

Chief Magistrate Judge Theresa L. Fricke

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PHOUVONG MANIVONG,

Petitioner,

v.

MARKWAYNE MULLIN, *et al.*,¹

Respondents.

Case No. 2:26-cv-01123-TLF

FEDERAL RESPONDENTS'
OPPOSITION TO PETITIONER'S
MOTION FOR A TEMPORARY
RESTRAINING ORDER

Federal Respondents submit this opposition to Petitioner's Motion for a Temporary Restraining Order ("TRO") (Dkt. 2). Petitioner, a removable alien subject to a final order of removal to Laos dated January 3, 2012, moves for an emergency TRO and stay of removal. He seeks to enjoin Respondents from removing him from the United States, transferring him outside this Court's jurisdiction, or taking any action that would moot his pending petition for writ of habeas corpus. Enforcement and Removal Operations ("ERO") obtained valid Laos travel

¹ Pursuant to Fed. R. Civ. P. 25(d), Federal Respondents substitute Acting United States Attorney General Todd Blanche for Pamela Bondi.

Pursuant to Fed. R. Civ. P. 25(d), Federal Respondents substitute Acting Seattle Field Office Director, U.S. Immigration and Customs Enforcement Julio Hernandez for Laura Hermosillo.

Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 documents on January 30, 2026. Petitioner was detained on March 20, 2026, to effectuate removal
2 to Laos. On the same date, he received notice of revocation of any prior Order of Supervision,
3 participated in an informal interview, and received notice of imminent removal. Removal to Laos
4 is scheduled for on or about April 14, 2026, but no later than April 30, 2026.

5 Petitioner has failed to demonstrate any of the four factors required for the extraordinary
6 remedy of a TRO. The motion should be denied.

7 **I. FACTUAL SUMMARY**

8 Petitioner is subject to a final administrative order of removal to Laos issued on January 3,
9 2012. Declaration of Deportation Officer Yralees Melendez (Melendez Decl.) ¶ 3. On January 30,
10 2026, ERO secured valid travel documents from the Lao government. Melendez Decl., ¶ 4;
11 Declaration of Lawrence Van Daley, (Van Daley Decl.), Exhibit (Ex.) 1, Travel Document.
12 Petitioner was taken into immigration custody on March 20, 2026, for the purpose of effecting
13 his removal. Melendez Decl., ¶¶ 3-4. On March 20, 2026, the same day he was detained, Petitioner
14 received: (1) written notice revoking any outstanding Order of Supervision (OSUP); (2) an
15 informal interview affording him the opportunity to respond to the reasons for revocation; and (3)
16 notice of imminent removal to Laos. Melendez Decl., ¶ 4; Van Daley Decl., Ex. 2 OSUP
17 Revocation; Ex. 3, Informal Interview; Ex. 4 Notice of Imminent Removal. Removal is currently
18 scheduled for mid-April 2026, specifically on or about April 14, 2026, but no later than April 30,
19 2026. Melendez Decl., ¶ 5.

20 Petitioner filed a petition for writ of habeas corpus and an accompanying emergency
21 motion for TRO seeking to prevent his removal or any transfer that could affect this Court's
22 jurisdiction over the habeas petition. Dkts. 1, 2.

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II. LEGAL STANDARD

The standard for issuing a temporary restraining order is “substantially identical” to the standard for issuing a preliminary injunction. *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). “It frequently is observed that a preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original) (internal quotations omitted); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008).

A plaintiff seeking a preliminary injunction must show that: (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest. *See Winter*, 555 U.S. at 20 (“*Winter* factors”). Alternatively, a plaintiff can show that there are “serious questions going to the merits and the balance of hardships tips sharply towards [plaintiff], as long as the second and third *Winter* factors are satisfied.” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017) (internal quotation omitted). “Likelihood of success on the merits is the most important factor; if a movant fails to meet this threshold inquiry,” the court “need not consider the other factors.” *Geo Group v. Inslee*, 151 F.4th 1107, 1114 (9th Cir. 2025).

The purpose of preliminary injunctive relief is to preserve the status quo pending final judgment, rather than to obtain a preliminary adjudication on the merits. *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984).

II. ARGUMENT

A. Petitioner Has Not Shown Likelihood of Success on the Merits

Petitioner has not carried, and cannot carry, his burden of demonstrating a likelihood of success on the merits of his habeas petition. *Winter*, 555 U.S. at 20. The motion does not

1 demonstrate that Petitioner is likely to succeed on the merits of his habeas petition.

2 Petitioner is subject to a final order of removal issued on January 3, 2012, more than
3 fourteen years ago. Petitioner's Detention satisfies due process because his removal will occur in
4 the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). In fact, removal
5 is not merely "reasonably foreseeable"; it is affirmatively scheduled for mid-April 2026, with
6 valid Laos travel documents already secured on January 30, 2026, following proper notice and an
7 informal interview on March 20, 2026. These facts foreclose any colorable argument that removal
8 is not imminent or that detention has become unreasonably prolonged.

9 Furthermore, the revocation of Petitioner's Order of Supervision was procedurally proper
10 and fully compliant with applicable regulations. On the very day Petitioner was taken into custody
11 he received written notice of revocation of his prior Order of Supervision, an informal interview
12 affording him the opportunity to respond to the reasons for revocation, and notice of imminent
13 removal to Laos. This process satisfies the precise requirements of 8 C.F.R. § 241.4(l) and 8
14 C.F.R. § 241.13(i). Specifically, 8 C.F.R. § 241.4(l)(1) provides that "[u]pon revocation, the alien
15 will be notified of the reasons for revocation of his or her release" and "will be afforded an initial
16 informal interview promptly after his or her return to [ICE] custody to afford the alien an
17 opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. §
18 241.13(i) contains parallel requirements for post-removal-order supervision. Petitioner received
19 both the required notification and the informal interview on the same day he entered custody, in
20 full compliance with the regulatory timeline. Any due-process challenge to the revocation
21 therefore fails as a matter of law. *Mathews v. Eldridge*, 424 U.S. 319, 334-35 (1976) (due process
22 satisfied where regulations provide notice and opportunity to be heard and are followed).

23 This Court, has recently applied the *Winter* factors in immigration habeas cases involving
24 similar circumstances. *See Singh v. Noem*, No. 2:26-cv-00402-TLF (W.D. Wash. Mar. 12, 2026)

1 (granting partial relief requiring a bond hearing only in a pre-final-order detention context under
2 8 U.S.C. § 1226(a), while denying immediate release); *Singh v. Bondi*, No. 2:26-cv-00582-TLF
3 (W.D. Wash. Mar. 23, 2026) (similar measured relief). The present case involves a long-final
4 2012 removal order, valid travel documents, a firm removal date within weeks, and full
5 compliance with OSUP revocation procedures, facts that distinguish it sharply from the situations
6 in which this Court has granted any relief. *See also Sandhu v. Noem*, 2:26-cv-00465-TLF, 2026
7 WL 497951 (W.D. Wash. Feb. 23, 2026) (addressing related immigration habeas claims).

8 Furthermore, challenges to the timing or manner of executing a valid final removal order
9 are jurisdictionally barred. 8 U.S.C. § 1252(g) (no jurisdiction over any decision to “execute
10 removal orders”); *Rauda v. Jennings*, 55 F.4th 773, 777 (9th Cir. 2022) (discretion to decide when
11 to execute a removal order is shielded from judicial review). Any collateral attack on the
12 underlying 2012 removal order itself must proceed exclusively through a petition for review in
13 the appropriate court of appeals, not through habeas in district court. 8 U.S.C. § 1252(a)(5), (b)(9).

14 Petitioner identifies no viable constitutional, statutory, or regulatory claim with a strong
15 likelihood of success. The mere filing of a habeas petition, without more, does not create a
16 likelihood of success on the merits.

17 **B. Petitioner Has Not Shown Likelihood of Irreparable Harm**

18 Petitioner likewise fails to demonstrate a likelihood of irreparable harm in the absence of
19 a TRO. Under *Winter*, 555 U.S. at 22, irreparable harm must be “likely,” not merely possible. The
20 mere fact of removal pursuant to a final order of removal entered more than fourteen years ago
21 does not constitute irreparable harm. *Nken v. Holder*, 556 U.S. 418, 435 (2009) (“[T]he burden
22 of removal alone cannot constitute the requisite irreparable injury.”); *see also Rojas-Espinoza v.*
23 *Bondi*, 24-7536, 2026 WL 674370 (9th Cir. Mar. 10, 2026) (en banc order denying stay of
24 removal and reaffirming application of stay factors, including that the burden of removal alone is

insufficient absent a particularized showing). Here, Petitioner has identified no such additional harm beyond the ordinary consequences of executing a long-final removal order.

Petitioner has been in post-order detention for less than two weeks, and removal is scheduled for mid-April 2026, mere weeks away, with valid travel documents already in hand. This brief additional period of lawful detention pending imminent removal does not rise to the level of irreparable constitutional injury. Any claims Petitioner may raise in his habeas petition can be litigated or, if necessary, pursued through other avenues without the extraordinary intervention of a TRO. The speculative possibility that removal might complicate future litigation does not satisfy the “likely” irreparable harm standard required by *Winter*. *Winter*, 555 U.S. at 22.

C. The Balance of Equities and Public Interest Weigh Strongly Against Relief

The third and fourth *Winter* factors, the balance of equities and the public interest, merge in this immigration-enforcement context and weigh decisively against granting a TRO. *Nken*, 556 U.S. at 435-36. The government possesses an “overwhelming” interest in the prompt execution of valid final removal orders, particularly where, as here, the order has been final since 2012, valid travel documents were obtained months ago, and removal follows full administrative process including notice and an informal interview on March 20, 2026. *Id.* at 436; *see also* 8 U.S.C. § 1231(a)(1)(A) (mandating removal “as expeditiously as possible”).

Granting the requested relief would undermine Congress’s carefully crafted statutory scheme for the efficient removal of inadmissible and deportable aliens and would delay enforcement against an individual who has already received more than a decade of administrative and judicial process. The public interest strongly favors enforcement of the immigration laws. *Nken*, 556 U.S. at 436. By contrast, Petitioner’s equitable interest is minimal. He faces only a short additional period of detention before scheduled removal, and he has already received all required notices, an informal interview, and proper OSUP revocation procedures. Petitioner’s

equities simply do not outweigh the government’s compelling interest in carrying out a final removal order. *See Rojas-Espinoza*, No. 24-7536 (public interest weighed heavily against stay where petitioners failed to make sufficient showing on the merits).

D. The Requested Relief Is Vague and Overbroad

Finally, Petitioner’s request to enjoin any transfer “outside this Court’s jurisdiction” or “any other action that would defeat this Court’s ability to adjudicate his pending petition” is impermissibly vague and overbroad. Federal courts must tailor injunctive relief narrowly to the specific harm shown. *See Winter*, 555 U.S. at 24. Petitioner offers no concrete evidence that any routine operational transfer would irreparably harm him or this Court’s jurisdiction; habeas jurisdiction follows the custodian, and routine transfers within the removal process are ordinary incidents of ICE operations. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) (habeas jurisdiction tied to the immediate custodian).

Moreover, any attempt to enjoin the “manner” or “timing” of executing a final removal order falls squarely within the jurisdictional bar of 8 U.S.C. § 1252(g). *Rauda*, 55 F.4th at 777. This Court should not issue sweeping relief that interferes with ICE’s day-to-day administration of removal logistics absent a clear, particularized showing of necessity, which Petitioner has not made. The request is therefore both legally unsupported and practically unworkable

III. CONCLUSION

For the reasons stated above, Respondents respectfully request that the Court deny Petitioner’s emergency motion for a temporary restraining order and stay of removal in its entirety.

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1 Dated this 3rd day of April, 2026.

2 Respectfully submitted,

3 s/ Lawrence Van Daley

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14 I certify that this memorandum contains 1,943
15 words, in compliance with the Local Civil Rules.