

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	5:25-cv-03407-RGK-JDE	Date	December 18, 2025
Title	<u>Kazem Majd v. Mark Bowen</u>		

Present: The Honorable R. GARY KLAUSNER, UNITED STATES DISTRICT JUDGE

Joseph Remigio

Not Reported

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

Not Present

Not Present

Proceedings: (IN CHAMBERS) Order Re: Petitioner's *Ex Parte* Application for Temporary Restraining Order [4]

I. **INTRODUCTION**

On December 16, 2025, Kazem Majd ("Petitioner") filed a Petition for Writ of Habeas Corpus ("Petition") and the present Application for Temporary Restraining Order ("Application" or "TRO") against Mark Bowen (collectively, "Respondent"). (ECF Nos. 1, 4.) Respondent opposes. (ECF No. 7.)

This case arises from the government's revocation of release under an order of supervision and detention of Petitioner, a noncitizen who has lived in the United States for approximately 60 years. (ECF No. 4.) Since December 11, 2025, Petitioner has been detained and in U.S. Immigration and Customs Enforcement ("ICE") custody. (*Id.*)

Petitioner seeks the Court's order for his immediate release and to enjoin Respondent from re-detaining or removing Petitioner to a third country without first following the statutory and regulatory procedures. For the following reasons, the Court **DENIES** Petitioner's Application.

II. **FACTUAL BACKGROUND**

The following facts are alleged in the Petition, Application, and Respondent's Opposition:

On ~~XXXXXX~~ Petitioner was born in Iran. Since approximately the 1960's, Petitioner entered and has lived in the United States. Around 1973, Petitioner became a lawful permanent resident. On or about August 11, 1996 and January 15, 1999, Petitioner was convicted of theft and forged notes, respectively. Due to the latter conviction, Petitioner was placed into removal proceedings.

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Around July or August 2004,¹ Petitioner was ordered to be removed to Iran. In August 2004, Petitioner filed a motion to reopen his removal case, but it was denied. Petitioner did not seek any further legal action to challenge his removal order. As a result of the lack of diplomatic relations between the United States and Iran, Petitioner's removal could not be executed, and he was released under an Order of Supervision ("OSUP") in 2004. Since the OSUP was issued, Petitioner has attended regularly scheduled check-in's with immigration enforcement.

On or about February 13, 2013, Petitioner was convicted of theft and providing false identification to a peace officer. On November 13, 2013, Petitioner was again convicted of theft.

Petitioner suffers from several medical maladies. In 2021, Petitioner was diagnosed with Primary Sclerosing Cholangitis ("PSC"), "a rare and life-threatening liver disease characterized by inflammation and scarring of the bile ducts." (Application at 13–14, ECF No. 4; *see also id.*, Ex. B.; Supp., Ex. A, ECF No. 6.) According to Petitioner's liver specialist, this condition can be fatal without continuous and monitoring and management by a specialist. (Application, Ex. B.; Supp., Ex. A.) Thus, the liver specialist concluded it was "medically necessary" that Petitioner "remain under the care of a liver specialist with ongoing follow-up, treatment, and procedures as needed." (*Id.*) Additionally, Petitioner suffers from "severe Diabetes Mellitus and chronic Obstructive Sleep Apnea." (Application, Ex. C; Supp., Ex. B.) His primary care physician recounts that Petitioner's Diabetes Mellitus requires "intensive management with both daily insulin therapy and weekly GLP-1 injections." (Application, Ex. C.) Petitioner's Obstructive Sleep Apnea necessitates the nightly use of a C-PAP machine, without which he is at risk of cardiovascular strain and dangerous sequelae. (*Id.*) Finally, Petitioner has had emergent gallbladder removal, necessitating Petitioner to adhere to a special diet to avoid long term digestive issues. (*Id.*)

Petitioner's primary care physician concluded that these medical conditions, taken together, are "potentially life-threatening if not carefully managed," and that [i]t is imperative that [Petitioner] remain under consistent medical supervision, comply with his treatment regiment, and continue regular follow-up care to safeguard his health." (*Id.*) On December 15, 2025, Petitioner's doctor wrote that "[i]t is unsafe for him to be detained and not have access to his regular healthcare team," due to his medical conditions that require continuous treatment and have resulted in "urgent hospitalizations and surgeries." (Supp., Ex. B.) The medical care Petitioner requires includes daily and weekly medication, weekly doctor's visits, and monthly laboratory and diagnostic tests.

On November 13, 2025, Petitioner appeared for a pre-scheduled ICE check-in. During that check-in, Petitioner provided ICE with medical letters and a list of his medications. ICE concluded it

¹ Petitioner asserts the removal order was issued in July 2004, and Respondent asserts the removal order was issued on August 9, 2004.

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could not detain Petitioner due to his medical care needs and instructed Petitioner to wear a monitoring device in lieu of detention. Petitioner complied and wore the monitoring device.

On December 11, 2025, Petitioner appeared at an ICE facility as instructed for another check-in. On that same day, Petitioner was served with a Notice of Revocation of Release, which stated the decision to revoke release and detain Petitioner was “made based on a review of [his] immigration and criminal history.” (See Opp’n, Notice of Revocation, Ex. A, ECF No. 7-2.) On that same day, Petitioner was afforded an informal interview to respond to the reasons for revocation of his OSUP. (See Opp’n, Informal Interview Form, Ex. B, ECF No. 7-3.) Petitioner did not provide a written statement or any documentation in his informal interview. Petitioner contests these facts, asserting he was not given notice as to the revocation of his OSUP, an opportunity to be heard on his re-detention, or an informal or formal interview. (See Application at 12.)

When Petitioner was detained, he did not have any of his medications with him. Petitioner has requested the necessary medical care and medicine. Since his detention began, he has not been able to see a doctor and has been provided only generic diabetes medication. Petitioner has not received any treatment or medication related to his PSC.

As of this TRO briefing, Petitioner has no valid Iranian passport or other travel documents.

III. JUDICIAL STANDARD

A. Ex Parte Relief

To justify *ex parte* relief, the movant must show: (1) “why the . . . ultimate relief requested cannot be calendared in the usual manner[;]” and (2) that he is “without fault in creating the crisis that requires *ex parte* relief.” *Mission Power Eng’g Co. v. Cont’l Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995).

B. Temporary Restraining Order

While a preliminary injunction is intended to preserve the status quo pending a judgment on the merits, a TRO is intended to preserve the status quo only until a preliminary injunction hearing can be held. *Hoechst Diafoil Co. v. Nan Ya Plastics Corp.*, 174 F.3d 411, 422 (4th Cir. 1999) (citing *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70 of Alameda Cty.*, 415 U.S. 423, 439 (1974)).

Despite this difference, the standard for a TRO is “substantially identical” to the standard for a preliminary injunction. See *Stuhlberg Int’l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). To obtain a TRO, the moving party must show: (1) a likelihood of success on the

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merits; (2) a likelihood of irreparable harm to the moving party in the absence of preliminary relief; (3) that the balance of equities tips in favor of the moving party; and (4) that an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (the “*Winter* test”). In the Ninth Circuit, courts also apply a sliding scale test, in which the elements of the *Winter* test are balanced “so that a stronger showing of one element may offset a weaker showing of another.” *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). The moving party bears the burden of persuasion. *Hill v. McDonough*, 547 U.S. 573, 584 (2006).

IV. DISCUSSION

Petitioner seeks the Court’s order to immediately release Petitioner from custody and enjoin Respondent from re-detaining Petitioner without first complying with statutory and regulatory procedures for release revocation and to enjoin removing Petitioner to a third country without complying with statutory and constitutional requirements. Respondent opposes, arguing Respondent is authorized to detain Petitioner while working to effectuate his final order of removal, the governing regulations for revoking Petitioner’s OSUP were followed, and ICE expects to effectuate Petitioner’s removal to Iran, not a third country, as his final order of removal dictates.

The Court first addresses whether Petitioner’s Application meets the standard for *ex parte* relief before turning to the merits of the TRO.

A. Ex Parte Relief

To justify *ex parte* relief, Petitioner must show “why the accompanying proposed motion for the ultimate relief requested cannot be calendared in the usual manner. [T]he evidence must show that the moving party’s cause will be irreparably prejudiced if the underlying motion is heard according to regular noticed motion procedures.” *Mission Power Eng’g Co.*, 883 F. Supp. at 492.

Here, Petitioner has met his burden that he will suffer irreparable harm if the underlying TRO request is heard according to regular noticed motion procedures. Petitioner has provided several physician letters which outline several serious, potentially life-threatening, medical conditions that require daily and weekly medication along with close specialized supervision. According to Petitioner’s doctors, failure to follow this medical care and management “significantly increases the risk of catastrophic outcomes, including death.” (Supp., Ex. A; *Id.*, Ex. B.) Since Petitioner has received only one of his necessary medications and no access, as of yet, to a physician or specialist, the Court finds that Petitioner will be irreparably harmed if this Application is not heard on an expedited, *ex parte* basis.

Next, Petitioner must show that he is “without fault in creating the crisis that requires *ex parte* relief.” *Mission Power Eng’g Co.*, 883 F. Supp. at 492. Indeed, Petitioner has complied with the conditions of his OSUP, requests of ICE officials, and has submitted the Petition and this Application

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within five days of being detained. Accordingly, the Court finds Petitioner is without fault in creating the crisis requiring *ex parte* relief.

Accordingly, Petitioner has met the *ex parte* standard. The Court proceeds to consider the merits of his TRO.

B. Temporary Restraining Order

To obtain a TRO, Petitioner must satisfy the *Winter* test's four factors: (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm to the moving party in the absence of preliminary relief; (3) that the balance of equities tips in favor of the moving party; and (4) that an injunction is in the public interest. The Court first addresses whether Petitioner has shown he will likely succeed on the merits of his Petition.

Petitioner asserts in his Petition that (1) his re-detention is unconstitutional and unlawful because it violates his procedural and substantive due process rights, (2) he is entitled to legally required procedures prior to any nonpunitive third country removal, (3) the constitution prohibits third country removals, and (4) that Respondent violated Section 504 of the Rehabilitation Act ("Section 504").

As a preliminary matter, the Supreme Court has made it clear that the Due Process Clause "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Federal immigration law establishes procedures for removing aliens living unlawfully in the United States as well as for determining whether such persons are detained during removal proceedings." *Johnson v. Guzman Chavez*, 594 U.S. 523, 523 (2021). Accordingly, immigration enforcement agencies failing to comply with federal immigration law when removing or detaining a noncitizen ultimately violates the noncitizen's due process rights. *See, e.g., Touch v. Noem*, 2025 WL 3278019, at *6 (S.D. Cal. Nov. 25, 2025), *adopted sub nom. CHUNY TOUCH, Petitioner, v. KRISTI NOEM, Sec'y of the Dep't of Homeland Sec., et al., Respondents.*, 2025 WL 3296280 (S.D. Cal. Nov. 26, 2025) ("ICE's failure to comply with 8 C.F.R. § 241.4 and § 241.13 violated Petitioner's due process rights."); *see also Diaz v. Wofford*, 2025 WL 2581575, at *7 (E.D. Cal. Sept. 5, 2025) ("DHS's failure to follow its own procedural regulations may constitute a due process violation.").

First, Petitioner claims that his re-detention was unconstitutional and unlawful. Detention, release, and removal of noncitizens ordered to be removed, including Petitioner here, are governed by 8 U.S.C. § 1231(a). *Johnson v. Guzman Chavez*, 594 U.S. 523, 523 (2021). After a noncitizen is ordered to be removed, Congress mandated that, in general, ICE "shall remove the alien from the United States within a period of 90 days [(‘removal period’)]," 8 U.S.C. § 1231(a)(1)(A), which begins when the removal order becomes final. *See id.* § 1231(a)(1)(B). Continued detention is permitted under § 1231(a)(6), but only for the time "reasonably necessary" to effect removal because indefinite detention

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would run affront with Fifth Amendment Due Process rights. *Zadvydas*, 533 U.S. at 689–90. The “presumptively reasonable” period of detention after a removal order is prescribed to be six months. *Id.* at 701. After that period, “if the alien ‘provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,’ the Government must either rebut that showing or release the alien.” *Johnson*, 594 U.S. at 529 (quoting *Zadvydas*, 533 U.S. at 689–701).

Alongside the regulations establishing conditions of release are the regulations establishing the revocation of that release. See 8 C.F.R. §§ 241.4(l), 241.13(i). ICE may revoke release for several reasons, including if it can either effectuate the individual’s removal from the United States “in the reasonably foreseeable future or where the alien refuses to comply with the conditions of release.” *Id.* § 241.13(h)(4); see also *id.* § 241.4(l)(2). Only certain officials have authority to revoke an OSUP, including the Director of ICE or a district director. See *id.* § 241.4(l)(2); *id.* § 1.2.

8 C.F.R. § 241.4(l)(3) and § 241.13(i)(3) provide that, upon revocation of release, the noncitizen (1) “will be notified of the reasons for revocation of his or her release” and (2) will be given “an initial informal interview promptly after [re-detention] to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” This interview must provide the noncitizen with the opportunity 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, or that he or she has not violated the order of supervision.” *Id.* § 241.13(i)(3). Afterwards, the “revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.” *Id.*

If the noncitizen continues to be detained after the informal interview, they shall be scheduled for the “normal review process.” 8 C.F.R. § 241.4(l)(3); 8 C.F.R. § 241.13(i)(2). “The normal review process will commence with notification to the alien of a records review and scheduling of an interview, which will ordinarily be expected to occur within approximately three months after release is revoked.” *Id.* § 241.4(l)(3).

Here, Petitioner asserts both his substantive and procedural due process rights have been violated by revocation of his OSUP and current detention. The Court disagrees. For Petitioner’s substantive due process rights, Petitioner has only been detained since December 11, 2025. This detention period has been far less than the presumptively constitutionally valid six months the Supreme Court has prescribed. See *Zadvydas*, 533 U.S. at 701. Accordingly, Petitioner’s argument regarding his substantive due process rights is premature. See, e.g., *Keita v. Sabol*, 2011 WL 1375052, at *2 (M.D. Pa. Apr. 12, 2011) (“A petition filed before the expiration date of the presumptively reasonable six months of detention is properly dismissed as premature.”); *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (holding a petitioner’s habeas application was premature because he “did not have even an unencumbered month of detention prior to filing” the petition). For Petitioner’s procedural due process rights, Petitioner claims he was not notified of the reasons of his revocation or provided an informal interview. However, the

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record shows that Petitioner was provided both notice of revocation of his release and a prompt informal interview, affording Petitioner the opportunity to respond to the revocation. (See Opp'n, Ex. A; *id.*, Ex. B.) The Notice issued to Petitioner includes information about why Petitioner's release was revoked, which included his criminal history. Thus, the government appears to have complied with its procedural regulations when revoking Petitioner's OSUP and detaining him.² Accordingly, Petitioner has not shown a likelihood he will succeed on the merits of his substantive and procedural due process claim.

Next, the Court considers Petitioner's claims concerning third country removal. It does not appear that the government has confirmed its intent to or identified a third country to deport Petitioner to. On the contrary, Respondent confirmed in its Opposition that the government intends to deport Petitioner to Iran, as dictated in his final order of removal. (Opp'n at 9.) Accordingly, on the Application's record, the possibility of removal to a third country is merely, and improbably, speculative. Thus, the Court cannot find the government has violated Petitioner's due process rights in this regard. See *Delkash*, 2025 WL 2683988, at *5 n.2 (holding the same).³

Finally, the Court considers Petitioner's claim that the government violated Section 504. To bring a Section 504 claim, Petitioner must show that "(1) he is an individual with a disability; (2) he is otherwise qualified to receive the benefit; (3) he was denied the benefits of the program solely by reason of his disability; and (4) the program receives federal financial assistance." *Updike v. Multnomah Cnty.*, 870 F.3d 939, 949 (9th Cir. 2017) (quoting *Duvall v. Cty. of Kitsap*, 260 F.3d 1124, 1135 (9th Cir. 2001)). Public entities have an "affirmative obligation" to make benefits, services, and programs accessible to people with disabilities. *Id.*

Here, Petitioner is likely an individual with a disability, given that he has multiple chronic and serious illnesses. See, e.g., *Ilsung v. Santos*, 2012 WL 1969061, at *4 (E.D. Cal. May 31, 2012) (noting diabetes is considered a disability under federal law). Petitioner requests his disability be accommodated so that he can receive the "benefit," or in other words in this context, participation in the removal process. Indeed, Petitioner as a noncitizen subject to a removal order is qualified to receive the benefit of participation in the removal process. Accordingly, the government must accommodate Petitioner so that he can participate without jeopardizing his health and safety. However, although ICE indicated in November 2025 that it could not detain Petitioner because it could not treat his medical conditions in detention, there is no evidence that Petitioner's requests for medical care and medicine have been denied, as Section 504 requires. To the contrary, the government has already provided Petitioner

² Notably, the government must still schedule Petitioner's review process, or formal interview in simpler terms. See 8 CFR § 241.4(l)(3). This formal interview is ordinarily expected to be scheduled three months after release is revoked. *Id.* Accordingly, the Court reminds the government of its obligation to comply with this subsequent procedural requirement.

³ However, the Court cautions that the government must follow its laws and regulations for removing noncitizens to third countries, in addition to its rules regarding re-detention. See 8 U.S.C. § 1231(b); 8 C.F.R. § 241.15.

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diabetes medication. Thus, on the current record, Petitioner has not shown a likelihood he will succeed on the merits that he was denied the benefits solely by reason of his disability.

In sum, Petitioner has not shown a likelihood of success on the merits of his claims, nor has he raised serious questions going to the merits. He therefore has not demonstrated entitlement to the TRO relief he seeks. *See California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018) (cleaned up) (“Likelihood of success on the merits is the most important factor; if a movant fails to meet this threshold inquiry, [the court] need not consider the other factors.”).

V. **CONCLUSION**

For the foregoing reasons, the Court **DENIES** Petitioner’s Application.

IT IS SO ORDERED.

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