) Mr. Tran was not provided an informal interview after he was re-detained, let alone in a prompt manner; and 5) Mr. Tran was not provided the opportunity to respond to the revocation of his release.

ICE wholly failed to comply with the process and procedure required by law, which alone renders his re-detention unlawful. *See, e.g., Ernesto Alfonso Perez v. Matthew Mordant, et al.*, No. 2:25-CV-00947-SPC-DNF, 2025 WL 3466956, at \*5 (M.D. Fla. Dec. 3, 2025) (finding ICE violated the APA because "ICE has not shown it considered any relevant facts when revoking Alfonso Perez's parole and detaining him"); *Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at \*7 (S.D. Tex.

Sept. 26, 2025) (“Multiple courts have held that the government’s failure to follow its own immigration regulations may warrant the release of a detained noncitizen.”); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21, 2025) (releasing habeas petitioner where revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so).

Lastly, Respondents improperly re-detained Petitioner without having an established, implementable plan to remove him to Vietnam or any third country. *See, e.g., Momennia*, 2025 WL 3011896, at \*10; *Sun*, 2025 WL 2800037, at \*2-3. To the extent Respondents have been formulating a plan for third-country removal in secret, Petitioner must be given meaningful notice and opportunity to present a fear-based claim of persecution or torture to the designated country. *See, e.g., Cruz Medina v. Noem*, No. 25-CV-1768, ---F.Supp.3d ---, 2025 WL 2841488, at \*10 (D. Md. Oct. 7, 2025) (granting injunctive relief directing respondents to accord petitioner meaningful judicial review of fear based claims concerning intended third-country removal); *Sagastizado v. Noem*, No. 5:25-CV-00104, 2025 WL 2957002, at \*9-13 (S.D. Tex. Oct. 2, 2025) (finding petitioner likely to succeed on “claim that he cannot be removed to a third country without sufficient notice and a meaningful opportunity to raise a claim”). This is particularly critical here where Petitioner’s removal to any third country would permanently separate him from his family and strand him in country to which he will have no ties, rights, or protections. Ensuring Petitioner is

afforded the due process to which he is entitled is paramount, and without such process, his life and future would be irreparably harmed.

The Supreme Court's unexplained emergency stay of a class-wide injunction in *DHS v. D.V.D.*, 145 S. Ct. 2153 (2025), does not absolve Respondents of their obligation to afford Petitioner due process prior to removing him to a third country. In *D.V.D. v. DHS*, 778 F. Supp. 3d 355 (D. Mass. 2025), five noncitizens filed a class action for declaratory and injunctive relief against DHS and others for violating procedural due process by removing noncitizens to a third country without first providing notice and an opportunity to apply for protection from removal to that country. On April 18, 2025, the District Court of Massachusetts granted the plaintiffs' class certification and issued a preliminary injunction. *D.V.D.*, 778 F. Supp. 3d at 394. The class consists of:

All individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of the INA (including withholding-only proceedings) whom DHS has deported or will deport on or after February 18, 2025, to a country (a) not previously designated as the country or alternative country of removal, and (b) not identified in writing in the prior proceedings as a country to which the individual would be removed.

*Id.* at 378. The preliminary injunction required DHS to comply with certain procedures before initiating removal to a third country. *Id.* at 393-94.

However, on June 23, 2025, the Supreme Court granted the Government's application to stay the preliminary injunction in *DHS v. D.V.D.*, 145 S. Ct. 2153

(2025). The Supreme Court did not provide reasoning for its entry of stay. *See id.* After the stay was entered, the Director of ICE issued guidance to all ICE employees on July 9, 2025, rescinding all guidance implementing the preliminary injunction issued in *D.V.D.* and reinstating previously established guidance. In addition, the July 9 guidance indicated that removal without diplomatic assurances may occur and DHS may effectuate such removal 24 hours after serving notice, and in some cases, DHS may execute removal to the third country with a mere six hours' notice.

The Supreme Court did not decide *D.V.D.* on the merits, nor did it indicate whether the stay rested on jurisdictional concerns, the propriety of class-wide relief, or any assessment of the underlying due process claims—distinctions that are critical in an individual habeas context. In the absence of an express ruling overturning established authority requiring notice and an opportunity to raise fear-based claims prior to third-country removal, the *D.V.D.* stay does not preclude this Court from granting temporary relief to prevent irreparable harm pending full adjudication of the merits of Petitioner's habeas petition. *See, e.g., Nguyen v. Scott*, 796 F. Supp. 3d 703, 730-32 (W.D. Wash. 2025) (holding that the Supreme Court's stay in *D.V.D.*, which did not decide the merits and may have rested on jurisdictional or issues relating to the class concerns, does not override binding precedent or preclude courts from granting individualized relief in third-country removal cases); *Kumar v.*

*Wamsley*, No. C25-2055-KKE, 2025 WL 3204724, at \*8 (W.D. Wash. Nov. 17, 2025) (same); *Cruz Medina*, 2025 WL 2841488, at \*8 (same).

Any removal without meaningful notice and opportunity to present a fear-based claim, and a reasonable opportunity to prepare for removal constitutes a violation of Petitioner's substantive and procedural due process rights. Thus, Petitioner establishes he is likely to prevail on the merits of his claims.

## **II. Petitioner Will Suffer Irreparable Harm Absent an Injunction.**

To obtain a TRO, Petitioner must also show he is "likely to suffer irreparable harm in the absence of preliminary relief." *Winter*, 555 U.S. at 20.

The irreparable-harm requirement is easily satisfied here. Petitioner's removal to a yet-to-be designated third country would result in Petitioner being ripped away from his U.S.-citizen family. Once removed, Petitioner would be beyond this Court's practical reach, stranded in a foreign country without lawful status, travel documents, or a right to remain. *See, e.g., Y.T.D. v. Andrews*, No. 1:25-CV-01100 JLT SKO, 2025 WL 2675760, at \*11 (E.D. Cal. Sept. 18, 2025) ("On balance, on this record, the Court finds that there is a sufficiently imminent risk that Petitioner will be subjected to improper process in relation to any third country removal to warrant imposition of an injunction requiring additional process.").

Petitioner would face the immediate risk of arbitrary detention by foreign authorities, inability to lawfully work or access housing, lack of access to medical

care and basic necessities, potential exposure to persecution and torture, and permanent separation from his family in the United States. *See, e.g., D.V.D., 778 F. Supp. 3d at 391* (“Here, the threatened harm is clear and simple: persecution, torture, and death. It is hard to imagine harm more irreparable.”), *stayed pending appeal, 145 S. Ct. 2153* (2025); *Nguyen, 796 F.Supp.3d at 734* (“Petitioner has also offered sworn declarations that the pre-1995 Vietnamese immigrants who have been deported to South Sudan and Eswatini have been imprisoned incommunicado since their arrival.”); *Phetsadakone v. Scott*, No. 2:25-CV-01678-JNW, 2025 WL 2579569, at \*5 (W.D. Wash. Sept. 5, 2025) (recognizing removal to a third country after forty-four years in the United States would constitute irreparable harm). Here, Petitioner has lived in the United States since he was four years old, and has no memory of live in any other country. Moreover, because Petitioner has no valid travel documents whatsoever, his removal to a third country would leave him trapped, without any rights or protections. These harms are concrete and imminent, and would cause Petitioner irreparable harm.

Further, Petitioner would face irreparable harm should the Court not have the opportunity to adjudicate the claims he has presented to this Court, including Respondents unlawfully revoking his order of supervision and re-detaining him without complying with the regulatorily mandated process and without affording him due process. *Schiavo ex rel. Schindler v. Schiavo, 403 F.3d 1223, 1231* (11th

Cir. 2005) (“The purpose of a temporary restraining order. . . is to protect against irreparable injury and preserve the status quo until the district court renders a meaningful decision on the merits.”); *Lopez v. Hardin*, No. 2:25-CV-830-KCD-NPM, 2025 WL 2732717, at \*2 (M.D. Fla. Sept. 25, 2025) (“Without interim relief to maintain the status quo, Lopez could be deported or removed from this Court’s jurisdiction, effectively foreclosing any recourse.”). Should Respondents be permitted to remove Petitioner to a third country, without the Court having the opportunity to adjudicate his petition and to grant effective relief, he would be subjected to a harm that cannot be remedied after the fact. *See Lopez*, 2025 WL 2732717, at \*2 (granting TRO enjoining a noncitizen’s transfer outside of the Court’s jurisdiction pending adjudication of the habeas petition where noncitizen alleged his due process rights were violated when he was detained without a bond hearing).

### **III. The Balance of Hardships and Public Interest Weigh Heavily in Petitioner’s Favor.**

The final two factors for a preliminary injunction also demonstrate that such relief is appropriate. “These factors merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

“[T]he public is better served by the faithful execution of immigration laws.” *Zamora Mejia v. Noem*, No. 2:25-CV-981-SPC-NPM, 2025 WL 3078656, at \*3 (M.D. Fla. Nov. 4, 2025) (citing *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th

Cir. 2013) (finding the government “cannot suffer harm from an injunction that merely ends an unlawful practice or reads a statute as required to avoid constitutional concerns.”); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 576 (1992) (discussing “the public interest in Government observance of the Constitution and laws”). Here, entry of the limited relief sought through entry of a temporary restraining order imposes a minimal burden on the government, while removal would impose catastrophic and irreversible consequences on Petitioner and his family. Public interest is served by ensuring that the government implements immigration law lawfully, humanely, and in compliance with due process, and by ensuring that individuals are not expelled into legal limbo or danger without meaningful prior notice and judicial oversight. Thus, the public interest thus strongly favors Petitioner.

**IV. The Court Should Not Require Plaintiffs to Provide Security Prior to the Temporary Restraining Order.**

Federal Rule of Civil Procedure 65(c) provides that “[t]he court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damage sustained by any party found to have been wrongfully enjoined or restrained.” Decisions regarding security are at the discretion of the district courts and can exercise this discretion to require no security in cases brought by indigent, detained, and/or incarcerated people, those seeking to exercise their constitutional rights, and in cases that benefit the public interest. This Court has exercised its discretion to not

require compliance with Rule 65(c) for noncitizen detainees, and should similarly waive the requirement here. *See Shahla*, 2025 WL 3227544, at \*3; *Ajugwe v. Noem*, No. 8:25-CV-982-MSS-AEP, 2025 WL 1370212, at \*10 (M.D. Fla. May 12, 2025) (exercising “discretion to waive the bond requirement in Fed. R. Civ. P. 65(c)”).

### **CONCLUSION**

For the foregoing reasons, the Court should issue a TRO enjoining Respondents from removing Petitioner from this District and from removing him from the United States pending further order from this Court and enjoin Respondents from removing Petitioner to a third country without a meaningful opportunity to present a fear-based claim. At a minimum, the Court should in the alternative enjoin Respondents from removing Petitioner without sufficient notice prior to removal.

Dated: December 30, 2025

Respectfully submitted,

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