

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GURDIP SINGH,

Petitioner,

v.

JAMES CHIANG, USCIS Acting Field
Office Director for Los Angeles Field
Office, et al.

Respondents.

Case No. ED CV 25-3024 FMO (SP)

**ORDER RE: EX PARTE APPLICATION
FOR TEMPORARY RESTRAINING ORDER**

On November 11, 2025, Gurdip Singh ("petitioner") filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 against the Warden of Adelanto Immigration and Customs Enforcement ("ICE") Processing Center, and Joseph Edlow, the Director of U.S. Citizenship of Immigration and Customs Enforcement ("USCIS") (collectively, "respondents"), alleging that his continued detention violates the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101, et seq., and his due process rights under the Fifth Amendment. He seeks his immediate release from immigration custody or, alternatively, a bond hearing before an immigration judge. (See Dkt. 1, Petition for Writ of Habeas Corpus ("Petition") at ¶¶ 37-57 & Prayer For Relief).

Respondents filed their Answer on November 24, 2025, arguing that the Petition should be dismissed as moot because respondents requested that the EOIR schedule a bond hearing for petitioner. (Dkt. 10, Answer at 2). According to respondents, they "anticipate shortly filing a

1 supplemental notice updating the Court on the Petitioner's bond hearing status." (Id.). To date,
2 respondents have not done so. (See, generally, Dkt.).

3 On December 3, 2025, petitioner filed an Ex Parte Application for a Temporary Restraining
4 Order ("Application"),¹ seeking his "immediate release from ICE custody, or, in the alternative, that
5 he be provided a bond hearing." (Dkt. 12, Application at 1). Respondents filed their Opposition
6 to the Application ("Opp.") the next day. (Dkt. 13, Opp.). Petitioner filed his reply on December
7 8, 2025. (Dkt. 15, Reply).

8 Having reviewed and considered all the briefing filed with respect to petitioner's Application,
9 the court finds that oral argument is not necessary to resolve the Application, see Fed. R. Civ. P.
10 78; L. R. 7-15; Willis v. Pac. Mar. Ass'n, 244 F.3d 675, 684 n. 2 (9th Cir. 2001), and concludes
11 as follows.

12 **STATEMENT OF FACTS**²

13 Petitioner, a citizen of India, entered the United States without inspection in 2002. (See
14 Dkt. 1, Petition at ¶¶ 8-9). He filed an application for asylum that same year, but was "apparently
15 ordered removed" by an immigration judge in 2003. (Id. at ¶ 10). Although he appealed the
16 removal order, his appellate review proceedings ended in 2011. (See id. at ¶ 11) ("He appealed
17 the removal, but that appeal process came to an end in 2011.").

18 In April 2011, petitioner married Mandeep Singh Bhatti, a United States citizen. (Dkt. 1,
19 Petition at ¶ 11). She filed a visa petition for an immediate relative (Form I-130) on his behalf on
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21 ¹ Petitioner also filed an Emergency Motion for Stay of Removal (Dkt. 2, "Motion") on
22 November 11, 2025. On November 21, 2025, the court issued a briefing order setting deadlines
23 for the Motion and required respondents to file their opposition no later than November 24, 2025.
24 (See Dkt. 7, Court's Order of November 21, 2025). Rather than file an opposition to the Motion,
25 respondents filed their Answer to the Petition, indicating that they would soon file a supplemental
26 notice regarding a bond hearing that would moot the case. (See Dkt. 10, Answer at 2). As noted
27 above, respondents have not done so. Before the court could address respondents' failure to
28 respond to petitioner's Motion, petitioner filed the instant Application. Because both the Motion
and the Application are based on petitioner's argument that he is likely to succeed on the merits
of the Petition, and because the Application is now fully briefed, the court will first rule on the
emergency relief requested in the Application.

² Capitalization, quotation and alteration marks, emphasis and formatting in record citations
may be altered without notation.

1 November 6, 2017. (See id. at ¶ 12); see also Ching v. Mayorkas, 725 F.3d 1149, 1153 (9th Cir.
2 2013) (identifying an I-130 as being a “visa petition for an immediate relative”). Although USCIS
3 approved the visa petition, (see Dkt. 1-1, I-130 Approval Notice at ECF 5), petitioner was not
4 informed that a visa had become available for him until May 2025. (See Dkt. 1, Petition at ¶ 12);
5 (Dkt. 1-1, Notice of Available Visa at ECF 6).

6 Separate from his family-based petition, petitioner filed a U-visa application in 2017 after
7 he endured a stabbing at his then-place of employment. (Dkt. 1, Petition at ¶ 13). USCIS
8 received the U-visa application on May 30, 2017, (id.), and issued a Bona Fide Determination
9 Notice in connection with petitioner’s U-visa application in June 2022. (Id. at ¶ 14); (Dkt. 1-1,
10 Bona Fide Determination Notice at ECF 3) (“Because USCIS has determined your petition is bona
11 fide and you warrant a favorable exercise of discretion, you will be issued an employment
12 authorization document and have been placed in deferred action.”).

13 On October 21, 2025, as petitioner was leaving his home – where he has lived for 10 years
14 – ICE agents approached petitioner, requested his driver’s license, inquired about his immigration
15 status, and ultimately detained him. (Dkt. 1, Petition at ¶¶ 19-24). As of the filing date of the
16 Petition, petitioner’s matter had not been set for a master calendar hearing before an immigration
17 judge. (Id. at ¶ 25). Petitioner was also unable to obtain a bond hearing in front of an immigration
18 judge as a result of Matter of Yajure Hurtado, 29 I.&N. Dec. 216 (BIA 2025), which stripped
19 immigration judges of the jurisdiction to hold bond hearings for certain noncitizens. (See Dkt. 1,
20 Petition at ¶¶ 26-29).

21 On December 3, 2025, counsel for the parties spoke regarding petitioner’s release. (See
22 Dkt. 12-1, Declaration of Kripa Upadhyay (“Upadhyay Decl.”) at ¶ 2). Counsel for respondents
23 informed petitioner’s counsel that EOIR had not responded to respondents’ November 21, 2025,
24 request for a bond hearing for petitioner, and that she would renew her office’s request. (Id. at
25 ¶ 3). As of the filing date of this Order, respondents still have not filed any notice regarding the
26 status of petitioner’s bond hearing. (See, generally, Dkt.).

27 During his time in the United States, petitioner has learned English, made a home in
28 Southern California alongside his wife and their U.S. citizen child, become the sole owner of three

1 business entities in the trucking and freight industry, and helped his wife run her freighting
2 businesses. (Dkt. 1, Petition at ¶¶ 11, 17-18). Petitioner's son, a student at the University of
3 California at Irvine, is experiencing significant anguish, and his wife has "been experiencing
4 significant mental and emotional trauma," and has been "receiving ongoing medical care from a
5 mental health professional." (Id. at ¶ 33).

6 LEGAL STANDARD

7 Federal Rule of Civil Procedure 65 provides courts with the authority to issue preliminary
8 injunctions or temporary restraining orders ("TRO"). See Fed. R. Civ. P. 65(a) & (b). The purpose
9 of a preliminary injunction "is to preserve the status quo and the rights of the parties until a final
10 judgment" on the merits can be rendered, see U.S. Philips Corp. v. KBC Bank N.V., 590 F.3d
11 1091, 1094 (9th Cir. 2010), while the purpose of a TRO is to "preserv[e] the status quo and
12 prevent[] irreparable harm just so long as is necessary to hold a hearing" for the preliminary
13 injunction. Reno Air Racing Ass'n., Inc. v. McCord, 452 F.3d 1126, 1131 (9th Cir. 2006) (quoting
14 Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda
15 Cty., 415 U.S. 423, 439, 94 S.Ct. 1113, 1124 (1974)). The substantive standard for deciding
16 whether to issue a preliminary injunction or TRO is the same. See Stuhlberg Int'l Sales Co. v.
17 John D. Brush & Co., 240 F.3d 832, 839 n. 7 (9th Cir. 2001); NML Capital, Ltd. v. Spaceport Sys.
18 Int'l, L.P., 788 F.Supp.2d 1111, 1117 (C.D. Cal. 2011) (same). "Like a preliminary injunction, a
19 temporary restraining order is 'an extraordinary remedy that may only be awarded upon a clear
20 showing that the plaintiff is entitled to such relief.'" Six v. Newsom, 462 F.Supp.3d 1060, 1067
21 (C.D. Cal. 2020) (quoting Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 22, 129 S. Ct. 365,
22 376 (2008)).

23 A petitioner seeking a preliminary injunction or TRO must establish that: (1) he is likely to
24 succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of preliminary
25 relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest.
26 Winter, 555 U.S. at 20, 129 S.Ct. at 374. Under the Ninth Circuit's "'sliding scale' approach[.]"
27 ". . . the elements of the preliminary injunction test are balanced, so that a stronger showing of one
28 element may offset a weaker showing of another." All. for the Wild Rockies v. Cottrell, 632 F.3d

1 1127, 1131 (9th Cir. 2011). “For example, a stronger showing of irreparable harm to plaintiff might
2 offset a lesser showing of likelihood of success on the merits.” *Id.* The last two *Winter* factors
3 “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435, 129
4 S.Ct. 1749, 1762 (2009).

5 DISCUSSION

6 Petitioner's Application raises two primary arguments: (1) his deferred action status bars
7 his removal and therefore makes his continued detention unlawful; and (2) his continued detention
8 without a bond hearing pursuant to 8 U.S.C. § 1225³ violates the INA. (See Dkt. 12, Application
9 at ¶¶ 1-23). Because the court finds petitioner's first argument to be dispositive, it limits its
10 analysis to that issue.⁴

11 I. LIKELIHOOD OF SUCCESS ON THE MERITS.

12 As an initial matter, the court is not persuaded by the jurisdictional arguments raised by
13 respondents. (See Dkt. 13, Opp. at 5-9). As the court explained at length in Lopez de Castro
14 v. Noem, et al., Case No. ED CV 25-2457 (Dkt. 11, Court's Order of October 31, 2025, at 5-8),
15 neither § 1252(g) nor § 1252(b)(9) deprive the court of jurisdiction over petitioner's challenge to
16 his detention. For the sake of expediency, the court adopts the reasoning set forth in the Court's
17 Order of October 31, 2025, and finds that it has jurisdiction to consider petitioner's challenge to
18 his ongoing detention. See, e.g., Sepulveda Ayala v. Bondi, 794 F.Supp.3d 901, 909 (W.D.
19 Wash. 2025) (“No matter how the Government characterizes Sepulveda Ayala's claims, they arise
20 from the Government's decision to grant deferred action and then ignore that grant, not from any
21 discretionary choice about execution of a removal order. Section 1252(g) simply does not reach
22 claims challenging the government's failure to honor benefits it has already granted.”).

23 ³ Unless otherwise indicated, all further section references are to Title 8 of the United States
24 Code.

25 ⁴ Nevertheless, the court notes that it previously rejected – and would again reject –
26 respondents' contention that petitioner, a noncitizen who has resided in the United States for
27 decades, is subject to detention under § 1225 rather than § 1226. See, e.g., Sandoval Hernandez
28 v. Noem, et al., Case No. ED CV 25-2563, Dkt. 12, Court's Order of October 9, 2025, at 4-5
(collecting cases and concluding that § 1226(a) governs the detention of noncitizens who, like
petitioner, are already in the country).

1 The court now turns to petitioner's primary argument. In a similar case addressing the
2 detention of a noncitizen with a U-visa bona fide determination and deferred action status,
3 respondents conceded that the noncitizen's argument for release "is a much stronger legal
4 argument," because "District Courts have found that if the person cannot be removed, their
5 detention is not warranted." Leon v. Noem, et al., Case No. ED CV 25-2582, Dkt. 5, Opposition
6 at 2. Yet in the instant case, respondents do not acknowledge – let alone rebut – petitioner's
7 arguments concerning his deferred action status. (See, generally, Dkt. 13, Opp.); (see Dkt. 15,
8 Reply at 3) ("Respondent wholly fails to address – and therefore concedes – Petitioner's TRO
9 argument regarding courts across the country that have consistently granted habeas petitions for
10 noncitizens with deferred action and ordered them to be immediately released."). The court
11 construes the government's failure to address this argument as a concession to petitioner's
12 argument. See, e.g., GN Resound A/S v. Callpod, Inc., 2013 WL 1190651, *5 (N.D. Cal. 2013)
13 (finding that a plaintiff's failure to oppose a motion as to a particular issue should be "construe[d]
14 as a concession" in the moving party's favor); Hall v. Mortg. Invs. Grp., 2011 WL 4374995, *5
15 (E.D. Cal. 2011) ("Plaintiff does not oppose Defendants' arguments regarding the statute of
16 limitations in his Opposition. Plaintiff's failure to oppose . . . on this basis serves as a
17 concession[.]").

18 In any event, because petitioner has been granted deferred action, he cannot be removed
19 and the government therefore lacks any legal basis to detain him. See, e.g., Reno v. Am.-Arab
20 Anti-Discrimination Comm., 525 U.S. 471, 484, 119 S.Ct. 936, 944 (1999) (defining deferred
21 action to mean that "no action will thereafter be taken to proceed against an apparently deportable
22 alien, even on grounds normally regarded as aggravated"); Lee v. Holder, 599 F.3d 973, 974-75
23 (9th Cir. 2010) (explaining that deferred action constitutes a form of interim relief that prevents
24 removal from the United States); De Sousa v. Dir. of U.S. Citizenship and Immigr. Servs., 755
25 F.Supp.3d 1266, 1268 (N.D. Cal. 2024) (noting that deferred action is an interim benefit that
26 "protects [recipients] against removal from the United States"); Sepulveda Ayala, 794 F.Supp.3d
27 at 912-14 (granting preliminary injunction after finding that where petitioner had been issued a
28 bona fide determination notice in connection with his U-visa application and granted deferred

1 action and an employment authorization document, he had demonstrated a likelihood of success
2 on his claim that his deferred action status made his continued detention unlawful); Leon v. Noem,
3 et al., Case No. ED CV 25-2582, Dkt. 9, Court's Order of October 10, 2025, at 5-8 (granting TRO
4 after finding that petitioner, who had received a U-visa bona fide determination notice and had
5 been granted deferred action status, had been detained by ICE in violation of his due process
6 rights).

7 Because respondents lack any basis to continue detaining petitioner, any continued
8 detention violates petitioner's due process rights under the Fifth Amendment. See Hernandez v.
9 Sessions, 872 F.3d 976, 990 (9th Cir. 2017) ("In the context of immigration detention, it is well-
10 settled that due process requires adequate procedural protections to ensure that the government's
11 asserted justification for physical confinement outweighs the individual's constitutionally protected
12 interest in avoiding physical restraint. The government has legitimate interests in protecting the
13 public and in ensuring that noncitizens in removal proceedings appear for hearings, but any
14 detention incidental to removal must bear a reasonable relation to its purpose.") (internal citations,
15 quotation marks, and brackets omitted). In short, petitioner has shown a strong likelihood of
16 success on the merits as to his first argument.

17 II. LIKELIHOOD OF IRREPARABLE HARM.

18 "It is well established that the deprivation of constitutional rights 'unquestionably constitutes
19 irreparable injury.'" Melendres v. Arpaio, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting Elrod v.
20 Burns, 427 U.S. 347, 373, 96 S.Ct. 2673, 2690 (1976)); see Hernandez v. Sessions, 872 F.3d
21 976, 994-95 (9th Cir. 2017) (recognizing the "irreparable harms imposed on anyone subject to
22 immigration detention" and holding that plaintiffs had "established a likelihood of irreparable harm
23 by virtue of the fact that they are likely to be unconstitutionally detained for an indeterminate
24 period of time"). Where "the alleged deprivation of a constitutional right is involved, most courts
25 hold that no further showing of irreparable injury is necessary." Warsoldier v. Woodford, 418 F.3d
26 989, 1001-02 (9th Cir. 2005) (internal quotation marks omitted). Here, there is no doubt that
27 petitioner has been and will be irreparably harmed by the continued deprivation of his liberty in
28 violation of his due process rights and deferred action status.

III. BALANCE OF THE EQUITIES AND PUBLIC INTEREST.

The final two related factors tip sharply in petitioner's favor given that he seeks to vindicate a constitutional liberty interest in the face of his unlawful detention. See, e.g., Vargas v. Jennings, 2020 WL 5074312, *4 (N.D. Cal. 2020) ("Just as the public has an interest in the orderly and efficient administration of this country's immigration laws[,] . . . the public has a strong interest in upholding procedural protections against unlawful detention.") (internal quotation marks omitted); 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[.]") (internal quotation marks omitted).

CONCLUSION

Based on the foregoing, IT IS ORDERED THAT:

1. Petitioner's Ex Parte Application (**Document No. 12**) is **granted** as set forth in this Order.

2. Respondents shall release petitioner from immigration detention **forthwith**, and shall not impose any release restrictions on petitioner, such as electronic monitoring, unless deemed necessary at a future bond hearing.

3. Respondents shall file with the court a Notice of Compliance within twenty-four (24) hours of releasing petitioner.

4. Given that the standard for granting a TRO and preliminary injunction are the same, see Stuhlbarg Int'l Sales Co., 240 F.3d at 839 n. 7, the court will construe petitioner's Application as an application for a preliminary injunction ("PI Application").

5. Respondents shall file their opposition to the PI Application by no later than **December 18, 2025**. Failure to file their opposition by the deadline set forth above shall be deemed as consent to the granting of the PI Application.

6. Petitioner shall file his Reply in support of his PI Application by no later than **December 22, 2025**.

1 7. The court shall decide, after reviewing the parties' papers, whether to hold a hearing on
2 the PI Application or take the PI Application under submission.

3 Dated this 15th day of December, 2025.

4 /s/
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6 Fernando M. Olguin
7 United States District Judge
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