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IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LONG QUANG TRAN,

Petitioner,

v.

WARDEN OF THE GOLDEN STATE  
ANNEX DETENTION FACILITY, et al.,

Respondents.

CASE NO. 1:25-CV-01770-KES-HBK

OPPOSITION TO PETITION FOR HABEAS  
CORPUS

**OPPOSITION TO PETITION FOR HABEAS CORPUS**

## I. INTRODUCTION

Respondents oppose the petition for habeas corpus under 28 U.S.C. § 2241.<sup>1</sup> Petitioner is not likely to succeed on the merits of his challenge to the length of his detention because he has not met his burden of providing good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). He also has not met his burden to show likely irreparable harm and the balance of equities and public interest weigh in favor of the government.

## II. BACKGROUND

### A. Petitioner was a Lawful Permanent Resident When He Was Issued a Removal Order

Petitioner, is a native and citizen of Vietnam who was admitted to the United States on November 12, 1975 as a refugee. Exh. 1 at 3. On June 27, 1991, he was convicted of larceny. *Id.* He was then issued a removal order on March 24, 1993. *Id.*

### B. Petitioner Is Re-Detained

On July 22, 2025, immigration authorities detained Petitioner on his removal order. *Id.* Petitioner filed his petition for habeas corpus after four months of re-detention. ECF 1.

ICE conducted a post-order custody review and notified Petitioner of its decision. ECF 1 at 6.

### C. Standard for a TRO

Temporary restraining orders and preliminary injunctions are governed by the same standard. *Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*, 181 F. Supp. 2d 1111, 1126 (E.D. Cal. 2001). “A plaintiff seeking a preliminary injunction must show that: (1) she is likely to succeed on the merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of

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<sup>1</sup> The government moves to strike and to dismiss all respondents other than Warden of the Golden State Annex Detention Facility from this case. A petitioner seeking *habeas corpus* relief may only name the officer having custody of him as the respondent. *See* 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024); *Riego v. Current or Acting Field Office Director*, Slip Op., 2024 WL 4384220 (E.D. Cal. Oct. 3, 2024) (ordering Section 2241 petitioner, a non-citizen alien, to file a motion to amend his petition to “name a proper respondent” and setting forth that “[f]ailure to amend the petition and state a proper respondent will result in dismissal of the petition for lack of jurisdiction”).

1 equities tips in her favor, and (4) an injunction is in the public interest.” *Garcia v. Google, Inc.*, 786  
 2 F.3d 733, 740 (9th Cir. 2015) (citation omitted). The first factor is the most important and where a  
 3 plaintiff fails to show the likelihood of success on the merits, the court need not consider the remaining  
 4 elements. *Id.* Alternatively, a plaintiff can show “serious questions going to the merits and the balance  
 5 of hardships tips sharply towards [plaintiff], as long as the second and third . . . factors are satisfied.”  
 6 *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

7 Preliminary injunctions are extraordinary remedies that are “never awarded as of right.” *Winter*  
 8 *v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). Plaintiffs seeking a preliminary injunction bear a  
 9 “heavy burden” and “face a difficult task in proving that they are entitled to this ‘extraordinary  
 10 remedy.’” *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010) (citation omitted). A  
 11 preliminary injunction requires “substantial proof” and should not be granted unless the movant, *by a*  
 12 *clear showing*, carries the burden of persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997)  
 13 (italics in original). A court must exercise “heightened scrutiny” where a party seeks a mandatory  
 14 injunction.”<sup>2</sup> *Dahl v. HEM Pharms. Corp.* 7 F.3d 1399, 1403 (9th Cir. 1993); *see Hernandez v.*  
 15 *Sessions*, 872 F.3d 976, 999 (9th Cir. 2017) (explaining that mandatory injunctions are subject to a  
 16 higher standard than prohibitory injunctions). If “a party seeks mandatory preliminary relief that goes  
 17 well beyond maintaining the status quo *pendente lite*, courts should be extremely cautious about issuing  
 18 a preliminary injunction.” *Martin v. Int’l Olympic Cmte.*, 740 F.2d 670, 675 (9th Cir. 1984); *see also*  
 19 *Cmte. of Cent. Am. Refugees v. INS*, 795 F.2d 1434, 1442 (9th Cir. 1986).

#### 20 **D. Petitioner Claim Should be Denied**

##### 21 **1. Petitioner is not likely to succeed on the merits on his detention claims.**

##### 22 **a. *Detention following a final order of removal***

23 When an alien becomes subject to a final removal order, 8 U.S.C. § 1231(a)(2) provides that the  
 24 government “shall” detain the alien during a 90-day removal period. 8 U.S.C. § 1231(a)(2). After the  
 25 removal period ends, the government “may” detain four categories of aliens: (1) those who, like

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 27 <sup>2</sup> “A mandatory injunction orders a responsible party to take action, while [a] prohibitory  
 28 injunction prohibits a party from taking action and preserves the status quo pending a determination of  
 the action on the merits.” *Ariz. Dream Act Coal.*, 757 F.3d at 1060–61.

1 Petitioner, are inadmissible to the United States pursuant to 8 U.S.C. § 1182; (2) those who are  
2 removable on certain specified grounds, including 8 U.S.C. § 1227, including felony convictions; (3)  
3 those who immigration authorities have determined “to be a risk to the community”; and (4) those  
4 immigration authorities have determined to be “unlikely to comply with the order of removal.” *Johnson*  
5 *v. Arteaga-Martinez*, 596 U.S. 573, 578–79 (2022) (quoting 8 U.S.C. § 1231(a)(6)).

6 In *Arteaga-Martinez*, the Supreme Court held that 8 U.S.C. § 1231(a)(6) does not require a bond  
7 hearing in which the government bears the burden of proving by clear and convincing evidence that a  
8 noncitizen poses a flight risk or a danger to the community, before an Immigration Judge after six  
9 months of detention. *Arteaga-Martinez*, 596 U.S. at 580–81 (stating that the text of § 1231(a)(6) does  
10 not address or even hint at the requirement of a bond hearing after six months of detention). In  
11 *Zadvydas v. Davis*, however, the Supreme Court held that § 1231(a)(6) “does not permit indefinite  
12 detention” and instead “limits an alien’s post-removal-period detention to a period reasonably necessary  
13 to bring about that alien’s removal from the United States. *Zadvydas*, 533 U.S. at 689. The Court stated  
14 that, after six months of detention, once the alien provides good reason to believe that there is no  
15 significant likelihood of removal in the reasonably foreseeable future, the government must respond  
16 with evidence sufficient to rebut that showing. *Id.* at 701. The Court was careful to note, however, that:  
17 “This 6-month presumption, of course, does not mean that every alien not removed must be released  
18 after six months. To the contrary, an alien may be held in confinement until it has been determined that  
19 there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

20 **b. *Petitioner is not likely to succeed on his indefinite detention claim.***

21 Petitioner is not likely to succeed on the merits of his claim challenging the length of his  
22 detention because he has not met his burden of providing good reason to believe that there is no  
23 significant likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701  
24 (stating that, after the alien provides good reason to believe that there is no significant likelihood of  
25 removal in the reasonably foreseeable future, the government must respond with evidence sufficient to  
26 rebut that showing). In his filings, Petitioner doesn’t explain why his detention is indefinite.

27 Further, in November 2020, the United States and Vietnam agreed to a process for the  
28 deportation of certain citizens of Vietnam who entered the United States prior to 1995. See November

21, 2020 Memorandum of Understanding *available at* <https://www.nguoi-viet.com/wp-content/uploads/2021/07/Vietnam-2020-MOU-redacted-1.pdf> (last visited December 11, 2025). Given the evolving relations between the United States and the Vietnam, Petitioner is expected to be deported to Vietnam in the near future.

Petitioner's detention satisfies the standard articulated in *Zadvydas*, and thus, his detention complies with what is constitutionally required in this context. Although Petitioner has been in custody longer than six months, the six-month presumption articulated by *Zadvydas* does not automatically entitle an alien to release after six months. Rather, *Zadvydas* provides an alien may be held in confinement until it has been determined that there is no significant likelihood of his removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. Further, the *Zadvydas* Court also stated that if an alien is released on supervision, he "may no doubt be returned to custody upon a violation of [the release] conditions." *Id.* at 700. Here, Petitioner's removal is likely in the reasonably foreseeable future because he will be expeditiously removed from the United States once Vietnam issues the requested travel documents.

**c. Petitioner is not likely to succeed on his unlawful re-detention claims.**

Petitioner is not likely to succeed on his various unlawful re-detention claims because the government has explicit statutory authority to re-detain him for the purposes of effectuating his removal.

**1) Re-detention is permitted to effectuate removal.**

The statute governing detention in this case, 8 U.S.C. § 1231(a)(6), expressly permits an alien, who is removable under 8 U.S.C. § 1227 (or INA § 237) and who has been ordered removed, to be detained beyond the 90-day removal period. *See* 8 U.S.C. § 1231(a)(6). The constitutional limit to this detention is set forth in *Zadvydas*. V

The regulations provide that supervised release can be revoked for one of two reasons: (1) for a "violation of the conditions of release" or (2) for "revocation for removal." 8 C.F.R. §§ 241.13(i)(1), (2) ("Revocation of Release"). Here, "[t]he Service may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).

1 Once release is revoked and the alien is returned to custody, the alien will be notified of the  
2 reasons for the revocation and the Service will conduct an informal interview to allow the alien to  
3 respond to the reasons for revocation. 8 C.F.R. § 241.13(i)(3). The alien may submit any evidence or  
4 information he believes shows there is no significant likelihood he will be removed in the reasonably  
5 foreseeable future or that he has not violated the order of supervision. *Id.* If the alien is not released  
6 from custody following an initial informal interview described in paragraph (i)(3),<sup>3</sup> the provisions of 8  
7 C.F.R. § 241.4 shall govern the alien's continued detention pending removal. *Id.* If the Service has  
8 denied an alien's request for release, the alien may submit a request for review of his detention six  
9 months after the Service's last denial of release under this section. 8 C.F.R. § 241.13(j).

10 In this case, there is a significant likelihood that Petitioner will be removed in the reasonably  
11 foreseeable future. Petitioner has received due process and a post-order custody review. ECF 1. More  
12 is not required.

13 **2) *Petitioner is not entitled to a hearing before a neutral arbitrator***  
14 ***prior to revocation of his release.***

15 Petitioner's demand for a hearing before a "neutral adjudicator" prior to re-detention, if the Court  
16 orders his release, is without basis in law. *See* ECF 1 at p. 16. The Supreme Court has made clear that  
17 "there is no plausible construction of the text of § 1231(a)(6) that requires the Government to provide  
18 bond hearings before immigration judges after six months of detention, with the Government bearing the  
19 burden of providing by clear and convincing evidence" that a detained noncitizen poses a flight risk and  
20 a danger to the community. *Arteaga-Martinez*, 596 U.S. at 581.

21 Just as § 1231(a)(6) "does not address or even hint at the requirements," for a bond hearing  
22 following the six-month mark of immigration detention, *id.* at 580–81 (quotation omitted), it similarly  
23 does not require a hearing before immigration authorities can re-detain an alien who was previously on  
24 an order of supervision pending removal. *See* 8 U.S.C. § 1231(a)(6). Such an order contradicts the  
25 plain language of 8 C.F.R. § 241.13, which governs whether there is a significant likelihood of removing  
26 an alien in the reasonably foreseeable future and revocation of release, and 8 C.F.R. § 241.4, governing

27 <sup>3</sup> 8 C.F.R. § 241.13(i)(2) lists "paragraph (h)(3)," however, the informal interview process  
28 appears to be described in paragraph (i)(3).

1 continued detention of inadmissible aliens beyond the removal period, and would deprive immigration  
2 authorities of their operational discretion and regulatory authority to take the actions necessary to  
3 effectuate the deportation of aliens illegally in the United States.

4 The Due Process Clause does not prohibit Petitioner's re-detention.<sup>4</sup> Although the Fifth  
5 Amendment entitles aliens to due process of law, the Ninth Circuit interprets the Due Process Clause  
6 "consistent with longstanding precedent recognizing that the process due aliens must account for the  
7 government's countervailing interests in immigration enforcement – considerations that do not apply to  
8 U.S. citizens." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1205-06 (9th Cir. 2022). It is well-  
9 established that "Congress may make rules as to aliens that would be unacceptable if applied to  
10 citizens." *Demore v. Kim*, 538 U.S. 510, 522 (2003). This is true because "any policy toward aliens is  
11 vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign  
12 relations, the war power, and the maintenance of a republican form of government, which are core  
13 sovereign powers." *Id.* To the extent that Petitioner asks this Court to apply Due Process rights  
14 afforded to incarcerated United States citizens to him, the Supreme Court has expressly stated that those  
15 precedents do not apply.<sup>5</sup> *Rodriguez Diaz*, 53 F.4th at 1205-06.

16 Assuming the factors set forth in *Mathews v. Eldridge* apply in this context to determine whether  
17 procedural protections satisfy the Due Process Clause,<sup>6</sup> the Court considers the following the three  
18 factors: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous  
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20 <sup>4</sup> In *Arteaga-Martinez*, the Supreme Court declined to decide whether a bond hearing is  
21 constitutionally required if detention is prolonged under § 1231(a)(6). *Arteaga-Martinez*, 596 U.S. at  
22 583.

23 <sup>5</sup> *Young v. Harper*, 520 U.S. 143 (1997) (ECF 2 at 14); *Gagnon v. Scarpelli*, 411 U.S. 778 (1973)  
(ECF 2 at 14-15); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (ECF 2 at 14-17, 19); *Gonzalez-Fuentes v.*  
24 *Molina*, 607 F.3d 864 (1st Cir. 2010) (ECF 2 at 15, 17); *Hurd v. Dist. of Columbia*, 864 F.3d 671 (D.C.  
25 Cir. 2017) (ECF 2 at 13, 17); *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (ECF 2 at 15);  
26 *Haygood v. Younger*, 769 F.2d 1350 (9th Cir. 1985) (en banc) (ECF 2 at 16-17); *Zinerman v. Burch*, 494  
27 U.S. 113 (1990) (ECF 2 at 16); *Youngberg v. Romero*, 457 U.S. 307 (1982) (ECF 2 at 17); *Lynch v.*  
28 *Baxley*, 744 F.2d 1452 (11th Cir. 1984) (ECF 2 at 17); *United States v. Knights*, 534 U.S. 112 (2001)  
(ECF 2 at 17); *Griffin v. Wisconsin*, 483 U.S. 868 (1987) (ECF 2 at 17); *Foucha v. Louisiana*, 504 U.S.  
71 (1992) (ECF 2 at 18).

<sup>6</sup> The Supreme Court when confronted with constitutional challenges to immigration detention  
has not resolved them through express application of *Mathews*. *Rodriguez Diaz*, 53 F.4th at 1206 (9th  
Cir. 2022) (citing Supreme Court cases).

1 deprivation of such interest through the procedures used, and the probable value, if any, of additional or  
2 substitute procedural safeguards; (3) the Government's interest, including the function involved and the  
3 fiscal and administrative burdens that the additional or substitute procedural requirement would entail.  
4 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). *Mathews* is not a bright-line test, but a flexible  
5 standard that must account for the heightened governmental interest in the immigration detention  
6 context. *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022) (citing cases).

7 The first factor favors respondent because Petitioner's liberty interest in his supervised release is  
8 low. Petitioner was issued a final removal order. Exh. 1. Petitioner understood that he was removable,  
9 and his release could be revoked to effectuate his removal.

10 The second *Mathews* factor also favors respondent. In the context of an alien with a final order  
11 of removal that is in the process of being executed, the risk of erroneous deprivation is relatively low.  
12 Here, Petitioner is undisputedly subject to a final order of removal, § 1231(a)(6) explicitly authorizes  
13 Petitioner's detention in order to effectuate his removal order, and *Zadvydas* permits his detention  
14 because his removal is likely in the reasonably foreseeable future. In addition, Petitioner received a re-  
15 evaluation of his continued detention and ICE determined that it would continue to detain him. ECF 1 at  
16 6. Due Process does not mandate procedures that reduce the risk of erroneous deprivation to zero, a  
17 result that is beyond grasp. *Rodriguez Diaz*, 53 F.4th at 1213. In this case, ERO has given Petitioner the  
18 process that he is due in order to continue to detain him, and is proceeding to remove him.

19 The final factor weighs decisively in respondent's favor. The government has a strong interest in  
20 preventing aliens from remaining in the United States in violation of our law and, to this end,  
21 effectuating a final order of removal as quickly as possible, especially when the order relates to an alien,  
22 like Petitioner, who has a criminal history. See *Rodriguez Diaz*, 53 F.4th at 1208. Once the government  
23 determines that an alien may be removed in the reasonably foreseeable future, there should not be any  
24 additional hurdles, such as a pre-detention hearing, to effectuate what is already a final order. The pre-  
25 detention hearing that Petitioner requests is essentially a judicially created stay of a final order of  
26 removal. District courts cannot provide injunctive relief to enjoin or forestall the execution of removal  
27 orders via habeas cases and the courts should not be permitted to do indirectly that what they are  
28 prohibited from doing directly. See *Rauda v. Jennings*, 55 F.4th 773, 777–78 (9th Cir. 2022) (finding

the district court cannot enjoin removal via a habeas petition).; *see also Reyes-Aguilar v. United States Dep't of Homeland Security*, No. 2012 WL 12849082 (C.D. Cal. Oct. 10, 2012) (citing cases that find a district court cannot halt the execution of an order of removal). On balance, if applied, the *Mathews* factors weigh decisively in respondent's favor.

**E. Petitioner Has Not Met His Burden to Show Likely Irreparable Harm Without Immediate Injunctive Relief.**

Petitioner has not articulated an irreparable harm that can only be remedied with immediate injunctive relief. The fact that Petitioner has been re-detained is not extraordinary—rather, it is an authorized part of the removal process, particularly when an alien has violated the conditions of supervision by committing a new criminal offense. Immigration laws have long authorized immigration officials to charge aliens as removable from the country, to arrest aliens subject to removal, and to detain aliens pending removal. *Demore*, 538 U.S. at 523–26. “Detention is necessarily a part of [the] deportation procedure.” *Carlson v. Landon*, 342 U.S. 524, 538 (1952); *see Reno v. Flores*, 507 U.S. 292, 306 (1993) (“Congress eliminated any presumption of release pending deportation, committing that determination to the discretion of the Attorney General.”). Petitioner cannot establish irreparable harm because he is being detained in order to effectuate his removal.

**F. The Balance of Equities and Public Interest.<sup>7</sup>**

“The government’s interest in efficient administration of the immigration laws” is “weighty,” and “it must weigh heavily in the balance that control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature.” *Landon v. Plasencia*, 459 U.S. 21, 34 (1982). Further, the government’s interest in protecting the public and preventing deportable non-citizens from fleeing is strong and compelling. *See, e.g., Rodriguez Diaz*, 53 F.4th at 1208 (The government’s interests in the prompt execution of removal orders are “interests of the highest order that only increase with the passage of time” and the “risk of a detainee absconding also inevitably escalates as the time for removal becomes more imminent.”). The government’s interest in deporting

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<sup>7</sup> When the government is a party, the third and fourth preliminary injunction factors merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014).

Petitioner and protecting the public in the meantime, is compelling in this case, given his significant criminal history. These interests outweigh any interest Petitioner may have in continuing on release for whatever limited time he has left before being removed from the United States.

**III. CONCLUSION**

For the foregoing reasons, it is respectfully requested that the Court deny the TRO and the petition for habeas corpus.

Dated: January 21, 2026

ERIC GRANT  
United States Attorney

By: /s/ Jonathan W. Williams  
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