

ERIC GRANT  
United States Attorney  
JESSICA DELANEY  
Assistant United States Attorney  
501 I Street, Suite 10-100  
Sacramento, CA 95814  
Telephone: (916) 554-2700  
Facsimile: (916) 554-2900

Attorneys for Respondents

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

VUONG, THIEN CHI,

Petitioner,

v.

MOISES BECERRA, et. al.,

Respondents.

CASE NO. 1:25-CV-01847-DC-CSK

OPPOSITION TO MOTION FOR TEMPORARY  
RESTRAINING ORDER

DATE: December 17, 2025

TIME: 5:00 p.m.

COURT: Hon. Dena Coggins

**I. INTRODUCTION**

Respondents hereby oppose the motion for a temporary restraining order (“TRO”) in this 28 U.S.C. § 2241 habeas proceeding.<sup>1</sup> The petitioner is not likely to succeed on the merits of his challenge because detention is authorized under 8 U.S.C. § 1231 as there is a likelihood of removal in the reasonably foreseeable future. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (stating that, after six months of detention, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the government must respond with evidence sufficient

<sup>1</sup> The government moves to strike and to dismiss all respondents other than Ron Murray 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 to rebut that showing). Accordingly, his re-detention is authorized. Furthermore, Vuong violated the  
2 conditions of his release. Thus, he fails to meet his burden of establishing a basis for relief, and the  
3 request for a TRO should be denied.

4 Similar to this Court's previous decisions in *Phan v. Becerra*, No. 2:25-cv-01757-DC-JDP, 2025  
5 WL 1993735 (E.D. Cal. Jul. 16, 2025) and *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, Petitioner  
6 requests relief outside of this Court's authority, including that Respondents be enjoined from re-  
7 detaining Petitioner "unless and until they obtain leave of this Court."

8 Respondents acknowledge that, as to the *Winters* analysis performed by this Court in *Phan* and  
9 *Becerra*, there is no substantial or material difference between this case and those cases. The primary  
10 difference is that here, Petitioner's release was first revoked pursuant to 8 C.F.R. § 241.13(i)(1) rather  
11 than 8 C.F.R. § 241.13(i)(2), as he violated a condition of his supervised release, and was not detained  
12 solely to effectuate removal. Nonetheless, Respondents acknowledge that 8 C.F.R. § 241.13(i)(3)  
13 applies, and does not have any arguments that are substantially different than those addressed in *Phan* or  
14 *Becerra* regarding the applicability of federal regulation regarding revocation of release. The record  
15 here indicates that Petitioner received an informal interview, at which he admitted to alienage and  
16 deportability. Exhibit 9 to Decl., page 3 or 3. It does not indicate that he was interviewed or provided  
17 an opportunity to respond to his failure to abide by his conditions of release. Further, the evidence  
18 shows that the basis for his detention is 8 U.S.C. § 1231(a)(2), meaning that the legal analysis is  
19 materially the same as that in *Phan* and *Becerra*.

## 20 II. BACKGROUND

21 Petitioner, Thien Chi Vuong ("Vuong"), is a native and citizen of Vietnam who was admitted to  
22 the United States on or about October 23, 1985, as a refugee. Declaration of Christopher T. Jerome  
23 ("Decl."), ¶ 6. His status was adjusted to lawful permanent resident that same day. In September 2009,  
24 he was convicted of conspiracy and obtaining money under false pretenses and was sentenced to over a  
25 year in prison. *Id.* He was issued a notice to appear, reflecting that he was charged with INA  
26 237(a)(2)(A)(iii), based on his having been convicted of an aggravated felony. Decl. ¶ 7. On April 4,  
27 2011, Petitioner was ordered removed from the United States to Vietnam. ¶ 8. Petitioner waived  
28 appeal. *Id.*

1 ICE attempted to remove Petitioner but was unable to do so based upon a lack of cooperation  
 2 from Vietnam. Decl. ¶ 9. Therefore, Petitioner was released from detention and placed on supervision  
 3 in June 2011. *Id.*

4 On October 30, 2025, Petitioner failed to report to a scheduled check-in. Decl. ¶ 10. He was  
 5 arrested for violating the conditions of his release supervision and his supervision was revoked. *Id.* ICE  
 6 asserts that it has resumed the process of removing Petitioner to Vietnam and that removal should occur  
 7 in the reasonably foreseeable future. *Id.*

### 8 III. LAW AND ANALYSIS

#### 9 A. Standard for a TRO

10 Temporary restraining orders and preliminary injunctions are governed by the same standard.  
 11 *Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*, 181 F. Supp. 2d 1111, 1126 (E.D. Cal.  
 12 2001). “A plaintiff seeking a preliminary injunction must show that: (1) she is likely to succeed on the  
 13 merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of  
 14 equities tips in her favor, and (4) an injunction is in the public interest.” *Garcia v. Google, Inc.*, 786  
 15 F.3d 733, 740 (9th Cir. 2015) (citation omitted). The first factor is the most important and where a  
 16 plaintiff fails to show the likelihood of success on the merits, the court need not consider the remaining  
 17 elements. *Id.* Alternatively, a plaintiff can show “serious questions going to the merits and the balance  
 18 of hardships tips sharply towards [plaintiff], as long as the second and third . . . factors are satisfied.”  
 19 *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

20 Preliminary injunctions are extraordinary remedies that are “never awarded as of right.” *Winter*  
 21 *v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). Plaintiffs seeking a preliminary injunction bear a  
 22 “heavy burden” and “face a difficult task in proving that they are entitled to this ‘extraordinary  
 23 remedy.’” *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010) (citation omitted). A  
 24 preliminary injunction requires “substantial proof” and should not be granted unless the movant, *by a*  
 25 *clear showing*, carries the burden of persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997)  
 26 (italics in original).

27 A court must exercise “heightened scrutiny” where a party seeks a mandatory injunction.”<sup>2</sup> *Dahl*

---

28 <sup>2</sup> “A mandatory injunction orders a responsible party to take action, while [a] prohibitory

1 v. *HEM Pharms. Corp.* 7 F.3d 1399, 1403 (9th Cir. 1993); see *Hernandez v. Sessions*, 872 F.3d 976, 999  
 2 (9th Cir. 2017) (explaining that mandatory injunctions are subject to a higher standard than prohibitory  
 3 injunctions). If “a party seeks mandatory preliminary relief that goes well beyond maintaining the status  
 4 quo *pendente lite*, courts should be extremely cautious about issuing a preliminary injunction.” *Martin*  
 5 v. *Int’l Olympic Cmte.*, 740 F.2d 670, 675 (9th Cir. 1984); see also *Cmte. of Cent. Am. Refugees v. INS*,  
 6 795 F.2d 1434, 1442 (9th Cir. 1986).

7 **B. The Proposed TRO Seeks to Impermissibly Alter the Status Quo.**

8 Petitioner’s proposed TRO requests that Petitioner be released from custody but also asks for  
 9 additional relief that goes well beyond restoring him the status quo *ante litem*, i.e., the last uncontested  
 10 status which preceded the pending controversy. *GoTo.com, Inc. v. Walt Disney, Co.*, 202 F.3d 1199,  
 11 1210 (9th Cir. 2000). Through his emergency motion, Petitioner demands that the Court prohibit his re-  
 12 detention unless and until this Court first issues an order authorizing detention. The Ninth Circuit has  
 13 rejected this approach stating, “judgment on the merits in the guise of preliminary relief is a highly  
 14 inappropriate result.” *Senate of Cal. v. Mosbacher*, 968 F.2d 974, 978 (9th Cir. 1992). Even if this  
 15 Court is inclined to grant a TRO, it should only grant the relief necessary to restore Petitioner to the  
 16 status quo *ante litem*, or the legally relevant relationship between the parties before the controversy  
 17 arose. See *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1061 (9th Cir. 2014) (defining status quo).

18 **C. Vuong is Unlikely to Succeed on the Merits of His Claims.**

19 **1. Vuong is not likely to succeed on the merits on his detention claims.**

20 **a. Detention following a final order of removal**

21 When an alien becomes subject to a final removal order, 8 U.S.C. § 1231(a)(2) provides that the  
 22 government “shall” detain the alien during a 90-day removal period. 8 U.S.C. § 1231(a)(2). After the  
 23 removal period ends, the government “may” detain four categories of aliens: (1) those who are  
 24 inadmissible to the United States pursuant to 8 U.S.C. § 1182; (2) those who are removable on certain  
 25 specified grounds, including 8 U.S.C. § 1227, including felony convictions, such as Vuong; (3) those  
 26 who immigration authorities have determined “to be a risk to the community”; and (4) those

27 \_\_\_\_\_  
 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 immigration authorities have determined to be “unlikely to comply with the order of removal.” *Johnson*  
2 *v. Arteaga-Martinez*, 596 U.S. 573, 578–79 (2022) (quoting 8 U.S.C. § 1231(a)(6)).

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

17 **b. *Vuong is not likely to succeed on his indefinite detention claim.***

18 Vuong is not likely to succeed on the merits of his claim challenging the length of his detention  
19 because he has not met his burden of providing good reason to believe that there is no significant  
20 likelihood of his removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701 (stating that,  
21 after six months of detention, once the alien provides good reason to believe that there is no significant  
22 likelihood of removal in the reasonably foreseeable future, the government must respond with evidence  
23 sufficient to rebut that showing). Vuong has only been in a detained status since November 16, 2025,  
24 well below the six months laid out in *Zadvydas*. Exhibit 9, Decl.

25 In his habeas petition, Vuong does not provide any valid reason to believe that there is no  
26 significant likelihood of his removal in the reasonably foreseeable future. Vuong summarily asserts that  
27 his detention is indefinite because “Vietnam routinely refuses repatriation of individuals from ARVN  
28 families.”. *See* Docket No. 2 at 4. However, in November 2020, the United States and Vietnam agreed

1 to a process for the deportation of certain citizens of Vietnam who entered the United States prior to  
 2 1995. *See* November 21, 2020 Memorandum of Understanding Between the Department of Homeland  
 3 Security and the United States of America and the Ministry of Public Security of the Socialist Republic  
 4 of Vietnam on the Acceptance of the Return of Vietnamese Citizens who Arrived in the United States  
 5 Before July 12, 1995 and Who Have Been Ordered Removed from the United States *available at* ALC-  
 6 FOIA-Re-Release-MOU-bates-1-8-8-10-21.pdf (last visited Oct. 10, 2025).

7 Vuong’s detention satisfies the standard articulated in *Zadvydas*, and thus, his detention complies  
 8 with what is constitutionally required in this context.

9 Finally, the *Zadvydas* Court also stated that if an alien is released on supervision, he “may no  
 10 doubt be returned to custody upon a violation of [the release] conditions.” *Id.* at 700. Here, Vuong not  
 11 only violated the terms of his supervision, but ICE also asserts that his removal will occur in the  
 12 reasonably foreseeable future.

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

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

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

17 The applicable regulations expressly permit the re-detention of an alien like Vuong for the  
 18 purpose of effectuating his removal. The regulations provide that supervised release can be revoked for  
 19 one of two reasons: (1) for a “violation of the conditions of release” or (2) for “revocation for removal.”  
 20 8 C.F.R. §§ 241.13(i)(1), (2) (“Revocation of Release”). Here, both conditions apply. Specifically,  
 21 under paragraph (i)(1), any alien “who violates any of the conditions of release may be returned to  
 22 custody” and “may be continued in detention for an additional six months in order to effect the alien’s  
 23 removal.” 8 C.F.R. §§ 241.13(i)(1). In addition, “[t]he Service may revoke an alien’s release under this  
 24 section and return the alien to custody if, on account of changed circumstances, the Service determines  
 25 there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8  
 26 C.F.R. § 241.13(i)(2).

27 Once release is revoked and the alien is returned to custody, the alien will be notified of the  
 28 reasons for the revocation and the Service will conduct an informal interview to allow the alien to

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

8 When an alien is detained, the governing regulation provides, in pertinent part, that an alien will  
 9 not be released from custody if in the judgment of the Service travel documents can be obtained or are  
 10 forthcoming. *See* 8 C.F.R. § 241.4(g)(2)(3). Section 241.4(g)(2) provides: "In general. The district  
 11 director shall continue to undertake appropriate steps to secure travel documents for the alien both  
 12 before and after the expiration of the removal period. . . . The Service's determination that receipt of a  
 13 travel document is likely may by itself warrant continuation of detention pending the removal of an alien  
 14 from the United States." 8 C.F.R. § 241.4(g)(2). The next paragraph of the regulation provides, "In  
 15 making a custody determination, the district director . . . shall consider the ability to obtain a travel  
 16 document for the alien. If it is established at any stage of the custody review that, in the judgment of the  
 17 Service, travel documents can be obtained, or such document is forthcoming, the alien will not be  
 18 released unless immediate removal is not practicable or in the public interest." 8 C.F.R. § 241.4(g)(3).  
 19 Finally, in order to consider release, the relevant decisionmaker must conclude that travel documents are  
 20 not available for the alien. 8 C.F.R. § 241.4(e)(1). The decisionmaker then considers the other factors  
 21 in 8 C.F.R. § 241.4(e), and then those in paragraph (f), such as whether the alien poses a threat to the  
 22 community.

23 **D. Vuong Has Not Met His Burden to Show Likely Irreparable Harm Without**  
 24 **Immediate Injunctive Relief.**

25 To be certain, denial of medical care could constitute irreparable harm. Here, however, Vuong  
 26 has not met his burden of showing irreparable harm that can only be remedied with immediate injunctive

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 relief. The fact that Vuong has re-entered immigration detention is not extraordinary—rather, it is an  
 2 authorized part of the removal process, particularly when an alien has violated the conditions of  
 3 supervision by committing a new criminal offense. Immigration laws have long authorized immigration  
 4 officials to charge aliens as removable from the country, to arrest aliens subject to removal, and to detain  
 5 aliens pending removal. *Demore*, 538 U.S. at 523–26. “Detention is necessarily a part of [the]  
 6 deportation procedure.” *Carlson v. Landon*, 342 U.S. 524, 538 (1952); *see Reno v. Flores*, 507 U.S.  
 7 292, 306 (1993) (“Congress eliminated any presumption of release pending deportation, committing that  
 8 determination to the discretion of the Attorney General.”).

9 Vuong has argued that he is receiving inadequate medical care in detention. However, that claim  
 10 is belied by the declaration of his sister, who acknowledges that he has had multiple medical visits with  
 11 a doctor and continues receiving prescriptions. ECF 2-1 at 13-16. Medical staff at the ICE facility have  
 12 also communicated to ICE officials that Vuong is receiving adequate medical care. Decl., ¶ 11.

13 “The government’s interest in efficient administration of the immigration laws” is “weighty,”  
 14 and “it must weigh heavily in the balance that control over matters of immigration is a sovereign  
 15 prerogative, largely within the control of the executive and the legislature.” *Landon v. Plasencia*, 459  
 16 U.S. 21, 34 (1982). Further, the government’s interest in protecting the public and preventing  
 17 deportable non-citizens from fleeing is strong and compelling. *See, e.g., Rodriguez Diaz*, 53 F.4th at  
 18 1208 (The government’s interests in the prompt execution of removal orders are “interests of the highest  
 19 order that only increase with the passage of time” and the “risk of a detainee absconding also inevitably  
 20 escalates as the time for removal becomes more imminent.”). The government’s interest in deporting  
 21 Vuong as soon as possible and protecting the public in the meantime, particularly in light of the fact that  
 22 Vuong was not successful on supervised release, are especially compelling here. These interests  
 23 outweigh any interest Vuong may have in continuing on release for whatever limited time he has left  
 24 before being removed from the United States.

#### 25 **IV. CONDITIONS OF CONFINEMENT ARE NOT COGNIZABLE VIA A 28 U.S.C. § 2241** 26 **HABEAS PETITION**

27 To the extent that Vuong requests a temporary restraining order based upon the conditions of his  
 28 confinement and the lack of adequate medical care, the Supreme Court has stated that “the essence of

habeas corpus is an attack by a person in custody upon the legality of that custody[.]” *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). In contrast, a detainee raising constitutional claims challenging the conditions or circumstances of confinement should bring a civil rights action. *See Nelson*, 541 U.S. at 643; *Hill v. McDonough*, 547 U.S. 573, 579 (2006) (“[a]n inmate’s challenge to the circumstances of his confinement” must be brought through a civil rights action).

The Ninth Circuit has “long held that prisoners may not challenge mere conditions of confinement in habeas corpus.” *Nettles v. Grounds*, 830 F.3d 922, 933 (9th Cir. 2016) (en banc) (citing *Crawford v. Bell*, 599 F.2d 890, 891-92 (9th Cir. 1979)). Instead, the appropriate remedy for a federal prisoner to raise a challenge to his conditions of confinement lies in a civil rights action under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). *See Tucker v. Carlson*, 925 F.2d 330, 332 (9th Cir. 1991); *Shook v. Apker*, 472 F. App’x 702, 702 (9th Cir. 2012) (affirming dismissal of a 28 U.S.C. § 2241 habeas petition premised on claims of inadequate medical care).

#### V. WAIVER OF HEARING

Respondents do not request a hearing on this matter, and request that the Court rule on the submissions of the parties.

#### VI. CONCLUSION

For the foregoing reasons, it is respectfully requested that the Court deny the TRO.

Dated: December 17, 2025

ERIC GRANT  
United States Attorney

By: /s/ JESSICA DELANEY  
JESSICA DELANEY  
Assistant United States Attorney