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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

RAPHAEL GEVORGYAN,

Petitioner,

v.

KRISTI NOEM, *et al.*

Respondents.

No. 5:25-cv-03408-SRM-ADS

**RESPONDENTS' OPPOSITION TO
PETITIONER'S *EX PARTE*
APPLICATION FOR TEMPORARY
RESTRAINING ORDER**

Hon. Serena R. Murillo
United States District Judge

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I. INTRODUCTION

Petitioner Raphael Gevorgyan—currently a detainee in immigration custody since November 12, 2025 with a final order of removal directing his removal to Armenia—filed a petition for writ of habeas corpus asking the Court to order his release. *See* Pet. for a Writ of Habeas Corpus (“Petition”), Docket No. 1. He claims mainly that there is no good reason to believe he will be deported to Armenia in the reasonably foreseeable future. *See, e.g., id.* ¶¶ 1, 59 (citing *Zadvydas v. Davis*, 533 U.S. 678 (2001)). Through his *ex parte* application for temporary restraining order, he now requests the same relief. *Ex Parte* Motion for a Temporary Restraining Order (the “TRO Application”), Docket No. 4; *see also* Proposed Order, Docket No. 4-2. That TRO Application is the next in a series of recent TRO applications filed on behalf of allegedly “stateless” individuals who were born in Armenia when it was part of the U.S.S.R. and were issued final removal orders after they committed serious crimes in the United States—Petitioner was convicted in 2004 of voluntary manslaughter and sentenced to 11 years in prison, and then convicted in 2016 of assault with a deadly weapon and sentenced to 8 years in prison—but could not be removed earlier because Armenia would not accept them.

But relations between Armenia and the United States have changed, and similar individuals are now readily removed to Armenia. Thus, in *Ovsepien v. Bondi*, No. 5:25-cv-01937-MEMF-DFM (C.D. Cal.), petitioner claimed that he could not be removed because he was a “stateless” individual born in Armenia when it was a U.S.S.R. republic, and Armenia had not recognized him as its citizen nor issued travel documents for him. The government, however, submitted evidence that changed political circumstances meant it was now possible to remove such individuals to Armenia. And the *Ovsepien* petitioner was thereafter indeed successfully removed to Armenia, along with other similarly situated Armenian individuals. Removing them was in accordance with law, which does not require the home country identified on a final removal order to accept them as its citizen. Under *Jama v. Immigrations and Customs Enforcement*, 543 U.S. 335 (2005), a non-citizen may be removed from the United States to their birth country without the

1 explicit advance consent of that country's government. 8 U.S.C. § 1231(b)(2)(E)(iv)
2 provides that a non-citizen may be removed to the "country in which the alien was born."
3 On October 21, 2025, the parties filed a joint stipulation dismissing the *Ovsepian* petition.
4 *Ovsepian*, No. 5:25-cv-01937-MEMF-DFM, Docket No. 46 (C.D. Cal. Oct. 21, 2025).
5 The *Ovsepian* case is thus now closed. *Id.*

6 Petitioner cannot similarly succeed on his claim that he cannot be removed to
7 Armenia, and he has in any event not yet been detained over the six-months of
8 presumptively reasonable removal order detention period that is required to shift the
9 burden to the government to show that removal is likely in the reasonably foreseeable
10 future. His final removal order issued on May 24, 2019. Decl. of Christopher Jenson
11 ("Jenson Decl.") ¶ 8. He was detained from then through July 29, 2019, when he was
12 released on an Order of Supervision (OSUP). *Id.* ¶¶ 8-9. That is a total of around 2 months.
13 His OSUP release was revoked on or around November 12, 2025, and he has since then
14 been in DHS's custody. *Id.* ¶¶ 16-17. That is another month or so. All in all, he has been
15 in custody for less than six months so far. Having such a short total detention time, he
16 cannot prove "there is no significant likelihood of removal in the reasonably foreseeable
17 future." *Zadvydas*, 533 U.S. at 701; accord *Nguyen v. Bowen*, No. 5:25-cv-03109-MCS-
18 ADS, Docket No. 12 at 6 (C.D. Cal. Dec. 1, 2025) (denying TRO, finding "five months of
19 detention" as "presumptively reasonable under *Zadvydas*"). In any case, DHS intends to
20 remove Petitioner to Armenia, and to that end, his travel documents remain pending for
21 active consideration by the Armenian authorities. Jenson Decl. ¶¶ 19-21.

22 Petitioner argues that his re-detention by ICE is not proper, but he fails to submit
23 any evidence sufficient to show that his release by ICE was not properly revoked. Nor can
24 he—after all, he was issued a Notice of Revocation of Release upon his detention (*see id.*
25 ¶ 17; *id.*, Exs. B-C); he has also been provided an informal interview, during which he had
26 sufficient opportunity to respond to the reasons for revocation stated in the Notices of
27 Revocation of Release but opted to make no comments in his response, oral or written (*see*
28 *id.* ¶ 18; *id.*, Ex. D). Expectedly, his Notices of Revocation of Release notified him of

1 changed circumstances, including that he was detained for removal as well as for violating
2 his OSUP. *Id.* ¶ 17. The foregoing process more than suffices under the relevant
3 regulations and the U.S. Constitution—and no more process is due to him. *See, e.g.,* §
4 C.F.R. § 241.13(i)(3).

5 Accordingly, the TRO Application should be denied.

6 **II. BACKGROUND**

7 Petitioner is a citizen and national of Armenia. Jenson Decl. ¶ 4.

8 In June 1990, Petitioner was paroled into the United States as a refugee. *Id.* ¶ 5.

9 In 2004, Petitioner was convicted of voluntary manslaughter in violation of section
10 192 of the California Penal (CPC) and sentenced to 11 years in prison. *Id.* ¶ 6.

11 In May 2016, Petitioner was convicted of assault with a deadly weapon in violation
12 of CPC § 245(a)(1) and sentenced to 8 years in prison. *Id.* ¶ 7.

13 On or about May 24, 2019, an Immigration Judge ordered Petitioner removed to
14 Armenia. *Id.* ¶ 8. Both parties waived appeal of this decision and the Petitioner's removal
15 order became a final order. *Id.*

16 On or about July 29, 2019, Petitioner was released on an Order of Supervision
17 (OSUP). *Id.* ¶ 9; *see also id.*, Ex. A (an authenticated copy of the original OSUP release
18 paperwork). That order expressly set forth specific conditions of his release, including that
19 he not commit any crimes while released under the OSUP. *Id.* It also expressly provided
20 that failure to comply with the OSUP requirements may result in a redetermination of his
21 release conditions or his arrest and detention as well as criminal prosecution. *Id.* DHS re-
22 issued the OSUP release paperwork to Petitioner in 2024, when he claimed to have lost
23 the originals from 2019. *Id.*

24 On multiple occasions, Petitioner failed to comply with the terms of his OSUP
25 release, including by engaging in criminal activities. *See, e.g., id.* ¶¶ 10-15.

26 In June 2022, Petitioner was convicted of tampering with a vehicle in violation of
27 section 10852 of the California Vehicle Code and of receipt of stolen property in violation
28 of CPC § 496(a) and was sentenced to 9 days in jail. *Id.* ¶ 11.

1 In February 2023, Petitioner was convicted of grand theft in violation of CPC §
2 487(a) and sentenced to two years in prison. *Id.* ¶ 12.

3 In June 2023, Petitioner was convicted of grand theft in violation of CPC § 487(a)
4 and sentenced to sixteen months in prison. *Id.* ¶ 13.

5 In August 2025, Petitioner was convicted of grand theft in violation of CPC § 487(a)
6 and sentenced to 80 days in jail. *Id.* ¶ 14.

7 On or about November 10, 2025, Petitioner was arrested by the Burbank Police
8 Department for the violation of California Penal Code 148(A)(1), Obstructing a Public
9 Officer, which is a misdemeanor. *Id.* ¶ 15. That case remains pending. *Id.*

10 On or about November 12, 2025, Petitioner were arrested and taken into ICE
11 custody for removal as well as for failing to comply with the terms of his OSUP release.
12 *Id.* ¶ 16.

13 On or about November 12, 2025, Petitioner was served with a Notice of Revocation
14 of Release. *Id.* ¶ 17; *see also id.*, Ex. B (an authenticated copy of the original Notice of
15 Revocation). That notified Petitioner pursuant to 8 C.F.R. § 241.13(j)(2) of changed
16 circumstances in his case, namely that he was “arrested by the Burbank Police Department
17 for the violation of California Penal Code 148(A)(1): Obstruct a Public Officer, which is
18 a misdemeanor.” *Id.* He was also informed that he was “to remain in ICE custody at this
19 time” and “will promptly be afforded an informal interview at which [he] will be given
20 the opportunity to respond to the reason for the revocation and *to provide any evidence to*
21 *demonstrate that your removal is unlikely.*” *Id.*, Ex. B (emphasis added). He was also
22 advised to cooperate with ICE’s “efforts to *remove*” him. *Id.* (emphasis added). To be sure,
23 on December 23, 2025, DHS provided Petitioner an amended Notice of Revocation of
24 Release in which it notified him of additional violations of the terms of his OSUP release.
25 *Id.*; *id.*, Ex. C (an authenticated copy of that Amended Notice of Revocation of Release).

26 On December 23, 2025, DHS conducted an informal interview of Petitioner, during
27 which he had an opportunity to respond to the reasons for revocation of his OSUP. *Id.*
28 ¶ 18. Petitioner made no comments or statements, oral or written, provided no documents,

1 and did not ask for more time to respond to the reasons for revocation of his OSUP. *Id.*;
2 *id.*, Ex. D (an authenticated copy of the Notice of Revocation of Release).

3 On or about November 19, 2025, DHS sent a travel document request for Petitioner
4 to the Consulate General of Armenia. *Id.* ¶ 19. It is DHS's understanding that the
5 government of Armenia is issuing travel documents when ICE has made such requests for
6 Armenian nationals, including those who are citizens of the former U.S.S.R. *Id.* ¶ 20.

7 DHS intends to remove Petitioner to Armenia. *Id.* ¶ 21. Hence a request for removal
8 to a third country has not been made. *Id.*

9 **III. LEGAL STANDARD**

10 A temporary restraining order ("TRO") is an "extraordinary remedy that may only
11 be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Nat.*
12 *Res. Def. Council*, 555 U.S. 7, 22 (2008); *see also Lum v. Mercedes-Benz USA, LLC*, 2012
13 WL 13012454, at *1 (C.D. Cal. Jan. 5, 2012) ("The opportunities for legitimate *ex parte*
14 applications are extremely limited."). The standard for issuing a TRO is "substantially
15 identical" to that for issuing a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D.*
16 *Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A court may grant preliminary
17 injunctive relief to prevent "immediate and irreparable injury." Fed. R. Civ. P. 65(b). To
18 obtain this relief, a plaintiff must establish the "*Winter*" factors: (1) the plaintiff "is likely
19 to succeed on the merits"; (2) the plaintiff "is likely to suffer irreparable harm in the
20 absence of preliminary relief"; (3) "the balance of equities tips in [the plaintiff's] favor";
21 and (4) "an injunction is in the public interest." *Am. Trucking Ass'ns, Inc. v. City of Los*
22 *Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting *Winter*, 555 U.S. at 20). "Because
23 it is a threshold inquiry, when a plaintiff has failed to show the likelihood of success on
24 the merits, [a court] need not consider the remaining three *Winter* elements." *Garcia v.*
25 *Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (en banc) (cleaned up).

IV. ARGUMENT¹

A. Petitioner Cannot Show a Likelihood of Success on the Merits

1. Petitioner cannot show that “there is no significant likelihood of removal in the reasonably foreseeable future”

Petitioner cannot succeed on his claim that he cannot be removed to Armenia in the reasonably foreseeable future. *See, e.g.*, TRO Application at 11, 15-16. As an initial matter, he has not yet been detained over the six-months of presumptively reasonable removal order detention period that is required to shift the burden to the government to show that removal is likely in the reasonably foreseeable future: His final removal order issued on May 24, 2019. Jenson Decl. ¶ 8. He was detained from then through July 29, 2019, when he was released on an Order of Supervision (OSUP). *Id.* ¶¶ 8-9. That is a total

¹ Petitioner cursorily requests the Court to enjoin Respondents from transferring Petitioner out of this District, *see, e.g.*, TRO Application at 7, but fails to provide sufficient legal basis for that request. As such, the Court need not reach that issue. *Greenwood v. Fed. Aviation Admin.*, 28 F.3d 971, 977 (9th Cir. 1994) (“We will not manufacture arguments for [a litigant], and a bare assertion does not preserve a claim, particularly when, as here, a host of other issues are presented for review.”); *Townsend v. Monster Beverage Corp.*, 303 F. Supp. 3d 1010, 1036 (C.D. Cal. 2018) (“The Court’s role is not to make or develop arguments on behalf of the parties.”); *United States v. Graf*, 610 F.3d 1148, 1166 (9th Cir. 2010) (“Arguments made in passing and not supported by citations to the record or to case authority are generally deemed waived.”). In any event, Petitioner fails to show that he will suffer irreparable harm if he is transferred outside of this District as this Court’s jurisdiction “attaches on the initial filing for habeas corpus relief, and it is not destroyed by a transfer of the petitioner and the accompanying custodial change.” *Francis v. Rison*, 894 F.2d 353, 354 (9th Cir. 1990); *see also Vaskanyan v. Janecka*, No. 5:25-cv-01475-MRA-AS, 2025 WL 2014208, at *8 (C.D. Cal. June 25, 2025).

DHS intends to remove Petitioner only to Armenia. *See* Jenson Decl. ¶ 21. To the extent Petitioner moves prophylactically against a third-country removal (*see, e.g.*, TRO Application at 16-17 (appearing to argue that Respondents may remove him to a third country)), that is plainly improper. *See, e.g., City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983) (making plain that plaintiff must show an injury or threat of injury that is “real and immediate,” not “conjectural” or “hypothetical”); *Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990) (“Each of these cases demonstrates what we have said many times before and reiterate today: Allegations of possible future injury do not satisfy the requirements of Art. III. A threatened injury must be ‘certainly impending’ to constitute injury in fact.”). It is well-settled that merely showing a “possibility” of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22; *see also Nguyen v. Bowen*, No. 5:25-cv-03109-MCS-ADS, Docket No. 12 at 7 (C.D. Cal. Dec. 1, 2025) (denying TRO, finding, among other things, as follows: “Due to the speculative nature of Petitioner’s potential removal to an as of yet unidentified third country, granting Petitioner injunctive relief on this issue would be premature.”).

1 of around 2 months. His OSUP release was revoked on or around November 12, 2025, and
2 he has since then been in DHS's custody. *Id.* ¶¶ 16-17. That is another month or so. All in
3 all, he has been in custody for less than six months so far. Having such a short total
4 detention time, he cannot prove "there is no significant likelihood of removal in the
5 reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701; accord *Nguyen*, No. 5:25-cv-
6 03109-MCS-ADS, Docket No. 12 at 6 (C.D. Cal. Dec. 1, 2025) (denying TRO, finding
7 "five months of detention" as "presumptively reasonable under *Zadvydas*").

8 As the Supreme Court explained in *Zadvydas*, moreover, the government's
9 authority to detain a noncitizen for removal purposes pursuant to a final removal order
10 does not end at six months, but rather continues so long as it is "reasonable":

11 After this 6-month period, once the alien provides good reason
12 to believe that there is no significant likelihood of removal in the
13 reasonably foreseeable future, the Government must respond
14 with evidence sufficient to rebut that showing. And for detention
15 to remain reasonable, as the period of prior postremoval
16 confinement grows, what counts as the "reasonably foreseeable
17 future" conversely would have to shrink. This 6-month
18 presumption, of course, does not mean that every alien not
19 removed must be released after six months. To the contrary, an
20 alien may be held in confinement until it has been determined
21 that there is no significant likelihood of removal in the
22 reasonably foreseeable future.

23 *Zadvydas*, 533 U.S. at 701. Thus, the noncitizen "may be held in confinement until it has
24 been determined that there is *no significant likelihood of removal in the reasonably*
25 *foreseeable future.*" *Id.* (bold italic emphasis added). The Ninth Circuit has explained that
26 the *Zadvydas* language requires an alien to show that "he is stuck in a 'removable-but-
27 unremovable limbo,' as the petitioners in *Zadvydas* were[;]" that is, the alien must show
28 he "is unremovable because the destination country will not accept him or his removal is

1 barred by our own laws.” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008).
2 Petitioner cannot carry his burden to show so here. *Cf. Winter*, 555 U.S. at 20 (requiring
3 applicant to show—not merely allege—likelihood of success on the merits).

4 Petitioner merely complains that his current detention under 8 U.S.C. § 1231(a)(6)
5 for purposes of enforcing his final removal order is “unreasonable” because the
6 government cannot remove him to Armenia in the foreseeable future: Petitioner’s main
7 idea is that in 2019 (when he had been convicted of multiple serious crimes), the
8 government released him when he could not be removed to Armenia, so he cannot now be
9 removed in 2025. *See, e.g.*, TRO Application at 15-16. That idea is a nonstarter. In
10 *Ovsepien*, for example, the same argument was made, and it was proven incorrect; the
11 *Ovsepien* petitioner was accepted by Armenia, albeit over his own protestations. *See*
12 *Ovsepien*, No. 5:25-cv-01937-MEMF-DFM, Docket No. 46 (C.D. Cal. Oct. 21, 2025)
13 (dismissal). Political relations between the United States and Armenia (a former U.S.S.R.
14 republic) have changed significantly. Furthermore, while Armenia may have wished to
15 force the United States to keep Petitioner in 2019 because he had very recently committed
16 serious crimes of voluntary manslaughter and assault with a deadly weapon—and thus
17 forced the American public to bear that risk instead—Petitioner now maintains he presents
18 no similar danger to the community now, and Armenia would thus have far less reason—
19 many years later—to oppose his removal.²

20 Moreover, courts properly deny *Zadvydas* claims under such circumstances and find
21 that a “habeas petitioner’s assertion as to the unforeseeability of removal, supported only
22 by the mere passage of time, [is] insufficient to meet the petitioner’s burden to demonstrate
23

24 ² To the extent Petitioner relies on his mother’s statement that “[t]he [Armenian]
25 consular officer told [her] . . . that they will not be issuing travel documents for Petitioner,”
26 TRO Application at 10, it bears reminding that she recycles as “fact” what is plainly
27 hearsay, *see, e.g.*, Docket No. 4-4 ¶ 5. Cf. United States v. Whittemore, 776 F.3d 1074,
28 1082 (9th Cir. 2015) (“Under Rule 602 [of the Federal Rules of Evidence], a witness may
testify to a matter only if evidence is introduced sufficient to support a finding that the
witness has personal knowledge of the matter. Rule 602 requires any witness to have
sufficient memory of the events such that she is not forced to fill the gaps in her memory
with hearsay or speculation. Witnesses are not permitted to speculate, guess, or voice
suspicions.” (cleaned up)).

1 no significant likelihood of removal under the Supreme Court's holding in *Zadvydas*.”
2 *Muthalib v. Kelly*, No. 16-02186-KS, 2017 WL 11696616, at *3 (C.D. Cal. Apr. 19, 2017)
3 (collecting cases). “This is particularly so where the only impediment to removal is the
4 issuance of the appropriate travel document.” *Id.* (citing *Nasr v. Larocca*, 2016 WL
5 3710200 (C.D. Cal. June 1, 2016), *report and recommendation adopted*, 2016 WL
6 3704675 (C.D. Cal. July 11, 2016)). That Petitioner does not yet have a specific date of
7 anticipated removal does not make his detention indefinite. *See Diouf v. Mukasey*, 542 F.
8 3d 1222, 1233 (9th Cir. 2008); *Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash.
9 Apr. 2, 2008) (Martinez, J.) (denying *Zadvydas* petition where petitioner had been detained
10 more than 14 months postfinal order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at
11 *3 (W.D. Wash. May 28, 2013) (Martinez, J.) (holding petitioner “failed to satisfy his
12 burden of showing that there is no significant likelihood of his removal in the reasonably
13 foreseeable future” where he had been detained more than seven months post-order).

14 *Zadvydas* does not require Respondents to pre-arrange a noncitizen's removal travel
15 before arresting them, which would often be extremely difficult if not impossible. The
16 constitutional standard is whether there is “a significant likelihood of removal” in the
17 “reasonably foreseeable future”—not whether a removal will occur “imminently”—
18 indeed, the law does not require that “every [noncitizen] not removed must be released
19 after six months.” *Id.* Instead, the Supreme Court was clear that the Constitution prevents
20 only “indefinite” or “potentially permanent” detention. *Zadvydas*, 533 U.S. at 689-91.
21 Courts therefore properly deny *Zadvydas* claims under such circumstances. *See, e.g.*,
22 *Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008) (denying
23 *Zadvydas* petition where petitioner had been detained more than 14 months post-final
24 order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D. Wash. May 28, 2013)
25 (holding petitioner “failed to satisfy his burden of showing that there is no significant
26 likelihood of his removal in the reasonably foreseeable future” where he had been detained
27 more than seven months post-final order). That Petitioner does not yet have a specific date
28 of anticipated removal does not make his detention indefinite. *See Diouf*, 542 F. 3d at

1 1233. In any case, DHS intends to remove Petitioner to Armenia, and to that end, his travel
2 documents remain pending for active consideration by Armenia. Jenson Decl. ¶¶ 19-21.

3 Accordingly, Petitioner cannot succeed in establishing that his current detention is
4 unreasonable pursuant to the Due Process standard delineated by the Supreme Court in
5 *Zadvydas* for noncitizens detained pursuant to a final removal order.

6 2. Petitioner cannot show that DHS improperly revoked his OSUP
7 during his most recent detention

8 Petitioner also asks that the Court order that he be released from detention under
9 8 U.S.C. § 1231, on the ostensible grounds that the Respondents revoked his OSUP
10 without showing that his removal is reasonably foreseeable. But Petitioner submits no
11 evidence of that putative violation. *Cf. Winter*, 555 U.S. at 20 (requiring applicant to
12 show—not merely allege—likelihood of success on the merits). If he were released while
13 the government is seeking to arrange his travel to Armenia pursuant to a final removal
14 order, that would severely impair—if not outright prevent—the government’s ability to
15 timely remove him.

16 Petitioner relatedly suggests that revocation procedure was not followed properly.
17 *See, e.g.*, TRO Application at 8. But he submits no evidence of that. Nor can he—after all,
18 he was promptly served with a Notice of Revocation of Release. Jenson Decl. ¶ 17; *see*
19 *also id.*, Ex. B (an authenticated copy of the original Notice of Revocation). That notified
20 him pursuant to 8 C.F.R. § 241.13(i)(2) of changed circumstances in his case, namely that
21 he was “arrested by the Burbank Police Department for the violation of California Penal
22 Code 148(A)(1): Obstruct a Public Officer, which is a misdemeanor.” *Id.* He was also
23 informed that he was “to remain in ICE custody at this time” and “will promptly be
24 afforded an informal interview at which [he] will be given the opportunity to respond to
25 the reason for the revocation and *to provide any evidence to demonstrate that your removal*
26 *is unlikely.*” *Id.*, Ex. B (emphasis added). He was also advised to cooperate with ICE’s
27 “efforts to *remove*” him. *Id.* (emphasis added). That is sufficient to put him on notice
28 that—at a minimum—his detention was to effectuate his removal to Armenia. In an

1 abundance of caution, on December 23, 2025, DHS provided Petitioner an amended
2 Notice of Revocation of Release in which it notified him of additional violations of the
3 terms of his OSUP release. *Id.*; *id.*, Ex. C (an authenticated copy of that Amended Notice
4 of Revocation of Release). DHS also conducted an informal interview of Petitioner on the
5 same day, during which he had an opportunity to respond to the reasons for revocation of
6 his OSUP. *Id.* ¶ 18. Petitioner made no comments or statements, oral or written, provided
7 no documents, and did not ask for more time to respond to the reasons for revocation of
8 his OSUP. *Id.*; *id.*, Ex. D (an authenticated copy of the Alien Informal Interview
9 paperwork). The foregoing process is sufficient under the relevant regulations and the U.S.
10 Constitution—and no more process is due to him. *See, e.g., 8 C.F.R. § 241.13(i)(3).*

11 To be sure, the government has very broad authority to revoke supervised release
12 that it has granted. *Cf. Moran v. U.S. Dep't of Homeland Sec.*, No. 20-00696, 2020 WL
13 6083445, at *9 (C.D. Cal. Aug. 21, 2020) (dismissing petitioners' claim that § 241.4(l)
14 [revocation of release] was a violation of their procedural due process rights and noting,
15 "[Petitioners] fail to point to any constitutional, statutory, or regulatory authority to
16 support their contention that they have a protected interest in remaining at liberty in the
17 United States while they have valid removal orders."). "While the regulation provides the
18 detainee some opportunity to respond to the reasons for revocation, it provides no other
19 procedural and no meaningful substantive limit on this exercise of discretion as it allows
20 revocation "when, in the opinion of the revoking official . . . [t]he purposes of release have
21 been served . . . [or] [t]he conduct of the alien, or *any other circumstance*, indicates that
22 release would no longer be appropriate." *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th
23 Cir. 2009), *opinion amended and superseded*, 591 F.3d 1105 (9th Cir. 2010) (citing
24 § 241.4(l)(2)(i), (iv)) (emphasis in original). Indeed, the relevant statute under the INA
25 does not contemplate a pre-detention hearing. *See, e.g., 8 U.S.C. § 1231.*

26 The Hon. Judge Blumenfeld denied an injunction in a case alleging insufficient re-
27 detention process, noting that the evidentiary burden was not met, and also that it was
28 unclear that release would be the appropriate remedy for any violations of revocation

1 procedure. *See Ton v. Noem*, No. 5:25-CV-02033-SB-AGR, 2025 WL 2995068, at *4-5
2 (C.D. Cal. Sept. 3, 2025) (denying application for preliminary injunction, noting that
3 “Petitioner has not shown that release is the appropriate remedy for any APA violation”).
4 The burden is on the moving party to show that ordering release via a TRO would be
5 narrowly tailored to rectifying a deficiency that was proven under the heavy standard for
6 preliminary injunctive relief. Speculating that the revocation of release was not fully
7 satisfactory in all possible respects is insufficient to carry that burden. The Hon. Judge
8 Birotte likewise recently denied an application seeking a TRO based on allegedly defective
9 revocation of supervised release for a noncitizen detained pursuant to a final removal
10 order, explaining why it did not meet the governing legal standard. *See Sanchez v. Bondi*,
11 No. 5:25-CV-02530-AB-DTB, 2025 WL 3190816, at *3 (C.D. Cal. Oct. 3, 2025) (“While
12 the regulations cited by Petitioner, 8 C.F.R. §§ 241.13(i)(1)–(2) and 241.4, establish
13 procedural safeguards—including the requirements that revocation be based on a
14 condition of release violation or on a significant likelihood of removal, and that the
15 noncitizen receive notice and an informal interview—they do not create independent
16 substantive rights that override the statutory grant of detention authority.”).

17 Finally, the appropriate remedy for any such procedural deficiency would not be
18 automatic release from custody, but rather to remedy the specific procedural deficiency
19 that might be established. Injunctive relief must be *narrowly tailored* to the wrong. *See*,
20 *e.g., Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022). Other District Courts have
21 correctly applied this point of remedy law. In *Ahmad v. Whitaker*, for example, the
22 government revoked the petitioner’s release but did not provide him an informal interview.
23 *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec.*
24 *adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner argued the revocation
25 of his release was unlawful because, he contended, the federal regulations prohibited re-
26 detention without, among other things, an opportunity to be heard. *Id.* In rejecting his
27 claim, the court held that although the regulations called for an informal interview,
28 petitioner could not establish “any actionable injury from this violation of the regulations”

1 because the government had procured a travel document for the petitioner, and his
2 removable was reasonably foreseeable. *Id.* Similarly, in *Doe v. Smith*, the U.S. District
3 Court for the District of Massachusetts held that even if the ICE detainee petitioner had
4 not received a timely interview following her return to custody, there was “no apparent
5 reason why a violation of the regulation . . . should result in release.” *Doe v. Smith*, 2018
6 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated: “[I]t is difficult to see
7 an actionable injury stemming from such a violation. Doe is not challenging the underlying
8 justification for the removal order. . . . Nor is this a situation where a prompt interview
9 might have led to her immediate release—for example, a case of mistaken identity.” *Id.*

10 So too here. Whatever procedural deficiencies may have hypothetically occurred,
11 they do not warrant Petitioner’s release and indeed could be cured by means well short of
12 release. *See, e.g., Pogosyan v. Bondi*, No. 5:25-cv-03121-SRM-AS, Docket No. 13 (C.D.
13 Cal. Dec. 3, 2025) (where an Armenian petitioner-detainee claimed defective informal
14 interview, the court shaped a narrowly tailored relief by ordering respondents to provide
15 petitioner-detainee an informal interview under 8 C.F.R. § 241.13(i)(3) within a week).

16 **B. The Balance of Equities and Public Interest Favors Respondents**

17 It is well settled that the public interest in enforcement of the United States’s
18 immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543,
19 556–58 (1976); *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir.
20 1981) (“The Supreme Court has recognized that the public interest in enforcement of the
21 immigration laws is significant.” (collecting cases)); *Nken v. Holder*, 556 U.S. 418, 435
22 (2009) (“There is always a public interest in prompt execution of removal orders[.]”); *see*
23 *also Jazi v. Rubio*, No. 25-cv-27 BEN, 2025 WL 2420690, at *2 (S.D. Cal. Aug. 20, 2025)
24 (“Courts should act cautiously when reviewing matters entrusted to the Executive Branch,
25 especially those involving immigration, lest it alter the balance between co-equal branches
26 of government.”); *Noem v. Vasquez Perdomo*, 2025 WL 2585637, at *5 (Sept. 8, 2025)
27 (Kavanaugh, J., concurring) (“Especially in an immigration case like this one, it is also
28 important to stress the proper role of the Judiciary [W]e . . . must decline to step

1 outside our constitutionally assigned role to improperly *restrict* reasonable Executive
2 branch enforcement of the immigration laws” (emphasis in original)). That significant
3 public interest outweighs Petitioner’s private interest here.

4 **V. CONCLUSION**

5 For these reasons, the TRO Application should be denied.

6
7 Dated: December 23, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondents, certifies that the memorandum of points and authorities contains 5,129 words, which complies with the word limit of L.R. 11-6.1.

Dated: December 23, 2025

/s/ Pushkal Mishra
PUSHKAL MISHRA