

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Lou LEE, Petitioner, v. WARDEN, Alexandra Staging Facility, Alexandria International Airport, Pamela BONDI, U.S. Attorney General; Kristi NOEM, Secretary, U.S. Department of Homeland Security; Todd LYONS, in his capacity as Acting Director, Immigration and Customs Enforcement; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; David EASTERWOOD, Field Office Director of St. Paul Field Office for U.S. Department of Homeland Security, United States Immigration and Customs Enforcement, Enforcement and Removal Operations Respondents.	Case No. 3:26-CV-00407-LS EMERGENCY MOTION FOR PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER
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**EMERGENCY MOTION FOR PRELIMINARY INJUNCTION AND
TEMPORARY RESTRAINING ORDER**

Petitioner, Lou LEE, by and through counsel, respectfully moves this
Court pursuant to Federal Rule of Civil Procedure 65(b) and the All Writs

Act, 28 U.S.C. § 1651, for an emergency Temporary Restraining Order (TRO) staying his removal from the United States to Laos.

Petitioner's removal is imminent and may occur within the next 72 hours. Absent immediate intervention by this Court, Petitioner will suffer irreparable harm, including the high probability of extrajudicial killing or torture upon arrival in Laos.

STATUS OF THE PARTIES

Petitioner is a citizen of Laos currently in the custody of U.S. Immigration and Customs Enforcement (ICE) at the Alexandria Staging Facility at the Alexandria International Airport. Respondents are federal officials charged with the enforcement of immigration laws and the physical custody of Petitioner.

STATEMENT OF FACTS

Petitioner is a native and citizen of Laos who was admitted to the United States as a refugee in 1989 pursuant to Section 207 of the Immigration and Nationality Act (INA). His father worked with the CIA against the Laotian Army during the Vietnam War from 1960 to 1975. Due to the high likelihood of persecution and death after the war, the United States granted his father and the rest of his family refugee status upon admission into the United States. Mr. Lee's refugee status is a fundamental legal protection that has never been formally terminated by the government.

ARGUMENT

I. Legal standard for a Temporary Restraining Order and Preliminary Injunction

In determining whether to grant a Temporary Restraining Order, this Court must consider four factors:

- (1) the probability that the moving party will succeed on the merits;
- (2) the threat of irreparable harm to the moving party;
- (3) the balance between harm to the moving party and the potential injury inflicted on other party litigants by granting the injunction; and
- (4) whether the issuance of a TRO is in the public interest.

Canal Auth. of State of Fla. v. Callaway, 489 F.2d 567, 572 (5th Cir. 1974); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Here, all four factors weigh in favor of granting injunctive relief.

II. Petitioner is entitled to a Temporary Restraining Order and Preliminary Injunction ordering him immediately released

A. Petitioner is likely to prevail on the merits of his habeas petition.

1. Procedural Due Process

It is well established that deprivation of constitutional rights constitutes “irreparable injury” and justifies issuance of a temporary restraining order. *See Elrod v. Burns*, 427 U.S. 347, 373-74 (1976); *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.”).

The threat to Petitioner is not speculative. He is scheduled for deportation to Laos in approximately **three days**. It is well-settled that deportation to a country where one faces torture or death constitutes the highest form of irreparable harm. Once removed, this Court will lose the ability to provide effective relief, rendering the Habeas petition moot and Petitioner's life forfeit.

Mr. Lee has many family members that depend on him for at home care, medical support, financial support, and overall emotional support. Mr. Lee is the main source of financial income that supports his wife and two toddler children. He also has a stepson, [REDACTED] that he has partial custody over and helps to pay for [REDACTED]'s medical bills since he has been diagnosed with [REDACTED] since he was a baby. Mr. Lee knows everything in regard to [REDACTED]'s medical condition, so if something were to happen to [REDACTED] Mr. Lee's wife, Panou would not know what to do.

Both Mr. Lee's toddler children have heart conditions as well that require regular medical care and support. Their medical insurance is under Mr. Lee. If Mr. Lee is deported, their children will not have medical insurance. Panou is unable to obtain medical insurance due to the irresponsible actions of her father.¹ Panou, cannot carry both children to their medical appointments

¹ Panou mentioned there was some sort of fraud on the part of her father that prevents her from being able to get medical insurance, but undersigned counsel cannot 100% confirm this.

as one of them does not know how to walk yet and she cannot carry two car seats by herself. Panou is the only person in the household who can drive and has the capabilities to move around well and carry the children as need.

Panou is also helping to take care of her in laws while Mr. Lee is detained. Both of Mr. Lee's parents are in their 80's and 90's and need help moving around and going to the bathroom. In particular, Mr. Lee's father has a broken femur and she cannot carry him alone to the bathroom. Mr. Lee's mother, Zhou, has particularly been stressed out without him around. She has a pacemaker and is afraid she is going to have to live with one of his siblings because they do not want to take care of her. Mr. Lee cooks for her every morning and makes sure she has what she needs.

Because Mr. Lee was responsible for the finances of the household, Panou has been struggling to know when certain payments are due and to make those payments by herself without his financial income. Panou is stressed and afraid that she will not be able to pay rent and find someone to watch her kids in case she needs to find a job. She also struggles to have someone watch their children while she is doing daily tasks like cooking, showering, and cleaning. It is difficult as there is no one else to help care for her children as her in laws are older and incapable of helping.

Without Mr. Lee around, his two year old daughter constantly cries for him. She takes his shirt and sleeps with it. She does not sleep very well because

she misses her father. If she gets mad or upset that he's gone, she will have trouble breathing.

In the present case, Mr. Lee's Fifth Amendment rights are being violated because ICE agents, at the direction of Respondents, re-detained him and revoked his OSUP without undergoing the proper procedures under 8 C.F.R. § 241.13(i). Mr. Lee faces irreparable harm as a result, including deprivation of his liberty and separation from his family. Following the rulings in *Elrod*, these Fifth Amendment violations involving deprivations of due process constitute irreparable injury to Mr. Lee and justify issuance of a temporary restraining order. 427 U.S. at 373. Mr. Lee's liberty has been and continues to be restricted in violation of his constitutional rights.

The aforementioned issues establish irreparable harm and justify the prompt issuance of a TRO in this matter.

B. Respondents will face no injury or harm if emergency relief is granted.

The federal courts have routinely ruled that threatened or actual violations to a person's constitutional rights outweigh any harm to the government's interest in pursuing a government action. *See Morrison v. Heckler*, 602 F. Supp. 1482 (D. Minn. 1984); *see also Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221 (10th Cir. 2005).

Mr. Lee's harms, discussed above, are weighty; these harms are the

direct result of Respondents' conduct in denying Mr. Lee's due process as required under the Constitution and the INA. In fact, Mr. Lee's continued detention is actually a burden for Respondents in that his arbitrary detention is costly to the U.S. government. Any continuation of his detention is also utterly inhumane.

Possible injuries to the government, should the restraining order be granted, are nonexistent. Mr. Lee is only moving for this Court to order him immediately released. Mr. Lee is not a threat whatsoever to national security, harm to those in the community, or harm to ICE and its dangerous policies.

For the aforementioned reasons, the irreparable harm to Mr. Lee that will occur should Respondents fail to immediately release him clearly outweighs any burden to Respondents in indefinitely keeping him detained.

C. The issuance of a TRO is in the public interest.

The balance of hardships tips sharply in Petitioner's favor. The Respondents' interest in the efficient administration of removal orders is minimal compared to the Petitioner's interest in life and the integrity of judicial review. Furthermore, the public has a strong interest in ensuring that the United States government adheres to its non-refoulement obligations under international and domestic law.

In addition, the public—and therefore the government—has an interest in protecting the rights of people in detention and ensuring the rule of law. *See*

Torres v. U.S. Dep't of Homeland Sec., 2020 WL 3124216, at *9 (C.D. Cal. Apr. 11, 2020) (“[T]he public has an interest in the orderly administration of justice[.]”). “It is always in the public interest to prevent the violation of a party’s constitutional rights.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (cleaned up) (quoting *G & V Lounge, Inc. v. Michigan Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994)).

Additionally, there is critical public interest in ensuring executive agencies act lawfully. Respondents “cannot reasonably assert that [the government] is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th Cir. 1983).

The protection of individuals’ constitutional rights against governmental interference is one of the overarching concerns of our system of American jurisprudence. The constitutional guarantee to due process is a fundamental limit on the government’s power to skew, alter, or improperly affect legal proceedings related to an individual’s property or liberty interest(s).

To ensure the protection of Mr. Lee’s constitutional rights, a TRO and preliminary injunction should be issued by this Court to enjoin Respondents from continuing to detain him.

Over the course of twenty three years, Mr. Lee has complied with the conditions of his Order of Supervision issued by ICE in 2003. Therefore, he has made twenty three check ins over the course of that time and has not gotten

re-detained until now. Mr. Lee, as stated previously, has unadjusted refugee status, which requires certain protections against deportation due to the imminent threat of death if he were to be.

The United States criminal justice system and Constitution represent the essential blending of individual rights and the efficient administration of justice and government. One of the principal reasons for the success of the United States has been trusted in our country's legal system. If Respondents are entitled to violate the Constitution without censure, public trust in the judiciary will be harmed.

D. Petitioner has complied with the requirements of Rule 65.

Finally, as set forth *supra*, Mr. Lee asks this Court to find that he has complied with the requirements of Rule 65, Fed. R. Civ. P., for the purpose of granting a temporary restraining order. Respondents have been provided a copy of the instant motion and supporting documents and are on notice. Rule 65(c) states that the court may issue a preliminary injunction or temporary restraining order only if the movant gives 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.

Under the circumstances of this case, however, Mr. Lee respectfully asks this Court to find that such a requirement is unnecessary, since an order requiring Respondents to refrain from arresting, detaining, or transferring Mr.

Lee, and/or to refrain from giving Respondents' unlawful actions legal effect, should not result in any conceivable financial damages to Respondents. *See Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps. Of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (recognizing that the existence of an important public interest weighs in favor of dispensing with a bond).

REMEDIES

Petitioner moves for this Court to order Petitioner's deportation be immediately **STOPPED**.

CONCLUSION

For all of the foregoing reasons, Petitioner asks this Court to grant his Motion for a Temporary Restraining Order and Preliminary Injunction to:

1. **GRANT** an immediate Temporary Restraining Order enjoining Respondents from removing Petitioner from the United States;
2. **ORDER** that this stay remain in effect until such time as the Court can rule on the merits of the underlying Habeas Petition; and
3. **WAIVE** the requirement of a bond under Fed. R. Civ. P. 65(c) as Petitioner is indigent and in federal custody.

Respectfully submitted on this 1st day of May, 2026,

By: /s/ Sherene Mostaghimi (#8394431)

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Verification Pursuant to 28 U.S.C. § 2242

The undersigned counsel submits this verification on behalf of the Petitioner. Undersigned counsel has discussed with ICE, and the wife of Petitioner the events described in this Petition for Motion for Preliminary Injunction and Temporary Restraining Order and, on the basis of those discussions, verify that the statements in the Petition are true and correct to the best of his knowledge and belief.

Date: May 1, 2026

/s/ Sherene Mostaghimi
Attorney for Petitioner