

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Quoc Chi Hoac v. Moises Becerra, et al.

Quoc Chi Hoac v. Moises Becerra, No. 2:25-cv-01740-DC-JDP (E.D. Cal. July 16, 2025) · No. 2:25-cv-01740-DC-JDP · Decided July 16, 2025

SUMMARY

The United States District Court for the Eastern District of California granted Quoc Chi Hoac’s motion for a temporary restraining order and preliminary injunction concerning his detention by Immigration and Customs Enforcement. The court found Hoac was likely to succeed on claims that his release was not properly revoked under 8 C.F.R. § 241.13 and that his removal to Vietnam was not reasonably foreseeable. The court ordered his immediate release and enjoined respondents from re-detaining or removing him to a third country without notice and an opportunity to be heard.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 16, 2025
DOCKET	2:25-cv-01740-DC-JDP
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241 and moved for a temporary restraining order and preliminary injunction challenging his re-detention by ICE. The court treated the renewed motions as a single motion for preliminary injunction and granted interim injunctive relief.
STANDARD OF REVIEW	A temporary restraining order and preliminary injunction are governed by substantially identical standards. The movant must show a likelihood of success on the merits, a likelihood of irreparable harm absent relief, that the balance of equities favors the movant, and that an injunction is in the public interest.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- immigration detention
- injunctions
- removal proceedings
- procedural due process
- immigration

PRACTICE AREAS

immigration

civil procedure

constitutional law

remedies

QUESTIONS PRESENTED

1. Whether Petitioner's renewed motion for temporary restraining order and preliminary injunction was duplicative of his previously denied motion.
2. Whether Petitioner was likely to succeed on his claim that ICE unlawfully revoked his release and re-detained him without complying with 8 C.F.R. § 241.13(i)(3)'s informal-interview requirement.
3. Whether Respondents showed changed circumstances establishing a significant likelihood that Petitioner would be removed to Vietnam in the reasonably foreseeable future under 8 C.F.R. § 241.13(i)(2).
4. Whether the Winter factors, including irreparable harm, the balance of equities, and the public interest, supported preliminary injunctive relief.
5. Whether immediate release was necessary to restore the status quo preceding Petitioner's allegedly unlawful re-detention.

HOLDINGS

1. The renewed motions were not duplicative because they followed an amended petition and sought relief substantively different from the relief considered in the initial order.
2. Petitioner was likely to succeed on his claim that his re-detention was unlawful because Respondents did not show that ICE provided the informal interview and opportunity to respond required by 8 C.F.R. § 241.13(i)(3).
3. Petitioner was likely to succeed on his claim that Respondents could not demonstrate changed circumstances establishing a significant likelihood of removal to Vietnam in the reasonably foreseeable future.
4. The Winter factors favored granting a preliminary injunction because Petitioner showed a likelihood of success, irreparable harm from continued detention, equities favoring release, and a public interest in preventing unlawful detention.
5. Immediate release was required to restore the status quo ante because Petitioner had been on supervised release before the challenged re-detention.

KEY QUOTATIONS

“The plain language of § 241.13(i)(2), does not allow a court, in the first instance, to make an individualized finding that a changed circumstances has occurred.” (Analysis, section B.1)

“Respondents are ORDERED to immediately release Petitioner from Respondents’ custody;” (Conclusion)

“Respondents are ENJOINED AND RESTRAINED from re-detaining or removing Petitioner to a third country without notice and an opportunity to be heard;” (Conclusion)

FACTUAL BACKGROUND

Petitioner, a Vietnamese national subject to a final removal order, had been released under supervision in 2023 and remained on supervised release for nearly two years. ICE re-detained him on June 4, 2025, while a travel-document request was still being processed; as of July 11, 2025, no travel document to Vietnam had been obtained. Respondents did not establish that Petitioner received the informal interview required after revocation of release, and they did not provide sufficient evidence that changed circumstances made removal to Vietnam significantly likely in the reasonably foreseeable future. Before re-detention, Petitioner had complied with supervision, attended weekly ICE meetings, maintained employment, and reestablished family and housing ties.

PROCEDURAL HISTORY

Petitioner filed a § 2241 habeas petition and an initial motion for a temporary restraining order on June 20, 2025. The court denied the initial motion on June 30 because the requested relief would have required the court to make the initial changed-circumstances determination before any re-detention. Petitioner then filed an amended petition and renewed motions seeking substantively different relief. The court granted the renewed motions, ordered immediate release, enjoined re-detention or removal to a third country without notice and an opportunity to be heard, and stated that it would set an expedited briefing schedule on the habeas petition.

DISPOSITION

other

CASES CITED

- Doe v. Becerra, No. 25-cv-00647-DJC-DMC, 2025 WL 691664, at *3 (E.D. Cal. Mar. 3, 2025)
- Stuhlberg International Sales Co. v. John D. Brush & Co., 240 F.3d 832, 839 n.7 (9th Cir. 2001)
- Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20, 22 (2008)
- Cal. Rifle & Pistol Ass'n, Inc. v. Los Angeles County Sheriff's Department, 745 F. Supp. 3d 1037, 1048 (C.D. Cal. 2024)
- Johnson v. Couturier, 572 F.3d 1067, 1083 (9th Cir. 2009)
- American Hotel & Lodging Ass'n v. City of Los Angeles, 119 F. Supp. 3d 1177, 1185 (C.D. Cal. 2015)
- Zadvydas v. Davis, 533 U.S. 678, 699 (2001)
- Van Nguyen v. Hyde, No. 25-cv-11470-MJJ, 2025 WL 1725791, at *3–4 (D. Mass. June 20, 2025)
- Kong v. United States, 62 F.4th 608, 620 (1st Cir. 2023)
- United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 268 (1954)
- Wing Nuen Liu v. Carter, No. 25-cv-03036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025)
- Sering Ceesay v. Kurzdorfer, No. 25-cv-00267-LJV, 2025 WL 1284720, at *21 (W.D.N.Y. May 2, 2025)
- Ahmad v. Whitaker, No. 18-cv-00287-JLR-BAT, 2018 WL 6928540, at *5 (W.D. Wash. Dec. 4, 2018)
- Hoi Thanh Duong v. Tate, No. 24-cv-04119-H, 2025 WL 933947, at *4 (S.D. Tex. Mar. 27, 2025)
- Trinh v. Homan, 446 F. Supp. 3d 1077, 1083 (C.D. Cal. 2020)
- Hoang Tuong Nguyen v. Field Office Director, San Francisco Field Office, No. 24-cv-01579-KES-EPG, 2025 WL 1864885 (E.D. Cal. June 3, 2025)
- Hernandez v. Sessions, 872 F.3d 976, 995–996, 999 (9th Cir. 2017)

- *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)
- *Elrod v. Burns*, 427 U.S. 347, 373 (1976)
- *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005)
- *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014)
- *Nken v. Holder*, 556 U.S. 418, 435 (2009)
- *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020)
- *GoTo.com, Inc. v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)
- *Tanner Motor Livery, Ltd. v. Avis, Inc.*, 316 F.2d 804, 809 (9th Cir. 1963)
- *Ariz. Dream Act Coalition v. Brewer*, 757 F.3d 1053, 1061 (9th Cir. 2014)
- *McCormack v. Hiedeman*, 694 F.3d 1004, 1020 (9th Cir. 2012)
- *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 QUOC CHI HOAC, No. 2:25-cv-01740-DC-JDP 12 Petitioner, 13 v.
ORDER GRANTING PETITIONER’S MOTION FOR TEMPORARY 14 MOISES BECERRA,
et al., RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION 15
Respondents. (Doc. No. 23) 16 17 This matter is before the court on Petitioner’s motion for
temporary restraining order and 18 motion for preliminary injunction.

(Doc. No. 23). Pursuant to Local Rule 230(g), the court found 19 it appropriate to take the matter
under submission to be decided on the papers. For the reasons 20 explained below, the court will
grant Petitioner’s motions for temporary restraining order and 21 preliminary injunction.¹ 22
BACKGROUND 23 A. Factual Background 24 The court previously summarized the events that
preceded the court’s prior order denying 25 1 The court will treat Petitioner’s motion for
temporary restraining order and motion for 26 preliminary injunction as a singular motion for
preliminary injunction.

The Respondents had 27 notice and an opportunity to respond. Moreover, the parties have briefed
the issues extensively and the standard is the same. *Doe v. Becerra*, No. 25-cv-00647-DJC-DMC,
2025 WL 691664, at 28 *3 (E.D. Cal. Mar. 3, 2025). 1 Petitioner’s initial motion for temporary
restraining order. (See Doc. No. 21 at 1–3.)

In their 2 opposition, Respondents provide a declaration from Department of Homeland Security
(“DHS”) 3 Deportation Officer Charles Gallenkamp. (Doc. No. 26-1.) Mr. Gallenkamp affirms in
his 4 declaration that while the “travel document request for Petitioner is in the process of being 5
completed,” “[a]s of July 11, 2025, there is no travel document to Petitioner’s country of origin, 6
Vietnam.” (Id. at ¶¶ 6, 7.)

7 B. Procedural Background 8 On June 20, 2025, Petitioner filed a petition for writ of habeas corpus pursuant to 9 28 U.S.C. § 2241. (Id. at 1.) Also on June 20, 2025, Petitioner filed a motion for temporary 10 restraining order. (Doc. No. 2.) Respondents filed their opposition to Petitioner’s motion for 11 temporary restraining order on June 27, 2025. (Doc.

No. 18.) Petitioner filed a reply thereto on 12 June 28, 2025. (Doc. No. 19). 13 On June 30, 2025, the court held a hearing on Petitioner’s motion for temporary 14 restraining order. (Doc. No. 20.) In the hearing, Petitioner was provided an opportunity to clarify 15 his request that Respondents release him from custody and refrain from re-detaining him unless 16 and until he is afforded a hearing before a neutral adjudicator.

Specifically, the court asked 17 Petitioner what “neutral adjudicator” would be responsible for conducting the hearing. In 18 response, Petitioner explained that their request was to enjoin “Respondents from re-detaining 19 him unless this court first holds a hearing and makes factual findings as to whether his re- 20 detainment is warranted.” (See Doc. No. 21 at 4.)

21 Later that day, the court issued an order denying Petitioner’s motion for temporary 22 restraining order. (Doc. No. 21.) In its order, the court found Petitioner’s proposed injunctive 23 relief would require the court to make the initial finding of a changed circumstance before 24 Petitioner could be re-detained. (Id. at 6.)

The court found this form of relief was, in effect, an 25 improper intrusion on Executive Branch’s authority. (Id. at 6–7.) The court then concluded it 26 lacked the authority to grant the relief requested, and denied Petitioner’s motion on that basis 27 alone. (Id. at 7.) 28 Petitioner filed the operative first amended petition for writ of habeas corpus under 1 28 U.S.C. § 2241 alleging that he is unlawfully detained by Immigration and Customs 2 Enforcement (“ICE”), a component of the Department of Homeland Security (“DHS”).

(Doc. No. 3 22 at ¶ 15.) Petitioner asserts five causes of action: (1) unlawful re-detention in violation of 4 8 C.F.R. §§ 241.13(i)(2), 1231(a)(6); (2) violation of procedures for revocation of release in 5 violation of 8 C.F.R. § 241.13(i)(3); (3) violation of the Immigration and Nationality Act of 1952 6 (“INA”); (4) unconstitutionally indefinite detention in violation of his procedural due process 7 rights under the Fifth Amendment to the United States Constitution; and (5) unconstitutionally 8 inadequate procedures regarding third country removal in violation of his procedural due process 9 rights under the Fifth Amendment to the United States Constitution.

(Id. at 24–28.) 10 Petitioner then filed a second motion for temporary restraining order and motion for 11 preliminary injunction on July 9, 2025. (Doc. No. 23.) Respondents filed their opposition on July 12 14, 2025.2 (Doc. No. 26.) Petitioner filed his reply thereto on July 15, 2025. (Doc. No. 27.) 13 LEGAL STANDARD 14 The standard governing the issuing of a temporary restraining order is “substantially 15 identical” to the standard 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). To obtain either form of injunctive relief, the 17 moving party must show: (1) a likelihood of success on the merits; (2) a likelihood of irreparable 18 harm to the moving party in the absence of preliminary relief; (3) that the balance of equities tips 19 in favor of the moving party; and (4) that an injunction is in the public interest.

Winter v. Nat. 20 Res. Def. Council, Inc., 555 U.S. 7, 20 (2008). Injunctive relief is “an extraordinary remedy that 21 may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Id.*, 555 22 U.S. at 22. 23 A district court may consider “the parties’ pleadings, declarations, affidavits, and exhibits 24 2 In their opposition, Respondents move to strike and dismiss “all unlawfully named officials 25 under § 2241.” (Doc.

No. 26, at 1 n.1) The proper respondent rule states that the proper respondent in a “core” habeas petition challenging present physical confinement is the immediate 26 custodian. *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024). Petitioner has properly named 27 his immediate custodian, the Facility Administrator of the Golden State Annex.

However, if Respondents seek to dismiss the other Respondents from this action, they must do so in a 28 properly noticed motion. 1 submitted in support of and in opposition to the [motion for preliminary injunction].” *Cal. Rifle & 2 Pistol Ass'n, Inc. v. Los Angeles Cnty. Sheriff's Dep't*, 745 F.Supp.3d 1037, 1048 (C.D. Cal. 3 2024); see also *Johnson v. Couturier*, 572 F.3d 1067, 1083 (9th Cir.

2009). Any evidentiary 4 issues “properly go to weight rather than admissibility.” *Am. Hotel & Lodging Ass'n v. City of Los 5 Angeles*, 119 F.Supp.3d 1177, 1185 (C.D. Cal. 2015). 6 ANALYSIS 7 A. Duplicative Motions 8 In their opposition, Respondents argue Petitioner “unlawfully attempts to relitigate the 9 denial of their first TRO motion claims.” (Doc. No. 26 at 1.)

The court finds Respondents’ 10 argument unpersuasive. As addressed above, the court denied Petitioner’s initial motion because 11 it did not have the authority to grant the relief he requested. Specifically, the court found that 12 Petitioner’s request he be released and this court be required to hold a hearing prior to any re- 13 detention was improper. (Doc.

No. 21 at 5.) Subsequently, Petitioner filed an amended petition 14 and renewed motions for injunctive relief asking for relief that is substantively different from 15 what the court considered in its initial order. (Doc. Nos. 22, 23.)

Accordingly, the court finds 16 Petitioner’s motions are not duplicative. 17 B. Winter Factors 18 1. Likelihood of Success on the Merits 19 The authority of ICE to detain noncitizens under federal law derives from 20 8 U.S.C. § 1231, which directs the Attorney General of the United States to affect the removal of 21 any noncitizen from this country within 90 days of any order of removal.

8 U.S.C. § 1231(a)(1). 22 However, once that time passes and after “removal is no longer reasonably foreseeable, continued 23 detention is no longer authorized by statute,” the noncitizen must be released. *Zadvydas v. Davis*, 24 533 U.S. 678, 699 (2001). 25 Upon release, a noncitizen subject to a final order of removal must comply with certain 26 conditions of release.

8 U.S.C. § 1231(a)(3), (6). The revocation of that release is governed by 27 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen’s release for purposes of 28 removal. Specifically, a noncitizen’s release may be revoked “if, on account of changed 1 circumstances,” it is determined that “there is a significant likelihood that the [noncitizen] may be 2 removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2).

Upon such a 3 determination: 4 [T]he alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview 5 promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the 6 notification.

The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she 7 be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision.

The revocation custody review 8 will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined 9 warrant revocation and further denial of release. 10 *Id.* § 241.13(i)(3).

The plain language of § 241.13(i)(2), does not allow a court, in the first 11 instance, to make an individualized finding that a changed circumstances has occurred. *Van 12 Nguyen v. Hyde*, No. 25-cv-11470-MJJ, 2025 WL 1725791, at *3 (D. Mass. Jun. 20, 2025) 13 (quoting *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023)). Instead, to the extent ICE 14 claims that it made such a determination, the court should review that claim in light of the factors 15 set out in 8 C.F.R. § 241.13(f), “instructing ICE on how it should make such a determination.” *Id.* 16 The § 241.13(f) factors include but are not limited to: 17 [T]he history of the alien’s efforts to comply with the order of removal, the history of the Service’s efforts to remove aliens to the 18 country in question or to third countries, including the ongoing nature of the Service’s efforts to remove this alien and the alien’s assistance 19 with those efforts, the reasonably foreseeable results of those efforts, and the views of the Department of State regarding the prospects for 20 removal of aliens to the country or countries in question.

Id. 21 *Id.* Respondents do not dispute that this regulation applies to this case, nor do Respondents argue 22 that compliance with this regulation is not required. 23 Petitioner has shown he is likely to succeed on his claim that Respondents did not 24 properly revoke his release pursuant to § 241.13 for the following reasons.

First, in his amended 25 petition, Petitioner alleges Respondents have not timely provided him with an initial interview or 26 an opportunity to respond to the purported reasons for revocation. (Doc. No. 22 at ¶ 85.) Despite 27 having multiple opportunities to address this issue, (Doc. Nos. 18, 26), Respondents have not 28 asserted Petitioner was provided an informal interview.

While at the June 30, 2025 hearing 1 Respondents claimed Petitioner was notified of the reason for his arrest at the time he was taken 2 into ICE custody, Respondents conceded they have no specific information regarding whether an 3 informal interview occurred and proffered no evidence thereof. (See generally Doc. Nos. 18, 20, 4 26.) Indeed, Petitioner alleged that the only reason he was given for his arrest was that he had an 5 outstanding arrest warrant, which presumably existed since he was first ordered removed by an 6 Immigration Judge in 2023.

(Doc. No. 22 at ¶ 6.) 7 Government agencies are required to follow their own regulations. *United States ex rel 8 Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Because there is no indication that an 9 informal interview was provided to Petitioner, the court finds Petitioner is likely to succeed on his 10 claim that his re-detainment was unlawful. See *Wing Nuen Liu v. Carter*, No. 25-cv-03036-JWL, 11 2025 WL 1696526, at *2 (D.

Kan. Jun. 17, 2025) (finding “that officials did not properly revoke 12 petitioner’s release pursuant to [§] 241.13” because “and most obviously... petitioner was not 13 granted the required interview upon the revocation of his release”); *Sering Ceesay v. Kurzdorfer*, 14 No. 25-cv-00267-LJV, 2025 WL 1284720, at *21 (W.D. N.Y. May 2, 2025) (finding petitioner 15 was not afforded even minimal due process protections when ICE failed to provide petitioner an 16 informal interview upon his re-detainment); Cf. *Ahmad v. Whitaker*, No. 18-cv-00287-JLR-BAT, 17 2018 WL 6928540, at *5 (W.D.

Wash. Dec. 4, 2018) (finding that despite not being provided an 18 informal interview, the court could not find an actionable injury because ICE had already 19 “scheduled Mr. Ahmad’s removal”). 20 Second, Petitioner has shown he is likely to succeed on his claim that Respondents cannot 21 demonstrate changed circumstances such that there is now a significant likelihood Petitioner will 22 be removed to Vietnam in the reasonably foreseeable future.

23 Respondents argue that due to a change in circumstances, as set forth in their prior 24 opposition, Petitioner is detained for removal in the reasonably foreseeable future. (Doc. No. 26 25 at 5.) Specifically, Respondents assert a change in circumstances exists because there is a pending 26 updated travel document request and a “2020 treaty memorandum of understanding” that 27 authorizes “removal and repatriation of Vietnamese citizens who arrived in the United States 28 before July 1995....” (Doc.

Nos. 18 at 5 n. 4; 20 at 5.) Additionally, Respondents assert removal 1 is reasonably foreseeable because removals to Vietnam have occurred recently. (Doc. No. 26 at 2 6.) 3 The fact that

Respondents intend to complete a travel document request for Petitioner does 4 not make it significantly likely he will be removed in the foreseeable future. (Id. at 5.) Indeed, 5 Respondents represent that Petitioner was unable to be removed in 2023, “due to § 1231(a)(2) 6 concerns with travel documents.” (Id.); see § 241.13(f) (factor to consider includes “nature of the 7 Service's efforts to remove this alien and the alien's assistance with those efforts, the reasonably 8 foreseeable results of those efforts”).

However, Respondents have not provided any details about 9 why a travel document could not be obtained in the past, nor have they attempted to show why 10 obtaining a travel document is more likely this time around. Respondents’ intent to eventually 11 complete a travel document request for Petitioner does not constitute a changed circumstance. See 12 *Wing Nuen Liu*, 2025 WL 1696526, at *2.

13 Likewise, Respondents rely on the “2020 treaty of memorandum of understanding” to 14 support their assertion of changed circumstances but have not provided the document for the 15 court’s consideration. In *Van Nguyen*, the district court found that a 2020 Memorandum of 16 Understanding, establishing a process of review and issuance of travel documents for Vietnamese 17 citizens ordered removed, alone, was not enough to show that a changed circumstance had 18 occurred.

2025 WL 1725791, at *4. Assuming Respondents are referring to the same 19 memorandum of understanding, that assessment is not enough to show there is a significant 20 likelihood that Petitioner will be removed to Vietnam because the memorandum does not 21 mandate that Vietnam will accept Petitioner. Id. “Vietnam has total discretion whether to issue a 22 travel document to any individual.” Id. Thus, the “memorandum of understanding” alone does not 23 appear to be sufficient to show a significant likelihood Petitioner may be removed in the 24 reasonably foreseeable future.

See § 241.13(i)(2). 25 Next, Respondents’ contention that Petitioner’s removal is reasonably foreseeable because 26 removals to Vietnam are in fact occurring is unpersuasive. (Doc. No. 26 at 6.) In support of their 27 contention, Respondents cite to findings and recommendations issued in *Hoang Tuong Nguyen v.* 28 *Field Off. Dir., San Francisco Field Off.*, No. 24-cv-01579-KES-EPG, 2025 WL 1864885 (E.D.

1 Cal. Jun. 3, 2025). Therein, the magistrate judge recommended that a pre-1995 Vietnamese 2 immigrant’s petition be denied as moot, because he the petitioner was removed from the United 3 States to Vietnam on March 19, 2025. (Id.) 4 However, Respondents’ reliance on single case does not aid the court’s analysis on 5 whether there are changed circumstances.

Pre-1995 Vietnamese immigrants may be repatriated to 6 Vietnam on “a case-by-case basis.” *Hoi Thanh Duong v. Tate*, No. 24-cv-04119-H, 2025 WL 7 933947, at *4 (S.D. Tex. Mar. 27, 2025)

(quoting *Trinh v. Homan*, 446 F. Supp. 3d 1077, 1083 8 (C.D. Cal. 2020)).

As noted above, Vietnam has discretion whether to issue a travel document to 9 any individual. The petitioner's removal to Vietnam in *Hoang Tuong Nguyen* merely 10 demonstrates that on one occasion, an individual was repatriated from the United States to 11 Vietnam. See *id.*; *Wing Nuen Liu*, 2025 WL 1696526, at *2 (finding that "a single example of 12 documentation being received in March from the Chinese Embassy for one Chinese alien is 13 hardly persuasive" to demonstrate changed circumstances).

14 Respondents have not provided the court with sufficient information that could aid the 15 court's analysis. The court finds the analysis offered in *Van Nguyen* applicable. In *Van Nguyen*, 16 the court found it was "missing some very pertinent information" including the total number of 17 requests for removal that were made to Vietnam. *Van Nguyen*, 2025 WL 1725791, at *4.

The 18 court reasoned it might be able to gauge how likely it is that the petitioner would be removed to 19 Vietnam if the court knew what percentage of the requests Vietnam accepted. *Id.* For instance, the 20 court found "[i]f DHS submitted 350 requests and Vietnam issued travel documents for 328 21 individuals" then removal was significantly likely. *Id.* However, "if DHS submitted 3,500 22 requests and only 328 individuals received travel documents" the court noted "Respondents 23 would not be able to meet their burden." *Id.* Similarly, the court has no evidence regarding the 24 percentage of successful requests to Vietnam to demonstrate changed circumstances.

25 Lastly, Respondents contend Petitioner's removal to Vietnam is foreseeable because he 26 declined to apply for relief from removal and requested a removal order to Vietnam on September 27 6, 2023. (Doc. No. 26 at 5.) Respondents' contention is unavailing. Petitioner's acceptance of a 28 removal order, in itself, does not mean that Vietnam will accept a travel document for him.

1 Petitioner has shown Respondents likely did not comply provide him with the informal 2 interview as required by § 241.13(i)(3). Petitioner has also shown it is likely that there is no 3 change in circumstances such that Petitioner will be removed to Vietnam in the reasonably 4 foreseeable future as required by § 241.13(i)(2). Government agencies are required to follow their 5 own regulations, *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); see 6 *Waldron v. I.N.S.*, 17 F.3d 511, 518 (2d Cir.

1993) ("[W]hen a regulation is promulgated to 7 protect a fundamental right derived from the Constitution or a federal statute, and [the 8 government] fails to adhere to it, the challenged deportation proceeding is invalid."). 9 Consequently, the court concludes that Petitioner has shown a likelihood of success on the merits 10 of his claims that his re-detainment is unlawful because ICE has not complied with the controlling 11 regulations to re-detain him.

12 Therefore, this factor weighs in favor of granting Petitioner’s motion for temporary 13 restraining order and preliminary injunction. 14 2. Irreparable Harm 15 The Ninth Circuit has recognized the “irreparable harms imposed on anyone subject to 16 immigration detention” including “subpar medical and psychiatric care in ICE detention 17 facilities” and “the economic burdens imposed on detainees and their families as a result of 18 detention.” *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir.

2017). Since Petitioner’s release 19 from ICE custody in 2023, he has reconnected with family and obtained employment at a non- 20 profit in San Francisco. (Doc. Nos. 22 at ¶5; 23 at 30.) If Petitioner remains detained, he is at risk 21 of losing his employment and subsequently, his housing. (Id.) 22 Moreover, “[i]t is well established that the deprivation of constitutional rights 23 ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th 24 Cir.

2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Where, as here, the “alleged 25 deprivation of a constitutional right is involved, most courts hold that no further showing of 26 irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005) 27 (quoting *Wright, Miller, & Kane*, *Federal Practice and Procedure*, § 2948.1 (2d ed.

2004)). The 28 Ninth Circuit has also noted that “unlawful detention certainly constitutes ‘extreme or very 1 serious’ damage, and that damage is not compensable in damages.” *Hernandez*, 872 F.3d at 999. 2 Therefore, this factor weighs in favor of granting Petitioner’s motions for temporary 3 restraining order and preliminary injunction. 4 3. Balance of the Equities and Public Interest 5 The court now turns to the last two Winter factors.

The balance of the equities and public 6 interest analyses merge when the government is the opposing party, as is the case in this action. 7 See *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014) (citing *Nken v. Holder*, 8 556 U.S. 418, 435 (2009)). 9 “Just as the public has an interest in the orderly and efficient administration of this 10 country’s immigration laws, [] the public has a strong interest in upholding procedural protections 11 against unlawful detention.” *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *4 12 (N.D.

Cal. Aug. 23, 2020). Petitioner has demonstrated that he is likely unlawfully detained in 13 violation of his due process rights and is suffering the harms of immigration detention. On the 14 other hand, the burden on Respondents in releasing Petitioner from detention is minimal, 15 especially considering Petitioner’s compliance with the requirements of the Order of Supervision 16 (“OSUP”), his weekly attendance at ICE meetings since his release from custody in 2023, and his 17 economic and familial ties to San Francisco.

(Doc. No. 22 at ¶ 5.) Despite Respondents’ argument 18 to the contrary, there is nothing in the current record to suggest that releasing Petitioner would 19 impede Respondents’ ability to remove

him to Vietnam if the necessary travel document is 20 obtained. Further, the Ninth Circuit has recognized that “[t]he costs to the public of immigration 21 detention are ‘staggering,’” and that “[s]upervised release programs cost much less by 22 comparison....” *Hernandez*, 872 F.3d at 996.

Government expenditure in this case is not in the 23 public interest in light of Petitioner’s compliance with his OSUP, stable employment, and 24 consistent attendance at scheduled ICE meetings. See *Vargas*, 2020 WL 5074312, at *4. 25 Therefore, this factor weighs in favor of granting Petitioner’s motion for temporary restraining 26 order and preliminary injunction.

27 C. Status Quo 28 In his motions, Petitioner asks the court to release him from detention “to preserve the 1 status quo before [Respondents] unlawful actions[.]” (Doc. No. 23 at 10.) The status quo ante 2 litem is “the last uncontested status which preceded the pending controversy[.]” *GoTo.com, Inc. v. 3 Walt Disney, Co.*, 202 F.3d 1199, 1210 (9th Cir, 2000) (quoting *Tanner Motor Livery, Ltd. v. 4 Avis, Inc.*, 316 F.2d 804, 809 (9th Cir.

1963)); see *Ariz. Dream Act Coalition v. Brewer*, 757 F.3d 5 1053, 1061 (9th Cir. 2014) (“the ‘status quo’ refers to the legally relevant relationship between 6 the parties before the controversy arose”) (citing *McCormack v. Hiedeman*, 694 F.3d 1004, 1020 7 (9th Cir. 2012)). 8 In their opposition, Respondents argue Petitioner is attempting to disturb “[t]he status quo 9 [] this court-

of-custody found in [its prior order], [] that changed circumstances warrant 10 Petitioner’s civil detention pending his reasonably foreseeable removal to Vietnam, his country of 11 origin.” (Doc. No. 26 at 6.) Respondents’ characterization of this court’s prior order is incorrect. 12 The court did not address the status quo issue in its prior order. Instead, the court solely 13 determined it lacked the authority to grant Petitioner’s initial injunctive relief request. (Doc. No. 14 21 at 7.) 15 Here, Petitioner had been on supervised release for almost two years until he was re- 16 detained by the government.

(Doc. No. 22 at ¶ 5.) Because Petitioner challenges his re- 17 detainment, the last uncontested status of Petitioner was before he was re-detained on June 4, 18 2025. See *Doe*, 2025 WL 691664, at *2 (“It is questionable whether that status quo is properly 19 considered to be detention when the Government suddenly took an allegedly unconstitutional 20 action in rearresting Petitioner without a hearing.”); *Domingo-Ros v. Archambeault*, No. 25-cv- 21 01208-DMS-DEB, 2025 WL 1425558, at * (S.D.

Cal. May 18, 2025) (granting an injunction for 22 petitioners that sought a “probationary injunction” to “preserve the status quo preceding this 23 litigation—their physical presence in the United States free from detention”); *Abrego Garcia v. 24 Noem*, No. 25-cv-00951-PX, 2025 WL 1014261, at *9 (D. Md. Apr. 6, 2025) (finding that the 25 petitioner “request[ed] relief designed to re[s]tore the status quo ante... to return him to where 26 he was on March 12, 2025, before he was

apprehended by ICE and spirited away to [the 27 Terrorism Confinement Center in El Salvador]”);
Pinchi v. Noem, No. 25-cv-05632-RMI-RFL, 28 2025 WL 1853763, at *3 (N.D.

Cal. Jul. 4, 2025) (finding that the “moment prior to the 1 | Petitioner’s likely illegal detention” is
the status quo). Accordingly, the court finds Petitioner’s 2 | immediate release is required to return
him to the status quo. 3 CONCLUSION 4 For the reasons explained above: 5 1. Petitioner’s
motions for temporary restraining order and preliminary injunction 6 (Doc.

No. 23) are GRANTED; 7 2. Respondents are ORDERED to immediately release Petitioner from
Respondents’ 8 custody; 9 3. Respondents are ENJOINED AND RESTRAINED from re-detaining
or removing 10 Petitioner to a third country without notice and an opportunity to be heard; and 11
4. This court will set an expedited briefing schedule on the petition for writ of habeas 12 corpus by
order following the issuance of this order.

13 4 IT IS SO ORDERED. □ 15 | Dated: _ July 16, 2025 Qe <—_ Dena Coggins 16 United States
District Judge 17 18 19 20 21 22 23 24 25 26 27 28 12