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10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 LONG TON,

13 Petitioner,

14 v.

15 KRISTI NOEM, et al.

16 Respondents.
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No. 2:25-cv-02849-SB-AGR

**RESPONDENTS' OPPOSITION TO
PETITIONER'S *EX PARTE*
APPLICATION FOR TEMPORARY
RESTRAINING ORDER TO SHOW
CAUSE TO SHOW RE:
PRELIMINARY INJUNCTION [Dkt.
no. 7]**

*[Declaration of Lourdes Palacios filed
concurrently herewith]*

MEMORANDUM OF POINTS AND AUTHORITIES

Respondents respectfully oppose Petitioner's *Ex Parte* Application for Temporary Restraining Order and Order to Show Cause Re: Preliminary Injunction [[Dkt. 7](#)].

I. INTRODUCTION

Petitioner has filed a second petition [[Dkt. 1](#)] seeking release for prolonged detention pursuant to a final removal order. Petitioner's first petition, 5:25-cv-02033-SB-AGR, was filed on August 5, 2025, but it was eventually voluntarily dismissed by the Petitioner after a preliminary injunction was denied on September 3, 2025 [[Dkt. 17](#)] (the "PI Order"). The Court's prior PI Order sets forth the relevant background and law for this matter and Petitioner's immigration status in detail.

For the reasons set forth below, the Respondents request that the *ex parte* TRO Application filed by Petitioner in connection with his second Petition be denied.

II. STATEMENT OF FACTS

Petitioner is a native and citizen of Hong Kong, although his ancestry is Vietnamese. *See* Palacios Decl., ¶ 5.

On or about June 16, 1998, Petitioner was convicted for vandalism. *Id.*, ¶ 6.

On or about April 18, 2002, Petitioner was convicted of Voluntary Manslaughter and also Street Terrorism, for which he was sentenced to 80 months in California State Prison. *Id.*, ¶ 7.

After Petitioner served his sentence in California State Prison, ICE took him into custody on April 10, 2007 in Ventura, California. *Id.*, ¶ 8

On July 19, 2007, an Immigration Judge ordered Petitioner removed to Vietnam on in the alternative to China. *Id.*, ¶ 10. Petitioner waived appeal of that decision. *Id.*

On May 2, 2025, ICE officers took Petitioner into custody in Los Angeles. *Id.*, ¶ 11.

On June 3, 2025, ICE requested travel documents from China for Petitioner, and

1 that request was delivered on June 4, 2025.¹

2 On October 10, 2025, an email query for an update was sent. *Id.*, ¶ 12.

3 On October 23, 2025, the travel document request was reviewed and Petitioner
4 was added to the Hong Kong travel document request list. *Id.*, ¶ 13.

5 On October 24, 2025, the travel document request was mailed out by UPS. *Id.*, ¶
6 14.

7 ICE expects that a travel document will soon be issued for Petitioner, and ICE
8 believes it will be able to effectuate his removal to China in the reasonably foreseeable
9 future, consistent with China issuing such travel documents for Hong Kong nationals.
10 *Id.*, ¶¶ 15-16.

11 **III. LEGAL STANDARD FOR TRO**

12 “[A] preliminary injunction is an extraordinary and drastic remedy, one that
13 should not be granted unless the movant, *by a clear showing*, carries the burden of
14 persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original)
15 (internal citation omitted); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 21–22
16 (2008). To meet that showing, the moving party must make “a clear showing” that “he is
17 likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence
18 of preliminary relief, that the balance of equities tips in his favor, and that an injunction
19 is in the public interest.” *Winter*, 555 U.S. at 21–22. Where the government is a party,
20 the balance of equities and the public interest factors merge. *Nken v. Holder*, 556 U.S.
21 418, 435 (2009).

22 **IV. ARGUMENT**

23 **A. Petitioner’s Detention is not Unreasonably Prolonged at this Juncture**

24 As his current status, Petitioner has been redetained since May 2, 2025 for the
25 purposes of enforcing his final removal order. Petitioner’s new petition asserts that the
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27 ¹ This prior June 2025 travel document request was discussed in paragraph 12 of the
28 Lourdes Palacios declaration that was filed by the Respondents as Dkt. 6-1 in the
Petitioner’s prior petition, 5:25-cv-02033-SB-AGR.

1 detention period has continued to grow, and that his removal has been proven unlikely
2 by the continuing further passage of time. Petitioner asserts that under the principles of
3 *Zadvydas v. Davis*, [533 U.S. 678](#) (2001), he therefore cannot continue to be detained.

4 Under *Zadvydas*, if a detained noncitizen is not removed within six months, the
5 burden then shifts to the government to show it will remove them in a reasonably
6 foreseeable time. Although that burden of persuasion shifts after six months, the
7 noncitizen still “may be held in confinement until it has been determined that there is no
8 significant likelihood of removal in the reasonably foreseeable future.” *Id.*, 701.

9 Respondents acknowledge that under *Zadyvdas* the government’s burden to show
10 that detention is reasonable, for purposes of enforcing a final removal order, generally
11 increases along with the total length of the detention period as it extends beyond the first
12 six months (which are presumptively reasonable). See [533 U.S. at 690](#). While District
13 Courts often find that much longer detention periods are reasonable, there must still be a
14 significant likelihood of removal in the reasonably foreseeable future.

15 Courts have found, however, that a “habeas petitioner’s assertion as to the
16 unforeseeability of removal, supported only by the mere passage of time, [is] insufficient
17 to meet the petitioner’s burden to demonstrate no significant likelihood of removal under
18 the Supreme Court’s holding in *Zadvydas*.” *Muthalib v. Kelly*, [2017 WL 11696616](#), at *3
19 (C.D. Cal. Apr. 19, 2017) (collecting cases). “This is particularly so where the only
20 impediment to removal is the issuance of the appropriate travel document.” *Id.* (citing
21 *Nasr v. Larocca*, [2016 WL 3710200](#) (C.D. Cal. June 1, 2016), *report and*
22 *recommendation adopted*, [2016 WL 3704675](#) (C.D. Cal. July 11, 2016)). That Petitioner
23 does not yet have a specific date of anticipated removal does not make his detention
24 indefinite. See *Diouf v. Mukasey*, [542 F. 3d 1222, 1233](#) (9th Cir. 2008).

25 The Ninth Circuit has explained that the *Zadvydas* language requires an alien to
26 show that “he is stuck in a ‘removable-but-unremovable limbo,’ as the petitioners in
27 *Zadvydas* were[;]” that is, the alien must show he “is unremovable because the
28 destination country will not accept him or his removal is barred by our own laws.”

1 *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008).

2 Respondents believe that travel documents can be obtained for the Petitioner here,
3 and that he is not stuck in such a limbo. *See* Palacios Declaration, ¶¶ 13-16. Respondents
4 acknowledge that the government has not been able, to date, to remove Petitioner to
5 China. The government requested travel documents for Petitioner back on June 3, 2025,
6 attempting to remove him to China, as was set forth in the Declaration of Lourdes
7 Palacios, filed in the first petition [Dkt. 6-1].

8 The Respondents have continued to seek to remove Petitioner to China (Hong
9 Kong, specifically). After conducting another custody review, the Respondents
10 submitted an additional request for his travel documents on October 24, 2025. *See*
11 Palacios Declaration, ¶¶ 13-16.

12 Beyond the new request for travel documents, Respondents do not at this point
13 have further evidence to submit to demonstrate that such travel documents to China will
14 likely be issued for the Petitioner. But the Respondents believe that these documents can
15 be obtained.

16 Accordingly, the Respondents continue to oppose the issuance of a Temporary
17 Restraining Order, while acknowledging that the government's evidentiary burden
18 continues to increase with the length of the Petitioner's post removal order detention.

19 **B. The Balance of Equities and Public Interest Supports Denial of a TRO**

20 The final two factors required for a preliminary injunction or TRO—balancing of
21 the harm to the opposing party and the public interest—merge when the Government is
22 the opposing party. *See, e.g., Nken, supra*, at 435. Courts must “pay particular regard for
23 the public consequences in employing the extraordinary remedy of injunction.”

24 *Weinberger v Romero-Barcelo*, 456 U.S. 305, 312-13 (1982). In the instant case, the
25 balance of equities and the public interest tip strongly in favor of the Respondents.

26 The public interest in enforcement of United States immigration laws is
27 significant. *United States v. Martinez-Fuerte*, 428 U.S. 543, 556-58 (1976); *Blackie's*
28 *House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) (“The Supreme

1 Court has recognized that the public interest in enforcement of the immigration laws is
2 significant.”).

3 **V. CONCLUSION**

4 The TRO Application should be denied.

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6 Dated: November 5, 2025

Respectfully submitted,

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8 DAVID M. HARRIS
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11 /s/ Daniel A. Beck

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14 Attorneys for Federal Respondents

15 **CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2**

16 The undersigned, counsel of record for Respondents, certifies that the
17 memorandum of points and authorities contains 1,510 words, which complies with the
18 word limit of L.R. 11-6.1.
19

20 Dated: November 5, 2025

/s/ Daniel A. Beck

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