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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 SEATTLE DIVISION

11 CHA, Sanit Va,) Civil Case No.: 2:26-cv-01137-TLF
12)
13)
14) **MOTION FOR TEMPORARY**
15) **RESTRAINING ORDER AND**
16) **SUPPORTING MEMORANDUM**
17) **OF LAW**
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11 Petitioner,
14 v.
16 Bruce SCOTT, et al.
17 *Respondents.*

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NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT, pursuant to Local Court Rule 65(b), Petitioner Sanit Va Cha hereby requests that the Court issue a temporary restraining order directing Respondents to immediately release him from the Northwest ICE Processing Center in Tacoma, Washington, return him to his prior release on an Order of Supervision, and permit him time to make arrangements for a safe departure to Laos while continuing to pursue claims for protection against serious harm if his removal proceedings are reopened. This motion is supported by the following Memorandum of Points and Authorities, the Petition for Writ of Habeas Corpus (Dkt. 1), and the declarations and exhibits filed in support of the Habeas Petition and this Motion.

Undersigned counsel hereby declares and certifies that on April 10, 2026, he notified both the District Court and AUSA Alixandria Morris at the U.S. Attorney's Office for the Western District of Washington that Petitioner would file this motion for a temporary restraining order.

1 **I. INTRODUCTION**

2 Petitioner, Mr. Sanit Va Cha, seeks emergency relief from the Court. The Government
3 notified him through service of a Notice of Intent to Remove Petitioner, filed on April 10,
4 2026, that in no earlier than 72 hours (that is, after 11:53 A.M. am on Monday, April 13, 2026)
5 it intends move him from the district to stage him for removal to Laos. Petitioner has only
6 recently learned that he can now be removed to Laos, despite having no documentation of
7 being a Laotian citizen and despite being ordered removed nearly 24 years ago but not actually
8 being removed. Moreover, he was detained only 14 days ago, on March 27, 2026, and has had
9 little time to seek legal relief and to arrange for the care of his family. His family includes his
10 elderly U.S. Citizen father, who suffers from numerous heart conditions and dementia, and his
11 five U.S. Citizen children, two of whom are minors.
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13 Despite these circumstances, Petitioner has diligently and rapidly worked with immigration
14 counsel. On April 2, 2026, he filed motions to reopen and to stay his removal proceedings with
15 the Portland Immigration Court, arguing that recent changes in Ninth Circuit law cause his
16 Oregon Assault II conviction to no longer be considered an aggravated felony. Dkt. 1, Exh. B-
17 C; *see also U.S. v. Gomez*, 165 F.4th 1199, 1208 (9th Cir. 2026) (holding that an 18 U.S.C. §
18 16(a) crime of violence excludes offenses that can be committed with a mental state no greater
19 than ordinary recklessness as to the resulting harm). His immediate removal jeopardizes his
20 ability to obtain due process on his motion to reopen, which is based on substantial changes in
21 law and country conditions in Laos. Petitioner should be released and ordered to not be re-
22 detained until the immigration court has ruled on the motions. He respectfully asks this Court
23 to issue an immediate interim order preventing the Government from transferring him out of
24 this district, until this Court can rule on the instant Motion for a Temporary Restraining Order.
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1 Petitioner does not challenge the authority of the federal government to remove him.
2 He challenges the way in which the Government has re-detained him, in pursuit of its
3 deportation agenda, and its failure to adhere to the due process rights that protect all people
4 living in the United States, including the undocumented. These violations have now come to a
5 head and threaten the gravest of harms. This matter does not invoke *Rauda v. Jennings*, 55
6 F.4th 773 (9th Cir. 2022), which holds that 8 U.S.C. § 1252(g) cannot be used to enjoin “action
7 by the Attorney General to . . . execute removal orders against any alien,” because Petitioner is
8 requesting review of the procedures used to secure his detention and does not seek an indefinite
9 stay of removal pending review of his final order as the *Rauda* petitioner did. *Rauda*, 55 F.4th
10 at 777-778; *see also, e.g., Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S.
11 471, 482 (1999) (the jurisdictional bar at § 1252(g) is not a “general jurisdictional limitation”
12 and only applies to “three discrete actions that the Attorney General might take: her ‘decision
13 or action’ to ‘commence proceedings, adjudicate cases, or execute removal orders’”).
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15 Respondents have not provided Petitioner with advance notice until now—after a
16 lifetime of residence in the United States (approximately 47 years) and roughly 24 years from
17 the date of his removal order. Instead, without any substantive advance warning, the
18 Government detained him at a scheduled appointment on March 27, 2026, and intends to keep
19 him detained until his removal on April 13, denying him the opportunity to prepare himself and
20 his family for his departure or to finish seeking relief in the form of an adjudicated motion to
21 reopen with the Portland Immigration Court. *See* Dkt. 1, Exh. 2. **Respondent’s actions have**
22 **endangered Petitioner’s life and threaten far worse harm if he is removed without any**
23 **preparation and advance warning of removal to Laos.**
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1 Had Petitioner been given the notice required by law, prior to ICE taking custody of
2 him, he would have been able to make plans to ensure his removal does not jeopardize his life
3 and the lives of his family members. Moreover, he would have had time to pursue due process
4 in immigration court by hiring counsel for consultation on grounds to reopen his removal
5 proceedings, which, if permitted, would allow him the deserved due process on claims relating
6 to changes in law that effect removability, and which are relevant to protection against the
7 current, life-threatening conditions he is set to be repatriated to.

8 Recent reports on the environment that Laos is accepting deportees from the United
9 States into are alarming. Laos is accepting the repatriation of stateless people, who they
10 arbitrarily imprison on a military base upon arrival and only release if the person is
11 “sponsored” out with permission from local authorities. Dkt. 1, Exh. B at 61, ¶ 6. Health care
12 for stateless deportees is scarce and access to essential medicines (which concerns Petitioner,
13 as he takes daily medication for hypertension) is limited. *Id.* at 63, ¶ 11.

14 The Government claims the authority to arbitrarily detain a person who has been on
15 supervision for decades, without any notice or independent check on its unilateral decision to
16 re-detain, despite the frequent and repeated rulings by the courts in this district and throughout
17 the Ninth Circuit. Due process, however, always constrains the authority of the government in
18 the exercise of its detention and removal authority. Indeed, the procedural due process interests
19 of a 51-year-old noncitizen who has lived in this country for his entire life (since the age four)
20 could not be stronger, requiring enough notice to allow him to pursue his legal claims and
21 accommodate his medical needs.

22 This court should therefore order an immediate stay on any transfer out of district or
23 removal pending resolution of this TRO motion. Petitioner further requests an order that he be
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released on conditions of supervision, with time to pursue his legal claims and to arrange for a safe departure to Laos which does not endanger his life. As he is filing this motion on an emergency basis, Petitioner respectfully requests the opportunity to present additional briefing and factual evidence on a Motion for Preliminary Injunction should the Court find it helpful.

II. STATEMENT OF FACTS

Petitioner incorporates by reference the facts laid out in his verified petition. Dkt. 1. He offers here the additional facts that support this motion, relating to the harm he will suffer if deported to Laos.

Laos has been officially designated as recalcitrant since July 10, 2018¹; however, its refusal to accept deportees is a fact extending to the 1997 implementation of IIRAIRA. The country reluctantly began accepting deportees from the U.S. in mid-2025 – under the coercive measures of tariffs and visa sanctions² – which invokes “qualitatively different” country conditions (discussed below) that supports a motion to reopen. *See Reyes-Corado v. Garland*, 76 F.4th 1256, 1265 (9th Cir. 2021).

The diplomatic relationships of the current White House include making strong-armed agreements with corrupt and unstable nations with a track record of human rights abuses³. This

¹ dhs.gov, “DHS Announces Implementation of Visa Sanctions,” 7/10/2018, <https://www.dhs.gov/archive/news/2018/07/10/dhs-announces-implementation-visa-sanctions#wcm-survey-target-id>

² *See* Presidential Proclamation, Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and Other National Security and Public Safety Threats, Sec. 3(c)(i) (June 4, 2025), <https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/>; Executive Order: Further Modifying the Reciprocal Tariff Rates, The White House, July 31, 2025, <https://www.whitehouse.gov/presidential-actions/2025/07/further-modifying-the-reciprocal-tariff-rates/>.

³ Senate Foreign Relations Committee: Minority Report, *At What Cost? Inside the Trump Administration's Secret Deportation Deals*, Feb. 2026, https://www.foreign.senate.gov/imo/media/doc/FINAL%20-%20web%20At%20What%20Cost%20-%20Inside%20the%20Trump%20Administration%27s%20Secret%20Deportation%20Deals_SFRC%20Minority%20Report_Feb%20202.pdf.

1 is a serious concern for the life and liberty of people like Petitioner. Like many other similarly
2 situated deportees in his position, he lacks a record of having been born in Laos; the Lao
3 government has “resolved” this issue by creating “laissez-passer” travel documents which do
4 not provide any recognition of citizenship or nationality but instead authorize a “single journey
5 only” for the alien to enter their country. Dkt. 9, Exh. C. Laos also does not appear to be
6 investigating parentage or prior Lao ties relating to the people it accepts – if so, it likely would
7 not have accepted Petitioner, who spent his earliest years in a Thai refugee camp (that his
8 family was placed into by the United States) and is the son of a CIA operative who worked to
9 assist the U.S. against communist forces that ultimately took control of Laos. Dkt. 1, Exh. 2 at
10 133-35. Laos Nationality Law, adopted in 2004, stripped Vietnam War-era refugees of any
11 Laos citizenship or nationality; it proclaims anyone who has lived outside the country without
12 permission for more than seven years to have forfeited their Laos citizenship and nationality, to
13 the extent they had acquired it. Dkt. 1, Exh. 4 at 9, Art. 20. Petitioner does not speak Lao and
14 has no ties to the nation he is set to be removed to, other than his parents who fled the country
15 when he was an infant.
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18 For deportees like Petitioner, Laos is providing one way in, but no way out. Once the
19 stateless aliens arrive, they are subjected to mandatory confinement on a military base. Dkt. 1,
20 Exh. B at 61, ¶ 6; *id.* at 71-72, ¶ 15. Only if they have a “sponsor” in Laos, and the approval of
21 a village chief and police chief, can they be released from the base. *Id.* Some deportees without
22 a sponsor have now been confined for prolonged periods; Dr. Thao Ha, the Executive Director
23 of the nonprofit organization Collective Freedom, reports that at least one person has been in
24 custody for as long as eight months because they could not find sponsorship. Dr. Ha raises
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1 concerns that these aliens will eventually be moved into a long-term prison. *Id.* at 72-73, ¶ 18-
2 19.

3 If released from military confinement, deportees are subject to stringent supervision by
4 the authorities, who require them to pay fees and check in with local police officers every three
5 months. *Id.* at 61-62, ¶ 7. Advocates on the ground in Laos report that deportees face “severe,
6 systematic, and life-altering restrictions on their fundamental rights.” *Id.* at 66, ¶ 20. They are
7 not permitted to own property, face housing restrictions and limited access to medical care, and
8 are not allowed to leave the country.
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10 Reports are emerging that some deportees “sponsored” by strangers are being held in
11 forms of bondage, forced to work without pay and having their identify documents withheld.
12 *Id.* at 72, ¶ 19. Whether they will be able to obtain Lao citizenship is unknown at this time. At
13 best, it will take many years, and at worst, they may never be granted citizenship. According to
14 Chanida Phaengdara Potter, the founder and director of ROOTS Laos:

15 “[T]here is no clear, accessible, or realistic pathway to Lao citizenship for deportees.
16 The Lao government does not have a formal process for granting citizenship to
17 deportees. While ROOTS works on facilitating paperwork ‘towards a pathway to
18 citizenship,’ this is aspirational rather than guaranteed. In practice, deportees remain in
19 permanent resident status without citizenship rights indefinitely. The bureaucratic
20 obstacles, cost, time and lack of clear legal procedures make citizenship effectively
21 lengthy and challenging for most deportees.”

22 *Id.* at 66, ¶ 19.

23 Access to healthcare is also “extremely limited for deportees.” *Id.* at 63, ¶ 11. “Healthcare
24 is not free, and many deportees lack the financial means to pay for medical care.” *Id.*
25 “Medications for chronic conditions may be unavailable, prohibitively expensive, or of
26 questionable quality.” *Id.* Further, “[d]eportees without permanent IDs, financial resources, or
family support face severe difficulties accessing even basic medical care.” *Id.*

1 As he has no remaining family or relationships in Laos, Petitioner could face prolonged
2 or indefinite, arbitrary confinement on a military base if removed there. Even if he is “sponsored
3 out,” he would likely be condemned to a life of statelessness, without access to quality health
4 care in a country where he is completely illiterate. What is most troubling, though, is that the
5 potential mistreatment he could endure would in large part be at the Laotian government’s
6 behest, due to his statelessness and lack of ties within the country.
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8 III. LEGAL STANDARD

9 This court may grant a temporary restraining order (“TRO”) pursuant to Fed. R. Civ. P.
10 (“FRCP”) 65 if the movant can establish that “he is likely to succeed on the merits, that he is
11 likely to suffer irreparable harm in the absence of preliminary relief, that the balance of
12 equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res.*
13 *Def. Council, Inc.*, 555 U.S. 7, 20 (2008). The Ninth Circuit applies a “sliding scale” approach
14 to the *Winter* standard, where “serious questions going to the merits and a balance of hardships
15 that tips sharply towards the plaintiffs can support issuance of a [TRO],” so long as the other
16 *Winter* factors are met. *Frailhat v. U.S. Immigr. & Customs Enf’t*, 16 F.4th 613, 635 (9th Cir.
17 2021) (citation omitted). Under this approach, the four *Winter* elements are “balanced, so that a
18 stronger showing of one element may offset a weaker showing of another.” *All. for the Wild*
19 *Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011).
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22 IV. ARGUMENT

23 This Court should issue a TRO because “immediate and irreparable injury” is occurring
24 and will continue in the absence of an order. Fed. R. Civ. Pro. 65(b). Respondents threaten to
25 imminently remove Petitioner before his valid claims to relief from removal can be heard,
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1 which will constructively deny him due process since he will not be able to return, even if his
2 removal proceedings are reopened. Moreover, the conditions reported in Laos are perilously
3 dangerous for deportees, creating an additional need for Petitioner to have an opportunity to
4 make claims for protection from severe harm in reopened removal proceedings.

5 **a. Petitioner Is Likely to Succeed on the Merits of His Detention Claims.**

6 Petitioner is likely to succeed on the merits of his claim that his detention violates the
7 Due Process Clause. *See* 8 U.S.C. § 1231(a). His unlawful detention has cut off his ability to
8 substantively pursue his claims for relief from removal, after a lifetime of residence in the
9 United States and 24 years of living under a dormant removal order. It has also cut off his
10 ability to prepare for the possibility of deportation, including getting his affairs in order and
11 making a safe transition that would account for his medical needs. Serious questions going to
12 the merits suggest that Petitioner's detention is unlawful because he was denied the critical
13 component of notice and time that is embedded within the procedural due process the
14 Government is required to provide.

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16 ***i. Procedural Due Process***

17 "Under long-standing law, a removal [based on a removal order lacking a legal basis at
18 the time of its execution] is a gross miscarriage of justice." *Vega-Anguiano v. Barr*, 982 F.3d
19 542, 547 (9th Cir. 2019). *See also Matter of Farinas*, 12 I. & N. Dec. 467, 472 (BIA 1967).
20 "[W]here [a noncitizen] has been removed on the basis of a deportation or removal order that
21 lacked a valid legal basis at the time of its issuance or executive, a gross miscarriage of justice
22 occurs." *Vega-Anguiano*, 982 F.3d at 549. Removal, prior to the immigration court having a
23 chance to rule on Petitioner's motions—particularly his emergency motion for a stay—would
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1 short-circuit the legal process and deny his right to seek relief based on changes to the application
2 of law.

3 Premature removal would also effectively and entirely foreclose Petitioner's ability to
4 pursue his rights in general. Until recently, it was the longstanding policy of the federal
5 government to return deported individuals to the United States who win their cases.⁴ *See Nken*
6 *v. Holder*, 556 U.S. 418, 435 (2009) (citing Brief for Respondent 44). The Trump Administration
7 has now abolished this policy. In both the Fourth Circuit and the Supreme Court, the Government
8 has clearly represented that it cannot or will not return individuals previously removed to El
9 Salvador, and disclaimed federal court authority to order a petitioner's return from the custody
10 of the Salvadoran government. *See Abrego Garcia v. Noem*, 25-1345, 2025 WL 1021113, at *3-
11 4 (4th Cir. Apr. 7, 2025) (Thacker, J., concurring) (criticizing the government for not facilitating
12 Mr. Abrego Garcia's return even after admitting his removal was in error); *Noem v. Abrego*
13 *Garcia*, 604 U.S. --, 145 S. Ct. 1017, 1019 (2025) (Sotomayor, J., writing separately) (criticizing
14 the Government for "now request[ing] an order from this Court permitting it to leave Abrego
15 Garcia, a husband and father without a criminal record, in a Salvadoran prison for no reason
16 recognized by the law."). As a result, it is now or never: if Petitioner is not permitted the
17 opportunity to pursue his claims to relief from removal before he is put onto a plane, he may
18 never get the chance to return, even if Portland EOIR ultimately grants his motion to reopen.
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21 "The Fifth Amendment requires that ICE provide a meaningful opportunity for
22 petitioner's claim of fear to be heard. The guarantee of due process includes the right to a full
23 and fair hearing, an impartial decisionmaker, and evaluation of the merits of his or her
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26 ⁴ See "Facilitation of Return Policy," ICE Policy Directive 11061.1 (Feb. 24, 2012),
https://www.ice.gov/doclib/foia/dro_policy_memos/11061.1_current_policy_facilitating_return.pdf

1 particular claim.” *Aden v. Nielsen*, 409 F.Supp.3d 998, 1010 (W.D. Wash. 2019). “[T]he
2 Government cannot avoid its obligation to provide due process ‘in the context of removal
3 proceedings,’ by skipping [a] proceeding entirely and simply whisking noncitizens off the
4 street and onto buses or planes out of the country.” *U.S. Dep’t of Homeland Sec. v. D.V.D.*, 145
5 S. Ct. 2153, 2162 (2025) (Sotomayor, J., dissenting) (internal citation omitted). Indeed,
6 “Congress expressly provided noncitizens with the right not to be removed to a country where
7 they are likely to be tortured or killed.” *Id.* The “right to be heard before being condemned to
8 suffer grievous loss of any kind . . . is a principle basic to our society.” *Id.*, quoting *Mathews v.*
9 *Eldridge*, 424 U.S. 319, 332 (1976).

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11 Moreover, “both the due process clause and the governing statute place the burden on
12 the government—regardless of whether the country of deportation is designated during or after
13 the removal hearing—to provide a meaningful opportunity to be heard on asylum and
14 withholding claims.” *Nguyen v. Scott*, 796 F. Supp. 3d 703, 727 (W.D. Wash. 2025) (quoting
15 *Aden v. Nielsen*, 409 F.Supp.3d 998, 1009 (W.D. Wash. 2019)). The Government must provide
16 notice to respondents and an opportunity to present their claims against removal. *See*
17 *Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999). “[L]ast minute orders of removal to
18 a country may violate due process if an immigrant was not provided an opportunity to address
19 his fear of persecution in that country.” *Najjar v. Lynch*, 630 Fed. App’x. 724 (9th Cir. 2016).
20 There must be time to prepare and present relevant arguments and evidence, and to potentially
21 seek reopening of one’s removal proceedings. *See D.V.D. v. U.S. Dep’t of Homeland Sec.*, No.
22 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025) (“All removals to third
23 countries . . . must be preceded by written notice to both the non-citizen and the non-citizen’s
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1 counsel in a language the non-citizen can understand.” (internal quotation marks and citation
2 omitted)).

3 As Judge Lasnik held in *Aden v. Nielsen*, the “Fifth Amendment’s procedural
4 protections are a limitation on government action that applies throughout the deportation
5 process, whether during *or after* removal proceedings.” 409 F.Supp.3d at 1010 (emphasis
6 added). In *Aden*, as here, the petitioner was not told until after he had been returned to custody
7 that he would be deported to Somalia—a country he thought he could not be removed to—and
8 that travel documents had been obtained. *Id.* By then, as in this case, there was no time to seek
9 to reopen removal proceedings and pursue a claim for withholding of removal. *Id.* The Court
10 held that due process required that ICE reopen the removal proceedings to permit the petitioner
11 to apply for relief from removal. *Id.* (“the removal proceedings shall be reopened and a hearing
12 shall be held before the immigration judge so that the petitioner may apply for relief from
13 removal”). *See also Nguyen v. Scott*, 2025 WL 2419288, at *19 (“Petitioner is likely to succeed
14 on his claim that removal to a third country under ICE’s current policy, without meaningful
15 notice and reopening of his removal proceedings for a hearing, would violate due process.”);
16 *Sadychov v. Holder*, 565 F. App’x 648, 651 (9th Cir. 2014) (unpublished) (holding that “the
17 agency must provide [the noncitizen] with notice and an opportunity to reopen his case for full
18 adjudication of his claim of withholding of removal from” the third country); *Doua Yang v.*
19 *Scott*, No 2:26-cv-00469-JWN, 2026 WL 632661 (W.D. Wash. March 6, 2026) (granting
20 habeas to Laotian with ICE producing a travel document in the litigation; finding
21 inapplicability of 8 U.S.C. § 1252(g)); *Vang v. Scott, et. al*, No. C26-690-MPL, 2026 WL
22 776149 (W.D. Wash. March 19, 2026) (provisionally granting petitioner’s TRO and
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1 prohibiting his removal from outside the Court’s jurisdiction; motion to stay removal pending
2 with the immigration court).

3 Section 1252(g) of the United States Code does not bar due process claims. *See Walters*
4 *v. Reno*, 145 F.3d 1032, 1032 (9th Cir. 1998); *Ibarra-Perez v. United States*, 154 F.4th 989, 997
5 (9th Cir. 2025) (§ 1252(g) “does not prohibit challenges to unlawful practices merely because
6 they are in some fashion connected to removal orders”); *Garcia v. Noem*, 803 F.Supp.3d 1064,
7 1074 (C.D. Cal. 2025) (§ 1252(g) does not apply to due process claims in bond hearings
8 because “Petitioners are enforcing their constitutional rights to due process in the context of
9 removal proceedings—not the legitimacy of the removal proceedings or any removal order”).

10 Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976) factors, the private interest
11 affected here could not be stronger. “[Noncitizens] who have resided for more than a decade in
12 this country. . . have a strong liberty interest in remaining in their homes.” *AADC v. Reno*, 70
13 F.3d 1045, 1068-69 (9th Cir. 1995). Petitioner has lived in the United States since 1978. He
14 knows no other home. Moreover, he has lived subject to a “dormant” removal order for 24
15 years; while the United States did not execute the order, Petitioner duly complied with his
16 order of supervision, built a settled life, and any connection he ever had to Laos faded away.
17 *See Chhoeun v. Marin*, 442 F.Supp.3d 1233, 1236 (C.D. Cal. 2020) (describing long dormant
18 removal orders of Cambodian nationals on OSUPs). The Government cannot claim that
19 Petitioner’s liberty interest is not at its apex.

20 “Immigrants have due process rights after final removal orders” are issued. *Chhoeun v*
21 *Marin*, 442 F.Supp.3d 1233, 1247 (C.D. Cal. 2020). Petitioner was not supposed to act like he
22 was living on borrowed time during the many years that the United States did not execute his
23 removal order. Rather, “[t]hat [he] invested in and became [a] productive member of [the]
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1 United States . . . *notwithstanding* [his] removal order is to be commended. Because [he] did
2 so, instead of wallowing in limbo while waiting to be removed, [he] made our country better—
3 and deepened [his] interest in remaining here. For the government to now deny [his] strong ties
4 and commitment to this country is . . . deeply troubling.” *Id.* at 1246.

5 The risk of erroneous deprivation, absent notice sufficient to provide Petitioner time to
6 seek legal relief and get his affairs in order, is significant. His removal signifies a lifetime of
7 banishment, which has long been recognized as the most serious of consequences. *See, e.g.*
8 *Bridges v. Wixon*, 326 U.S. 135, 154 (1945) (“That deportation is a penalty—at times a most
9 serious one—cannot be doubted. Meticulous care must be exercised lest the procedure by
10 which he is deprived of that liberty not meet the essential standard of fairness.”); *Ng Fung Ho*
11 *v. White*, 259 U.S. 276, 284 (1922) (deportation may result in the loss “of all that makes life
12 worth living”). Moreover, his elderly U.S. Citizen father, who suffers from hypertension, left
13 ventricular hypertrophy, paroxysmal atrial fibrillation, left atrial dilation, pulmonary
14 hypertension due to left heart disease, chronic heart failure, coronary artery disease, type 2
15 diabetes, and moderate dementia with anxiety (amongst other conditions) relies on him for
16 care. Dkt. 1, Exh. 2 at 137-138. Petitioner’s motion to reopen with the immigration court raises
17 serious issues as to whether he is now removable as charged, based on significant changes in
18 the law, and seeks review of whether he merits humanitarian protection from removal based on
19 changed country conditions in Laos. Sufficient notice that there was a change in circumstances,
20 and the Government now believes it could remove Petitioner, would have ensured that he was
21 not deprived of his rights and ability to pursue claims to relief from deportation, particularly
22 since claims regarding humanitarian protection have only developed after Laos began
23 accepting U.S. deportations for the first time since the Vietnam War. *Doua Yang*, 2026 WL
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1 632661, at *10 (a Notice of Imminent Removal, with boilerplate language void of any factual
2 basis for the revocation of one's OSUP and no basis to prepare a meaningful response, is not
3 "notice and opportunity" within the meaning of due process); *see also Sarail A. v. Bondi*, 803
4 F. Supp. 3d 775, 787 (D. Minn. 2025) ("Simply to say that circumstances had changed or there
5 was a significant likelihood of removal in the foreseeable future is not enough").

6 A hearing was also required before Petitioner's re-detention. It is no consequence that
7 the Government claims it had a travel document before it detained him. That fact, if true,
8 would have been established at a hearing; however, Petitioner was not even *shown* the travel
9 document when he asked to view it. "Factual disputes related to the justification for arrest and
10 re-detention should be resolved at a pre-deprivation hearing, rather than resolved after the fact
11 by this Court." *Mbunga*, 2026 WL 323056, at *3 (quoting *Yildirim v. Hermosillo*, 25-cv-2696-
12 KKE, 2026 WL 111358, at *4 (W.D. Wash. Jan. 15, 2026).

14 Finally, the government's interest in Petitioner's detention is extremely low. Notably,
15 "[c]ivil immigration detention is permissible only to prevent flight or protect against danger to
16 the community." *Zakzouk*, 2025 WL 2097470, at *3 (citing *Zadvydas*, 533 U.S. at 690). It has
17 also been 24 years since Petitioner was ordered removed. As observed in *Chhoeun*, the
18 Government has no legitimate claim that it is burdened by a slight delay in the execution of a
19 removal order when it "waited years or decades to execute these removal orders." 442 F. Supp.
20 3d at 1249.

22 The remedy for the Government's violations of Petitioner's procedural due process
23 rights is a release from custody with sufficient time to pursue claims to relief from removal
24 and, if such claims fail, to prepare for his relocation to Laos in a manner that preserves his
25 health and well-being and does not threaten his life. In the alternative, Petitioner asks this
26

1 Court to temporarily enjoin his movement outside the Northwest ICE Processing Center and to
2 stay his removal until the Portland Immigration Court can adjudicate his motion to reopen.
3 Without these remedies, he presumes that he will be flown to Laos on April 13, 2026. “Once a
4 [constitutional] right and a violation have been shown, the scope of a district court’s equitable
5 powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable
6 remedies.” *Roman v. Wolf*, 977 F.3d 935, 942 (9th Cir. 2020), quoting *Swann v. Charlotte-*
7 *Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971) (internal quotations omitted). *See also Brown*
8 *v. Plata*, 563 U.S. 493, 511 (2011) (“Courts may not allow constitutional violations to continue
9 simply because a remedy would involve intrusion into the realm of prison administration”).
10

11 **ii. Substantive Due Process**

12 The INA provides that after a removal order becomes final, the government “shall
13 remove the alien from the [U.S.] within a period of 90 days.” 8 U.S.C. § 1231(a)(1)(A). This
14 90-day period is often referred to as the initial removal period and during it, the government
15 “shall detain the alien.” *Id.* § 1231(a)(2). In some circumstances, federal immigration
16 authorities can continue to detain an alien beyond the initial removal period under section
17 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court interpreted the
18 detention statute, 8 U.S.C. § 1231(a)(6), in light of the Due Process Clause and held that “[a]
19 statute permitting indefinite detention of an alien would raise a serious constitutional problem”
20 because it would become punitive. *Id.* at 690. “[G]overnment detention violates [the Fifth
21 Amendment’s Due Process Clause] unless the detention is ordered in a *criminal* proceeding
22 with adequate procedural protections, or, in certain special and narrow nonpunitive
23 circumstances. . . where a special justification, such as a harm-threatening mental illness,
24 outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.*
25
26

Civil immigration detention, the Court has said, is only authorized for the limited purpose of flight risk or a danger to the community. *Id.* The Court held that 8 U.S.C. § 1231(a)(6) “implicitly limits an alien’s detention to a period reasonably necessary to bring about that alien’s removal.” *Id.* at 679. Thus, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by [section 1231(a)(6)].” *Id.* at 699. “[F]or the sake of uniform administration in the federal courts,” the Court found that post-order detention was “presumptively reasonable” for the first six months. *Id.* at 700–01.

Here, Petitioner’s re-detention violates substantive due process for several reasons.

First, there is and was no authority under the statute for re-detention after the removal period expired. *Zadvydas* dealt with the initial removal period, not with re-detention. Rather, the statute requires mandatory supervision after the removal period expires, subject to regulations. 8 U.S.C. § 1231(a)(3). Those regulations set forth the circumstances under which ICE may revoke a person’s supervision, which, as established above, were not met here. 8 C.F.R. § 241.13(i)(1-3). *See Tran v. Bondi*, 2025 WL 3140462, at *3 (W.D. Wash. Nov. 10, 2025) (analyzing legality of re-detention under the regulation because although Petitioner had not been cumulatively held six months or more, the removal period had long since expired); *Escalante v. Noem*, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (discussing burden shifting in 8 C.F.R. § 241.13(i)(2) and explaining that *Zadvydas* dealt with the initial removal period, not with re-detention long after the removal period).

Second, it was not significantly likely in the reasonably foreseeable future that Petitioner would be removed at the time of his detention. Indeed, the Government clearly had no scheduled flight at the time of his detention, nor would it show him the travel document it claimed to possess. It now predicts it will put him on a plane, most likely on April 13, 2026,

1 after it re-detained him. If civil immigration detention may only be used for the limited non-
2 punitive purpose of effectuating removal, then arresting and detaining a person without any
3 imminent travel date is not limited, it is punitive. *Zadvydas*, 533 U.S. at 690, 699 (detention
4 can only be for the “narrow nonpunitive” purpose of securing a person’s removal “at the
5 moment” of removal). The Government has used detention for the expansive purpose of
6 punitive confinement. *Id.* at 699 (“Reasonableness” is measured “in terms of the statute’s basic
7 purpose: assuring the [noncitizen’s] presence *at the moment* of removal.”).

8
9 Even assuming that Petitioner’s detention is lawful today under substantive due process
10 because *as of today* his removal is significantly likely in the reasonably foreseeable future, the
11 approximate two weeks of unlawful detention he has already experienced is harm that this
12 Court can and should cure by ordering his release, with clear prohibitions on re-detention that
13 both accommodate his need for time to pursue his legal claims or allow him to leave on his
14 own, as he has demonstrated he has never been a flight risk. This Court should narrowly limit
15 any detention to only what is necessary to effectuate removal, if Petitioner does not leave.

16
17 **b. Petitioner Will Suffer Irreparable Harm Absent Injunctive Relief.**

18 “It is well established that the deprivation of constitutional rights ‘unquestionably
19 constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
20 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the “alleged deprivation of a
21 constitutional right is involved, most courts hold that no further showing of irreparable injury is
22 necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (citing 11A Charles
23 Alan Wright et al., *Federal Practice and Procedure*, § 2948.1 (2d ed. 2004)). “Unlawful
24 detention certainly constitutes ‘extreme or very serious’ damage, and that damage is not
25 compensable.” *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017).

Here, the irreparable harm to Petitioner and his family is severe. He has already been unlawfully detained without prior notice. He has minor children and an elderly father who depend on him. He now faces imminent removal to a country he has no connection to, where he would suffer extreme harm, and before he has any opportunity to follow through with his legal claims. There is no unwinding if Petitioner is permitted to be deported before he has an opportunity to reopen his removal case. He would not be permitted to return to the United States, even if his motion to reopen was granted. Petitioner has already experienced significant harm, but the harm he now faces is catastrophic.

c. The Balance of Hardships and Public Interest Weigh Heavily in Petitioner's Favor.

The final two factors for a preliminary injunction—the balance of hardships and public interest—“merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). “[T]he balance of hardships tips decidedly in plaintiffs’ favor” when “[f]aced with such a conflict between financial concerns and preventable human suffering.” *Hernandez*, 872 F.3d at 996 (citing *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983)). Here, the balance of hardships tips in Petitioner’s favor. He faces weighty hardships: the loss of everything he knows and loves in life, the prospect of being condemned to a life of arbitrary confinement and statelessness, and continued deprivation of his life and liberty. “[T]he [government] cannot reasonably assert that it 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). And, it is always in the public interest to prevent violations of the U.S. Constitution and ensure the rule of law.

1 *See Nken*, 556 U.S. at 436 (describing public interest in preventing noncitizens “from being
2 wrongfully removed, particularly to countries where they are likely to face substantial harm”).

3 Accordingly, the balance of hardships and the public interest overwhelmingly favor
4 emergency relief to ensure Petitioner’s freedom and prevent unlawful removal to Laos. The
5 public interest overwhelming favors emergency relief to ensure Petitioner is not surreptitiously
6 removed.

7
8 **CONCLUSION**

9 For the foregoing reasons, the Court should order Petitioner’s immediate release from
10 custody with adequate protections against re-detention that account for the time he needs to
11 wait out his motion to reopen in immigration court, and to plan for safe relocation to Laos if he
12 fails to reopen his removal proceedings. In this case, Petitioner’s life and liberty depend on
13 having this time, both because of the likely harm that he will suffer if deported to Laos and
14 because he will be subjected to possible prolonged, arbitrary imprisonment in a country that
15 will deny him the rights and protections of citizenship and subject him to other forms of harm.
16

17
18 Dated: April 10, 2026.

Respectfully submitted,

19
20 /s/ Benjamin Cornell

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25 *I certify that this memorandum contains 6,117*
26 *words.*