

1 **Sisawang Khambounheuang**

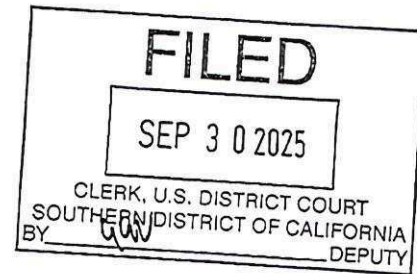
2 A# [REDACTED]

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6 Pro Se¹



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

10 **SISAWANG KHAMBOUNHEUANG,**

11 **Petitioner,**

12 **v.**

13 **KRISTI NOEM, Secretary of the**
14 **Department of Homeland Security,**
15 **PAMELA JO BONDI, Attorney General,**
16 **TODD M. LYONS, Acting Director,**
17 **Immigration and Customs Enforcement,**
18 **JESUS ROCHA, Acting Field Office**
19 **Director, San Diego Field Office,**
20 **CHRISTOPHER LAROSE, Warden at**
21 **Otay Mesa Detention Center,**

22 **Respondents.**

CIVIL CASE NO.: '25CV2575 JO SBC

Notice of Motion
and
Memorandum of Law
in Support of
Temporary Restraining Order

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25 ¹ Mr. Khambounheuang is filing this petition for a writ of habeas corpus and all
26 associated documents with the assistance of the Federal Defenders of San Diego,
27 Inc. That same counsel also assisted the petitioner in preparing and submitting his
28 request for the appointment of counsel, which has been filed concurrently with
this petition, and all other documents supporting the petition. Federal Defenders
has consistently used this procedure in seeking appointment for immigration
habeas cases. The Declaration of Kara Hartzler in Support of Appointment
Motion attaches case examples.

Introduction

Petitioner Sisawang Khambounheuang (“Petitioner”) faces immediate irreparable harm: (1) revocation of his release on immigration supervision, despite ICE’s failure to follow its own revocation procedures; (2) indefinite immigration detention with no reasonable prospect of removal in the reasonably foreseeable future to the country designated by the immigration judge (“IJ”); and (3) potential removal to a third country never considered by an IJ. This Court should grant temporary relief to preserve the status quo.

Petitioner has spent about 23 years living free in the community on an order of supervision. Throughout that time, the government has proved unable to remove him to Laos. Yet on August 13, 2025, the government re-detained him. ICE gave him no opportunity to contest his re-detention, and there are no apparent changed circumstances justifying it. ICE does not appear to have a travel document in hand, and Laos has overwhelmingly declined to issue travel documents for deportees. Worse yet, in the likely case that ICE still proves unable to remove Petitioner to Laos, ICE’s own policies allow ICE to remove him to a third country never before considered by the IJ in Petitioner’s case, with either 6-to-24 hours’ notice or no notice at all.

Petitioner is therefore facing both unlawful detention and a threat of removal to a dangerous third country without due process. The requested temporary restraining order (“TRO”) and injunction would preserve the status quo while Petitioner litigates these claims by (1) reinstating Petitioner’s release on supervision, and (2) prohibiting the government from removing him to a third country without an opportunity to file a motion to reopen with an IJ.

In granting this motion, this Court would not break new ground. Several courts have granted TROs or preliminary injunctions mandating release for post-final-removal-order immigrants like Petitioner. *See Phetsadakone v. Scott*, 2025 WL 2579569, at *6 (W.D. Wash. Sept. 5, 2025) (Laos); *Hoac v. Becerra*, No.

1 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16, 2025)
2 (Vietnam); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735,
3 at *7 (E.D. Cal. July 16, 2025) (Vietnam); *Nguyen v. Scott*, No. 2:25-CV-01398,
4 2025 WL 2419288, at *29 (W.D. Wash. Aug. 21, 2025) (Vietnam). Several more
5 have ordered release² for petitioners whose immigration cases are still pending.
6 *See, e.g., Hinestroza v. Kaiser*, No. 25-CV-07559-JD, 2025 WL 2606983, at *2
7 (N.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL
8 2607924, at *12 (D. Mass. Sept. 9, 2025); *R.D.T.M. v. Wofford*, No. 1:25-CV-
9 01141-KES-SKO (HC), 2025 WL 2617255, at *6 (E.D. Cal. Sept. 9, 2025). These
10 courts have determined that, for these long-term releasees, liberty is the status
11 quo, and only a return to that status quo can avert irreparable harm.

12 Several courts have likewise granted temporary restraining orders
13 preventing third-country removals without due process. *See, e.g., J.R. v. Bostock*,
14 25-cv-01161-JNW, 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); *Vaskanyan v.*
15 *Janecka*, 25-cv-01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. Jun. 25, 2025);
16 *Ortega v. Kaiser*, 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26,
17 2025); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7
18 (E.D. Cal. July 16, 2025); *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025
19 WL 1993735, at *7 (E.D. Cal. July 16, 2025). Petitioner therefore respectfully
20 requests that this Court grant this TRO and injunction.

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27 ² Because immigration detainees whose cases have not been adjudicated are entitled
28 only to a bond hearing—not to outright release—some of these TROs require
release unless ICE provides that hearing. But because *Zadvydas* requires outright
release on supervision, a TRO fitted to Petitioner’s claims should order that relief.

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Statement of Facts

I. In 2000, ICE tried and failed to remove Mr. Khambounheuang because the Laotian consulate refused to issue travel documents.

Sisawang Khambounheuang and his family came to the United States in 1979 as refugees from Laos. Exhibit A, “Khambounheuang Declaration,” at ¶ 1. Mr. Khambounheuang became a lawful permanent resident and remained so until 2000, when he was ordered removed due to an assault conviction. *Id.* at ¶ 3. After he was ordered removed, he was detained pending his removal for two years. *Id.* at ¶ 4. After Mr. Khambounheuang was released in 2002, he attended every check in appointment and did not get any new criminal convictions. *Id.* at ¶ 5.

For the next 23 years, Mr. Khambounheuang worked as a cook at a restaurant. *Id.* at ¶ 8. But several months ago, he quit his longtime job as a restaurant cook so he could be a full-time caretaker for his elderly mother, who has dementia. *Id.* On August 13, 2025, ICE arrested Mr. Khambounheuang when he went for his annual check in appointment. *Id.* at ¶ 6.

II. The government is carrying out deportations to third countries without providing sufficient notice and opportunity to be heard.

When removable immigrants cannot be removed to their home country—including Laotian immigrants—ICE has begun deporting those individuals to third countries without adequate notice or a hearing. As explained in greater detail in Petitioner’s habeas petition, the Administration has reportedly negotiated with countries to have many of these deportees imprisoned in prisons, camps, or other facilities. For example, the government paid El Salvador about \$5 million to imprison more than 200 deported Venezuelans in a maximum-security prison notorious for gross human rights abuses, known as CECOT. Edward Wong et al, *Inside the Global Deal-Making Behind Trump’s Mass Deportations*, N.Y. Times, June 25, 2025. In February, Panama and Costa Rica took in hundreds of deportees from countries in Africa and Central Asia and imprisoned them in hotels, a jungle

1 camp, and a detention center. *Id.*; Vanessa Buschschluter, *Costa Rican court*
2 *orders release of migrants deported from U.S.*, BBC (Jun. 25, 2025). On July 4,
3 2025, ICE deported eight men to South Sudan. *See Wong, supra*. On July 15, ICE
4 deported five men to the tiny African nation of Eswatini, where they are
5 reportedly being held in solitary confinement. Gerald Imray, *3 Deported by US*
6 *held in African Prison Despite Completing Sentences, Lawyers Say*, PBS (Sept. 2,
7 2025). Many of these countries are known for human rights abuses or instability.
8 For instance, conditions in South Sudan are so extreme that the U.S. State
9 Department website warns Americans not to travel there, and if they do, to
10 prepare their will, make funeral arrangements, and appoint a hostage-taker
11 negotiator first. *See Wong, supra*.

12 On June 23 and July 3, 2025, in light of procedural arguments regarding the
13 viability of national class-wide relief rather than individual relief, the Supreme
14 Court issued a stay of a class-wide preliminary injunction issued in *D.V.D. v. U.S.*
15 *Department of Homeland Security*, No. CV 25-10676-BEM, 2025 WL 1142968,
16 at *1, 3 (D. Mass. Apr. 18, 2025). That national injunction had required ICE to
17 follow the statutory and constitutional requirements before removing an
18 individual to a third country. *U.S. Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct.
19 2153 (2025) (mem.); *id.*, No. 24A1153, 2025 WL 1832186 (U.S. July 3, 2025).
20 On July 9, 2025, ICE rescinded previous guidance meant to give immigrants a
21 “‘meaningful opportunity’ to assert claims for protection under the Convention
22 Against Torture (CAT) before initiating removal to a third country” like the ones
23 just described. Exh. B to Habeas Petition.

24 Under the new guidance, ICE may remove any immigrant to a third country
25 “without the need for further procedures,” as long as—in the view of the State
26 Department—the United States has received “credible” “assurances” from that
27 country that deportees will not be persecuted or tortured. *Id.* at 1. If a country fails
28 to credibly promise not to persecute or torture releasees, ICE may still remove

1 immigrants there with minimal notice. *Id.* Ordinarily, ICE must provide 24 hours'
2 notice. But “[i]n exigent circumstances,” a removal may take place in as little as
3 six hours, “as long as the alien is provided reasonably means and opportunity to
4 speak with an attorney prior to the removal.” *Id.* Upon serving notice, ICE “will
5 not affirmatively ask whether the alien is afraid of being removed to the country
6 of removal.” *Id.* (emphasis original). Depending on whether immigrants assert a
7 credible fear, they will either be removed or screened by USCIS for withholding
8 or removal or Convention Against Torture (“CAT”) relief within 24 hours. *Id.* If
9 USCIS determines that an individual does not qualify, they will be removed there
10 despite asserting fear. *Id.*

11 Argument

12 To obtain a TRO, a plaintiff “must establish that he is likely to succeed on
13 the merits, that he is likely to suffer irreparable harm in the absence of preliminary
14 relief, that the balance of equities tips in his favor, and that an injunction is in the
15 public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008);
16 *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839-40 & n.7
17 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve
18 “substantially identical” analysis). A “variant[] of the same standard” is the
19 “sliding scale”: “if a plaintiff can only show that there are ‘serious questions
20 going to the merits—a lesser showing than likelihood of success on the merits—
21 then a preliminary injunction may still issue if the balance of hardships tips
22 sharply in the plaintiff’s favor, and the other two *Winter* factors are satisfied.”
23 *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025)
24 (internal quotation marks omitted). Under this approach, the four *Winter* elements
25 are “balanced, so that a stronger showing of one element may offset a weaker
26 showing of another.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131
27 (9th Cir. 2011). A TRO may be granted where there are “‘serious questions going
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1 to the merits' and a hardship balance. . . tips sharply toward the plaintiff," and so
2 long as the other *Winter* factors are met. *Id.* at 1132.

3 Here, this Court should issue a temporary restraining order and an
4 injunction because "immediate and irreparable injury . . . or damage" is occurring
5 and will continue in the absence of an order. Fed. R. Civ. P. 65(b). Not only have
6 Respondents re-detained Petitioner in violation of his due process, statutory, and
7 regulatory rights. ICE policy also allows them to remove him to a third country in
8 violation of his due process, statutory, and regulatory rights. This Court should
9 order Petitioner's release and enjoin removal to a third country with no or
10 inadequate notice.

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

13 **A. Petitioner is likely to succeed on the merits of his claim that his**
14 **detention violates *Zadvydas*.**

15 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered
16 a problem affecting people like Mr. Thai: Federal law requires ICE to detain an
17 immigrant during the "removal period," which typically spans the first 90 days
18 after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). And after that
19 90-day removal period expires, ICE may detain the migrant while continuing to
20 try to remove them. *Id.* § 1231(a)(6). If that subsection were understood to allow
21 for "indefinite, perhaps permanent, detention," it would pose "a serious
22 constitutional threat." *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court
23 avoided the constitutional concern by interpreting § 1231(a)(6) to incorporate
24 implicit limits. *Id.* at 689.

25 As an initial matter, *Zadvydas* held that detention is "presumptively
26 reasonable" for at least six months after the removal order becomes final. *Id.* at
27 701. This acts as a kind of grace period for effectuating removals. Following the
28 six-month grace period, courts must use a burden-shifting framework to decide
whether detention remains authorized. First, the petitioner must prove that there is

1 “good reason to believe that there is no significant likelihood of removal in the
2 reasonably foreseeable future.” *Id.*

3 If he does so, the burden shifts to “the Government [to] respond with
4 evidence sufficient to rebut that showing.” *Id.* Ultimately, then, the burden of
5 proof rests with the government: The government must prove that there is a
6 “significant likelihood of removal in the reasonably foreseeable future,” or the
7 immigrant must be released. *Id.*

8 Here, Petitioner was ordered removed more than 6 months ago, as his
9 removal order became final in 2000. Khambounheuang Dec. at ¶ 3. He has also
10 been detained for more than six months cumulatively. *Id.* at ¶¶ 4–6. Thus, it is
11 clear that the *Zadvydas* grace period has ended.

12 There is also strong evidence that there is no “significant likelihood of
13 removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. Laos
14 refused to accept Mr. Khambounheuang during the two years he was detained .
15 Khambounheuang Dec. at ¶ 4. Nothing has changed in the 23 years that
16 Mr. Khambounheuang was out on release, even though he was checking in
17 throughout that period and was therefore available to help seek travel documents.
18 And to date, there is no indication that ICE has obtained a travel document.

19 Finally, Petitioner’s criminal history cannot change this equation. Not only
20 has Petitioner proved that he poses no danger or flight risk, *Zadvydas* also
21 squarely prohibits ICE from indefinitely detaining immigrants because they pose
22 risks of danger or flight. 533 U.S. at 684–91.

23 Thus, this Court will likely find that Petitioner warrants *Zadvydas* relief.

24 **B. Petitioner is likely to succeed on the merits of his claim that ICE**
25 **violated its own regulations.**

26 In addition to *Zadvydas*’s protections, a series of regulations provide extra
27 process for someone who, like Petitioner, is re-detained following a period of
28 release. Under 8 C.F.R. § 241.4(l), ICE may re-detain an immigrant on

1 supervision only with an interview and a chance to contest a re-detention. When
2 an immigrant is specifically released after giving good reason why they cannot be
3 removed, additional regulations apply: ICE may revoke a noncitizen's release and
4 return them to ICE custody due to failure to comply with conditions of release, 8
5 C.F.R. § 241.13(i)(1), or if, "on account of changed circumstances," a noncitizen
6 likely can be removed in the reasonably foreseeable future. *Id.* § 241.13(i)(2).

7 The regulations further provide noncitizens with a chance to contest a re-
8 detention decision. ICE must "notif[y] [the person] of the reasons for revocation
9 of his or her release." *Id.* § 241.13(i)(3). ICE must then "conduct an initial
10 informal interview promptly" after re-detention "to afford the alien an opportunity
11 to respond to the reasons for revocation stated in the notification." *Id.* During the
12 interview, the person "may submit any evidence or information" showing that the
13 prerequisites to re-detention have not been met, and the interviewer must evaluate
14 "any contested facts." *Id.*

15 ICE is required to follow its own regulations. *United States ex rel. Accardi*
16 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,
17 1162 (9th Cir. 2004) ("The legal proposition that agencies may be required to
18 abide by certain internal policies is well-established."). A court may review a re-
19 detention decision for compliance with the regulations. *See Phan v. Beccerra*, No.
20 2:25-CV-01757, 2025 WL 1993735, at *3 (E.D. Cal. July 16, 2025); *Nguyen v.*
21 *Hyde*, No. 25-cv-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025)
22 (citing *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)).

23 None of the prerequisites to detention apply here. Petitioner did not violate
24 the conditions of his release. And there are no changed circumstances that justify
25 re-detaining him. ICE already tried—and failed—to remove Petitioner in 2000
26 and has given Petitioner no indication that agents have a travel document in hand
27 for him. Of course, ICE may be planning to renew their request for a travel
28 document from Laos. But absent any evidence for "why obtaining a travel

1 document is more likely this time around[,] Respondents' intent to eventually
2 complete a travel document request for Petitioner does not constitute a changed
3 circumstance." *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL
4 1993771, at *4 (E.D. Cal. July 16, 2025) (citing *Liu v. Carter*, No. 25-3036-JWL,
5 2025 WL 1696526, at *2 (D. Kan. June 17, 2025)). Nor has Petitioner received
6 the interview required by regulation. No one from ICE has ever invited him to
7 submit evidence to contest his detention. *Id.*

8 "[B]ecause officials did not properly revoke petitioner's release pursuant to
9 the applicable regulations," this Court will likely find that "petitioner is entitled to
10 his release" on an order of supervision. *Liu*, 2025 WL 1696526, at *3.

11 **C. Petitioner is likely to succeed on the merits of his claim that he is**
12 **entitled to adequate notice and an opportunity to be heard prior**
13 **to any third country removal.**

14 Finally, Petitioner is likely to succeed on the merits of his claim that he
15 may not be removed to a third country absent adequate notice and an opportunity
16 to be heard. U.S. law enshrines protections against dangerous and life-threatening
17 removal decisions. By statute, the government is prohibited from removing an
18 immigrant to any third country where a person may be persecuted or tortured, a
19 form of protection known as withholding of removal. *See* 8 U.S.C.

20 § 1231(b)(3)(A). The government "may not remove [a noncitizen] to a country if
21 the Attorney General decides that the [noncitizen's] life or freedom would be
22 threatened in that country because of the [noncitizen's] race, religion, nationality,
23 membership in a particular social group, or political opinion." *Id.*; *see also* 8
24 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a mandatory protection.

25 Similarly, Congress codified protections in the CAT prohibiting the
26 government from removing a person to a country where they would be tortured.
27 *See* FARRA 2681-822 (codified as 8 U.S.C. § 1231 note) ("It shall be the policy
28 of the United States not to expel, extradite, or otherwise effect the involuntary

1 return of any person to a country in which there are substantial grounds for
2 believing the person would be in danger of being subjected to torture, regardless
3 of whether the person is physically present in the United States.”); 28 C.F.R. §
4 200.1; *id.* §§ 208.16-208.18, 1208.16-1208.18. CAT protection is also mandatory.

5 To comport with due process, the government must provide notice of third
6 country removal and an opportunity to respond. Due process requires “written
7 notice of the country being designated” and “the statutory basis for the
8 designation, i.e., the applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409
9 F. Supp. 3d 998, 1019 (W.D. Wash. 2019); *accord D.V.D. v. U.S. Dep’t of*
10 *Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May
11 21, 2025); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999).

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

21 If the noncitizen claims fear, measures must be taken to ensure that the
22 noncitizen can seek asylum, withholding, and relief under CAT before an
23 immigration judge in reopened removal proceedings. The amount and type of
24 notice must be “sufficient” to ensure that “given [a noncitizen’s] capacities and
25 circumstances, he would have a reasonable opportunity to raise and pursue his
26 claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009
27 (citing *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132
28 F.3d 405, 408 (7th Cir. 1998)); *cf. D.V.D.*, 2025 WL 1453640, at *1 (requiring a

1 minimum of 15 days' notice). "[L]ast minute" notice of the country of removal
2 will not suffice, *Andriasian*, 180 F.3d at 1041; *accord Najjar v. Lunch*, 630 Fed.
3 App'x 724 (9th Cir. 2016), and for good reason: To have a meaningful
4 opportunity to apply for fear-based protection, immigrants must have time to
5 prepare and present relevant arguments and evidence. Merely telling a person
6 where they may be sent, without giving them a chance to look into country
7 conditions, does not give them a meaningful chance to determine whether and
8 why they have a credible fear.

9 Respondents' third country removal program skips over these statutory and
10 constitutional procedural protections. According to ICE's July 7 guidance,
11 individuals can be removed to third countries "without the need for further
12 procedures," so long as "the [U.S.] has received diplomatic assurances." Exh. B to
13 Habeas Petition at 1. Petitioner is likely to succeed on the merits of his claim on
14 this fact alone, because the policy instructs officers to provide no notice or
15 opportunity to be heard. The same is true of the minimal procedures ICE offers
16 when no diplomatic assurances are present. The policy provides no meaningful
17 notice (6-24 hours), instructs officers *not* to ask about fear, and provides no actual
18 opportunity to see counsel and prepare a fear-based claim (6-24 hours), let alone
19 reopen removal proceedings.

20 Faced with similar arguments, several courts have recently granted
21 individual TROs against removal to third countries. *See J.R.*, 2025 WL 1810210;
22 *Vaskanyan*, 2025 WL 2014208; *Ortega*, 2025 WL 1771438; *Hoac*, 2025 WL
23 1993771, at *7; *Phan*, 2025 WL 1993735, at *7.

24 **II. Petitioner will suffer irreparable harm absent injunctive relief.**

25 Petitioner also meets the second factor, irreparable harm. "It is well
26 established that the deprivation of constitutional rights 'unquestionably constitutes
27 irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
28 (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where the "alleged

1 deprivation of a constitutional right is involved, most courts hold that no further
2 showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d
3 989, 1001-02 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal*
4 *Practice and Procedure*, § 2948.1 (2d ed. 2004)).

5 Here, the potential irreparable harm to Petitioner is even more concrete.
6 “Unlawful detention certainly constitutes ‘extreme or very serious damage, and
7 that damage is not compensable in damages.” *Hernandez v. Sessions*, 872 F.3d
8 976, 999 (9th Cir. 2017). Third-country deportations pose that risk and more.
9 Recent third-country deportees have been held, indefinitely and without charge, in
10 hazardous foreign prisons. *See Wong et al., supra*. They have been subjected to
11 solitary confinement. *See Imray, supra*. They have been removed to countries so
12 unstable that the U.S. government recommends making a will and appointing a
13 hostage negotiator before traveling to them. *See Wong, supra*. These and other
14 threats to Petitioner’s health and life independently constitute irreparable harm.

15
16 **III. The balance of hardships and the public interest weigh heavily in**
17 **petitioner’s favor.**

18 The final two factors for a TRO—the balance of hardships and public
19 interest—“merge when the Government is the opposing party.” *Nken v. Holder*,
20 556 U.S. 418, 435 (2009). That balance tips decidedly in Petitioner’s favor. On
21 the one hand, the government “cannot reasonably assert that it is harmed in any
22 legally cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*,
23 753 F.2d 719, 727 (9th Cir. 1983). Moreover, it is always in the public interest to
24 prevent violations of the U.S. Constitution and ensure the rule of law. *See Nken*,
25 556 U.S. at 436 (describing public interest in preventing noncitizens “from being
26 wrongfully removed, particularly to countries where they are likely to face
27 substantial harm”); *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218
28 (W.D. Wash. 2019) (when government’s treatment “is inconsistent with federal
law, . . . the balance of hardships and public interest factors weigh in favor of a

1 preliminary injunction.”). On the other hand, Petitioner faces weighty hardships:
2 unlawful, indefinite detention and removal to a third country where he is likely to
3 suffer imprisonment or serious harm. The balance of equities thus favors
4 preventing the violation of “requirements of federal law,” *Arizona Dream Act*
5 *Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014), by granting emergency
6 relief to protect against unlawful detention and unlawful third country removal.

7 **IV. Petitioner gave the government notice of this TRO, and the TRO should**
8 **remain in place throughout habeas litigation.**

9 Upon filing this motion, proposed counsel emailed Janet Cabral, from the
10 United States Attorney’s Office, notice of this request for a temporary restraining
11 and all the filings associated with it. Additionally, Petitioner requests that this
12 TRO and injunction remain in place until the habeas petition is decided. Fed. R.
13 Civ. Pro. 65(b)(2). Good cause exists, because the same considerations will
14 continue to warrant injunctive relief throughout this litigation, and habeas
15 petitions must be adjudicated promptly. *See In re Habeas Corpus Cases*, 216
16 F.R.D. 52 (E.D.N.Y. 2003). A proposed order is attached.

1 **Conclusion**

2 For those reasons, Petitioner requests that this Court order the respondents
3 to issue a temporary restraining order.
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5 DATED: 9-17-25

Respectfully submitted,

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9 SISWANG KHAMBOUNHEUANG

10 Petitioner
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PROOF OF SERVICE

I, the undersigned, caused to be served the within Motion for a Temporary

Restraining Order by email to:

U.S. Attorney's Office, Southern District of California
Civil Division
880 Front Street
Suite 6253
San Diego, CA 92101

Date: 9-30-25



Kara Hartzler