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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

O-R-C-A, *an adult*,

Case No.: 6:25-cv-02055-MC

Petitioner,

v.

**RESPONDENTS' OPPOSITION
TO THE MOTION FOR
TEMPORARY RESTRAINING
ORDER AND HABEAS
PETITION**

**CAMMILLA WAMSLEY; TODD
LYONS; U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT;
KIRSTI NOEM; U.S.
DEPARTMENT OF HOMELAND
SECURITY; and PAMELA BONDI**

Respondents.

Respondents submit this opposition to the Petition and Motion for Temporary Restraining Order (Dkt. #9).

The government asks the Court to address the merits the Petition during the hearing set for November 25, 2025. The government anticipates that the necessary factual record will be complete before the close of that

hearing, if not before. Resolving the Petition will eliminate the need for the Court to devote further resources to analyzing the motion for temporary restraining order.¹

Due to the accelerated briefing in this case, the government did not have the Order of Release on Recognizance (OREC) when preparing its November 12, 2025, opposition (Dkt. #7) to the Petition.² The government acknowledges that the OREC attached as Exhibit C to Petitioner's November 17, 2025, TRO motion (Dkt. #9) is an accurate copy of Petitioner's OREC. The government attaches another copy of the OREC here, for ease of reference. *See* Exhibit 2.

¹ Respondents ask the Court to deny the TRO because the requested order goes well beyond merely maintaining the status quo pending a determination on the merits. The requested TRO improperly seeks the ultimate relief Petitioner demands in his habeas petition. The appropriate purpose of emergency equity "is to preserve the status quo and the rights of the parties until a final judgment issues in the cause." *U.S. Philips Corp. v. KBC Bank N.V.*, 590 F.3d 1091, 1094 (9th Cir. 2010). A preliminary injunction or TRO may not be used to obtain "a preliminary adjudication on the merits," but only to preserve the status quo pending final judgment. *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th Cir. 1984).

Petitioner's habeas petition seeks to end his detention. By seeking the same relief in his TRO motion, Petitioner would circumvent the habeas proceeding. The Ninth Circuit has firmly rejected this approach, concluding that "judgment on the merits in the guise of preliminary relief is a highly inappropriate result." *Senate of Cal. v. Mosbacher*, 968 F.2d 974, 978 (9th Cir. 1992); *see also Doe v. Bostock*, No. 24-326-JLR-SKV, 2024 WL 2861675, *2 (W.D. Wash. June 6, 2024). Petitioner's TRO motion should be denied for the same reason.

² Counsel for the government requested the OREC from agency counsel but agency counsel could not locate the OREC in time.

Counsel for Petitioner is correct (Dkt. #9, p. 7) that the OREC does not contain a provision barring Petitioner from leaving his state of residence for more than 48 hours without advance permission. The OREC also does not contain anything about temporary or work-related travel.

The government does not have a copy of any agreement that might have been presented to Petitioner when he was enrolled in the Alternative to Detention (ATD) program in July 2024.

The government acknowledges that the so-called “SMARTLink” agreement for mobile phone location monitoring, which counsel for Petitioner refers to as the “BI Incorporated Agreement” (Dkt. #9, p. 8), does not define the area in which Petitioner was obligated to remain. Instead, it simply provides that Petitioner “agree[d] to stay within the area designated by ERO.”

The government agrees with counsel for Petitioner that the term “Master Zone” used in Officer Piersoll’s declaration (Dkt. 7, Ex. 1, pp. 3-4) does not appear in the OREC or the SMARTLink agreement.

Counsel for the government has been informed by agency counsel that ICE does not have any documentation demonstrating that Petitioner signed anything advising him of the limitations on his authorized travel. Instead, all ICE can offer is what Officer Piersoll asserts in paragraph 7 of his November 12, 2025, declaration: “One of the conditions of ATD is that travel

outside the [s]tate of residence requires prior[,] written permission.” (Dkt. #7, Ex. 1, p. 3.)

Petitioner’s interactions with the SMARTLink monitoring application between April 10, 2025 and November 4, 2025 are shown on Exhibit 3, which is the “Alerts and Events” history for the last nearly seven months of Petitioner’s time on release. A condensed summary of the violations tracked by the SMARTLink monitoring application is set forth in Exhibit 4. Note that Exhibit 4 includes two events that occurred before April 10, 2025 (two missed biometric check-ins).

Petitioner’s OREC was canceled on November 4, 2025, for failing to comply with the conditions of the release program. Exhibit 2 (OREC). Even if the Court were to ignore the travel-related violations listed on Exhibit 4’s summary of violations, Petitioner still accumulated five missed biometric check-ins between October 2024 and November 2025. Ex. 4.

Those violations are sufficient show that ICE *did* consider Petitioner’s individualized circumstances when it decided to re-detain him. Accordingly, ICE made “a rational connection between the facts found and the choice made,” consistent with the requirements of the APA. *Dep’t of Comm. v. New York*, 588 U.S. 752, 773 (2019) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

With respect to Petitioner's concern regarding who canceled his OREC on November 4, 2025 (Dkt. #9, p. 10), the government submits the declaration of Jason Weiss ("Weiss Decl."), attached as Exhibit 1. Officer Weiss explains that ERO Assistant Field Operations Director Jeffrey Chan authorized the cancellation of Petitioner's OREC and signed the cancellation order that day. *Id.*

Respectfully submitted this 21st day of November 2025.

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