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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

ARMAN KESHESHIAN,

Petitioner,

v.

KRISTI NOEM, Secretary of the Department of Homeland Security et al.,

Respondents.

No. 5:25-cv-03478-MWC-DFM

RESPONDENTS' OPPOSITION TO PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER [DKT. 4]

Honorable Douglas F. McCormick
United States District Magistrate Judge

I. INTRODUCTION

Petitioner, who is subject to a final order of removal (Exhibit D), was detained by U.S. Immigration and Customs Enforcement ("ICE") on December 4, 2025 (Exhibit A). Petitioner seeks two categories of relief by his TRO Application [Dkt. 4]. He fails to meet his heavy burden to establish entitlement to either category.

First, Petitioner argues that the government previously released him, and he incorrectly claims that the government did not comply with the procedural requirements of 8 C.F.R. § 241.13(i) in revoking his release and re-detaining him, allegedly failing to provide him with any reasons for his re-detention. [Dkt no. 4-1 at 5].

A copy of Petitioner's Notice of Revocation is attached as Exhibit A. It details the reasons for his re-detention, including:

> On April 13, 2023, you were arrested for a warrant for PC 496D(A): possessing stolen vehicle/vessel, which is a Felony charge. On October 29, 2018, you were released from the Los Angeles County Jail into the custody of ICE. This is in clear violation of your order of supervision status.

Petitioner's claims that he was never issued such a notice are therefore clearly wrong.

Also attached as Exhibit B is documentation of the informal interview that took place when Petitioner was re-detained on December 4, 2025. Petitioner's argument that his release revocation was inadequate is wrong and unsubstantiated. Moreover, the remedy for inadequate revocation process for an individual detained pursuant to a final removal order would not be ordering immediate release from detention. The narrowly tailored remedy would be to rectify whatever aspect of the process was proven to be inadequate—here, nothing.

Second, by Petitioner's own admission, he has not been detained longer than the six-month period established under *Zadvydas v. Davis*, 533 U.S. 678 (2001) and, thus, fails to meet his burden that he cannot be removed in the reasonably foreseeable future. Petition was detained for 90 days after he was ordered removed by an immigration judge in 2000 [Dkt. 4-1 at 8] and again for 10 days in 2012. *Id.* Petitioner was recently detained again on December 4, 2025. Since Petitioner's recent detention, Respondents' have requested a travel document from Armenia and are waiting to receive a response (Exhibit C).

As explained below, Petitioner has failed to establish entitlement to the extraordinary remedy of a TRO, and his TRO Application should therefore be denied.

II. STANDARD OF REVIEW

The standard for issuing a TRO and a preliminary injunction are substantially identical. *Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A TRO is "an extraordinary and drastic remedy ... that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). For a TRO to issue, the movant must demonstrate: (1) a likelihood of success on the merits, (2) a likelihood of suffering irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in its favor, and (4) the TRO is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

III. ARGUMENT

A. Petitioner Has Not Shown That the Government Lacked Authority to Detain Him, That the Government Revoked His Release Improperly, And That the Only Remedy for Such a Procedural Deficiency Would Be Ordering His Immediate Release from Detention

Petitioner argues that he should not be detained, despite conceding that he has a final removal order. But the INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The INA does not provide for a pre-detention hearing. *See, e.g.*, 8 U.S.C. § 1231. When a noncitizen receives a final removal order, their detention is mandatory for the following 90 days. 8 U.S.C. § 1231(a)(2). After that time, detention is within ICE's discretion under 8 U.S.C. § 1231(a)(6). Such detainees have due process protection; the Supreme Court has set forth the basic limitation, which is that after six months of post-removal order detention the burden shifts to the government to show that removal is possible. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). Under *Zadvydas*, if a detained noncitizen is not removed within six months, the burden then shifts to the government to show it will remove them in a reasonably foreseeable time. Although that burden of persuasion shifts after six months, the noncitizen still "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. The *Zadvydas* standard for proving entitlement to release is high. Here, Petitioner does not attempt to make such a *Zadvydas* showing. Petitioner has only recently been detained for two weeks and cumulatively for less than four months. Respondents are actively seeking a travel document from Armenia. Petitioner is unable to meet his burden of proof that he is being held indefinitely or that there is no reasonable likelihood of removability in the foreseeable future.

Petitioner argues that there does not appear to be a good reason for his recent re-detention, given that he was previously released under an order of supervision. But the government's regulatory authority to re-detain individuals previously released by ICE is discretionary, and it does not require the type of intensive threshold evidentiary procedure that Petitioner suggests. "While the regulation provides the detainee some opportunity to respond to the reasons for revocation, it provides no other procedural and no meaningful substantive limit on this exercise of discretion as it allows revocation "when, in the opinion of the revoking official ... [t]he purposes of release have been served ... [or] [t]he conduct of the alien, or *any other circumstance*, indicates that release would no longer be appropriate." *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and superseded*, 591 F.3d 1105 (9th Cir. 2010)(citing §§ 241.4(l)(2)(i), (iv)) (emphasis in original). Of course, the total post-removal detention period remains limited by *Zadvydas* principles, so it is certainly not unlimited, but the sufficiency of rationale for revocation is not subject to detailed interrogation and burden of proof via habeas petition.

The government is thus broadly authorized to exercise its discretion to revoke such release pursuant to 8 CFR § 241.1(l)(1), and 8 CFR § 241.4(l)(2). *See Moran v. U.S. Dep't of Homeland Sec.*, 2020 WL 6083445, at *9 (C.D. Cal. Aug. 21, 2020) (dismissing petitioners' claim that § 241.4(l) was a violation of their procedural due process rights and noting, "[Petitioners] fail to point to any constitutional, statutory, or regulatory authority to support their contention that they have a protected interest in remaining at liberty in the United States while they have valid removal orders.").

Arguing procedure, Petitioner contends that he was not provided with a basis for the reason of re-detention and that he was not given an interview. [Dkt. no. 4-1at 8-9]. While Petitioner claims he did not receive notice of revocation, he is incorrect. A copy of Petitioner's Notice of Revocation expressly details the reason for his release revocation. *See* Exhibit A. Petitioner was thus issued such notice. It is not a basis for an *ex parte* TRO Application.

Moreover, Petitioner was likewise provided an informal interview. *See* Exhibit B. Petitioner nonetheless almost immediately filed his *ex parte* TRO Application incorrectly stating that the revocation procedures were inadequate.

While a small number of District Court decisions have granted release by finding that revocation of supervised release was not properly followed, such decisions generally involve no revocation documentation—which is not the case here. But perhaps even more importantly, the appropriate remedy for any such procedural deficiency would not be automatic release from custody, but rather to remedy the specific procedural deficiency that might be established. Injunctive relief must be narrowly tailored to the wrong. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022).

Other District Courts have correctly applied this point of remedy law. In *Ahmad v. Whitaker*, for example, the government revoked the petitioner's release but did not provide him an informal interview. *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner argued the revocation of his release was unlawful because, he contended, the federal regulations prohibited re-detention without, among other things, an opportunity to be heard. *Id.* In rejecting his claim, the court held that although the regulations called for an informal interview, petitioner could not establish "any actionable injury from this violation of the regulations" because the government had procured a travel document for the petitioner, and his removable was reasonably foreseeable. *Id.* Similarly, in *Doe v. Smith*, the U.S. District Court for the District of Massachusetts held that even if the ICE detainee petitioner had not received a timely interview following her return to custody, there was "no apparent reason why a violation of the regulation … should result in release." *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, "[I]t is difficult to see an actionable injury stemming from such a violation. Doe is not challenging the underlying justification for the removal order…. Nor is this a situation where a prompt interview might have led to her immediate release—for example, a case of mistaken identity." *Id.*

Here, Petitioner argues that he has not received full assurances that all aspects of re-detention process were sufficient. But that demand is not consistent with the relatively limited nature of the regulatory provisions at issue, nor with the Ninth Circuit authority quoted above construing the government's very broad authority to revoke supervised release.

Judge Blumenfeld recently denied a preliminary injunction motion in a somewhat similar case alleging a lack of sufficient re-detention process, noting that the evidentiary burden had not been met, and also that it was unclear that release would be the appropriate remedy for any violations of revocation procedure. *See Long Ton v. Kristi Noem, et al.*, 5:25-cv-02033-SB-AGR [Dkt. no. 17] (September 3, 2025) (Order Denying Application for Preliminary Injunction). The burden is on the moving party to show that ordering release via a TRO would be narrowly tailored to rectifying a deficiency that was proven under the heavy standard for preliminary injunctive relief. Speculating that the revocation of release process was not fully satisfactory in all possible respects and all documents is insufficient to carry that burden.

Judge Birotte likewise recently denied an application seeking a TRO based on allegedly defective revocation of supervised release for a noncitizen detained pursuant to a final removal order, explaining why it did not meet the governing legal standard. *See Jose Angel Morales Sanchez v. Pam Bondi, et al.*, 5:25-cv-02530-AB-DTB, Dkt. no. 12 (October 3, 2025 order denying a TRO).

In sum, the TRO Application fails to establish violations of release revocation procedure; if it had, it also would not warrant ordering Petitioner's release via a TRO.

B. Petitioner Has Not Shown He Will Suffer Irreparable Harm Absent a TRO

Finally, Petitioner has not demonstrated that he will suffer irreparable injury absent his release. To show irreparable harm, he must demonstrate "immediate threatened injury." *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League,* 634 F.2d 1197, 1201 (9th Cir. 1980)). "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter*, 555 U.S. at 22.

Petitioner is subject to a final order of removal and the government has taken steps to effectuate his removal to the country designated in his final order of removal. Petitioner's detention is "common to all [noncitizens] seeking review of their custody or bond determinations." *See Resendiz v. Holder*, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He faces the same alleged irreparable harm as any habeas corpus petitioner in immigration custody, and he has not shown extraordinary circumstances warranting the emergency relief requested.

C. The Balance of Interests 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.

IV. CONCLUSION

The Respondents respectfully request that Petitioner's *ex parte* TRO Application be denied and that the Petition be dismissed.

Dated: December 23, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondents, certifies that the memorandum of points and authorities contains 2153 words, which complies with the word limit of L.R. 11-6.1.