

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES – GENERAL

Case No. 5:25-cv-03432-AH-KES Date December 25, 2025

Title *Kaveh Momtazian v. Kristi Noem et al*

Present: The Honorable Anne Hwang, United States District Judge

Yolanda Skipper
Deputy Clerk

Not Reported
Court Reporter

Attorney(s) Present for Plaintiff(s):
None Present

Attorney(s) Present for Defendant(s):
None Present

**Proceedings: (IN CHAMBERS) ORDER GRANTING MOTION FOR TEMPORARY
RESTRAINING ORDER (DKT. NOS. 2, 7)**

Before the Court is a Motion for a Temporary Restraining Order (“TRO”) filed by Petitioner Kaveh Momtazian (“Petitioner”).¹ Mot., Dkt. No. 2. Respondents Kristi Noem, Pamela Bondi, Thomas Giles, and James Pilkington (“Respondents”) filed a response indicating that they did not have an opposition argument they were able to present at the time. Response, Dkt. No. 8. Petitioner replied. Dkt. No. 9. The Court deems this motion appropriate for decision without oral argument. Fed. R. Civ. P. 78(b); L.R. 7-15. For the following reasons, the Court GRANTS the Motion for a TRO.

¹ The Court ordered Respondents to file any opposition to Petitioner’s Motion for a TRO by December 23, 2025, at 10:00 a.m. Dkt. No. 6. After Respondents did not file an opposition by that deadline, Petitioner filed a second request for a TRO on the same grounds. Dkt. No. 7. This Order rules on both requests for a TRO together.

I. BACKGROUND²

Petitioner is a citizen of Iran who has resided in the United States since 1996. Pet. ¶¶ 17, 32. Petitioner has a final order of removal from February 2006, which Petitioner did not challenge because he was informed that he would be released from custody on an order of supervision (“OSUP”). *Id.* ¶ 2; Mot., Ex. A. Petitioner was released under an OSUP in 2006 and has regularly appeared at check-ins with Immigrations and Customs Enforcement (“ICE”). Pet. ¶ 3; Mot., Ex. A. On or around June 22, 2025, Petitioner was detained and has since remained in custody at the Adelanto Detention Facility. Pet. ¶¶ 4, 33. ICE issued a custody determination to continue Petitioner’s detention without an opportunity to post bond or be released on other conditions. *Id.* ¶ 38. Additionally, Petitioner received a letter indicating that a review found that his positive factors were outweighed by his criminal history, which includes three misdemeanor convictions that are approximately twenty years old. *Id.* ¶¶ 37, 39. On or around October 9, 2025, Petitioner moved to reopen his removal proceedings, which the Immigration Judge denied and is currently on appeal at the Board of Immigration Appeals. *Id.* ¶ 5.

On December 17, 2025, Petitioner filed a petition for writ of habeas corpus. *See generally id.* On the same day, Petitioner filed the instant Motion for a TRO requiring Respondents to release him from custody and enjoining Respondents from re-detaining him absent further order from this Court or absent a pre-deprivation hearing before a neutral arbiter. *See Mot.* at 12.

II. LEGAL STANDARD

A TRO is “an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). Under *Winter*, a plaintiff seeking a TRO must establish four elements: “(1) a likelihood of success on the merits, (2) that the plaintiff will likely suffer irreparable harm in the absence of preliminary relief, (3) that the balance of equities tip in its favor, and (4) that the public interest favors an injunction.” *Wells Fargo & Co. v. ABD Ins. & Fin. Servs., Inc.*, 758 F.3d 1069, 1071 (9th Cir. 2014) (citing *Winter*, 555 U.S. at 20). When “the nonmovant is the

² The Court summarizes the relevant facts based on the allegations in Petitioner’s Petition for Habeas Corpus (“Petition”). Pet., Dkt. No. 1.

government, the last two *Winter* factors merge.” *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023) (citation modified).

Courts in the Ninth Circuit also employ a “sliding scale” approach, also known as the “serious questions” test, in which the four *Winter* elements 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). Under this approach, “‘serious questions going to the merits’ and a hardship balance that tips sharply toward the plaintiff can support issuance of an injunction, assuming the other two elements of the *Winter* test are also met.” *Id.* Serious questions are those that “cannot be resolved one way or the other at the hearing on the injunction because they require more deliberative investigation. Thus, parties do not show serious questions when they raise a merely plausible claim.” *Assurance Wireless USA, L.P. v. Reynolds*, 100 F.4th 1024, 1031 (9th Cir. 2024) (internal quotation marks and citations omitted).

III. DISCUSSION

A. Likelihood of Success on the Merits

Petitioner argues his detention violates his substantive due process rights because he is not a flight risk or danger to the community, as well as his procedural due process rights because his OSUP was revoked without any notice or opportunity to contest his detention before a neutral arbiter. Mot. at 5. Petitioner asserts that he was given no notice of ICE’s intention to re-detain him and was not provided any information about why his OSUP was revoked. *Id.* at 3.

Petitioner’s due process claim is analyzed in two steps: “the first asks whether there exists a protected liberty interest under the Due Process Clause, and the second examines the procedures necessary to ensure any deprivation of that protected liberty interest accords with the Constitution.” *See Garcia v. Andrews*, 2025 WL 1927596, at *2 (E.D. Cal. July 14, 2025) (citing *Kentucky Dep’t of Corrections v. Thompson*, 490 U.S. 454, 460 (1989)). Courts apply the test from *Mathews v. Eldridge* to determine what procedural protections are due before the government may re-detain a non-citizen. 424 U.S. 319, 335 (1976). Under this test, there are “three factors relevant for the due process inquiry: (i) the private interest, (ii) the risk of an erroneous deprivation and the value of additional procedures sought, and (iii) the government’s interest, including the burdens

associated with the additional procedures sought.” *Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1029 (N.D. Cal. 2025) (citing *Mathews*, 424 U.S. at 335).

“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the [due process clause] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). “[I]ndividuals conditionally released from detention have a protected interest in their continued liberty,” and this “liberty interest that arises upon release is *inherent* in the Due Process Clause.” *Guillermo M. R.*, 791 F. Supp. 3d at 1029 (emphasis in original) (citation modified). Further, “[c]ivil immigration detention is typically justified only when necessary to effectuate removal or when a noncitizen presents a risk of flight or danger to the community.” *Viengkhone S. v. Albarran*, 2025 WL 3521302, at *6 (E.D. Cal. Dec. 8, 2025) (citing *Zadvydas*, 533 U.S. at 689–90, 699–701).

Here, Petitioner has demonstrated a private interest in his continued release. Petitioner asserts he has been released under an OSUP since 2006 and has complied with the terms of his OSUP, appeared as requested for check-ins with ICE, and has “buil[t] his life here including marriage to a US Citizen and having four (4) US Citizen children.” Pet. ¶ 3; Mot. at 2; see *Viengkhone*, 2025 WL 3521302, at *7 (finding an interest in continued liberty where Petitioner lived, worked, and raised two U.S. citizen children in the United States for nearly twenty years under an OSUP).

There is also a risk that Petitioner will be erroneously deprived of his liberty interest absent a pre-deprivation hearing before a neutral arbiter. Petitioner claims that he was not provided any notice of or reasons for the revocation of his OSUP. Mot. at 3. Respondents have presented no facts or arguments in opposition and therefore has not shown that detention of Petitioner would serve the purposes of preventing flight or protecting the community against danger. See *Zakzouk v. Becerra*, 2025 WL 2899220, at *6 (N.D. Cal. Oct. 10, 2025) (finding significant risk of erroneous deprivation where “the Government has made no showing that detention of Petitioner would serve either purpose [of preventing flight or protecting against danger to the community], particularly after Petitioner was released seventeen years ago and has complied with ICE’s reporting requirements”). In similar circumstances where a non-citizen was ordered removed, subsequently released, and then re-detained, courts have found that the “lack of any neutral review . . . creates a heightened risk of deprivation for Petitioner.” See *Viengkhone*, 2025 WL 3521302, at *7.

Finally, courts have recognized that in the immigration context, “custody hearings are routine and impose a minimal cost” and therefore do not overly burden the government’s interests. *See Zakzouk*, 2025 WL 2899220, at *7; *see also Guillermo M. R.*, 791 F. Supp. 3d at 1036 (noting that the government’s interest in successfully deporting removable non-citizens and ensuring compliance with OSUPs “do not appear to be significantly impaired by the requirement of a pre-deprivation hearing”). Respondents indicated they have no argument in opposition and therefore offer no countervailing government interests that weigh against Petitioner’s private interest.

In sum, the *Mathews* factors favor a pre-deprivation bond hearing to ensure due process rights are afforded to Petitioner. Petitioner has therefore raised at least a serious question on his due process claim.

B. Irreparable Harm

“It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (citation modified); *see also Hernandez v. Sessions*, 872 F.3d 976, 995, 1000 (9th Cir. 2017) (describing the “irreparable harms imposed on anyone subject to immigration detention”). Petitioner, who remains in immigration detention, has therefore demonstrated irreparable harm in the absence of preliminary relief.

C. Balance of Equities and Public Interest

The remaining two factors for a preliminary injunction, the balance of equities and public interest, merge when the government is the opposing party. *Baird*, 81 F.4th at 1040. “The public interest benefits from an injunction that ensures that individuals are not deprived of their liberty and held in immigration detention” due to a “likely unconstitutional process.” *Hernandez*, 872 F.3d at 996. Further, a party “cannot reasonably assert that it is harmed in any legally cognizable sense by being enjoined from constitutional violations.” *Zepeda v. U.S. Immigr. & Nat. Serv.*, 753 F.2d 719, 727 (9th Cir. 1983). The harm to Respondents is minimal because nothing prevents them from re-detaining Petitioner if the government satisfies procedural due process requirements and shows that detention is warranted. The balance of equities and public interest therefore tip in Petitioner’s favor.

D. Security Bond

The security bond requirement of Federal Rule of Civil Procedure 65(c) is waived. The Court has “discretion as to the amount of security required, if any,” and “may dispense with the filing of a bond when it concludes there is no realistic likelihood of harm to the defendant from enjoining his or her conduct.” *Jorgensen v. Cassiday*, 320 F.3d 906, 919 (9th Cir. 2003).

IV. CONCLUSION

For the foregoing reasons, the Court GRANTS Petitioner’s Motion for a TRO.

Respondents are ORDERED to release Petitioner on an OSUP. Respondents are enjoined from re-detaining Petitioner absent further order of this Court or a demonstration at a pre-deprivation bond hearing that that Petitioner is a flight risk or danger to the community.

Respondents shall have until January 7, 2026, to show cause, in writing, as to why the Court should not issue a preliminary injunction in this case. Petitioner may file a response on or before January 12, 2026.

IT IS SO ORDERED.