

1 Rene L. Valladares
 Federal Public Defender
 2 Nevada State Bar No. 11479
 3 *Wendi Overmyer
 Assistant Federal Public Defender
 4 Ohio Bar No. 0071000
 *Laura Barrera
 5 Assistant Federal Public Defender
 6 Michigan State Bar No. P80957
 411 E. Bonneville Ave., Ste. 250
 7 Las Vegas, Nevada 89101
 (702) 388-6577
 8 Wendi_Overmyer@fd.org
 9 Laura_Barrera@fd.org

10 *Attorneys for Petitioner Dien Thanh Nguyen

11
 12 UNITED STATES DISTRICT COURT
 13 DISTRICT OF NEVADA

14 Dien Thanh Nguyen,

15 Petitioner,

16 v.

17 Pam Bondi, U.S. Attorney General; Kristi
 18 Noem, Secretary, U.S. Dept. of Homeland
 Security; Todd Lyons, ICE Acting
 19 Director; Michael Bernacke, Field
 Director, Salt Lake City Field Office of
 20 ICE ERO; John Mattos, NSDC Warden,

21 Respondents.
 22

Case No. 2:26-cv-00186-JAD-BNW

**Motion for Temporary Restraining
 Order**

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POINTS AND AUTHORITIES¹

I. Introduction

Petitioner Dien Thanh Nguyen faces immediate irreparable harm if Respondents are not enjoined from continuing his indefinite detention or removing him to a third country. Respondents have revoked his release on immigration supervision despite failing to follow their own revocation procedures. Respondents continue to indefinitely detain Mr. Nguyen with no reasonable prospect of removal in the reasonably foreseeable future to Vietnam—the country designated by the immigration judge (“IJ”). Respondents appear to also intend to remove Mr. Nguyen to a third country never considered by an IJ and without adequate notice or due process protections. And, if Mr. Nguyen is continued detained or removed to a third country, his wife of 16 years will not receive daily medical and living assistance for a recent kidney transplant with complications that may require further surgery.

Therefore, Mr. Nguyen asks this Court to release him and reinstate his OSUP, and issue a TRO prohibiting Respondents from (1) revoking Mr. Nguyen’s OSUP without first following the required constitutional, statutory, and regulatory procedures; or (2) removing Mr. Nguyen to a third country, without providing adequate notice of intent to seek removal to a third country and due process in the form of reopened immigration court proceedings to seek fear-based relief from removal, with a hearing before an IJ.

II. Statement of Facts

Concurrent with this motion, Petitioner Nguyen files an amended petition under 28 U.S.C. § 2241 seeking relief from unconstitutional indefinite detention and

¹ The factual statements herein are made on information and belief, unless otherwise specifically noted.

1 removal to a third country. Mr. Nguyen incorporates by reference the statement of
2 facts set forth in his amended petition.

3 Petitioner Nguyen has lived in the United States since he arrived as a
4 refugee from Vietnam, which he and his family fled after his father fought as a
5 soldier for South Vietnam supporting the U.S. military during the Vietnam War. In
6 2001, an IJ ordered Mr. Nguyen removed. Since then, the government has proved
7 unable to remove him, and Mr. Nguyen has been out of custody on an Order of
8 Supervision (OSUP) from ICE. Yet on October 10, 2025, the government re-detained
9 him. The day before his re-detention, October 9, 2025, his wife received a life-saving
10 kidney transplant at University of California Irvine Medical Center in California.
11 She was released following a week of hospitalization, and now requires daily
12 assistance with medical and living needs. She must see her medical team every two
13 weeks for lab testing and treatment. Mr. Nguyen is greatly needed to provide daily
14 medical and living care for his wife.

15 During his re-detention, ICE gave Mr. Nguyen no opportunity to contest his
16 re-detention, and there are no apparent changed circumstances justifying it. ICE
17 does not appear to have a travel document in hand for deportation to Vietnam.
18 Worse yet, ICE's own policies allow ICE to remove him to a third country never
19 considered by an IJ, without adequate notice or a sufficient opportunity to present
20 fear-based claims regarding removal to a third country. Mr. Nguyen therefore faces
21 both unlawful detention and a threat of removal to a third country without due
22 process, which he challenges in his amended petition and now seeks a TRO.

23 **III. Argument**

24 To obtain a TRO, a petitioner must meet four factors by establishing: (1) "he
25 is likely to succeed on the merits," (2) "he is likely to suffer irreparable harm in the
26 absence of preliminary relief," (3) "the balance of equities tips in his favor," and (4)
27 "an injunction is in the public interest." *Winter v. Nat. Res. Def Council, Inc.*, 555

1 U.S. 7, 20 (2008); accord *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d
2 832, 839-40 & n.7 (9th Cir. 2001) (noting that a TRO and preliminary injunction
3 involve “substantially identical” analysis). This standard is met when “a plaintiff
4 can only show that there are ‘serious questions going to the merits’—a lesser
5 showing than likelihood of success on the merits—then a preliminary injunction
6 may still issue if the balance of hardships tips *sharply* in the plaintiff’s favor, and
7 the other two *Winter* factors are satisfied.” *Immigrant Defs. L. Ctr. v. Noem*, 145
8 F.4th 972, 986 (9th Cir. 2025) (citation omitted); see also *All. for the Wild Rockies v.*
9 *Cottrell*, 632 F.3d 1127, 1131–32 (9th Cir. 2011).

10 Mr. Nguyen meets this TRO standard because “immediate and irreparable
11 injury . . . or damage” is occurring and will continue absent an order. Fed. R. Civ. P.
12 65(b). Not only have Respondents re-detained Mr. Nguyen in violation of his
13 constitutional due process, statutory, and regulatory rights, ICE policy also allows
14 them to remove him to a third country in violation of his constitutional due process,
15 statutory, and regulatory rights. This Court should order Mr. Nguyen’s release,
16 enjoin re-detention without reasonable prospect of removal in the reasonably
17 foreseeable future to Vietnam, and enjoin removal to a third country with no or
18 inadequate notice.

19 In granting this motion, this Court would not break new ground. Several
20 courts have granted TROs or preliminary injunctions mandating release for post-
21 final-removal-order immigrants like Petitioner. See, e.g., *Rodriguez-Gutierrez v.*
22 *Noem*, No. 25-cv-02726-BAS-SBC (S.D. Cal. Nov. 7, 2025) ; *Phetsadakone v. Scott*,
23 No. 2:25-CV-01678-JNW, 2025 WL 2579569, at *6 (W.D. Wash. Sept. 5, 2025) ; *Hoac*
24 *v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16,
25 2025) ; *Phan v. Becerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *7 (E.D.
26 Cal. July 16, 2025); *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *29
27 (W.D. Wash. Aug. 21, 2025).

1 Several courts have also granted temporary restraining orders preventing
2 third-country removals without due process. *See, e.g., J.R. v. Bostock*, No. 2:25-cv-
3 01161-JNW, 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); *Vaskanyan v. Janecka*,
4 No. 5:25-cv-01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. June 25, 2025); *Ortega v.*
5 *Kaiser*, No. 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025); *Hoac*,
6 2025 WL 1993771, at *7; *Phan*, 2025 WL 1993735, at *7.

7 Granting the requested relief also follows other orders issued in this District
8 recently granting TROs on the same bases requested here. *See, e.g., Gomez v.*
9 *Mattos*, No. 2:25-CV-00975-GMN-BNW, 2025 WL 3101994, at *6–7 (D. Nev. Nov. 6,
10 2025). Petitioner Nguyen therefore respectfully requests this Court grant this TRO.

11 **A. Petitioner Nguyen’s petition for relief under 28 U.S.C. § 2241 is**
12 **likely to succeed on the merits.**

13 Petitioner meets the first *Winter* factor for obtaining a TRO by establishing
14 that his petition for relief under 28 U.S.C. § 2241 “is likely to succeed on the
15 merits.” *Winter*, 555 U.S. at 20. In his amended petition, Mr. Nguyen raises five
16 claims he is being unconstitutionally detained and that he cannot be removed to a
17 third country. Mr. Nguyen addresses the merits of each claim below:

18 **1. Petitioner is likely to succeed on the merits of his claim**
19 **that his detention violates *Zadvydas* and the Immigration**
20 **and Nationality Act, 8 U.S.C. § 1231(a)(6) (Grounds 1 and**
21 **2).**

22 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered
23 indefinite detentions of persons with a final removal order, like Mr. Nguyen.
24 Federal law requires ICE to detain an immigrant during the “removal period,”
25 which spans the first 90 days after the removal order becomes final. 8 U.S.C.
26 § 1231(a)(1)-(2). After the 90-day removal period expires, ICE may detain the
27 noncitizen while continuing to try to remove them. 8 U.S.C. § 1231(a)(6). But if that
subsection were understood to allow for “indefinite, perhaps permanent, detention,”

1 it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at 699. The
2 Supreme Court avoided this constitutional concern by interpreting § 1231(a)(6) to
3 incorporate implicit limits. *Id.* at 689. *Zadvydas* held that detention is
4 “presumptively reasonable” for six months after the removal order becomes final.
5 *Id.* at 701.

6 After six months, detention ceases to be presumptively reasonable. Courts
7 use a burden-shifting framework to decide whether detention remains authorized.
8 First, the petitioner must prove there is “good reason to believe that there is no
9 significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*,
10 533 U.S. at 701. If he does so, the burden shifts to “the Government [to] respond
11 with evidence sufficient to rebut that showing.” *Id.* . Ultimately, then, the burden of
12 proof rests with the government: The government must prove there is a “significant
13 likelihood of removal in the reasonably foreseeable future,” or the immigrant must
14 be released. *Id.* .

15 Here, Mr. Nguyen was ordered removed more than six months ago, decades
16 ago in fact, as his removal order became final in 2001.² He has also been re-detained
17 for over four months, since October 10, 2025, .³ Mr. Nguyen was previously detained
18 for the initial 90-day removal period in 2001, so he has cumulatively been detained
19 for well over 6 months. There is no significant likelihood of removal, so Mr. Nguyen
20 prevails. Thus, this Court will likely find that Mr. Nguyen warrants *Zadvydas*
21 relief.

26 ² P. Ex. 1 in concurrently filed § 2241 Amended Petition.

27 ³ ECF No. 1-1, p. 6.

1 **2. Petitioner Nguyen is likely to succeed on the merits of**
2 **his claim that ICE violated its own regulations (Ground**
3 **3).**

4 In addition to *Zadvydas*'s protections, DHS issued several regulations at 8
5 C.F.R. §§ 241.4(l), 241.13(i) that provide process requirements for re-detention. As
6 part of DHS, ICE must follow its these regulations.

7 The DHS regulations permit an official to “return[] [the noncitizen] to
8 custody” if the noncitizen “violate[s] any of the conditions of release.” 8 C.F.R. §
9 241.13(i)(1); *see also id.* § 241.4(l)(1). Otherwise, the regulations only permit
10 revocation of release if the appropriate official: (1) “determines that there is a
11 significant likelihood that the [noncitizen] may be removed in the reasonably
12 foreseeable future,” *id.* § 241.13(i)(2), or (2) finds “on account of changed
13 circumstances” there is “a significant likelihood that the alien may be removed in
14 the reasonably foreseeable future,” *id.* § 241.13(i)(2). And no matter the basis for re-
15 detention, the noncitizen must receive “an initial informal interview promptly,”
16 during which they “will be notified of the reasons for revocation.” 8 C.F.R.
17 § 241.4(l)(1) and § 241.13(i)(3). In addition, the noncitizen must be given “an
18 opportunity to respond to the reasons for revocation,” allowing them to “submit any
19 evidence or information” relevant to re-detention and evaluating “any contested
20 facts.” 8 C.F.R. § 241.4(l)(1) and § 241.13(i)(3).

21 ICE must follow DHS regulations. *United States ex rel. Accardi v.*
22 *Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th
23 Cir. 2004) (“The legal proposition that agencies may be required to abide by certain
24 internal policies is well-established.”). And this Court may review a re-detention
25 decision for noncompliance with the regulations. *See Huang v. Albarran*, __ F. Supp.
26 3d __, No. 1:25-cv-01308 JLT EPG, 2026 WL 279888, at *5 (E.D. Cal. Feb. 3, 2026);
27 *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 149–50 (D. Mass. 2025) (*citing Kong v. United*
 States, 62 F.4th 608, 620 (1st Cir. 2023)).

1 None of the circumstances permitting re-detention are present here. There is
2 no allegation that Mr. Nguyen violated a condition of release. And there are no
3 changed circumstances. He cannot be removed to Vietnam because the government
4 cannot obtain travel documents, and there is no indication that a third country has
5 agreed to issue travel documents. And Respondents' "intent to eventually complete
6 a travel document request for [Mr. Nguyen] does not constitute a changed
7 circumstance." *Huang*, 2026 WL 279888, at *5 (E.D. Cal. Feb. 3, 2026) (citation
8 omitted). Nor have Respondents provided evidence as to "why obtaining [travel]
9 documentation is more likely to occur this time around." *Id.* at *6.

10 Since being re-detained on October 10, 2025, Mr. Nguyen has not received the
11 interview required and described by DHS regulation, and no one from ICE has
12 invited him to contest the revocation of his order of supervision or allowed him to
13 provide evidence relevant to re-detention. Thus, he is being detained in violation of
14 the applicable DHS regulations at 8 C.F.R. §§ 241.4(l) and 241.13(i)

15 "[B]ecause officials did not properly revoke petitioner's release pursuant to
16 the applicable regulations," Mr. Nguyen is likely to succeed on the merits of his
17 third ground for relief. *See Sarfazi-Esfahari v. Murray*, No. 1:25-cv-00774-JLT-EPG-
18 HC, 2026 WL 192347, at *6 (E.D. Cal. Jan. 26, 2026) (citation omitted).

19 **3. Petitioner Nguyen is likely to succeed on the merits of**
20 **his claim he is entitled to adequate notice and an**
21 **opportunity to be heard before any third country**
22 **removal (Grounds 4 and 5).**

23 Mr. Nguyen is also likely to succeed on the merits of his fourth and fifth
24 grounds for relief that he may not be removed to a third country absent adequate
25 notice and an opportunity to be heard. "Immigration proceedings must provide the
26 procedural due process protections guaranteed by the Fifth Amendment." *Vilchez v.*
27 *Holder*, 682 F.3d 1195, 1199 (9th Cir. 2012).

1 Federal law enshrines protections against dangerous and life-threatening
2 removal decisions. By statute, the government is prohibited from removing a
3 noncitizen to any third country where a person may be persecuted or tortured, a
4 form of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A).
5 The government “may not remove [a noncitizen] to a country if the Attorney
6 General decides that the [noncitizen’s] life or freedom would be threatened in that
7 country because of the [noncitizen’s] race, religion, nationality, membership in a
8 particular social group, or political opinion.” 8 U.S.C. § 1231(b)(3)(A); *see also* 8
9 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a mandatory protection.

10 Similarly, Congress codified protections from the Convention Against Torture
11 (CAT)⁴ prohibiting the government from removing a person to a country where they
12 would be tortured. *See* Foreign Affairs Reform and Restructuring Act, § 2242, 112
13 Stat 2681 (Oct. 21, 1998) (codified as note to 8 U.S.C. § 1231); *see also* 28 C.F.R. §
14 200.1 (removal order shall not violate CAT); 8 C.F.R. §§ 208.16–2018.18
15 (withholding of removal under CAT); 8 C.F.R. §§ 1208.16-1208.18 (withholding of
16 removal under CAT). Adherence with CAT is also mandatory.

17 To comply with due process, the government must provide adequate notice of
18 third country removal, including an opportunity to respond. Due process requires
19 “written notice of the country being designated” and “the statutory basis for the
20 designation, i.e., the applicable subsection of [8 C.F.R.] § 1231(b)(2).” *Aden v.*
21 *Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord L.R. v. Noem*, No.
22 2:25-cv-02019-RFB-BNW, 2026 WL 161605, at *12 (D. Nev. Jan. 21, 2026) (granting
23 immediate release of noncitizen and enjoining Respondents from removing
24 Petitioner without first providing “(1) adequate notice of intent to seek removal to a
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26 ⁴ United Nations Convention Against Torture and Other Cruel, Inhuman, or
27 Degrading Treatment or Punishment, 1465 U.N.T.S. 85 (1988) (codified and
implemented at 8 C.F.R. §§ 208.16–208.18).

1 third country and (2) due process in the form of reopened immigration court
2 proceedings to seek fear-based relief from removal, with a hearing before an
3 immigration judge.”); *see also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir.
4 1999) (“[I]ndividuals whose rights are being determined are entitled to notice of the
5 issues to be adjudicated, so that they will have the opportunity to prepare and
6 present relevant arguments and evidence.”).

7 Due process also requires the following: “DHS must ask the noncitizen
8 whether he or she fears persecution or harm upon removal to the designated
9 country and memorialize in writing the noncitizen’s response. This requirement
10 ensures DHS will obtain the necessary information from the noncitizen to comply
11 with [8 C.F.R. § 1231(b)(3) and avoids [a dispute about what was said].” *Aden*, 409
12 F. Supp. 3d at 1019. “Failing to notify individuals who are subject to deportation
13 that they have the right to apply for asylum in the United States and for
14 withholding of deportation to the country to which they will be deported violates
15 both [DHS] regulations and the constitutional right to due process.” *Andriasian*,
16 180 F.3d at 1041.

17 If the noncitizen claims fear, measures must be taken to ensure the
18 noncitizen can “seek asylum, withholding, and relief under CAT” before an
19 immigration judge may reopen removal proceedings. *Aden*, 409 F. Supp. 3d at 1009
20 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) (due process requires
21 opportunity to be heard at meaningful time and in meaningful manner)). The
22 amount and type of notice must be “sufficient” to ensure that “given [a noncitizen’s]
23 capacities and circumstances, he would have a reasonable opportunity to raise and
24 pursue his claim for withholding of deportation.” *Id.* (citing *Mathews*, 424 U.S. at
25 349) (other citations omitted); *cf. D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 25-
26 10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (requiring at least 15
27 days’ notice).

1 “[L]ast minute” notice of the country of removal will not suffice, *Andriasian*,
2 180 F.3d at 1041; accord *Najjar v. Lynch*, 630 F. App’x 724 (9th Cir. 2016), and for
3 good reason. To have a meaningful opportunity to apply for fear-based protection
4 from removal, immigrants must have time to prepare and present relevant
5 arguments and evidence. Merely telling a person where they may be sent, without
6 giving them a chance to look into country conditions, does not give them a
7 meaningful chance to determine whether and why they have a credible fear. Thus,
8 “[f]ollowing notice, the individual must be given a meaningful opportunity, and a
9 minimum of ten days, to raise a fear-based claim for CAT protection prior to
10 removal.” *D.V.D.*, 2025 WL 1453640, at *1 (citing 8 U.S.C. § 1231(b)(1)(C)). “If the
11 non-citizen demonstrates ‘reasonable fear’ of removal to the third country, [DHS]
12 must move to reopen the non-citizen’s immigration proceedings.” *Id.* “If the non-
13 citizen is not found to have demonstrated a ‘reasonable fear’ of removal to the third
14 country, [DHS] must provide a meaningful opportunity, and a minimum of fifteen
15 days, for the non-citizen to seek reopening of their immigration proceedings. *Id.*

16 Respondents’ new policy regarding third country removals, provided in its
17 March 2025 memo and July 2025 directive, instructs officers to provide no notice or
18 opportunity to be heard of any kind. This policy skips over the statutory and
19 constitutional procedural protections. Under the new policy, individuals can be
20 removed to third countries “without the need for further procedures,” so long as “the
21 [U.S.] has received diplomatic assurances.”⁵ The policy provides no meaningful
22 notice (instead merely providing between six and 24 hours of notice), instructs
23 officers not to ask about fear, and provides no actual opportunity to see counsel or
24 prepare a fear-based claim, let alone reopen removal proceedings. In sum, the policy
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27 ⁵ P. Exs. 3 and 4 in concurrently filed § 2241 amended petition

1 directs ICE officers to violate the rights of those whom they seek to subject to third
2 country removal.

3 Because ICE's new policies for third country removal violate due process
4 protections, statutory limitations, and also violate DHS regulations, Mr. Nguyen is
5 likely to succeed on the merits of his claims he may not be removed to a third
6 country absent adequate notice and an opportunity to be heard.

7 **B. Petitioner Nguyen will suffer irreparable harm absent**
8 **injunctive relief.**

9 Petitioner meets the second *Winter* factor for obtaining a TRO by establishing
10 he will suffer irreparable harm without injunctive relief.

11 First, “[i]t is well established that the deprivation of constitutional rights
12 ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990,
13 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the
14 “alleged deprivation of a constitutional right is involved, most courts hold that no
15 further showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418
16 F.3d 989, 1001-02 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal*
17 *Practice and Procedure*, § 2948.1 (2d ed. 2004)). Unlawful detention itself
18 “constitutes extreme or very serious damage, and that damage is not compensable
19 in damages.” *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017) (internal
20 citations omitted).

21 Second, third-country deportations pose a serious risk of irreparable harm.
22 Recent third-country deportees have been held indefinitely and without charge in
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1 hazardous foreign prisons.⁶ They have been subjected to solitary confinement.⁷
2 They have been removed to countries so unstable that the U.S. government
3 recommends making a will and appointing a hostage negotiator before traveling to
4 them.⁸ These threats to Petitioner's health and life constitute irreparable harm.

5 Third, Mr. Nguyen and his wife will suffer irreparable harm should Mr.
6 Nguyen be continually detained or removed to a third country. The day before his
7 re-detention, October 9, 2025, his wife received a life-saving kidney transplant at
8 University of California Irvine Medical Center in California. Because Mr. Nguyen
9 was detained, his wife had to drive herself to the hospital for the transplant. She
10 was released following a week of hospitalization, and now requires daily assistance
11 with medical and living needs. She must see her medical team every two weeks for
12 lab testing and treatment. Currently, she requires 17 different medications every
13 day. In early November 2025, his wife suffered severe gastric complications from
14 the transplant, was unable to eat, and admitted to the hospital weighing only 78
15 pounds. She was released after a week of hospitalization and is scheduled for
16 further gastrointestinal testing on March 16, 2026. Depending on the test results,
17 she may require gastrointestinal surgery.⁹ While his wife's brother and a niece are
18 able to care for her sporadically, this requires them to take time off work. His wife's
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21 ⁶ Edward Wong et al., *Inside the Global Deal-Making Behind Trump's Mass*
22 *Deportations*, N.Y. Times (Jun. 25, 2025), available at
[https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-](https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html)
23 [deportations.html](https://www.nytimes.com/2025/06/25/us/politics/trump-immigrants-deportations.html)

24 ⁷ Gerald Imray, *Men deported by U.S. to Eswatini in Africa will be held in*
25 *solitary confinement for undetermined time*, Associated Press (Jul. 18, 2025),
available at [https://apnews.com/article/eswatini-united-states-trump-deportation-](https://apnews.com/article/eswatini-united-states-trump-deportation-immigrants-a5853b16b7b275cbcbfe6caff87d0bb8)
[immigrants-a5853b16b7b275cbcbfe6caff87d0bb8](https://apnews.com/article/eswatini-united-states-trump-deportation-immigrants-a5853b16b7b275cbcbfe6caff87d0bb8)

26 ⁸ See Wong, *supra*.

27 ⁹ Undersigned counsel can provide Mrs. Nguyen's medical records under seal
upon request by this Court.

1 two sisters live in Florida and Illinois and cannot provide care. Mr. Nguyen is
2 greatly needed to provide daily medical and living care for his wife.

3 Therefore, Mr. Nguyen establishes *Winter*'s second factor in favor of
4 obtaining a TRO because "he is likely to suffer irreparable harm in the absence of
5 preliminary relief." *Winter*, 555 U.S. at 20.

6 **C. The balance of hardships and the public interest weigh heavily**
7 **in Petitioner's favor**

8 The final two *Winter* factors to obtain a TRO are whether "the balance of
9 equities tips in [Mr. Nguyen's] favor," and whether "an injunction is in the public
10 interest." *Winter*, 555 U.S. at 20. These final two factors "merge when the
11 Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009).

12 First, the government "cannot reasonably assert that it is harmed in any
13 legally cognizable sense" by being compelled to follow the law. *Zepeda v. I.N.S.*, 753
14 F.2d 719, 727 (9th Cir. 1983).

15 Second, it is always in the public interest to prevent violations of the U.S.
16 Constitution and ensure the rule of law. *See Nken*, 556 U.S. at 436 (describing
17 public interest in preventing noncitizens "from being wrongfully removed,
18 particularly to countries where they are likely to face substantial harm"). The
19 balance of equities favors preventing the violation of "requirements of federal law."
20 *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014).

21 Third, Mr. Nguyen faces weighty hardships. He faces unlawful, indefinite
22 detention. He faces removal to a third country where he is likely to suffer
23 imprisonment and serious harm. His wife also faces irreparable harm from lack of
24 daily medical and living assistance should Mr. Nguyen be indefinitely detained or
25 removed to a third country.

26 Respondents' actions are "inconsistent with federal law, ... [and] the balance
27 of hardships and public interest factors weigh in favor of a preliminary injunction."

1 *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019). Thus,
2 Mr. Nguyen establishes *Winter*'s third and fourth factor in favor of obtaining a TRO
3 because "the balance of equities tips in [Mr. Nguyen's] favor," and "an injunction is
4 in the public interest." *Winter*, 555 U.S. at 20.

5 **IV. Conclusion**

6 Petitioner Nguyen requests that this Court grant this motion and issue a
7 temporary restraining order prohibiting Respondents from (1) revoking Mr.
8 Nguyen's OSUP without first following the required constitutional, statutory, and
9 regulatory procedures; and (2) removing Mr. Nguyen to a third country without
10 providing adequate notice of intent to seek removal to a third country and due
11 process in the form of reopened immigration court proceedings to seek fear-based
12 relief from removal with a hearing before an immigration judge.

13 **Dated:** February 27, 2026.

14
15 Respectfully submitted,
16 Rene L. Valladares
17 Federal Public Defender

18 */s/ Wendi Overmyer*
19 _____
20 Wendi Overmyer
21 Assistant Federal Public Defender

22 */s/ Laura Barrera*
23 _____
24 Laura Barrera
25 Assistant Federal Public Defender
26
27

CERTIFICATE OF SERVICE

I certify the foregoing document has been filed on February 27, 2026, and the following individuals have been served a true and correct copy by CM/ECF:

Tamer Botros
DOJ-USAO
501 Las Vegas Blvd., Ste 1000
Las Vegas, NV 89101
Email: Tamer.Botros@usdoj.gov

Sigal Chattah
First Assistant US Attorney, District of Nevada
501 Las Vegas Blvd, Ste 1100
Las Vegas, NV 89101
Email: Sigal.Chattah@usdoj.gov

I further certify that the following participants in the case who are not registered electronic filing system users and have been have mailed the foregoing document by First-Class Mail, postage pre-paid, or through a third-party commercial carrier for delivery within three calendar days:

Dien Thanh Nguyen, A041542801 Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89048	Todd Lyons 500 12th St SW Washington, DC 20536
Pam Bondi Attorney General U.S. Department of Justice 950 Pennsylvania Ave, NW, Washington, DC, 20530	John Mattos, Warden Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89048
Kristi Noem Secretary, Dept. of Homeland Security 2707 Martin Luther King Jr. Ave SE Washington, DC 20528	Michael Bernanke Salt Lake City ICE Field Office Director 2975 Decker Lake Drive, Ste 100 West Valley City, UT 841179-6096

/s/ Jeremy Kip
Employee of the Federal Public Defender