

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 2:25-cv-09831-MWC-KES

Date: October 21, 2025

Title: Edgar Becerra Ortiz v. Todd Lyons *et al.*

Present: The Honorable Michelle Williams Court, United States District Judge

T. Jackson
Deputy Clerk

Not Reported
Court Reporter / Recorder

Attorneys Present for Plaintiffs:
N/A

Attorneys Present for Defendants:
N/A

Proceedings: Order GRANTING IN PART and DENYING IN PART Petitioner's *Ex Parte* Application for Temporary Restraining Order (Dkt. 3)

Before the Court is Petitioner Edgar Becerra Ortiz's ("Petitioner") *ex parte* application ("Application") seeking a temporary restraining order ("TRO") requiring, among other things, his release from custody on his own recognizance, and that Todd M. Lyons and Ernesto Santacruz, Jr. (collectively, "Respondents")¹ may not re-detain Petitioner without a bond hearing on the merits where the government must prove by clear and convincing evidence that Petitioner is a danger to the community and a flight risk such that physical custody is required. Dkt. # 3 ("App.") i. In the alternative, Petitioner asks that the Court order that the immigration judge hold a bond hearing on the merits. *Id.* The Government opposed the Application ("Opposition"). See Dkt. # 4 ("Opp.").² For the reasons set forth below, the Court **GRANTS IN PART** and **DENIES IN PART** the Application.

¹ Todd M. Lyons is the Acting Director of ICE, and Ernesto Santacruz, Jr. is the Field Office Director of Enforcement and Removal Operations at the Adelanto Field Office for U.S. Immigration and Customs Enforcement ("ICE").

² Petitioners subsequently filed a Reply. Dkt. # 7. This Court's Rules do not permit reply briefs on *ex parte* applications. See Hon. Michelle Williams Court Standing Order ¶ 11, <https://apps.cacd.uscourts.gov/Jps/honorable-michelle-williams-court>. Accordingly, the Court declines to consider Petitioners' Reply in deciding the Application.

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I. Background

Petitioner is a 46-year-old man who has lived in the United States, in Los Angeles, California, for twenty years. Dkt. # 3-1 (“*Brooks Decl.*”) ¶ 2 & Ex. A, 1. Petitioner arrived in the United States around 2002. *Id.* Petitioner has two U.S. citizen children. *Id.* ¶ 3. Petitioner has not been involved in any criminal proceedings, nor any other immigration proceedings. *Id.* ¶ 4 & Ex. B (Petitioner’s I-213 Record).

On August 21, 2025, as part of ICE’s targeted immigration enforcement operations in Los Angeles, California (“Operation At Large”), Petitioner was arrested. *Id.* ¶ 5 & Ex. B, 2-3. Petitioner was transferred to the Adelanto Detention facility in Adelanto, California, where he remains in detention. *Id.* ¶ 6, Ex. C (Petitioner’s Notice to Appear). On September 18, 2025, United States Immigration Judge Patrick Barrett held a hearing on Petitioner’s bond application. *Id.* ¶ 7, Ex. D (IJ Order on Petitioner’s bond hearing). Citing the court’s lack of jurisdiction, Judge Barrett did not address the merits of the bond hearing. *Id.* ¶ 8. Petitioner withdrew his bond request, and Judge Barrett classified Petitioner as an applicant for admission under INA 235(b)(2), which requires mandatory detention. *Id.* ¶ 8, Ex. D.

On October 14, 2025, Petitioner filed a Petition for Writ of Habeas Corpus (“Petition”) in this court on the grounds that his detention deprives him of due process protections found under INA 236³; that he was incorrectly classified under INA 235⁴; and that his Fourth and Fifth Amendment due process rights are being violated. Dkt. # 1 ¶¶ 6, 7(b), 13. On October 16, 2025, Petitioner filed and served the instant Application. *App.*

Petitioner asks the Court for an order (1) granting his immediate release and enjoining Respondents from re-detaining Petitioner without a bond hearing on the merits where the government must prove by clear and convincing evidence that Petitioner is a danger to the community and a flight risk such that physical custody is required, or, in the alternative, ordering the immigration judge hold a bond hearing on the merits; and (2) ordering Respondents to show cause why a preliminary injunction should not issue. *App.* i; 1.

³ INA 236 is codified at 8 U.S.C. § 1226(a).

⁴ INA 235 is codified at 8 U.S.C. § 1225(b)(2).

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Respondents oppose Petitioner’s Application on several grounds. They argue that Petitioner fails to meet the high bar for injunctive relief because the Court lacks jurisdiction under 8 U.S.C. § 1252; Petitioner is lawfully detained pending the resolution of his removal proceedings; and that legislative history does not suggest Congressional intent to treat individuals who entered the country unlawfully better than those who appear at a port of entry. *See generally Opp.* Respondents note, should the Court disagree with Respondents’ arguments, “relief should be limited to what other Judges in this District have generally issued in similar cases: Requiring release unless a Section 1226(a) bond hearing is provided within seven (7) days.” *Opp.* 14.

II. Legal Standard

A. Ex Parte Applications

“Circumstances justifying the issuance of an ex parte order are extremely limited.” *Reno v. Air Racing Ass’n, Inc. v. McCord*, 452 F.3d 1126, 1131 (quoting *Granny Goose Foods, Inc. v. Teamsters*, 415 U.S. 423, 438–39 (1974)). “Consistent with [the Supreme Court’s] overriding concern, courts have recognized very few circumstances justifying the issuance of an ex parte TRO.” *Id.* (discussing parties’ failure to provide notice under Fed. R. Civ. P. 65(b)).

In this District, *ex parte* applications are solely for extraordinary relief and are rarely justified. *Mission Power Eng’g Co. v. Cont’l Cas. Co.*, 883 F. Supp. 488, 490 (C.D. Cal. 1995). A party filing an *ex parte* application must support its request for emergency relief with “evidence . . . that the moving party’s case will be irreparably prejudiced if the underlying motion is heard according to regularly noticed motion procedures,” and a showing “that the moving party is without fault in creating the crisis that requires ex parte relief, or that the crisis occurred as a result of excusable neglect.” *Id.* at 492. “Ex parte applications are not intended to save the day for parties who have failed to present requests when they should have.” *Id.* at 493 (internal quotation marks omitted).

B. Temporary Restraining Orders

Federal Rule of Civil Procedure (“Rule”) 65 grants district courts the power to issue injunctions and restraining orders. Issuance of a TRO, as a form of preliminary injunctive relief, is an extraordinary remedy, and the applicant for such a remedy bears the burden of

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proving its propriety. *See Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997). In general, the showing required for a TRO and a preliminary injunction are the same. *Stuhlbarg Int’l Sales Co., Inc. v. John D. Brush & Co., Inc.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). The applicant for a TRO must show that: (1) he is likely to succeed on the merits; (2) he is likely to suffer irreparable harm absent the injunction; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 5, 20 (2008); *Meinecke v. City of Seattle*, 99 F.4th 514, 521 (9th Cir. 2024). “In the Ninth Circuit, a plaintiff may also prove a TRO is warranted by raising ‘serious questions going to the merits.’” *NML Cap., Ltd. v. Spaceport Sys. Int’l, L.P.*, 788 F. Supp. 2d 1111, 1125 (C.D. Cal. 2011) (quoting *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011)). Where the non-movant is a government entity, “the third and fourth [*Winter*] factors . . . merge.” *Fellowship of Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664, 695 (9th Cir. 2023) (en banc).

III. Discussion

A. Ex Parte Application and Mission Power Factors

The Court finds that Petitioner has satisfied the *Mission Power* factors. Petitioner has been in custody since August without having his bond hearing adjudicated. *App* 2, *Brooks Decl.* ¶ 5. If the Court heard the Application according to regularly noticed motion procedures, that would leave Petitioner detained without access to any due process for at least an additional 28 days. Under the circumstances, the Court finds *ex parte* relief warranted. *See Mosqueda v. Noem*, No. 5:25-cv-02304 CAS (BFM), 2025 WL 2591530, at *2 (C.D. Cal. Sept. 8, 2025) (“The Court finds that petitioners’ *ex parte* request for relief is appropriate because petitioners allege that their continued detention without bond hearings, which they would be entitled to under 8 U.S.C. 1226(a), constitutes irreparable injury.” (citation omitted)).

B. Jurisdiction

First, the Court finds that it has jurisdiction to rule on the TRO. Before turning to the *Winter* factors, the Court will address Respondents’ contention that the Court lacks jurisdiction to adjudicate the TRO under 8 U.S.C. § 1252. *Opp.* 5. In laying out their argument, Respondents point to two provisions in that statute: § 1252(b)(9) and § 1252(g).

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8 U.S.C. § 1252(b)(9) provides:

Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, *arising from any action taken or proceeding brought to remove an alien from the United States* under this subchapter shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9) (emphasis added). In interpreting the statute, *Jennings v. Rodriguez*, 583 U.S. 281 (2018) is instructive. The Supreme Court determined that the “arising from” language of § 1252(b)(9) does not mean that the provision covers every action that technically follows the commencement of removal proceedings, as that would bar judicial review of questions of law and fact that are unrelated to the removal proceeding until there was a final order of removal. *Jennings*, 583 U.S. at 292–95. Like the class in *Jennings*, Petitioner here is “not asking for review of an order of removal,” nor is he “challenging the decision to detain [him] in the first place or to seek removal,” and he is not “challenging any part of the process by which [his] removability will be determined.” *Id.* at 294. Instead, Petitioner challenges the denial of a bond hearing and his mandatory detention. *App.* 4. “Under these circumstances, § 1252(b)(9) does not present a jurisdictional bar.” *Jennings*, 582 U.S. at 294–95 (footnote omitted).

Respondents also cite § 1252(g) to support their argument that the Court lacks jurisdiction to rule on the TRO. That section reads:

Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien *arising from the decision or action by the Attorney*

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General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

8 U.S.C. § 1252(g) (emphasis added). Respondents argue that “[h]ere, Petitioner challenges the government’s decision and action to detain them [*sic*], which arises from DHS’s decision to commence removal proceedings, and is thus an ‘action taken . . . to remove them from the United States.’” *Opp.* 8 (quoting 8 U.S.C. § 1252(b)(9)) (brackets omitted). But the reasoning discussed with respect to § 1252(b)(9), applies with equal force to § 1252(g). *See Jennings*, 583, U.S. at 294 (“We did not interpret [§ 1252(g)] to sweep in any claim that can technically be said to ‘arise from’ the three listed actions of the Attorney General. Instead, we read the language to refer to just those three specific actions themselves.”) (citing *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999)). Since Petitioner’s mandatory detention and bond denial claim does not challenge any decision to commence proceedings, adjudicate cases, or execute removal orders, the Court finds that § 1252(g) does not present a jurisdictional bar to judicial review. *See Mosqueda*, 2025 WL 2591530, at *3; *Henberto Arreola Armenta v. Noem*, No. 5:25-cv-02416-JFW-SP (C.D. Cal. Sept. 16, 2025), Dkt. # 7, 3.

C. Request for Bond Hearing

The Court finds that Petitioner is entitled to the TRO with respect to its request for a bond hearing.

i. *Likelihood of Success on the Merits*

Petitioner argues that he is likely to succeed on the merits of his Petition because the text of the relevant statutes, legislative history, and DHS practice make clear that 8 U.S.C. § 1226(a) properly governs his detention, not 8 U.S.C. § 1225(b)(2). *See App.* 3–8. Respondents counter that § 1225(b)(2)(A) governs Petitioner’s detention, which strips Immigration Judges of the authority to hear bond requests or to grant bond based on the plain language of the statute and the reasoning in *Matter of Jonathan Javier Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

Here, the Court determines that Petitioner is correct—§ 1226(a) governs. That provision states, in part:

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On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—

(1) may continue to detain the arrested alien; and

(2) may release the alien on—

(A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General

8 U.S.C. § 1226(a). *Jennings* clarified that “[f]ederal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.” 583 U.S. at 306 (citing 8 C.F.R. § 1236.1(d)(1)); *see also Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022) (“Section 1226(a) and its implementing regulations provide extensive procedural protections that are unavailable under other detention provisions, including . . . an initial bond hearing before a neutral decisionmaker.”).

By contrast, 8 U.S.C. § 1225(b)(2)(A) reads: “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a [removal proceeding].” 8 U.S.C. § 1225(b)(2)(A).

The Court agrees that § 1226(a) controls. Respondents contend that they have detained Petitioner pursuant to 8 U.S.C. § 1225(b)(2)(A), but the Court finds this unpersuasive. Analyzing the two provisions together, and “giving effect to each word and making every effort not to interpret a provision in a manner that renders other provisions of the same statute inconsistent, meaningless or superfluous,” *Shulman v. Kaplan*, 58 F.4th 404, 410–11 (9th Cir. 2023), § 1226(a) and § 1225(b)(2)(A) apply to different sets of noncitizens. Section § 1226(a) applies to those individuals who are already in the country and detained, while § 1225(b) applies “primarily to aliens *seeking entry into the United States*.” *Jennings*, 583 at 281, 297 (emphasis added); *Mosqueda*, 2025 WL 2591530, at *5. As such, Petitioner has demonstrated a likelihood of success on the merits as to his entitlement to a bond hearing.

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ii. Irreparable Harm

“It is well established that the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). The Court finds that Petitioner would be immediately and irreparably harmed by his continued deprivation of liberty without the bond hearing that he is entitled to under § 1226(a). *See Hernandez v. Sessions*, 872 F.3d 976, 994–95 (9th Cir. 2017) (finding irreparable harm was likely to result from government’s policy of not considering financial ability to pay immigration bonds); *see also Rodriguez v. Robbins*, 715 F.3d 1127, 1144–45 (9th Cir. 2013) (finding irreparable harm was likely to result from government’s reading of immigration detention statutes as not requiring a bond hearing for noncitizens subject to prolonged detention). Accordingly, this factor weighs in favor of granting the TRO with respect to Petitioner’s entitlement to a bond hearing.

iii. Balance of Equities and Public Interest

As detailed above, the last two Winter factors “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). As to Respondents’ interests, there is a compelling interest in the enforcement of the nation’s immigration laws. *See Medina v. U.S. Dep’t of Homeland Sec.*, 313 F. Supp. 3d 1237, 1252 (W.D. Wash. 2018). Still, the balance of equities and the public interest factors tip in favor of Petitioner because he is challenging a policy that is likely in violation of federal law. *See Valle del Sol Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013) (“[I]t is clear that it would not be equitable or in the public’s interest to allow the [government] . . . to violate the requirements of federal law.”) (citations omitted); *see also Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013) (the government “cannot suffer harm from an injunction that merely ends an unlawful practice”).

Accordingly, and in light of the other factors that the Court has already examined, Petitioner is entitled to a bond hearing before the Immigration Court.

D. Request for Release from Detention and Associated Relief

The Court also finds, however, that based on the current record, Petitioner has not made the requisite showing of a likelihood of success on the merits to warrant the primary

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relief requested, which is immediate release from custody and an order enjoining re-detention “without a bond hearing on the merits where the government must prove by clear and convincing evidence that Petitioner is a danger to the community and a flight risk such that physical custody is required.” *App. i.* “Courts should act cautiously when reviewing matters entrusted to the Executive Branch, especially those involving immigration, lest it alter the balance between co-equal branches of government.” *Jazi v. Rubio*, No.: 25-cv-27 BEN, 2025 WL 2420690, at *2 (S.D. Cal. Aug. 20, 2025); *see also Noem v. Vasquez Perdomo*, 606 U.S. —, — S.Ct. —, 2025 WL 2585637, at *5 (Sept. 8, 2025) (Kavanaugh, J., concurring) (“Especially in an immigration case like this one, it is also important to stress the proper role of the Judiciary [W]e . . . must decline to step outside our constitutionally assigned role to improperly *restrict* reasonable Executive branch enforcement of the immigration laws” (emphasis in original)). The Application does not contest that Petitioner may be subject to removal. *See generally App.* Without more, and mindful of its limited role, the Court cannot assume that ICE has no basis to detain Petitioner.

Petitioner has also failed to make the requisite showing as to the remaining *Winter* factors such that the Court can grant the Application. In general, “[t]he Ninth Circuit has recognized ‘the irreparable harms imposed on anyone subject to immigration detention.’” *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1253 (W.D. Wash. 2025) (quoting *Hernandez*, 872 F.3d at 995). Those harms can include “the subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees who parents are detained.” *Hernandez*, 872 F.3d at 995. But the existence of those harms generally does not allow the Court to automatically assign the injuries of other detainees to Petitioner here, especially when Petitioner has not provided detail as to the harms he is experiencing in detention. *Cf. Sheet Metal Workers’ Int’l Ass’n Loc., of Sheet Metal Workers’ Int’l Ass’n, AFL-CIO*, 660 F. Supp. 1500, 1508 (S.D. Cal. 1987) (“This court cannot simply assume irreparable injury in the absence of proof, and this lack of proof is fatal . . .”). To be sure, the lack of due process associated with Petitioner’s detention constitutes irreparable harm, but the Court has already ordered relief more narrowly tailored to that harm.

Lastly, the balance of equities and public interest factors do not show that the Court must order Petitioner released. “It is always in the public interest to protect the country’s borders and enforce its immigration laws.” *Pangea Legal Servs. v. U.S. Dep’t of Homeland Sec.*, 501 F. Supp. 3d 792, 825 (N.D. Cal. 2020) (citing *Landon v. Plascencia*, 459 U.S.

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21, 24 (1982)). Still, “[t]he public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and held in immigration detention’ in violation of the Constitution.” *Xuyue Zhang v. Barr*, 612 F. Supp. 3d 1005, 1017 (C.D. Cal. 2020) (citing *Hernandez*, 872, F.3d at 996). The Application does not contend that Petitioner is a United States citizen or lawful permanent resident, *see generally App.*, so the Court will not assume that his detention is not related to the proper enforcement of the nation’s immigration laws. And in spite of the potential lack of due process provided to him, the balance of equities and public interest factors do not tip strongly in Petitioner’s favor, as the remaining relief he requests is not narrowly tailored to address his lack of due process.

Without a clear showing that the *Winter* factors favor Petitioner in favor of granting his removal from ICE detention, the Court cannot do so. Accordingly, the Court will not order Petitioner’s release on his own recognizance and enjoin Respondents from re-detaining Petitioner without a bond hearing on the merits (though, upon any re-detention, Respondents must provide Petitioner his requisite due process pursuant to 8 U.S.C. § 1226(a)).

IV. Conclusion

For the foregoing reasons, the Court **GRANTS IN PART** and **DENIES IN PART** the Application. Respondents must provide Petitioner with an individualized bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a) within seven days of this Order. The Court denies Petitioner’s requested relief in all other respects. A preliminary injunction hearing is set for **October 31, 2025**, at 1:30 p.m. in Courtroom 6A. Petitioner shall file his opening brief and all related submissions no later than end of day on October 24, 2025. Respondents shall file their opposition no later than end of day on October 28, 2025. Petitioner shall file his reply brief no later than 12:00 p.m. on October 30, 2025.

IT IS SO ORDERED.

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Initials of Preparer TJ