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9 **UNITED STATES DISTRICT COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **BOUNPHENG SORYADVONGSA,**

12 Petitioner,

13 v.

14 KRISTI NOEM, Secretary of the  
15 Department of Homeland Security,  
16 PAMELA JO BONDI, Attorney General,  
17 TODD M. LYONS, Acting Director,  
18 Immigration and Customs Enforcement,  
19 JESUS ROCHA, Acting Field Office  
20 Director, San Diego Field Office,  
21 CHRISTOPHER LAROSE, Warden at  
22 Otay Mesa Detention Center,

23 Respondents.

CIVIL CASE NO.: '26CV0279 DMS DEB

**Notice of motion and memorandum  
of law in support of temporary  
restraining order**

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1 **I. Introduction**

2 Petitioner Bounpheng Soryadvongsa faces immediate irreparable harm on  
3 account of his detention in immigration custody. Specifically, the government has  
4 not complied with the regulations and has redetained Mr. Soryadvongsa when a  
5 factual dispute exists as to whether there are “changed circumstances” justifying  
6 the revocation of his order of supervision under the regulations. Alternatively,  
7 Mr. Soryadvongsa’s removal is not significantly likely in the reasonably  
8 foreseeable future because 1) ICE has not removed him in the month since his  
9 redetention, 2) he is not scheduled on any flight, and 3) ICE’s primary airline  
10 carrier recently cancelled its contract with the agency. For these reasons, this  
11 Court should grant temporary relief of his release on his pre-existing order of  
12 supervision to preserve the status quo.

13 **II. Statement of Facts**

14 Mr. Soryadvongsa was born in Laos and entered the United States in 1985;  
15 he became a lawful permanent resident soon after. Exh. A at ¶ 1. In 2002, he was  
16 ordered removed on the basis of a criminal conviction. *Id.* at ¶ 2. But because  
17 Laos would not issue him a travel document, ICE eventually released him on an  
18 order of supervision. *Id.*

19 In September 2025, ICE revoked Mr. Soryadvongsa’s order of supervision  
20 and took him back into custody. *Id.* at ¶ 3. He filed a petition for a writ of habeas  
21 corpus, which this Court granted on November 8, 2025. *See Soryadvongsa v.*  
22 *Noem*, 25-cv-2663-AGS-DDL. ICE released him but told him he needed to  
23 continue to check in. *Id.* at ¶ 3.

24 When he went to his ICE check in San Diego on December 18, 2025, the  
25 officer told Mr. Soryadvongsa that he had been ordered removed by an  
26 immigration judge. *Id.* at ¶ 4. He does not remember being told that ICE had a  
27 travel document for him or receiving an informal interview. *Id.* ICE then  
28 redetained him and transferred him back to Otay Mesa Detention Center. *Id.* at ¶

1 5. Since that time, he has not been removed or told that ICE has a travel document  
2 for him. *Id.* at ¶ 5.

3 At least three other individuals have been redetained under similar  
4 circumstances. One individual was redetained on December 16, 2025, and told  
5 that, “We don’t have your travel document. I don’t know why they took you in.”  
6 Exhibit B, Declaration of Hai Thai, at ¶ 5. Another person was redetained on  
7 December 18, 2025, but then subsequently informed by an ICE officer that “I  
8 don’t see your travel document.” Exhibit C, Declaration of Saengphet Lnu at ¶ 5.  
9 Another person was redetained on December 19, 2025, and told “I don’t have  
10 nothing on you,” which he took to mean that ICE does not have a travel document  
11 for him. Exhibit D, Declaration of Sonxai Rasakhamdee. None of these  
12 individuals have been scheduled for a flight or told when they would be removed.

### 13 **Argument**

14 To obtain a TRO, a plaintiff “must establish that he is likely to succeed on  
15 the merits, that he is likely to suffer irreparable harm in the absence of preliminary  
16 relief, that the balance of equities tips in his favor, and that an injunction is in the  
17 public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008);  
18 *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7  
19 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve  
20 “substantially identical” analysis). A “variant[] of the same standard” is the  
21 “sliding scale”: “if a plaintiff can only show that there are ‘serious questions  
22 going to the merits—a lesser showing than likelihood of success on the merits—  
23 then a preliminary injunction may still issue if the balance of hardships tips  
24 sharply in the plaintiff’s favor, and the other two *Winter* factors are satisfied.”  
25 *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025)  
26 (internal quotation marks omitted). Under this approach, the four *Winter* elements  
27 are “balanced, so that a stronger showing of one element may offset a weaker  
28 showing of another.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131

1 (9th Cir. 2011). A TRO may be granted where there are “serious questions going  
2 to the merits’ and a hardship balance. . . tips sharply toward the plaintiff,” and so  
3 long as the other *Winter* factors are met. *Id.* at 1132.

4 Here, this Court should issue a temporary restraining order and an  
5 injunction because “immediate and irreparable injury . . . or damage” is occurring  
6 and will continue in the absence of an order. Fed. R. Civ. P. 65(b). Respondents  
7 have re-detained Petitioner in violation of his due process, statutory, and  
8 regulatory rights, and this Court should order Petitioner’s immediate release.

9 **I. Petitioner is likely to succeed on the merits, or at a minimum, raises**  
10 **serious merits questions.**

11 The regulations set forth the procedures for someone who, like Petitioner, is  
12 re-detained following a period of release. Under 8 C.F.R. § 241.4(l), ICE may re-  
13 detain an immigrant on supervision only with an interview and a chance to contest  
14 a re-detention. When an immigrant is specifically released after giving good  
15 reason why they cannot be removed, additional regulations apply: ICE may  
16 revoke a noncitizen’s release and return them to ICE custody due to failure to  
17 comply with conditions of release, 8 C.F.R. § 241.13(i)(1), or if, “on account of  
18 changed circumstances,” a noncitizen likely can be removed in the reasonably  
19 foreseeable future. *Id.* § 241.13(i)(2).

20 The regulations further provide noncitizens with a chance to contest a re-  
21 detention decision. ICE must “notif[y] [the person] of the reasons for revocation  
22 of his or her release.” *Id.* § 241.13(i)(3). ICE must then “conduct an initial  
23 informal interview promptly” after re-detention “to afford the alien an opportunity  
24 to respond to the reasons for revocation stated in the notification.” *Id.* During the  
25 interview, the person “may submit any evidence or information” showing that the  
26 prerequisites to re-detention have not been met, and the interviewer must evaluate  
27 “any contested facts.” *Id.*

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1 ICE is required to follow its own regulations. *United States ex rel. Accardi*  
2 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,  
3 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to  
4 abide by certain internal policies is well-established.”). A court may review a re-  
5 detention decision for compliance with the regulations. *See Xi v. Beccerra*, No.  
6 2:25-CV-01757, 2025 WL 1993735, at \*3 (E.D. Cal. July 16, 2025); *Xi v. Hyde*,  
7 No. 25-cv-11470-MJJ, 2025 WL 1725791, at \*3 (D. Mass. June 20, 2025) (citing  
8 *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)).

9 None of the prerequisites to detention apply here. Since this Court granted  
10 Mr. Soryadvongsa’s habeas petition several months ago, he has not been  
11 convicted of any crimes. It does not appear that the government provided him an  
12 informal interview when it redetained him. And a material issue of facts exists as  
13 to whether local ICE has a travel document that would constitute “changed  
14 circumstances” justifying his redetention. Moreover, his removal is not  
15 significantly likely in the reasonably foreseeable future under *Zadvydas v. Davis*,  
16 533 U.S. 678 (2001), because 1) ICE has not removed him in the month since his  
17 redetention, 2) he is not scheduled on any flight, and 3) ICE’s primary airline  
18 carrier recently cancelled its contract with the agency. For any of these reasons,  
19 Mr. Soryadvongsa is likely to succeed on the merits of his claim.

20 **III. Petitioner will suffer irreparable harm absent injunctive relief.**

21 Petitioner also meets the second factor, irreparable harm. “It is well  
22 established that the deprivation of constitutional rights ‘unquestionably constitutes  
23 irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)  
24 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged  
25 deprivation of a constitutional right is involved, most courts hold that no further  
26 showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d  
27  
28

1 989, 1001-02 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal*  
2 *Practice and Procedure*, § 2948.1 (2d ed. 2004)).

3 Here, the potential irreparable harm to Petitioner is even more concrete.  
4 “Unlawful detention certainly constitutes ‘extreme or very serious damage, and  
5 that damage is not compensable in damages.’” *Hernandez v. Sessions*, 872 F.3d  
6 976, 999 (9th Cir. 2017). These and other threats to Petitioner’s health and life  
7 independently constitute irreparable harm.

8 **IV. The balance of hardships and the public interest weigh heavily in**  
9 **petitioner’s favor.**

10 The final two factors for a TRO—the balance of hardships and public  
11 interest—“merge when the Government is the opposing party.” *Nken v. Holder*,  
12 556 U.S. 418, 435 (2009). That balance tips decidedly in Petitioner’s favor. On  
13 the one hand, the government “cannot reasonably assert that it is harmed in any  
14 legally cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*,  
15 753 F.2d 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to  
16 prevent violations of the U.S. Constitution and ensure the rule of law. *See Nken*,  
17 556 U.S. at 436 (describing public interest in preventing noncitizens “from being  
18 wrongfully removed, particularly to countries where they are likely to face  
19 substantial harm”); *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218  
20 (W.D. Wash. 2019) (when government’s treatment “is inconsistent with federal  
21 law, . . . the balance of hardships and public interest factors weigh in favor of a  
22 preliminary injunction.”). On the other hand, Petitioner faces weighty hardships:  
23 unlawful, indefinite detention. The balance of equities thus favors preventing the  
24 violation of “requirements of federal law,” *Arizona Dream Act Coal. v. Brewer*,  
25 757 F.3d 1053, 1069 (9th Cir. 2014), by granting emergency relief to protect  
26 against unlawful detention and unlawful third country removal.

1 **V. Petitioner gave the government notice of this TRO, and the TRO should**  
2 **remain in place throughout habeas litigation.**

3 Upon filing this motion, proposed counsel emailed Janet Cabral, from the  
4 United States Attorney's Office, notice of this request for a temporary restraining  
5 and all the filings associated with it. Additionally, Petitioner requests that this  
6 TRO and injunction remain in place until the habeas petition is decided. Fed. R.  
7 Civ. Pro. 65(b)(2). Good cause exists, because the same considerations will  
8 continue to warrant injunctive relief throughout this litigation, and habeas  
9 petitions must be adjudicated promptly. *See In re Habeas Corpus Cases*, 216  
10 F.R.D. 52 (E.D.N.Y. 2003).

11 Respectfully submitted,

12  
13 Dated: January 16, 2026

*s/ Kara Hartzler*

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15 Attorneys for Mr. Soryadvongsa  
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**Proof of Service**

I, the undersigned, caused to be served the within Petition for Writ of Habeas Corpus by email, at the request of Janet Cabral, Chief of the Civil Division, to:

U.S. Attorney’s Office, Southern District of California  
Civil Division  
USACAS.Habeas2241@usdoj.gov

Date: January 16, 2026

/s/ Kara Hartzler  
Kara Hartzler