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

PHET SAENGPRASEUTH,

Petitioner,

v.

KRISTI NOEM, Secretary of the
Department of Homeland Security,
PAMELA JO BONDI, Attorney General,
TODD M. LYONS, Acting Director,
Immigration and Customs Enforcement,
JESUS ROCHA, Acting Field Office
Director, San Diego Field Office,
JEREMY CASEY, Warden of Imperial
Regional Detention Facility,

Respondents.

CIVIL CASE NO.: '26CV1356 RSH MMP

**Motion for a
Temporary Restraining Order**

Phet Saengpraseuth was ordered removed to Laos in 2009. Yet ICE was nonetheless unable to do so because Mr. Saengpraseuth's birth was not registered (he was born in the fallout of the Vietnam War) and Laos has a history of not facilitating repatriation of its nationals. Thus, Mr. Saengpraseuth was released on an order of supervision and went more than *sixteen years* without incident. Yet, in January 2026, ICE nevertheless redetained him. ICE did not comply with

1 regulations in doing so, and ICE has not been able to remove him to Laos or a
 2 third country. He has a strong claim to release, and every additional day in
 3 detention works irreparable harm. And ICE’s policy permits his removal to a third
 4 country with little or no notice. This Court should therefore enter a temporary
 5 restraining order (“TRO”) pending further litigation.
 6

7 **Argument**

8 To obtain a TRO, a plaintiff “must establish that he is likely to succeed on
 9 the merits, that he is likely to suffer irreparable harm in the absence of preliminary
 10 relief, that the balance of equities tips in his favor, and that an injunction is in the
 11 public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008);
 12 *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7
 13 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve
 14 “substantially identical” analysis). A “variant[] of the same standard” is the
 15 “sliding scale”: “if a plaintiff can only show that there are ‘serious questions
 16 going to the merits—a lesser showing than likelihood of success on the merits—
 17 then a preliminary injunction may still issue if the balance of hardships tips
 18 sharply in the plaintiff’s favor, and the other two *Winter* factors are satisfied.”
 19 *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025)
 20 (internal quotation marks omitted). Under this approach, the four *Winter* elements
 21 are “balanced, so that a stronger showing of one element may offset a weaker
 22 showing of another.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131
 23 (9th Cir. 2011). A TRO may be granted where there are “‘serious questions going
 24 to the merits’ and a hardship balance. . . tips sharply toward the plaintiff,” and so
 25 long as the other *Winter* factors are met. *Id.* at 1132.

26 Here, this Court should issue a temporary restraining order because his
 27 unlawful immigration detention has caused, and will continue to cause,
 28 “immediate and irreparable injury . . . or damage.” Fed. R. Civ. P. 65(b). This

1 Court should therefore order Petitioner's release and enjoin removal to a third
 2 country with no or inadequate notice.

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

5 Concurrent with this TRO motion, Mr. Saengpraseuth files a habeas
 6 petition setting forth in detail why he is likely to succeed on the merits. Mr.
 7 Saengpraseuth will not repeat those arguments here, but he provides some
 8 examples of recent TRO or habeas petition grants in this district related to the
 9 claims he raises in this petition.

10 (1) *Regulatory and due process violations: Constantinovici v. Bondi*, __ F.
 11 Supp. 3d __, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10, 2025);
 12 *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165 (S.D. Cal. Sept.
 13 15, 2025); *Phan v. Noem*, 2025 WL 2898977, No. 25-cv-2422-RBM-MSB, *3–*5
 14 (S.D. Cal. Oct. 10, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-cv-2433-CAB
 15 (S.D. Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-
 16 2334-JES, *3 (S.D. Cal. Sept. 29, 2025); *Truong v. Noem*, No. 25-cv-02597-JES,
 17 ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-
 18 02575-JO-SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025).

19 (2) *Zadvydas violations: See Conchas-Valdez*, 2025 WL 2884822, No. 25-
 20 cv-2469-DMS (S.D. Cal. Oct. 6, 2025); *Alic v. Dep't of Homeland Sec./Immigr.*
 21 *Customs Enf't*, No. 25-CV-01749-AJB-BLM, 2025 WL 2799679 (S.D. Cal. Sept.
 22 30, 2025); *Rebenok v. Noem*, No. 25-cv-2171-TWR, ECF No. 13 (S.D. Cal. Sept.
 23 25, 2025).

24 (3) *Third-country removal statutory and due process violations: Rebenok v.*
 25 *Noem*, No. 25-cv-2171-TWR at ECF No. 13; *Van Tran v. Noem*, 2025 WL 2770623
 26 at *3; *Nguyen Tran v. Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D. Cal. Sept. 18,
 27 2025); *Louangmilith v. Noem*, 2025 WL 2881578, No. 25-cv-2502-JES, *4 (S.D.
 28 Cal. Oct. 9, 2025).

II. Petitioner will suffer irreparable harm absent injunctive relief.

Mr. Saengpraseuth also meets the second factor, irreparable harm. “It is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and Procedure*, § 2948.1 (2d ed. 2004)).

Here, the potential irreparable harm to Petitioner is even more concrete. The Ninth Circuit has specifically recognized the “irreparable harms imposed on anyone subject to immigration detention.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). That is because “[u]nlawful detention constitutes ‘extreme or very serious damage, and that damage is not compensable in damages.’” *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017).

Finally, “[i]t is beyond dispute that Petitioner would face irreparable harm from removal to a third country.” *Nguyen*, 2025 WL 2419288, at *26. Recent third-country deportees have been held, indefinitely and without charge, in hazardous foreign prisons. *See Wong et al., supra*. They have been subjected to solitary confinement. *See Imray, supra*. They have been removed to countries so unstable that the U.S. government recommends making a will and appointing a hostage negotiator before traveling to them. *See Wong, supra*. These and other threats to Petitioner’s health and life independently constitute irreparable harm.

III. The balance of hardships and the public interest weigh heavily in petitioner’s favor.

The final two factors for a TRO—the balance of hardships and public interest—“merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). That balance tips decidedly in Petitioner’s favor. On the

1 one hand, the government “cannot reasonably assert that it is harmed in any legally
 2 cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d
 3 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to prevent
 4 violations of the U.S. Constitution and ensure the rule of law. *See Nken*, 556 U.S.
 5 at 436 (describing public interest in preventing noncitizens “from being wrongfully
 6 removed, particularly to countries where they are likely to face substantial harm”);
 7 *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019)
 8 (when government’s treatment “is inconsistent with federal law, . . . the balance of
 9 hardships and public interest factors weigh in favor of a preliminary injunction.”).
 10 On the other hand, Petitioner faces weighty hardships: unlawful, indefinite
 11 detention and removal to a third country where he is likely to suffer imprisonment
 12 or other serious harm. The balance of equities thus favors preventing the violation
 13 of “requirements of federal law,” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d
 14 1053, 1069 (9th Cir. 2014), by granting emergency relief to protect against unlawful
 15 detention and prevent unlawful third country removal.

16
 17 Respectfully submitted,

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 19 Dated: March 3, 2026

s/ Daniel J. Yadron, Jr.

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PROOF OF SERVICE

I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney's Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: 3/3/2026

/s/ Daniel J. Yadron, Jr.
Daniel Yadron, Jr.