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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

AZMY ABDELRAAUF EL-GHAZALY,

Petitioner,

v.

CHRISTOPHER CHESTNUT, ET AL.,

Respondents.

CASE NO. 1:25-cv-01621 DC CKD HC

**RESPONDENTS' OPPOSITION TO
PETITIONER'S MOTION FOR A
TEMPORARY RESTRAINING ORDER**

Judge: Hon. Dale A. Drozd

I. INTRODUCTION

This Court should deny petitioner's motion for a temporary restraining order (TRO) because he does not meet the heavy burden required to justify such relief. Meeting that burden is "a difficult task." *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010). As discussed below, Immigration and Customs Enforcement (ICE) lawfully exercised its discretion to revoke petitioner's supervised release based. When ICE revoked his release, ICE provided petitioner an informal interview to respond to the reasons for his release. Due process does not require further hearings before revocation of release. Because ICE is attempting to remove petitioner to a country for which he has a final order of removal, the third-country policy cited by petitioner is inapposite. Thus, petitioner fails to meet his burden and the request for a TRO should be denied.

II. BACKGROUND

Petitioner was born in Gaza and moved to Saudi Arabia when he was less than a year old. ECF No. 2 at 9; Return to Habeas Pet. at 2, N.D.Cal., Aug. 12, 2002, ECF No. 10, 5:02-cv-03515¹. He

¹ Petitioner filed a petition for habeas corpus in the United States District Court for the Northern District of California in July 2002. While the petition is not available on CM/ECF, the government's

1 arrived in the United States in the 1990s on a tourist visa, was denied asylum, and placed in deportation
2 proceedings after overstaying his visa. Return to Habeas Pet. at 2, N.D.Cal., Aug. 12, 2002, ECF No.
3 10, 5:02-cv-03515.

4 Petitioner was granted a voluntary departure to Saudi Arabia in October 1997. Cruz Dec., ¶ 6.
5 When he failed to depart, “the voluntary departure order converted by operation of law into a final order
6 of removal.” Cruz Dec., ¶ 6. In 1999, the Board of Immigration Appeals dismissed his appeal of his
7 removal order. Cruz Dec., ¶ 7.

8 In 2001, petitioner was charged with being an alien in possession of a firearm and being an alien
9 who failed to depart after an order of removal.² Immigration authorities took him into custody in April
10 2002 after petitioner was released on bail in the criminal case. Cruz Dec. ¶ 8; Return to Habeas Pet. at
11 2, N.D.Cal., Aug. 12, 2002, ECF No. 10, 5:02-cv-03515.

12 In August 2002, petitioner was released from custody and placed on an order of supervision.³
13 Cruz Dec., ¶ 9.

14 Petitioner “has a documented history of noncompliance with” the requirements of his order of
15 supervision. Cruz Dec., ¶ 10. They “includ[e] a more than two-year failure to report, relocating to
16 another state without prior approval and most recently failed to report as required on October 21, 2023.”
17 Cruz Dec., ¶ 10.

18 On October 15, 2025, ICE took petitioner into custody. Ex. 2 to Cruz Dec. at 2. On that day he
19 “was notified that his” order of supervision “was revoked under 8 C.F.R. § 241.13(i) for the purpose of
20 effectuating his removal to Saudi Arabia.” Cruz Dec., ¶ 11. “Petitioner was afforded an informal
21 interview during which he was provided an opportunity to respond to the reasons for his OSUP
22 revocation.” Cruz Dec., ¶ 11.

23 As of November 26, 2025, ICE’s “efforts to secure a travel document for Petitioner remain
24 opposition is and is cited here for petitioner’s immigration history through 2002.

25 ² According to the docket entries from petitioner’s criminal case he was indicted in October 2001
26 for being an alien in possession of a firearm and being an alien who failed to depart after an order of
27 removal. ECF No. 4, N.D.Cal., 5:01-cr-20165. In March 2004, petitioner’s criminal case was
dismissed. ECF No. 63, N.D.Cal., 5:01-cr-20165.

28 ³ In June 2002, India, Saudi Arabia, and Jordan declined INS requests to take accept petitioner.
Return to Habeas Pet. at 2, N.D.Cal., Aug. 12, 2002, ECF No. 10, 5:02-cv-03515.

ongoing, and ERO continues to actively pursue its issuance.” Cruz Dec., ¶ 13.

Petitioner filed a petition for habeas corpus and a motion for a temporary restraining order on November 21, 2025. ECF No. 1 (petition), 2 (motion).

III. LEGAL STANDARD

Temporary restraining orders and preliminary injunctions are governed by the same standard. *Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*, 181 F. Supp. 2d 1111, 1126 (E.D. Cal. 2001). A plaintiff seeking a TRO must show that: (1) he is “likely to succeed on the merits” of his claims, (2) he is “likely to suffer irreparable harm in the absence of a preliminary relief injunction”, (3) “the balance of equities tips in his favor”, and (4) “an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Because the government is the opposing party, the third and fourth factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). “A preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion.” *Hecox v. Little*, 104 F.4th 1061, 1073 (9th Cir. 2024) (internal quotations and emphasis omitted).

IV. DISCUSSION

A. Petitioner is Not Likely to Succeed on the Merits

Petitioner raises four claims in his TRO on which he argues he is likely to succeed on the merits. ECF No. 2 at 6. Petitioner is unlikely to succeed on any of them.

First, petitioner claims his detention is indefinite and, thus, contrary to due process and the Supreme Court’s decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001). ECF No. 2 at 16-18. But *Zadvydas* said that six months of detention is presumptively constitutional and “an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. Here, ICE “actively pursue[s]” issuance of a travel document from Saudi Arabia (Cruz Dec., ¶ 13), and petitioner previously lived in Saudi Arabia for 24 years. ECF No. 2 at 12. *But see G.A.A. v. Chestnut*, 2025 WL 3251316, *3-*5 (E.D. Cal. 2025). Petitioner’s arguments to the contrary misunderstand the burden in a TRO. He alleges that “he will be detained in ICE custody essentially forever”, but his current stint of custody began last month. ECF No. 2 at 17. The future possibility of ICE failing to obtain travel documents is not the “clear showing” required to

1 prevail on a TRO. *Hecox v. Little*, 104 F.4th at 1073.

2 Second, petitioner claims that his detention violates ICE regulations. ECF No. 2 at 18. But ICE
3 did comply with its regulations. Petitioner's noncompliance on supervision (8 C.F.R. § 241.13(i)(1))
4 and ICE's efforts to secure his travel documents to Saudi Arabia (8 C.F.R. § 241.13(i)(2)) both,
5 independently, justify revocation of his release. And once he was in custody, ICE promptly "notified"
6 him "of the reasons for revocation" and provided him "an initial informal interview" in which he could
7 "respond to the reasons for revocation." 8 C.F.R. § 241.14(i)(3) (providing procedural requires for
8 revocation); *but see Duong v. Charles*, 2025 WL 3187313, *3-*5 (E.D.Cal. 2025). Again, petitioner
9 cannot make the "clear showing" needed for a TRO. *Hecox v. Little*, 104 F.4th at 1073.

10 Third, petitioner claims he is entitled to a hearing before a neutral adjudicator before he is
11 detained. ECF No. 2 at 19-29. Petitioner's reliance on *Morrissey v. Brewer*, 408 U.S. 471 (1972) and its
12 progeny is misplaced. *Morrissey* arose from the due process requirement for a hearing for revocation of
13 parole. *Id.* at 472-73. It did not arise in the context of immigration. Moreover, in *Morrissey*, the
14 Supreme Court reaffirmed that "due process is flexible and calls for such procedural protections as the
15 particular situation demands." *Id.* at 481. The "[c]onsideration of what procedures due process may
16 require under any given set of circumstances must begin with a determination of the precise nature of
17 the government function." *Id.* The mere fact that any process offered to aliens differs from that offered
18 to citizens does not inherently make it insufficient. *See Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976)
19 ("The fact that an Act of Congress treats aliens differently from citizens does not in itself imply that
20 such disparate treatment is invidious.") (internal quotations omitted).

21 The procedural process provided to petitioner was constitutionally adequate in the circumstances.
22 "Procedural due process imposes constraints on governmental decisions which deprive individuals of
23 'liberty' or 'property' interests within the meaning of the [Fifth Amendment] Due Process Clause."
24 *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "The fundamental requirement of [procedural] due
25 process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Id.* at 333
26 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). To determine whether procedural protections
27 satisfy the Due Process Clause, courts consider three factors: (1) "the private interest that will be
28 affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the

procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Id.* at 335.

Applying these factors to petitioner weighs against adding a new pre-detention hearing requirement into the INA. As to the first, while acknowledging petitioner has a strong liberty interest, his is a lesser liberty interest because he is subject to a final removal order. *See Diouf v. Napolitano*, 634 F.3d 1081, 1086–87 (9th Cir. 2011) (agreeing with the government that § 1231(a)(6) detainees have a lesser liberty interest because they are closer to actual removal) (abrogated on other grounds); *see also Mathews*, 426 U.S. at 79–80 (“In the exercise of its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens.”).

The second *Mathews* factor also favors respondents. Under the existing procedures, section 1231(a)(6) indisputably authorizes petitioner’s detention to effectuate his final order of removal. Petitioner is further afforded the procedural safeguards provided by regulations, including § 241.13 (requiring ICE to conduct a review to determine if there is a significant likelihood that the alien will be removed in the reasonably foreseeable future on account of changed circumstances). Section 241.13 specifically allows a detainee to submit “any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(3). Here, petitioner had an opportunity to do so. Cruz Dec., ¶ 11. These regulations are then adequate and provide petitioner notice and opportunity to be heard on detention.

The final factor weighs in favor of respondents. The government has a strong interest in effectuating a final removal order. The achievement of this objective warrants not placing additional fiscal and administrative hurdles through process that will provide no additional safeguards. Petitioner’s request for a pre-detention hearing essentially seeks a judicially-created stay that would impede execution of a final removal order.

In considering all the factors discussed above, the Court should deny petitioner’s request for a pre-detention hearing. *Cf. Ramos v. Lyons*, --- F.Supp.3d ---, 2025 WL 3199872, *8 (C.D.Cal. 2025) (Finding in a § 1225 case, “because Petitioner cannot establish a statutory right to a bond hearing, the failure to provide a bond hearing does not constitute a violation of due process”); *but see J.L.R.P. v.*

1 *Wofford*, 2025 WL 3190589, *9-*10 (E.D. Cal. 2025).

2 Fourth, petitioner claims that due process requires notice and opportunity to be heard before
3 removal to a country other than Saudi Arabia. ECF No. 2 at 2. But ICE seeks to remove petitioner to
4 Saudi Arabia. Cruz Dec., ¶ 11. As a result, the claim is not yet ripe. See *N.D.N. v. Bondi*, 2025 WL
5 3251102, *8 (E.D.Cal 2025) (Denying “Petitioner’s request for a temporary restraining order enjoining
6 respondents from removing him to a third country . . . without prejudice to a renewed motion for
7 temporary restraining order if such issue becomes ripe for review.”)

8 B. The Petitioner Has Not Met His Burden to Show Likely Irreparable Harm

9 Immigration laws have long authorized immigration officials to charge aliens as removable from
10 the country, to arrest aliens subject to removal, and to detain aliens pending removal. *Demore v. Kim*,
11 538 U.S. 510, 523-26 (2003). “Detention is necessarily a part of [the] deportation procedure.” *Carlson*
12 *v. Landon*, 342 U.S. 524, 538 (1952); see also *Freno v. Flores*, 507 U.S. 292, 306 (1993) (“Congress
13 eliminated any presumption of release pending deportation, committing that determination to the
14 discretion of the Attorney General.”); but see *Rodriguez v. Bostock*, 779 F.Supp.3d 1239, 1253
15 (W.D.Wash. 2025) (“The Ninth Circuit has recognized the irreparable harms imposed on anyone subject
16 to immigration detention”) quoting *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017). Petitioner
17 cannot establish irreparable harm because he is being detained in order to effectuate his removal.

18 C. The Balance of Equities and Public Interest

19 “The government’s interest in efficient administration of the immigration laws” is “weighty,”
20 and “it must weigh heavily in the balance that control over matters of immigration is a sovereign
21 prerogative, largely within the control of the executive and the legislature.” *Landon v. Plasencia*, 459
22 U.S. 21, 34 (1982). Further, the government’s interest in protecting the public and preventing
23 deportable non-citizens from fleeing are strong and compelling. See e.g., *Rodriguez Diaz v. Garland*, 53
24 F.4th 1189, 1208 (9th Cir. 2022) (the government’s interests, including the “increas[ing] the chance that,
25 if ordered removed, the aliens will be successfully removed” are “interests of the highest order that only
26 increase with the passage of time”). “Of course there is a public interest in preventing aliens from being
27 wrongfully removed, particularly to countries where they are likely to face substantial harm”, but
28 “[t]here is always a public interest in prompt execution of removal orders.” *Nken v. Holder*, 556 U.S.

1 418, 436 (2009).

2 **V. CONCLUSION**

3 For the foregoing reasons, the Court should deny the petitioner's motion for a TRO.

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5 Dated: November 26, 2025

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