

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. EDCV 25-02880-KK-SSCx

Date: November 12, 2025

Title: *Hien Quang Vo v. Mark Bowen et al.*

Present: The Honorable KENLY KIYA KATO, UNITED STATES DISTRICT JUDGE

Twyla Freeman

Not Reported

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Present

None Present

Proceedings: (In Chambers) Order GRANTING Petitioner's Application for Temporary Restraining Order [Dkt. 5]

I.
INTRODUCTION

On October 29, 2025, petitioner Hien Quang Vo ("Petitioner"), who is currently detained in the custody of Immigration and Customs Enforcement ("ICE"), filed a Petition for Writ of Habeas Corpus ("Petition") against respondents Mark Bowen, Thomas P. Giles, Todd Lyons, Kristi Noem, and Pamela Bondi ("Respondents"). ECF Docket No. ("Dkt.") 1, Petition ("Pet."). On November 5, 2025, Petitioner filed the instant Application for Temporary Restraining Order ("Application"), seeking to enjoin Respondents from continuing to detain him or removing him to a third country without notice and an opportunity to be heard. Dkt. 5, Application ("App.").

The Court finds this matter appropriate for resolution without oral argument. See Fed. R. Civ. P. 78(b); C.D. Cal. L.R. 7-15. For the reasons set forth below, Petitioner's Application is **GRANTED**.

II.
BACKGROUND

Petitioner was born in Vietnam in 1979. App. at 1. In 1990, Petitioner entered the United States as a Lawful Permanent Resident. Id.

In 2009, Petitioner was convicted of possession of cannabis with intent to deliver in Illinois. Id. Upon Petitioner's release from state custody in 2013, ICE detained Petitioner, and an Immigration Judge ordered his removal to Vietnam. Id. In 2014, following approximately four months of detention, ICE released Petitioner under an Order of Supervision ("OSUP") because the United States then lacked a repatriation agreement with Vietnam. Id.; Pet. ¶¶ 50-51.

As alleged in the Petition and Application, Petitioner has fully complied with the terms of the OSUP since his release over eleven years ago. Pet. ¶ 6; App. at 3. Petitioner has "lived a law-abiding life dedicated to [his] family, helping [his] 80 year-old father financially and emotionally as well as helping [his] wife take care of [their] two step-kids." App. at 2. Further, Petitioner has "worked steadily in the construction industry" and "consistently checked in" with ICE as required by the OSUP. Id.

On September 4, 2025, ICE re-detained Petitioner when he arrived for a scheduled check-in. Id. Upon re-detaining Petitioner, ICE provided Petitioner a Notice of Revocation of Release ("Notice") stating his OSUP was being revoked because "ICE has determined there is a significant likelihood of removal in the reasonably foreseeable future." See App. at 4; Dkt. 9-1, Declaration of Lourdes Palacios ("Palacios Decl."), Ex. A. The following day, Petitioner was transferred to Adelanto ICE Processing Center, where he remains pending removal. App. at 2-3. ICE has instructed Petitioner to request a passport and travel documents from the Vietnamese government. Id. On September 26, 2025, a request for travel documents was sent to the Vietnamese government. Palacios Decl. ¶ 20. The passport and travel documents have not yet been issued. Id. ¶ 22.

On October 29, 2025, Petitioner filed the operative Petition against Respondents, raising the following grounds for relief:

1. **Ground One:** Unlawful Detention, in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution ("Due Process Clause") and 8 U.S.C. § 1231 ("Section 1231");
2. **Ground Two:** Unlawful Detention, in violation of the Due Process Clause and section 702 of the Administrative Procedure Act ("APA"), for failing to comply with 8 C.F.R. § 241.13 ("Section 241.13") and 8 C.F.R. § 241.4 ("Section 241.4");
3. **Ground Three:** Unlawful Potential Removal to a Third Country, in violation of the Due Process Clause and Convention Against Torture ("CAT").

Pet. at 11-19.

On November 5, 2025, Petitioner filed the instant Application. App. First, Petitioner argues ICE has unlawfully detained him beyond the initial removal period without demonstrating a significant likelihood of removal in the reasonably foreseeable future, in violation of the Due Process Clause and Section 1231 ("Detention Claim"). App. at 10-15. Second, Petitioner argues ICE unlawfully revoked his release and re-detained him without following ICE's regulations requiring notice and an opportunity to be heard, in violation of the Due Process Clause and APA ("Revocation Claim"). Id. at 15-17. Third, Petitioner argues Respondents "threaten [his] removal to a third country without adequate notice and an opportunity to be heard," in violation of the Due Process Clause and CAT ("Third Country Removal Claim"). Id. at 17. Accordingly, Petitioner requests the Court to enjoin Respondents from continuing to detain him and from removing him to a third country without adequate notice and an opportunity to be heard. Id. at 1.

On November 7, 2025, Respondents filed an Opposition. Dkt. 9, Opposition (“Opp.”). Respondents maintain Petitioner is not entitled to injunctive relief because (1) Petitioner has not established there is no significant likelihood of removal in the reasonably foreseeable future, id. at 4-7, (2) Petitioner’s complaints about procedural deficiencies in his re-detention are insufficient to grant relief, id. at 7-9, and (3) Petitioner does not face removal to a third country without notice, id. at 3-4. In support of the Opposition, Respondents submit the Declaration of Lourdes Palacios. Palacios Decl.

This matter, thus, stands submitted.

III. LEGAL STANDARD

The standard for issuing a temporary restraining order is identical to the standard for issuing a preliminary injunction. See Stuhlbarg Int’l Sales Co. v. John D. Brush & Co., 240 F.3d 832, 839 n.7 (9th Cir. 2001). Under Federal Rule of Civil Procedure 65, the Court may grant a temporary restraining order to prevent “immediate and irreparable injury.” Fed. R. Civ. P. 65(b)(1). Like a preliminary injunction, a temporary restraining order is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 22 (2008).

The party seeking such relief must establish: (1) it is likely to succeed on the merits; (2) it is likely to suffer irreparable harm absent preliminary relief; (3) the balance of equities weighs in its favor; and (4) the injunction is in the public interest (“Winter factors”). See id. at 20. Courts in the Ninth Circuit also employ “an alternative ‘serious questions’ standard, also known as the ‘sliding scale’ variant of the Winter standard.” Fraihat v. U.S. Immigr. & Customs Enf’t, 16 F.4th 613, 635 (9th Cir. 2021) (citation modified). Under the serious questions standard, the four Winter elements are “balanced, so that a stronger showing of one element may offset a weaker showing of another.” All. for the Wild Rockies v. Cottrell, 632 F.3d 1127, 1131 (9th Cir. 2011). Thus, a TRO may be warranted where there are “‘serious questions going to the merits’ and a hardship balance . . . that tips sharply toward the plaintiff,” and so long as the other Winter factors are also met. Id. at 1132.

IV. THE WINTER FACTORS WEIGH IN FAVOR OF GRANTING THE TEMPORARY RESTRAINING ORDER

A. LIKELIHOOD OF SUCCESS ON THE MERITS

1. Revocation Claim

The likelihood of success on the merits is the most important Winter factor, which “is especially true for constitutional claims.” Junior Sports Mags. Inc. v. Bonta, 80 F.4th 1109, 1115 (9th Cir. 2023) (citing Melendres v. Arpaio, 695 F.3d 990, 1002 (9th Cir. 2012)). Here, the Court

finds Petitioner is likely to succeed on the merits or has at least raised “serious questions” regarding the merits of his Revocation Claim and Third Country Removal Claim.¹

a. Applicable Law

“Freedom from imprisonment . . . lies at the heart of the liberty” that the Fifth Amendment’s Due Process Clause protects. Zadvydas v. Davis, 533 U.S. 678, 690 (2001). “[T]he Due Process Clause applies to all ‘persons’ within the United States,” including noncitizens, “whether their presence here is lawful, unlawful, temporary, or permanent.” Id. at 693. Thus, a noncitizen under an OSUP has a constitutional liberty interest in their continued release from immigration detention. See Sun v. Santacruz, No. EDCV-25-02198-JLS-JCx, 2025 WL 2730235, at *5-6 (C.D. Cal. Aug. 26, 2025) (finding the petitioner had a “substantial” liberty interest in “remaining out of immigration custody” pursuant to an OSUP and granting a TRO enjoining the respondents from re-detaining the petitioner without a pre-detention hearing before a neutral adjudicator).

8 U.S.C. § 1231(a) (“Section 1231(a)”) governs the detention, release, and removal of noncitizens with an order of removal. Under Section 1231(a), a noncitizen who has been ordered removed must be detained during the 90-day removal period. 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(2)(A). However, if a noncitizen is not removed within this period, they must be released “subject to supervision under regulations prescribed by the Attorney General.” Id. § 1231(a)(3). While certain noncitizens may be detained beyond the 90-day removal period, such noncitizens, if released, must be subject to the same terms of supervision as under Section 1231(a)(3). Id. § 1231(a)(6).

Section 241.4 and Section 241.13 set the terms of supervised release under Section 1231(a)(3) and 8 U.S.C. § 1231(a)(6) (“Section 1231(a)(6)”), including the conditions and procedures under which ICE may revoke release.² 8 C.F.R. §§ 241.4(l), 241.13(i). First, ICE may revoke release when a noncitizen violates a condition of their OSUP. Id. §§ 241.4(l)(1), 241.13(i)(1). Second, ICE may revoke release when, “on account of changed circumstances, [ICE] determines that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future.” Id. § 241.13(i)(2). Third, certain officials may exercise their discretion to revoke the release. Id. § 241.4(l)(2).

¹ Because Petitioner is entitled to release based on his Revocation Claim, the Court need not consider his Detention Claim.

² Section 241.4 establishes conditions and procedures for the continued detention of noncitizens beyond the statutory 90-day removal period under Section 1231(a)(6). See 8 C.F.R. § 241.4(a). In comparison, Section 241.13 establishes special procedures for noncitizens “who are subject to a final order of removal and are detained under the custody review procedures provided at § 241.4 . . . where the [noncitizen] has provided good reason to believe there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future.” Id. § 241.13(a). The parties do not specify whether Section 241.13 or Section 241.4 applies to Petitioner’s revocation of release and cite to both provisions in their briefs. See App. at 15-17; Opp. at 7-9.

Upon revocation of release, ICE must provide the noncitizen a copy of the decision “set[ting] forth the reasons for the continued detention.” *Id.* § 241.4(d). Additionally, the noncitizen must be “notified of the reasons for revocation” and afforded “an initial informal interview promptly . . . to respond to the reasons for revocation stated in the notification,” *id.* §§ 241.13(i)(3), 241.4(l)(1). Failure to comply with these procedural requirements may constitute a due process violation. See *Santamaria Orellana v. Baker*, No. 25-1788-TDC, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025) (“[T]hese regulations are intended to provide due process in that they are fairly construed to be part of a procedural framework designed to ensure the fair processing of an action affecting an individual.” (citation modified)).

b. Analysis

Here, Petitioner is likely to succeed on the merits of his Revocation Claim. First, while Petitioner was provided the Notice upon the revocation of his release, the Notice fails to “set forth the reasons for the continued detention,” 8 C.F.R. § 241.4(d), or notify Petitioner “of the reasons for revocation,” *id.* §§ 241.13(i)(3), 241.4(l)(1). Rather, the Notice merely states the decision to revoke Petitioner’s release was “based on a review of [his] official [] file and a determination that there are changed circumstances in [his] case.” Lourdes Decl., ¶ 2, Ex. A. The Notice further states “ICE has determined that [Petitioner] can be removed from the United States pursuant to the outstanding order of removal against [him].” *Id.* However, these vague and conclusory assertions do not identify any specific “changed circumstances” or otherwise explain why Petitioner’s release is being revoked.³ Hence, it appears ICE has violated its own regulations in re-detaining Petitioner without

³ To the extent Respondents contend their request for travel documents from the Vietnamese government constitutes “changed circumstances” justifying Petitioner’s re-detention, see Opp. at 4-7, that argument is unavailing. First, there is no evidence Respondents made such a determination before revoking Petitioner’s release, such that Petitioner could be adequately notified upon re-detention. See *Tran v. Noem*, No. 3:25-cv-02391-BTM-BLM, 2025 WL 3005347, at *3 (S.D. Cal. Oct. 27, 2025) (finding Section 241.13 requires a determination of changed circumstances to be made before a noncitizen’s release is revoked). Indeed, Respondents did not submit the request for travel documents until September 26, 2025, over three weeks after re-detaining Petitioner. Palacios Decl. ¶ 20. Second, even if Respondents made such a determination, they do not meet their burden of making an “individualized determination” of changed circumstances. *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 150 (D. Mass. 2025) (citation modified) (“Hyde”); see also *Sun v. Noem*, No. 3:25-CV-02433-CAB-MMP, 2025 WL 2800037, at *2 (S.D. Cal. Sep. 30, 2025) (finding Section 241.13 “place[s] the burden on ICE to show changed circumstances that make removal significantly likely in the reasonably foreseeable future”). For example, Respondents do not demonstrate the Vietnamese government will approve the travel documents request or has even acknowledged receipt of the request. Respondents thus offer “little more than generalizations regarding the likelihood that removal will occur.” *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2419288, at *16 (W.D. Wash. Aug. 21, 2025) (“Scott”). Hence, Respondents have not established changed circumstances showing a significant likelihood of removal in the reasonably foreseeable future. See, e.g., *Hyde*, 788 F. Supp. 3d at 150-52; *Scott*, 2025 WL 2419288, at *15-18; *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *4-5 (E.D. Cal. July 16, 2025) (“Respondents have not provided any details about why a travel document could not be obtained in the past, nor have they attempted to show why obtaining a travel document is more likely this time around.”).

providing adequate notice of the grounds for revocation. *See, e.g., Esmail v. Noem*, No. CV-25-08325-WLH-RAOx, 2025 WL 3030590, at *5 (C.D. Cal. Sep. 12, 2025) (finding a similar notice was “plainly insufficient to convey to Petitioner the grounds for revocation”); *Sun*, 2025 WL 2800037, at *2 (“A pro forma notice that gives no information on why release is being revoked, beyond simply that Petitioner ‘will be taken into custody for the purpose of removal from the United States,’ is insufficient.” (citation modified)); *Perez-Escobar v. Moniz*, No. 25-CV-11781-PBS, 2025 WL 2084102, at *2 (D. Mass. July 24, 2025) (finding a similarly vague notice violated ICE’s regulations and due process).

Second, it is undisputed Petitioner has not received an informal interview or otherwise been “invited . . . to contest [his] detention” since he was re-detained over two months ago. App. at 16. Even if Petitioner was granted an informal interview, Respondents failed to provide adequate notice of the grounds for his re-detention and therefore would not have a meaningful “opportunity to respond to the reasons for revocation.” 8 C.F.R. §§ 241.13(i)(3), 241.4(i)(1); *see also Tran*, 2025 WL 3005347, at *3 (“In the stressful context of an [] arrest and revocation of release, in order to give effectual notice of the reasons for renewed detention, due process requires written notice so that the [noncitizen] can prepare for the post deprivation informal interview.”). Hence, it again appears ICE has violated its own regulations in re-detaining Petitioner without providing him any opportunity to contest the revocation of his release. *See Hoac*, 2025 WL 1993771, at *7 (collecting cases in which courts find the petitioner’s re-detention unlawful because ICE failed to provide the required interview); *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *10 (S.D. Fla. Sep. 9, 2025) (same).

By failing to notify Petitioner of the reasons for the revocation of his release or provide Petitioner an opportunity to contest those reasons, ICE “thwart[ed]” his ability to challenge his re-detention. *Santamaria Orellana*, 2025 WL 2444087, at *6. Thus, the Court finds Petitioner is likely to succeed on his claim that the revocation of his release violates the Due Process Clause.⁴ *See, e.g., Delkash v. Noem*, EDCV-25-01675-HDV-AGRx, 2025 WL 2683988, at *6 (C.D. Cal. Aug. 28, 2025) (“These procedures are not optional or discretionary; they must be followed, and failure to do so renders the detention unlawful.”); *Phan v. Noem*, No. 3:25-CV-02422-RBM-MSB, 2025 WL 2898977, at *3 (S.D. Cal. Oct. 10, 2025) (“ICE failed to comply with the required procedures, thereby violating Petitioner’s due process rights.”).

Respondents nonetheless argue “[t]he government is allowed to revoke for nearly any reason” pursuant to Section 241.4, and “the process for any objections is exceedingly limited.”⁵

⁴ Petitioner also claims ICE’s failure to follow its own regulations violates the APA. App. at 15-17. Under the APA, a court must “hold unlawful and set aside” any agency action that is “not in accordance with the law[.]” “contrary to constitutional right[.]” or “without observance of procedure required by law.” 5 U.S.C. § 706(2). As discussed above, the Court finds ICE failed to follow its own applicable regulations in violation of the Due Process Clause. Hence, the Court finds Petitioner has also demonstrated likelihood of success on the merits of his APA claim, which provides an additional basis for granting Petitioner’s Application. *See, e.g., M.S.L. v. Bostock*, No. 6:25-cv-01204-AA, 2025 WL 2430267, at *15 (D. Or. Aug. 21, 2025) (finding ICE’s failure to follow its regulations in re-detaining the petitioner violated the APA).

⁵ Respondents also contend only a “small number of District Court decisions have found that a supervised release was not properly revoked” when ICE provided “no revocation

Opp. at 7; see also 8 C.F.R. § 241.4(l)(2)(iv) (authorizing revocation when, in the opinion of the revoking official, “[t]he conduct of the [noncitizen], or any other circumstance, indicates that release would no longer be appropriate”). The Court is not persuaded by Respondents’ argument. Even if Section 241.4 grants certain officials broad discretion over revocation, the regulation still requires ICE to provide Petitioner adequate notice and an interview.⁶ See Rodriguez v. Hayes, 591 F.3d 1105, 1117 (9th Cir. 2010) (explaining Section 241.4 “provides the detainee some opportunity to respond to the reasons for revocation”); cf. Morton v. Ruiz, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures.”). Respondents offer no authority to suggest ICE may simply ignore Section 241.4’s procedural safeguards in discretionary revocations. See, e.g., Zhu v. Genalo, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *7-8 (S.D.N.Y. Aug. 26, 2025) (finding Section 241.4’s procedural protections apply to discretionary revocations); Diaz v. Wofford, No. 1:25-CV-01079 JLT EPG, 2025 WL 2581575, at *5 (E.D. Cal. Sep. 5, 2025) (same).

Accordingly, the first and most important Winter factor weighs in favor of Petitioner with respect to his Revocation Claim.

2. Third Country Removal Claim

a. Applicable Law

Under the Due Process Clause, “no person shall be removed from the United States ‘without opportunity, at some time, to be heard.’” A.A.R.P. v. Trump, 605 U.S. 91, 94 (2025) (quoting The Japanese Immigrant Case, 189 U.S. 86, 101 (1903)). “Due process requires notice that is reasonably calculated, under all the circumstances, to apprise interested parties and that affords a reasonable time . . . to make an appearance,” including, in the context of immigration detention, “sufficient time and information to reasonably be able to contact counsel, file a petition, and pursue appropriate relief.” Id. at 94-95 (citation modified). “Failing to notify individuals who are subject to

documentation at all – which is not the case here.” Opp. at 8. However, this contention ignores the cases cited herein where courts have found revocations unlawful when, as here, ICE provides inadequate notice of revocation or no informal interview. In any event, Respondents cannot excuse ICE’s due process violations in this case simply by pointing to ICE’s more egregious violations in other cases.

⁶ Moreover, Section 241.4 permits only the Executive Associate Commissioner or, in certain circumstances, the district director to revoke Petitioner’s release on a discretionary basis. 8 C.F.R. § 241.4(l)(2). Here, the Notice was signed by a Supervisory Detention and Deportation Office (“SDDO”) with the surname “Perez.” See Lourdes Decl., ¶ 2, Ex. A. SDDO Perez does not appear to be the Executive Associate Commissioner or the district director, nor does it appear SDDO Perez was delegated authority to revoke Petitioner’s release. See 8 C.F.R. § 241.4(c)(4) (authorizing delegation of authority under Section 241.4 to “any person . . . designated in writing”). Thus, to the extent Petitioner’s revocation was a discretionary act pursuant to Section 241.4, there is no evidence showing the decision was made by a properly authorized official. See, e.g., Ceesay v. Kurzdorfer, 781 F. Supp. 3d 137, 159-62 (W.D.N.Y. 2025) (finding a delegation of authority to revoke release was unlawful); M.S.L., 2025 WL 2430267, at *9-10 (finding the petitioner was entitled to release in the absence of a delegation order giving an assistant field office director authority to revoke release).

deportation that they have the right to apply . . . for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process.” Andriasian v. Immigr. & Naturalization Serv., 180 F.3d 1033, 1041 (9th Cir. 1999); see also Nadari v. Bondi, CV-25-07893-JLS-BFMx, 2025 WL 2934514, at *3 n.2 (C.D. Cal. Sep. 3, 2025) (“Removal without notice and an opportunity to be heard therefore raises serious due process issues.”).

b. Analysis

Here, Plaintiff alleges ICE has begun implementing a policy of removing noncitizens to third countries “without the need for further procedures” if the United States Department of State (“State Department”) receives “credible assurances” from those countries that deportees will not be persecuted or tortured. App. at 8. If the State Department does not receive such assurances, it will “not affirmatively ask whether the [noncitizen] is afraid of being removed to the country of removal”; rather, the State Department will remove the noncitizen unless the noncitizen “affirmatively state[s] a fear of persecution or torture.” Id. Petitioner alleges ICE’s policy “threaten[s] [his] removal to a third country without adequate notice and an opportunity to be heard.” Id. at 17.

ICE’s policy plainly violates the Due Process Clause. Blanket assurances from third countries cannot substitute for Petitioner’s due process right to notice and an opportunity to be heard. See Esmail, 2025 WL 3030589, at *7. Additionally, ICE’s policy of requiring noncitizens to affirmatively raise a fear of prosecution or torture denies Petitioner his “right to apply . . . for withholding of deportation.” Andriasian, 180 F.3d at 1041. Hence, Petitioner is likely to succeed on the merits or has at least raised serious questions as to his Third Country Removal Claim. See, e.g., Delkash, 2025 WL 2377123, at *1 (granting a TRO on the same grounds); Esmail, 2025 WL 3030589, at *7; Nadari, 2025 WL 2934514, at *4.

Respondents do not challenge the merits of Petitioner’s Third Country Removal Claim. Rather, Respondents contend Petitioner has not shown ICE’s policy “actually applies in any way to his own case.” Opp. at 4. The Court is not persuaded by this argument. Petitioner alleges ICE’s policy stems from written guidance. App. at 6-7. Moreover, Petitioner alleges ICE has implemented the policy by removing to third countries “hundreds of deportees.” Id. While Petitioner does not allege he was informed of his removal to a third country, he has offered evidence of similarly situated individuals – namely, other pre-1995 Vietnamese immigrants – who have been removed pursuant to ICE’s policy. Id.; see also Scott, 2025 WL 2419288, at *26-27 (concluding the petitioner faced the imminent threat of removal based on evidence of removal of other pre-1995 Vietnamese immigrants). Hence, Petitioner has adequately shown imminent harm “stem[ming] from” ICE’s policy and “pattern of officially sanctioned . . . behavior.” Melendres, 695 F.3d at 998 (citation modified); see also Esmail, 2025 WL 3030589, at *5 (finding the petitioner was “inherently subject” to ICE’s policy and therefore demonstrated imminent harm).

Accordingly, the first and most important Winter factor weighs in favor of Petitioner with respect to his Third Country Removal Claim.

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B. LIKELIHOOD OF IRREPARABLE HARM

“It is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” Hernandez v. Sessions, 872 F.3d 976, 994 (9th Cir. 2017) (citation modified) (quoting Melendres, 695 F.3d at 1002). “Deprivation of physical liberty by detention constitutes irreparable harm.” Arevalo v. Hennessy, 882 F.3d 763, 767 (9th Cir. 2018) (citing Hernandez, 872 F.3d at 994). Furthermore, immigration detention imposes collateral irreparable harms on noncitizens’ families, including economic burdens and harms to children whose parents are detained. Hernandez, 872 F.3d at 995.

Here, as stated above, Petitioner’s release has been improperly revoked, and Petitioner has been unlawfully detained in violation of his constitutional right to due process. Petitioner “suffers potentially irreparable harm every day that he remains in custody without a hearing, which could ultimately result in his release from detention.” Cortez v. Sessions, 318 F. Supp. 3d 1134, 1139 (N.D. Cal. 2018) (citation modified). In addition, Petitioner has been unable to support his elderly father, wife, and two stepchildren since his re-detention in ICE custody. See App. at 2. Further, Petitioner will suffer “patently obvious” irreparable harm if he is removed to a third country without notice and an opportunity to be heard. Nadari, 2025 WL 2934514, at *2. Hence, Petitioner and his family are – and will continue to be – irreparably harmed absent relief from this Court.

Accordingly, the second Winter factor weighs in favor of Petitioner.

C. BALANCE OF EQUITIES AND PUBLIC INTEREST

The final two Winter factors “merge when the Government is the opposing party.” Nken v. Holder, 556 U.S. 418, 435 (2009). The Ninth Circuit has recognized “neither equity nor the public’s interest are furthered by allowing violations of federal law to continue.” Galvez v. Jaddou, 52 F.4th 821, 832 (9th Cir. 2022) (affirming the balance of hardships weighed in favor of plaintiffs alleging the government violated the INA). Specifically, in cases involving removal, “there is a public interest in preventing [noncitizens] from being wrongfully removed.” Nken, 556 U.S. at 436.

Here, because Petitioner has demonstrated a likelihood of success on his constitutional claims, the balance of equities and public interest “tips sharply” in his favor. All. for the Wild Rockies, 632 F.3d at 1135. Moreover, Respondents’ interest in enforcing immigration laws is not compelling because “our system does not permit agencies to act unlawfully even in pursuit of desirable ends.” Ala. Ass’n of Realtors v. Dep’t of Health & Hum. Servs., 594 U.S. 758, 766 (2021) (citing Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 582, 585-86 (1952)); see also Cnty. Legal Servs. in E. Palo Alto v. U.S. Dep’t of Health & Hum. Servs., 777 F. Supp. 3d 1039, 1045-46 (N.D. Cal. 2025), appeal dismissed, No. 25-2358, 2025 WL 1189827 (9th Cir. Apr. 18, 2025) (“[C]ourts regularly find that ‘[t]here is generally no public interest in the perpetuation of unlawful agency action.’” (quoting League of Women Voters of U.S. v. Newby, 838 F.3d 1, 12 (D.C. Cir. 2016))).

Accordingly, the third and fourth Winter factors weigh in favor of Petitioner.

* * * * *

Thus, because all four Winter factors weigh in favor of Petitioner, Petitioner is entitled to injunctive relief. While Respondents argue the proper relief is remedying the specific procedural defects rather than releasing Petitioner from custody, see Opp. at 4-6, the Court rejects this argument. As discussed above, Petitioner continues to suffer irreparable harm so long as he remains unlawfully re-detained. See Esmail, 2025 WL 3030590, at *6 (“Providing Petitioner an interview ex post facto, while keeping him detained in ICE’s custody, would not remedy the apparent constitutional violation that Petitioner has suffered in being re-detained without any measure of due process.”). Further, Petitioner’s release is necessary to return him to the status quo, which is “the last uncontested status which preceded the pending controversy.” GoTo.com, Inc. v. Walt Disney Co., 202 F.3d 1199, 1210 (9th Cir. 2000) (quoting Tanner Motor Livery, Ltd. v. Avis, Inc., 316 F.2d 804, 809 (9th Cir. 1963)). Here, the last uncontested status is Petitioner’s release on supervision before his current re-detention. See Domingo-Ros v. Archambeault, No. 25-CV-1208-DMS-DEB, 2025 WL 1425558, at *2 (S.D. Cal. May 18, 2025) (“Petitioners seek a prohibitory injunction because they seek to preserve the status quo preceding this litigation—their physical presence in the United States free from detention.”). Accordingly, Petitioner’s release from custody is the appropriate remedy.

V. CONCLUSION

For the reasons set forth above, the Court orders as follows:

1. Petitioner’s Application for Temporary Restraining Order is **GRANTED**.⁷
2. Respondents are **ORDERED** to immediately release Petitioner from their custody.
3. Respondents are **ENJOINED** from removing Petitioner to a third country without notice or the opportunity to challenge the removal.

IT IS SO ORDERED.

⁷ Federal Rule of Civil Procedure 65(c) permits a court to grant injunctive relief “only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” Fed. R. Civ. P. 65(c). “Despite the seemingly mandatory language, ‘Rule 65(c) invests the district court ‘with discretion as to the amount of security required, if any.’” Johnson v. Couturier, 572 F.3d 1067, 1086 (9th Cir. 2009) (emphasis removed) (quoting Jorgensen v. Cassidy, 320 F.3d 906, 919 (9th Cir. 2003)). Here, it is unlikely Respondents will incur any significant costs, and requiring a bond “would have a negative impact on plaintiff’s constitutional rights, as well as the constitutional rights of other members of the public.” Baca v. Moreno Valley Unified Sch. Dist., 936 F. Supp. 719, 738 (C.D. Cal. 1996). Accordingly, the Court waives the bond requirement.