ERIC GRANT
United States Attorney
KAREN A. ESCOBAR
Assistant United States Attorney
2500 Tulare Street, Suite 4401
Fresno, CA 93721
Telephone: (559) 497-4000
Facsimile: (559) 497-4099

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SANJIV KAKKAR, Petitioner, v. CHRISTOPHER CHESTNUT, *et al.*, Respondents[1]	CASE NO. 1:25-CV-01627-JLT-SAB OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER COURT: Hon. Jennifer L. Thurston

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. As discussed below, Immigration and Customs Enforcement (ICE) lawfully exercised its discretion to detain Petitioner following written notice of removal proceedings.

I. BACKGROUND

Petitioner is a native of India and citizen of the United Kingdom who, on May 27, 1992, entered the United States as a lawful permanent resident. *See* Petition for Writ of Habeas Corpus (Doc. 1), Exhibit

[1] The Court should dismiss all respondents other than the Warden of the California City ICE Detention Facility because the only proper respondent to a habeas petition is the custodian having immediate custody of the petitioner. *See* 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024).

A (Doc. 1-1), Notice to Appear; *see also* Declaration of Deportation Officer Ana L. Juarez (referenced herein as "Declaration"), attached hereto, at 2.

On November 8, 2016, Petitioner was convicted in the Northern District of California of one count of making false statements to a bank and six counts of wire fraud following a jury trial. *United States v. Kakkar*, no. 5:13-cr-00736-EJD (Doc. 151). On April 3, 2017, the court sentenced Petitioner to 48 months in custody as to each count, to run concurrently, and ordered Petitioner to pay restitution to the victim bank in the amount of $4,208,566.36 plus interest. *United States v. Kakkar*, no. 5:13-cr-00736-EJD (Docs. 162, 166). The court also imposed a three-year term of supervised release. *United States v. Kakkar*, no. 5:13-cr-00736-EJD (Docs. 162, 166). The crimes of conviction constitute aggravated felonies as defined by the Immigration and Nationality Act ("INA") § 101(a)(43)(M), 8 U.S.C. § 1101(a)(43)(M)(i), because the fraud or loss to the victim exceeded $10,000.

On April 16, 2018, the Ninth Circuit affirmed Petitioner's conviction. *United States v. Kakkar*, 719 F. App'x 659 (9th Cir. Apr. 16, 2018) (unpub.).

On November 2, 2018, before completing his sentence, the Department of Homeland Security initiated removal proceedings based on his aggravated felony convictions by issuing a Notice to Appear. *See* Petition for Writ of Habeas Corpus (Doc. 1), Exhibit A (Doc. 1-1), Notice to Appear; *see also* Declaration, at 2-3.

At an immigration court hearing on March 13, 2019, Petitioner, by and through counsel, admitted that he is not a citizen of the United States, is a native of India and citizen of the United Kingdom, and was admitted to the United States as a lawful permanent resident on May 27, 1992. However, he denied his wire fraud conviction and sentence of 48 months' incarceration. *See* Declaration, at 3.

On April 26, 2019, Petitioner filed a motion to terminate removal proceedings, which was denied by an immigration judge in May 2019. *See* Declaration at 3.

Petitioner served his sentence and was released from custody on April 13, 2021. *See* https://www.bop.gov/inmateloc/. At the end of the supervised release term, the U.S. Probation Office recommended the termination of his term of supervised release. It made clear, however, that Petitioner understood he must continue making restitution payments after the expiration of his term of supervision, because the outstanding restitution amount owed was $2,674,415.06. *See United States v. Kakkar*, no.

5:13-cr-00736-EJD, Report on Supervision (Doc. 251), attached hereto as Exhibit 7.[2]

In December 2023, Petitioner, through counsel, submitted an application to register permanent residence or adjust status and requested a waiver of inadmissibility. Declaration, at 3.

On August 20, 2025, Customs and Border Patrol (CBP) detained Petitioner at San Francisco Internation Airport upon his return to the United States from the United Kingdom. Petitioner remains detained at the California City Detention Facility.

Petitioner filed a petition for habeas corpus on November 24, 2025, in which he seeks declaratory and injunctive relief in the form of: (1) his release from immigration detention; and (2) a hearing before a neutral adjudicator before any re-detention.[3] (Doc. 1.) He concurrently filed a motion for a TRO, in which he seeks the same relief. (Doc. 3.) On November 25, 2025, the Court ordered Respondents to file a response to Petitioner's TRO motion no later than December 5, 2025. (Doc. 6.) The Court also ordered that Petitioner may file a reply no later than noon on December 10, 2025. (Doc. 6.)

Petitioner has a merits hearing for his readjustment of status and waiver of inadmissibility on January 12, 2026, at 8:30 a.m. Declaration, at 4. Further, Petitioner could request, but has not requested, a bond hearing.

II. <u>ARGUMENT</u>

A. <u>Legal Standard for TRO</u>

The standard governing the issuing of a temporary restraining order is "substantially identical" to the standard for issuing a preliminary injunction. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). Preliminary injunctions are extraordinary remedies "never awarded as of right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008) (citation omitted). "[P]laintiffs seeking a preliminary injunction face a difficult task in proving that they are entitled to this extraordinary remedy." *Earth Island Inst. v. Carlton*, 626 F.3d 462, 469 (9th Cir. 2010) (internal quotation omitted). Petitioner's burden is aptly described as "heavy." *Id.* A preliminary injunction requires "substantial proof"

---

[2] Although Petitioner insists that he has paid "restitution in full" (Doc. 3 at 1:17), he still owes $2,673,592.58, according to the Financial Litigation Program of the U.S. Attorney's Office. He has also not paid his court-ordered $20,000 fine. His last restitution payment was in April 2024, for $1,000.00.

[3] Petitioner's petition for habeas corpus also seeks reasonable costs and attorney fees, and such further relief as the court deems just and proper. (Doc. 1.)

and a "clear showing." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997).

"A plaintiff seeking a preliminary injunction must show that: (1) she is likely to succeed on the merits, (2) she is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in her favor, and (4) an injunction is in the public interest." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). Alternatively, a plaintiff can show "serious questions going to the merits and the balance of hardships tips sharply towards [plaintiff], as long as the second and third . . . factors are satisfied." *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

B. <u>Petitioner is Unlikely to Succeed on the Merits</u>

i. Petitioner Has Not Established that ICE Lacked Authority to Revoke Petitioner's Release or to Detain Petitioner

The Immigration and Nationality Act (INA) governs detention and release during and following removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). As the Supreme Court held in *Demore v. Kim*, 538 U.S. 510, 526 (2003), "the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings."

Petitioner relies on *Zadvydas* for the proposition that his mandatory detention constitutes a violation of due process. However, as the Supreme Court recognized in *Demore*, *Zadvydas* has no application to detainees pending their removal proceedings. As the Court explained, "[s]uch detention necessarily serves the purpose of preventing deportable criminal aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that, if ordered removed, the aliens will be successfully removed." *Id.* at 528. Further, based statistical evidence, the Court remarked that the "discretionary release of aliens pending their removal hearings would lead to large numbers of deportable criminal aliens skipping their hearings and remaining at large in the United States unlawfully." *Id.*

Accordingly, Petitioner is unlikely to succeed on the merits.

ii. Petitioner has Not Established a Legally Required Basis for Review by a Neutral Adjudicator Prior to Re-Detention

Regarding Petitioner's claim that he must receive a pre-detention hearing before a neutral adjudicator, neither the INA nor the implementing regulations provides Petitioner with such a right. *See* *generally* 8 U.S.C. § 1231(a)(6); 8 C.F.R. §§ 241.4, 241.13. A judicial ruling imposing such a requirement would be at odds with the plain language of 8 C.F.R. § 241.13. It would essentially deprive ICE of its operational discretion and regulatory authority to take such action, and ultimately improperly interfere with the Executive Branch's operations. *See Quoc Chi Hoac v. Becerra*, 2:25-cv-1740 DC, ECF No. 21, p.5 (June 30, 2025); *see also Johnson v. Arteaga-Martinez*, 596 U.S. 573, 576 (2022) (in the absence of any such requirement in the text of section 1231(a)(6), detainee not entitled to a bond hearing before an immigration judge). Nor does Due Process require this level of process.

C. Petitioner Does Not Establish Irreparable Harm

Because Petitioner is unlikely to succeed on the merits of his petition, he likewise cannot establish irreparable harm. As discussed above, ICE has exercised its statutory and regulatory authority to revoke Petitioner's release and to detain him. In addition, Petitioner's detention satisfies due process in light of *Demore*.

D. The Balance of Equities and the Public Interest Favors the Government.

It is well settled that the public interest in enforcement of the United States's immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.") (citing cases); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders[.]"). This public interest outweighs Petitioner's private interest here.

III. CONCLUSION

Respondents respectfully request that the Court deny Petitioner's *ex parte* Motion for a Temporary Restraining Order.

Dated: December 4, 2025

ERIC GRANT
United States Attorney

By: /s/ KAREN A. ESCOBAR
KAREN A. ESCOBAR
Assistant United States Attorney